

DRAFT April 25, 2005

**EXHIBIT "B"**  
**BY-LAWS**

The administration of Cold Water Creek Phase No. 1 (the "property") and the Cold Water Creek Phase No. 1 Homeowners Association, Inc. (the "Association") shall be governed by these Bylaws.

**1. Application of Bylaws.**

All present and future unit owners, mortgagees, lessees and occupants of units and their employees, and any other persons who may use the facilities of the property in any manner are subject to the Declaration, these Bylaws and all rules made pursuant hereto and any amendment thereof. The acceptance of a deed or conveyance or the entering into of a lease or the act of occupancy of a unit shall constitute an agreement that the provisions of the Declaration and these Bylaws (and any rules and regulations made pursuant thereto), as they may be amended from time to time, are accepted, ratified and will be complied with.

**2. Board of Trustees.**

a). The administration of the property on behalf of the Association shall be conducted by a Board of Trustees of three (3) to nine (9) natural individuals.

b). Until all of the Lots in the subdivision have been sold, the Declarant shall appoint all of the members of the Board of Trustees. At each annual meeting of the Association thereafter, the unit owners shall elect the members of the Board of Trustees for the forthcoming year. At least thirty (30) days prior to any annual meeting of the Association, the Board of Trustees shall elect from the unit owners a nominating committee of not less than three (3) members (none of whom shall be members of the then Board of Trustees) who shall recommend to owners present at the annual meeting one nominee for each position on the Board of Trustees to be filled at that particular annual meeting. Nominations for positions on the Board of Trustees may also be made by petition filed with the secretary of the Association at least seven (7) days prior to the annual meeting of the Association, which petition shall be signed by ten (10) or more unit owners and signed by the nominee named therein indicating his willingness to serve as a member of the Board of Trustees, if elected. Members of the Board of Trustees shall be required to be unit owners, and must be natural individuals and residents of the State of Utah.

c). Members of the Board of Trustees shall serve for a term of two (2) years. The terms of no more than three (3) members will end each year. The members of the Board of Trustees shall serve until their respective successors are elected, or until their death, resignation or removal. Any member of the Board of Trustees who fails to attend three (3) consecutive Board of Trustees meetings or fails to attend at least 25% of the

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Board of Trustees meetings held during any calendar year shall forfeit his membership on the Board of Trustees.

d). Any member of the Board of Trustees may resign at any time by giving written notice to the president of the Association, or the remaining Board of Trustees members. Any member of the Board of Trustees may be removed from membership on the Board of Trustees by a two-thirds majority vote of the Association. Whenever there shall occur a vacancy on the Board of Trustees due to death, resignation, removal or any other cause, the remaining members shall elect a successor member to serve until the next annual meeting of the Association, at which time said vacancy shall be filled by the Association for the unexpired term, if any.

e). The members of the Board of Trustees shall receive no compensation for their services unless expressly approved by a majority of the Association; provided, however, that any member of the Board of Trustees may be employed by the Association in another capacity and receive compensation for such employment.

f). The Board of Trustees, for the benefit of the property and the Association, shall manage the business, property and affairs of the property and the Association and enforce the provisions of the Declaration, these Bylaws, the house rules and the administrative rules and regulations governing the property. The Board of Trustees shall have the powers, duties and responsibilities with respect to the property as contained in the act, the Declaration and these Bylaws.

g). The meetings of the Board of Trustees shall be held at such places within the State of Utah as the Board of Trustees shall determine. A majority of the members of the Board of Trustees shall constitute a quorum, and if a quorum is present, the decision of a majority of those present shall be the act of the Board of Trustees. The Board of Trustees shall annually elect all of the officers of the Association. The meeting for the election of officers shall be held at the first meeting of the Board of Trustees immediately following the annual meeting of the Association.

h). Special meetings of the Board of Trustees may be called by the president or by any two (2) Board of Trustees members.

i). Regular meetings of the Board of Trustees may be held without call or notice. The person or persons calling a special meeting of the Board of Trustees shall, at least ten (10) days before the meeting, give notice thereof by any usual means of communication. Such notice need not specify the purpose for which the meeting is called; if an agenda is prepared for such a meeting, the meeting need not be restricted to discussions of those items listed on the agenda.

j). Any member of the Board of Trustees may, at any time, waive notice of any meeting of the Board of Trustees in writing, and such waiver shall be deemed

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equivalent to the giving of such notice. Attendance by a member of the Board of Trustees at a meeting shall constitute a waiver of notice of such meeting except if a Board of Trustees member attends the meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called. If all the members of the Board of Trustees are present at any meeting of the Board of Trustees, no notice shall be required and any business may be transacted at such meeting.

k). The fiscal year shall be determined by the Board of Trustees.

l). Because service on the Board of Trustees is voluntary and in the interest of being sensitive to time and commitments, it is proposed that the Committee may hold meetings via telephone, so long as all members have no difficulty hearing each other. Members of the Board of Trustees or any subcommittee designated by the Board of Trustees may participate in a meeting of the Board of Trustees or subcommittee by means of conference telephone or other similar communications equipment, by means of which all persons participating in the meeting can hear each other. Participation in a meeting pursuant hereto shall constitute presence in person at such meeting.

m). All Board of Trustees meetings shall be open to all voting members, but attendees other than members of the Board of Trustees may not participate in any discussion or deliberation unless a majority of a quorum requests that they be granted permission to speak. In such case, the President may limit the time any such individual may speak.

n). Any action to be taken at the meeting of the Board of Trustees or any action that be taken at a meeting of the Board of Trustees may be taken without a meeting if a consent in writing, setting for the action so taken, shall be signed by all the members of the Board of Trustees. An explanation of the action taken shall be posted at a prominent place or places within the common areas with three (3) days after the written consents of all of the members of the Board of Trustees have been obtained.

o). The Board of Trustees, with approval of a majority of a quorum, adjourn a meeting and reconvene an executive session to discuss and vote upon personnel matters, litigation or threatened litigation in which the Association is or may become involved, and orders of business of a privileged, confidential, sensitive or similar nature. The nature of any and all business to be considered in an executive session shall first be announced in open session.

### 3. Meetings of the Association.

a). The presence in person or by proxy at any meeting of the Association of fifty percent (50%) of the unit owners in response to notice of all unit owners of record properly given shall constitute a quorum. In the event that fifty percent (50%) of the unit owners are not present in person or by proxy, the meeting shall be adjourned for twenty-

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four (24) hours, at which time it shall reconvene and any number of unit owners present at such subsequent meeting shall constitute a quorum. Unless otherwise expressly provided in the Declaration, any action may be taken at any meeting of the unit owners upon a majority vote of the unit owners who are present in person or by proxy and who are voting.

b). Unless otherwise determined by the Board of Trustees, the annual meeting of the Association shall be held on the second Thursday of June at 7:00 p.m. at the property or at such other reasonable date, time and place (not more than sixty (60) days before or after such date) as may be designated by written notice by the Board of Trustees delivered to the unit owners not less than fifteen (15) days prior to the date fixed for said meeting. At or prior to an annual meeting, the Board of Trustees shall furnish to the unit owners: (a) a budget for the coming fiscal year that shall itemize the estimated common expenses of the coming fiscal year with the estimated allocation thereof to each unit owner; and (b) a statement of the common expenses itemizing receipts and disbursements for the previous and current fiscal year, together with the allocation thereof to each unit owner. Within ten (10) days after the annual meeting, that budget statement shall be delivered to the unit owners who were not present at the annual meeting.

c). Special meetings of the Association may be held at any time at the property or at such other reasonable place to consider matters which, by the terms of the Declaration, require the approval of all or some of the unit owners, or for any other reasonable purpose. Special meetings shall be called by written notice, signed by a majority of the Board of Trustees, or by unit owners representing at least one-third (1/3) in interest of the undivided ownership of the common areas and facilities and delivered to all unit owners not less than fifteen (15) days prior to the date fixed for said meeting. The notices shall specify the date, time and place of the meeting, and the matters to be considered.

d). Robert's Rules of Order (latest edition) shall govern the conduct of the Association's meeting when not in conflict with the Declaration or these Bylaws.

#### 4. Officers.

a). All officers and employees of the Association shall serve at the will of the Board of Trustees. The officers shall be a president, secretary and treasurer. The Board of Trustees may appoint such other assistant officers as the Board of Trustees may deem necessary. No officer shall be required to be a unit owner, but the president must be a member of the Board of Trustees. No officer shall receive compensation for serving as such. Officers shall be annually elected by the Board of Trustees and may be removed and replaced by the Board of Trustees.

b). The president shall be the chief executive of the Board of Trustees and shall preside at all meetings of the unit owners and of the Board of Trustees and may exercise the powers ordinarily allocable to the presiding officer of an Association, including the appointment of committees. The president shall exercise general supervision over the property and its affairs. He shall sign on behalf of the Association all conveyances, mortgages and contracts of material importance to its business. He shall do and perform all acts which the Board of Trustees may require.

c). The secretary shall keep minutes of all proceedings of the Board of Trustees and of the meetings of the Association and shall keep such books and records as may be necessary and appropriate for the records of the unit owners and the Board of Trustees. In the absence or inability of the president, the secretary shall perform the functions of the president.

d). The treasurer shall be responsible for the fiscal affairs of the Association, but may delegate the daily handling of funds and the keeping of records to a manager or managing company.

#### 5. Litigation.

a). If any action is brought by one or more but less than all unit owners on behalf of the Association and recovery is had, the plaintiffs expenses, including reasonable counsel's fees, shall be a common expense; provided, however, that if such action is brought against the unit owners or against the Board of Trustees, the officers, employees, or agents thereof, in their capacities as such, with the result that the ultimate liability asserted would, if proved, be borne by all the unit owners. The plaintiffs expenses, including counsel fees, shall not be charged to or borne by the other unit owners, as a common expense or otherwise.

b). Complaints brought against the Association, the Board of Trustees or the officers, employees or agents thereof, in their respective capacities as such, or the property as a whole, shall be directed to the Board of Trustees, which shall promptly give written notice thereof to the unit owners and any mortgagees and shall be defended by the Board of Trustees, and the unit owners and mortgagees shall have no right to participate other than through the Board of Trustees in such defense. Complaints against one or more, but less than all unit owners shall be directed to such unit owners, who shall promptly give written notice thereof to the Board of Trustees and to the mortgagees affecting such units, and shall be defended by such unit owners.

6. Abatement and Enjoinment of Violations by Unit Owners. The violation of any house rules or administrative rules or regulations adopted by the Board of Trustees or the breach of any provision contained herein, or the breach of any provision of the Declaration, shall give the Board of Trustees the right, in addition to any other rights set forth in these Bylaws:

a). To enter the unit in which or as to which such violation or breach exists and to similarly abate and remove, at the expense of the defaulting unit owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Board of Trustees shall not thereby be deemed guilty in any manner of trespass; or

b). To enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach.

7. Accounting.

a). The books and accounts of the Association shall be kept in accordance with generally accepted accounting procedures under the direction of the treasurer.

b). At the close of each fiscal year, the books and records of the Board of Trustees shall be audited by a certified public accountant approved by the Association.

c). The books and accounts of the Association shall be available for inspection at the office of the Association by any unit owner or his authorized representative during regular business hours.

8. Special Committees.

The Board of Trustees by resolution may designate one or more special committees, each committee to consist of two (2) or more unit owners, which to the extent provided in said resolution, shall have and may exercise the powers set forth in said resolution. Such special committee or committees shall have such name or names as may be determined from time to time by the Board of Trustees. Such special committees shall keep regular minutes of their proceedings and report the same to the Board of Trustees when required. The members of such special committee or committees designated shall be appointed by the Board of Trustees or the president. The Board of Trustees or the president may appoint unit owners to fill vacancies on each of said special committees occasioned by death, resignation, removal or inability to act for any extended period of time.

9. Lease.

The Board of Trustees shall have the authority but not the obligation to enter into a lease agreement with Academia West LLC d/b/a Academia Charter School for up to fifteen (15) parking spaces; provided, however any such lease shall terminate if the building currently occupied by Academia, at approximately 1700 West Hill Field Road, Layton, Utah, ceases to be used in its entirety as a charter school

10. Amendment of Bylaws.

These Bylaws may be amended unilaterally by the Declarant or by a majority affirmative vote of the Association at a meeting duly called for such purposes; provided the changes are approved by the Declarant or its successors and assigns in writing. Upon such an affirmative vote, the Board of Trustees shall acknowledge the amended Bylaws, setting forth the fact of the required affirmative vote of the unit owners and mortgagees where necessary and the amendment shall be effective upon recording.

10. Severability.

The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion hereof shall not affect the validity or enforceability of any other provision hereof.

11. Captions.

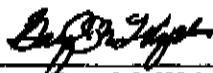
The captions herein are inserted only as a matter of convenience and for reference and in no way to define, limit or describe the scope of these Bylaws nor the intent of any provision hereof.

12. Effective Date.

These Bylaws shall take effect upon recording of the Declaration of which they are a part.

IN WITNESS WHEREOF, the undersigned have executed these covenants and restrictions the \_\_\_\_ day of April, 2005.

IVORY NORTH,  
a Utah partnership

By:   
Name: Gary M. Wright  
Title: General Partner

December 7, 2005

BK 3931 PG 2189

STATE OF UTAH                    )  
  )ss:  
COUNTY OF DAVIS                )

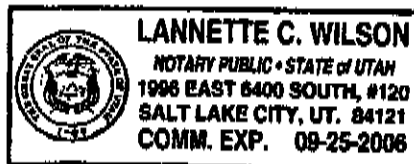
On the 7 day of December, 2005, personally appeared before me Gary M. Wright, who by me being duly sworn, did say that ~~he~~ she is the General Partner of IVORY NORTH, a Utah partnership, and that the within and foregoing instrument was signed in behalf of said partnership by authority of its Partnership Agreement, and said Gary M. Wright, duly acknowledged to me that said Partnership executed the same.

*Lannette C. Wilson*

NOTARY PUBLIC

Residing At: ~~DRAPER~~ UTAH

Commission Expires ~~09-25-06~~





## PARKING SPACES LEASE AGREEMENT

This Agreement bearing the effective date February 13, 2009 is entered into by and between Coldwater Creek Homeowners Association (the "Landlord") and Academica West, LLC, a Utah limited liability company of 1 West 100 South, Kaysville, UT 84037 (the "Tenant").

1. **PROPERTY:** The rented premises is located at *in the North North Parking Lot of Coldwater Creek Subdivision* more particularly described as (the "North Parking Lot"):

Beginning at a point 646.33 feet South 89°55'41" West along the Section line; 1267.12 feet North 0°00'47" West 107381 feet North 0°02'14" East and 13638 feet North 89°52'30" East from the Southeast Corner of the Southwest Quarter of Section 19, Township 4 north, Range 1 West, Salt Lake Base and Meridian, U.S. Survey; and running thence North 89°52'30" East 103.00 feet to the West right of way line of Cold Creek way; thence two (2) courses along said right of way as follows: Northwestern along the arc of a 333.00 foot radius curve to the right a distance of 65.90 feet (Long Chord bears North 5°47'40" West 65.80 feet) and North 0°07'30" West 76.95 feet; thence South 89°52'30" West 96.50 feet; thence South 0°07'30" East 142.42 feet to the point of beginning.

Tenant has inspected the North Parking Lot and accepts it "as is" and "with all faults".

2. **TERM:** The initial term of the agreement is 10 years, commencing February 13, 2009 and continuing until September 30, 2018 with an option to extend the lease an additional 10-years. The option must be exercised by a writing delivered to Landlord within sixty (60) days of the expiration of the initial Lease term. If the option is not exercised in a timely manner, the Lease shall continue on a month to month basis.

3. **RENT:** As consideration for the Lease, Tenant shall pay Landlord the sum of \$500.00 per year. Payment is due in advance on or before the first day of November of each year, commencing November 1, 2008. If the option to extend the initial term of the Lease is exercised by Tenant, the amount of the rent shall be increased by the amount of the Consumer Price Index as published by Zions First National Bank on the anniversary date of the Lease and if that date is on a weekend or holiday, then on the first business day thereafter.

4. **PURPOSE:** The purpose of the lease is to give Tenant the right to access and use 15 parking stalls in the North North Parking Lot of the Coldwater Creek Common Area. This includes the right to pedestrian and vehicular access and the right of parking. All motor vehicles parked in the North Parking Lot must be operable, licensed and registered. Motor vehicles parked in the North Parking Lot must be used in daily transportation. Damaged or unsightly motor vehicles may not be parked in the North Parking Lot. Motor vehicles may not be stored in the North Parking Lot. Oversized, commercial and recreational vehicles may not be parked in the North Parking Lot. Drivers and passengers may not "hang out" or "loiter" in the North Parking Lot or adjoining Coldwater Creek Common Area. Vehicles parked in the North Parking Lot in violation of the express purpose of this Lease may be ticketed, immobilized or towed by Landlord at owner's sole expense and without further notice.

5. **INDEMNIFICATION:** Landlord shall not be responsible for damage or loss to possessions or items left in Tenant's vehicles. Landlord shall not be responsible for damage to Tenant's vehicles, whether or not such damage is caused by other vehicles or persons in the parking lot and surrounding area. Landlord shall not be liable for any property damage or personal injury Tenant may suffer in, on or about the premises regardless of cause, including Landlord's negligence, and Tenant agrees to hold Landlord harmless from any and all liability, loss or damage Tenant may suffer as a result of claims, demands, costs or judgments against Tenant arising out of or caused by this Agreement for use of the property.

6. **PARKING LOT ATTENDANTS:** Landlord shall not provide parking attendants.

7. **MAINTENANCE:** Landlord will reasonably maintain the North Parking Lot and driving lanes. Tenant is

responsible for the removal of snow and ice accumulations on the North Parking Lot.

8. **ASSIGNMENT AND SUBLETTING:** Tenant shall not sublet the premises or any part thereof, or assign this agreement without Landlord's written consent.

9. **INSURANCE:** The Tenant must provide liability insurance and name the Coldwater Creek Homeowners Association as an "insured" or "loss payee" and must provide Landlord with a Certificate of Insurance.

10. **DEFAULT AND REMEDIES:** If Tenant breaches the agreement, and fails to remedy the default within that time permitted by this Agreement and Utah law, then the Landlord, at its option and in its sole discretion, may elect to: (a) Maintain the Agreement in full force and effect, and recover the rent and other monetary charges from the Tenant as they become due, without terminating the Tenant's right to possession irrespective of whether the Landlord shall have re-entered or the Tenant has abandoned the rented premises; provided, however, if the Landlord initially elects not to terminate the Agreement, the Landlord may, at any time during the term of the Agreement, elect to terminate it because of Tenant's prior default; or (b) Terminate the Tenant's right to possession by any lawful means, and Tenant shall immediately surrender possession of the rented premises to the Landlord; and regardless of its election and anything to the contrary notwithstanding, the Landlord shall be entitled to recover the following damages from Tenant: (1) All unpaid rent and other monetary charges due to the date of termination; and (2) Reasonable attorneys fees and collection costs.

12. **ATTORNEYS FEES:** If this Agreement is referred to an attorney for interpretation or enforcement, the prevailing party shall be entitled to recover reasonable attorneys fees made necessary thereby, regardless of whether a lawsuit is commenced.

13. **GOVERNMENTAL REGULATIONS:** Tenant shall comply strictly with all applicable federal, state and local laws, ordinances, public rules and governmental regulations.

14. **ATTORNNMENT:** If the North Parking Lot is sold by Landlord during the term of this Agreement, Tenant shall attorn to the purchaser of the North Parking Lot and recognize the purchaser as the Landlord under this Agreement; provided, however, anything to the contrary notwithstanding, the purchaser may, at any time, elect to terminate this Agreement upon at least thirty (30) days prior written notice.

15. **GOVERNING LAW:** This Agreement shall be governed by the laws of the State of Utah.

16. **SEVERANCE CLAUSE:** Any provision of this Agreement prohibited by said laws shall be ineffective to the extent of such prohibition without invalidating the remaining provisions of this Agreement.

17. **CONSTRUCTION:** This Agreement shall be construed as though it was drafted by all of the parties hereto.

18. **SUCCESSORS:** This Agreement shall inure to and bind the successors, assigns, heirs, devisees, executors, administrators, and personal representatives of the respective parties.

19. **ENTIRE AGREEMENT:** The foregoing constitutes the entire agreement between the parties, and may be modified only by a writing signed by both parties.

IN WITNESS WHEREOF, the parties have executed this Agreement, and acknowledge receipt of a copy thereof, the day and year first above written.

LANDLORD:

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TENANT:  
ACADEMICA WEST, LLC

By: \_\_\_\_\_  
Name:  
Title:



CONSULTING ENGINEERS  
AND LAND SURVEYORS

## GREAT BASIN ENGINEERING - NORTH

P.O. Box 150048 - Ogden, Utah 84415  
Ogden 801.394.4515 • Salt Lake City 801.521.0222 • Fax 801.392.7544

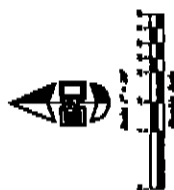
April 25, 2005

### COLDWATER CREEK COMMON AREA

#### PARKING EASEMENT FOR SCHOOL

Beginning at a point 648.33 feet South 89°55'41" West along the Section line;  
1267.12 feet North 0°00'47" West 1073.81 feet North 0°02'14" East and 136.38 feet  
North 89°52'30" East from the Southeast Corner of the Southwest Quarter of  
Section 19, Township 4 North, Range 1 West, Salt Lake Base and Meridian,  
U.S. Survey; and running thence North 89°52'30" East 103.00 feet to the West  
right of way line of Cold Creek Way; thence two (2) courses along said right of way as  
follows: Northwesternly along the arc of a 333.00 foot radius curve to the right a distance  
of 65.90 feet (Long Chord bears North 5°47'40" West 65.80 feet) and  
North 0°07'30" West 76.95 feet; thence South 89°52'30" West 96.50 feet; thence  
South 0°07'30" East 142.42 feet to the point of beginning.




[illegible]

**WATER RESOURCES: STATE OF CONNECTICUT**

**STANDARD AND SERVICES LTD IS PLEASED TO ANNOUNCE THE**

TYPE DATA TABLE

**Legend**


 1999-2000 Survey Report by the  
 American Chemical Society  
 1117 14th St., NW  
 Washington, DC 20005  
 Tel: 202-862-6100 Fax: 202-862-6101  
 www.acs.org