



# **Masters Declaration of Covenants, Conditions and Restrictions for Water Valley**

---

Including Water Valley North, Water Valley South and  
Pelican Hills

Water Valley Master Association, Inc. c/o Trollco, Inc.  
1625 Pelican Lakes Point, Suite 201, Windsor, Colorado 80550  
(970) 686-5828  
[www.watervalley.com](http://www.watervalley.com)

AR2462325

2462325 B-1517 P-427 11/03/95 11:27A PG 1 OF 50  
Weld County CO Clerk & Recorder

REC DOC  
251.00

**MASTER DECLARATION OF COVENANTS,  
CONDITIONS AND  
RESTRICTIONS FOR WATER VALLEY  
BY  
TROLLCO, INC.**

**TABLE OF CONTENTS**

**RECITALS** ..... 2

**ARTICLE 1. SUBMISSION/DEFINED TERMS** ..... 2

    Section 1.1     Submission of Real Estate ..... 2

    Section 1.2     Defined Terms ..... 3

    Section 1.3     Act ..... 3

    Section 1.4     Allocated Interests ..... 3

    Section 1.5     Articles of Incorporation ..... 3

    Section 1.6     Association; Master Association ..... 3

    Section 1.7     Builder ..... 3

    Section 1.8     Bylaws ..... 3

    Section 1.9     Commercial Unit ..... 3

    Section 1.10    Common Elements ..... 3

    Section 1.11    Common Expenses; Common Expense Assessment(s); Assessment(s) ..... 4

    Section 1.12    Common Expense Liability ..... 4

    Section 1.13    Declarant ..... 4

    Section 1.14    Declarant Control ..... 4

    Section 1.15    Declaration; Master Declaration ..... 4

    Section 1.16    Design Guidelines ..... 4

    Section 1.17    Design Review Committees ..... 4

    Section 1.18    District ..... 4

    Section 1.19    Expansion Area ..... 5

    Section 1.20    General Development Plan ..... 5

    Section 1.21    Golf Course ..... 5

    Section 1.22    Governing Documents ..... 5

    Section 1.23    Improvements ..... 5

    Section 1.24    Local Common Area ..... 5

    Section 1.25    Manager ..... 5

    Section 1.26    Miscellaneous Use Unit ..... 5

    Section 1.27    Names ..... 6

    Section 1.28    Party Walls ..... 6

    Section 1.29    Person ..... 6

    Section 1.30    Project; Community; Common Interest Community ..... 6

    Section 1.31    Publicly Owned Unit ..... 6

    Section 1.32    Real Estate ..... 6

    Section 1.33    Record or Recorded ..... 6

    Section 1.34    Recreation Facilities ..... 6

    Section 1.35    Related User ..... 6

    Section 1.36    Religious Unit ..... 6

    Section 1.37    Residential Unit ..... 6

    Section 1.38    Rules and Regulations ..... 7

    Section 1.39    Subassociation ..... 7

    Section 1.40    Supplemental Declaration ..... 7

    Section 1.41    Transferee Declarant ..... 7

Section 1.42	<u>Unit; Lot</u> . . . . .	7
Section 1.43	<u>Unit Owner; Owner</u> . . . . .	7
ARTICLE 2. DESCRIPTION OF THE COMMON INTEREST COMMUNITY . . . . .		7
Section 2.1	<u>Common Interest Community is "Large Planned Community</u> . . . . .	7
Section 2.2	<u>Development of the Common Interest Community--Supplemental</u> <u>Declarations</u> . . . . .	8
Section 2.3	<u>Creation of Units</u> . . . . .	8
Section 2.4	<u>Title to Units/Identification</u> . . . . .	9
Section 2.5	<u>Unit Boundaries--General</u> . . . . .	9
Section 2.6	<u>Horizontal Unit Boundaries</u> . . . . .	9
Section 2.7	<u>Unit Maintenance</u> . . . . .	9
Section 2.8	<u>General Description of Common Elements</u> . . . . .	9
ARTICLE 3. EASEMENTS . . . . .		10
Section 3.1	<u>Easement for Encroachments</u> . . . . .	10
Section 3.2	<u>Maintenance Easement</u> . . . . .	10
Section 3.3	<u>Utilities</u> . . . . .	10
Section 3.4	<u>Joint Access Drives</u> . . . . .	11
Section 3.5	<u>Emergency Easements</u> . . . . .	11
Section 3.6	<u>Drainage Easements</u> . . . . .	11
Section 3.7	<u>Golf Course Easements</u> . . . . .	12
Section 3.8	<u>Golf Cart Path Easement</u> . . . . .	13
Section 3.9	<u>Utility, Map and Plat Easements</u> . . . . .	13
Section 3.10	<u>Easements for the Executive Board and Unit Owners</u> . . . . .	13
Section 3.11	<u>Unit Owners' Easements of Enjoyment</u> . . . . .	13
Section 3.12	<u>Delegation of Use</u> . . . . .	13
Section 3.13	<u>Easements Deemed Created</u> . . . . .	13
ARTICLE 4. MASTER ASSOCIATION OPERATION . . . . .		14
Section 4.1	<u>Membership</u> . . . . .	14
Section 4.2	<u>Authority</u> . . . . .	14
Section 4.3	<u>Powers; Duties</u> . . . . .	14
Section 4.4	<u>Duty to Accept Property and Facilities Transferred by Declarant</u> . . . . .	15
Section 4.5	<u>Power to Provide Special Services</u> . . . . .	15
Section 4.6	<u>Power to Operate and Charge for Facilities and Services</u> . . . . .	16
Section 4.7	<u>Power to Grant Easements</u> . . . . .	16
Section 4.8	<u>Allocated Interests</u> . . . . .	16
Section 4.9	<u>Association Agreements</u> . . . . .	16
Section 4.10	<u>Declarant Control</u> . . . . .	16
Section 4.11	<u>Right to Notice and Comment/Generally and in regard to amendment of the</u> <u>Bylaws and/or Rules and Regulations</u> . . . . .	17
Section 4.12	<u>Indemnification</u> . . . . .	17
ARTICLE 5. DEVELOPMENT RIGHTS AND SPECIAL DECLARANT RIGHTS . . . . .		18
Section 5.1	<u>Development Rights and Special Declarant Rights</u> . . . . .	18
Section 5.2	<u>Termination of Development Rights</u> . . . . .	18
Section 5.3	<u>Additional Reserved Rights</u> . . . . .	19

Section 5.4	<u>Rights Transferable/Rights Transferred</u>	19
Section 5.5	<u>No Further Authorizations Needed</u>	20
Section 5.6	<u>Amendment of the Declaration or Map; Interpretation</u>	20
Section 5.7	<u>Termination of Reserved Rights</u>	20
Section 5.8	<u>Additions by Others</u>	20
<b>ARTICLE 6. COVENANT FOR COMMON EXPENSE ASSESSMENT</b>		20
Section 6.1	<u>Creation of Association Lien and Personal Obligation to Pay Common Expense Assessments</u>	20
Section 6.2	<u>Limited Priority Lien</u>	21
Section 6.3	<u>Apportionment of Common Expenses</u>	21
Section 6.4	<u>Purpose of Assessments</u>	22
Section 6.5	<u>Computation of Common Expense Assessment</u>	22
Section 6.6	<u>Commencement of Common Expense Assessments</u>	22
Section 6.7	<u>Effect of Nonpayment of Assessments</u>	22
Section 6.8	<u>Application of Payments</u>	23
Section 6.9	<u>Reserve Fund</u>	23
<b>ARTICLE 7. USE GUIDELINES AND RESTRICTIONS</b>		23
Section 7.1	<u>Absolute Authority of the Executive Board</u>	23
Section 7.2	<u>Plan of Development; Applicability; Effect</u>	23
Section 7.3	<u>Purpose</u>	23
Section 7.4	<u>Owners' Acknowledgment</u>	24
Section 7.5	<u>Right of Owners Regarding Rules and Regulations</u>	24
Section 7.6	<u>Initial Use Guidelines and Restrictions--General</u>	25
Section 7.7	<u>Restricted Activities--Residential Units</u>	26
Section 7.8	<u>Exemption for Declarant</u>	27
<b>ARTICLE 8. DESIGN REVIEW AND ARCHITECTURAL APPROVAL</b>		27
Section 8.1	<u>General</u>	27
Section 8.2	<u>Improvement to Property Defined</u>	27
Section 8.3	<u>Architectural Review</u>	28
Section 8.4	<u>Guidelines and Procedures--General</u>	29
Section 8.5	<u>Address of Committee</u>	29
Section 8.6	<u>Soils Testing</u>	29
Section 8.7	<u>Submission of Plans</u>	29
Section 8.8	<u>Criteria for Approval</u>	30
Section 8.9	<u>Decision of Committee</u>	30
Section 8.10	<u>Failure of Committee to Act on Plans</u>	30
Section 8.11	<u>Prosecution of Work After Approval</u>	30
Section 8.12	<u>Notice of Completion</u>	30
Section 8.13	<u>Inspection of Work</u>	31
Section 8.14	<u>Notice of Noncompliance</u>	31
Section 8.15	<u>Failure of Committee to Act After Completion</u>	31
Section 8.16	<u>Role of Subassociation Design Review Committees</u>	31
Section 8.17	<u>No Waiver of Future Approvals</u>	31
Section 8.18	<u>Variance</u>	31
Section 8.19	<u>Limitation of Liability</u>	32

Section 8.20	<u>Enforcement</u>	32
ARTICLE 9. MAINTENANCE		32
Section 9.1	<u>Districts' Responsibilities</u>	32
Section 9.2	<u>Association's Responsibility</u>	32
Section 9.3	<u>Easements</u>	33
Section 9.4	<u>Owner's Responsibility</u>	33
Section 9.5	<u>Subassociation's Responsibility</u>	33
Section 9.6	<u>Standard of Performance</u>	34
Section 9.7	<u>Party Walls</u>	34
ARTICLE 10. INSURANCE		34
Section 10.1	<u>Association's Insurance</u>	34
Section 10.2	<u>Unit Owners' Insurance</u>	35
ARTICLE 11. MISCELLANEOUS		35
Section 11.1	<u>Additional Rights of the Association</u>	35
Section 11.2	<u>Violations Constitute a Nuisance</u>	35
Section 11.3	<u>Interpretation</u>	35
Section 11.4	<u>Construction</u>	36
Section 11.5	<u>Dedication of Common Elements and Local Common Area</u>	36
Section 11.6	<u>Additional Enforcement Powers</u>	36

**EXHIBITS**

- EXHIBIT A LEGAL DESCRIPTION OF THE REAL ESTATE
- EXHIBIT B EXPANSION AREA
- EXHIBIT C COMMON ELEMENTS
- EXHIBIT D EASEMENTS, RESTRICTIONS, RESERVATIONS, LICENSES, ENCUMBRANCES OF RECORD AS OF THE DATE OF THIS DECLARATION

**MASTER DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR WATER VALLEY**

THIS DECLARATION is made on the date hereinafter set forth, by TROLLCO, INC., a Colorado Corporation, with an address of 8200 Eastman Park Drive, Windsor, Colorado 80550 (hereinafter referred to as "Declarant").

**RECITALS:**

A. Declarant is the owner of certain parcels of land in Weld County, Colorado, located in the southeast quadrant of the intersection of 7th Street and Eastman Park Drive in Windsor, Colorado, consisting of approximately 1276 acres as depicted on Exhibit A (the "Real Estate").

B. The Real Estate is approved for development of at least 500 Residential Units and 20,000 square feet of commercial building space pursuant to that certain Consolidated and Amended Service Plan for Poudre Tech Metropolitan District, Water Valley Metropolitan District No. 1 and Water Valley Metropolitan District No. 2, dated February, 1995 (the "District Service Plan").

C. Declarant desires to ensure the attractiveness of the individual Units and parcels and facilities developed within the Real Estate and to preserve, protect, and enhance the values and amenities of the Real Estate. It is the intent of Declarant to guard against the construction on the Real Estate of improvements, structures or landscaping built or consisting of improper or unsuitable materials or with improper quality or methods of construction. Declarant intends to encourage the construction of attractive permanent improvements of advanced technological, architectural, and engineering design, appropriately located to preserve the harmonious development of the Real Estate.

D. Declarant desires to create a Common Interest Community, specifically, a Large Planned Community, pursuant to the Colorado Common Interest Ownership Act C.R.S. 38-33.3- 101 et seq. within the Real Estate. Portions of the Real Estate of this Common Interest Community will be designated for separate ownership and portions of which will be designated for ownership by an Owners' Association.

E. Declarant has caused or will cause "Water Valley Master Association, Inc.," a Colorado nonprofit corporation, to be incorporated under the laws of the State of Colorado, as an Owners' Association, for the purpose of exercising the functions as herein set forth.

**ARTICLE 1. SUBMISSION/DEFINED TERMS**

Section 1.1 Submission of Real Estate. Declarant hereby submits the property described in Exhibit A, and such additional property as may be subsequently added (the "Real Estate") to the provisions of the Colorado Common Interest Ownership Act, C.R.S. §§38-33.3-101 et seq. and to the terms and conditions of this Declaration. Declarant hereby declares that the Real Estate and all property which becomes subject to this Declaration in the manner hereinafter provided, and each part thereof, shall, from the date the same becomes subject to this Declaration, be owned, held, transferred, conveyed, sold, leased, rented, hypothecated, encumbered, used, occupied, maintained, altered and improved subject to the covenants, conditions, restrictions, limitations, reservations, exceptions, equitable servitudes and other

provisions set forth in this Declaration pursuant to, and (a) in furtherance of a common and general plan for the Real Estate; (b) to protect and enhance the quality, value, desirability and attractiveness of all property which becomes part of the Real Estate; (c) to provide for a Master Association as a vehicle to hold, maintain, care for and manage Common Elements and to perform functions for the benefit of Owners of Units within the Real Estate; (d) to define the duties, powers and rights of the Master Association; and (e) to define certain duties, powers and rights of Owners. The provisions of this Declaration and of the Association's Governing Documents (as that term is defined below) are intended to and shall run with the land and shall bind, be a charge upon and inure to the mutual benefit of (a) all of the property which becomes part of the Real Estate and each part or parcel thereof, (b) Declarant and its successors and assigns, (c) the Master Association and its successors and assigns, and (d) all Persons having or acquiring any right, title or interest in any property which becomes part of the Real Estate or any part or parcel thereof or any Improvement thereon, and their heirs, personal representatives, successors and assigns.

Section 1.2 Defined Terms. Each capitalized term in this Declaration shall have the meaning specified or used in the Act, unless otherwise defined in this Declaration.

Section 1.3 Act. The Colorado Common Interest Ownership Act, C.R.S. §§ 38-33.3-101 et seq., as the same may be amended from time to time. In the event the Act is repealed, the Act on July 1, 1995, shall remain applicable.

Section 1.4 Allocated Interests. The undivided interest in the Common Elements, Common Expense Liability, and votes in the Association appurtenant to a Unit.

Section 1.5 Articles of Incorporation. The Articles of Incorporation of Water Valley Master Association, Inc., a Colorado nonprofit corporation, which have been or will be filed in the office of the Secretary of State of the State of Colorado, as the same may be amended from time to time.

Section 1.6 Association; Master Association. The Water Valley Master Association, Inc., a Colorado nonprofit corporation, its successors and assigns.

Section 1.7 Builder. Any Person or Persons designated as such by Declarant in a Recorded instrument, who purchase(s): (i) a portion of the Real Estate, or (ii) multiple Units for the purpose of constructing Improvements thereon and for resale to the general public. All Builders are also Unit Owners.

Section 1.8 Bylaws. The Bylaws of the Association which have been or will be adopted by the Executive Board of the Association, as the same may be amended from time to time.

Section 1.9 Commercial Unit. Each Unit within the Real Estate which is designated for commercial uses in a Supplemental Declaration covering that Unit, with the Supplemental Declaration to control in the event of any conflict in designation between the Supplemental Declaration and this Master Declaration.

Section 1.10 Common Elements. Collective reference to all real and personal property within this Common Interest Community, including Improvements, now or hereafter owned or leased by the Association, or which the Association has a contractual right to use or which the Association maintains, holds or uses for the common use and enjoyment of all or certain of the Members as provided herein and



for other proposes as may be permitted by this Declaration. Initially the Common Elements shall consist of the real property and Improvements described on attached Exhibit C. Common Elements may be designated on a Recorded plat and in this Declaration as each may be amended or supplemented from time to time.

Section 1.11 Common Expenses; Common Expense Assessment(s); Assessment(s). In addition to the definition included in the Act, shall include late charges, attorneys' fees, fines and interest charged by the Association at the rate as determined by the Executive Board. As used in this Declaration, this term includes all charges levied for the benefit of the Association, including, but not limited to, (i) annual costs and expenses of the Association, (ii) large, single item expenditures of the Association, (iii) charges against a particular Unit Owner and the Unit for the purpose of reimbursing the Association for expenditures and other costs of the Association in curing any violation of the Governing Documents by the Unit Owner or Related User, (iv) insurance assessments (assessed in proportion to risk), and (v) utility assessments (assessed in proportion to usage). Common Expenses shall not include any separate obligations of individual Unit Owners.

Section 1.12 Common Expense Liability. Each Unit Owner's undivided interest in the Common Expenses.

Section 1.13 Declarant. Trolco, Inc., its successors and such of its assigns as to which the rights of Declarant hereunder are specifically assigned in accordance with the provisions of the Act and this Declaration (referred to as "Transferee Declarant(s)"). References in this Declaration to "Declarant" shall include all Transferee Declarants unless specifically provided otherwise.

Section 1.14 Declarant Control. The reserved power of the Declarant, pursuant to Section 303(5)(a)(II) of the Act, to appoint and remove officers and members of the Executive Board.

Section 1.15 Declaration; Master Declaration. This instrument as it may be amended from time to time.

Section 1.16 Design Guidelines. Collective reference to all written design and development guidelines, policies and procedures, application and review procedures and fee schedules, and all architectural controls which shall apply to all construction activities within the Real Estate to insure the proper use and appropriate development and improvement of the Common Interest Community. Design Guidelines shall govern the installation, repair, placement, replacement and construction of any improvement of real or personal property within the Common Interest Community.

Section 1.17 Design Review Committees. Committees created pursuant to Article 8 of this Declaration, for the purpose of establishing and enforcing Design Guidelines.

Section 1.18 District. Collective reference to one or more of the following: Poudre Tech Metropolitan District, Water Valley Metropolitan District No. 1 and Water Valley Metropolitan District No. 2, all quasi-municipal entities, which either own and operate certain facilities located within, and provide certain services to, the Real Estate by virtue of the District Service Plan, or which are obligated by contracts among the individual districts to fund construction and operation of such facilities.

Section 1.19 Expansion Area. All or a portion of the real property described on Exhibit B attached hereto and incorporated herein by reference, which pursuant to Article 6, may be included in the Real Estate.

Section 1.20 General Development Plan. Collective reference to site plans, planned unit developments, planned building groups, zoning, and other information and documentation (including the Governing Documents and the Service Plan) which establishes Declarants' general development scheme and master plan for the development of the Real Estate.

Section 1.21 Golf Course. A parcel of real property which is included within, or located adjacent to, the Real Estate, and which is designated as a golf course and described as such on any plat, including, but not limited to, any club house and related facilities such as parking lots, swimming pools, tennis courts, and other health or recreational facilities which are an integral part of such golf course.

Section 1.22 Governing Documents. Collective reference to those documents which govern the operation of the Association and this Large Planned Community, including: (a) its Articles of Incorporation, (b) its Bylaws, (c) its Rules and Regulations (including the Design Guidelines), and (d) this Declaration, as one or more of the same may be amended from time to time. Each and every provision of the Governing Documents shall be incorporated herein by this reference as though set forth in full herein.

Section 1.23 Improvements. All structures and any appurtenances thereto or components thereof of every type or kind, and of every use, and all landscaping, grading and other improvements to property, including, replacement, refinishing, resurfacing, and repair of existing Improvements to be constructed within the Real Estate, but specifically excluding all facilities and services owned, constructed or maintained by the District.

Section 1.24 Local Common Area. Any portion of the Real Estate designated by any Recorded Supplemental Declaration for the primary use and benefit of the Owners of certain Units within a portion of the Real Estate. Such Local Common Area may be: (a) within a Planned Community and therefore owned by a Subassociation in which all such Owners shall be entitled to membership; or (b) within a Condominium and therefore owned in undivided interests by such Owners; or (c) owned separately by individual Owners who may have reciprocal easements, and over which a Subassociation may have an easement for maintenance purposes; or (iv) by a cooperative housing corporation as defined in Section 216 of the Internal Revenue Code.

Section 1.25 Manager. One or more Persons employed by the Association pursuant to its Governing Documents who is engaged to perform any of the duties, powers or functions of the Association.

Section 1.26 Miscellaneous Use Unit. Any Unit within the Real Estate designated for multi-dwellings, mixed residential and commercial or other uses in a Supplemental Declaration covering that Unit (except any Residential Unit, Commercial Unit or Religious Unit), with the Supplemental Declaration to control in the event of any conflict in designation between such documents. The manner in which the Owner of any Miscellaneous Use Unit will use any Common Element shall be set forth in the Supplemental Declaration covering such Miscellaneous Use Unit.

Section 1.27 Names.

- (a) The name of this Common Interest Community is WATER VALLEY.
- (b) The name of the Association is WATER VALLEY MASTER ASSOCIATION, INC.

Section 1.28 Party Walls. Each wall which is built as a part of the original construction of a Unit and placed on or about the horizontal or vertical boundary line between two Units. To the extent not inconsistent with the provisions of this Declaration and the Act, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 1.29 Person. A natural person, a partnership or any other legal entity organized pursuant to the laws of the State of Colorado.

Section 1.30 Project; Community; Common Interest Community. Collective reference to the Real Estate and all Improvements thereon developed in furtherance of the General Development Plan.

Section 1.31 Publicly Owned Unit. Any Unit within the Real Estate which at any time is dedicated by Declarant to any governmental body. Publicly Owned Units shall be subject to the provisions of this Declaration, but shall not be subject to Assessments, nor shall the owners thereof be Members of the Association.

Section 1.32 Real Estate. Any of the real property which is now or hereafter becomes subject to this Declaration, pursuant to the expansion rights reserved in this Declaration, together with all easements, rights, and appurtenances thereto and the buildings and improvements erected or to be erected thereon. All easements and licenses which the Common Interest Community is subject to as of the date of this Declaration are recited in Exhibit D.

Section 1.33 Record or Recorded. The filing for record of any document in the real estate records in the office of the Clerk and Recorder of Weld County, Colorado.

Section 1.34 Recreation Facilities. One or more recreational Improvements located within Common Elements.

Section 1.35 Related User. Any Person who: (a) resides with an Owner within the Unit; (b) is a guest or invitee of an Owner; or (c) is an occupant, tenant or contract purchaser of a Unit, and any family member, guest, invitee or cohabitant of any such Person.

Section 1.36 Religious Unit. Any Unit within the Real Estate designated in a Supplemental Declaration covering that Unit for religious use by religious organizations recognized as tax-exempt religious organizations under the United States Internal Revenue Code.

Section 1.37 Residential Unit. Any Unit within the Real Estate designated in a Supplemental Declaration covering that Unit for residential use, with the Supplemental Declaration to control in the event of any conflict in designation between such documents.

Section 1.38 Rules and Regulations. All rules, regulations, procedures and guidelines of the Association, in general, and the Design Review Committees, specifically, as the same may be adopted and amended from time to time by the Executive Board pursuant to the Act, this Declaration and the Bylaws.

Section 1.39 Subassociation. Any Unit Owners' Association organized and established or authorized pursuant to the Act and a Supplemental Declaration, the membership of which is composed of Owners of Units within that portion of the Real Estate covered by a Supplemental Declaration.

Section 1.40 Supplemental Declaration. A written Recorded instrument containing covenants, conditions, restrictions, reservations, easements or equitable servitudes, or any combination thereof, which affects any portion, but not all, of the Real Estate.

Section 1.41 Transferee Declarant. A successor or assign of the Declarant (including, but not limited to, a Builder) who is designated by the Declarant to receive and who specifically assumes and agrees to discharge, certain Development Rights, Special Declarant Rights, Additional Reserved Rights or such other rights and duties granted to Declarant and specifically set forth in a written assignment executed, acknowledged and Recorded pursuant to the Act and this Declaration.

Section 1.42 Unit; Lot. A physical portion of the Common Interest Community, whether improved or unimproved: (i) which is designated for separate ownership or occupancy, and (ii) the boundaries of which are described in, or determined from, this Declaration, or from a Recorded plat or map. Such portions of the Common Interest Community may be intended for development of additional Units pursuant to a Recorded plat or map. References to "Unit" shall include commercial and apartment buildings containing premises for lease, but shall not include: (i) Common Elements, or (ii) any Local Common Area, or (iii) any Publicly Owned Unit.

In the case of a parcel of vacant land or land on which improvements are under construction, the parcel shall be deemed to be one Unit until such time as a plat or map is filed of record on all or a portion of such parcel. Thereafter, the portion encompassed by such plat or map shall constitute the number of Units shown on such plat or map, and the remainder of such parcel shall consist of one Unit. Provided, however ten (10) years after this Declaration is recorded to the extent unmapped or unplatted parcels remain within the Real Estate, such parcel shall be deemed to contain the number of Units designated for residential or commercial use as the case may be for such parcel on any site plan approved by the Declarant or the General Development Plan.

Section 1.43 Unit Owner; Owner. The Record title holder, including Declarant, whether one or more Persons, of fee simple title to a Unit, including sellers under executory contracts of sale and excluding buyers thereunder. The Owner of a Unit developed as rental apartments and the owner of a Commercial Unit or Miscellaneous Use Unit shall be the Owner for purposes of this Declaration, and not the lessees or tenants of the apartments, Commercial Unit, or Miscellaneous Use Unit.

## ARTICLE 2. DESCRIPTION OF THE COMMON INTEREST COMMUNITY

Section 2.1 Common Interest Community is "Large Planned Community." The Common Interest Community is expected to consist of the Large Planned Community generally known as "Water Valley," located along the Poudre River, in the Town of Windsor, Colorado. The Community is currently approved for development of approximately 1,570 Residential Units including single family, Units with

horizontal boundaries and patio homes. Additionally, community centers, commercial establishments, and business centers are planned. Approximately 700 acres of combined lakes and open space are included within the Real Estate.

Section 2.2 Development of the Common Interest Community--Supplemental Declarations. Before portions of the Real Estate are conveyed by Declarant to Unit Owners other than Declarant, Supplemental Declarations for such portions shall be Recorded which supplement the covenants, conditions and restrictions contained in this Declaration. Upon Recordation of a Supplemental Declaration, the property covered thereby shall be subject to all of the covenants, conditions, restrictions, limitations, reservations, exceptions, equitable servitudes and other provisions set forth in this Declaration, except to the extent specifically stated in the Supplemental Declaration.

2.2.1 Any Supplemental Declaration shall:

(a) be executed and acknowledged by the Owner or Owners of that portion of the Real Estate covered by the Supplemental Declaration;

(b) if that portion of the Real Estate is not then owned by Declarant, contain the executed and acknowledged written consent of Declarant until Termination of Declarant Control;

(c) contain an adequate legal description of that portion of the Real Estate;

(d) contain a reference to this Declaration which shall state its date, its date of Recordation and the book and page of the records of the Clerk and Recorder of Weld County, Colorado where this Declaration is Recorded;

(e) redesignate the land classification (Residential Unit, Commercial Unit, Religious Unit, Miscellaneous Use Unit, Common Elements, Local Common Areas or Publicly Owned Unit, and whether the subject property is or is not Owner Occupied) of that portion of the Real Estate where Development Rights, Special Declarant Rights or Additional Reserved Rights have been exercised.

A deed by which Declarant conveys a parcel of real property or one or more Units to another person, and any Recorded plat or map, may constitute a Supplemental Declaration if it meets the foregoing requirements.

2.2.2 A Supplemental Declaration may impose on that portion of the Real Estate described therein covenants, conditions, restrictions, limitations, reservations, exceptions, equitable servitudes and other provisions in addition to those set forth in this Declaration, taking into account the unique and particular aspects of the proposed development of the property covered thereby.

2.2.3 Except where the Act does not require the creation of a Subassociation, a Supplemental Declaration shall create a Common Interest Community pursuant to the Act; and, if so, shall provide for a Subassociation within the property described in the Supplemental Declaration and for the right of the Subassociation to assess such Owners.

Section 2.3 Creation of Units. Units shall be created pursuant to the provisions of the Act and, as provided in this Declaration. Units shall be deemed created:

(a) In the case of Units which do not contain horizontal boundaries, by Recording a Supplemental Declaration or plat or map.

(b) In the case of Units which contain horizontal boundaries, upon the date a certificate of occupancy is issued for the Improvements constructed within such Unit.

Section 2.4 Title to Units/Identification. The identification number of each Unit shall be as shown on a map or plat. Every contract for sale, deed, lease, security interest, will or other legal instrument shall legally describe a Unit by its identifying number followed by the name of the subdivision, Planned Community, or Condominium. Reference to a "declaration," "map," or "plat" in any instrument shall be deemed to include any supplement(s) or amendment(s) to such declaration, map or plat, without specific references thereto.

Section 2.5 Unit Boundaries--General. The boundaries of each Unit are as depicted on the map or plat for the Real Estate. Each Unit includes the spaces and Improvements lying within the boundaries described above. Certain Units may include special portions on pieces of equipment, such as air conditioning compressors, meter boxes, utility connection structures, air or gas pump and storage facilities and storage portions, which are situated in buildings or structures that are detached from the Unit. Such special equipment or storage portions are a part of the Unit, notwithstanding their non-contiguity with the principal portions, unless the same are owned or maintained by a governmental or quasi-governmental agency or entity or the District. The Common Elements are excluded from each Unit and any utilities or other facilities running through or within any Unit for the purpose of furnishing utility and other service to other Units and/or the Common Elements are also excluded.

Section 2.6 Horizontal Unit Boundaries.

2.6.1 Upon substantial completion of a Unit having horizontal boundaries, the boundaries will be located as shown on the plat or map, and shall include the following:

(a) Horizontal Boundaries--a plane of elevation relative to a described benchmark that defines either a lower or an upper dimension of a Unit such that the real estate respectively below or above the defined plane is not part of the Unit; and

(b) Vertical Boundaries--all other limits of a Unit which are not specifically horizontal boundaries.

2.6.2 Discrepancies between the location of Unit boundaries as shown on the plat or map and those of a Unit as constructed of up to ten (10) feet shall be considered insubstantial, shall have no adverse effect on the title of such Unit, and no amendment of the plat or map shall be required.

Section 2.7 Unit Maintenance. Except as may otherwise be provided in a Supplemental Declaration, each Unit Owner is responsible for the maintenance, repair and replacement of the Improvements and properties located within his or her Unit.

Section 2.8 General Description of Common Elements. Common Elements may be constructed by the Declarant or by the Association. Declarant may convey easements, licenses, rights to use or title to the Common Elements, by one or more deeds or other instruments, to the Association. All Common

Elements are intended for common use by the Owners and Related Users and not for the use of the general public.

2.8.1 A general description of every Common Element that the Declarant is legally obligated to construct with the Real Estate, together with the approximate date by which each such Common Element is to be completed is shown on Exhibit C. The Common Elements designated in Exhibit C are to be either conveyed to or leased by the Association.

2.8.2 Pursuant to the Act and the Governing Documents, and in furtherance of the General Development Plan, the Association, through its Executive Board shall have the right, at any time and from time to time, to acquire, lease, own or operate real or personal property which shall be additional Common Elements. Such additional Common Elements which will be constructed by, maintained by, or operated by the Association will be shown on an amendment to Exhibit C.

### ARTICLE 3. EASEMENTS

Section 3.1 Easement for Encroachments. If any portion of an Improvement encroaches upon the Common Elements or Local Common Area, or upon any adjoining Unit, including any future encroachments arising or resulting from erosion of subsidence, or from the repair or reconstruction of an Improvement subsequent to its damage, destruction or condemnation, a valid easement on the surface and for subsurface support below such surface and for the maintenance of same, so long as it stands, shall and does exist for such encroachment; provided, however, that no such easement shall be deemed to exist for an encroachment of Improvements from a Unit upon any other Unit, the Common Elements or Local Common Area when such encroachment is negligently or willfully created.

Section 3.2 Maintenance Easement. An easement to perform its maintenance obligations pursuant to this Declaration is hereby granted to the Association, its officers, agents, employees and assigns, upon, across, over, in and under the Real Estate, together with the right to make such use of the Real Estate as may be necessary or appropriate in carrying out such maintenance.

Section 3.3 Utilities. Declarant hereby creates and reserves to itself until Declarant has sold the last Unit to an Owner other than Declarant, and, thereafter, to the Association, a blanket easement upon, across, over and under the Real Estate for access, utilities, drainage and the installation, replacement, repair and maintenance of utilities, including but not limited to water, sewer, waste water treatment, effluent irrigation systems, gas, telephone, electricity and master television antenna or cable systems, if any. By virtue of this blanket easement, it shall be expressly permissible for Declarant or the Districts to erect and maintain the necessary facilities, equipment and appurtenances on the Real Estate and to affix, repair, and maintain water, treated waste water, effluent irrigation and sewer pipes, gas, electric, telephone and television wires, circuits, conduits and meters, and such other improvements or facilities as are contemplated in the District Service Plan. If any utility or quasi-utility company, or Districts, furnishing a service covered by the general easement created herein requests a specific easement by separate right and authority to grant such easement upon, across, over or under any part or all of the Real Estate without conflicting with the terms hereof; provided, however, that such right and authority shall be transferred to the Association upon conveyance by Declarant of the last Unit to the first Owner thereof (other than Declarant). The easement provided for in this Section shall in no way affect, avoid, extinguish or modify any other Recorded easement on the Real Estate.

Section 3.4 Joint Access Drives. The Declarant anticipates that it may construct certain driveways within the Real Estate, with each of such driveways to be located partially on portions of two (2) adjacent Units, for the purpose of providing vehicular access to each of such Units and the Improvements thereon ("Joint Access Drives"). The Declarant hereby reserves over each of such Units upon which any portion of a Joint Access Drive may now or hereafter be located ("Burdened Lot"), a perpetual, non-exclusive easement running with the land for the benefit of the adjacent Unit upon which the other portion of such Joint Access Drive is located ("Benefitted Lot"), for pedestrian and vehicular access, ingress to and egress from the Benefitted Lot, on, over and across those portions of the Joint Access Drive located on the Burdened Lot and which provide access to the Benefitted Lot ("Driveway Easement"). Said Driveway Easements are hereby granted upon the following terms and covenants:

(a) If there are to be Driveway Easements, the Declarant shall hereafter Record one or more instruments which show the general location of one or more Driveway Easements and which designate the Burdened Lot and the Benefitted Lot with respect to the various portions of each Driveway Easement shown thereon. Such instruments shall be fully effective as to all matters contained therein regarding any Driveway Easements, notwithstanding that any of the Units designated therein as a Burdened Lot or a Benefitted Lot may have been conveyed by Declarant prior to the Recordation of such instrument.

(b) Each Driveway Easement shall be exclusively for the use of the Owners of the Benefitted Lot, and their respective family members, tenants, guests and invitees (any one or more of whom shall hereafter be referred to as a "permitted party"). However, no Driveway Easement shall be used in any manner by any permitted party in such a way as to interfere unreasonably with use of such Driveway Easement by any other permitted party. Without limiting the generality of the foregoing, no vehicle or object shall be placed, parked, stored or located on any portion of a Driveway Easement so as to block, impede or impair access on, over or across such Driveway Easement.

(c) Maintenance, repair and replacement of the improvements of each Driveway Easement including, without limitation, snow removal, shall be the joint responsibility and obligation of the owners of the Burdened Lot and Benefitted Lot to which such Driveway Easement is appurtenant, and the cost thereof shall be shared equally by such Owners; provided, however, that any maintenance, repair or replacement necessitated by the negligent or willful act or omission of a permitted party may entitle an Owner to demand from another Owner a larger contribution.

(d) The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to and shall run with the land, and shall pass to such owner's successors in title.

Section 3.5 Emergency Easements. A nonexclusive easement for ingress and egress is hereby granted to all police, sheriff, fire protection, ambulance, and other similar emergency agencies or persons, and to the Districts, now or hereafter servicing the Common Interest Community, to enter upon any part of the Common Interest Community in the performance of their duties.

Section 3.6 Drainage Easements. An easement is hereby granted to the Association and the Districts, their officers, agents, employees, successors and assigns to enter upon, across, over, in an under any portion of the real estate subject to this Declaration for the purpose of changing, correcting or otherwise modifying the grade of the Real Estate, the Units or drainage channels so as to improve the drainage of water. Said easements shall be deemed to also include easements for the collection of storm



water runoff. Every Unit and the Common Elements shall be burdened with easements for natural drainage of storm water runoff from other portions of the Real Estate; provided, no Person shall alter the natural drainage on any Unit so as to materially increase the drainage of water onto adjacent portions of the Real Estate without the consent of the Owner of the affected property.

Section 3.7 Golf Course Easements. Declarant hereby reserves for itself and for the benefit of any other person or entity operating or owning the Golf Course such Golf Course Easements as may be designated as such on a plat or map of the Real Estate or other real property within the Real Estate which shall be developed as part of the Golf Course for purposes of landscaping or the placement of Improvements. In addition to such easements:

(a) No Improvement shall be placed within a Golf Course Easement without the prior written consent of the owner of the Golf Course.

(b) All Real Estate is burdened with an easement permitting golf balls unintentionally to come upon Units, Local Common Areas, and Common Elements and for golfers at reasonable times and in a reasonable manner to come upon the Common Elements, Local Common Areas, or the exterior portions of a Unit to retrieve errant golf balls; provided, however, if any Unit is fenced or walled, the golfer shall seek the Owner's permission before entry. The existence of this easement shall not relieve golfers of liability for damage caused by errant golf balls. Under no circumstances shall any of the following Persons be held liable for any damage or injury resulting from errant golf balls or the exercise of this easement: the Declarant, the Districts, the Association or its Members (in their capacity as such), the Development Corporation and its successors, successors-in-title and assigns to the Golf Course; any successor Declarant, any Builder or contractor (in their capacities as such), any officer, director or partner of any of the foregoing, or any officer or director of any partner.

(c) The owner of the Golf Course, its respective agents, successors and assigns, shall at all times have a right and non-exclusive easement of access and use over those portions of the Common Elements or Local Common Areas reasonably necessary to the operation, maintenance, repair and replacement of the respective Golf Course.

(d) Units, Local Common Areas, or Common Elements immediately adjacent to the Golf Course are hereby burdened with a non-exclusive easement in favor of the Golf Course for overspray of water from any irrigation system serving the Golf Course. Under no circumstances shall the Association or the owners of the Golf Course be held liable for any damage or injury resulting from such overspray or the exercise of this easement.

(e) The owner of the Golf Course, its respective successors and assigns, shall have a perpetual, exclusive easement of access over the Real Estate for the purpose of retrieving golf balls from bodies of water within the Common Elements or Local Common Areas lying reasonably within range of golf balls hit from the Golf Course.

(f) The Declarant reserves the right to grant or deed such easement rights to the person or entity operating or owning the Golf Course and to impose such additional restrictions on the Golf Cart Path Easements and Golf Course Easements at that time and from time to time as may be reasonably required to effectuate the purposes of such easements. The reservation of the Golf Cart Path Easements and the Golf Course Easements is made for the benefit of Declarant, the operator of the Golf Course, the members and invited guests of the golf club associated with the Golf Course, and for

associated managements, maintenance, and service personnel, for golf course and related recreational purposes.

Section 3.8 Golf Cart Path Easement. The Golf Cart Path Easements designated as such on a plat or map of the Real Estate or of any real property within the Real Estate which shall be used for golf cart paths, pedestrian walkways, maintenance and vehicle access, and unhindered access between said paths and the Golf Course. Nothing shall be placed or maintained in any Golf Cart Path Easement which shall interfere with utilization thereof as a payable part of the Golf Course, and all landscaping and other Improvements within a Golf Cart Path Easement shall require the approval of the appropriate Design Review Committee.

Section 3.9 Utility, Map and Plat Easements. Easements for utilities and other purposes over and across the Units and Common Elements may be as shown upon Recorded plats or maps of the Common Interest Community, and as may be established pursuant to the provisions of this Declaration, or granted by authority reserved in any Recorded document.

Section 3.10 Easements for the Executive Board and Unit Owners. Each Unit shall be subject to an easement in favor of the Executive Board (including its agents, employees and contractors) and to each Unit Owner to allow for their performance of obligations in this Declaration.

Section 3.11 Unit Owners' Easements of Enjoyment. Every Unit Owner shall have a right and easement access to their Unit and of enjoyment in and to any Common Elements and such easement shall be appurtenant to and shall pass with the title to every Unit, subject to the following provisions:

(a) The right of the Association to promulgate and publish rules and regulations (including use restrictions pursuant to Article 9 below) which each Unit Owner, Related User, and member of the Association shall strictly comply with.

(b) The right of the Association to suspend the voting rights and rights to use the Common Elements by any Unit Owner for any period during which any assessment against their Unit remains unpaid or during which for any violation of the Rules and Regulations remains uncured.

(c) The right, power and authority of the Association to grant any easement, right-of-way, license, lease, dedication, transfer or conveyance or grant of any similar interest affecting the Common Elements, to the extent permitted by the Act.

(d) The right of the Association to close or limit the use of the Common Elements while maintaining, repairing and making replacements in the Common Elements and for purposes of allowing Declarant or its affiliates to carry on their business activities.

(e) The Development, Special Declarant Rights and additional Reserved Rights of the Declarant reserved in this Declaration.

Section 3.12 Delegation of Use. Any Unit Owner may delegate their right of enjoyment to the Common Elements and facilities to their Related Users.

Section 3.13 Easements Deemed Created. All conveyances of Units made after the date of Recording of this Declaration, whether by Declarant or otherwise, shall be construed to grant and reserve

the easements contained in this Article 3 even though no specific reference to such easements or to this Declaration appears in the instrument for such conveyance.

#### ARTICLE 4. MASTER ASSOCIATION OPERATION

Section 4.1 Membership. Every person who is a record Unit Owner of any Unit which is subject to this Declaration shall be a member of the Association, including contract sellers. Membership shall be appurtenant to and may not be separated from ownership of any Unit. Ownership of a Unit shall be the sole qualification for such membership. Where more than one person holds an interest in any Unit, all such persons shall be members.

Section 4.2 Authority.

4.2.1 General. The business affairs of the Common Interest Community shall be managed by the Association. The Association shall be governed by the Act and the Governing Documents, as each is amended from time to time. The Association, through its Executive Board, shall perform functions and manage the Common Interest Community as provided in this Declaration. The number, term, and qualifications of members of the Executive Board shall be fixed in the Articles of Incorporation and Bylaws. The Board may, by resolution, delegate portions of its authority to committees, to officers of the Association or to agents and employees of the Association, but such delegation of authority shall not relieve the Executive Board of the ultimate responsibility for management of affairs of the Association. The Executive Board may, by written resolution, delegate authority to a manager or managing agent for the Association, provided no such delegation shall relieve the Board of final responsibility. The Declarant shall have the reserved power (Declarant Control), pursuant to Section 305(5) of the Act, to appoint and remove officers and members of the Executive Board. All Unit Owners and Related Users shall be deemed to have assented to, ratified and approved the powers granted to the Association, in general, and the Executive Board, specifically, as set forth in this Article 4 and elsewhere in the Governing Documents.

4.2.2 Association as Attorney-in-Fact for Unit Owners. The Association is hereby irrevocably appointed attorney-in-fact for the Unit Owners and each of them, to manage, control and deal with the interest of each Unit Owner in the Common Elements so as to permit the Association to fulfill all of its duties and obligations hereunder and to exercise all of its rights hereunder, to deal with the Common Interest Community upon its destruction or obsolescence as hereinafter provided, and to grant utility easements through any portion of the Common Elements. The Association is hereby granted all of the powers necessary to govern, manage, maintain, rebuild, administer and regulate the Common Interest Community and to perform all of the duties assigned to it pursuant to this Declaration and pursuant to the Act.

Section 4.3 Powers; Duties. The Association, acting in all instances by its Executive Board, unless otherwise required by the Act or this Declaration, shall have the following powers and duties:

- (a) The Association shall have all of the powers, authority and duties permitted pursuant to the Act and the Colorado Nonprofit Corporation Act.
- (b) The Association shall have all of the powers, authority and duties necessary and proper to manage the business affairs of the Common Interest Community.

(c) The Association shall have all of the powers, authority and duties necessary and proper to own, operate, manage, lease, encumber, maintain, repair, reconstruct, replace, improve, and otherwise deal with the Common Elements.

(d) The Association shall have the irrevocable right to have access to each Unit from time to time during reasonable hours to the extent deemed necessary for the maintenance, repair or replacement of any Common Elements or any portion of a Unit, if any to be maintained by the Association, or at any time and by force, if necessary, to prevent damage to any real or personal property within the Common Interest Community.

(e) The Association may undertake any activity, function or service for the benefit of, or to further the interests of the Unit Owners.

(f) The Association shall have the absolute right to engage a professional property manager as more particularly provided in the Association's Bylaws.

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

(h) The Association, through its Executive Board, shall establish such Design Guidelines and written procedures, policies, guidelines, controls as it deems necessary to ensure the proper use, development and improvement of real and personal property within the Common Interest Community, and to appoint persons to serve on the Design Review Committees.

(i) The Association shall have complete authority and control to issue and amend restrictions on use, occupancy and alienation of the Units in addition to those contained in this Declaration.

Section 4.4 Duty to Accept Property and Facilities Transferred by Declarant. The Master Association shall accept any property, including any Improvements thereon, and personal property transferred to the Association by Declarant and equipment related thereto, together with the responsibility to perform any and all functions associated therewith, provided that such property and functions are not inconsistent with the terms of this Declaration. Property interests transferred to the Association by Declarant may include fee simple interest, easements, leasehold interests and contractual rights or licenses to use property. Any property or interest in property transferred to the Association by Declarant shall, except to the extent otherwise specifically approved by resolution of the Executive Board, be transferred to the Association free and clear of all liens (other than the lien of property taxes and assessments not then due and payable), but shall be subject to the terms of this Declaration and any Supplemental Declaration applicable thereto.

Section 4.5 Power to Provide Special Services. The Association shall have the power to provide services to one or more, but less than all, Owners. Any such service or services shall be provided pursuant to an agreement in writing, or through one or more Supplemental Declarations, which shall provide for payment to the Association by such Owner or Owners of the costs and expenses which the Association incurs in providing such services, including a fair share of the overhead expenses of the Association, and shall contain provisions assuring that the obligation to pay for such services shall be binding upon any heirs, personal representatives, successors and assigns of the Owner or Owners, and that

the payment for such services shall be secured by a lien on the Unit or Units of such Owners and may be collected in the same manner as an Assessment, or, if the written agreement so provides, in installments as part of the Common Assessments.

Section 4.6 Power to Operate and Charge for Facilities and Services. Notwithstanding applicable provisions in the District Service Plan which provide that all services and facilities in the Real Estate are to be owned and operated by the District, the Association shall have the power, to acquire, create, own and operate any and all such facilities and services as it deems appropriate, including, without limitation, landscape maintenance and refuse collection, or any other similar or dissimilar function, and to establish charges for the use of facilities and services. The charges may include admission, rental or other fees and charges for any use of property, facilities or services of the Association. Such charges or fees shall be as determined from time to time by the Executive Board.

Section 4.7 Power to Grant Easements. The Association shall have the power to grant access, utility, drainage, water facility and any other easements in, on, over or under the Real Estate for any lawful purpose, including without limitation, the provision of emergency services, utilities, telephone, television or other uses or services to some or all of the Members.

Section 4.8 Allocated Interests. The Common Expense liability and votes in the Association shall be equally allocated to each Unit. When Units are added to or withdrawn from the Common Interest Community, pursuant to the provisions of this Declaration or the Act, this formula shall be used to reallocate the Allocated Interests.

Section 4.9 Association Agreements. Any agreement for professional management of the Common Interest Community or any contract providing for services of the Declarant, may not exceed one year. Any such agreement must provide for termination by either party without cause and without payment of a termination fee or penalty upon thirty days' written notice. The Association shall not be bound either directly or indirectly to contracts or leases (including management contracts) entered into during the Declarant Control period unless the Association is provided with a right of termination of any such contract or lease without cause, which is exercisable without penalty at any time after the Turnover Date upon not more than thirty days' notice to the other party thereto.

Section 4.10 Declarant Control.

4.10.1 Turnover Date. The period of Declarant Control terminates (the "Turnover Date") no later than the earlier of:

- (a) sixty (60) days after conveyance of seventy-five percent (75%) of the maximum number of Units that may be created under zoning or other governmental development approvals in effect for the Common Interest Community at any given time to Unit Owners other than a Declarant or a Builder;
- (b) six (6) years after the last conveyance of a Unit by the Declarant; or
- (c) twenty (20) years from the date this Declaration was recorded.



4.10.2 Executive Board Appointment. During the period of Declarant Control, the Declarant or persons designated by the Declarant may appoint and remove the officers and members of the Executive Board. This period of Declarant Control may be relinquished or extended as follows:

(a) At any time prior to the Turnover Date, the Declarant may relinquish the right to appoint and remove officers, but may require Declarant approval of specific actions of the Executive Board; and

(b) At any time prior to the Turnover Date, the Association approves an extension of the Declarant's ability to appoint and remove no more than a majority of the Executive Board by a vote of a majority of the votes entitled to be cast in person or by proxy, other than by the Declarant, at a meeting duly convened as required by the Act, applicable Colorado law, and the Governing Documents. Any such approval by the Association may contain conditions and limitations. Such extension of the Declarant Control, together with any conditions and limitations approved as provided by this Subsection, shall be included in an amendment to the Declaration executed by the Declarant.

4.10.3 Delivery of Property to the Association. Within sixty (60) days after the Unit Owners other than the Declarant elect a majority of the Members of the Executive Board, the Declarant shall deliver to the Association all property of the Unit Owners and of the Association held by, or controlled by, the Declarant, including, without limitation, those items set forth in Subsection 303(9) (a) through (m) of the Act.

Section 4.11 Right to Notice and Comment/Generally and in regard to amendment of the Bylaws and/or Rules and Regulations. Pursuant to C.R.S. § 38-33.3-205(1)(o), before the Board amends the Bylaws or amends Rules and Regulations, and under other circumstances as set forth in the Act or this Declaration where the Act or this Declaration require that an action be taken after "Notice and Comment," and at any other time the Executive Board determines, the Unit Owners have the right to receive notice of the proposed action and the right to comment orally or in writing. Further, any Unit Owner may give "Notice and Comment" to the Unit Owners of any matter affecting the Common Interest Community, and Unit Owners shall then have the right to comment, orally or in writing, on the matter. Notice shall be given to each Unit Owner in writing, delivered personally or by mail to all Unit Owners at such address as appears in the records of the Association, or notice shall be published in a newsletter or similar publication which is routinely circulated to all Unit Owners. The notice shall be given not less than three (3) days before proposed action is to be taken. The Notice shall invite comment to the Executive Board or a Unit Owner, orally or in writing before the scheduled time of any meeting.

Section 4.12 Indemnification. To the full extent permitted by law, each officer and member of the Executive Board of the Association shall be and is hereby indemnified by the Unit Owners and the Association against all expenses and liabilities including attorneys' fees, reasonably incurred by or imposed upon them in any proceeding to which they may be a party, or in which they may become involved, by reason of being or having been an officer or member of the Executive Board of the Association, or any settlements thereof, whether or not they are an officer or member of the Executive Board of the Association at the time such expenses are incurred; except in such cases wherein such officer or member of the Executive Board is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided that in the event of a settlement the indemnification shall apply only when the Executive Board approves such settlement and reimbursement as being in the best interests of the Association.

**ARTICLE 5. DEVELOPMENT RIGHTS AND SPECIAL DECLARANT RIGHTS**

Section 5.1 Development Rights and Special Declarant Rights. The Declarant reserves the following Development Rights and Special Declarant Rights:

(a) the right to relocate boundaries between adjoining Units, enlarge Units, enlarge the Common Elements, reduce or diminish the size of Units, reduce or diminish the size of areas of the Common Elements, subdivide Units, re-subdivide Units, or complete or make Improvements, as the same may be indicated on Recorded maps or plats;

(b) the right to create or construct Units, Common Elements and Limited Common Elements, to subdivide Units, and to convert Units into Common Elements;

(c) the right to withdraw all or any portion of the Real Estate from the Common Interest Community;

(d) the right to exercise any development right reserved or allowed in the Act;

(e) the right to use, and to permit others to use, easements through the Real Estate as may be reasonably necessary;

(f) the right to make portions of the Real Estate subject to Supplemental Declarations;

(g) the right to create common interest communities governed by Subassociations in portions of the Real Estate;

(h) the right to create Local Common Areas;

(i) the right to merge or consolidate the Common Interest Community with another Common Interest Community;

(j) the right to appoint or remove any officer of the Association or any member of the Executive Board during the Declarant Control period;

(k) the right to add Units and to subject all or any part of the Expansion Property and additional unspecified property to the provisions of this Declaration;

(l) the right to amend the Declaration in connection with the exercise of any Development Right, and, to the extent necessary to reallocate the Allocated Interests so that the Allocated Interests appurtenant to each Unit will be apportioned according to the total number of Units submitted to the Declaration; and

(m) the right to amend the maps or plat in connection with the exercise of any Development Right.

Section 5.2 Termination of Development Rights. The Development Rights reserved to Declarant pursuant to this Article 5, shall expire twenty (20) years from the date of recording this

Declaration, unless the expansion and Development Rights are reinstated or extended by the Association, subject to whatever terms, conditions, and limitations the Executive Board may impose on the subsequent exercise of the expansion and Development Rights of Declarant.

Section 5.3 Additional Reserved Rights. In addition to the rights set forth above, Declarant also reserves the following Additional Reserved Rights:

5.3.1 Sales. The right to maintain multiple and different sales offices, management offices and models on Units or on the Common Elements.

5.3.2 Signs. The right to maintain multiple and different signs and advertising on the Common Interest Community to advertise the Common Interest Community or other communities developed or managed by, or affiliated with the Declarant.

5.3.3 Dedications. The right to establish, from time to time, by dedication or otherwise, public streets, utility and other easements for purposes including but not limited to public access, access, paths, walkways, drainage, recreation areas, parking areas, ducts, shafts, flues, conduit installation areas, and to create other reservations, exceptions and exclusions.

5.3.4 Use Agreements. The right to enter into, establish, execute, amend, and otherwise deal with contracts and agreements for the use, lease, repair, maintenance or regulations of parking and/or recreational facilities and/or Common Elements, which may or may not be a part of the Common Interest Community.

5.3.5 Construction Easement. Declarant and its successors and assignees expressly reserve the right to perform warranty work, and repairs and construction work and to store materials in secure areas, in Units and in Common Elements, and the future right to control such work and repairs, and the right of access thereto, until completion. Declarant and its assignees have such an easement through the Common Elements as may be reasonably necessary for exercising reserved rights in this Declaration. Such easement includes the right to construct underground utility lines, pipes, wires, ducts, conduits, and other facilities across the Real Estate, and to conduct the business activities of Declarant or its affiliates.

5.3.6 Limited Common Elements. The Declarant reserves, for itself, through the Turnover Date, and to the Association thereafter, the right to allocate areas which constitute a part of the Common Elements as Limited Common Elements for the exclusive use of the owners of Units to which those specified areas shall or may become appurtenant. The Declarant or Association may allocate or assign Common Elements or Limited Common Element areas (a) by making such an allocation in a Recorded instrument, or (b) in the deed to the Unit to which such Limited Common Element shall be appurtenant, or (c) by Recording an appropriate amendment or supplement to this Declaration, or (d) by Recording a supplement to the map or plat. Such allocations by the Declarant or by the Association may be made as a matter of reserved right.

5.3.7 Other Rights. The right to exercise any Additional Reserved Right created by any other provision of this Declaration.

Section 5.4 Rights Transferable/Rights Transferred. Any rights created or reserved under this Article or the Act for the benefit of Declarant may be transferred to any person by a Recorded instrument



describing with specificity the rights transferred. Such instrument shall be executed by the transferor Declarant and the transferee. The rights transferred may then be exercised in compliance with the requirements of C.R.S. §38-33.3-210 and C.R.S. §38-33.3-209(6) without the consent of the Association, any Unit Owners or any holders of any security interest. Transfer of some rights on some portion of the Real Estate shall, in no event, be deemed a transfer of any rights except those specifically described in such instrument, and only with respect to that portion of the Real Estate described in such instrument.

Section 5.5 No Further Authorizations Needed. The consent of Unit Owners or holders of security interests shall not be required for exercise of any reserved rights, and Declarant or its successors and assignees may proceed without limitation at their sole option. Declarant or its successors and assignees may exercise any reserved rights on all or any portion of the property in whatever order determined. Declarant or its successors and assignees shall not be obligated to exercise any reserved rights or to expand the Common Interest Community beyond the number of Units initially submitted. If Declarant or its successors and assignee elects to exercise any Development Right, Special Declarant Right or Additional Reserved Right, that party shall comply with the Act.

Section 5.6 Amendment of the Declaration or Map; Interpretation. Recording of amendments to the Declaration and the map or plat pursuant to reserved rights in this Declaration shall automatically effectuate the terms and provisions of that amendment. Further, such amendment shall automatically: i) vest in each existing Unit Owner the reallocated Allocated Interests appurtenant to their Unit; and ii) vest in each existing security interest a perfected security interest in the reallocated Allocated Interests appurtenant to the encumbered Unit. Further, upon the Recording of an amendment to the Declaration, the definitions used in this Declaration shall automatically be extended to encompass and to refer to the Common Interest Community as expanded and to any additional Improvements, and the same shall be added to and become a part of the Common Interest Community for all purposes. All conveyances of Units after such amendment is Recorded shall be effective to transfer rights in all Common Elements, whether or not reference is made to any Amendment of the Declaration. Reference to the Declaration in any instrument shall be deemed to include all Amendments to the Declaration without specific reference thereto.

Section 5.7 Termination of Reserved Rights. The rights reserved to Declarant, for itself, its successors and assigns, shall expire on the Turnover Date, or as otherwise set forth in the Act, unless (i) reinstated or extended by the Association, subject to whatever terms, conditions, and limitations the Executive Board may impose on the subsequent exercise of the expansion rights by Declarant, (ii) extended as allowed by law or, (iii) terminated by written instrument executed by the Declarant, and duly Recorded.

Section 5.8 Additions by Others. Additions of Units to the Common Interest Community may be made by others than the Declarant, or its successors and assigns or Owners, upon approval of the Association pursuant to a vote of a majority of a quorum of its members.

## ARTICLE 6. COVENANT FOR COMMON EXPENSE ASSESSMENT

Section 6.1 Creation of Association Lien and Personal Obligation to Pay Common Expense Assessments. The Common Expense Assessments shall be a charge of the land and shall be a continuing lien upon the Unit against which each such Common Expense Assessment is made. A lien under this Section is prior to all other liens and encumbrances on a Unit except: (i) liens and encumbrances Recorded

before the recordation of the Declaration; (ii) except as otherwise provided in the Act and in Section 6.2 below, a first lien security interest on the Unit Recorded before the date on which the Common Expense Assessment sought to be enforced became delinquent; (iii) liens for real estate and other governmental taxes.

This Article 6 does not prohibit an action to recover sums for which this Section creates a lien or prohibit the Association from taking a deed in lieu of foreclosure. Sale or transfer of any Unit shall not affect the lien for a Common Expense Assessment except that sale or transfer of any Unit pursuant to foreclosure of any first lien security interest, or any proceeding in lieu thereof, including deed in lieu of foreclosure, or cancellation or forfeiture shall only extinguish the lien of the Common Expense Assessment as provided in the Act. No such sale, transfer, foreclosure, or any proceeding in lieu thereof, including deed in lieu of foreclosure, nor cancellation or forfeiture shall relieve any Unit Owner from continuing liability for any Common Expenses Assessment thereafter becoming due, nor from the lien thereof.

The Association has a statutory lien on all Units for all Assessments imposed against each Unit Owner from the time each such Assessment becomes due. If an Assessment is payable in installments, each installment is a lien from the time it becomes due, including the due date set by the Executive Board's acceleration of installment obligations.

The Declarant and each Unit Owner, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other instrument of conveyance, shall be deemed to covenant and agree, to pay to the Association annual Common Expense Assessments. Common Expense Assessments shall be the personal obligation of the Unit Owner at the time when the Common Expense Assessment or other charges become due.

Section 6.2 Limited Priority Lien. The Association's statutory lien for Assessments is prior to a first lien security interest on the Unit Recorded before the date on which such Assessments are made to the extent provided in the Act.

Section 6.3 Apportionment of Common Expenses. Common Expenses shall be assessed against all Units in accordance with the Allocated Interests except as provided below and elsewhere in this Declaration.

6.3.1 Any Common Expense associated with the maintenance, repair or replacement of components and elements attached to or a part of a Unit or Units or to a Unit or Units to which a Limited Common Element is assigned may be assessed against that or those Units. If any such Limited Common Element is assigned to more than one Unit, the Common Expenses attributable to the Limited Common Element may be assessed equally among the Units to which it is assigned.

6.3.2 Any Common Expense for services provided by the Association to an individual Unit at the request of the Unit Owner may be assessed against that Unit.

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

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

6.3.5 If a Common Expense is caused by the misconduct of a Unit Owner, the Association may assess that expense exclusively against that Unit Owner and their Unit.

6.3.6 Fees, charges, taxes, impositions, late charges, fines, collection costs and interest charged against a Unit Owner are enforceable as Common Expense assessments.

Section 6.4 Purpose of Assessments. In addition to such other purposes as set forth in the Act, Assessments shall be used for the purposes of promoting the health, safety, and welfare of residents within the Common Interest Community, and, in particular:

(a) To provide for a Common Expense Assessment made on an annual basis against all Units based upon the Association's advance budget of the cash requirements needed by it to provide for the administration and performance of its duties during such assessment year;

(b) To enforce all provisions of the Governing Documents;

(c) To exercise all rights and powers and to discharge all duties and obligations pursuant to the Act and the Governing Documents;

(d) To discharge all expenses incurred by the Association in the alteration, improvement, construction, reconstruction, repair, maintenance or replacement of the Common Elements and all improvements located thereon, including fixtures and personal property related thereto; and

(e) To fund any operating deficit or reserves the Association deems necessary to meet its financial obligations.

Section 6.5 Computation of Common Expense Assessment. The Common Expense Assessment shall be made on an annual basis against all Units and shall be based upon the Association's advance budget of the cash requirements needed by it to provide for the administration and performance of its duties during such assessment year. The Executive Board may determine that any Common Expense Assessment shall be payable in installments, and may also elect to accelerate the installments remaining for such assessment year, pursuant to Section 6.7 below.

Section 6.6 Commencement of Common Expense Assessments. Common Expense Assessments shall be collected by the Executive Board or its agent. Common Expense Assessments shall commence as follows:

6.6.1 In the case of Units which do not contain horizontal boundaries, liability for payment of Common Expense Assessments shall begin on the date the Unit is created by Recording a Supplemental Declaration, plat, or map.

6.6.2 In the case of Units which contain horizontal boundaries, liability for payment of Common Expense Assessments shall begin on the date a certificate of occupancy is issued for the Improvements constructed within such Unit.

Section 6.7 Effect of Nonpayment of Assessments. Any Common Expense Assessment and any monthly or other installment thereof, which is not fully paid within ten (10) days after the due date thereof shall bear interest at the rate, and assessed a late charge thereon, as determined by the Executive

Board, from time to time. The Association, in its sole discretion and without prior notice, may elect to accelerate the installment obligations of any annual Common Expense Assessment. Further, the Association may bring an action at law or in equity, or both, against any Unit Owner personally obligated to pay such overdue assessments, charges or fees, or monthly or other installments thereof, and may also proceed to foreclose its lien against such Unit Owner's Unit. An action at law or in equity by the Association against a Unit Owner to recover a money judgment for unpaid Common Expense Assessments or monthly or other installments thereof, may be commenced and pursued by the Association without foreclosing, or in any way waiving the Association's lien therefor. If the Unit Owner remains in possession of the Unit after a foreclosure judgment has been entered, the court in its discretion may require the Unit Owner to pay a reasonable rental for the Unit. If the Unit is rented during the pendency of the foreclosure action, the Association is entitled to the appointment of a receiver to collect the rent. The expenses of any such receiver shall be paid by the party which does not prevail in the foreclosure action.

Section 6.8 Application of Payments. Any payments received by the Association from a delinquent Unit Owner shall be applied first to any interest accrued on the delinquent installment(s) as aforesaid, then to any costs and reasonable attorneys' fees incurred in collection or in enforcing terms or conditions of the Governing Documents, and then to the delinquent and any accelerated Assessments. The foregoing shall be applicable notwithstanding any restrictive endorsement, designation or instruction placed on or accompanying a payment.

Section 6.9 Reserve Fund. The Association shall maintain an adequate reserve fund for the maintenance and repair of the Common Elements, which shall be funded from Common Expense Assessments.

#### ARTICLE 7. USE GUIDELINES AND RESTRICTIONS

Section 7.1 Absolute Authority of the Executive Board. The Executive Board shall have complete authority and control to issue and amend restrictions on use, occupancy and alienation of the Units in addition to those contained in this Declaration. All provisions of the Governing Documents shall apply to Unit Owners and Related Users. Notwithstanding any assignment of Development Rights, Special Declarant Rights, or Additional Reserved Rights, during the period of Declarant Control, no Subassociation, Builder, or group of Unit Owners may issue or amend restrictions on use, occupancy, or alienation of Units without Declarant's Recorded consent; and any attempt to do so shall be null and void and of no effect.

Section 7.2 Plan of Development; Applicability; Effect. Declarant has created Water Valley as a residential, commercial, and recreational development and, in furtherance of its and every other Owner's interests, has established a General Plan of Development for Water Valley as a Large Planned Community. The Real Estate is subject to land development constraints and requirements, Rules and Regulations, Design Guidelines and provisions of this Declaration governing land use, individual conduct, and uses of or actions upon the Real Estate as provided in this Article. This Declaration and the Rules and Regulations, establish affirmative and negative covenants, easements, and restrictions (the "Use Guidelines and Restrictions").

Section 7.3 Purpose. Declarant has promulgated Water Valley's General Plan of Development in order to protect all Owners' quality of life and collective interests, the aesthetics and environment

within the Properties, and the vitality of and sense of community within Water Valley all subject to the Association's ability to respond to changes in circumstances, conditions, needs, and desires within the Common Interest Community.

Declarant has prepared initial Use Guidelines and Restrictions which contain general provisions applicable to all of the Real Estate, as well as specific provisions which may vary within the Real Estate depending upon the location, characteristics, and intended use. Such initial Use Guidelines and Restrictions are set forth in Section 7.6. Based upon these Use Guidelines and Restrictions, the Executive Board shall adopt the initial Rules and Regulations at its initial organizational meeting.

Section 7.4 Owners' Acknowledgment. All Owners are subject to the Use Guidelines and Restrictions and by acceptance of a deed to their Unit, acknowledge that they have been given notice, and that:

(a) The ability of Owners to use their Units is limited by the provisions in the Governing Documents.

(b) The Executive Board may, in its sole discretion, add, delete, modify, create exceptions to, or amend the Use Guidelines and Restrictions in accordance with this Declaration.

(c) The Executive Board may, from time to time, adopt and amend definitions of words, phrases and terms used in this Declaration and other Governing Documents.

(d) The use, enjoyment and marketability of his or her Unit can be affected by this provision and that the Use Guidelines and Restrictions and Rules and Regulations may change from time to time.

(e) The Districts and the Declarant will enact rules and regulations prohibiting or restricting access to recreational areas (including, but not limited to lakes and beaches) for purposes of public health, safety, or welfare.

(f) The District or the Declarant will enforce against each Owner or Related User such measures as are necessary to ensure the absolute right of Declarant to continue to operate its mining business within the Real Estate.

Section 7.5 Right of Owners Regarding Rules and Regulations. Except as otherwise provided in Section 7.7, the Board may not adopt any Rule in violation of the following provisions:

7.5.1 Equal Treatment. Similarly situated Owners shall be treated similarly.

7.5.2 Speech. The rights of Owners to display political signs and symbols in or on their Units of the kinds normally displayed in or outside of residences located in single-family residential neighborhoods shall not be abridged, except that the Association may adopt reasonable time, place, and manner restrictions for the purpose of minimizing damage and disturbance to other Owners.

7.5.3 Religious and Holiday Displays. The rights of Owners to display religious and holiday signs, symbols, and decorations in their Units of the kinds normally displayed in or outside of residences located in single-family residential neighborhoods shall not be abridged, except that the

Association may adopt reasonable time, place, and manner restrictions for the purpose of minimizing damage and disturbance to other Owners.

7.5.4 Household Composition. No Rule shall interfere with the freedom of Unit Owners to determine the composition of their households, except that the Association shall have the power to require that all occupants be members of a single housekeeping unit and to limit the total number of occupants permitted in each Unit on the basis of the size and facilities of the Unit and its fair share use of the Common Elements or facilities of the Districts.

7.5.5 Activities within Unit. No Rule shall interfere with the activities carried on within the confines of Units, except that the Association may prohibit activities not normally associated with property restricted to residential use, and it may restrict or prohibit any activities that create monetary costs for the Association or other Owners, that create a danger to the health or safety of occupants of other Units, that generate excessive noise or traffic, that create unsightly conditions visible outside the Unit, that block the views from other Units, or that create an unreasonable source of annoyance.

7.5.6 Pets. Unless the keeping of pets in any Subassociation is prohibited by Supplemental Declaration at the time of the sale of the first Unit in such Subassociation, no Rule prohibiting the keeping of ordinary household pets shall be adopted thereafter over the objection of any affected Owner expressed in writing to the Association. The Association may adopt reasonable regulations designed to minimize damage and disturbance to other Owners and occupants, including regulations requiring damage deposits, waste removal, leash controls, noise controls, occupancy limits based on size and facilities of the Unit and fair share use of the Common Elements or facilities of the Districts. The Association or the Districts may prohibit certain animals from recreational water and beach areas or any other area either deems necessary. Nothing in this provision shall prevent the Association from requiring removal of any animal that presents an actual threat to the health or safety of residents or from requiring abatement of any nuisance or unreasonable source of annoyance as determined by the Executive Board.

7.5.7 Allocation of Burdens and Benefits. Except as reallocation of interests is permitted by this Declaration, the initial Allocation of Interests shall not be changed to the detriment of any Owner over that Owner's objection expressed in writing to the Association. Nothing in this provision shall prevent the Association from adopting generally applicable rules for use of Common Elements, or from denying use privileges to those who abuse the Common Elements, violate provisions of the Governing Documents, or fail to pay assessments. This provision does not affect the right to increase the amount of Assessments.

7.5.8 Alienation. No rule shall prohibit transfer of any Unit, or require consent of the Association or Executive Board for transfer of any Unit, for any period greater than two months.

7.5.9 Reasonable Rights to Develop. No Rule or action by the Association shall unreasonably impede Declarant's right to develop the Real Estate nor to exercise any Development Rights, Special Declarant Rights or Additional Reserved Rights in accordance with Article 5 and the Act.

7.5.10 Abridging Existing Rights. If any Rule would otherwise require Owners to dispose of personal property which they owned at the time they acquired their Units, such rule shall not apply to any such Owners without their written consent.

Section 7.6 Initial Use Guidelines and Restrictions--General. The Real Estate shall be used only for residential, commercial, recreational, and related purposes. Any Supplemental Declaration or

additional covenants imposed on the property governed by a Subassociation may impose stricter standards than those contained in this Article and the Association shall have standing and the power to enforce such standards.

Section 7.7 Restricted Activities--Residential Units. The following activities are prohibited within Residential Units unless expressly authorized (and in such cases, subject to such conditions as may be imposed) by the Executive Board:

(a) Parking, storing, servicing or repairing commercial vehicles, recreational vehicles, mobile homes, boats, campers, trailers, boats, watercraft, or other oversized vehicles, stored vehicles or inoperable vehicles in places other than enclosed attached garages;

(b) Breeding or keeping of animals, livestock, or poultry of any kind, except that a reasonable number of dogs, cats, or other usual and common household pets may be permitted in a Unit, but shall not be permitted to roam free. Pets which, in the sole discretion of the Executive Board, make objectionable noise, endanger the health or safety of, or constitute a nuisance or inconvenience to other Unit Owners shall be removed upon request of the Board. If the pet owner fails to honor such request, the Executive Board may remove the pet;

(c) Activities which materially disturb or destroy the vegetation, wildlife or air quality within the Common Interest Community or which use excessive amounts of water or which result in unreasonable levels of sound, water, or light pollution;

(d) Obstruction or rechanneling of drainage flows after location and installation of drainage swales, storm sewers, or storm drains, except that the Declarant and the Association shall have such right; provided, the exercise of such right shall not materially diminish the value of, or unreasonably interfere with, the use of any Unit without the Owner's consent;

(e) Subdivision of a Unit into two or more Units after a subdivision plat including such Unit has been approved and filed with the appropriate governmental authority, or changing the boundary lines of any Unit, except that the Declarant and Builders, with Declarant's consent, shall be permitted to subdivide or change the boundary lines of Units which they own;

(f) Any business, trade, garage sale, moving sale, rummage sale, or similar activity, except that an Owner may conduct business activities within the Unit so long as:

(g) the existence or operation of the activity is not apparent or detectable by sight, sound, or smell from outside the Unit;

(h) the activity conforms to all zoning requirements for the Common Interest Community;

(i) the activity does not involve regular visitation of the Unit by clients, customers, suppliers, or other business invitees or door-to-door solicitation of Owners or Related Users; and

(j) the activity is consistent with the residential character of the Real Estate and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other Unit Owners or Relate Users, as may be determined in the sole discretion of the Board.

This subsection shall not apply to any activity conducted by the Declarant or a Builder approved by the Declarant with respect to its development, use and sale of any Units which it owns when such activity is in furtherance of the exercise of Development Rights, Special Declarant Rights, or Additional Reserved Rights.

A Unit Owner may lease his Unit in compliance with all the provisions of the Governing Documents. Any Unit Owner who leases his Unit shall be required to provide copies of the Governing Documents and any Subassociation documents to all tenants of the Unit. Leases of Units must be in writing and for a term of not less than six (6) months. Leases shall be subject in all respects to the provisions of the Governing Documents and must specifically provide that any failure by any Related User to comply with the terms of such documents shall be a default under the lease. Failure of a Unit Owner to comply with the terms of this Section and with applicable Rules and Regulations may, at the discretion of the Executive Board, result in that Person's forfeiture of the right to lease the Unit.

Section 7.8 Exemption for Declarant. Provisions of this Declaration regarding Development Rights, Special Declarant Rights and Additional Reserved Rights shall supersede provisions in this Article 7. The Declarant and Transferee Declarants shall be exempt from provisions of this Article 7 which impede or preclude the exercise of any Development Right, Special Declarant Right, or Additional Reserved Rights reserved to the Declarant and Transferee Declarants pursuant to this Declaration.

## ARTICLE 8. DESIGN REVIEW AND ARCHITECTURAL APPROVAL

Section 8.1 General. No Improvement to Property shall be made except in compliance with this Article and the Design Guidelines and upon approval of the appropriate committee under Section 8.3.

8.1.1 Any Owner may remodel, paint or redecorate the interior of structures on his Unit without approval. However, modifications to the interior of screened porches, patios, and similar portions of a Unit visible from outside the structures on the Unit shall be subject to approval.

8.1.2 All dwellings constructed on any portion of the Real Estate shall be designed by and built in accordance with the plans and specifications of a licensed architect.

8.1.3 This Article and the Design Guidelines shall not apply to improvements to the Common Elements made by or on behalf of the Association.

8.1.4 During the period of Declarant Control, this Article may not be amended without the Declarant's written consent.

Section 8.2 Improvement to Property Defined. "Improvement to Property," requiring approval of a Design Review Committee, shall mean and include, without limitation, each of the following on all portions of the Real Estate:



- (a) the construction, installation, erection, alteration, contraction, or expansion of any building structure or other Improvements, including utility facilities;
- (b) the demolition or destruction, by voluntary action, of any building, structure or other Improvements;
- (c) the staking, clearing, grading, excavation, filling or similar disturbance to the surface of the land including, without limitation, change of grade, change of ground level, change of drainage pattern or change of stream bed;
- (d) landscaping, planting, clearing or removing of trees, shrubs, grass or perennial plants;
- (e) any change or alteration of any previously approved Improvement to Property, including any change of exterior appearance, finish material, color or texture; and
- (f) repainting and resurfacing of exterior surfaces, and rebuilding of Improvements (provided, however, no approval shall be denied to repaint the exterior of a structure in strict accordance with the originally approved color scheme or to rebuild in strict accordance with the originally approved Plans).

Section 8.3 Architectural Review. Responsibility for administration of the Design Guidelines and review of all applications for construction and modifications under this Article and Design Guidelines shall be handled by the two Design Review Committees as described in subsections below. The members of the Committees need not be Unit Owners of the Association or representatives of Unit Owners, and may, but need not, include architects, engineers or similar professionals, whose compensation, if any, shall be established from time to time by the Executive Board. The Executive Board may establish and charge fees for review of applications hereunder and may require such fees to be paid in full prior to review. The Executive Board may also establish fines and other penalties for failure to comply with the provisions of this Article and the Design Guidelines.

8.3.1 New Construction Committee. The New Construction Committee ("NCC") shall consist of at least three, but not more than five, persons and shall have exclusive jurisdiction over all original construction on any portion of the Real Estate. During the period of Declarant Control, the Declarant retains the right to appoint all members of the NCC who shall serve at the Declarant's discretion. There shall be no surrender of this right prior to that time, nor shall any assignment of Special Declarant Right, Development Right or Additional Reserved Right be deemed an assignment of the right to appoint all members of the NCC, except as specifically set forth in a written Recorded instrument executed by Declarant. Upon the expiration of such right, the Executive Board shall appoint the members of the NCC, who shall serve and may be removed in the Executive Board's discretion.

8.3.2 Modifications Committee. The Executive Board may establish a Modifications Committee ("MC") to consist of at least three and no more than five persons, all of whom shall be appointed by and shall serve at the discretion of the Executive Board. The MC, if established, shall have exclusive jurisdiction over modifications, additions, or alterations made on or to existing structures on Units or containing Units and the adjacent open space. The MC may delegate its authority as to a particular Subassociation, if any, so long as the MC has determined that such Subassociation has in force review and enforcement practices, procedures, and appropriate standards at least equal to those of the MC.

Such delegation may be revoked and jurisdiction reassumed at any time by written notice. The NCC shall have the right to veto any action taken by the MC or a Subassociation which the NCC determines, in its sole discretion, to be inconsistent with the Design Guidelines.

Section 8.4 Guidelines and Procedures--General. The Declarant shall prepare the initial Design Guidelines. The Design Guidelines may contain general provisions applicable to all of the Real Estate, as well as specific provisions which vary from one portion of the Real Estate to another depending upon the location, unique characteristics, and intended use. Design Guidelines shall also include the procedures, materials to be submitted and additional factors which will be taken into consideration in connection with the approval of any proposed Improvement to Property. Design Guidelines may specify circumstances under which the strict application of limitations or restrictions under this Declaration will be waived or deemed waived in whole or in part, and may waive the requirement for approval of certain Improvements to Property or exempt certain Improvements to Property from the requirement for approval, if such approval is not reasonably required to carry out the purposes of this Declaration.

8.4.1 The NCC shall adopt such Design Guidelines at its initial organizational meeting, and thereafter, shall have the authority to amend them with the advice and approval of the Executive Board. Any amendments to the Design Guidelines shall apply to construction and modifications commenced after the date of such amendment, only, and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced. The NCC shall make the Design Guidelines available to Owners and Builders who seek to engage in development or construction within the Real Estate and all such Persons shall conduct their activities in accordance with such Design Guidelines. The Design Guidelines as the same shall be amended from time to time shall not be Recorded, but shall be considered incorporated herein by references throughout this Declaration and shall be enforceable as though set forth in full.

8.4.2 The MC may promulgate detailed procedures and standards governing its area of responsibility, consistent with those set forth in the Design Guidelines and subject to review and approval or disapproval by the NCC.

Section 8.5 Address of Committee. The address of the Design Review Committees shall be that of the principal office of the Association.

Section 8.6 Soils Testing. Each applicant shall provide the Design Review Committee with the result of soils test conducted on the applicant's Unit by a qualified licensed engineer. The grading plan for the Unit and the design of the structure and foundation of the improvements to be constructed thereon shall be in accordance with these covenants and shall be based upon the results of such soils tests and the recommendations of all soils engineers must be followed. The Design Review Committee or its appointed agents shall have the power to review and inspect all aspects of foundation, structural and exterior construction on the Real Estate within the Unit of each applicant, including but not limited to the grading and preparation of the site, foundation, and the structure itself, however, any Builder may be granted "master approval" for homes to be built upon the Units where the requisite soils testing has been performed.

Section 8.7 Submission of Plans. Prior to commencement of work to accomplish any proposed Improvement to Property, the Person proposing to make such Improvement to Property ("Applicant") shall submit to the appropriate Design Review Committee at its office such descriptions, surveys, plot plans, drainage plans, elevation drawings, construction plans, specifications and samples of materials and colors,

showing the nature, kind, shape, height, width, color, materials, and location of the proposed Improvement to Property (the "Plans"). The Design Guidelines shall set forth the procedure for submission of the Plans. The Design Review Committee may require submission of additional plans, specifications or other information prior to approving or disapproving the proposed Improvement to Property. Until receipt by the Design Review Committee of all required materials in connection with the proposed Improvement to Property, the Application shall be deemed incomplete, and the Design Review Committee may postpone review of any materials submitted for approval by a particular Applicant. The Applicant shall be entitled to receive a receipt from the Design Review Committee or its authorized agent showing the date the complete Application was received.

Section 8.8 Criteria for Approval. The Design Review Committee shall approve any proposed Improvement to Property only if it deems in its reasonable discretion that the Improvement to Property in the location indicated will not be detrimental to the appearance of the surrounding areas of the Real Estate as a whole; that the appearance of the proposed Improvement to Property will be in harmony with the surrounding areas of the Real Estate; that the Improvement to Property will not detract from the beauty, wholesomeness and attractiveness of the Real Estate or the enjoyment thereof by Owners; and that the upkeep and maintenance of the proposed Improvement to Property will not become a burden on the Association. The Design Review Committee may condition its approval of any proposed Improvement to Property upon the making of such changes therein as the Design Review Committee may deem appropriate.

Section 8.9 Decision of Committee. The decision of the Design Review Committee shall be made within sixty (60) days after the date the Design Review Committee receives the complete Application and any additional materials required by the Design Review Committee, unless such time period is extended by mutual agreement. The decision shall be in writing and, if the decision is to disapprove a proposed Improvement to Property, the reasons therefor shall be stated. The decision of the Design Review Committee shall be promptly transmitted to the Applicant at the address furnished by the Applicant to the Design Review Committee.

Section 8.10 Failure of Committee to Act on Plans. Any request for approval of a proposed Improvement to Property shall be deemed approved unless disapproval or a request for additional information or materials is transmitted to the Applicant by the Design Review Committee within ninety (90) days after the date the Design Review Committee the complete Application and any additional required materials.

Section 8.11 Prosecution of Work After Approval. After approval of any proposed Improvement to Property, the proposed Improvement to Property shall be accomplished as promptly and diligently as possible and in complete conformity with the description of the proposed Improvement to Property, any materials submitted to the Design Review Committee in connection with the proposed Improvement to Property and any conditions imposed by the Design Review Committee. Failure to complete any proposed Improvement to Property within one (1) year after the date work is commenced or to complete the Improvement to Property in accordance with the description and materials furnished to, and the conditions imposed by, the Design Review Committee, shall constitute a violation of this Article.

Section 8.12 Notice of Completion. Upon completion of the Improvement to Property, the Applicant shall give written Notice of Completion to the Design Review Committee. Until the date of

receipt of a Notice of Completion, the Design Review Committee shall not be deemed to have Notice of Completion of any Improvement to Property.

Section 8.13 Inspection of Work. The Design Review Committee or its duly authorized representative shall have the right to inspect any Improvement to Property prior to or after completion; provided that the right of Inspection shall terminate sixty (60) days after the Design Review Committee receives a Notice of Completion from the Applicant.

Section 8.14 Notice of Noncompliance. If, as a result of inspections or otherwise, the Design Review Committee finds that any Improvement to Property has been done without obtaining the approval of the Design Review Committee, or was not done in substantial compliance with the description and materials furnished to, and any conditions imposed by, the Design Review Committee, or was not completed within one (1) year after the date of commencement of work, the Design Review Committee shall notify the Applicant in writing of the noncompliance. The notice shall specify the particulars of the noncompliance and shall require the Applicant to take such action as may be necessary to remedy the noncompliance.

Section 8.15 Failure of Committee to Act After Completion. If, for any reason other than the Applicant's act or neglect, the Design Review Committee fails to notify the Applicant of any noncompliance within sixty (60) days after receipt by the Design Review Committee of written Notice of Completion from the Applicant, the Improvement to Property shall be deemed to be in compliance if the Improvement to Property was, in fact, completed as of the date of Notice of Completion.

Section 8.16 Role of Subassociation Design Review Committees

8.16.1 Establishment of Guidelines and Review. Design review and architectural control rules and regulations applicable to a portion of the Real Estate, may only be established and enforced: (i) pursuant to this Article 8 by the Executive Board, or (ii) by a Subassociation executive board. Such design and architectural control rules and regulations or guidelines shall supplement but not supersede these Design Guidelines of this Master Association. Until the termination of the period of Declarant Control, such Subassociation design guidelines shall be of no effect until approved, in writing, by the Executive Board of this Association.

8.16.2 Required Approval by Any Subassociation Design Review Committee. In addition to approval of Improvements to Property by the appropriate Design Review Committee, approval of Improvements to Property shall also be required by the architectural committee of any Subassociation if and to the extent set forth in the declaration creating such Subassociation.

Section 8.17 No Waiver of Future Approvals. Each Owner acknowledges that the members of the NCC and the MC will change from time to time and that interpretation, application and enforcement of the Design Guidelines may vary accordingly. Approval of Plans shall not be deemed to constitute a waiver of the right to withhold approval as to any similar proposals, plans and specifications, drawings, or other matters subsequently or additionally submitted for approval.

Section 8.18 Variance. The NCC may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate and no

variance shall: (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) estop the NCC from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, the cost of compliance, or the terms of any financing shall not be considered a hardship warranting a variance.

Section 8.19 Limitation of Liability. Review and approval of any application pursuant to this Article and the Design Guidelines is made on the basis of aesthetic considerations only and neither the NCC nor the MC shall bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements. Neither the Declarant, the Association, the Board, any committee, or member of any of the foregoing shall be held liable for any injury, damages, or loss arising out of the manner or quality of approved construction or modifications to any Unit.

Section 8.20 Enforcement. Any Improvement to Property made in violation of this Article or of the Design Guidelines shall be deemed to be nonconforming. Upon written request from the Executive Board, the Declarant, Owners shall, at their own cost and expense, remove such structure or improvement and restore the land to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to remove and restore as required, the Board or its designees shall have the right to enter the property, remove the violation, and restore the property to substantially the same condition as previously existed. All costs, together with the interest at the maximum rate then allowed by law, may be assessed against the benefitted Unit and collected as an Assessment.

Any Builder, contractor, subcontractor, agent, employee, or other invitee of an Owner or Builder who fails to comply with the terms and provisions of this Article and the Design Guidelines may be excluded by the Board from the Real Estate, subject to the notice and hearing procedures contained in the By-Laws. In such event, neither the Association, its officers, or members of the Executive Board shall be held liable to any Person for exercising the rights granted by this Article or the Design Guidelines.

In addition to the foregoing, the Association shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Article and Design Guidelines and the decisions of the NCC and MC.

## ARTICLE 9. MAINTENANCE

Section 9.1 Districts' Responsibilities. It is expected that, with the exception of the Common Elements and Improvements located within Units, the Districts shall maintain and keep in good repair all landscaping and other flora, parks, signage, structures, and other improvements, including any private streets, bike and pedestrian pathways/trails, sidewalks, streetlights and signage within public rights-of-way within or abutting the Real Estate, and landscaping and other flora within any public utility easements and conservation easements within the Real Estate (subject to the terms of any easement agreement relating thereto).

Section 9.2 Association's Responsibility. Notwithstanding ownership, the Association shall maintain and keep in good repair:

(a) all landscaping and other flora, signage, structures and similar improvements situated upon the Common Elements,

(b) such portions of property included within the Real Estate as may be dictated by this Declaration, any Supplemental Declaration, or any contract or agreement for maintenance thereof entered into by the Association;

(c) property within any portion of the Common Interest Community, in addition to that designated by any Supplemental Declaration, either by agreement with the Subassociation or because, in the opinion of the Board, the level and quality of service then being provided is not adequate. All costs of maintenance pursuant to this paragraph shall be assessed as a Subassociation assessment only against the Units within the Subassociation to which the services are provided. The provision of services in accordance with this Section shall not constitute discrimination within a class;

(d) any property and facilities owned by the Declarant and made available, on a temporary or permanent basis, for the primary use and enjoyment of the Association, such property and facilities to be identified by written notice from the Declarant to the Association and to be maintained by the Association until such time as Declarant revokes such privilege of use and enjoyment by written notice to the Association; and

(e) other property which it does not own, including, without limitation, Publicly Owned Units, conservation easements held by nonprofit entities, and other property dedicated to public use, if the Board determines that such maintenance is necessary or desirable.

Section 9.3 Easements. There are hereby reserved to the Association easements over the Real Estate as necessary to enable the Association to fulfill its responsibilities.

Section 9.4 Owner's Responsibility. Each Owner shall maintain his or her Unit and all structures, parking areas, and other improvements comprising the Unit in a manner consistent with the Governing Documents and all other applicable covenants, unless such maintenance responsibility is otherwise assumed by or assigned to the Association or a Subassociation pursuant to any Supplemental Declaration or other declaration of covenants applicable to such Unit. In addition to any other enforcement rights, if an Owner fails properly to perform his or her maintenance responsibility, the Association may perform such maintenance responsibilities and assess all costs incurred by the Association against the Unit and the Owner in accordance with Section 6.3. The Association shall afford the Owner reasonable Notice and an opportunity to cure the problem prior to entry, except when entry is required due to an emergency situation.

Section 9.5 Subassociation's Responsibility. Upon Board resolution, the Owners of Units within each Subassociation shall be responsible for paying, through Subassociation assessments, the costs of operating, maintaining and insuring certain portions of the Real Estate within or adjacent to such Local Common Area. This may include, without limitation, the costs of maintaining any signage, entry features, right-of-way and open space between the Subassociation and adjacent public roads and private streets within the Subassociation, regardless of ownership and regardless of the fact that such maintenance may be performed by the Master Association; provided, however, all Subassociations which are similarly situated shall be treated the same. Any Subassociation whose Local Common Area:

(a) is adjacent to any portion of the Common Elements upon which a wall or fence is constructed, other than a wall which forms part of a building, shall maintain that portion of the Common Elements between the wall and the Subassociation's property line;

(b) fronts on any roadway within the Real Estate shall maintain the landscaping on that portion of the Common Elements or right-of-way between the property line and the nearest curb of such roadway; provided, there shall be no right to remove trees, shrubs or similar vegetation from this area without prior approval pursuant to Article 8 hereof.

Any Subassociation having any responsibility for maintenance of property within such Subassociation shall perform such maintenance responsibility in a manner consistent with the Community-Wide Standard. If it fails to do so, the Association may perform such responsibilities and assess the costs against all Units within such Subassociation as provided in Section 6.3.

Section 9.6 Standard of Performance. Maintenance, as used in this Article, shall include, without limitation, repair and replacement as needed, as well as such other duties, which may include irrigation, as the Board may determine necessary or appropriate. Notwithstanding anything to the contrary contained herein, the Association, and/or an Owner and/or a Subassociation shall not be liable for property damage or personal injury occurring on, or arising out of the condition of, property which it does not own unless and only to the extent that it has been negligent in the performance of its maintenance responsibilities.

Section 9.7 Party Walls. The cost of maintenance, repair, alteration, improvement and replacement of each Party Wall shall be shared equally by the Owners of the Units adjoining such Party Wall. The right of a Unit Owner to contribution from another Unit Owner pursuant to this Declaration or the Act, shall be appurtenant to the land and such rights and obligations shall pass to the Unit Owners' successors in title.

9.7.1 If a Party Wall is destroyed or damaged by fire or other casualty, any Unit Owner whose Unit adjoins such Party Wall may repair or restore it, and the other Unit Owner shall immediately upon receipt of written demand therefore, pay his or her portion of such costs to the Unit Owner making such restoration or repair.

9.7.2 Notwithstanding any provision to the contrary in this Section 9.4, a Unit Owner who by his negligent or willful act causes the Party Wall to be exposed to the elements or damaged in any manner, shall bear the whole cost of furnishing the necessary protection against such elements or of making the necessary repairs or restoration.

#### ARTICLE 10. INSURANCE

Section 10.1 Association's Insurance. The Association shall comply with C.R.S. §§38-33.3-313 and all other provisions of the Act regarding insurance, as follows:

10.1.1 The Association shall maintain, to the extent reasonable available all policies of insurance of type and in the form required by the Act.

10.1.2 Application of insurance proceeds and procedures of adjustment must be made pursuant to the Act.

10.1.3 The Rules and Regulations may include nondiscriminatory policies and procedures relating to the submittal of claims, responsibility for deductibles, and any other matters of claims

adjustment. To the extent the Association settles claims for damages to real property, it shall have the authority to assess negligent Unit Owners causing such loss or benefiting from such repair or restoration all deductibles paid by the Association. In the event that more than one Unit is damaged by a loss, the Association in its reasonable discretion may assess each Unit Owner a pro rata share of any deductible paid by the Association.

10.1.4 Any portion of the Common Interest Community for which insurance is required under the Act which is damaged or destroyed must be repaired or replaced promptly pursuant to, and as required by, the Act.

10.1.5 The Association and its Manager must obtain policies of fidelity insurance in amounts and under the circumstances prescribed by the Act.

10.1.6 All costs and expenses borne by the Association in compliance with or as may be permitted by the Act, including, but not limited to, insurance premiums, and all costs and expenses borne by the Association in connection with insured and uninsured losses to Persons or property within the Common Interest Community, repairs and replacement of insured and uninsured property, and claims settlement or adjustment shall be considered common expenses.

Section 10.2 Unit Owners' Insurance. All Unit Owners shall obtain (i) all-risk insurance for their own benefit sufficient to insure against loss of all or any portion of the Unit; and (ii) public liability coverage within each Unit.

#### ARTICLE 11. MISCELLANEOUS

Section 11.1 Additional Rights of the Association. The following rights reserved by the Declarant may be exercised by the Association as a "Transferee Declarant."

11.1.1 The Association shall have the right, from time to time, without the consent of any Unit Owner, to amend maps and plats and supplements thereto, to conform the map to the actual location and dimensions of any of the constructed Improvements and to establish, vacate, or relocate easements.

11.1.2 Upon the termination of the period of Declarant Control, the Association shall have all the Special Declarant Rights, Development Rights, and Additional Reserved Rights set forth in and according to the terms and conditions of Article 5, to the extent not exercised by the Declarant or a Transferee Declarant.

Section 11.2 Violations Constitute a Nuisance. Any violation of any provision, covenant, condition, restriction or equitable servitude contained in this Declaration, whether by act or omission, is hereby declared to be a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action, by any Person entitled to enforce the provisions of this Declaration.

Section 11.3 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate their purposes of creating a uniform plan for the development of the Real Estate and of promoting and effectuating the fundamental concepts as set forth in the recitals of this Declaration. This Declaration shall be construed and governed under the laws of the State of Colorado. This Declaration



shall be considered to supplement the provisions of the Act, which provisions are incorporated herein by reference as though restated in this Declaration.

Section 11.4 Construction. Each of the provisions of this Declaration shall be deemed independent and severable. If any provision of this Declaration or the application thereof to any Person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of this Declaration which can be given effect without the invalid provisions or applications. If there is a conflict between this Declaration and a Supplemental Declaration, the more restrictive provision shall control unless that would result in a direct violation of this Declaration, in which case this Declaration shall control. The fact that a Supplemental Declaration contains provisions which are different from or in addition to the provisions of this Declaration shall not, by itself, be deemed to be a conflict and, wherever possible, both documents shall be given full force and effect.

Section 11.5 Dedication of Common Elements and Local Common Area. Declarant, in Recording this Declaration, has designated certain areas of land as Common Elements intended for the common use and enjoyment of Owners for recreation and other related activities, and such property is not dedicated hereby for use by the general public but is dedicated to the common use and enjoyment of the Owners, as more fully provided in this Declaration.

Section 11.6 Additional Enforcement Powers. In addition to any other enforcement powers under this Declaration, the Association shall have the right to enforce any or all of the provisions of the Bylaws, the Articles of Incorporation or the Design Review Committee's guidelines or rules through any or all of the enforcement mechanisms provided by this Declaration.

IN WITNESS WHEREOF, Declarant has executed this Declaration the day and year first above written.

TROLLCO, INC.,  
a Colorado Corporation

By: *Martin Lind*

STATE OF COLORADO )  
 ) ss.  
COUNTY OF Weld )

The foregoing Declaration was acknowledged before me by Martin Lind  
as President of Trollco, Inc., a Colorado Corporation, on this 27<sup>th</sup> day of  
October, 1995.

My commission expires: MY COMMISSION EXPIRES 3/6/99



*Sandra Mauro*  
Notary Public

**LENDER CONSENT**

Consent is hereby given to the above Declaration. Lender agrees and acknowledges that any foreclosure or enforcement of any other remedy available to Lender under a deed or deeds of trust or other security agreements will not render void or otherwise impair the validity of the Declaration covenants running with the land described in the Declaration.

Dated in Greeley, Colorado, this 27<sup>th</sup> day of October, 1995.

By: [Signature]  
Authorized Agent

ATTEST:

By: \_\_\_\_\_  
Authorized Agent

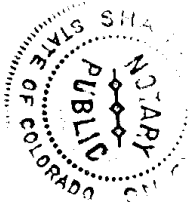
STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF Weld )

The foregoing was acknowledged before me by Charles K. Monfort, as  
Lender and by \_\_\_\_\_ as  
\_\_\_\_\_ of \_\_\_\_\_  
this 27<sup>th</sup> day of October, 1995.

Witness my hand and official seal.

My commission expires:  
August 5, 1998

Shannan Harding  
Notary Public



**EXHIBIT A**

**LEGAL DESCRIPTION OF THE REAL ESTATE**

CONSIDERING THE NORTH LINE OF THE NORTHWEST QUARTER OF SECTION 28, TOWNSHIP 6 NORTH, RANGE 67 WEST OF THE 6TH P.M., WELD COUNTY, COLORADO, AS BEARING SOUTH 89°36'20" EAST, AS DETERMINED BY MONUMENTS AT THE NORTHWEST CORNER OF SAID SECTION 28, AND AT THE NORTH QUARTER CORNER OF SAID SECTION 28, AND WITH ALL BEARINGS HEREIN RELATIVE THERETO:

A PARCEL OF LAND LOCATED IN SAID SECTION 28, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 28 THENCE ALONG THE NORTH LINE OF THE NORTHWEST QUARTER S 89°36'20" E 2584.43 FEET; TO THE NORTH QUARTER CORNER OF SAID SECTION 28 THENCE DEPARTING FROM SAID LINE AND ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 28 S 89°36'20" E 2475.67 FEET; THENCE DEPARTING FROM SAID LINE S 00°14'35" W 70.00 FEET; TO THE TRUE POINT OF BEGINNING, THENCE S 00°14'35" E ALONG THE WEST R.O.W. LINE OF GREAT WESTERN RAILROAD 660.08 FEET; THENCE DEPARTING FROM SAID LINE S 89°47'03" W 660.35 FEET; THENCE N 00°22'16" E 667.00 FEET; THENCE S 89°37'44" E 166.98 FEET; THENCE S 89°36'22" E 486.26 FEET ± TO THE TRUE POINT OF BEGINNING. SAID PARCEL CONTAINS 10.00 ACRES ±. AND IS SUBJECT TO ANY AND ALL EASEMENTS OR RIGHTS-OF-WAY THAT MAY NOW EXIST ON SAID PARCEL.

2462325 B-1517 P-427 11/03/95 11:27A PG 42 OF 50

A PARCEL OF LAND LOCATED IN SECTIONS 28,29,32, AND 33, TOWNSHIP 6 NORTH, RANGE 67 WEST OF THE 6TH P.M., WELD COUNTY, COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 28; THENCE S 34°07'42" E 84.95 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF WELD COUNTY ROAD 66, SAID POINT BEING THE TRUE POINT OF BEGINNING, THENCE ALONG SAID RIGHT-OF-WAY LINE S 89°36'47" E 931.38 FEET; THENCE N 80°49'46" E 147.22 FEET; TO A POINT ON THE SOUTH LINE OF A PARCEL OF LAND AS RECORDED AT RECEPTION NO. 1845543 OF THE RECORDS OF WELD COUNTY, COLORADO, THENCE ALONG SAID SOUTHERLY LINE THE FOLLOWING COURSES AND DISTANCES: S 46°55'00" E 55.57 FEET; THENCE S 57°15'00" E 70.00 FEET; THENCE S 70°45'00" E 87.00 FEET; THENCE S 89°36'20" E 140.00 FEET; THENCE N 80°49'49" E 80.00 FEET; THENCE N 75°26'00" E 60.00 FEET; THENCE DEPARTING FROM SAID SOUTHERLY LINE AND ALONG THE SOUTHERLY LINE OF A PARCEL OF LAND AS RECORDED IN BK. 1000, PG. 83 OF THE RECORDS OF WELD COUNTY, COLORADO, N 53°49'54" E 201.24 FEET TO A POINT ON THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 28; THENCE ALONG SAID NORTH LINE S 89°36'20" E 838.93 FEET TO THE NORTH QUARTER CORNER OF SAID SECTION 28; THENCE ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 28; S 89°36'20" E 652.00 FEET; TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF WELD COUNTY ROAD 66; THENCE ALONG SAID RIGHT-OF-WAY LINE S 85°10'32" E 908.55 FEET; THENCE S 89°37'44" E 265.37 FEET; THENCE DEPARTING FROM SAID RIGHT-OF-WAY LINE S 00°22'16" W 667.00 FEET; THENCE N 89°47'03" E 660.35 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF GREAT WESTERN RAILROAD; THENCE ALONG SAID RIGHT-OF-WAY LINE N 00°14'35" W 660.08 FEET; THENCE N 00°14'35" W 70.00 FEET TO THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 28; THENCE ALONG SAID LINE S 89°36'20" E 108.69 FEET TO THE NORTHEAST CORNER OF SAID SECTION 28; THENCE ALONG THE EAST LINE OF THE NORTH EAST QUARTER S 00°12'57" E 2632.37 FEET TO THE EAST QUARTER CORNER OF SAID SECTION 28; THENCE ALONG THE EAST LINE OF THE SOUTH EAST QUARTER OF SAID SECTION 28 S 00°13'14" E 2633.37 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 28 SAID CORNER ALSO BEING THE NORTHEAST CORNER OF SAID SECTION 33; THENCE ALONG THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 33 S 00°13'34" E 1439.30 FEET; THENCE DEPARTING FROM SAID LINE S 89°46'26" W 616.92 FEET; THENCE N 08°42'36" W 1803.56 FEET; THENCE N 62°13'01" W 977.73 FEET; THENCE S 48°14'38" W 900.86 FEET; THENCE N 77°46'43" W 812.37 FEET; N 47°21'19" W 1090.58 FEET; THENCE S 81°53'02" W 714.20 FEET; THENCE N 25°17'50" W 1296.12 FEET; THENCE N 00°45'18" E 735.45 FEET; THENCE N 42°12'50" W 363.53 FEET; THENCE S 36°02'13" W 657.46 FEET; THENCE S 01°06'47" W 2048.03 FEET; THENCE S 43°16'51" E 1102.13 FEET; THENCE S 01°31'04" E 1201.12 FEET; THENCE S 89°39'08" W 1104.88 FEET; THENCE N 10°58'41" W 1123.30 FEET; THENCE N 03°49'58" W 242.17 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 32; THENCE N 00°01'08" E 1320.17 FEET; THENCE N 00°02'07" E 1092.93 FEET TO A POINT ON THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF WELD COUNTY ROAD 17 THENCE ALONG SAID RIGHT-OF-WAY LINE THE FOLLOWING COURSES AND DISTANCES: N 24°45'23" E 232.68 FEET; TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 31°00'00" AND A RADIUS OF 1027.30 FEET; THENCE ALONG THE ARC OF SAID CURVE 555.82 FEET; THENCE N 54°11'40" E 544.12 FEET; TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 21°13'55" AND A CHANGING RADIUS (BEGINNING RADIUS 1129.43 FEET AND ENDING RADIUS 1149.43 FEET) THENCE ALONG THE ARC OF SAID CURVE 422.66 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 32°46'05" AND A RADIUS OF 1149.43 FEET THENCE ALONG THE ARC OF SAID CURVE 657.37 FEET; THENCE N 00°11'40" E 356.00 FEET; THENCE N 03°37'11" W 300.87 FEET; THENCE N 00°11'40" E 325.80 FEET ± TO THE SOUTH RIGHT-OF-WAY LINE OF WELD COUNTY ROAD 66 SAID POINT BEING THE TRUE POINT OF BEGINNING. SAID PARCEL CONTAINS 653 ACRES ± AND IS SUBJECT TO ANY EASEMENTS OR RIGHTS-OF-WAY OF RECORD THAT MAY EXIST ON SAID PARCEL.

A PARCEL OF LAND LOCATED IN SECTIONS 28,29,32, AND 33, TOWNSHIP 6 NORTH, RANGE 67 WEST OF THE 6TH P.M., WELD COUNTY, COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 33; THENCE ALONG THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 33 S 00°13'34" E 1439.30 FEET TO THE TRUE POINT OF BEGINNING, THENCE CONTINUING ALONG SAID LINE S 00°13'34" E 1192.53 FEET TO THE EAST QUARTER CORNER OF SAID SECTION 33 THENCE ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 33 S 13°34'57" E 2767.09 FEET; TO THE SOUTHEAST CORNER OF SAID SECTION 33; THENCE ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 33 S 89°21'19" W 2542.50 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION 33 THENCE ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 33 N 07°38'30" W 99.87 FEET; THENCE DEPARTING FROM SAID LINE N 14°32'03" W 2662.32 FEET; THENCE S 89°03'21" W 1315.38 FEET; THENCE N 56°25'34" W 1131.43 FEET; THENCE N 29°26'31" W 685.87 FEET; THENCE N 01°31'04" W 1302.13 FEET; THENCE N 43°16'51" W 1102.13 FEET; THENCE N 01°06'47" E 2048.03 FEET; THENCE N 36°02'13" E 657.46 FEET; THENCE S 42°12'50" E 363.53 FEET; THENCE S 00°45'18" W 735.45 FEET; THENCE S 25°17'50" E 1296.12 FEET; THENCE N 81°53'02" E 714.20 FEET; THENCE S 47°21'19" E 1090.58 FEET; THENCE S 77°46'43" E 812.37 FEET; THENCE N 48°14'38" E 900.86 FEET; THENCE S 62°13'01" E 977.73 FEET; THENCE S 08°42'36" E 1803.56 FEET; THENCE N 89°46'26" E 616.92 FEET ± TO THE TRUE POINT OF BEGINNING. SAID PARCEL CONTAINS 553 ACRES ± AND IS SUBJECT TO ANY EASEMENTS AND RIGHTS-OF-WAY OF RECORD THAT MAY EXIST ON SAID PARCEL.

**EXHIBIT B**

**EXPANSION AREA**

Any real property within Weld County may be included in this Large Planned Community with the approval of the owner thereof.

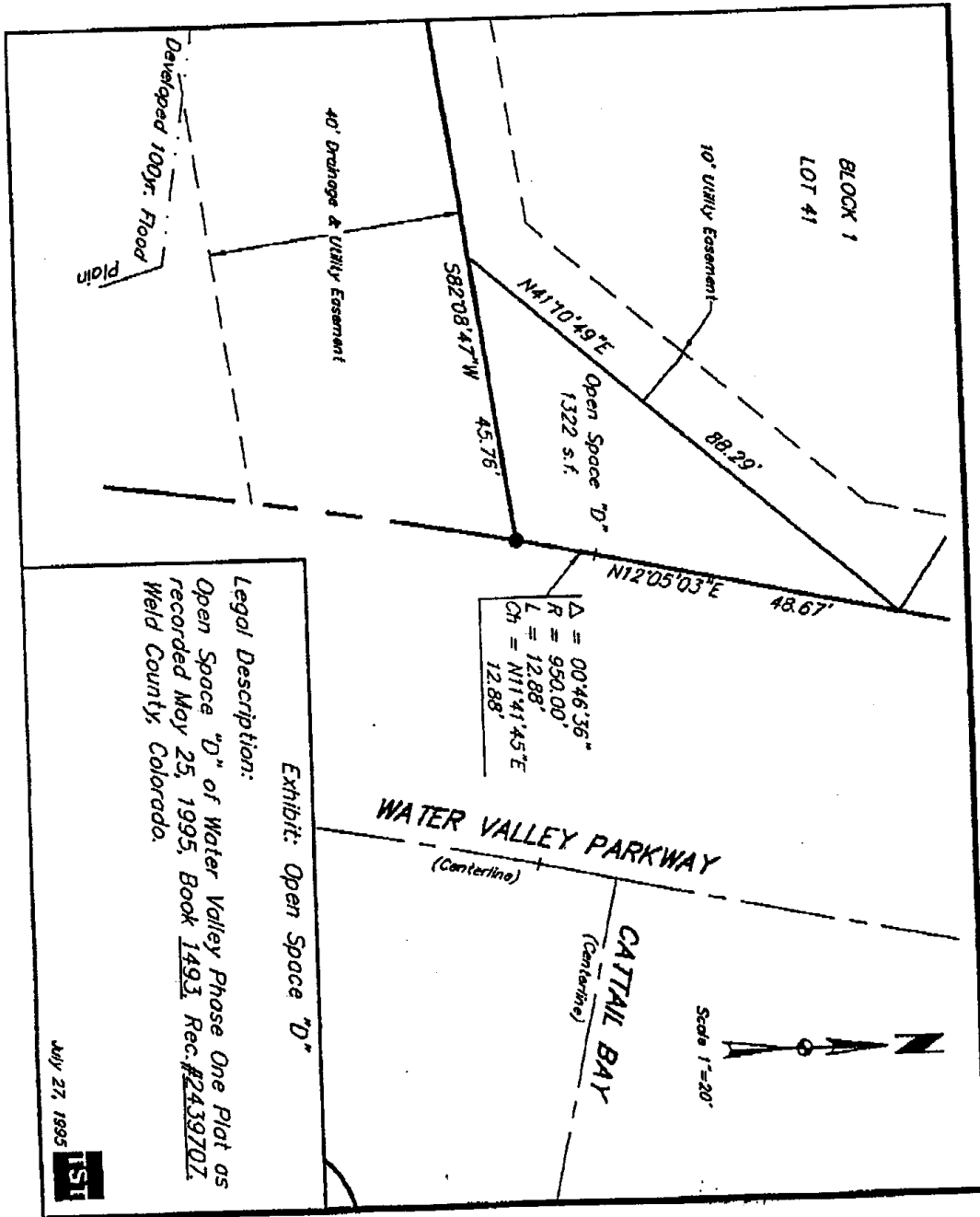
2462325 B-1517 P-427 11/03/95 11:27A PG 43 OF 50

**EXHIBIT C**

**COMMON ELEMENTS**

At the time this Declaration is Recorded, the Common Elements include the following described parcel of real property, together with all Improvements:

Open Space "D" of Water Valley Phase One Plat as recorded on May 25, 1995, Book 1493,  
Reception #2439707  
Weld County, Colorado



Legal Description:  
 Exhibit: Open Space "D"  
 Open Space "D" of Water Valley Phase One Plat as  
 recorded May 25, 1995, Book 1493, Rec. #243970Z,  
 Weld County, Colorado.

July 27, 1995



EXHIBIT D

**EASEMENTS, RESTRICTIONS, RESERVATIONS, LICENSES, ENCUMBRANCES  
OF RECORD AS OF THE DATE OF THIS DECLARATION**

RECORDER'S MEMORANDUM  
THIS DOCUMENT WAS FOUND  
TO BE INADEQUATE FOR  
SCANNING OR MICROFILMING  
PURPOSES.

1. Rights or claims of parties in possession not shown by the public records.
2. Easements, or claims of easements, not shown by the public records.
3. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, and any facts which a correct survey and inspection of the premises would disclose and which are not shown by the public records.
4. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.
5. Taxes and assessments which are a lien or due and payable; and any tax, special assessments, charges or lien imposed for water or sewer service, or for any other special taxing district, any unredeemed tax sales.
6. Taxes for the year 1995, a lien, but not yet due or payable.
7. Rights of way and easements as now established and used, including but not limited to roads, ditches, pipe lines, power lines, telephone lines and reservoirs.
8. Right of way for COUNTY ROADS 30 feet wide on either side of section and township lines as established by ORDER OF THE BOARD OF COUNTY COMMISSIONERS FOR WELD COUNTY, recorded OCTOBER 14, 1889 in BOOK 86 at PAGE 273.
9. Rights inferred or easement in favor of the United States, State of Colorado or the Public which exist or are claimed to exist in and over the present and past bed, banks, and water of the CACHE LA POUDDRE RIVER.
10. Right of way for an outlet or discharge ditch of the Windsor Reservoir and Canal Company through said Section 28, as evidenced by Deed recorded January 13, 1902 in Book 163 at Page 83, said right of way not being specifically defined.
11. Right of way for the B. H. Eaton irrigating ditch through, across and over said Sections 29, 32, and 33, as evidenced by deed recorded March 20, 1911 in Book 335 at Page 257, said right of way not being specifically defined in said document, but being located on maps recorded March 21, 1990 in Book 1258 as Reception Nos. 2208423 & 2208424.
12. Right of way for TILE DRAIN purposes as granted to THE GREAT WESTERN SUGAR COMPANY by instrument recorded NOVEMBER 20, 1916 in BOOK 459 at PAGE 154, said right of way not being specifically defined.
13. Reservation of 50% of all mineral rights as contained in instrument from SAM STOOLE recorded JUNE 9, 1967 in BOOK 582 as RECEPTION NO. 1504478, and any interests therein, assignments, or conveyances thereof. (Affects the SE 1/4 of the NE 1/4 and the NE 1/4 of the SE 1/4 of Section 33)
14. Terms, conditions and provisions of GREELEY-LOVELAND SHAREHOLDER'S DOMESTIC WATER AGREEMENT, between A. L. FRYE and THE CITY OF GREELEY recorded MAY 23, 1969 in BOOK 610 as RECEPTION NO. 1531825.

D-1

15. Rights of way for PIPELINE purposes as granted to THE CITY OF GREELEY, COLORADO by instrument recorded JANUARY 14, 1975 in BOOK 730 as RECEPTION NO. 1651929, said rights of way being described as:
- 1) A 20 foot wide permanent easement, 10 feet on each side of the following described survey of centerline: Commencing at the SE Corner of said Section 33, and considering the South line of said Section 33 to bear South  $89^{\circ}21'11''$  West with all other bearings herein being relative thereto; thence South  $89^{\circ}21'11''$  West, along the South line of said Section 33, 648.81 feet; thence North  $00^{\circ}14'35''$  West, 356.37 feet to the True Point of Beginning of said permanent easement; thence continuing North  $00^{\circ}14'35''$  West, 477.90 feet to the point of termination of said permanent easement, said easement being 477.90 lineal feet, more or less, together with a 30 foot wide temporary easement adjacent to the easterly side thereof; and
  - 2) A 25 foot wide permanent easement, 12.5 feet on each side of the following described survey of centerline: Commencing at the SE Corner of said Section 33, and considering the South line of said Section 33 to bear South  $89^{\circ}21'11''$  West with all other bearings herein being relative thereto; thence South  $89^{\circ}21'11''$  West along the South line of said Section 33, 648.81 feet; thence North  $00^{\circ}14'35''$  West, 834.27 feet; thence South  $89^{\circ}45'24''$  West, 2.50 feet to the True Point of Beginning of said permanent easement; thence North  $00^{\circ}14'35''$  West, 1571.17 feet to a point on the West right-of-way line of Colorado State Highway No. 257, said point being the point of termination of said permanent easement, said easement being 1571.17 lineal feet, more or less, together with a 30 foot wide temporary easement adjacent to the easterly side thereof.
16. Rights of way for PIPELINE purposes as granted to THE CITY OF GREELEY, COLORADO by instrument recorded JANUARY 14, 1975 in BOOK 730 as RECEPTION NO. 1651930, said rights of way being described as:
- 1) A 20 foot permanent easement, being 10 feet on each side of the following described survey of centerline: Commencing at the SE Corner of said Section 33, and considering the South line of said Section 33 to bear South  $89^{\circ}21'11''$  West with all other bearings herein being relative thereto; thence South  $89^{\circ}21'11''$  West, along the South line of said Section 33, 648.81 feet; thence North  $00^{\circ}14'35''$  West, 356.37 feet to the True Point of Beginning of said permanent easement; thence continuing North  $00^{\circ}14'35''$  West, 477.90 feet to the point of termination of said permanent easement, said easement being 477.90 lineal feet, more or less, together with a temporary easement 30 feet in width adjacent to the easterly side thereof; and
  - 2) A 25 foot permanent easement being 12.5 feet on each side of the following described survey of centerline: Commencing at the SE Corner of said Section 33, and considering the South line of said Section 33 to bear South  $89^{\circ}21'11''$  West with all other bearings herein being relative thereto; thence South  $89^{\circ}21'11''$  West along the South line of said Section 33, 648.81 feet; thence North  $00^{\circ}14'35''$  West, 834.27 feet; thence South  $89^{\circ}45'24''$  West, 2.50 feet to the True Point of Beginning of said permanent easement; thence North  $00^{\circ}14'35''$  West, 1571.17 feet to a point on the West right-of-way line of Colorado State Highway No. 257, said point being the point of termination of said permanent easement, said easement being 1571.17 lineal feet, more or less, together with a temporary easement 30 feet in width adjacent to the easterly side thereof.
17. Development Standards as shown on the KODAK COLORADO DIVISION, Eastman Kodak Company, Agricultural-Unit Development Plan and Use Designation Plan for a proposed borrow pit located in the South 1/2 of said Section 33, recorded September 30, 1976 in Book 778 as Reception No. 1700219.
18. Easement for UTILITY LINE purposes as granted to Poudre Valley Rural Electric Association, Inc. by instrument recorded MARCH 14, 1977 in BOOK 792 as RECEPTION NO. 1713523, said easement being more particularly described as a 10 foot wide easement adjacent to and parallel with the South right-of-way line of those portions of Weld County Road 64 situated in the NW 1/4 of the NW 1/4 of said Section 33 and the NE 1/4 of the NE 1/4 of said Section 32.



19. Restrictive Covenant contain in Special Warranty Deed from Eastman Kodak Company, a New Jersey Corporation, and Windsor Resource Corporation, a Colorado Corporation, recorded March 26, 1990 in Book 1259 as Reception No. 2208866, which states as follows: "For a period of 20 years following the date of this Special Warranty Deed, no buildings, structures, or other improvements of any kind shall be constructed, erected, or installed on the Easterly 500 feet of the property which exceed a height of 40 feet. The foregoing restriction shall run with the property and shall be binding upon all parties having any right, title, or interest in the property, or any part thereof, and shall inure to the benefit of the Grantor, its successors and assigns. The Grantee, by accepting the conveyance of the property, agrees that the foregoing restriction shall be binding upon the Grantee, its successors and assigns, and any other party having any right, title, or interest in the property or any part thereof."
20. Declaration of Restrictive Covenant which does not contain reversionary clauses, recorded MARCH 26, 1990 in BOOK 1259 as RECEPTION NO. 2208868.
21. Reservation of an undivided 25% interest in and to all oil, gas, coal, and other hydrocarbon minerals, together with the rights of ingress and egress to prospect and explore for, and to mine and develop same as contained in instrument from WINDSOR RESOURCE CORPORATION, A COLORADO CORPORATION recorded MARCH 26, 1990 in BOOK 1259 as RECEPTION NO. 2208869, and any interests therein, assignments, or conveyances thereof.
22. Reservation of an undivided 5% interest in and to any rocks, sand, and gravel, together with the rights of ingress and egress to prospect and explore for, and to mine and develop same as contained in instrument from WINDSOR RESOURCE CORPORATION, A COLORADO CORPORATION recorded MARCH 26, 1990 in BOOK 1259 as RECEPTION NO. 2208869, and any interests therein, assignments, or conveyances thereof.
23. Terms, conditions and provisions of SPECIAL LEASE AGREEMENT, between EASTMAN KODAK COMPANY, A NEW JERSEY CORPORATION and WINDSOR RESOURCE CORPORATION recorded MARCH 26, 1990 in BOOK 1259 as RECEPTION NO. 2208870; Assignment of Lease Rights recorded March 26, 1990 in Book 1259 as Reception No. 2208871.
24. Terms, conditions and provisions of Poudre Tech Center Planned Unit Development Agreement, between TROLLCO, INC., A COLORADO CORPORATION and THE TOWN OF WINDSOR, COLORADO, A COLORADO MUNICIPAL CORPORATION recorded AUGUST 7, 1991 in BOOK 1307 as RECEPTION NO. 2258961.
25. Easement for DITCH purposes as granted to EASTMAN KODAK COMPANY, A NEW JERSEY CORPORATION by instrument recorded MAY 7, 1993 in BOOK 1382 as RECEPTION NO. 2332060, said easement being across the SE 1/4 of the SE 1/4 of said Section 29, the NE 1/4 of the NE 1/4 of said Section 32, and the N 1/2 of the NE 1/4 of said Section 33, said ditch being a lateral to the B. H. Eaton Ditch.
26. Miscellaneous easements for ditches, irrigation laterals, overhead utilities, telephone facilities, etc. as shown on maps recorded March 21, 1990 in Book 1258 as Reception Nos. 2208423 & 2208424.
27. Easement for UTILITY LINE purposes as granted to Poudre Valley Rural Electric Association, INC. by instrument recorded AUGUST 31, 1994 in BOOK 1457 as RECEPTION NO. 2404817. the exact location of said easement not being specifically defined.

28. Reservation by the UNION PACIFIC RAILROAD COMPANY, its successors and assigns in Deed recorded JUNE 18, 1907 in BOOK 233 at PAGE 96, affecting the SW 1/4 of said Section 33:
- (1) All coal, and other minerals, within or underlying said lands;
  - (2) The exclusive right to prospect in or upon said land for coal and other minerals therein or which may be supposed to be therein and to mine for and remove from said land, all coal and other minerals which may be found thereon by anyone;
  - (3) The right of ingress and regress upon said land to prospect for, mine and remove any and all such coal and other minerals and the right to use so much of said land as may be convenient or necessary for the right of way to and from such prospect places, or mines, and for the convenient and proper operation of such prospect places, mines, and for roads and approaches thereto or for removal therefrom of coal, minerals, machinery, or other material;
  - (4) The right of said Union Pacific Railroad Company to maintain and operate its railroad in its present form of construction, and to make any change in the form of construction or method of operation of said railroad; and any interests therein, assignments or conveyances thereof.
29. Reservation of the right-of-way for said Railway in width, and in manner and form as provided by the Acts of Congress in relation thereto; and it is further agreed that whenever it is required by law, that the Company shall fence its road, such fence along the line of the road upon the land hereby conveyed, shall be erected and maintained by the party of the second part, his heirs and assigns, in all respects as required by law; and this agreement is hereby declared a covenant running with the land herein conveyed; and provided also that said Company shall be exempt from all claim for damages to the possession and use of said land that may accrue to the party of the second part, or his assigns, in construction and operating of said Railway as contained in instrument from JOHN EVANS, TRUSTEE OF THE DENVER PACIFIC RAILWAY AND TELEGRAPH COMPANY, recorded MARCH 22, 1878 in BOOK 25 at PAGE 2, and any interests therein, assignments, or conveyances thereof. (Affects the South 1/2 of the SE 1/4 of said Section 33)
30. Right of way for COUNTY WAGON ROAD purposes as granted to WELD COUNTY by instrument recorded APRIL 24, 1886 in BOOK 43 at PAGE 327, said right of way being a strip of land 30 feet wide off the East side of the SE 1/4 of the NE 1/4 and 30 feet wide off the East side of the NE 1/4 of the SE 1/4 of said Section 33.
31. Right of way for SEWER LINE & LIFT STATION purposes as granted to THE TOWN OF WINDSOR, A MUNICIPAL CORPORATION by instrument recorded MAY 14, 1970 in BOOK 625 as RECEPTION NO. 1547171, said right of way being a 30 foot wide permanent utility easement and a temporary 50 foot wide construction easement over and across said Sections 28 and 33, which is more particularly described as follows:  
Considering the South line of the N 1/2 of the NE 1/4 of said Section 33 as bearing South 89°24'43" West and with all bearings contained herein relative thereto, commencing at the NE Corner of the S 1/2 of the NE 1/4 of said Section 33; thence North 00°13'26" West, 511.58 feet; thence North 90°00'00" West, 121.00 feet to the point of beginning; thence along the following course, said course being the centerline of the 30 foot permanent utility easement and also being a line 15 feet West of the East line of the 50 foot temporary construction easement; thence North 00°14'35" West, 4480.94 feet; thence along the centerline of both the 30 foot wide permanent utility and the 50 foot wide temporary construction easements over and across the following courses:  
North 63°04'20" West, 505.89 feet;  
North 73°35'51" West, 499.32 feet;  
North 64°33'22" West, 502.76 feet;  
North 41°59'45" West, 499.20 feet;  
North 37°19'08" West, 433.81 feet;  
North 51°35'38" West, 387.94 feet;  
North 90°00'00" West, 892.00 feet;  
South 70°39'12" West, 238.47 feet;  
North 29°33'51" West, 172.27 feet to the point of termination on the North line of said Section 28, said point being South 89°36'20" East, a distance of 1564.40 from the NW Corner of said Section 28; except that portion described passing through the Windsor Sewage Disposal Site as recorded in Book 1000 at Page 83;  
ALSO, an additional 30 foot wide permanent utility easement and a 50 foot wide temporary construction easement, the centerline of which is more particularly described as follows:  
Considering the North line of said Section 28 as bearing South 89°36'20" East and with all bearings herein relative thereto; beginning at a point on the North line of said Section 28, said point bearing South 89°36'20" East, 182.19 feet from the N 1/4 Corner of said Section 28; thence South 00°00'00" East, 62.57 feet to the point of termination. 04

32. Easement for STORM DRAINAGE FACILITIES, POTABLE WATER LINE AND SEWER LINE purposes as granted to THE TOWN OF WINDSOR, A MUNICIPAL CORPORATION by instrument recorded FEBRUARY 4, 1971 in BOOK 640 as RECEPTION NO. 1561653, said easement being a 20 or 30 foot wide permanent utility easement and a 50 foot wide temporary construction easement, the centerline of which is more particularly described as beginning at a point 17.19 feet South 00°00'00" East from a point being South 89°36'20" East, 182.19 feet from the North 1/4 Corner of said Section 28; thence South 00°00'00" East, 30.0 feet to the point of termination.
33. Easement for UTILITY LINE purposes as granted to PUBLIC SERVICE COMPANY OF COLORADO by instrument recorded APRIL 16, 1974 in BOOK 712 as RECEPTION NO. 1634366, said easement being 10 feet in width, the approximate centerline being described as follows: Considering the North line of the NE 1/4 of said Section 29 as bearing North 88°14'20" East and with all bearings contained herein relative thereto; Beginning at the NE Corner of said Section 29; thence South 72°20'35" \_\_\_\_\_, a distance of 115.55 feet to the true point of beginning; thence South 83°45'40" East, a distance of 115.00 feet; thence North 89°09'50" East, a distance of 438.40 feet; thence South 49°32'55" East, a distance of 113.20 feet; thence South 02°23'25" East, a distance of 64.30 feet; thence South 35°44'55" East, a distance of 90.85 feet; thence South 52°22'40" East, a distance of 707.86 feet; thence South 00°28'20" West, a distance of 213.30 feet to the point of terminus.
34. Terms, Conditions, and Provisions of Easement Grant for storm water drainage purposes as granted to THE TOWN OF WINDSOR, A MUNICIPAL CORPORATION by instrument recorded SEPTEMBER 8, 1978 in BOOK 844 as RECEPTION NO. 1766075, said easement being a 60 foot wide permanent utility easement and a 140 foot wide temporary construction easement with shortened and extended side lines to meet existing property lines; Commencing at the SW Corner of Windsor Village First Filing, a subdivision in the S 1/2 of Section 21, Township 6 North, Range 67 West of the 6th P.M.; thence along the South line of said Section 21, North 90°00'00" East, 480 feet to the centerline of the said easement, and the true point of beginning; thence along said centerline South 18°03' West, 310 feet to a point which intersects the extension of the centerline of the now existing drainage ditch; thence along the now existing centerline and centerline extended South 06°12' West, 2731 feet; thence South 14°56' West, 747 feet; thence South 03°44' West to the centerline of the Cache La Poudre River, said point being the terminal point of the centerline of said easement.
35. Right of way for Colorado Highway No. 257 as evidenced by maps recorded March 21, 1990 in Book 1258 as Reception Nos. 2208423 & 2208424.
36. Right of way for UTILITY LINE purposes as granted to Poudre Valley Rural Electric Association, Inc. by instrument recorded NOVEMBER 24, 1993 in BOOK 1413 as RECEPTION NO. 2361033, said right of way not being specifically defined.
37. The following notices have been recorded with the Clerk and Recorder of Weld County pursuant to CRS 9-1.5-103(1). These instruments do not define the exact location of the underground facilities and may or may not affect the subject property:
- | NOTICES                         | BOOK | RECEPTION NO. |
|---------------------------------|------|---------------|
| A) MOUNTAIN BELL                | 949  | 1870705       |
| B) PUBLIC SERVICE               | 952  | 1874084       |
| C) WESTERN SLOPE GAS            | 990  | 1919757       |
| D) ASSOCIATED NATURAL GAS       | 1037 | 1974810       |
| E) COLORADO INTERSTATE GAS      | 1041 | 1979784       |
| F) ASSOCIATED NATURAL GAS, INC. | 1187 | 2132709       |
38. Easements as shown on plat of WATER VALLEY - PHASE ONE.

D-5