

**DESIGN GUIDELINES  
FOR  
MESQUITE BAY AT SAILING HAWKS**

## TABLE OF CONTENTS

### 1. INTRODUCTION

### 2. PHILOSOPHY

- 2.1 Why Green Building?
- 2.2 Increasing Energy Efficiency
- 2.3 Providing for Efficient Water Use

### 3. SITE DESIGN GUIDELINES

- 3.1 Site Development Guidelines
- 3.2 Homesite Diagrams/Survey
- 3.3 Building Envelopes
- 3.4 Combining Homesites
- 3.5 Easements
- 3.6 Grading and Drainage
  - 3.6.1 Grading
  - 3.6.2 Drainage
- 3.7 Retaining Walls, Fence Walls, and Fences
- 3.8 Driveways
- 3.9 Parking and Garages
- 3.10 Service Areas and Utility Entrance Locations
- 3.11 Art Objects
- 3.12 Satellite Dishes
- 3.13 Poles
- 3.14 Signage

### 4. LANDSCAPE DESIGN GUIDELINES

- 4.1 Landscape Approach
- 4.2 Landscape Zones
  - 4.2.1 The Public Zone
  - 4.2.2 The Private Zone
- 4.3 General Landscape Design Guidelines
- 4.4 Groundcover/Rock Mulch
- 4.5 Boulders

- 4.6 Irrigation
- 4.7 Paths, Outdoor Stairs, and Terraces
- 4.8 Retaining Walls, Fence Walls, and Fences
- 4.9 Pools and Spas
- 4.10 Lighting
- 4.11 Water Features
- 4.12 Completion of Landscape
- 4.13 Maintenance
- 4.14 Modifications to the Landscape

## 5. ARCHITECTURAL DESIGN GUIDELINES

- 5.1 Architectural Approach
- 5.2 Approved Roof Heights
- 5.3 Minimum Floor Area
- 5.4 Building Style
- 5.5 Building Massing
- 5.6 Exterior Walls and Materials
- 5.7 Colors
- 5.8 Roofs
- 5.9 Doors
- 5.10 Windows
- 5.11 Fascias
- 5.12 Chimneys
- 5.13 Skylights
- 5.14 Solar Equipment

- 5.15 Exterior Showers
- 5.16 Mechanical Equipment, Sheet Metal, and Vents
- 5.17 Guest Houses, Casitas, and Detached Garages
- 5.18 Exterior Trim and Detailing
- 5.19 Foundations and Columns
- 5.20 Garages and Parking
- 5.21 Patios and Courtyards
- 5.22 Building Character and Elevations
- 5.23 Materials
- 5.24 Lighting
- 5.25 Mailboxes
- 5.26 Equipment
- 5.27 Utility Line Placement

## 6. DESIGN REVIEW

- 6.1 Design Review Committee
  - 6.1.1 Appointment of Members
  - 6.1.2 Functions of the Committee
  - 6.1.3 Meetings
  - 6.1.4 Compensation
  - 6.1.5 Amendment to Design Guidelines
  - 6.1.6 Enforcement
- 6.2 Design Review Process
  - 6.2.1 Process for Obtaining Approval
  - 6.2.2 Professional Consultant Requirements
  - 6.2.3 Submittals

- 6.2.4 Compliance Deposit
- 6.2.5 Design Review Fees
- 6.2.6 Approvals by the Committee
- 6.2.7 Other Approvals
- 6.2.8 Committee Inspection of Improvements
- 6.3 Required Submittals
  - 6.3.1 Schematic Design Submittal
  - 6.3.2 Working Drawing Submittal
  - 6.3.3 Other Submittals
  - 6.3.4 Plan Submittal Requirements
    - 6.3.4.1 Schematic Design Submittal Requirements
    - 6.3.4.2 Working Drawing Submittal Requirements

## 7. CONSTRUCTION STANDARDS

- 7.1 Building Process
  - 7.1.1 Construction Flow Process
- 7.2 Owner/Contractor Responsibilities and Requirements
- 7.3 Preconstruction Submittals
- 7.4 Temporary Construction Facilities
- 7.5 Preconstruction Inspection
- 7.6 Use of Adjacent Property
- 7.7 Set-backs
- 7.8 Speed Limit
- 7.9 Parking
- 7.10 Construction Hours
- 7.11 Committee and Association Access to the Homesite
- 7.12 Site Signage

- 7.13 Site Conduct and Safety Precautions
- 7.14 Site Maintenance
- 7.15 Disposal of Site Spoils
- 7.16 Compliance
- 7.17 Revisions to the Approved Plans During Construction

APPENDIX A          Definitions

## 1. INTRODUCTION

Mesquite Bay at Sailing Hawks is destined to become one of the premier residential neighborhoods in Lake Havasu City. Mesquite Bay at Sailing Hawks offers superb views above natural bluffs, wetlands and beautiful Lake Havasu, itself. In addition to offering this unparalleled natural environment, the objective at Mesquite Bay at Sailing Hawks is to provide for distinctive and exciting architectural design.

The vision of Mesquite Bay at Sailing Hawks is predicated upon the sensitive integration of lifestyle and environment. To this end, these Design Guidelines attempt to create a unifying theme and a unique identity for Mesquite Bay at Sailing Hawks by incorporating the appropriate use of building materials, landscaping materials and architectural design elements that will contribute less to the ornamental aspects of the homes and more to the integrity of the village as a whole.

Moreover, as neighborhoods, streets and trails are completed in Sailing Hawks, there will be a subtle and pleasant transition from one village to the next, creating a favorable look for the entire development.

The purpose of this document is to communicate the specific use and design elements that will contribute to creating a special residential character for Mesquite Bay at Sailing Hawks. Also, this document describes the design review application and approval procedure for the Design Review Committee (the "Committee") of Mesquite Bay at Sailing Hawks.

These Architectural and Landscaping Design Guidelines (Design Guidelines) are for Residences and related Improvements that are to be built at Mesquite Bay at Sailing Hawks. These Design Guidelines function to unify the community as a whole through the implementation of high development standards and excellence of design in order to create and enhance lasting values. Copies of the Design Guidelines are available at the Mesquite Bay at Sailing Hawks Sales Center or from the Committee.

The design review for each dwelling is subject to the approval of the Committee to ensure continuity of excellence throughout Mesquite Bay at Sailing Hawks. This review is not intended to supersede the permitting functions of the public agencies (compliance with which is the responsibility of each Homesite Owner) but to coordinate aesthetic design and construction standards for the development of all residences and other improvements throughout Mesquite Bay at Sailing Hawks. Authority for design review of all Improvements within Mesquite Bay at Sailing Hawks, but not limited to, the acceptable design, size, landscaping, hardscaping, setting, materials, colors, setbacks, and all elements of design review of the Homesites and Residences proposed for the Neighborhood. The Committee will exercise its authority for design review within the spirit and intent of the Design Guidelines. Any Owner seeking design review must comply with the

review process described in the Design Guidelines and with the design standards expressed in the Design Guidelines.

## **2. PHILOSOPHY**

### **2.1 Why Green Building?**

Real estate development has a significant effect on our regional and global environments. In the process of development, resources are consumed, natural habitats are altered, and the ecological systems that support life are affected. This has been the case for thousands of years, but as the world's population and patterns of consumption have increased, the impacts have become more critical. There are growing initiatives that use resources more efficiently and wisely. Increasing energy efficiency and improving indoor air quality are instrumental in the construction of healthy and comfortable buildings. Also, reducing water consumption and controlling the amount of waste generated during construction help to conserve natural resources. By providing for energy, water, and resource conservation, comfort is enhanced and operating costs are lowered. With Green Building, we can conserve limited resources and protect our natural environment for the long-term health of our planet and future generations.

### **2.2 Increasing Energy Efficiency**

Decisions made during the design and construction of a building will affect the environment for decades to come. An integrated design approach can result in energy savings through the proper utilization of windows, lighting, mechanical systems, and active/passive solar systems. Such an integrated design includes:

- Selecting energy-efficient heating/cooling equipment (min. SEER 14), lighting (fluorescents and halogens), and appliances.
- Installing high-performance low-e windows
- Locating windows to take advantage of natural light and cross ventilation; using external shading devices for unwanted heat gain
- Incorporating passive solar design strategies; orienting and zoning interior spaces for seasonal benefits (reducing energy load and maximizing comfort)
- Using a well-insulated building envelope with internal thermal mass
- Sealing and insulating ducts; locating ducts within air-conditioned space where possible
- Considering active solar system (i.e. water heating and photovoltaic/solar electric)

### **2.3 Providing for Efficient Water Use**



In the desert, the environment imposes a natural mandate as to how we should build in order to manage water. The depletion of groundwater is an especially critical issue of concern in Arizona. The State Department of Water Resources has implemented a water management program to address this regional problem. It is absolutely essential to incorporate water management strategies into building and site design. In order to do this, it is necessary to:

- Use low-flow plumbing fixtures (i.e. dual flush toilets) and water efficient appliances (i.e. horizontal axis washing machines)
- Incorporate an efficient hot water delivery system (i.e. tankless, recirculation, centrally located water heater)
- Provide or convert desert-appropriate landscaping (xeriscape)
- Consider gray water usage, which takes the waste water from such locations as bathroom sinks, showers, bathtubs and laundry rooms and uses it for landscape irrigation
- Collect and direct rainwater for irrigation

### 3. SITE DESIGN GUIDELINES

Evaluate the daytime and nighttime quality of your views and arrange your living spaces to correspond to these differences. Consider the impact of future homes upon the views and privacy of your own home and, conversely, consider the impact of your home upon the views and privacy of your neighbors.

The master-grading plan for Mesquite Bay at Sailing Hawks has created individual lot pads and lot grades that may not be changed. Lots must drain to the streets. Changes to the natural or existing drainage patterns for surface waters on any lot are prohibited.

Good planning is essential in minimizing energy use and waste. Following are just a few of the factors your professional planner should consider in planning your new home:

- Protect all glass areas exposed in summer with recesses, overhangs, or other devices to minimize heat gain.
- Consider the advantages and disadvantages of prevailing breezes. Lake Havasu City enjoys a pleasant and desirable breeze in the summer months out of the southwest. A cold and undesirable wind in the winter comes out of the northwest.
- Passive solar design is encouraged
- Active solar panels are acceptable, based on Design Review Committee approval
- Remember that you are designing for Lake Havasu City, Arizona. Study its climate and natural environment; these efforts will pay dividends

#### 3.1 Site Development Guidelines

The following guidelines are standard for all site work relating to the Homesite, including grading, landscaping, siting of structures, and outdoor areas.

Owners should obtain the services of a professional Architect, Civil Engineer or Landscape Architect/Designer. These professionals have the ability to analyze the unique potential of each site and to understand and address the needs of the Owner. The lot owners are also capable of portraying to the Committee, through detailed drawings and renderings, the site and landscape design concept.

To assist in the creation of a quality, environmentally responsible community, which preserves and enhances the desert setting, the site design and landscape of each Homesite shall be carefully planned according to the following standards:

### **3.2 Homesite Diagrams/Survey**

Homesite Diagrams have been prepared for each Homesite within Mesquite Bay at Sailing Hawks.

Homesite Diagrams indicate the Building Envelope, building setbacks, and any additional consideration, such as slope information.

Homesite Diagrams provide the Owner and design professionals with the relevant site data necessary to design and develop plans for the property based on these Design Guidelines.

Copies of Homesite Diagrams are available at Mesquite Bay at Sailing Hawks Sales Center or from the Committee.

### **3.3 Building Envelopes**

Building Envelopes have been established for all Homesites in order to ensure that every home is sited in the most appropriate location.

Established Building Envelopes are illustrated on the Homesite Diagram for each property.

All structural improvements on a Homesite (including outdoor amenities such as covered patios, accessory buildings, and related Improvements) must take place within the Building Envelope area or approved by Committee.

### **3.4 Combining Homesites**

When an Owner combines two or more Homesites, the Committee will designate a new Building Envelope based on the new lot lines and the above criteria.

### **3.5 Easements**

Along with the street right-of-way, an adjacent on-site eight foot (8'-0") wide strip easement exists within each Homesite. This easement has been established for utilities and landscape (or streetscape). It is the responsibility of the Owner to landscape and maintain this area in accordance with approved plans.

Each Homesite is served with underground electricity, television cable, telephone, sewer, gas lines, and water lines. The location of an easement for these utilities is the responsibility of the Owner to determine and should be confirmed in the field when a survey of the Homesite is performed to verify the boundary and topographic features and future placement of other improvements.

Landscaping and the building of driveways or fencing within utility easements is permissible if done in accordance with an approved plan. There is a need for access to utilities. The Utility Companies, Mesquite Bay at Sailing Hawks Homeowners Association, Inc. (the "Association"), and the Developer have no responsibility for damage to Owner improvements when accessing such utilities.

All utility company pull boxes, transformers, and similar facilities have been set at or below grade whenever possible, and within the easement. Future planting and grading must be designed and implemented to further diminish the visual impact of these facilities. The Committee will review individually all improvements planned for inclusion over easements or public agencies as well as those held by the Association.

Easements that are located on Homesites include, but are not limited to, emergency access, electricity, television, telephone, gas lines, water lines, irrigation lines, sewers, storm drainage, and utilities. Locations of these easements are found on the corresponding tract map or within a separate instrument. It is the Owner's responsibility to confirm the location and purpose of all easements and the Improvements within the easements.

The Owner or Owner's design consultants should check with the Committee and local governmental agencies and utilities to determine restrictions relating to improvements constructed within easements.

### **3.6 Grading and Drainage**

In the desert, water does not come often, but when it does it often comes hard and fast. Because of the rocky impermeable surfaces that makeup the desert floor, adequate drainage patterns must be provided to deal with runoff. To prevent erosion damage to adjacent

Homesites, streets, and Improvements, all water must be directed to natural and designated drainage swales, washes, or the street. Along with the flow paths and contouring of a Homesite, water should be encouraged to create sheet flows rather than point loading water to narrow channels where erosion and damage are sure to occur. Whenever possible, retaining walls, retention swales, dry wells, and drainage basins should be used throughout the Homesite to contain water onsite and minimize the amount of runoff.

#### **3.6.1 Grading:**

- No aesthetic landscape berming shall direct drainage onto adjacent Homesites.
- All berming shall occur within the Building Envelope. All slope transitions shall be even and smooth rather than abrupt and unnatural looking.
- Landscape berming shall be in conformance with the overall approved drainage patterns established at Mesquite Bay at Sailing Hawks
- No grading shall be done that may cause erosion, on or off-site. No slopes shall be steeper than 2:1 except where a variance is allowed by the Committee at the Committee's sole discretion.
- All finished grading must comply with any local jurisdictional codes.
- Any imported soil needed to created landscape berming shall be free of weeds and debris.
- Final grading of all planting areas shall be rolled, raked, and hand worked to achieve a smooth, continuous surface.

#### **3.6.2 Drainage**

- Concentrated run-off from roofs, driveways, and other impervious surfaces onto adjacent property is prohibited except where a natural drainage condition exists.
- Drainage swales shall be designed to minimize run-off velocity to protect the Homesite from erosion. There shall be no increased water flows off of Homesites.
- Drainage shall always be directed away from any structure.
- All excavation and fill areas shall be sufficiently compacted to prevent erosion and future settling problems.

### **3.7 Retaining Wall, Fence Walls, and Fences**

Portions of the Homesite may require the need for retaining walls, fence walls, and fences. All retaining walls, fence walls, and fences should be of natural desert hues and must blend in with the surrounding landscape and Improvements.

Retaining walls may never exceed eight (8') feet in height from the lowest elevation on either side of the wall. In areas where additional retaining walls in excess of eight (8') feet are

required, a terraced effect must be implemented. These terraces must have a minimum of three (3') feet of separation between walls and must be landscaped to help minimize the effects of the walls.

All walls must be reinforced with iron, and comply with the set-back requirements of the Plat and the Declaration.

Prior to construction or alteration of any retaining walls, fence walls, or fencing, detailed plans indicating materials, colors, heights, elevation changes and locations on the Homesite must be submitted to the Committee for approval.

- The maximum approved slope from property line to top of wall is 2 to 1, except where a variance is allowed by the Committee and Local Building Authorities.
- All Retaining Walls, Fence Walls, and Fences must be contained within the Property line.

### 3.8 Driveways

Driveways shall be carefully designed, landscaped and sited to blend with the terrain and to minimize visibility from adjacent Homesites and the street.

- Exposed aggregate, stone, concrete pavers, colored concrete either stamped, salt finish or punctuated by the masonry used on the building are all acceptable driveway materials. Materials for driveways shall be chosen to be sympathetic to those of the residence and abutting street pavement material. Asphalt driveways will not be approved.
- Concrete colors should reflect the warm, rich desert hues of the surrounding site. Uncolored concrete may not be used.
- All driveways should be constructed to intersect with streets at approximately 90 degree angles for safety, visibility, and continuity.
- Driveways, including curb cuts, shall be a maximum of thirty-two (32) feet wide, except at the driveway apron and where driveways provide a turnaround at a garage or are used in conjunction with on-street parking. Parking and turnaround areas must be located within the Building Envelope.

### 3.9 Parking and Garages

Parking and garage layouts shall be carefully designed and landscaped so that their visibility is minimized from adjacent Homesites and the street.

- Each Homesite shall contain an enclosed garage, either attached or detached from the residence, with parking for at least two automobiles.
- For those Homesites that have front loaded garages, the garage building shall be set back a minimum of twenty five (25') . Landscaping shall be provided in

planting pockets in the front and sides of the garage to visually soften the appearance of the garage and its doors.

- Recessed garage doors (minimum of eight (8") inches) are required.
- Garages must be fully enclosed. All walls and ceilings are to have a finished surface. Carports are not permitted as primary parking for the residence. However, breezeways are permitted subject to Committee approval.

### **3.10 Service Areas and Utility Entrance Locations**

Service areas are intended primarily for the pickup of trash and for the storage of firewood, maintenance tools, and similar items. Pool, air conditioning, irrigation, and other mechanical equipment also must be located in these areas or underground. Walls are required around service areas and must be of an adequate height and length to conceal all equipment from view. The interior of enclosed service areas must not be visible from the street or adjacent properties.

### **3.11 Art Objects**

Art and other freestanding objects are discouraged. If present, art and other freestanding objects must be located within the Building Envelope. If visible from streets and/or other public area, art objects must be approved by the Committee.

### **3.12 Satellite Dishes**

Satellite dishes shall not exceed eighteen (18") inches in diameter.

### **3.13 Poles**

A flagpole for the display of the American flag, or other flag(s) permitted pursuant to ARS §33-1808.A, only shall be permitted subject to Committee approval of placement, design and height. The height shall not exceed fifteen feet (15'). If lighted, the light shall be from the ground up. No flagpole shall be used as an antenna.

### **3.14 Signage**

The only signage permitted on a Homesite without further approval of the Committee are the address numbers as part of the approved mailbox, and those signs permitted pursuant to ARS §33-1808.

## **4. LANDSCAPE DESIGN GUIDELINES**

### **4.1 Landscape Approach**

All landscape designs need to be approved. Landscaping is the most visible tool available to augment the natural setting and beauty of Mesquite Bay at Sailing Hawks.

The intent of the Landscape Design Guidelines is to promote the establishment of a continuous desert landscape that compliments the existing Mohave Desert environment. In order to blend with the

existing setting, a desert theme has been created by preserving existing vegetation where possible, and by re-vegetating and landscaping with similar plants by creating such a desert theme, a unique and special character will be created. This character is reinforced throughout.

Desert landscaping does not mean sand or gravel with an occasional cactus. A vast number of plants exist which are native to the southwestern deserts that are lush and green in appearance. Cactus and succulents can be used in limited numbers as accents and focal points. Numerous colorful annuals and perennials are available and encouraged to add accent and seasonal color to the design. Greener tropical-like plants may be used to create a lush and cooling effect.

By using predominantly desert plant materials, the planted landscape shall not contrast or compete with the existing natural setting. To achieve this, a special plant pallet has been developed for the community. The plants selected are adapted to the harsh desert climate of heat, wind and sun. The unique characteristics of these plants allow them to survive and thrive in this climate with a minimum amount of water. The use of these desert plants will enhance the existing environment and wildlife habitat while helping blend and minimize the impact of the new improvements and homes throughout the property.

The landscape design of each Homesite shall extend, preserve and enhance the overall landscape theme of the community.

Views of the natural open spaces, mountains, and Lake Havasu are found throughout many Homesites. Therefore, the placement and selection of tree types and sizes must be carefully considered in order to protect and enhance the valuable assets that these views provide to the community. Respect should be considered for neighboring Homesites.

Excessive and stylized pruning of plant material will not be allowed as pruning should only enhance the natural growth habits of the plant material to help achieve a more natural look.

To tie in with the natural character of desert trees, the use of multi-trunk trees is highly preferred over the typical standard or single-trunk trees. Trees should be planted singly or in natural groupings.

Any portion of a Homesite not covered by buildings, patios, driveways, and sidewalks shall be landscaped as part of the improvements during the original construction of the home. All landscaped areas must be landscaped in accordance with these Landscape Design Guidelines and shall be irrigated with a fully automatic irrigation system.

#### **4.2 Landscape Zones**

There are two distinct Landscape Zones in relation to the landscape and the natural environment located within Mesquite Bay at Sailing Hawks.

- 1) The Public Zone
- 2) The Private Zone

##### **4.2.1 The Public Zone**

Natural rock formations and native plant groupings comprise the spectacular natural desert setting intrinsic to Mesquite Bay at Sailing Hawks.

The Public Zone is that portion of the Homesite that lies outside of the Building Envelope and Private Zone, primarily the front yard, and is to remain essentially in its natural condition.

Landscaping within Public Zone shall, in general, incorporate a drier, more desert-like character that compliments the backdrop of the natural desert. No turf will be allowed in this zone unless it is bordered or enclosed by a screen wall.

Only plant materials from the Approved Plant List for the Public Zone may be used in the Public Zone. The Approved Plant List for the Public Zone may be obtained from the Committee.

#### **4.2.2 The Private Zone**

The Private Zone includes those portions of the Building Envelope and Homesite that are not visible from the streets, parks, natural open spaces, and neighboring Homesites because they are screened from view by privacy walls, buildings and / or other landscape elements; primarily the rear yard, side yards, and court yards.

Within this zone the Homeowner has more flexibility in creating a more lush and/ or ornamental landscape, provided that irrigation needs are not excessive. Turf is allowed in the Private Zone, along with a variety of plants that are not allowed in the Public Zone.

Only plant materials from the Approved Plant List for the Private Zone may be used in the Private Zone. The Approved Plant List for the Private Zone may be obtained from the Committee.

### **4.3 General Landscape Guidelines**

- The Public Zone shall remain as natural desert to the greatest extent possible. Owners and contractors should do everything in their power to protect and preserve these Public Zone areas.
- Several types of plants are prohibited. They are listed in the Prohibited Plant List for Mesquite Bay at Sailing Hawks. The Prohibited Plant List may be obtained from the Committee. These plants are not permitted in any area of any Homesite because they can be potentially destructive to native plants or because of noxious pollen, excessive height, weed like growth habits, high water demands of other traits considered undesirable.
- Any exposed rock surfaces shall match as nearly as possible the color of the surrounding rocks. In some instances, exposed rock surfaces should be treated with an approved 'desert varnish'



(also called an oxidizing or aging agent) such as "Ebonite" or "Permeon". This process restores the natural desert coloration to disturbed surfaces.

- Boulders may be used in the landscape. They shall be sunk a minimum of one-third (1/3) below grade and be massed in groupings of two or more to appear most natural looking. The boulder color shall match as nearly as possible to the color of the rocks in the surrounding landscape. An oxidizing or aging agent as described above may be used to achieve this desert varnish color.
- Turf shall be contained by a permanent edging or mowing strip to provide a clean appearance. To maximize the cooling effects of turf, these areas in general, should be located within the Private Area adjacent to or near the house where they are easily accessible for recreation and enjoyment. Other areas of Turf are by approval only, and must be screened from view.
- Owners and contractors should select plants that are the appropriate size and shape for the yard being designed, and keep the mature size in mind to avoid the need for excessive continual pruning in the future, particularly in narrow side yards.
- Owners and contractors should locate shade trees near the house for their cooling effects, and consider planting deciduous varieties on the south and west sides of the house so that the winter sun may bless the house and yard.
- The use of larger specimen trees is preferred in areas close to the house to help blend buildings with the site, accentuate entry areas, provide for climate amelioration, and to define patio and/or outdoor areas.
- No bushes or trees should be more than three (3) feet above walls.
- All irrigation shall be installed and working prior to or simultaneously with the installation of any plant material.

#### **4.4 Groundcover / Rock Mulch**

All landscape areas must be treated with a rock mulch ground cover material. A tie-in with the natural desert terrain of the decomposed granite is suggested. Rock mulch must cover all disturbed or unnatural surfaces throughout the Homesite at a minimum of three (3) inches in depth.

All Groundcover / Rock Mulch must be of desert hues that are reflected in the surrounding desert and mountains. Any rock that is obtrusive or contrasts with the natural desert will not be allowed. The Homeowner, designer, or contractor must submit samples and / or specifications for rock mulch to the Committee prior to installation.

#### **4.5 Boulders**

Boulders are encouraged for use in the landscape.

Boulders shall be sunk a minimum of one-third (1/3) below grade and be massed in groupings of two or more to appear as natural as possible. Any boulders that are too obtrusive or contrast with the natural desert will not be allowed. The color shall match as nearly as possible the color of the rocks in the surrounding landscape. An oxidizing or aging agent described in Section 4.3 may be used to achieve such desert varnish color.

#### 4.6 Irrigation

To aid in water conservation, a careful planting design should reduce water consumption needs while using minimal and efficient irrigation systems:

- All landscaped areas shall be provided with an automatic irrigation system.
- All systems shall be below grades.
- All systems shall have a backflow prevention device to prevent non-potable water from entering the potable system.
- Irrigation controllers and backflow prevention devices shall be located where they are not visible to adjacent Homesites and the street.
- Where spray heads are used they shall be "pop-up" type. No exposed "knocker heads" are permitted.

#### 4.7 Paths, Outdoor Stairs, and Terraces

Paths, outdoor stairs and terraces are to be designed to blend with the natural desert environment.

- The use of natural materials, such as stone, chipped stone or gravel, is encouraged. Other paving materials such as concrete modular pavers, brick, block or similar materials may be approved, provided their colors, structure, and composition complement the residence and the surrounding landscape.
- Concrete shall be colored an appropriate color to avoid the starkness of "white" non-colored concrete.

#### 4.8 Retaining Walls, Fence Walls, and Fences

In the tradition of design within desert climates, walls are used to enclose outdoor spaces and to extend building masses and living areas into the landscape. Walls are typically designed and constructed with considerable mass and thickness, and are punctuated with wrought iron and/or gates.

- Walls shall be utilized to enclose the Private Area and to act as a separation between the Private Area and the Public Areas.
- Retaining Walls shall not exceed six (6') feet in height.
- Fences and Fence Walls shall not exceed six (6') feet in height.
- Where appropriate, walls should be extensions of the residential structure and integrated into the overall architectural design.
- Acceptable finish materials for walls are stone, stucco, keystone type, or split face. Other materials may be used if reviewed and approved by the Committee.
- Walls should be constructed of materials and colors which match the building.
- Gates should both be in scale to surroundings walls and be detailed and designed to complement the architecture.
- Gate structures may be a maximum of eight feet (8') in height so as to accommodate overhead design features such as trellises and/or arbors.

- All walls must be of masonry, a minimum of six (6') feet in thickness, and be appropriately finished to match or complement the exterior of the house. Wall offsets of architectural detailing to create shadow lines and texture are required, to break up long, linear forms.
- Stucco wall ends should be detailed with piers, turned ends, or "bulges" to eliminate a thin wall appearance when viewed on the end.

#### 4.9 Pools and Spas

All pools, spas, and related hardscape elements shall be located within the rear yard area of the Private Zone and effectively screened from off-site and adjacent Homesites.

- Swimming pools and spas shall be designed to be visually connected to the residence through the use of privacy walls and courtyards. All supporting equipment and safety fencing must be screened from view and screened or located so as to attenuate sound to other Homesites or public areas.
- Above ground, pre-cast or molded pools and spas are not acceptable. Spas that are not visible from roadways or neighboring properties may be approved by the Committee. Custom designed in-ground spas are acceptable and encouraged.

#### 4.10 Lighting

Exterior lighting shall be low level and directed downward, recessed, or shielded, so that the light source is not visible or obnoxious from residential development in the area, or from a public viewpoint.

- Any landscape lighting utilized shall be shielded to prevent nuisance glare onto adjacent properties.
- Lighting should be automated and controlled by a timer inside the house or photo-electric systems, and shall be active at all times, including those periods when the house is not occupied.
- All outdoor lighting fixtures shall be low voltage, (maximum 75 watts), and use incandescent lamps. No colored lamps shall be permitted (e.g. blue, green, red).
- Warm white and natural lamps are preferred to minimize glare and to be compatible with the warm desert hues.
- No exposed bulbs shall be permitted.
- Fixtures shall not exceed twenty-four (24") inches in height.
- Fixtures finishes shall be selected to blend with the area they are placed within.

#### 4.11 Water Features

Water features are discouraged unless they are water and energy efficient.

- Water features shall be kept in scale with the house and shall have limited jets, sprays, and surface area, to reduce the loss of water through evaporation.
- It is recommended that water features be designed within courtyards and Private Zones for the benefit of the Homeowners only.
- Any water feature visible to the public shall require approval by the Committee.

- Any flash evaporation (micro-mist) systems shall require approval by Committee.

#### **4.12 Completion of Landscape**

All landscape for each Homesite, as approved by the Committee, shall be completely installed within six months of the issuance of a Certificate of Occupancy.

Upon completion of landscape and all exterior improvements to the property, the Homeowner will be eligible for a final inspection and request for return of the compliance deposit. Contact the Association for final inspection and for further information.

#### **4.13 Maintenance**

The Homeowner shall maintain all plantings in a healthy growing condition. Fertilizer, cultivation, and pruning shall be carried out on a regular basis.

- Dead and dying plants shall be removed and replaced promptly.
- Irrigation systems are to be kept in proper working condition to avoid unnecessary loss of water. Owners shall be responsible for adjusting, repairing, and cleaning such systems on a regular basis.
- The irrigation system shall be designed and checked regularly to ensure that water from emitters or spray heads is not spraying onto walks or driveways, or off the Owner's property causing excessive water loss, staining, or irrigating areas not designed to receive water.

#### **4.14 Modifications to the Landscape**

Any modifications to trees, palms, planted materials, hardscape elements, structural elements, and groundcover rock visible from the public view shall require approval by the Committee prior to the modifications being made.

### **5. ARCHITECTURAL DESIGN GUIDELINES**

#### **5.1 Architectural Approach**

Colors and features must be chosen to blend with the naturally occurring desert and mountainscape as seen from a distance. Residences at Mesquite Bay at Sailing Hawks may be seen from above and from far distances and, therefore, should be composed of shapes and tones responding to the adjacent improved and natural environments.

The Architectural Approach to designing and building a home is one of the most critical steps in the design and building process. It is highly recommended that the Homeowner select a builder approved by the Committee before they begin the design process. By working closely with an approved builder, the Homeowner can minimize any problems or delays with the design and design review process while creating a plan that is value engineered to meet the client's budget and the aesthetic goals of these Design Guidelines of Mesquite Bay at Sailing Hawks.

## 5.2 Approved Roof Heights

The Architect is to design the residence to conform to the existing grades and elevations of the Homesite. The established finished grade and maximum height are specified on the Homesite Diagram.

## 5.3 Minimum Floor Area

The minimum floor area for any residence shall be a minimum of 2000 square feet. The minimum floor area shall not include the area enclosed for garages, porches, covered patios, terraces, and other similar areas.

## 5.4 Building Style

Building style should reflect the casual element of living in the desert climate. Architectural design is derived from a wide variety of influences including climactic, geographic, historical, and regional building traditions such as Mexican, Spanish Colonial, and Mediterranean. While no one style is correct, buildings should incorporate elements found in these regional traditions in order to create a way of living in the desert.

In general, homes throughout Mesquite Bay at Sailing Hawks shall be designed to reflect a more "rugged" and/or "earthy" living style which borrows from the surrounding desert. Below are a few general notes to consider regarding to building style:

- Buildings in the desert should emphasize deep set doors and windows, recessed patios and portals, walled entries, radius corners and edges, and thick walls.
- Buildings should utilize walls, terraces, patios and grading to make the building appear as if it "grows" out of the site and to reflect the "indoor/outdoor" traditions of living in the desert.
- Buildings should be designed to be viewed from all sides by screening and/or designing service areas as an integral part of the overall architectural composition.
- Designs based on a different climate, such as Plantation, will not be approved.
- Owners and their Architects/Designers should consider complementing architectural style and detailing with other homes in Mesquite Bay at Sailing Hawks.
- The use of natural materials such as stone, tile and stucco is preferred, provided they are colored and textured to compliment the surrounding landscape.
- A variety of textures and colors should be used that, when seen from a distance, blend the building into its site and minimize its presence. In general, darker and more recessive colors shall be used.

## 5.5 Building Massing

In general, buildings shall be one story and follow natural site contours and surrounding conditions to the greatest extent possible. Building masses should be predominately horizontal rather than vertical, yet should not create long unbroken elements.

- Building designs shall incorporate varied projections such as wall offsets, trellises, decks or verandas that create visual interest and respond to the desert climate.
- Building length will not exceed thirty (30') feet in one direction without a change in direction, roof alignment, wall offset or elevation change.
- Entries shall be recessed and should be articulated with overhangs, porches and/or courtyards. The use of recessed doors (including garage doors) and window openings is required to help create a sense of permanence.
- Entry elements shall be in scale to the relative proportions of the home. Dominant or overly stylized entries shall be avoided.

#### 5.6 Exterior Walls and Materials

All materials used on the house exterior should be compatible with, and complementary to each other and to the overall design in regards to: style, texture, color, and character.

- All exterior material shall be authentic and genuine in appearance. Materials must be used consistently around the entire building and not detract from the overall appearance of the building.
- Due to climactic extremes, the use of wood on a residential exterior should be limited in use to accent the architecture, such as painted or stained and treated fascias, trim, or door and window detailing.
- Acceptable residential exterior materials include exterior plaster or stucco with a light to medium texture, stone, and painted and/or stained wood accent areas.
- Materials which are inappropriate include exterior plaster or stucco using heavy textures such as swirl or heavy trowel, and exposed standard concrete block.

#### 5.7 Colors

The color palette for Mesquite Bay at Sailing Hawks will use muted and recessive colors that will allow the natural colors of the desert to predominate and to complement rather than contrast with the setting. This is based on the colors and hues of the surrounding desert geology and landscape. In general, this will require adhering to the following basic color concepts:

- Earth tones: Earth tone colors, with their organic origins, should be used for the primary color composition.
- Recessive colors: Colors that recede, rather than advance, should be used. Generally, these are darker colors. A wide variety of colors may be used, but all must have a Light Reflective Value (LRV) of 44 or lower. All paint manufacturers categorize their products by LRV, and this information is readily available. Light or bright colors generally have a LRV greater than 44.

In dealing with color the Committee will consider the entire community as well as the individual Residence or submission.

The Committee will review and approve colors and textures in a two step process. During the schematic design phase, the Owner may describe the color palette and indicate those colors on the

exterior elevations. In the Construction Document Phase the Owner will select the actual color and material samples. Based on these, the Owner will then be required to submit a material sample board showing representative samples of the intended colors, and materials and textures of the major building elements.

The palette and following Design Guidelines apply to all exterior surfaces of the house, including wall, parapets, roofs and all related fences and walls:

- No exterior materials used shall have a high gloss, glare, or reflective “mirror type” finish.
- Colors application should be used consistently throughout each Homesite for all the building(s) and related outdoor areas and/or structures.
- Colors for large field application shall be a combination of layering of two or three colors to achieve a “multi-hued” quality which changes with light and shadow, rather than a “flat” appearance. Large, monochromatic surfaces, with the exception of flat roofs, are not acceptable.
- Colors for roofing shall be darker in color or hue than the building’s exterior walls.
- Accent colors should be carefully considered for front doors, window sashes, and other architectural elements so that they do not dominate or overwhelm the overall color composition.
- Exterior house colors should be complementary to exterior hardscape colors.
- Changes in exterior wall color should be made at “intent” intersections of walls.

#### 5.8 Roofs

From many viewpoints in and around the community, roofs will become the dominant element of the landscape and must create a harmonious relationship to the street, site and adjacent structures. All roofs shall be carefully designed in terms of color, material and shape so that they help to integrate the structure with its site and neighboring buildings.

- Generally, acceptable roof pitches at Mesquite Bay at Sailing Hawks may be flat or up to a pitch of 5:12.
- Roof designs shall incorporate both flat and pitched roof elements to avoid the appearance of wide, unbroken roof planes as viewed from above or off site. A minimum of 60% of the total square footage of the residence (including garage area) must utilize a pitched roof.
- Roof overhangs, if present, shall be a maximum of three (3') feet at the rakes and eaves.
- Flat roofs are to be painted or sanded to match the exterior color of the house.
- Asphalt shingles are prohibited.

#### 5.9 Doors

Entry doors and entrances should have simple, straightforward lines which borrow from the regional southwest architectural traditions.

- Special consideration should be given to the entry door and door hardware. The entry should be a design which complements the architecture of the residence.
- Exterior doors should be consistent with each other. Similar jamb and head details should be used around the entire exterior of the house.
- Courtyards at or near entryways are encouraged.
- Garage overhead doors are required to be recessed eight (8") inches and designed to be complementary to the overall integrity of the house. Garage doors of hinged section design are encouraged. One-piece or single slab type garage doors are prohibited.

#### **5.10 Windows**

Windows shall be recessed to create shade and shadow.

- Large window openings should be divided through the use of mullions or the ganging of smaller window units.
- Glass may be coated or tinted to control solar heat gain.
- Canvas or similar type awnings over window and/ or entryways are discouraged and will be allowed only by Committee approval.

#### **5.11 Fascias**

Consideration shall be given to the fascia as an architecturally integrated design element.

#### **5.12 Chimneys**

Fireplaces and chimneys are very dominant in an architectural design, and therefore, they need to be proportionate to and consistently detailed with the overall architectural design. Fire places must be equipped with an approved spark arrester. Flue pipes are required to be encased with a chimney enclosure of masonry or stucco, and supported by a foundation at grade when located on an exterior wall. Exposed metal flutes are not acceptable.

#### **5.13 Skylights**

Skylights must be integrally designed into the structure and should not be obtrusive. Skylight glare shall not be back-lit or manufactured of reflective material. Skylight framing shall be colored or coated to match adjacent materials.

#### **5.14 Solar Equipment**

Solar equipment is encouraged but should integrate with the architectural design of the structure. Solar panels may not be visible to the adjacent properties or street. All solar design must be approved by the Committee.

#### **5.15 Exterior Showers**

Exterior shower enclosures or equipment should not be visually exposed to the adjacent property.

#### **5.16 Mechanical Equipment, Sheet Metal, and Vents**



- Roof mounted mechanical equipment is not permitted.
- All sheet metal should be minimally exposed and must be coated to match adjacent materials.
- Plumbing vents, pipes, and similar elements, shall be limited in number and should be ganged or clustered resulting in a minimum number of vents exposed to view from the street and adjacent property. These elements should be located on the interior side of roof elements (away from the street), and when requested by the Committee, screened from view from other Homesites. Galvanized sheet metal enclosures of these elements are encouraged when integrated architecturally into the roof, and coated to match adjacent materials.

#### **5.17 Guest Houses, Casitas, and Detached Garages**

Guest houses should be designed as a single visual element with the residence, and should be visually connected by walls, courtyards, roofs, or other major elements. The guest house must comply with all zoning regulations, and all provisions of these Design Guidelines. No guest house or guest suite may be leased or rented. The maximum building height for Detached Garages or other structures is twenty (20') feet.

#### **5.18 Exterior Trim and Detailing**

Exterior trim and detailing shall be consistent around the entire house.

#### **5.19 Foundations and Columns**

Foundations shall be of pre-engineered concrete or post-tension slab. Columns are an important design element which should be carefully detailed without appearing unnecessarily ornamental or overly stylized. They shall be constructed with substantial materials, proportionate to other design elements, complementary to the overall architectural design, and consistently detailed.

- Columns which are appropriate for uses at Mesquite Bay at Sailing Hawks include: Cylindrical stucco/plaster, stone, rectangular stucco/plaster, square stucco/plaster or exposed wood (such as peeler poles).
- Columns shall not be overly stylized; such as Corinthian or Egyptian designs.

#### **5.20 Garages and Parking**

Each residence shall provide parking space within the building pad for at least two automobiles in an enclosed garage attached to the main structure of the dwelling. A minimum of two additional parking areas must be provided on the site to accommodate guest parking. No exterior storage of recreational vehicles, boats, or trailers will be permitted on the residential lots.

- The use of single-car garage doors is encouraged, even when multiple garage spaces are designed; this will help break up the massing and create variations in the elevation.

- Garage doors shall be recessed a minimum of eight (8") inches from the face of the garage.
- The maximum height of any garage door shall be thirteen (13') feet unless the Architectural Committee approves additional height after review of plans and surrounding lots.

### 5.21 Patios and Courtyards

Patios and courtyards are encouraged and should be designed as integral parts of the dwelling, so that they maximize the enjoyment of Lake Havasu City's climate and capitalize on the views.

### 5.22 Building Character and Elevations

All elevations shall continue the design theme; detail requirements are the same for the front, side and rear elevations. Within Mesquite Bay at Sailing Hawks, all residences shall be designed to incorporate a "360-degree architectural perspective." Special consideration should be given to the following building elements:

- Courtyards: Entry courtyards are encouraged to create a transitional space between the public street and the front door and should be designed as a semi-private extension of the living areas of the house. The use of a significant specimen tree, stone or brick pavers, and small fountains will enhance the entry experience and the livability of the outdoor space. The courtyard may be defined by a perimeter wall and small entry gate or located between a detached "casita" and the main house.
- Doors: Front doors and entryways shall provide a focal point for the home and be visible from the street if possible. All exterior doors shall be recessed a minimum of eight (8") inches.
- Windows: All windows shall be recessed a minimum of two (2") inches from the exterior plane of the house. Windows that are set flush with the exterior surface of the dwelling are not permitted.
- "Plant-ons" or "Pop-outs," rigid installation used to create a frame around the windows, are not acceptable recesses.

### 5.23 Materials

- Wood may be used in limited applications if properly installed, braced or bracketed to prevent twisting and warping. Wood should be used as an accent trim or for trellises and pergolas.
- Materials that are foreign to the local region or inappropriate to the character of Mesquite Bay at Sailing Hawks are prohibited. Specifically prohibited are vinyls and plastics, mirrored glass, wood siding, cultured marble, asphalt shingles, wood shingles,

and any other materials that do not convey strength, permanence or durability, according to the judgment of the Committee

#### 5.24 Lighting

In order to preserve the dramatic night sky, which would be obscured by excessive local lighting, the following Design Guidelines for residential site lighting have been established:

- Site lighting must be directed downward onto vegetation, the ground or boulders.
- Building-mounted lighting must be directed downward away from adjacent dwellings, and may not extend beyond your private property lines. Building-mounted lighting may not be used to light walls or building elements for decorative purposes.
- All exterior lighting must provide for complete shielding of light sources. No bare lamps are permitted. One should see the effect of the light, not the lamp itself.

#### 5.25 Mailboxes

Mail delivery is distributed to central mailboxes and not to the individual home. However, house numbers should be visible from the street and should be designed in such a way that they appear to be consistent with the character of Mesquite Bay at Sailing Hawks. Numbers painted on curbs are not permitted.

#### 5.26 Equipment

- No mechanical appurtenance (air conditioning/heating units) shall be mounted or attached to any roof. A/C units must be ground mounted behind a screen wall with the same color and finish as the dwelling and not visible from the street or other primary views.
- Television, amateur radio, and other types of antennae are not to be installed or maintained on any property.
- Satellite dishes greater than one meter in diameter are prohibited, unless approved by the Committee.
- Flags are prohibited except for the flag of the United States of America or other flags permitted pursuant to ARS §33-1808.A. Freestanding flagpoles may not exceed fifteen (15) feet in height. The flag may also be hung from a pole bracket mounted on the dwelling structure or suspended from a roof overhang.
- Trash receptacles are to be removed from the street within eight (8) hours after trash pickup and stored in the garage or behind a wall and not visible from neighboring properties.
- No signs whatsoever, permanent or temporary, shall be permitted except as provided by any applicable, Covenants, Conditions and Restrictions (CC&R's), these Design Guidelines, or ARS §33-1808.

#### 5.27 Utility Line Placement

All utility lines shall be underground and installed within the driveways and/or other area with the least amount of site disturbance. Location of utility lines must be shown on the plans submitted to the Committee for approval.

## 6. DESIGN REVIEW

### 6.1 The Design Review Committee

The Committee is established to oversee the overall development of Mesquite Bay at Sailing Hawks in accordance with the Design Guidelines and the professional judgment of the Committee members. The Committee is empowered as described within the Declaration of Covenants, Conditions, and Restrictions (the "Declaration") to administer and enforce proper development and operation of Mesquite Bay at Sailing Hawks. The Committee will perform its duties and be composed of a membership as described within the empowering document.

Design development and review will follow a logical sequence wherein the Owner and the Committee enter into a process-oriented relationship as described with the design review procedures of the Design Guidelines.

The Committee is the design review agent for Mesquite Bay at Sailing Hawks Homeowners Association, Inc. (Association), an Arizona non-profit corporation, and the Declarant. The Committee will consist of a minimum of three (3) to a maximum of seven (7) members. Each member will hold office until such time as he or she has resigned or been removed, or until his or her successor has been appointed as set forth in the Covenants, Conditions, and Restrictions for Mesquite Bay at Sailing Hawks (the "Declaration").

#### 6.1.1 Appointment of Members

Members of the Committee will be appointed as provided in the Declaration, which in substance provides for the Declarant to appoint the Committee, as defined in the Declaration. Any member or the Committee may at any time resign from the Committee upon written notice delivered to Declarant or to the Association, whichever then had the right to appoint and remove members.

#### 6.1.2 Functions of the Committee

The Committee shall have the duty to consider and to act upon such proposals of matters as from time to time are submitted to the Committee, to perform such other duties as from time to time are delegated to it by the Declarant or the Association, and to amend the Design Guidelines when, and in the manner, deemed appropriate or necessary by the Declarant or the Association to further the philosophy of Mesquite Bay at Sailing Hawks or the practical necessities of making Mesquite Bay at Sailing Hawks an outstanding and successful community.

#### 6.1.3 Meetings

The Committee shall meet from time to time as necessary to properly perform its duties. The vote or written consent of a majority of the members shall constitute an act by the Committee unless the unanimous decision of its members is otherwise required or unless the committee had previously acted to delegate certain powers to one or more of the committee members. The Committee shall keep and maintain a record of all actions taken by it at such meetings.

#### **6.1.4 Compensation**

Unless authorized by the Declarant or the Association, no member of the Committee shall receive any compensation for services rendered. All members shall be entitled to reimbursement for reasonable expenses incurred by them in connection with the performance on any Committee function or duty. Professional consultants retained by the Committee shall be paid such compensation as the Committee determines.

#### **6.1.5 Amendment to Design Guidelines**

These Design Guidelines are subject to revision by amendment as follows:

- At such time as the Committee determines that any portion of these Design Guidelines should be revised, the Committee shall send to the Declarant in written form a proposed amendment outlining the changes and the reason therefore.
- The Declarant shall either approve or disapprove the proposed amendment in writing. Failure of the Declarant to disapprove the proposed amendment shall in no way be deemed to be approval of same.
- The Declarant may also amend the Design Guidelines independently.

#### **6.1.6 Enforcement**

These Design Guidelines and the plans as approved by the Committee may be enforced by the Committee, the Association, or the Declarant as provided herein or in the Declaration.

The foregoing description of the process, composition, and duties of the Committee is intended to provide general information. The Declaration, as the empowering document which may be amended from time to time, should be consulted for additional information and requirements.

### **6.2 Design Review Process**

Proper standards of development will be assured to every resident in Mesquite Bay at Sailing Hawks by the practice of Design Review as established by the Committee. The Committee is responsible for reviewing and approving all improvements and any revision or alteration to those improvements. The goal of the Committee is to process each submittal fairly, consistently, in a timely manner, and in accordance with sound professional judgment and the requirements of these Design Guidelines and the Declaration. The Committee has established reasonable procedural rules, and may access a reasonable fee in connection with the review of plans and specifications. The Committee may delegate plan review responsibilities to one or more members of the Committee.

### 6.2.1 Process for Obtaining Approval

1. Owner receives Design Guidelines/purchases Homesite.
2. Owner and design team contact the Committee chairperson or representative for optional orientations sessions prior to commencing any design.
3. Owner submits a Schematic Design Submittal (Application and fees) for review.
4. Committee Review and Approval
5. Submit approved Work Drawing to City of Lake Havasu for building permit.

Note: This process may be subject to change by the Declarant, the Committee or the Association.

### 6.2.2 Professional Consultant Requirements

- The Owner must use competent consultants when applicable, such as Architect, Designer, Landscape Architect, Landscape Designer, Civil Engineer, and Land Surveyor. It is highly recommended that the building design be prepared by a registered Architect, the grading and drainage plans be prepared by a licensed civil engineer, and the landscape plans be prepared by a licensed Landscape Architect or Designer. Names, addresses, telephone numbers and license numbers of all consultants shall be placed on all submittals.
- The Owner shall provide copies of the Design Guidelines to the design team members.
- The Owner is solely responsible for ensuring that the Owner's professionals process through the Committee all exterior architectural and landscape plans, and revisions to Improvements under construction.
- The Owner is solely responsible for ensuring that the Owner's licensed professionals and contractors construct the Improvements and landscape in conformance with approved plans, revisions, and timetable.

### 6.2.3 Submittals

The address of the Committee shall be the principle office of the Association as designated by the Board of Directors of the Association pursuant to the Bylaws. Such address shall be the place for the submittal of plans and specifications, and the place where the current Design Guidelines shall be kept. The initial address for submissions shall be:

Mesquite Bay at Sailing Hawks Homeowners Association, Inc., an Arizona non-profit corporation  
Design Review Committee  
1235 Vista Del Lago  
Lake Havasu City, AZ 86404

Applications for construction of Improvements may be obtained at the above address. Obtaining the required Committee approval is a prerequisite to constructing any Improvements.

The Committee, before giving such approval, may require that changes be made to comply with the requirements of the Declaration, these Design Guidelines and such additional requirements as the Committee may, in its discretion, impose as to structural features or characteristics thereof not expressly covered by any provisions of this document, including, without limitation, the sitting or location of any proposed Improvements with respect to the topography and finished ground elevations. The Committee may also require or specify, in its discretion, the exterior finish and color, and the architectural style or character of any proposed Improvement in view of the general architectural style and character of existing Improvements within Mesquite Bay at Sailing Hawks.

The Committee, before giving its approval, may impose conditions, including without limitation, time limitations for the completion of Improvements, or require changes to be made which in its discretion are required to ensure that the proposed Improvement will not detract from the appearance of the Project, or otherwise create any condition disadvantageous to other Owners, or detrimental to Mesquite Bay at Sailing Hawks. Until all plans and specifications required for each submittal are determined by the Committee to be complete, the Committee shall have no obligation to review any partial submittals. All complete submittals will be acted upon promptly by the Committee.

The amount of time taken by the Committee for the approval process will vary with the adequacy and complexity of the design information, and the completeness of the submitted plans. A decision of the Committee to approve, or to disapprove a submittal, together with an explanation of further conditions to be satisfied by the applicant, shall be made within thirty (30) days after receipt of a completed submittal.

The approval of the Committee of any submissions for any work done, or proposed to be done, or in connection with any other matter requiring the approval or consent of the Committee, shall not be deemed to constitute a waiver by the Committee of its right to approve, disapprove, object or consent to any of the features or elements embodied therein when the same features or elements are embodied in other plans, specifications, drawings or other matters submitted to the Committee.

An applicant may request reconsideration of a ruling of the Committee by submitting to the Committee, in duplicate, written arguments for such reconsideration within thirty (30) days of the date of receipt of the Committee's ruling. The Committee will give its final ruling by answering the arguments and by confirming or modifying its ruling within thirty (30) days of the date of submittal of the written argument to the Committee.

Final approvals by the Committee are valid for one (1) year from the date of final approval and must be obtained prior to submitting formally to the City of Lake Havasu for a building permit. If a building permit is not issued within one (1) year after an Owner obtains an approval from the Committee, the previous approval is void and an application for proposed Improvement(s) must be resubmitted and reapproved by the Committee. Verbal approvals are not effective approvals under any circumstances. The applicant shall not rely on and shall not place any value whatsoever on a verbal approval by anyone, including a Committee member(s). The Committee shall not be bound in any respect by a verbal approval.

Neither the Declarant, the Association, the Board, the Committee, the members, or the designated representatives thereof shall be liable for damages to any Owners of Owner's representative submitting plans or specifications to the Committee or any of the entities named above for approval, or to any Owner or Owner's representative affected by the Declaration or these Design Guidelines, by reason of any mistake of judgment, omission, or negligence, unless due to willful misconduct or bad faith of the Committee. Each Owner, as a condition to obtaining any approval under these Design Guidelines, agrees to fully indemnify, protect, defend and hold harmless, the Declarant, the Association, and the Committee against and from any and all claims, liabilities, lawsuits and disputes related in any way to any approved and/or disapproved Improvements.

#### 6.2.4 Compliance Deposit

A compliance deposit of two-thousand dollars (\$2,000.00) must be submitted along with any and all design review fees at the time of the Schematic Design Submittal. This deposit shall be held pending the satisfactory inspections of all improvements including landscape installation.

In the event that the Owner, Prime Contractor, subcontractor, or any of their representatives, cause any damage, fail to construct the proposed improvements in accordance with approved plans, or fail to comply with these Design Guidelines or the Declaration, the Association may use the Compliance Deposit to take the necessary action to repair or correct the damage created by said non-compliance, or to enforce the Guidelines.

In the event that the Association is forced to use any portion of the Compliance Deposit, the Owner shall immediately replace the amount of the deposit used. Failure to replenish the Compliance Deposit within thirty (30) days following the Association's written notice and request shall be deemed a material breach of the Design Guidelines and the Declaration and shall entitle the Association to deny contractor and subcontractor access to the job site. Finally, the Association may take legal action, if necessary, including placing a lien on the property in the amount equal to the Compliance Deposit deficiency.

#### 6.2.5 Design Review Fees

Deposits & Fees Subject to Change  
Contact the Association Manager  
Or the Design Review Chairman  
For an update Deposit & Fee Schedule

Deposits & Fees Subject to Change  
Contact the Association Manager  
Or the Design Review Chairman  
For an update Deposit & Fee Schedule



The following design review fees in addition to the compliance deposit, which are subject to change, are required to be submitted to the Committee with the Schematic Design submittal. These fees are a pre-condition to consideration of any plans and specifications by the Committee:

- A. \$500.00 for new Residence and associated landscape drawings.
- B. \$250.00 for all other Improvement drawings or repeat of previously approved plans.

These fees may be increased for any proposed Improvements based on the number of submissions to the Committee prior to final approval or the nature and complexity of the design of the proposed Improvements.

Submittals will not be reviewed by the Association or Committee unless accompanied by an application form and all necessary fees including, but not limited to, Design Review Fees and the Compliance Deposit.

#### **6.2.6 Approvals by the Committee**

Following the approval of the plans by the Committee, a written certificate (either by stamp on the approved plans or separate document) shall be provided to the Owner evidencing such approval. All plans submitted shall be in triplicate. Upon the completion of review, one (1) set of plans will be retained by the Committee, and the remaining two (2) sets will be returned to the Owner. Approved plans shall be endorsed with the Committee's consent. Plans shall not be submitted to the City of Lake Havasu for a formal review of plans and specifications until the written certification has been issued and all plans have been endorsed with the Committee's consent.

#### **6.2.7 Other Approvals**

Approvals of any Improvement by the Committee do not waive the necessity of obtaining any required City or other public agency permits and approvals. Obtaining a city or other public agency permit or approval does not waive the need for Committee approval. The Committee will not knowingly approve an Improvement which is in violation of the applicable government codes.

Any plan or specification approval as given by the committee refers only to its conformity with these Design Guidelines, the Declaration and such other rules, regulations and conditions as may be promulgated by the Committee. The Committee, by its submissions of these standards and approval of plans and specification, assumes no liability or responsibility for engineering or structure design, or for any defect in any Improvements made pursuant thereto, and its approval shall not be deemed approval of any plans or design for structural safety and conformance with building of other codes.

#### **6.2.8 Committee Inspection of Improvements**

In accordance with the Declaration, any member of the Committee, or any other representative, agent, or employee of the Board, may, at any reasonable hour, enter a Homesite and inspect any Improvements being built thereon, for the purposes of inspection for compliance with approved plans, these Design Guidelines and the Declaration.

Upon the completion of any Improvements, the Owner shall give written notice thereof to the Committee. The Committee, or its duly authorized representative, may inspect the completed Improvements in order to determine whether it was constructed, erected or installed in substantial compliance with the approved plans. If the Committee or its representative finds that such work was not done in substantial compliance with the approved plans and specifications, it shall so notify the Owner in writing after the inspection. The notice shall specify the particulars of noncompliance. In the event the Owner fails to remedy the noncompliance within thirty (30) days from the date the Owner is notified, the Committee shall so advise the Board. Upon the receipt by the Board of notification of noncompliance from the Committee, the Board, in addition to any other remedies it may have pursuant to these Design Guidelines, the Declarations and applicable law, shall have legal standing to commence and prosecute legal proceedings against any Owner in order to correct such noncompliance.

Upon final inspection and acceptance of all improvements by the Design Review Committee, the Association will return the Compliance Deposit.

## **6.3 Required Submittals**

### **6.3.1 Schematic Design Submittal**

The first submittal to the Committee is the Schematic Design Submittal. These documents provide the Committee with a complete understanding of the architecture, the landscape and the proposed materials for the Residence or substantial reconstruction of an existing Residence.

### **6.3.2 Working Drawing Submittal**

After Schematic Design approval, Working drawings are to be submitted. These drawings will be reviewed for compliance with Committee requirements made during previous design submittals, the requirements which the Committee states are necessary in its sole judgment, and all Design Guideline requirements. Prior to formally submitting for a Building Permit from the City of Lake Havasu, the Owner is responsible for securing Working Drawings approval in writing from the Committee.

Any change of the approved plans must be submitted by the Owner to the Committee for further review and approval prior to further construction of the Improvements.

### **6.3.3 Other Submittals**

#### Optional Conceptual Design Submittal:

This submittal is available for the Owner and/or Designer to present challenges and original concepts for the proposed improvements.

#### Owner/Design Team Orientation:

When an Owner plans to build on their Homesite, the Owner or design consultant may contact the Committee Chairman or Committee Chairman's Representative to arrange for an orientation session. The orientation session provides the Owner with an opportunity to:

- Review the entire process of designing and building Improvements at Mesquite Bay at Sailing Hawks and understand the Owner's role in that process.
- Review professional consultant requirements.
- Review Mesquite Bay at Sailing Hawks' architectural and landscape approach and philosophy.
- Ask any questions about the review and building process and have the option to take a site tour with the Committee chairman or the Committee chairman's representative.
- Review any potential constraints regarding easements, setbacks, natural open space corridors and other site constraints.
- Request or discuss possible variances or alternative options for dealing with constraints.

An orientation session provides the Committee or its representative an opportunity to meet each Owner and member of the design team and understand each Owner's thoughts and desires about the kind of Improvements the Owner contemplates building.

An integral part of the success of the Design Process is the active involvement by the Owner. The Owner is responsible for understanding and complying with the provisions of the Design Guidelines, and assuring that all Owners' consultants also understand and comply with the Committee's requirements and the Design Guidelines.

#### 6.3.4 Plan Submittal Requirements

As a general requirement, each consultant shall include an information block on all submittal sheets containing:

- North Arrow
- Street Names
- Submittal Date
- Plan or Revision Date(s)
- Name, Address and Phone Number of Property Owner
- Name, Address, and Office Phone Numbers of the Project Architects, Engineers, and Other Consultants.

- Sheet Number and Description.

#### 6.3.4.1 Schematic Design Submittal Requirements

The Schematic Plans give the Committee its first look at the design of the Owner's proposed Improvement(s). At this stage, the Committee will focus on architectural form and fundamental relationships between the owner's proposed Improvements and the surrounding environment of neighboring residences and landscape. The Committee does not focus on detail at this point, but the choice of basic materials and their relationship to one another. In general, the Committee is looking to see what substance the plan has, and to insure the plan is consistent with the spirit of Mesquite Bay at Sailing Hawks, the professional judgment of the Committee members, and the Design Guidelines.

The Committee requires three (3) sets of the following Schematic Design Drawings for the review process:

- i. Homesite Diagram/Survey (Provided by the Association for each Homesite)
- ii. Schematic Site, Grading, and Floor Plan (1/8" scale).
- iii. Schematic elevations (1/8" or 1/4").
- iv. Roof Plan (1/8" or 1/4" scale)
- v. Conceptual Landscape Plan

In addition, the above plans must be accompanied by a Design Review Application and the applicable review fee and compliance deposit.

Details and requirements on the above listed plans required for the Schematic Design Submittal are outlined below:

- i. Homesite Diagram/Survey: This plan is provided to each Owner by the Association and/or Developer at the time of Homesite purchase. This Homesite Diagram must be submitted with the Schematic Design Drawings so that the Committee can become familiar with the property at hand and understand the existing site conditions, relationship to neighboring properties, and the existence of any unusual conditions or restrictions.
- ii. Schematic Site, Grading and Floor Plan (1/8" scale): This plan should use the information from the topographic survey and must include:
  - Proposed floor plan of building(s) (rooms designated by name) and outline of the roof overhang, including hip, ridge and valley lines (shown dotted)
  - Schematic site design concepts for the Homesite, including driveways, walkways, patios, pools, spas, garden walls.

- Where site grade changes are proposed, show existing grades on Homesite in dashed lines and proposed grades on Homesite in solid lines (2' contour intervals).
  - Utility locations including electric transformers, electric pullbox, water meter box or stubout, telephone and television pullbox or stubout, and gas and other utilities serving the Homesite.
  - Property lines, building and pool setback lines, and any easements.
  - Approved pad elevations, top and toe of slope line locations, changes in slopes (with elevations), method of surfaces and/or subterranean drainage provisions (with line elevations).
  - The pad elevation shown on the Homesite Diagram may not be exceeded without the approval of the Committee and Lake Havasu City Planning and Zoning Department.
  - Adjacent Homesites and streets within twenty five (25') feet of Homesite. When a house exists or proposed on adjacent Homesite, show all architectural and landscape information as provided by the Committee.
- iii. Schematic Elevations (1/8" or 1/4" scale): This drawing must show the following:
- At least four (4) exterior elevations of proposed building(s) identified as north, south, east, west, and/or front, rear, left and right sides. Front and rear elevations must extend twenty-five (25') feet beyond Homesites line. Show existing or proposed Improvements and grades in those areas.
  - All proposed exterior material and colors description on elevations.
- iv. Roof Plan (1/8" scale): If the proposed Improvement(s) consists of construction of a new Residence or Substantial reconstruction of an existing Residence, the following information must be included in the Roof Plan:
- Flat and sloped roof area and how they are drained.
  - Trellis areas, skylights, and chimney.
  - Location of exterior walls and columns in relationship to roof edge.
- v. Conceptual Landscape Plan: A conceptual landscape plan must be submitted to show the relationship of the proposed structure with the existing natural landscape and proposed landscape improvements. The landscape zones must be clearly illustrated (the Public Zone and the Private Zone) along with proposed plant lists for each Zone. The following should be clearly defined on the master plan:
- Scaled drawing showing all easements, property lines, setback, and landscape zones.
  - Proposed plant materials and locations.
  - Proposed hardscape elements (along with description of size, scale, and proposed materials).

- Location of all walls, fences, and hardscape elements along with their type, size, method of construction, and type of materials.
- Boulder and gravel specifications and locations.

#### 6.3.4.2 Working Drawing Submittal Requirements

Owner or Owner's professional consultants may submit the Working Drawings of the proposed design when in receipt of the Committee's written approval of the Schematic Design plans.

The Working Drawings format shall be "Auto Cad" or other industry recognized format.

The Committee requires three (3) sets of the following Working Drawings for review (Sheets may be combined as long as they are clearly legible):

- i. Cover Sheet: Site or Vicinity Map along with all relevant project information
- ii. Site Plan (1/8" scale) that indicates:
  - Adjacent Homesite numbers and names of the adjacent Homesite Owners, their architects and their design or construction status (to be provided by the Committee).
  - All proposed and existing architectural and landscape Improvements located on adjacent Homesites or common areas that are within 25 feet of the Homesite.
  - All Easements on the Homesite
  - Dimensional building and pool setback lines from Homesite lines. Roof overhang line and dimension from Homesite.
  - All services yards, trash areas, pool, air conditioning, irrigation and other equipment location, and location of gates.
  - Utility services locations from the Homesite, and all utility service entrance locations at the Residence.
  - Location and description of all control and expansion joints on exterior hardscape
  - Homesite Area.
  - Square footage for enclosed air conditioned space.
  - Garage and mechanical room square footage.
  - Covered patio area.
- iii. Grading and Drain Plan (1/8" scale)
  - All existing grade contours (taken from the existing topographic survey), on the Homesite and adjacent Homesite, common area and streets, within twenty-five (25') feet of Homesite, with dashed lines and all

- proposed grades on Homesite with solid lines, both at one (1') foot contour intervals. Should also show top and toe of slope line locations and changes in slopes (with elevations).
- Location of all bubbler boxes, roof drains, area drains and dry wells and the connection to underground drainage system including termination in dry wells where required.
  - Indication of positive drainage away from all structures with flow arrows to Homesite line.
  - Spot elevations on drain inlets and outlets, top of wall elevations, hardscape elevations.
  - Location, typical details, and specification of drainage facilities, including drainage inlet and outlet structures, dry wells and area drains.
- iv. Foundation and Details: This plan should show all slab elevations.
- v. Floor Plan and Details: This plan to show all walls, partitions, defined spaces and uses. Reference and include all details required for the construction of concrete, masonry, and framed walls. Door sizes, cabinets, wall fixtures, etc. must be shown.
- vi. Exterior Elevations (1/8" or 1/4" scale): These elevations to show:
- All exterior material and finishes
  - Main entry door, garage overhead door, gates, columns, ornamental iron work, exterior trim and special architectural features such as skylights and solar panels as permitted.
  - Items that will be evident on the exterior of the finished building including louvers, vents, roof drain and gutter outlets, access openings, meter boxes, electrical fixtures, expansion joints, flashing, tile or masonry feature strips, etc.
  - Roof pitch and maximum height of the finished structure.
- vii. Sections (1/4" scale or larger): These sections to show detailed composition of all types of walls, floors, and roof elements and materials used, including wall heights and roof pitches.
- viii. Framing Plan and Details: This plan to show overhangs and exterior trim including fascia, soffits, frieze boards, columns, and trellises.
- ix. Roof Plan (1/8" scale): This plan to show:
- Roof penetrations including plumbing and HVAC vents, fireplace and miscellaneous equipment flues, skylights, and roof access doors.

- Roof-mounted equipment and accessories as permitted including solar panels and HVAC fans.
  - Gutter, roof drains, scuppers, flashing and related sheet metal.
  - Roof slopes and water flow to drains or gutters or both with directional arrows.
  - Roofing materials including manufacturers' names.
- x. Electrical Plan.
- xi. Plumbing Plan.
- xii. Glazing, Door and Finish Schedules: This plan to provide all details necessary for the Committee's understanding of the design, all other details necessary to describe the design and construction elements to the Owner, builder, contractors, subcontractors and trades people. It must include type of glazing, color, and finish.
- xiii. Details: Show details necessary to supplement information of all plans for a comprehensive understanding of the construction of the building.
- xiv. Landscape Plan: This plan to show:
- Location of all plant material, any trained plants, i.e. espaliered, turf, boulders, and toppings.
  - Plant legend with botanical names, common names, size and remarks.
  - Complete details and specification for all landscape items shown on the plan including site amenities such as fountains or art objects.
- xv. Irrigation Plan: This plan to show:
- Complete irrigation working drawing showing the location of all lines, emitters, and spray head, valves, the backflow prevention devices, and the controller.
  - Complete details and specifications for all irrigation items shown on the plan.
- xvi. Lighting Plan (1/8" scale): This plan to show:
- Location of all light fixtures.
  - Complete information on the lamp, lens, and wattage to be used for all fixtures.
  - Complete details and specifications for all lighting items shown on the plan.
- xvii. Pool, Spa, Fountain Plans & Details: This plan to show:



- Plans, sections and details for pools, spas, fountains and all other water treatments (including related drains) to be located on the Homesite.
- At least two (2) cross-sections of swimming pool/spas/fountains and adjacent hardscape showing their relationship to the adjacent property where applicable.

When the Owner and Owner's design professionals receive the Committee's written approval of the Working Drawings, copies of the approved drawings will need to be submitted to the City with whatever information and fees the City requires for review and approval of the Working Drawings.

If the Committee does not approve the Working Drawings, it will return them with a written request for corrections and resubmission. The Architect and/or Landscape Architect must provide all additional drawings and details the Committee requires to understand the design fully.

## **7. CONSTRUCTION STANDARDS**

### **7.1 Building Process**

The Improvement Building Process at Mesquite Bay at Sailing Hawks is actually three processes in one

- A. The Pre-Construction Process
- B. The Construction Process
- C. The Committee Inspection Process

These processes and their accompanying regulations are described below. The process and regulations do not apply to land development actions taken by the Declarant or its assigns during the community development of Mesquite Bay at Sailing Hawks.

The general, or basic, step-by-step procedures for building Improvements at Mesquite Bay at Sailing Hawks are sequentially described in the following flow process:

#### **7.1.1 Construction Flow Process**

1. Committee approves working drawings and City of Lake Havasu issues building permit(s).
2. Owner submits preconstruction submittals to Committee.
3. Start construction.
4. Complete Construction.
5. Committee plans conformance inspection and compliance deposit return.

### **7.2 Owner / Contractor Responsibilities and Requirements**

- The Owner and/or Owner's general contractor or superintendent is required to provide someone on-site with adequate authority to receive deliveries and direct suppliers and sub-contractors, whenever necessary.
- All equipment operators must possess an appropriate driver's license.
- The Owner is responsible for making certain that all construction personnel are familiar with and obey the rules governing their activities while at Mesquite Bay at Sailing Hawks.
- Each general contractor or superintendent is responsible for familiarizing their employees, sub-contractors and suppliers with all relevant construction requirements and provisions in these Design Guidelines, and enforcing them. Each general contractor or superintendent is responsible for controlling employee work hours, and controlling any activities of employees that may be considered as an annoyance or nuisance by other Homesite Owners (e.g. radio volume).
- The Owner and Owner's general contractor or superintendent are required to construct the Residence and surrounding Improvements according to the plans, specifications and revisions approved in writing by the Committee.
- The Owner and Owner's contractors shall be responsible for providing adequate sanitary facilities for their construction personnel.
- Upon completion of any Improvement, the Owner shall give written notice thereof to the Committee.

### 7.3 Preconstruction Submittals

Before construction commences, one (1) full set of Working Drawings approved and stamped by the City of Lake Havasu and the Committee, and a Temporary Construction Facilities Plan, shall be submitted to the Committee:

### 7.4 Temporary Construction Facilities

The following temporary construction facilities are required to be placed on the Homesite. No other temporary construction facilities, including construction trailers, will be allowed without Committee approval. No shacks, trailer or temporary construction facilities may be used as living quarters.

1. Temporary Water: A temporary water irrigation facility, with a  $\frac{3}{4}$ " heavy duty rubber water hose at least 150 feet in length, and a hose stand, shall be provided and installed in accordance with Committee requirements, to combat dust.
2. Temporary Electric: A metered power outlet shall be provided and installed in accordance with the requirements of the State of Arizona, the City of Lake Havasu, and the Committee. No signage is permitted on the temporary power poles. Generators will be permitted until power is available to the property.
3. Temporary Toilet: A temporary portable toilet in good condition shall be provided with a chemical maintenance program. These units shall be maintained in a clean, sanitary and odorless condition. Temporary toilet facilities shall be located only on the building site itself, unless other areas are approved by the Committee.

4. **Water Flow:** It is the responsibility of the contractor to insure continuation of water flow to adjacent Homesites so that damage is not done to other properties' landscaping, etc.
5. **Temporary Construction Fence:** Owner or Owner's contractor must submit to the Committee, for the Committee's review and approval, plans for a construction fence or other screening material which shall be installed along all property frontages and along the side and back yard Homesite lines, as approved and/or directed by the Committee. Such fence or screening material shall be maintained in good condition during the course of construction of the residence and related improvements.
6. **Dumpster or Trash pickup service:** A minimum three (3) yard steel roll-off dumpster shall be maintained in clean exterior condition, free of graffiti, on the Homesite during the duration of the construction phase for adequate containment of all construction waste. A regular dumping service shall be maintained so that overflow and unpleasant odors do not occur.
7. **Plan Box and Homesite Sign:** A plan box and accompanying Homesite sign shall be installed in accordance with Committee standards. A Complete set of approved plans and permits shall be maintained in the plan box while the Residence is under construction. The Committee must be provided with a key or combination if the plan box is locked.

#### **7.5 Preconstruction Inspection**

After the Temporary Construction Facilities Plan has been approved by the Committee, and the actual temporary construction facilities installed on the Homesite, the Committee Chairman or the Committee Chairman's representative may make a site inspection of the facilities.

#### **7.6 Use of Adjacent Property**

The use of Homesites adjacent to a Homesite under construction, for vehicular access purposes, parking, or equipment and material storage, will not be permitted without the written permission of the adjacent Homesite Owner. Written permission must be on file with the Committee prior to use of the adjacent property for any purpose. General contractors, employees, sub-contractors and suppliers shall not enter Common areas for any reason at any time unless granted permission by the Committee. All adjacent property must be returned to its original condition at the end of construction.

#### **7.7 Set-Backs**

All set-back requirements contained in the Plat and Declaration must be strictly complied with.

#### **7.8 Speed Limit**

The speed limit within the boundaries of Mesquite Bay at Sailing Hawks shall be twenty (20) miles per hour. The speed limit must be observed.

#### **7.9 Parking**

Parking will be confined to the Homesite under construction, or as approved in writing by the Committee. No parking is permitted in front of a finished residence unless permission is granted in writing from the Owner of said residence prior to parking.

#### **7.10 Construction Hours**

Construction shall be limited to (Times may change at discretion of Architectural Committee):

October 1-April 30

Monday through Friday

7:00 a.m. – 5:30 p.m.

Saturday

8:00 a.m. – 4:00 p.m.

May 1-September 30

Monday through Friday

5:30 a.m. -7:00 p.m.

Saturday

8:00 a.m. – 5:00 p.m.

No construction-related activities shall be permitted on Sundays or the following holidays.

*New Years Day, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and day after, and Christmas Day.*

#### **7.11 Committee and Association Access to the Homesite**

Representatives of the Committee and the Association shall have full access to the Homesite and buildings while under construction to:

1. Inspect the Homesite or Improvements at any time.
2. Remove security, health or safety risks or hazards.
3. Clean or maintain the Homesite or Improvements.
4. Enforce any provision of the Declaration or these Design Guidelines.

#### **7.12. Site Signage**

No signs other than an approved address sign located on the plan box, standard committee Homesite identification signs, or site safety signs, will be permitted on a Homesite under construction.

#### **7.13 Site Conduct and Safety Precautions**

The general contractor, job superintendent, and their employees, sub-contractors and suppliers shall:

1. Comply with all construction provisions established in these Design Guidelines and the Declaration.
2. Follow the directives of Mesquite Bay at Sailing Hawks security staff and the Committee.

3. Not consume alcoholic beverages or non prescription drugs on the site.
4. Take all necessary precautions for the safety of all persons, materials, and equipment on or adjacent to the site.
5. Furnish, erect and maintain approved barriers, lights, sign and other safeguards to give adequate warning to everyone on or near the site of dangerous conditions during construction.
6. Not disturb residents or guest of Mesquite Bay at Sailing Hawks.

#### **7.14 Site Maintenance**

The general contractor, job superintendent, and their employees, sub-contractors, and suppliers shall comply with the following rules established for the maintenance and cleanliness of the site. The general contractor or job superintendents shall:

1. Maintain the site in a neat and clean condition, neatly stockpiling all materials delivered for or generated by the work, and immediately remove any waste material or debris generated by the work.
2. Contain all blowable trash and bottles, cans and lunch debris.
3. Remove all equipment, materials, supplies and temporary structure when any phase of the work is complete, leaving the area neat and clean. Equipment not in daily use must be removed from the job site.
4. Keep the streets, gutters and adjacent property clean and free of dirt, trash, debris or other material related to or caused by the work, and clean up all street spills. Damage to street pavers or asphalt may require replacement of pavers or asphalt, at the Owner or contractor's expense.
5. Maintain dust control on the Homesite.
6. Not dump, bury, or burn trash anywhere at Mesquite Bay at Sailing Hawks.

#### **7.15 Disposal of Site Spoils**

Any spoils generated from the site grading must be placed on the Homesite. No material may be placed on the street or common areas. Storage of spoils on adjacent property will not be permitted without the written permission of the adjacent Homesite Owner. Written permission must be on file with the Committee prior to placement.

#### **7.16 Compliance**

The Committee and the Association reserve the right to deny site access to any general contractor, job superintendent, sub-contractor, supplier, or their employees, who are in violation of the construction regulations.

The Committee and the Association reserve the right to stop construction on a Homesite where:

1. Improvements are being built or the Homesite is being landscaped against approved plans.

2. These Design Guidelines, approved plans, the Declaration, or Mesquite Bay at Sailing Hawks regulations are not being complied with fully.

The Committee inspector will inspect the Site periodically. An offense may result in a stop-work order and contractor entry restrictions. Any cost whatsoever incurred by the Association in enforcing these rules or remedying a violation will be billed to the Owner. Exercise by the Committee or the Association of the rights delineated under this provision shall not be deemed a waiver by the Committee or the Association, and shall not preclude the Committee or Association from initiating any legal action against the violators (including Owner) of the Declaration, construction regulations, or Design Guidelines.

#### **7.17 Revisions to Approved Plans During Construction**

Revisions to approved architectural and/or landscape plans during construction must be approved by the Project Architect or Landscape Architect or Designer before the Committee reviews them. All Revisions must be approved by the Committee prior to being implemented.

## APPENDIX A- DEFINITIONS

Unless the context otherwise specifies or requires, the following words or phrases when used in these Design Guidelines shall have the following meanings.

### **Accessory Structure**

Any structure detached from the main residence a minimum of ten feet (10'). Maximum height for an Accessory structure or Detached Garage is twenty feet (20').

### **Architect/Landscape Architect**

A person licensed to practice architecture or landscape architecture in and of the States of the United States of America.

### **Association**

Mesquite Bay at Sailing Hawks Homeowners Association, Inc., an Arizona non-profit corporation.

### **Board**

The Board of Directors of Mesquite Bay at Sailing Hawks Homeowners Association, Inc., its governing body.

### **Builder**

A person or entity engaged by an Owner for the purpose of constructing any improvement within Mesquite Bay at Sailing Hawks. The Builder and Owner may be the same person or entity.

### **Building Envelope**

That portion of any Homesite, designated as a Building Envelope on the Homesite Diagram, and within which the construction of buildings and accessory structures and improvements is permitted.

### **Construction Activity**

Any site disturbance, construction, addition or alteration of any building, landscaping, and any other improvement on any construction site.

### **Construction Site**

A site upon which construction activity is taking place.

### **Construction Vehicle**

Any car, truck, tractor, trailer or other vehicle used to perform any part of a Construction Activity or to transport equipment, supplies or workers to a construction site.

**Declarant**

Lewton Operating Company, a Wyoming Limited Partnership, and any Person to whom it may expressly assign any and all of its rights.

**Declaration**

The Declaration of Covenants, Conditions and Restrictions for Mesquite Bay at Sailing Hawks, as amended or supplemented from time to time.

**Design Guidelines**

The restrictions, review procedures, standards, construction regulations, and guidelines adopted and enforced by the Committee as set forth in this document and as amended from time to time by the Committee.

**Design Review Committee (The "Committee")**

The Committee appointed by the Declarant or the Board as provide in the Declaration of Covenants, Conditions and Restrictions for Mesquite Bay at Sailing Hawks to review and either approve or disapprove proposals and/or plans and specifications for the construction, exterior additions, landscaping, or changes and alterations within Mesquite Bay at Sailing Hawks.

**Excavation**

Any disturbance of the surface of the land (except to the extent reasonably necessary for planting of approved vegetation), including any trenching which results in the removal of earth, rock, or other substance from a depth of more than twelve inches (12") below the natural surface of the land, or any grading of the surface.

**Fill**

Any addition of earth, rock, or other materials to the surface of the land, which increases the natural elevation of such surface.

**Final Map**

The recorded final Subdivision map or lot map for any portion of Mesquite Bay at Sailing Hawks.

**Homesite**

"Homesite" shall have the some definition as "Lot"

**Homesite Diagram**

The individual site plans for each Lot provided to the Owner by the Committee at the commencement of the Design Review Process. Each Homesite Diagram specifies setbacks, Building Height and any special restriction pertinent to the Lot's development, together with any additional factors that the Committee may consider to be pertinent.



**Improvements**

Any changes, alterations, or additions to a Lot including any Excavation, Fill, Residence, building, outbuildings, accessory structure, road, driveways, parking area, walls, retaining walls, stairs, patios, courtyards, hedges, posts, fences, signs, and any structure or other improvements of any type or kind, including, without limitation, those items contained in the definition of "Improvement" in the Declaration.

**Lot**

A parcel of land within Mesquite Bay at Sailing Hawks, whether improved or unimproved, intended for independent ownership and use, and any Residence, building, structure or other Improvement situated therein, and such additional Property which may be annexed in the future.

**Owner**

The record Owner of any Lot or Lots as shown on the official records of the Mohave County, Arizona Recorder. The Owner may act through an agent, provided such agent is authorized in writing to act in such capacity.

**Person**

A natural person, corporation, limited liability company, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or other legal or commercial entity.

**Private Zone**

That portion of the Building Envelope and Homesite which is not visible from any neighboring Homesite or the street, because it is screened by privacy walls, buildings and/or other landscape elements; primarily the rear yard, side yards, and court yards.

**Public Zone**

That portion of the Homesite that lies outside of the Building Envelope and Private Zone, primarily the front yard.

**Residence**

The building or buildings, including any garage, or other Accessory structures, used for residential purposes, constructed on a Homesite, and any improvements constructed in connection therewith.

**Roof Height**

The elevation of the highest point of the roof structure as measured from finished grade at that point.

**Story**

That portion of any building (including garage) included between the surface of any floor and the surface of the floor above it, or if there is no floor above, then the space between the floor and the ceiling next above it.

**Subdivision Public Report**

The final subdivision public report and amendments thereof issued by the Arizona Department of Real Estate.

Mesquite Bay Guideline Revisions (08/19/13)

Add a new clause.

#### **4.2.2 View Corridor / No Build Zone / Rear Corner View Corridor**

The view corridors and no build zones are created by the developer to protect the neighborhood view corridors where applicable. These zones are shown on the Master Site Plan and the most current sales maps. No structure or landscape masses exceeding 4' in height are allowed within these zone areas.

The Rear Corner View Corridor is created with triangle points 25' from the rear and side property lines at the rear corner. See the sales maps for lots that require these zones.

Add a new clause.

#### **4.8.1 Fences within View Corridor Zone**

No solid wall or fence wall shall be used within any portion of the View Corridor Zone as outlined within the Master Site Plan or the most current Sales Map.

Any fence over 2' high within the View Corridor Zone must be of wrought iron with 4" bar spacing as required per code and shall not exceed the maximum height allowed in section 4.8.

See section 4.2.2 for additional info on View Corridor Zones.

Mesquite Bay Guideline Revisions (09/25/13)

Add a new clause.

### **3.7.1 Shared Property Line Retaining Walls**

Some shared property lines will require retaining walls to contain the slope from a higher elevated grade Homesite to a lower grade Homesite. See the current Master Site Plan or Sales Map for locations of required retaining walls between Homesites.

All retaining walls must be split face block in natural color hues and must comply with the local Building Authority Codes.

Unless prior written approval and/or arrangements are obtained and submitted to the Committee from the neighboring Homesite property owners, the first property owner to improve their property is responsible for the cost and installation of the retaining wall. The entire retaining wall must be constructed within the Homesite boundaries.

**The Terraces at Sailing Hawks  
Approved Plant List**

Material	Botanical Name	Common Name
Trees:	Acacia Species	Acacia
	Cercidium Floridum	Blue Palo Verde
	Cercidium Praecox	Palo Brea
	Cercidium Microphyllum	Foothills Palo Verde
	Prosopis Species	Mesquite
	Olneya Tesota	Ironwood
Cacti & Succulents:	Camegieia Gigantea	Saguaro
	Ferocactus Wislizenii	Barrel Cactus
	Gouquieria Splendens	Ocotillo
		Octopus Agave
	Hesperaloe Parviflora	Red Yucca
Shrubs:	Beloperone Californica	Chuparosa
	Caesalpinia Mexicana	Mexican Bird of Paradise
	Caesalpinia Pulcherrima	Red Bird of Paradise
	Caesalpinia Cacaloca	
	Cassia Species	Cassia
	Dalea Pulchra	Gregs Dalea
	Dalea Wislizenii	Indigo Bush
	Dasyllirion Wheeleri	Desert Spoon
	Encelia Farinosa	Brittle Bush
	Larrea Tridentata	Creosote Bush
	Rhus Ovata	Sugar Bush
	Ruellia Penninsularis	Ruellia
	Simmondsia Chinensis	Jajoba

Grasses

& Groundcovers:	Abronia Villosa	Sand Verbena
	Aloe Species	Aloe
	Argemone Pleicantha	Prickly Poppy
	Aristida Purpurea	Red Three Awn
	Asclepias Subulata	Desert Milkweed
	Atriplex Species	Salt Bush
	Baileya Multiradiata	Desert Marigold
	Bromus Rubens	Red Broom
	Cassia Covessii	Desert Senna
	Dalea Greggii	Trailing Indigo Bush
	Eragostis Atherstone	Cochise Lovegrass
	Eschscholzia mexicana	Mexican Gold Poppy
	Justicia Spicigera	Desert Honeysuckle
	Oenothera Berlandieri	Mexican Primrose
	Penstemon Species	Penstemon
	Plantago Patagonica	Indian Wheat
	Salvia Greggii	Texas Red Salvia
	Santolina Species	Lavender Cotton
	Verbena Pulchella	Rock Verbena
	Zauschneria Californica	Hummingbird Flower

# The Village at Sailing Hawks, Mesquite Bay

## *Design Review Quick Reference Guide*

**ATTN: Home Owners, Architects, Builder & Design Professionals**

This list is designed to assist you in providing a complete submittal package.

**BEFORE YOU START** – verify that you have received a current copy and complete set of:

- *Design guidelines for Mesquite Bay at Sailing Hawks.*
- *Declaration of CC & R's for Mesquite Bay at Sailing Hawks*
- *Copy of Homesite plan showing your lot with set backs & building heights and grading information*
- *Geo tech letter – for this, see your sales representative or HOA Administrator*

**General information about the design review committee & the purpose of the Design Review Committee.**

The committee is established to oversee the overall development of Mesquite Bay at Sailing Hawks in the accordance with Design Guidelines and the professional judgment of the Committee Members.

The Committee is the design review agent for Mesquite Bay at Sailing Hawks Homeowners Association. The Committee shall have the duty to consider and to act upon such proposals of matters as submitted to the Committee. The Committee shall meet from time to time as necessary and shall keep and maintain a record of all actions taken by it at such meetings. Proper standards of development will be assured to every resident in Mesquite Bay at sailing Hawks by the practice of Design Review as established by the Committee.

The Committee is responsible for reviewing and approving all improvements and any revision or alteration to those improvements. The Committee, before giving approval, may require that changes be made to comply with the requirements of Design Guidelines and such additional requirements as the committee may, in its **discretion**, impose as to structural features or characteristics thereof not expressly covered by any provisions in the guidelines. Or require changes to be made which in its discretion are required to ensure that the proposed improvements will not detract from the appearance of the Project, or otherwise create any condition disadvantageous to other Owners, or detrimental to Mesquite Bay at Sailing Hawks. The Committee will also require the exterior finish and color. Until all plans and specifications required for each submittal are determined by the Committee to be complete, the Committee shall have no obligation to review any partial submittals. All complete submittals will be acted upon promptly by the Committee. A decision of the Committee to approve, or to disapprove, or to disapprove submittals, together with an explanation of further conditions to be satisfied by the applicant, shall be made within thirty(30) days after receipt of a completed submittal.

## **DESIGN REVIEW PROCESS**

Submit all completed application to your HOA Representative. They will notify the Committee Members and confirm a review date and time. Your application needs to include the appropriate fees. \$400.00 for new residence or 100.00 for other improvements, along with the \$10,000.00 compliance deposit. Reference to Section 6.2.4 of Design Guidelines.

### **Architectural Design Guidelines**

It is highly recommended that the Homeowner select a builder approved by the Committee before they begin the design process. The Owner must use competent consultants when applicable.

- **Roof Heights** – The established finished grade and maximum height are specified on the Homesite Diagram.

- Floor Plan – Shall be a minimum of 2000 Sq. Ft. and area shall not include garage, covered patios, and other similar areas.
- Building Style – In general, homes throughout Mesquite Bay shall be designed with Building traditions such as Mexican, Spanish Colonial, Mediterranean or Tuscan and have “rugged” and/or “earthly” living styles.

Building masses should be predominately horizontal rather than vertical, yet should not create long unbroken elements. Designs shall incorporate varied projections, such as wall offsets, trellises, decks or verandas that create visual interest. Building length will not exceed thirty (30) feet in one directions without a change in direction, roof alignment, wall offset or elevation change. Refer to section 5.1 through 5.27 of the Design Guideline Manual for more details.

All materials used on the house exterior should be compatible with, and complementary to each other. Material shall be authentic and genuine in appearance. Materials must be used consistently around the entire building. Acceptable residential exterior materials include exterior plaster or stucco with a light to medium texture, stone, and painted stained wood accent areas. The color palette will use muted and recessive colors that will allow the natural colors of the desert to predominate and to complement. Earth tone colors, should be used for the primary color composition. The Owner will be required to submit a material sample board showing representative samples of the intended colors, and materials and textures of the major building elements. Colors and features must be chosen to blend with the naturally occurring desert.

All roofs shall be carefully designed in terms of color, material and shape so that they help to integrate the structure with its site and neighboring buildings. Roof mounted mechanical equipment is not permitted.

Special consideration should be given to the entry door and door hardware. The entry should be a design which complements the architecture of the residence. Garage overhead doors are required to be recessed eight (8”) inches. The maximum height of any garage door shall be thirteen (13’) feet.

All residence shall be designed to incorporate a “360-degree architectural perspective. Upon the completion of any improvements, the Owner shall give written notice thereof to the Committee. The Committee or its duly authorized representative may inspect the completed improvements, to verify substantial compliance with the approved plans. Upon the final inspection and acceptance of all improvements by the Design Review Committee, the association will return the Compliance Deposit.

## **Required Submittal Information**

### **Schematic Design Submittal**

The first submittal to the Committee is the Schematic Design Submittal. The schematic Plans give the Committee its first look at the design of the Owner’s proposed improvement(s). At this stage, the Committee will focus on Architectural from. The Committee requires three (3) sets of the following Schematic Design Drawings for the review process: See Section 6.3.4.1 for complete information.

1. Homesite Diagram/Survey (Provided by the Association for each Homesite)
2. Schematic Site, Grading plan, showing house location, building set backs and utility locations.
3. Floor Plan ( 1/4” per foot scale)
4. Schematic elevations (1/2” or ¼” scale)
5. Roof plan (1/2” or ¼” scale )
6. Conceptual Landscape Plan, with a legend showing plant type.



In addition, the above plans must be accompanied by a Design Review Application and the applicable review and compliance deposit. Refer to section 6.3.4.1 for more complete information.

### **Working Drawing Submittal**

After Schematic Design approval, working drawings are to be submitted. These drawings will be reviewed for compliance with Committee requirements made during previous design submittals. Prior to formally submitting for a Building Permit from the City of Lake Havasu, the Owner is responsible for securing Working Drawings approval in writing from the Committee. Any change of the approval plans must be submitted by the Owner to the Committee for further review and approval prior to further construction of the improvements. See Section 6.3.4.2 for complete information.

### **The Committee requires three (3) sets of the following Working Drawings for review**

\*Cover Sheet: Site or Vicinity Map along with all relevant project information

\*Site Plan ( 1/8" scale) that indicates:

\*Grading and Drain age Plan (1/8" scale)

\*Foundation and Details: This Plan should show all slab elevations.

\*Floor Plan and Details: This plan should show all walls, partitions, defined spaces and uses. Door sizes, cabinets, wall fixtures, etc. must be shown.

\*Exterior Elevations (1/8" or 1/4" scale): These elevations to show:

- All exterior material and finishes
- Main Entry door, garage overhead door, gates
- Items that will be evident on the exterior of the finished structure.

\*Sections (1/4" scale or larger): These sections to show detailed composition of all types of walls, floors, and roof elements and materials used, including wall heights and roof pitches.

\*Framing Plan and Details: This plan to show overhangs and exterior trim.

\*Roof Plan (1/8" scale): This plan to show:

- Gutter, roof drains, scuppers
- Roof slopes and water flow to drains
- Roofing materials including manufactures' names

\*Electrical Plan.

\*Plumbing Plan.

\*Glazing, Door and Finish Schedules.

\*Landscape Plan: This Plan to Show:

- Location of all plant material
- Plant legend with botanical names, common names, size and remarks

\*Irrigation Plan.

\*Lighting Plan (1/8" scale)

- Location of all light fixtures.

\*Pool, Spa, Foundation Plans & Details

- All other water treatments to be located on the Homesite.

When the Owner and Owner's design professionals receive the Committees written approval of the Working Drawings, copies of the approved drawings will need to be submitted to the City with whatever information and fees the City requires for review and approval of the Working drawings.

## The Villages at Mesquite Bay at Sailing Hawks

### INSTRUCTIONS FOR SUBMITTING A REQUEST FOR PLAN REVIEW BY THE DESIGN REVIEW COMMITTEE

The following MUST include and / or completed with your request:

1. Complete all items included on the "Request for Plan Review by Design Review Committee" form.  
PLEASE NOTE: Incomplete forms will be reason for the Committee to return your request with NO action taken.
2. All Foundation plans and pool plans, along with any building elevations closer than 15' to geo grid wall.
3. Include one (1) set of color samples as shown required on the "Plan Review" form. Each sample should be labeled with Block & Lot number plus what the sample is for, i.e. roof, trim, wall, etc.
4. If a contractor is submitting for a property owner (Contractor does not own lot), the enclosed "Owner Authorized Letter" must be completed and signed by property owner.
5. Attach check for \$400.00 plan review. PLEASE NOTE: There is a min. 250.00 fee each time you submit. It is in your best interest to submit house, landscape and walls at the same time.
6. Attach check for the applicable \$10,000.00 clean-up / compliance deposit.
7. Make check out to the Mesquite Bay at Sailing Hawks HOA

### REQUEST FOR PLAN REVIEW BY MESQUITE BAY DESIGN REVIEW COMMITTEE:

Date: \_\_\_\_\_

From: \_\_\_\_\_ Phone: \_\_\_\_\_

(Print name & phone# of person submitting)

I wish to submit the following information, attached plans & specifications & color samples for review & approval by the Architectural Committee.

#### ***Pertinent information as follows:***

Tract \_\_\_\_\_ Block \_\_\_\_\_ Lot \_\_\_\_\_

Street Address: \_\_\_\_\_

\_\_\_\_\_ House Plans                      \_\_\_\_\_ Landscape Plans                      \_\_\_\_\_ Patio Cover

\_\_\_\_\_ Addition to existing                      \_\_\_\_\_ Fence / Wall Plans                      \_\_\_\_\_ Pool

\_\_\_\_\_ Variance                      \_\_\_\_\_ Other \_\_\_\_\_

Owner: \_\_\_\_\_ Contractor: \_\_\_\_\_

Mailing Address: \_\_\_\_\_ Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ City: \_\_\_\_\_

State: \_\_\_\_\_ Zip: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Phone: \_\_\_\_\_

F. OTHER (Use this section to describe any construction not listed above)

1. Pool Drainage lien is shown per drawing# \_\_\_\_\_
2. Basketball Pole location is shown per drawing # \_\_\_\_\_ Refer to Paragraph 4.16 in the CCR's
3. Satellite dish location is shown per drawing # \_\_\_\_\_
4. Other construction is shown per drawing # \_\_\_\_\_
  - a. Describe other construction: \_\_\_\_\_

G. Variance

1. Are you requesting a variance: \_\_\_\_\_ YES \_\_\_\_\_ NO

2. Variance is shown per drawing # \_\_\_\_\_

I certify this information represents what is intended to be built, plus I acknowledge that I am aware that the CC&R's and Design Guidelines apply, and I will abide by them.

\_\_\_\_\_

(Print name of person submitting)

\_\_\_\_\_

(Signature of person submitting)

\*\*Color chips are required for these items, please be sure to include.

\*\*\*See guidelines – All plans/drawings, submitted must be to scale (plans/drawings not to scale will NOT be reviewed.)

\_\_\_\_\_

For Committee Use Only:

Plan Review Fee

Reviewed from: \_\_\_\_\_ amount \_\_\_\_\_ check# \_\_\_\_\_ Date \_\_\_\_\_

Clean-Up/Compliance Deposit

Received from: \_\_\_\_\_ Amount \_\_\_\_\_ Check# \_\_\_\_\_ Date \_\_\_\_\_

Refunded to: \_\_\_\_\_ Amount \_\_\_\_\_ Check# \_\_\_\_\_ Date \_\_\_\_\_

## The Villages at Sailing Hawks – Mesquite Bay

### “OWNER AUTHORIZATION”

To: \_\_\_\_\_

Attention: Committee of Design Review

As a record of Block \_\_\_\_\_ Lot \_\_\_\_\_ in Tract \_\_\_\_\_, I hereby appoint

\_\_\_\_\_ to act as my agent in all dealings with the Committee of Design Review of the Association pertaining to the construction of a residence of improvements thereto at the above described location.

This authorization shall automatically terminate upon issuance of the compliance Letter by the Committee of Design Review. Should I elect to terminate this authorization at any time prior to the issuance of the Compliance Letter, I shall provide the Committee with written notification of said termination.

\_\_\_\_\_  
Owner(s) print name

\_\_\_\_\_  
Owner(s) signature

## SITE DESIGN GUIDELINES

The master-grading plan for Mesquite Bay at Sailing Hawks has created lot pads and lot grades that may not be changed. Lots must drain to the streets. Changes to the natural or existing drainage patterns for surface waters on any lot are prohibited.

- Homesite Diagrams/Survey / Is It Included

Do all structural improvements on a Homesite (including outdoor amenities such as covered patios, accessory buildings, and related improvements) take place within the Building Envelope area or are approved by Committee.

- Is everything within set backs

### Grading and Drainage

- Berming shall not direct drainage onto adjacent Home Sites
- No slopes shall be steeper than 2:1 except.
- Concentrated run-off from roofs, driveways, and other impervious surfaces onto adjacent property is prohibited except where a natural drainage condition exists.
- Drainage swales shall be designed
- Drainage shall always be directed away from any structure.

### Retaining Wall, Fence Walls, and Fences

- Retaining walls may never exceed eight (8') feet in height from the lowest elevation on either side of the wall. In areas where additional retaining walls in excess of eight (8') feet are required, a terraced effect must be implemented. These terraces must have a minimum of three (3') feet of separation between walls and must be landscaped to help minimize the effects of the walls.
- Prior to construction of any retaining walls, fence walls, or fencing, detailed plans indicating materials, colors, heights, elevation changes and locations on the Homesite must be submitted to the Committee for approval.

### Driveways and Garages

- Exposed aggregate, stone, concrete pavers, colored concrete either stamped, salt finish or punctuated by the masonry used on the building
- Concrete colors
- Driveways, including curb cuts, shall be maximum of thirty-two (32') feet wide
- Homesites that have front loaded garages, the garage buildings shall be set back a minimum of twenty five (25') feet.
- Recessed garage doors (minimum of eight (8'') inches) are required
- Garages must be fully enclosed

### Service Areas and Utility Entrance Locations

- Service areas, intended primarily for the pickup of trash and for the storage of pool, air conditioning, irrigation, and other mechanical equipment, must not be visible from the street or adjacent properties

### Art Objects

- \_\_\_\_\_

### Satellite Dishes

- Satellite dishes shall not exceed eighteen (18'') inches in diameter

## **Poles**

- A flagpole for the display of the American flag, or other flag(s) permitted pursuant to ARS 33-1808.A, only shall be permitted and shall not exceed fifteen (15') feet.

## **LANDSCAPE DESIGN GUIDELINES**

- The Public Zone shall remain as natural desert to the greatest extent possible
- Plant List for Mesquite Bay at Sailing Hawks
- Boulders may be used in the landscape
- All landscape areas must be treated with a rock mulch ground cover material consisting of desert hues that are reflected
- All landscaped areas shall be provided with an automatic irrigation system
- Acceptable finish materials for walls are stone, stucco, keystone type, or split face. Other materials may be used if reviewed and approved by the Committee
- Walls should be constructed of materials and colors which match the buildings
- Gates should both be in scale to surroundings and complement the architecture
- Gate structures may be a maximum of eight (8') feet. In height
- All walls must be a masonry, a minimum of six (6") inches in thickness

## **Pools and Spas**

- Swimming pools and spas shall be designed to be visually connected to the residence. All equipment and safety fencing must be screened from view and screened or located so as to attenuate sound to other Homesites or public areas.
- Above ground, pre-cast or molded pool and spas are not acceptable.

## **Lighting**

- Exterior lighting shall be low level and directed downward, recessed, or shielded, so that the light source is not visible or obnoxious from residential development in the area, or from a public viewpoint.
- Landscape lighting shall be shielded to prevent nuisance glare.
- Lighting shall be automated.

## **Water Features**

- Water features are discouraged unless they are water and energy efficient.

## **Completion of Landscape**

- Landscape shall be completely installed within six months of the issuance of a Certificate of Occupancy.

## **ARCHITECTURAL DESIGN GUIDELINES**

### **Approved Roof Heights**

- The established finished grade and maximum height are specified on the Homesite Diagram.

### **Minimum Floor Area**

- Shall be minimum of 2000 square feet

### **Building Style**

- Building style should reflect the casual element of living in the desert climate. Architectural design is derived from traditions such as Mexican, Spanish Colonial, and Mediterranean Tuscan designed to reflect a more "rugged" and/or "earthy" living style which borrows from the surrounding desert.
- Does the Committee feel this home complies

## **Building Massing**

- Building masses should be predominately horizontal rather than vertical, yet should not create long unbroken elements.
- Building designs shall incorporate varied projections such as wall offsets, trellises, decks or verandas that create visual interest and respond to the desert climate.
- Entries shall be recessed.

## **Exterior Walls and Materials**

- All exterior material shall be authentic and genuine in appearance. Materials must be used consistently around the entire building.
- Acceptable residential exterior materials include exterior plaster or stucco with a light to medium texture, stone, and painted and/or stained wood accent areas.

## **Colors**

- Earth tones: Earth tone colors
- Recessive colors: Colors that recede
- No exterior materials used shall have a high gloss or glare.
- Colors application should be used consistently throughout.
- Large monochromatic surfaces, with the exception of flat roofs, are not acceptable.
- Colors for roofing shall be darker in color or hue than the building's exterior walls.
- Accent colors should be carefully considered for front doors, window sashes, and other architectural elements so that they do not dominate.
- Changes in exterior wall color should be made at "intent" intersections of walls.

## **Roofs**

- All roofs shall be carefully designed in terms of color, material and shape so that they help to integrate the structure with its site and neighboring buildings.
- Acceptable roof pitches: flat or up to a pitch of 5:12.
- Roof designs shall incorporate both flat and pitched roof elements. A minimum of 60% of the total square footage of the residence (including garage area) must utilize a pitched roof.
- Roof overhangs shall be a maximum of three (3') feet.
- Flat roofs are to be painted or sanded to match the exterior color of the house.
- Asphalt shingles are prohibited.

## **Doors**

- Entry doors and entrances should have simple, straightforward lines which borrow from the regional southwest architectural traditions.
- Consideration should be given to the entry door and door hardware.
- Courtyards at or near entryways are encouraged.
- Garage overhead doors are required to be recessed eight (8") inches and designed to be complementary.
- Front doors and entryways shall provide a focal point for the home and be visible from the street if possible. All exterior doors shall be recessed a minimum of eight (8") inches.

## **Windows**

- Windows shall be recessed to create shade and shadow.
- Large window openings should be divided.
- Glass may be coated or tinted to control solar heat gain.
- Canvas or similar type awnings over window and/or entryways are discouraged and will be allowed only by Committee approval.

- All windows shall be recessed a minimum of two (2") inches from the exterior plane of the house. Windows that are set flush with the exterior surface of the dwelling are not permitted.
- "Plant-ons" or "Pop-outs", rigid installation used to create a frame around the windows, are not acceptable recesses.

### **Chimneys**

- Fireplaces and chimneys are very dominant in an architectural design and therefore, they need to be proportionate to and consistently detailed with the overall architectural design.
- Approved spark arrester is required.
- Exposed metal flutes are not acceptable.

### **Skylights**

- Skylights must be integrally designed into the structure and should not be obtrusive.
- Skylight glare shall not be back-lit or manufactured of reflective material.
- Skylight framing shall be colored or coated to match adjacent materials.

### **Solar Equipment**

- Solar equipment is encouraged but should integrate with the architectural design of the structure.

### **Exterior Showers**

- Exterior shower enclosures or equipment should not be visually exposed to the adjacent property.

### **Mechanical Equipment, Sheet Metal, and Vents**

- Roof mounted mechanical equipment is not permitted.
- All sheet metal should be minimally exposed and must be coated to match adjacent materials.
- Plumbing vents, pipes, and similar elements should be ganged resulting in a minimum number of vents exposed to view. These elements should be located on the interior side of roof elements (away from the street) and coated to match adjacent materials.

### **Guest Houses, Casitas, and Detached Garages**

- Guest houses should be designed as a single visual element with the residence, and should be visually connected by walls, courtyards, roofs, or other major elements.
- No guest house or guest suite may be leased or rented.
- The maximum building height for Detached Garages or other structures is listed on the Homesite Plan.

### **Foundations**

- Foundations shall be of pre-engineered concrete or post-tension slab.

### **Garages and Parking**

- Each residence shall provide parking space for at least two automobiles in an enclosed garage attached to the main structure of the dwelling.
- A minimum of two additional parking areas must be provided on the site to accommodate guest parking.
- No exterior storage of recreational vehicles, boats, or trailers will be permitted on the residential lots.
- The use of single-car garage doors is encouraged.
- Garage doors shall be recessed a minimum of eight (8") inches from the face of the garage.
- The maximum height of any garage door shall be thirteen (13') feet unless the Architectural Committee approves additional height after review of plans.



## **Building Character and Elevations**

- Within Mesquite Bay at Sailing Hawks, all residences shall be designed to incorporate a 360-degree architectural perspective. Entry courtyards are encouraged to create a transitional space.

## **Materials**

- Wood may be used in limited applications if properly installed, braced or bracketed to prevent twisting and warping. Wood should be used as an accent trim or for trellises and pergolas.
- Materials that are foreign to the local region or inappropriate to the character of Mesquite Bay at Sailing Hawks are prohibited. Specifically prohibited are vinyls and plastics, mirrored glass, wood siding, cultured marble, asphalt shingles, wood shingles, and any other materials that do not convey strength, permanence or durability, according to the judgment of the Committee.

## **Lighting**

In order to preserve the dramatic night sky, which would be obscured by excessive local lighting, the following Design Guidelines for residential site lighting have been established.

- Site lighting must be directed downward.
- Building-mounted lighting must be directed downward away from adjacent dwellings.
- All exterior lighting must be provided for complete shielding of light sources. No bare lamps are permitted.

## **Mailboxes**

- Mail delivery is distributed to central mailboxes and not to the individual home.
- House numbers should be visible from the street and should be designed in such a way that they appear to be consistent with the character of Mesquite Bay at Sailing Hawks.
- Numbers painted on curb are not permitted.

## **Equipment**

- No mechanical appurtenance (air conditioning/heating units) shall be mounted or attached to any roof. A/C units must be ground-mounted behind a screen wall.
- Television, amateur radio, and other types of antennae are not to be installed.
- Satellite dishes greater than one meter in diameter are prohibited.

## **Plan Submittal Requirements**

- North Arrow
- Street Names
- Submittal Date
- Plan or Revision Date(s)
- Name, Address and Phone Number of Property Owner
- Name, Address, and Office Phone Numbers of the Project Architects, Engineers, and Other Consultants

## **Schematic Design Submittal Requirements**

- Homesite Diagram/Survey (Provided by the Association for each Homeside)
- Schematic Site, Grading
- Site design concepts for the Homesite, including driveways, walkways, patios, pools, spas, and garden walls
- Proposed site grade changes
- Utility locations (transformers, electric pullbox, water meter, telephone, and gas)
- Property lines, building and pool setback lines, and any easements
- Approved pad elevations
- Top and toe of slope line locations, changes in slopes (with elevation)
- Method of surfaces and/or subterranean drainage provision (with line elevations)

- Floor Plan (1/4" scale)
- Proposed floor plan of building(s) (rooms designated by name)
  
- Schematic elevations (1/8" or 1/4" scale)
- At least four (4) exterior elevations of proposed building(s)
- Front and rear elevations must extend twenty-five (25') feet beyond Homesites line
- All proposed exterior material and color description on elevations
  
- Roof Plan (1/8" or 1/4" scale)
- Outline of the roof overhang, including hip, ridge and valley lines (shown dotted)
- Flat and sloped roof area and how they are drained
- Trellis areas, skylights, and chimney
  
- Conceptual Landscape Plane
- The landscape zones must be clearly illustrated (the Public Zone and the Private Zone)
- Scaled drawing showing all easements, property lines, setback and landscape zones
- Proposed plant materials and locations
- Proposed hardscape elements (alone with description of size, scale, and proposed materials)
- Location of all walls, fences, and hardscape elements along with their type, size, method of construction, and type of materials
- Boulders and gravel specifications and locations
  
- Conceptual Color Palette

### **Working Drawing Submittal Requirements**

Three (3) sets of the following Working Drawings are required.

*i. Cover Sheet: Site or Vicinity Map along with all relevant project information*

*ii. Site Plan (1/8" scale) that indicates:*

- Adjacent Homesite numbers and name of the adjacent Homesite Owners, their architects and their design of construction status (to be provided by the Committee).
- All proposed and existing architectural and landscape improvements located on adjacent Homesites or common areas that are within 25 feet of the Homesite.
- All easements on the Homesite.
- Dimensional building and pool setback lines from Homesite lines. Roof overhang line and dimension from Homesite.
- All services yards, trash areas, pool, air conditioning, irrigation and other equipment location, and location of gates.
- Utility services locations from the Homesite, and all utility service entrance locations at the Residence.
- Location and description of all control and expansion joints on exterior hardscape.
- Homesite Area.
- Square footage for enclosed air conditioned space.
- Garage and mechanical room square footage.
- Covered patio area.

*iii. Grading and Drain Plan (1/8" scale)*

- All existing grade contours (taken from the existing topographic survey), on the Homesite and adjacent Homesite, common area and streets, within twenty-five (25') feet of Homesite, with dashed lines and all

proposed grades on Homesite with solid lines, both at one (1') foot contour intervals. Should also show top and toe of slope line locations and changes in slopes (with elevations).

- Location of all bubbler boxes, roof drains, area drains and dry wells and the connection to underground drainage system including termination in dry wells, where required.
- Indication of positive drainage away from all structures with flow arrows to Homesite line.
- Spot elevations on drain inlets and outlets, top of wall elevations, hardscape elevations.
- Location, typical details, and specification of drainage facilities, including drainage inlet and outlet structures, dry wells and area drains.

*iv Foundation and Details: This plan should show all slab elevations stamped by structural engineer.*

*v Floor Plan and Details: This plan to show all walls, partitions, defined spaces and uses. Reference and include all details required for the construction of concrete, masonry, and framed walls. Door sizes, cabinets, wall fixtures, etc. must be shown.*

*vi Exterior Elevations (1/8" or 1/4" scale): These elevations to show:*

- All exterior material and finishes.
- Main entry door, garage overhead door, gates, columns, ornamental iron work, exterior trim and special architectural features such as skylights and solar panels as permitted.
- Items that will be evident on the exterior of the finished building including louvers, vents, roof drain and gutter outlets, access openings, meter boxes, electrical fixtures, expansion joints, flashing, tile or masonry feature strips, etc.
- Roof pitch and maximum height of the finished structure.

*vii Sections (1/4" scale or larger)*

- These sections to show detailed composition of all types of walls, floors, and roof elements and materials used, including wall heights and roof pitches

*viii Framing Plan and Details*

- This plan to show overhangs and exterior trim including fascia, soffits, frieze boards, columns, and trellises.

*ix Roof Plan (1/8" scale): This plan to show:*

- Roof penetrations including plumbing and HVAC vents, fireplace and miscellaneous equipment flues, skylights, and roof access doors.
- Roof-mounted equipment and accessories as permitted including solar panels and HVAC fans.
- Gutter, roof drains, scuppers, flashing and related sheet metal.
- Roof slopes and water flow to drains or gutters or both with directional arrows.
- Roofing materials including manufacturers' names.

*x Electrical Plan*

*xi Plumbing Plan*

*xii Glazing, Door and Finish Schedules*

*xiii Details: Show details necessary to supplement information of all plans for a comprehensive understanding of the construction of the building.*

*xiv Landscape Plan: This plan to show:*

- Location of all plant material, any trained plants, i.e. espaliered, turf, boulders, and toppings.
- Plant legend with botanical names, common names, size and remarks.
- Complete details and specification for all landscape items shown on the plan including site amenities such as fountains or art objects.

*xv Irrigation Plan: This plan to show:*

- Complete irrigation working drawing showing the location of all lines, emitters, and spray head, valves, the backflow prevention devices, and the controller. Complete details and specifications for all irrigation items shown on the plan.

*xvi Lighting Plan (1/8" scale): This plan to show:*

- Location of all light fixtures
- Complete information on the lamp, lens, and wattage to be used for all fixtures.
- Complete details and specifications for all lighting items shown on the plan.

*xvii Pool, Spa, Fountain Plans & Details: This plan to show:*

- Plans, sections and details for pools, spas, fountains and all other water treatments (including related drains) to be located on the Homesite.
- At least two (2) cross-sections of swimming pool/spas/fountains and adjacent hardscape showing their relationship to the adjacent property where applicable.

**MESQUITE BAY AT LAKE HAVASU  
PRIME CONTRACTOR BUILDER AGREEMENT**

This agreement is made as of the \_\_\_\_\_ date if \_\_\_\_\_ (the effective date) by and between \_\_\_\_\_ ("Builder") whose business address is: \_\_\_\_\_ and \_\_\_\_\_, an Arizona Company ("Developer") whose business address is: \_\_\_\_\_

**Background Statement**

Developer is the owner and developer of a master planned community located in Mohave County, Arizona, known as Mesquite Bay at Lake Havasu, as more particularly described in that certain Declaration of Covenants, Conditions, and Restrictions recorded in the office of the County Recorder and all amendments and attachments thereto (the "Declaration")

Builder is engaged in the business of constructing high quality custom homes.

Developer and Builder both desire that Builder commence building custom homes (being a "Prime Contractor") in the Mesquite Bay at Lake Havasu.

Lots within Mesquite Bay at Lake Havasu are hereafter referred to "Mesquite Bay lots", or a "Mesquite Bay lot".

**Participating Builders**

Builder hereby acknowledges that Builder will not have the exclusive right to construct homes at Mesquite Bay. Developer hereby reserves the right to enter into similar agreements with other qualified custom home builders, thereby affording them the right to construct homes within Mesquite Bay. Builder and such other Builders shall collectively be known as Prime Contractors. Developer reserves the right to replace any Prime Contractor who is in default in the performance criteria as set forth in Section 9 hereof.

### Additional Terms and Conditions

**Entire Agreement.** This Agreement contains the sole and entire understanding between \_\_\_\_\_ and Builder with respect thereto.

**Assignment.** \_\_\_\_\_ may not assign this Agreement or delegate any of its obligations hereunder to any entity without the prior written consent of the Prime Contractor. The Prime Contractor may not assign this Agreement or delegate any of their obligations hereunder to any entity without the prior written consent of the Developer.

**Term of Agreement.** The term of this Agreement shall commence on the Effective Date and shall continue until a home has been constructed on all Mesquite lots or until this Agreement is otherwise terminated as provided herein.

**No Waiver.** Failure of either party to insist upon compliance with any provision hereof shall not constitute a waiver of the rights of such party to subsequently insist upon compliance with that provision or any other provision of this Agreement.

**Severability.** If any term, condition or provision of this Agreement is declared illegal, invalid or unenforceable for any reason the remaining terms, conditions and provisions shall remain in full force and effect and shall in no way be invalidated, impaired or affected thereby.

**Arbitration.** Developer and Prime Contractor agree that any dispute, controversy or claim arising out of or relating to this Agreement shall be settled by arbitration in Lake Havasu, Arizona, or in a mutually agreeable location, in accordance with the rules of the American Arbitration Association, then existing, and judgment on the arbitration award may be entered in any court having jurisdiction over the subject matter of the controversy. Such arbitration shall be binding.

**Notice.** Any notice or document (collectively referred to in the Section as "notice") required or permitted to be give hereunder must comply with the requirement of this Section. Each notice shall be in writing and shall be delivered either by personally delivering it or by depositing it with United States Postal Service, by certified mail, return receipt requested with adequate postage prepaid, addressed to the appropriate party (and marked to a particular individual's attention).

The Builder acknowledges and agrees that the Sales Office of the Developer will be offering for sale homesites and homes owned by individuals and other Prime Contractors. Nothing set forth in this Agreement shall obligate \_\_\_\_\_ in marketing or interaction with prospective purchasers of homesites or homes in Mesquite Bay to prefer Builder's homes or homesites over other home or homesites Mesquite Bay.

### **Default**

In the event that either party defaults hereunder, the other party may terminate this Agreement by written notice to the defaulting party as provided herein. Builder acknowledges that Builder shall have no right to enter into contracts or otherwise commit or agree to construct any homes in Mesquite Bay following notice of termination of this Agreement by either party, including, construction on homesites owned by Builder. However, Builder will be allowed to complete construction of any home commenced prior to such termination.

The occurrence of any of the following events by the Builder shall be considered an "Event of Default" and Breach of Agreement:

- A. Failure to maintain public liability insurance policy.
- B. Failure to provided Construction contracts.
- C. Failure to make a Compliance Deposit, or to maintain a Compliance Deposit.
- D. Failure to pay Marketing Fees, as specified in Section 6 of this Agreement
- E. Failure to pay Real Estate Commission as specified in section of this Agreement
- F. Failure to adhere to the Design Guidelines or Declaration
- G. Failure to adhere to Prime Contractor Representations and Warranties in this Agreement in violation of Section 10.2 of this Agreement
- H. Builder's assignment, conveyance, or transfers of its rights pursuant to this Agreement in violation of Section of this Agreement.

In the event that this Agreement is terminated, the Builder's Compliance Deposit will be retained until all improvements are completed on homes constructed by Builder. Developer will keep \$5,000.00 for itself?

### **Realtor Participation**

The developer may operate and staff a sales and information center for the benefit of The Mesquite Bay at Lake Havasu Community and the Builders for an indeterminate time period. The Developer will be bringing the Builder customers who are interested in purchasing or building within the Mesquite Bay Community. The Builder agrees to pay commission on customers brought by the Developer that is consistent with compensation for real estate agents, which is currently 3% on the contract price of the home as defined in section 6.1, when they purchase a Builder spec home or build within Mesquite Bay. Developer customers will be registered as such on a weekly basis by faxing a list of their names to the office of the Builder. The purpose of this registration is to establish that the Developer was the procuring cause of obtaining the customers for the Builder and to inform the Builder of weekly traffic volumes.

On customers who purchased Mesquite lots prior to the Builder entering into this Agreement the Developers agents will provide a listing of these customers. It is understood and agreed that these customers are existing customers of Mesquite Bay and the Developer is entitled to real estate commission on these customers should they purchase a home or enter into a construction contract with Builder.

The Builder also agrees to cooperate with other Real Estate Agents who meet the criteria for representation as defined in the Broker Participation Guidelines established by the Developer. For Broker Participation Guidelines, see Exhibit "A".

The Developer acknowledges that Builder is a licensed real estate broker, or employs licensed real estate brokers who represent them in other communities. The Developer agrees that the Builder may fax customer registrations to the Developer consistent with the Prime Contractor Broker Participation Guidelines. The purpose of faxing the registration is to establish that the Builder was the procuring cause in the customer visiting Mesquite Bay. The Builder agrees that the Builder will show their customers homes and homesites within the community. For Prime Contractor Broker Participation Guidelines, see Exhibit "B".

Commission shall be paid 50% at second pour of foundation and 50% at closing through the escrow company if applicable. Failure to pay commission will be construed as a material breach of this agreement.



Builder acknowledges the benefit of obtaining any inspections of homesites to determine construction conditions prior to the time of signing this Agreement. The Builder agrees to keep all Mesquite lots free of liens as a result of any inspections.

Builder acknowledges that using its participation in Mesquite Bay and its access to prospective client information as a prospective source for Builder's or Builder's Agents activities elsewhere is prohibited and shall be considered a default under this Agreement.

### **Marketing Agreement**

Builder acknowledges that it will benefit from advertising, promotion, marketing and sales activities conducted by the Developer with respect to The Mesquite Bay at Lake Havasu and therefore agrees to pay the Developer a marketing fee of one percent (1%) based upon the construction contract price of the home if an individual construction contract, or the home and the lot together if a spec home. Contract price is defined as the costs of home construction including Builder's overhead and Supervision, excluding sales tax and real estate commission, if an individual construction contract. If the home is a spec home, the marketing fee shall be based upon the closing price of the home. The marketing fee is due and payable within fifteen (15) days of receiving Certificate of Occupancy on an individual construction contract. The marketing fee on a "spec" home is payable through the escrow company at time of close of escrow. This marketing fee is separate from real estate commission. Failure to pay this fee as due will be considered a breach of this Agreement.

Builder agrees that all marketing materials naming The Mesquite Bay at Lake Havasu used by the Builder and/or naming Builder as a Prime Contractor shall be approved by the Developer prior to publication. No materials may be used or distributed naming The Mesquite Bay at Lake Havasu, using its log, image or derivatives thereof by the Builder without prior written consent from the Developer.

Marketing material created by Developer referencing the Builder, or Builder's services shall be submitted to the Builder for their review and approval prior to publication and or distribution by Developer. The Builder hereby warrants that all material that will be supplied by the Builder to the Developer for the purpose of promoting the Builder is to the best of the Builder's belief, true, correct and accurate. The Builder also warrants that all statements made to prospective purchasers regarding Mesquite Bay, its homes, or homesites will be to the best of Builders belief, true, correct and accurate.

Prior to the construction of any improvements within Mesquite Bay, the Builder shall deposit with The Mesquite Bay Community Association the sum of \$20,000.00 as a compliance deposit. In the event that the Builder, its subcontractors, or any of their representatives cause any damage, fail to construct the proposed improvement in accordance with the previously approved plans, or fail to comply with the Design Guidelines or Declaration, the Association or Developer may use the Compliance Deposit to take the necessary action to repair or correct the damage, enforce the Guidelines, fine the Builder, or cure any defect created by said non-compliance, including any administrative expense incurred as a result of such action being taken.

Following the use of any portion of the Compliance Deposit, the Builder shall immediately replace the amount of the deposit used to the sum initially deposited. Failure to replenish the Compliance Deposit within seven (7) days following the Developer's or Association's delivery of written demand shall be deemed a material breach of this Agreement and shall entitle the Association to deny the Builder's and subcontractors (including Contractors suppliers or representatives) access to the community.

#### **Builder Representations**

Builder warrants to Developer that they will use best efforts at all times to maintain a home construction program that fosters good will among current lot-owners and prospective home purchasers.

Builder acknowledges that the Developer will provide information on homes and home-sties owned by the Builder. The Builder shall reveal to \_\_\_\_\_ all pertinent information on homes & home-sites, including defects. Builder warrants to the Developer that to the best of their belief this information shall be true, correct, and complete. The Builder authorizes the Developer's agents to convey all such information to prospective purchasers. Builder acknowledges that the Developer, its agents or representatives shall rely upon the accuracy of the information furnished by the Builder and Builder agrees to indemnify and hold \_\_\_\_\_ harmless from all costs, expenses (including attorneys' fees) and damages incurred or suffered by \_\_\_\_\_ as a result of incorrect, incomplete or omitted information.

The Builder acknowledges that they have read , and understood the following: The subdivision Public Report of the Arizona Department of Real Estate, A condition of the Title Report on home-sites within the Mesquite Bay, the Declaration of Covenants, Conditions and Restrictions for the Mesquite Bay at Lake Havasu Community Association, Inc., Design Guidelines.

Builders continued eligibility for the Prime Contractor program shall be subject to full compliance with the terms and conditions of this Agreement and fulfillment of all of Builder's obligations hereunder.

During the term of this Agreement, Developer shall, on a regular basis, provide Builder with information relating to the number of lots in Mesquite Bay sold to date and the identities of buyers of such lots.

Builder hereby acknowledges and agrees that Developer shall have the right to terminate this Agreement by written notice to Builder if the Builder's financial condition is such that it would impair or limit Builder's ability to complete construction of homes on Mesquite Bay lots, or would jeopardize the reputation of The Mesquite Bay at Lake Havasu.

#### **Insurance**

Prior to commencing construction of homes at Mesquite Bay, Builder shall obtain a public liability insurance policy in the amount of \$1,000.00 covering all losses, damages and claims arising out of Builder's occupation, use or activities on, and ownership of Mesquite lots, including property damages, bodily injury and death. The policy shall name the Builder as the insured party, and Developer, and Developer's lender if requested by Developer as additional insured's. A certificate evidencing such insurance shall be provided to Developer within thirty (30) days after the date of this Agreement, and such insurance shall be maintained in effect so long as Builder is engaging in any construction with Mesquite Bay at Lake Havasu.

#### **Building and Land Use Standards**

Builder acknowledges that all of Builder's construction activities in Mesquite Bay shall be carried out in conformance with the Declaration, Design Guidelines and all applicable zoning, building and other governmental codes, rules and regulations. Without limiting Builder's obligation to comply with all applicable government requirements, Builder agrees to comply with all items set forth in The Mesquite Bay at Lake Havasu Design Review Guidelines. Where there is a conflict in the Design Review Guidelines and this Agreement, this Agreement shall prevail.

Such notice shall be deemed delivered at the time of personal delivery, or if mailed when it is deposited as provided above, but the time period in which a response to any such notice must be given or any actions taken with respect thereto shall commence to run from the date it is personally delivered, or if mailed, the date of receipt of the notice by the addressee thereof, as evidenced by the return receipt. Rejection or other refusal by the addressee to accept the notice shall be deemed to be receipt of the notice. In addition, the inability, of the United States Postal Service to deliver the notice because of a change of address of the party of which notice was given to the other party, as provided in Section below shall be deemed to be receipt.

**The Addresses** of the parties to which notice is to be sent shall be those set forth in the signature page of this Agreement. Such addresses may be changed by either party by designating the change of address to the other party in writing.

**Other Agreements.** Where there is a conflict between this Agreement, the Declaration, Design Guidelines or any other contract, this Agreement shall prevail.

**Applicable Law.** This Agreement shall be construed and interpreted under the laws of the State of Arizona.

DEVELOPER:

\_\_\_\_\_

\_\_\_\_\_

BY: \_\_\_\_\_

ITS: \_\_\_\_\_

DATE: \_\_\_\_\_

BUILDER:

\_\_\_\_\_

\_\_\_\_\_

BY: \_\_\_\_\_

ITS: \_\_\_\_\_

DATE: \_\_\_\_\_