

**DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS, AND EASEMENTS  
FOR  
VANTAGE SUBDIVISION AND  
BERTHOUD-HERITAGE METROPOLITAN DISTRICT NOS. 4, 5, 10 & 11**

Declarant: Access Land Colorado, LLC, a Colorado Limited Liability Company as manager for  
ALC-V, LLC (“Owner”)  
Metropolitan District: Berthoud-Heritage Metropolitan District Nos. 4 & 5 and  
(Proposed) Berthoud-Heritage Metropolitan District Nos. 10 & 11

When recorded, return to: -  
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**TABLE OF CONTENTS**

<u>Description</u>	<u>Page</u>
RECITALS .....	1
ARTICLE I DEFINITIONS.....	5
Section 1.1 Definitions.....	5
Section 1.2 Other Terms in Covenants .....	9
ARTICLE II DESIGN AND/OR ARCHITECTURAL REVIEW.....	9
Section 2.1 Appointment of Members to ACC.....	9
Section 2.2 Term .....	9
Section 2.3 Design Review Requirements.....	9
Section 2.4 Guidelines .....	10
Section 2.5 Procedures.....	10
Section 2.6 Voting and Appeals.....	10
Section 2.7 Prosecution of Work After Approval.....	11
Section 2.8 Notice of Completion.....	11
Section 2.9 Inspection of Work .....	11
Section 2.10 Notice of Noncompliance .....	11
Section 2.11 Correction of Noneompliance.....	11
Section 2.12 Cooperation and Delegation .....	12
Section 2.13 Access Easement.....	12
Section 2.14 No Liability.....	12
Section 2.15 Variance .....	13
ARTICLE III RESTRICTIONS .....	13
Section 3.1 Restrictions Imposed.....	13
Section 3.2 Residential Use; Professional or Home Occupation .....	13
Section 3.3 Household Pets.....	14
Section 3.4 Temporary Structures; Unsightly Conditions .....	14
Section 3.5 Miscellaneous Requirements and Improvements .....	15
Section 3.6 Vehicular Parking, Storage and Repairs .....	17
Section 3.7 Nuisances .....	19
Section 3.8 No Hazardous Activities; No Hazardous Materials or Chemicals.....	19
Section 3.9 No Annoying Light, Sounds or Odors .....	19
Section 3.10 Restrictions on Trash and Materials .....	19
Section 3.11 Lots to be Maintained .....	19
Section 3.12 Leases.....	19
Section 3.13 Completion of Landscaping.....	20
Section 3.14 Maintenance of and Non-Intetference with Grade and Drainage; Irrigation Recommendations Around Foundations and Slabs .....	20
ARTICLE IV RESERVATION OF DEVELOPMENT RIGHTS.....	21
Section 4.1 Declarant and Builder Exemption.....	21

Section 4.2	General Provisions	21
Section 4.3	Supplemental Provisions Regarding Development Rights	24
Section 4.4	Utility Easements	24
Section 4.5	Drainage Easements	24
Section 4.6	General Provision	24
Section 4.7	Reservation for Construction	24
Section 4.8	Rights Incidental to the Construction Easement	25
Section 4.9	Maintenance Easement	25
Section 4.10	Operations and Maintenance Services and Costs	25
Section 4.11	Recorded Easements	26
Section 4.12	Emergency Easement	26
Section 4.13	Easements Deemed Appurtenant	26
Section 4.14	Order of Exercise of Development Rights	26
Section 4.15	Rights Transferable	26
ARTICLE V RELEASE, WAIVER AND CERTAIN DISCLOSURES		26
Section 5.1	Minor Violations of Setback Restrictions	26
Section 5.2	Limitation on Liability	26
Section 5.3	No Representations, Guaranties or Warranties	27
Section 5.4	Disclaimer Regarding Safety	27
Section 5.5	Development Within and Surrounding the Property	27
Section 5.6	Waiver	27
Section 5.7	Colorado Governmental Immunity Act	28
ARTICLE VI GENERAL PROVISIONS		28
Section 6.1	Rules and Regulations	28
Section 6.2	Enforcement	28
Section 6.3	Duration, Amendment and Supplement	29
Section 6.4	Severability	30
Section 6.5	Notices	30
Section 6.6	Headings	30
Section 6.7	Gender	30
Section 6.8	Runs with the Land; Binding Upon Successors	30

OWNER'S CONSENT

LENDER'S CONSENT

METROPOLITAN DISTRICTS' CONSENT

Exhibit A: Legal Description of Property

**DECLARATION  
OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS  
FOR VANTAGE SUBDIVISION**

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR VANTAGE SUBDIVISION (the "Declaration") are made and entered into to be effective as of the 6th day of November, 2017 BY Access Land Colorado, LLC, a Colorado limited liability company as manager for ALC-V, LLC ("Owner"), ("Declarant"), upon the following terms and conditions:

**RECITALS**

WHEREAS, Declarant is manager for the owner and/or Developer of that certain real property located in Larimer County, Colorado, within the Town of Berthoud, as more particularly described in **Exhibit A**, attached hereto and incorporated herein by this reference, as supplemented and amended from time to time, (the "Property"); and

WHEREAS, Declarant desires to create a system of covenants, conditions, restrictions, easements, reservations, rights-of-way, obligations, liabilities and other charges to protect and enhance the quality, value, aesthetics, desirability, and attractiveness of the Property and Improvements to be developed thereon, which shall be known as the Vantage Subdivision (the "Development");

WHEREAS, the covenants, conditions, restrictions, easements, reservations, rights-of-way, obligations, liabilities, and other charges set forth herein are in addition to the laws of any and all applicable governmental entities with jurisdiction over the Property, including but not limited to the Town of Berthoud and Larimer County, Colorado; and

WHEREAS, Declarant desires that all Property shall be improved, held, used, occupied, leased, sold, and/or conveyed subject to this Declaration; and

WHEREAS, the Berthoud-Heritage Metropolitan District Nos. 4, 5, 10 & 11 (the "Metropolitan District," as hereinafter more fully defined) was organized under the laws of the State of Colorado pursuant to the Service Plan for Berthoud-Heritage Metropolitan Districts Nos. 1, 2, 3, 4, 5, 6, 7, 8 and 9, (the "Districts") approved by the Board of Trustees of the Town of Berthoud (the "Town") on February 12, 2008, as amended by the Amended and Restated Service Plan for the Districts approved by the Town on May 26, 2015 (collectively, the "Service Plan"), which Metropolitan District shall, pursuant to Section 32-1-1004 (8) of the Colorado Revised Statutes, enforce the covenants, conditions, restrictions, easements, and provide design review services as set forth herein, for that certain real estate and Improvements in the County of Larimer, State of Colorado, which is described on **Exhibit A**, attached hereto and incorporated herein by this reference (the "Property"); and

WHEREAS, the representatives of the Districts submitted to the Town Board of Trustees a Service Plan for the Districts which granted authority to the Districts to construct some or all of the public improvements, which may be provided in accordance with an Approved Development Plan or other agreement with the Town; and

WHEREAS, this Declaration shall run with the land and be binding on and inure to the benefit of all parties having any right, title, or interest in any portion of the Property, their heirs, successors, successors-in-kind, and assigns; and

WHEREAS, Declarant further hereby states that the Metropolitan District shall maintain, care for and manage the Metropolitan District owned portions of the Property and related Metropolitan District Improvements from time to time, and perform certain functions for the benefit of the Owners as further described herein and within the Service Plan. This Declaration shall also define certain duties, powers, and rights of the Owners, Declarant, and Metropolitan District; and

WHEREAS, this Declaration does not create a Common Interest Community, as defined by the Colorado Common Interest Ownership Act (“CCIOA”) at C.R.S. §38-33.3-103(8), as amended; therefore, this Declaration and its Covenants shall not be governed by the Colorado Common Interest Ownership Act or any provisions thereof. The Declaration and Covenants are drafted to coordinate all covenant enforcement and design review as permitted by law through a metropolitan district, which is instead governed primarily by Title 32, C.R.S. rather than CCIOA provisions.

NOW, THEREFORE, in addition to the foregoing, the Declarant for itself, its successors and assigns, and for and on behalf of all existing Owners, hereby declares that the Property and any Future Parcel(s) which is annexed to this Declaration in the manner provided for herein shall, from the date it so becomes annexed, be owned, held, transferred, conveyed, sold, leased, rented, encumbered, used, occupied, maintained, altered and improved subject to the following covenants, conditions, restrictions, easements, reservations, rights-of-way, obligations, liabilities, and other provisions set forth above and herein, as the same may be amended and/or supplemented from time to time; provided that the provisions of this Declaration and its Covenants shall apply only to those portions of the Property actually used for residential purposes or designated for such use.

## **ARTICLE I** **DEFINITIONS**

Section 1.1 Definitions. When used in this Declaration, unless the context clearly indicates otherwise, capitalized terms not otherwise defined in the Plat of the Property shall have the meanings provided in the following sections of this Article:

1.1.1 “Affiliate” means any and all partnerships, ventures, limited liability companies or other entities in which the Declarant owns or any of the entities comprising the Declarant owns, either directly or indirectly, a controlling interest.

1.1.2 “Agent” means a person, firm, corporation or other entity employed or engaged as an independent contractor by the Declarant or Metropolitan District.

1.1.3 “Annexed Property” means any Future Parcel(s) or portion thereof, which is annexed to this Declaration by means of a Supplemental Declaration.

1.1.4 “Architectural Control Committee” or “ACC” shall mean and refer to the committee created pursuant to the terms of this Declaration established to review and approve plans for the construction or alteration of Improvements on Lots as set forth in **Article II** of this Declaration.

1.1.5 “Board of Directors” or “Board” means the Board of Directors of the Berthoud-Heritage Metropolitan District Nos. 4, 5, 10 & 11, its successors and assigns.

1.1.6 “Covenants” means the covenants, conditions, restrictions and easements of the Vantage Subdivision, which may be included within one or more of the Berthoud-Heritage Metropolitan District Nos. 4, 5, 10 and 11 contained in this Declaration, as amended and supplemented from time to time.

“Declarant” and “Developer” means ACCESS LAND COLORADO, LLC, a Colorado limited liability company as manager for ALC-V, LLC (“Owner”) it’s heir, affiliates, successors, assigns, and/or any other Person to whom the Declarant may, at any time from time to time, assign one or more of the Declarant’s rights (which shall be the extent of the Declarant’s rights to which such assignee succeeds); provided, that no assignment of any Declarant rights shall be effective unless such assignment is duly executed by the assignor Declarant and recorded in Larimer County, Colorado. The term “Declarant” as used herein includes any entity that results from reorganization or restructuring of the existing entity or the conversion thereof to another form of entity. For purposes of determining which Lots or Future Parcels are owned by Declarant, “Declarant” shall automatically be deemed to include “Affiliates” as that term is defined in this Article I.

1.1.7 “Declaration” shall mean this Declaration of Covenants, Conditions, Restrictions and Easements for Berthoud-Heritage Metropolitan District Nos. 4, 5 10 & 11 (also referred to as the “Vantage Property”), as amended and supplemented from time to time.

1.1.8 “Dedicated Easements” shall mean the utility and/or drainage easements granted through the Property to the appropriate governmental entity or public utility for providing utility service or drainage facilities to the Property.

1.1.9 “Development” shall mean the Vantage Subdivision development subject to this Declaration, consisting of the Property described in **Exhibit A** attached hereto and incorporated herein by this reference, as supplemented and amended from time to time. The Development is intended to be the property within the boundaries of Berthoud-Heritage Metropolitan Districts Nos. 4, 5, 10 and 11 and all future Annexed Property.

1.1.10 “District Properties” means all real and personal property including any Improvements, common areas, facilities and related appurtenances, now or hereafter owned by the Metropolitan District, or with respect to which the Metropolitan District holds an easement for the use, care or maintenance thereof held for the common use and enjoyment of certain of the Owners, or certain Owners, as the case may be, and for other purposes as may be permitted hereunder.

1.1.11 "Future Parcels" means and refers to any real property adjacent to the Property or in its vicinity which the Declarant identifies as annexable to this Declaration or included into the Development, in any recorded document executed by it which refers to this Declaration, as hereafter provided. Future Parcels need not be owned by Declarant so long as the Owner thereof consents to the potential annexation of such real estate to this Declaration. Future Parcels may be added to this Declaration by the Declarant, provided such Future Parcels are properly annexed to the Town of Berthoud, included within one of the Berthoud-Heritage Metropolitan Districts, and provided such inclusion is in accordance with law and any Service Plan or Town requirements.

1.1.12 "Governing Board" means the governing board of Berthoud-Heritage Metropolitan District Nos. 4.

1.1.13 "Guidelines" shall mean the guidelines and rules published, and as amended and supplemented from time to time in accordance with the terms therein, by the Architectural Control Committee.

1.1.14 "Improvement(s)" shall mean and include the following: (a) the construction, installation, alteration, demolition in whole or in part, or expansion of any exterior improvement, building, structure, appurtenance, or other improvements, including, but not limited to, buildings, outbuildings, swimming pools, tennis courts, patios, patio covers, awnings, solar collectors, painting or other finish materials on any visible structure, additions, walkways, sidewalks, trails, bridges, sprinkler systems, garages, driveways, parking areas, fences, including gates in fences, basketball backboards and hoops, swing-sets or other play structures, screening walls, retaining walls, stairs, decks, exterior light fixtures, poles, signs, exterior tanks, utilities, facilities, pipes, lines, solar panels, radiant gas piping and exterior air conditioning, cooling, heating and water softening equipment, if any; (b) the staking, clearing, grading, excavation, filling or similar disturbance to the surface of the land, including without limitation any change of grade, change of ground level, change of drainage pattern, or change of stream bed or course, ditch improvements, drainage, retention and detention ponds or facilities, storm sewer and other collection facilities; (c) all initial planting of and subsequent material modifications to landscaping, hedges, windbreaks, berming, plantings, trees, shrubs, flowers, vegetables, sod, gravel, bark, and all planting, clearing or removing of trees, shrubs, grass or perennial plants, but in each instance excluding removal of dead or diseased plants and trees and excluding any replacement that is substantially similar to the item being replaced; (d) any change or alteration to the exterior appearance of Improvements previously approved by the ACC, including any change in finish material, color or texture; (e) the repainting and resurfacing of exterior surfaces of structures, including roofing materials, gutters, downspouts, drainspouts, exterior siding or stucco finish, entry doors, windows, trim around doors and windows, surfaces of garage doors, external vents and flues and glass surfaces, exclusive of any replacement that is substantially identical to the item being repainted or resurfaced; and (f) reconstruction of any structures.

1.1.15 "Lot" means each platted lot that is now or hereafter included in the real estate described on the attached **Exhibit A**, as the same may be subdivided or replatted from time to time (and "Lot" shall include all lots created as a result of such subdivision or replatting), as well as any other platted lots now or hereafter included in any real estate annexed to this Declaration.

1.1.16 “Metropolitan District” or “District” means the Berthoud-Heritage Metropolitan District Nos. 4, 5, 10 & 11, a quasi-municipal corporation and political subdivision of the State of Colorado, its successor or assign, and/or any other metropolitan district(s) to whom the then-Metropolitan District may, from time to time, transfer or assign any or all of the rights, duties obligations, and responsibilities delineated in this Declaration. Each such assignment or transfer, if any, shall be effective upon recording in Larimer County, Colorado, of a document of transfer or assignment, duly executed by the then-Metropolitan District. In the event that Metropolitan District ceases to exist, Declarant may appoint a successor entity to serve as enforcer of this Declaration, which entity shall assume all rights and responsibilities of the Metropolitan District under this Declaration. The terms and conditions of this Declaration shall apply to property within the Vantage Subdivision and property within the boundaries of each of the Berthoud-Heritage Metropolitan Districts Nos. 4, 5, 10 & 11, which boundaries may be amended from time to time.

1.1.17 “Owner” means each fee simple title holder of a Lot, including without limitation the Declarant or any other Person who owns a Lot, but does not include a Person having an interest in a Lot solely as security for an obligation.

1.1.18 “Period of Declarant Control” shall mean that period of time in which the Declarant is entitled to enforce, amend, revise and/or supplement this Declaration, promulgate rules and regulations subject to this Declaration, and appoint members of the Architectural Control Committee. The Period of Declarant Control will continue to run from the date of the recording of this Declaration and will end twenty (20) years from the date of recordation hereof.

1.1.19 “Person” means a natural person, a corporation, a limited liability company, a partnership, a trust, a joint venture, an unincorporated association, or any other entity or any combination thereof and includes, without limitation, each Owner, Builder, Developer and the Declarant.

1.1.20 “Project Documents” means this Declaration, rules and regulations, Guidelines and any documents now or hereafter adopted by or for the Metropolitan District, as amended or supplemented from time to time.

1.1.21 “Property” means the real estate described on the attached **Exhibit A**, and any Future Parcel(s), or portion thereof, which has been annexed hereto by a Supplemental Declaration or otherwise as provided herein; all of which may be supplemented and amended from time to time, as the same may now or hereafter be improved, and as the Declarant may now or hereafter subdivide or resubdivide any portion thereof; provided, however, that the Property shall include any real estate and Improvements that are annexed and shall not include any real estate or Improvements that have been withdrawn, as provided in this Declaration.

1.1.22 “Supplemental Declaration” shall mean a declaration or covenants recorded by Declarant, with respect to any Future Parcel, or portion thereof, which annexes such parcel to the terms of this Declaration. A Supplemental Declaration may establish additional covenants, conditions and restrictions applicable to such portion of real property, may contain



exceptions, deletions or modifications from the covenants, conditions, restrictions and easements contained herein applicable to such portion of real property. Any recorded document which establishes or creates a declaration or covenant shall be deemed to be a Supplemental Declaration for the purposes of this Declaration, whether or not it is labeled or identified as such.

1.1.23 “Town” shall mean the Town of Berthoud, Colorado.

1.1.24 “Utility Easements” shall mean the reciprocal, nonexclusive easements for the purpose of providing utility easements granted pursuant to this Declaration or which may be created and identified as such in a Supplemental Declaration or other recorded document executed by Declarant and the then Owner of a Lot.

Section 1.2 Other Terms in Covenants. Other terms in this Declaration may be defined in specific provisions contained herein and shall have the meaning assigned by such definition.

## **ARTICLE II** **DESIGN AND/OR ARCHITECTURAL REVIEW**

Section 2.1 Appointment of Members to ACC. The members of the Architectural Control Committee shall be appointed by the Governing Board. There shall initially be three (3) members of the ACC, namely Jim Birdsall, William Zech, and Stephanie Zech. Members of the ACC may be, but need not be, directors of the Governing Board.

Section 2.2 Term. Each member of the ACC shall serve at the pleasure of the Governing Board. In the event of the death, incapacity, or resignation of any member of the ACC, the Governing Board shall appoint a successor.

Section 2.3 Design Review Requirements.

2.3.1 No Exterior Improvements shall be constructed, erected, placed, altered, planted, applied or installed upon any Lot unless said Improvements are in full compliance with the provisions of the Project Documents and unless at least one (1) set of complete plans and specifications therefor (said plans and specifications to show exterior design, height, materials, color, and location of the Improvements, plotted horizontally and vertically, location and size of driveways, location, size, and type of landscaping, fencing, walls, windbreaks and grading plan, as well as such other materials and information as may be required by the ACC), shall have been first submitted to and approved in writing by the ACC.

2.3.2 The ACC shall exercise its reasonable judgment to the end that all Improvements conform to and harmonize with the existing surroundings, residences, landscaping and structures. In its review of such plans, specifications and other materials and information, the ACC may require as a condition to its considering an approval request that the applicant(s) pay or reimburse the ACC for the expenses incurred by the ACC in the review process.

2.3.3 In addition to the foregoing review and approvals, the construction, erection, addition, deletion, change or installation of any Improvements shall also require the applicant to obtain the approval of all governmental entities with jurisdiction thereover, and issuance of all required permits, licenses and approvals by all such entities. Without limiting the

generality of the preceding sentence, issuance of building permit(s) by the applicable governmental entity, if required, shall be a precondition to commencement of any construction of, alteration of, addition to or change in any Improvement.

2.3.4 The Governing Board of the Metropolitan District may at any time, from time to time, appoint a representative to act on its behalf. If the Governing Board does so, then the actions of such representative shall be the actions of the Governing Board, subject to the right of appeal as provided below. However, if such a representative is appointed by the Governing Board, then the Governing Board shall have full power over such representative, including without limitation the power to at any time withdraw from such representative any of such representative's authority to act on behalf of the Governing Board and the power to at any time remove or replace such representative.

2.3.5 In addition to the foregoing Sections, the ACC shall likewise have the power to delegate the responsibility for reviewing any application submitted to the ACC to a professional architect, landscape architect, engineer, or other professional Person who is qualified to review the issues raised in the application. The ACC shall also have the power to require that the applicant pay the fees reasonably incurred by the ACC in retaining such professional to review the application submitted.

Section 2.4 Guidelines. The Governing Board of the Metropolitan District is authorized to promulgate design and/or architectural standards, rules, regulations and/or guidelines (collectively the "Guidelines"). Any such Guidelines may be included in rules and regulations promulgated by the Metropolitan District as set forth in Section 6.1 of this Declaration ("Rules and Regulations"). Without limiting the generality of the foregoing, such Guidelines may contain provisions to clarify the designs and materials that may be considered in design approval, may state requirements for submissions, may state procedural requirements, or may specify acceptable Improvement(s) that may be installed without the prior approval of the ACC. By way of example, and not by way of limitation, such provisions may state that a certain type of screen door will be acceptable and will not require approval, or may state that only one or more types of fences are acceptable, and no other types will be approved. All Improvements proposed to be constructed, and any Guidelines that are adopted, shall be done and used in accordance with this Declaration.

Section 2.5 Procedures. The ACC shall approve or disapprove all requests for approval within forty-five (45) calendar days after the complete submission of all plans, specifications, and other materials and information which the ACC may require in conjunction therewith. A stamped or printed notation, initialed by a member of the ACC, affixed to any of the plans and specifications, shall be deemed a sufficient writing. However, the ACC shall not be required to maintain records of plans, specifications or other documents or information that have been submitted to it for approval. Approval by the ACC shall be conclusive evidence of compliance with this **Article II**, provided that the Improvements are constructed in compliance with the plans and specifications as approved. Failure to approve within forty-five (45) calendar days shall be deemed disapproval.

Section 2.6 Voting and Appeals. A majority vote of the ACC is required to approve a request for architectural approval or any other matter to be acted on by the ACC, unless the ACC

has appointed a representative to act for it, in which case the decision of such representative shall control. In the event a representative acting on behalf of the ACC decides a request for architectural approval which is adverse to the applicant, then the applicant shall have the right to an appeal of such decision to the full ACC, upon a written request therefor submitted to the ACC within ten (10) calendar days after such decision by the ACC's representative. In the event the ACC decides a request for architectural approval which is adverse to the applicant, then the applicant shall have the right to an appeal of such decision to the full Governing Board, upon a written request therefor submitted to the Governing Board within ten (10) calendar days after such decision by the ACC. Notwithstanding anything to the contrary in this Declaration, the Governing Board may intercede of its own volition in matters of architectural approval by the ACC, and the Governing Board may reverse, alter, amend, adjust, change, or otherwise modify any decisions of the ACC at any time, so long as any one or more Owners are not unduly prejudiced thereby.

Section 2.7 Prosecution of Work After Approval. After approval of any proposed Improvement, the proposed Improvement shall be accomplished as promptly and diligently as possible and in complete conformity with all conditions and requirements of the approval. Failure to complete the proposed Improvement within one (1) year after the date of approval of the application or to complete the Improvement in complete conformance with the conditions and requirements of the approval, shall constitute noncompliance with the requirement that approval for Improvements be obtained from the ACC; provided, however, the ACC, in its discretion, may grant extensions of time for completion of any proposed Improvements.

Section 2.8 Notice of Completion. Upon the completion of any Improvement, the applicant for approval of the same shall give a written "Notice of Completion" to the ACC. Until the date of receipt of such Notice of Completion, the ACC shall not be deemed to have notice of completion of any Improvement on which approval has been sought and granted as provided in this Article.

Section 2.9 Inspection of Work. The ACC or its duly authorized representative shall have the right to inspect any Improvement prior to or after completion in order to determine whether the proposed Improvement is being completed or has been completed in compliance with the approval granted pursuant to this Article; provided, however, that the right of inspection shall terminate sixty (60) calendar days after the ACC shall have received a Notice of Completion from the applicant.

Section 2.10 Notice of Noncompliance. If, as a result of inspections or otherwise, the ACC finds that any Improvement has been done without obtaining the approval of the ACC, or was not done in substantial compliance with the approval that was granted, or was not completed within one (1) year after the date of approval, subject to any extensions of time granted pursuant to Section 2.7 hereof, the ACC shall notify the applicant in writing of the noncompliance; which notice of noncompliance shall be given, in any event, within sixty (60) calendar days after the ACC receives a Notice of Completion from the applicant. The notice of noncompliance shall specify the particulars of the noncompliance.

Section 2.11 Correction of Noncompliance. If the ACC determines that a noncompliance exists, the Person responsible for such noncompliance shall remedy or remove

the same (and return the subject real estate and/or Improvements or structure to its original condition) within a period of not more than forty-five (45) calendar days from the date of receipt of the notice of noncompliance. If such Person does not comply with the ruling within such period, the ACC may, at its option, record a notice of noncompliance against the Lot on which the noncompliance exists, may remove the non-complying Improvement or may otherwise remedy the noncompliance, and the Person responsible for such noncompliance shall reimburse the ACC, upon demand, for all costs and expenses incurred with respect thereto.

Section 2.12 Cooperation and Delegation. The Governing Board shall have the right and authority at any time, from time to time, to enter into agreements and otherwise cooperate with, and/or delegate to, any other architectural review committees, or one or more other boards or committees, in order to increase consistency or coordination, reduce costs, or as may otherwise be deemed appropriate or beneficial by the Governing Board in its discretion. The costs and expenses for all such matters, if any, shall be shared or apportioned between such other boards or committees and the Metropolitan District, as the Governing Board may determine in its discretion from time to time. Additionally, the Governing Board shall have the right and authority at any time, from time to time, to enter into agreements and otherwise cooperate with, and/or delegate to, other architectural review committees, or one or more other boards or committees, to collect fees, charges, or other amounts which may be due to such entity and to permit any such entity to collect fees, charges, or other amounts which may be due to the Metropolitan District; in any such instance, the Governing Board shall provide for remittance to such entity of any amounts collected by the Governing Board or to the Metropolitan District of any amounts collected by such entity.

Section 2.13 Access Easement. Each Lot is subject to an easement in favor of the ACC and the Metropolitan District, including their agents, representatives, employees and contractors thereof: for performing any of the actions contemplated in this Declaration, including without limitation Sections 2.9 and 2.11 hereof; and/or for and incidental to investigation and/or enforcement of any term or provision of any of the Project Documents. If damage is inflicted, or a strong likelihood exists that it will be inflicted, on any of the Property, including without limitation any Lot, the Owner responsible for the damage or expense to avoid damage, or the Metropolitan District if it is responsible, is liable for the cost of prompt repair and remediation. Further, the rights and easements granted in this Section may be exercised only during reasonable hours after reasonable notice to the Owner(s) or occupant(s) of any affected Lot; except that no such notice shall be required in connection with any exterior, non-intrusive matter; and except that in emergency situations entry upon a Lot may be made at any time provided that the Owner(s) or occupant(s) of each affected Lot shall be notified of emergency entry as early as is reasonably possible. The interior of any residence located on a Lot shall not be subject to the easements provided for in this Section.

Section 2.14 No Liability. The Metropolitan District, the Governing Board, the ACC, and the members thereof, as well as any representative of the Metropolitan District, the Governing Board and the ACC appointed to act on its behalf, shall not be liable in equity or damages to any Person submitting requests for approval or to any Person by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove, in regard to any matter within its jurisdiction hereunder. In reviewing any matter, the Metropolitan District, the Governing Board, and the ACC shall not be responsible for the safety, whether structural or

otherwise, of the Improvements submitted for review, nor the conformance with applicable building codes or other governmental laws or regulations, nor compliance with any other standards or regulations, and any approval of an Improvement by the Metropolitan District, the Governing Board, or the ACC shall not be deemed an approval of any such matters. No Owner or other Person shall be a third party beneficiary of any obligation imposed upon, rights accorded to, action taken by, or approval granted by the Metropolitan District, the Governing Board, or the ACC.

Section 2.15 Variance. The ACC, in its sole discretion, may grant reasonable variances or adjustments from any conditions and restrictions imposed by this Declaration, in order to overcome practical difficulties or prevent unnecessary hardships arising by reason of the application of any such conditions and restrictions. Such variances or adjustments shall be granted only in case the granting thereof shall not be materially detrimental or injurious to the other real estate and Improvements in the neighborhood and shall not militate against the general intent and purpose hereof.

Section 2.16 Waivers; No Precedent. The approval or consent of the ACC, or any representative thereof, to any application for approval shall not be deemed to constitute a waiver of any right to withhold or deny approval or consent by the ACC or any representative thereof, as to any application or other matters whatsoever as to which approval or consent may subsequently or additionally be required. Nor shall any such approval or consent be deemed to constitute a precedent as to any other matter.

### **ARTICLE III** **RESTRICTIONS**

Section 3.1 Restrictions Imposed. The Property is subject to all requirements, covenants, restrictions and other matters stated on the recorded plats of the Property, or any portion thereof, as well as all other applicable documents. In addition, the Declarant declares that all of the Property shall be held and shall henceforth be sold, conveyed, used, improved, occupied, owned, resided upon and hypothecated, subject to the following provisions, conditions, limitations, restrictions, agreements and covenants, as well as those contained elsewhere in this Declaration. In addition, no unlawful use shall be permitted or made of the Property, or any portion thereof. All laws, ordinances and regulations of all governmental bodies having jurisdiction over the Property, or any portion thereof, shall be observed.

Section 3.2 Residential Use; Professional or Home Occupation. Lots shall be used for residential use only, including uses which are customarily incidental thereto, and shall not be used at any time for business, commercial or professional purposes. Notwithstanding the foregoing, however, Owners may conduct business activities within their homes provided that all of the following conditions are satisfied:

3.2.1 the business conducted is clearly secondary to the residential use of the home and is conducted entirely within the home;

3.2.2 the existence or operation of the business is not detectable from outside of the home by sight, sound, smell or otherwise, or by the existence of one or more signs indicating that a business is being operated; the Property;

3.2.3 the business does not result in an undue volume of traffic or parking within the Property;

3.2.4 the business conforms to all zoning requirements and is lawful in nature; and

3.2.5 the business conforms to this Declaration and the Guidelines, as well as any rules and regulations that may be imposed by the Metropolitan District, the Governing Board or the ACC from time to time.

Section 3.3 Household Pets. No animals, livestock, birds, poultry, reptiles or insects of any kind shall be raised, bred, kept or boarded in the Property; provided, however, that the Owners and residents of each Lot may keep a reasonable number of bona fide household pets (including dogs, cats or other domestic animals), so long as such pets are not kept for any commercial purpose and are not kept in such number or in such manner as to create a nuisance to any resident of the Property. All household pets shall be controlled by their Owner and shall not be allowed off the Owner's Lot except when properly leashed and accompanied by the Owner or his or her representative, who shall be responsible for collecting and properly disposing of any animal waste. The ACC shall have, and is hereby given, the right and authority to determine in its sole discretion that dogs, cats or other household pets are being kept for commercial purposes or are being kept in such number or in such manner as to be unreasonable or to create a nuisance; or that an Owner or resident is in violation of the leash laws of the applicable jurisdiction or other applicable governmental laws, ordinances, or other provisions related to household pets; or that an Owner or resident is otherwise in violation of the provisions of this Section. In any such case, the ACC may take such action(s) as it may deem appropriate. An Owner's right to keep household pets shall be coupled with the responsibility to pay for any damage caused by such pets, as well as any costs incurred as a result of such pets. All Household Pets must be kept and their care shall be in compliance with and shall meet the Town Code and/or County Requirements. It shall be the responsibility of the Owners to verify and check local and current Town Codes and maintain their compliance with any and all applicable Ordinances, Rules and Regulations related thereto.

Section 3.4 Temporary Structures; Unsightly Conditions. Except as hereinafter provided, no structure of a temporary character, including, but not limited to, a tent, shack, storage shed, or outbuilding, shall be placed or erected; provided, however, that during the actual construction, alteration, repair or remodeling of a structure or other Improvements, necessary temporary structures for storage of materials may be erected and maintained by the Person doing such work. The work of constructing, altering or remodeling any structure or other Improvements shall be prosecuted diligently from the commencement thereof until the completion thereof. Further, no unsightly conditions, structures, facilities, equipment or objects shall be so located on the Property as to be visible from a street or any other portion of the Property. Notwithstanding any provisions herein contained to the contrary, it shall be expressly permissible for Declarant, its agents, employees, and contractors, or a builder with the express

written approval of the Declarant, to maintain during the period of construction and sale of any Lots, upon such portion of the Property as Declarant may choose, such facilities as in its sole opinion may be reasonably required, convenient or incidental to the construction and sale or rental of Lots, including, without limitation, a business office, storage area, construction yard, signs, model homes, sales office, construction office, parking areas, and lighting.

Section 3.5 Miscellaneous Requirements and Improvements.

3.5.1 *Minimum Square Footage.* The minimum living area, exclusive of garages, balconies, patios, porches, and the like, of any residence constructed on a Lot within the Property shall be one thousand six hundred (1,600) square feet for a ranch floor plan, and one thousand eight hundred (1,800) square feet for a multi-level floor plan.

3.5.2 *Color of Exterior Materials.* The color of all exterior materials used on a residence or other Improvements within the Property must be approved in advance by the ACC. Muted Earthtones are generally recommended.

3.5.3 *Masonry Accents.* As used herein, "Masonry Accents" shall be restricted to stone, brick or stucco (with no rattled patterns), and shall be subject to the following requirements:

(a) Masonry Accents shall be mandatory on the front of any residence constructed within the Property. A minimum of twenty-five percent (25%) of the front of the residence must be comprised of Masonry Accents.

(b) If stone or brick are used on the front of any residence within the Property, the stone or brick shall be extended a minimum of two (2) feet on both sides of the residence at the same height as the brick or stone on the front of the residence.

(c) Lap board siding must have a maximum exposed board width of nine (9) inches. All fascias shall be a minimum of six (6) inches and all soffits shall be a minimum of twelve (12) inches. Lap board siding that faces the front of any residence must have a maximum exposed board width of six (6) inches.

3.5.4 *Roofing Materials.* Except as otherwise provided herein, roofing materials within the Property shall be restricted to tile, slate, or thirty (30) year dimensional asphalt shingles. Cement tile or metal roofs may be approved by the ACC, provided such materials are necessary to the architectural style of the residence and are an approved color. Standard asphalt shingles are **NOT** acceptable within the Property.

3.5.5 *Roof Pitch.* The roof pitch on any residence must be between six-twelves (6/12) and twelve-twelves (12/12). Porches and shed elements may have roof pitches as low as four-twelves (4/12). Any residential plan should be designed to look attractive from all four sides. Multiple roof pitches and plane changes are encouraged.

3.5.6 *Basketball Hoops.* Unless otherwise approved by the ACC, no basketball hoops within the Property may be attached to a residence or garage. Subject to ACC approval, certain basketball hoops may be installed on a free-standing pole along the driveway

between the sidewalk and the residence. Portable basketball hoops or any portable sports equipment must be stored when not in use September through May and are prohibited unless they are stored inside an enclosed garage when not in use. The use of any portable basketball hoops or portable sports equipment is allowed on front driveways or may be placed in your yard or tree lawn. Portable sports equipment shall not be permitted on Town streets and or walks. The Owner is responsible for checking and maintaining compliance with applicable local Town codes.

3.5.7 *Signs and Advertising.* No advertising or signs of any character shall be erected, placed, permitted, or maintained other than a name plate of the occupant and a street number, and except for a "For Sale," "Open House," "For Rent," or security sign of not more than five (5) square feet in the aggregate, and such other signs, for such length(s) of time, which have the prior written approval of the ACC or are expressly permitted by applicable law. Notwithstanding the foregoing, signs, advertising, or billboards used by the Declarant (or by any builder with the express written consent of the Declarant) in connection with the sale or rental of Lots, or otherwise in connection with development of or construction on the Property, shall be permissible.

3.5.8 *Dog Runs, etc.* No clotheslines, drying yards, service yards, wood piles, storage areas or chain-linked (or other) dog runs, shall be so located as to be visible from a street or from the ground level of any Lot. Dog runs shall not be located within five (5) feet from any property line, and shall be screened by approved materials so that the dog therein is not visible from neighboring Lots. "Invisible" electric fences shall generally be permitted along property lines.

3.5.9 *HVAC.* No types of refrigerating, cooling or heating apparatus shall be permitted on a roof. Further, no such apparatus shall be permitted elsewhere except when appropriately screened from view of adjacent property owners and approved by the ACC. Such apparatus should be installed in a way that any noise heard from adjacent properties is minimized. Without limiting the foregoing, conventional air conditioning units located on the ground of a Lot are permissible when approved by the ACC in accordance with the preceding sentence.

3.5.10 *Antenna.* Except as may otherwise be permitted by the ACC, no exterior radio antenna, television antenna, or other antenna, satellite dish (of greater than one (1) meter in size), or audio or visual reception device of any type shall be placed, erected or maintained, except inside a residence or otherwise concealed from view; provided, however, that any such devices may be erected or installed by the Declarant (or by any builder with the express written consent of the Declarant) in connection with the sale or rental of Lots, or otherwise in connection with development of or construction on the Property; and provided further, however, that the requirements of this subsection shall be subject to the Telecommunications Act of 1996 and applicable regulations, as amended from time to time.

3.5.11 *Fences.* Other than fences which may be constructed, installed or located by the Declarant (or by a builder with the express written approval of the Declarant) in its development or construction of Improvements in the Property, no fences shall be permitted



except with the prior written approval of the ACC. No screening or fencing shall exceed five (5) feet in height. Any fences constructed on a Lot shall be maintained by the Owners of such Lot.

3.5.12 *Wind Generators.* No wind generators shall be constructed, installed, erected or maintained.

3.5.13 *Sheds.* Sheds shall be permitted if: the shed is in accordance with the Guidelines and any rules and regulations or similar provisions; and the shed has the prior, written approval of the ACC.

3.5.14 *Astroturf.* Not allowed without prior written approval of the ACC.

3.5.15 *Bird Houses and Feeders.* ACC approval is not required if limited to one (1) foot by two (2) feet and if not more than two in number are installed on any Lot. A birdhouse or birdfeeder may not be attached to the fence.

3.5.16 *Additional Guidelines.* The Governing Board of the Metropolitan District is authorized to promulgate design and/or architectural standards, rules, regulations and/or guidelines (collectively the "Guidelines"). Any such Guidelines may be included in rules and regulations promulgated by the Metropolitan District as set forth in Section 6.1 of this Declaration ("Rules and Regulations"). These Guidelines, as may be amended from time to time, shall be enforceable by the District and ACC, and are incorporated herein by reference as if fully set forth herein.

Section 3.6 Vehicular Parking, Storage and Repairs.

3.6.1 Except as otherwise provided in subsection 3.6.2 hereof and/or in rules and regulations which may be adopted by the Governing Board or the ACC from time to time, vehicles shall be parked only in the garages and driveways, if any, serving the Lots, or in appropriate spaces or areas which may be designated by the Governing Board or the ACC from time to time, except that any vehicle may be otherwise parked as a temporary expedient for loading, delivery, or emergency. Vehicles shall be subject to such reasonable rules and regulations as the Governing Board or the ACC may adopt from time to time. The Declarant (or a builder with the express written approval of the Declarant) may designate certain parking areas for visitors or guests, and the Governing Board or the ACC may adopt reasonable rules and regulations, from time to time, governing traffic or parking areas.

3.6.2 Except as may otherwise be set forth in the rules and regulations or Guidelines, or as otherwise required by law, commercial vehicles, vehicles with commercial writing or "Logos" on the exterior of the vehicles less than 24 square inches on each side and the rear of the vehicle, vehicles primarily used or designed for commercial purposes, tractors, mobile homes, recreational vehicles, trailers (either with or without wheels), campers, camper trailers, boats and other watercraft, recreational vehicles, golf carts, boats and boat trailers, junk cars, cars that are not capable of moving on their own power, and buses shall be parked only in enclosed garages or specific areas, if any, which may be designated by the Governing Board from time to time. Additionally, Commercial Vehicles are also subject to the following restrictions:

(a) No Commercial Vehicles 1 ton or larger, or any vehicles that have mechanical devices (Crane, bucket/boom, tow truck lifts, generators, etc.) attached to them, shall be parked or stored in the Districts, except as provided in enclosed garages or specific areas (if any) designated by the Governing Board. No truck shall have fuel storage tanks on board or any hazardous material by DOT standards. These types of commercial vehicles will be asked to be removed from the Districts.

(b) Emergency vehicles (Police, Fire, (Government) or Volunteer are exempt from these restrictions. Volunteer vehicles will need documentation. Commercial Trucks/cars that do not meet these guidelines will be asked to park outside of the District's boundaries.

(c) These restrictions, however, shall not restrict trucks or commercial vehicles which are necessary for construction or for the maintenance of any portion of the Property or any Improvements located thereon, nor shall such restriction prohibit vehicles that may be otherwise parked as a temporary expedient for loading, delivery or emergency. Stored vehicles and vehicles which are inoperable or do not have current operating licenses shall not be permitted in the Property except within enclosed garages. For purposes of this Section, a vehicle shall be considered "stored" if, for example, it is up on blocks or covered with a tarpaulin and remains on blocks or so covered for seventy-two (72) consecutive hours without the prior approval of the Governing Board. This provision is intended to be broadly interpreted to cover almost any type of vehicle or structure not intended for every-day use. However, trailers, campers, motor homes, pickups, coaches, tents, or boats which can be and are stored completely within a garage, and are not used for living purposes will not be in violation of these restrictions. The fact that a vehicle of the above description may be licensed by the State of Colorado or any other state as a passenger vehicle shall in no way exempt it from this provision or the general intent of this provision.

3.6.3 In the event the Governing Board determines that a vehicle is parked or stored in violation of subsections 3.6.1 or 3.6.2 hereof, then a written notice describing said vehicle shall be personally delivered to the owner thereof (if such owner can be reasonably ascertained) or shall be conspicuously placed upon the vehicle (if the owner thereof cannot be reasonably ascertained), and if the vehicle is not removed within a reasonable time thereafter, as determined by the Governing Board in its discretion from time to time, the Governing Board shall have the right to remove or boot the vehicle at the sole expense of the owner thereof. If a vehicle is parked in a fire lane, is blocking another vehicle or access to another Owner's or occupant's Lot or dwelling, is obstructing the flow of traffic, is parked on any grassy area, or otherwise creates a hazardous condition, no notice shall be required and the vehicle may be towed or booted immediately. If a vehicle is towed or booted in accordance with this Section, neither the Governing Board, nor any agent of the Metropolitan District shall be liable to any Person for towing and storage costs or for any claim of damage as a result of the towing or booting activity. The Governing Board's right to tow or boot is in addition to, and not in limitation of, all other rights of the Governing Board, including the right to assess fines. Notwithstanding anything to the contrary in this Section, the Governing Board may elect to impose fines or use other available sanctions, rather than exercise its authority to tow or boot.

3.6.4 No activity such as, but not limited to, maintenance, repair, rebuilding, dismantling, repainting or servicing of any kind of vehicles, trailers or boats, may be performed or conducted in the Property unless it is done within completely enclosed structure(s) which screen the sight and sound of the activity from the street and from adjoining real estate and Improvements. The foregoing restriction shall not be deemed to prevent washing and polishing of any motor vehicle, boat, trailer, motor-driven cycle, or other vehicle on a Lot, together with those activities normally incidental and necessary to such washing and polishing.

Section 3.7 Nuisances. No nuisance shall be permitted which is visible within or otherwise affects any portion of the Property, nor any use, activity or practice which interferes with the peaceful enjoyment or possession and proper use of any Lot, or any portion thereof, by its residents. As used herein, the term “nuisance” shall include each violation of any of the Project Documents, but shall not include any activities of the Declarant, the Developer, or a builder with the express written consent of the Declarant. No noxious or offensive activity shall be carried on, nor shall anything be done or placed on any Lot which is or may become a nuisance or cause embarrassment, disturbance or annoyance to others.

Section 3.8 No Hazardous Activities; No Hazardous Materials or Chemicals. No activities shall be conducted which are or might be unsafe or hazardous to any Person, real estate or Improvements. Without limiting the generality of the foregoing, no firearms shall be discharged and no open fires shall be lighted or permitted except in a contained barbecue unit while attended and in use for cooking purposes or within a fireplace. Further, no hazardous materials or chemicals shall at any time be located, kept or stored except such as may be contained in household products normally kept at homes for use of the residents thereof and in such limited quantities so as to not constitute a hazard or danger to Person, real estate or Improvements.

Section 3.9 No Annoying Light, Sounds or Odors. No light shall be emitted which is unreasonably bright or causes unreasonable glare; no sound shall be emitted which is unreasonably loud or annoying; and no odor shall be permitted which is noxious or offensive to others. Further, no annoying light, sound or odor shall be permitted which may be seen, heard or smelled from any Lot. In addition to the foregoing, no electromagnetic, light or any physical emission which might interfere with aircraft, navigation, communications or navigational aids shall be permitted.

Section 3.10 Restrictions on Trash and Materials. No refuse, garbage, trash, lumber, grass, shrubs or tree clippings, plant waste, metal, bulk materials, scrap, construction material or debris of any kind shall be kept, stored, or allowed to accumulate except inside the residence on any Lot nor shall such items be deposited on a street, unless placed in a suitable, tightly-covered container that is suitably located solely for the purpose of garbage pickup. Further, no trash or materials shall be permitted to accumulate in such a manner as to be visible from any Lot. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. No garbage or trash cans or receptacles shall be maintained in an exposed or unsightly manner.

Section 3.11 Lots to be Maintained. Subject to Section 3.4 hereof, each Lot shall at all times be kept in a clean and slightly condition by the Owner(s) thereof.

Section 3.12 Leases. The term “lease,” as used herein, shall include any agreement for the leasing or rental of a Lot, or any portion thereof, and shall specifically include, without limitation, month-to-month rentals and subleases. Any Owner shall have the right to lease his Lot, or any portion thereof, as long as all leases provide that the terms of the lease and lessee’s occupancy of the leased premises shall be subject in all respects to the provisions of the Project Documents; and that any failure by the lessee to comply with any of the Project Documents, in any respect, shall be a default under the lease.

Section 3.13 Completion of Landscaping. Within the time frames as hereinafter provided, the Owner (other than the Declarant, or a builder with the express written approval of the Declarant) of each Lot shall install landscaping on all of the Lot which is not covered or enclosed by a building, fence or other structure, and shall thereafter maintain such landscaping in a neat and attractive condition, including periodic and horticulturally correct pruning, removal of weeds, and replacement of landscaping. All landscaping improvements on such Lot must be completed within one hundred eighty (180) days of occupancy of such Lot by such Owner or by special approval from the ACC if said acquisition occurs between April 1 and October 1; if said acquisition occurs during the winter months (between October 1 to February 1) all landscaping must be completed by such Owner by June 15. Landscaping plans and other required documents shall be in accordance with the Guidelines, and shall be submitted to the ACC for review and approval prior to the installation of landscaping, except where installed by the Declarant, the Developer, or a builder with the express written approval of the Declarant. If any Owner fails to comply with this Section, or with the requirements of the ACC in installation or maintenance of landscaping, the Metropolitan District or the ACC may, at the direction of the Governing Board, enter upon such Lot and install or maintain landscaping for which the Owner shall be obligated to pay.

Section 3.14 Maintenance of and Non-Interference with Grade and Drainage; Irrigation Recommendations Around Foundations and Slabs.

3.14.1 Each Owner shall maintain the grading upon his Lot (including grading around the building foundation) at the slope and pitch fixed by the final grading thereof, including landscaping and maintenance of the slopes, so as to maintain the established drainage. Each Owner agrees that he will not in any way interfere with the established drainage pattern over his Lot. In the event that it is necessary or desirable to change the established drainage over any Lot, then the Owner thereof shall submit a plan to the ACC for its review and approval, in accordance with the provisions of Article 2 of this Declaration and any such change shall also be made in accordance with all laws, regulations and resolutions of any applicable governmental entities. Further, each Owner acknowledges that any such change may affect or void any warranties. For purposes of this Section, “established drainage” is defined as the drainage which exists at the time final grading of a Lot by the Declarant, the Developer or a builder is completed.

3.14.2 The Owner of a Lot should not plant flower beds (especially annuals), vegetable gardens and other landscaping which requires regular watering, within five (5) feet of the foundation of the dwelling unit or any slab on the Lot. If evergreen shrubbery is located within five (5) feet of any foundation wall or slab, then the Owner of the Lot should water such shrubbery by “controlled hand-watering,” and should avoid excessive watering.

Further, piping and heads for sprinkler systems should not be installed within five (5) feet of foundation walls and slabs.

**ARTICLE IV**  
**RESERVATION OF DEVELOPMENT RIGHTS**

Section 4.1 Declarant and Builder Exemption. Notwithstanding anything to the contrary contained in any of the Project Documents, the Declarant (and any builder designated in writing by Declarant) shall be exempt from the Project Documents, including without limitation the requirement to obtain design approval from the ACC and any covenants or restrictions. Notwithstanding the foregoing, neither the Declarant nor any builder shall be exempt from the requirement to obtain approval from all governmental entities with jurisdiction over the Property.

Section 4.2 General Provisions. Declarant, for a period of twenty (20) years from and after the recording of this Declaration in the real estate records of Larimer County, Colorado, will have the following development rights (collectively, the “Development Rights”) with respect to all of the Property:

4.2.1 *Period of Declarant Control*. Declarant shall have the right to maintain its position as Declarant hereunder and shall have the right to exercise any and all rights, duties and powers granted herein to the District at any time during the Period of Declarant Control. Such right, duty or power shall be automatic, without any need for formal action being taken to evidence the same. Accordingly, all reference herein to the District shall, to the extent appropriate be construed to mean and refer equally to Declarant during the Period of Declarant Control. Notwithstanding anything set forth herein to the contrary, Declarant shall have all rights of an Owner hereunder.

4.2.2 *Completion of Improvements*. The right to complete or make Improvements as indicated on any Plat filed with respect to the Property.

4.2.3 *Annexation*. The right at any time, from time to time, to annex to the Property additional real estate and Improvements, including without limitation any real estate and Improvements which may previously have been withdrawn from the Property. By each such annexation, if any, the Declarant shall be deemed to have amended the term “Property” to include such annexed real estate and Improvements. Each such annexation, if any, shall be accomplished by recording of a Supplemental Declaration adding such Parcel, recorded in the real property records of the Clerk and Recorder of the County where the Property is located. Such Supplemental Declaration will expressly and unequivocally provide that the real estate and Improvements described therein shall be subject to this Declaration and all terms and provisions hereof. Any such annexation may include provisions which, as to the real estate and Improvements described therein, adds to or changes the rights, responsibilities and other requirements of this Declaration.

4.2.4 *Create Lots*. The right to create Lots on the Property.

4.2.5 *Subdivide Lots*. The right to subdivide Lots on any part of the Property, and the right to relocate boundaries between Lots.

4.2.6 *Common Areas.* The right to create additional common areas, to convert Lots into common areas, or to convert common areas into Lots, on all or any portion of the Property.

4.2.7 *Withdrawal.* The right to withdraw the Property, or any portion thereof, from this Declaration so long as the Declarant owns the portion of the Property to be withdrawn. By each such withdrawal, if any, the Declarant shall be deemed to have amended the term "Property" to exclude such withdrawn real estate and Improvements. The right to withdraw any portion(s) of the Property includes the right to withdraw one or more Lots, or other portion(s) of the Property, at different times and from time to time. Each withdrawal, if any, may be effected by the Declarant recording a withdrawal document in the office of the Clerk and Recorder of the county in which such withdrawn real estate and Improvements are located. A withdrawal as contained in this paragraph constitutes a divestiture, withdrawal, and de-annexation of the withdrawn real estate and Improvements from this Declaration so that, from and after the date of recording a withdrawal document, the real estate and Improvements so withdrawn shall not be part of the Property. If real estate is withdrawn from the Property ("Withdrawn Property"):

(a) The owner(s) of the Withdrawn Property shall have whatever easements are necessary or desirable, if any, for access, utility service, repair, maintenance and emergencies over and across the common areas within the Property.

(b) The owner(s) within the Property shall have whatever easements are necessary or desirable, if any, for access, utility service, repair, maintenance and emergencies over and across the common areas within the Withdrawn Property.

(c) Declarant shall prepare and record in the real property records of county where the applicable real estate is located whatever documents are necessary to evidence such easements. Such recorded easement(s) shall specify that the owners of the Withdrawn Property and the owners of the Property shall be obligated to pay a proportionate share of the cost of the operation and maintenance of any easements utilized by either one of them on the other's property upon such reasonable basis as the Declarant shall establish in the easement(s). Preparation and recordation by Declarant of an easement pursuant to this Section shall conclusively determine the existence, location and extent of the reciprocal easements that are necessary or desirable as contemplated by this Section.

4.2.8 *Merger.* The right to merge or consolidate the Property with another community of the same form of ownership.

4.2.9 *Sales and Construction Activities.* The right, for Declarant and any builder (but only with the express written consent of the Declarant), and their employees, agents, and contractors to perform, from time to time, and to maintain upon portions of the Lots, such activities and materials as Declarant or such builder deems necessary or incidental to the construction and sale of Lots and development and construction of Improvements. The foregoing includes, without limitation, locating, maintaining and relocating management offices, construction trailers, construction offices, signs, model units and sales offices, in such numbers, of such sizes, and at such locations as it determines in its discretion from time to time.

Construction activities shall be in compliance with and not exceed times permitted for construction as provided in the Town Code. Further, nothing contained in any of the Project Documents shall limit the rights of Declarant or a builder, with Declarant's express written approval:

(a) to excavate, cut, fill or grade any real estate (with the consent of the Owner thereof) or to construct, alter, demolish or replace any Improvements;

(b) to use any Improvements on any real estate (with the consent of the Owner thereof) as a construction, management, model home, sales or leasing office in connection with the development, construction or sale of any real estate and/or Improvements; and/or for any other activity.

(c) to seek or obtain any approvals under any of the Project Documents association.

4.2.10 *Master Association.* The right to make the Property subject to a master association.

4.2.11 *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.

4.2.12 *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 area, which may or may not be a part of the Property.

4.2.13 *Site Plan Modification/Expansion.* Nothing in this Declaration shall preclude the Declarant from modifying any Site Plan, subject to the approval of the required governmental authorities, including but not limited to the purpose of expanding the square footage of Improvements permitted to be constructed on the Lots owned by Declarant, provided that such modification does not have a material and adverse impact on any Lot not owned by Declarant, and does not violate any then-existing zoning, land use, or other requirements of the Town or County in which the Property is located or any other governmental entity having jurisdiction.

Section 4.3 Supplemental Provisions Regarding Development Rights. Without limiting the generality of the foregoing, certain of these Development Rights are explained more fully in this Article below. Further, Declarant reserves the right to amend this Declaration and any Plat in connection with the exercise of any Development Rights, and Declarant also reserves the additional rights retained for the benefit of Declarant in this Article and in other provisions of this Declaration.

Section 4.4 Utility Easements. Declarant hereby reserves for itself and its successors and assigns a general easement upon, across, over, in, and under the Property for ingress and

egress and for installation, replacement, repair and maintenance of all utilities, including, but not limited to, water, sewer, gas, telephone, and electrical, cable and other communications systems. By virtue of this easement, it shall be expressly permissible and proper for the companies providing such services to install and maintain necessary equipment, wires, circuits, and conduits under and over the Property. No water, sewer, gas, telephone, electrical, communications or other utility or service lines, systems or facilities may be installed or relocated on the surface of the Property, unless approved by the ACC. These items may be temporarily installed above ground during construction, if approved by the ACC, subject to the requirements, if any, of any governmental authority having jurisdiction over the Property.

Section 4.5 Drainage Easements. Declarant reserves for itself and its successors and assigns an easement to enter on any portion of the Property for the purpose of modifying the grade of any drainage channels on the Property to improve the drainage of water. Every Lot shall be burdened with easements for natural drainage of storm water runoff from the other portions of the Property; provided, no Person shall alter the natural drainage on any Lot so as to materially increase the drainage of water onto adjacent portions of the Property without the consent of the ACC and the Owner of the affected property.

Section 4.6 General Provision. Any Person using these general easements provided under Sections 4.4 and 4.5 above shall use its best efforts to install and maintain the easements for utilities or drainage without disturbing the uses of the Owners and the Declarant; shall prosecute its installation and maintenance activities as promptly as reasonably possible; and in the case of utility work, shall restore the surface to its original condition as soon as possible after completion of its work, and shall comply with all requirements of the Guidelines and the ACC. Should any Person furnishing a service covered by these general easements request a specific easement by separate recordable document, Declarant shall have, and is hereby given the right and authority, with the prior approval of the ACC, to grant such easement upon, across, over, or under any part or all of the Property without conflicting with the terms of this Declaration. This general easement shall in no way affect, void, extinguish, or modify any other recorded easement affecting the Property.

Section 4.7 Reservation for Construction. Declarant hereby reserves for itself and its successors and assigns a perpetual easement and right-of-way over, upon and across the Property for construction, utilities, drainage, and ingress and egress. The location of these easements and rights-of-way may be made certain by Declarant, with the prior approval of the ACC, by instruments recorded in the real estate records of Larimer County, Colorado. Declarant further reserves the right to establish from time to time, by dedication or otherwise, utility and other easements, reservations, exceptions and exclusions necessary or convenient for the development, use and operation of any other property of Declarant, as long as such action is approved by the ACC and does not hamper the enjoyment of the Property by the Owners.

Section 4.8 Rights Incidental to the Construction Easement. Declarant expressly reserves the right to perform construction work and to store materials in secure areas, in Lots owned by it and in the common areas and the future right to control such work and repairs, and the right of access thereto, until its completion. All work may be performed by Declarant without the consent or approval of any Owner or mortgagee. Declarant reserves an easement through the common areas as may be reasonably necessary for the purpose of discharging



Declarant's obligations and exercising Declarant's Development Rights reserved in this Declaration. Such easement includes the right to construct underground utility lines, pipes, wires, ducts, conduits, and other facilities across the land not designated as reserved for future development in this Declaration or on any Plat for the purpose of furnishing utility and other services to the property so reserved for future development. Declarant's reserved construction easement includes the right to grant easements to public utility companies and to convey Improvements within those easements anywhere in the common areas.

Section 4.9 Maintenance Easement. A blanket easement is hereby reserved to Declarant for the benefit of the Declarant, Declarant's Affiliates, successors and specific assigns, and granted to the Metropolitan District and any member of the Governing Board or ACC, and their respective officers, agents, employees, contractors and assigns, upon, across, over, in and under the Property and a right to make such use of the Property as may be necessary or appropriate to make repairs or to perform the duties, obligations, functions and maintenance which the Metropolitan District, the Governing Board, or the ACC are obligated or permitted to perform pursuant to the Project Documents, including the right to enter upon any Lot for the purpose of performing maintenance and repair thereon, as required by this Declaration, together with the right of access, ingress and egress necessary for such installation, maintenance, operation, repair, replacement and upkeep.

Section 4.10 Operations and Maintenance Services and Costs. The Declarant hereby authorizes the Metropolitan District to provide certain operations and maintenance services to the Property in lieu of a homeowners' association (as may be authorized or limited by law and the Service Plan for the Districts), which services may include, operation and maintenance of any District pools, clubhouse, recreation center or recreation facilities, open space, common areas, greenbelts, landscaped medians, monuments, entry features, fencing, landscape buffers and setbacks, ponds, lakes, trails, paths and walkways, non-potable irrigation water facilities and improvements, detention/retention ponds and drainage facilities, covenant enforcement and architectural/design review services, and operations and maintenance services for public facilities and improvements not otherwise dedicated to the Town in accordance with Approved Development Plans. Each Lot Owner may be charged an annual fee, for operation and maintenance services provided by the Metropolitan District as described herein. The annual fee shall subject to adjustment at the discretion of and as determined by the Governing Board of the Metropolitan District based upon the Metropolitan District's annual budget, and amendments thereto from time to time. The Board of Directors of the District shall not be liable for any omission or improper exercise by any Agent or independent contractor of any duty, power or function so delegated by written instrument executed by or on behalf of the Board of Directors of the District.

Section 4.11 Recorded Easements. In addition to all easements and rights-of-way of record at or before the recording of this Declaration, the Property, and all portions thereof, shall be subject to the easements as shown on any recorded Plat of the Property, or any portion thereof, and the easements established in this Declaration.

Section 4.12 Emergency Easement. A general easement is hereby granted to all police, sheriff, fire protection, ambulance and all other similar emergency agencies or Persons to enter upon all streets and upon the Property in the proper performance of their duties.

Section 4.13 Easements Deemed Appurtenant. Any and all conveyances made by Declarant to any Owner shall be conclusively deemed to incorporate these reservations of rights and easements, whether or not set forth in such grants. The easements and rights created herein for an Owner shall be deemed appurtenant to the Lot owned by such Owner. All conveyances and instruments affecting title to a Lot shall be deemed to grant and reserve the easements and rights of way as provided herein, as though set forth in said document in full, even though no specific reference to such easements or rights of way appear.

Section 4.14 Order of Exercise of Development Rights. The fact that Declarant may exercise one or more of Declarant's Development Rights on one portion of the Property will not operate to require Declarant to exercise a Development Right with respect to any other portion of the Property. The Declarant may exercise its Development Rights on all or any portion of the Property in whatever order of development the Declarant, in its sole discretion, determines.

Section 4.15 Rights Transferable. Any Development Rights created or reserved under this Article or elsewhere in this Declaration for the benefit of the Declarant may be transferred to any Person by an instrument describing the rights transferred and recorded in the real estate records of Larimer County, Colorado. Such instrument shall be executed by the transferor Declarant and the transferee.

## **ARTICLE V**

### **RELEASE, WAIVER AND CERTAIN DISCLOSURES**

Section 5.1 Minor Violations of Setback Restrictions. If upon the erection of any structure, it is disclosed by survey that a minor violation or infringement of setback lines has occurred, such violation or infringement shall be deemed waived by the Owners of each Lot immediately adjoining the structure which is in violation of the setback, and such waiver shall be binding upon all other Owners. However, nothing contained in this Section shall prevent the prosecution of a suit for any other violation of the Covenants or the Guidelines, if any. A "minor violation," for the purpose of this Section, is a violation of not more than one (1) foot beyond the required setback lines or lot lines. This provision shall apply only to the original structures and shall not be applicable to any alterations or repairs to, or replacements of, any of such structures. The release and waiver set forth in Section 5.6 (Waiver) shall apply to this Section.

Section 5.2 Limitation on Liability. The Declarant, the Metropolitan District, the Governing Board, the ACC, and their directors, officers, shareholders, partners, members, agents and employees, shall not be liable to any Person for any action or for any failure to act arising out of this Declaration or the Project Documents, unless the action or failure to act was not in good faith and was done or withheld with malice. The release and waiver set forth in Section 5.6 (Waiver) shall apply to this Section.

Section 5.3 No Representations, Guaranties or Warranties. No representations, guaranties or warranties of any kind, express or implied, shall be deemed to have been given or made by the Declarant, the Metropolitan District, the Governing Board, the ACC or by any of their officers, directors, shareholders, members, partners, agents or employees, in connection with any portion of the Property, or any Improvement, its physical condition, structural integrity, freedom from defects, zoning, compliance with applicable laws, fitness for intended use, or view,

or in connection with the subdivision, sale, operation, maintenance, cost of maintenance, taxes or regulation thereof, unless and except as specifically set forth in writing. The release and waiver set forth in Section 5.6 (Waiver) shall apply to this Section.

Section 5.4 Disclaimer Regarding Safety.

THE DECLARANT, THE DEVELOPER, THE METROPOLITAN DISTRICT, THE GOVERNING BOARD, THE ACC, AND THEIR OFFICERS, DIRECTORS, SHAREHOLDERS, MEMBERS, PARTNERS, AGENTS AND EMPLOYEES, HEREBY DISCLAIM ANY OBLIGATION REGARDING THE SECURITY OF ANY PERSONS OR PROPERTY WITHIN THE PROPERTY. BY ACCEPTING A DEED TO A LOT WITHIN THE PROPERTY, EACH OWNER ACKNOWLEDGES THAT THE DECLARANT, THE DEVELOPER, THE METROPOLITAN DISTRICT, THE GOVERNING BOARD, THE ACC, AND THEIR OFFICERS, DIRECTORS, SHAREHOLDERS, MEMBERS, PARTNERS, AGENTS AND EMPLOYEES, ARE OBLIGATED TO DO ONLY THOSE ACTS SPECIFICALLY ENUMERATED HEREIN OR IN THE COVENANTS AND GUIDELINES, IF ANY, AND ARE NOT OBLIGATED TO DO ANY OTHER ACTS WITH RESPECT TO THE SAFETY OR PROTECTION OF PERSONS OR PROPERTY WITHIN THE PROPERTY. THE RELEASE AND WAIVER SET FORTH IN SECTION 5.6 (WAIVER) SHALL APPLY TO THIS SECTION.

Section 5.5 Development Within and Surrounding the Property. Each Owner acknowledges that development within and surrounding the Property may continue for an indefinite period, and that plans for the density, type and location of Improvements, developments or land uses may change over time. Such development may entail changes to or alterations in the access to the Property, view of or from the Property or the Lots, surrounding land uses, open space or facilities, traffic volumes or patterns, privacy or other off-site aspects or amenities. Development also may entail noise, odors, unsightliness, dust and other inconveniences or disruptions. By accepting a deed to a Lot, each Owner accepts title to such Lot subject to the foregoing, and waives and releases any claim against the Declarant, the Developer, the Metropolitan District, the Governing Board, the ACC, and their respective officers, directors, members, partners, agents and employees, heirs, personal representatives, successors and assigns, arising out of or associated with any of the foregoing. The release and waiver set forth in Section 5.6 (Waiver) shall apply to this Section.

Section 5.6 Waiver. By acceptance of a deed to a Lot, each Owner hereby releases, waives, and discharges the Declarant, the Developer, the Metropolitan District, the Governing Board, the ACC, and their respective officers, directors, members, partners, agents and employees, heirs, personal representatives, successors and assigns, from all losses, claims, liabilities, costs, expenses, and damages, arising directly or indirectly from any hazards, disclosures or risks set forth in this Declaration, and any Guidelines, rules and regulations, and other documents now or hereafter adopted by or for the Metropolitan District, including without limitation, those contained in Sections 5.1 through 5.5 of this Declaration.

Section 5.7 Colorado Governmental Immunity Act. Notwithstanding anything to the contrary, the parties hereto understand and agree that liability for claims for injuries to persons, real estate or Improvements arising out of the negligence of the Metropolitan District, its boards,

officials, and employees, is controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, et seq. C.R.S. and §24-30-1501, et seq. C.R.S. Any provision of this Declaration, whether or not incorporated herein by reference, shall be controlled, limited and otherwise modified so as to limit any liability of the Metropolitan District to the above-cited laws.

## **ARTICLE VI** **GENERAL PROVISIONS**

Section 6.1 Rules and Regulations. Rules and regulations concerning and governing the Property may be adopted, enacted, modified, amended, repealed, and re-enacted from time to time by the Governing Board and the ACC. Any such rules and regulations may be included in Guidelines promulgated by the ACC as set forth in Section 2.4 herein. Such rules and regulations may be incorporated into this Declaration. The rules and regulations may state procedural requirements, interpretations, clarifications and applications of this Declaration and law, including without limitation, blanket requirements, blanket interpretations, and blanket applications. The Governing Board and the ACC have the authority to adopt or vary one or more rules and regulations that are different for different types of Lots, if any. Any rules and regulations that are adopted shall be in accordance with, and shall not be inconsistent with or contrary to, this Declaration.

### Section 6.2 Enforcement.

6.2.1 Enforcement of the covenants, conditions, restrictions, easements, reservations, and other provisions contained in this Declaration, as amended, may be by any proceeding at law or in equity against any Person(s) violating or attempting to violate any such provision. The Metropolitan District, the Governing Board, the ACC, and any aggrieved Owner shall have the right to institute, maintain and prosecute any such proceedings. No remedy shall be exclusive of other remedies that may be available. In any action instituted or maintained under this Declaration or any other Project Documents, the prevailing party shall recover its costs and attorney fees incurred in asserting or defending the claim, as well as any and all other sums. Failure by the Metropolitan District, the Governing Board, the ACC, or any Owner (including without limitation the Declarant) to enforce any covenant, restriction or other provision shall in no event be deemed a waiver of the right to do so thereafter.

6.2.2 Without limiting the generality of the foregoing, the Metropolitan District, the Governing Board, and/or the ACC shall have the right to send demand letters and notices, to levy and collect fines, to negotiate, settle and to take any and all other actions with respect to any violation(s) or alleged violation(s) of any of the Project Documents.

6.2.3 The decision of the Metropolitan District, the Governing Board or the ACC to pursue enforcement action in any particular case shall be left to their discretion, subject to the duty to exercise judgment and be reasonable, and further restricted in that the Metropolitan District, the Governing Board or the ACC shall not be arbitrary or capricious in taking enforcement action. A decision of the Metropolitan District, the Governing Board or the

ACC not to pursue enforcement action shall not be construed as a waiver of their right to enforce such provisions at a later time under other circumstances or preclude them from enforcing any other covenant, restriction or rule. Without limiting the generality of the foregoing, the Metropolitan District, the Governing Board or the ACC may determine that, under the circumstances of a particular case:

(a) the Metropolitan District's, the Governing Board's or the ACC's legal position is not strong enough to justify taking any or further action;

(b) the covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with applicable law; or

(c) that it is not in the Metropolitan District's, the Governing Board's or the ACC's best interest, based upon hardship, expense, limited effect on other Owners or other reasonable criteria, to pursue enforcement action.

### Section 6.3 Duration, Amendment and Supplement.

6.3.1 Each and every provision of this Declaration shall run with and bind the Property perpetually from the date of recording of this Declaration. Subject to subsection 6.3.2 of this Section, this Declaration may be amended and/or supplemented by the affirmative vote or agreement of the Owners of sixty-seven percent (67%) of the Lots. Notwithstanding the foregoing, the Metropolitan District shall not be required to comply with or enforce any such Owner adopted amendments or supplements to this Declaration until such time as the Metropolitan District receives a recorded copy of such amendment and/or supplement in compliance with Section 6.5 of this Declaration (Notices).

6.3.2 Notwithstanding anything to the contrary, until twenty (20) years after conveyance of all the Property to the first Owners thereof other than the Declarant, no amendment or supplement of this Declaration shall be effective without the prior written approval of the Declarant.

6.3.3 Notwithstanding anything to the contrary, this Declaration may be amended in whole or in part, at any time from time to time, by the Declarant without the consent or approval of any other Owner, the Metropolitan District, or any other Person, in order to comply with the requirements, standards, or guidelines of any recognized secondary mortgage markets, the department of housing and urban development, the federal housing administration, the veterans administration, the federal home loan mortgage corporation, the government national mortgage association, or the federal national mortgage association.

6.3.4 Notwithstanding anything to the contrary, this Declaration may be amended in whole or in part, at any time from time to time, by the Declarant without the consent or approval of any other Owner, the Metropolitan District, or any other Person, in order to correct any clerical, typographical or technical errors in this Declaration or to clarify any provision of this Declaration.

6.3.5 Notwithstanding anything to the contrary, this Declaration may be amended in whole or in part, at any time from time to time, by the Declarant without the consent

or approval of any other Owner, the Metropolitan District, or any other Person, in order to comply with the requirements of any applicable law in the event any provision contained herein does not so comply.

6.3.6 Subsections 6.3.2, 6.3.3, 6.3.4 and 6.3.5 of this Section shall not be amended or deleted without the prior written approval of the Declarant.

Section 6.4 Severability. All provisions of this Declaration are severable. Invalidation of any provision of this Declaration by judgment, court order or otherwise, shall in no way affect or limit any other provisions which shall remain in full force and effect.

Section 6.5 Notices. Any notice permitted or required in this Declaration shall be deemed to have been given and received upon the earlier to occur of (a) personal delivery upon the Person to whom such notice is to be given; or (b) two (2) days after deposit in the United States mail, registered or certified mail, postage prepaid, return receipt requested, addressed to the Owner at the address for such Owner's Lot.

Section 6.6 Headings. The Article, Section and subsection headings in this Declaration are inserted for convenience of reference only, do not constitute a part of this Declaration, and in no way define, describe or limit the scope or intent of this Declaration or any of the provisions hereof.

Section 6.7 Gender. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular and the use of any gender shall be applicable to all genders.

Section 6.8 Runs with the Land; Binding Upon Successors. The benefits, burdens, and all other provisions contained in this Declaration shall be covenants running with and binding upon the Property and all Improvements which are now or hereafter become a part of the Property and any Future Parcel(s). The benefits, burdens, and all other provisions contained in this Declaration shall be binding upon, and inure to the benefit of the Metropolitan District, the Declarant, the Developer, and all Owners, and upon and to their respective heirs, personal representatives, successors and assigns.

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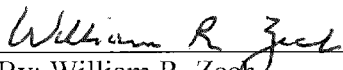
**OWNER'S CONSENT TO SUBROGATION  
OF CERTAIN REAL PROPERTY  
TO  
DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS, AND EASEMENTS  
FOR  
VANTAGE SUBDIVISION**

The Property currently is owned by ALC V-Berthoud, LLC ("Owner"). For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and as evidenced by signature below, Owner hereby consents to subject his portion of the Property to the covenants, conditions, restrictions and easements described herein, which shall run with the land and be binding on Owner, his heirs, successors, and assigns having any right, title or interest in all or any part of the portion of Property currently owned by Owner.

So acknowledged and consented by:

**ALC V-BERTHOUD, LLC,**  
A Colorado limited liability company

By: Access Land Colorado, LLC,  
A Colorado limited liability company  
Its: Manager

  
By: William R. Zech  
Its: Manager

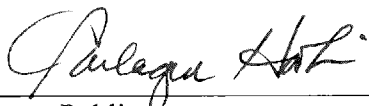
**STATE OF COLORADO**            )  
  ) ss.  
**COUNTY OF LARIMER**         )

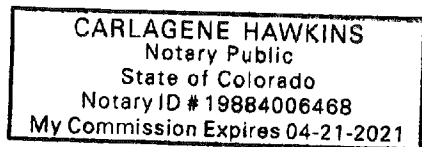
The foregoing instrument was acknowledged before me this 6th day of November 2017, by **William R. Zech**, as manager for Access Land Colorado, LLC, a Colorado limited liability company.

Witness my hand and seal of office.

My commission expires: 4/21/2021

[S E A L]

  
Notary Public





**OWNER'S CONSENT TO SUBROGATION  
OF CERTAIN REAL PROPERTY  
TO  
DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS, AND EASEMENTS  
FOR  
VANTAGE SUBDIVISION**

A portion of the Property currently is owned by \_\_\_\_\_ (“\_\_\_\_\_”). For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and as evidenced by signature below, \_\_\_\_\_ hereby consents to subject his portion of the Property to the covenants, conditions, restrictions and easements described herein, which shall run with the land and be binding on \_\_\_\_\_, his heirs, successors, and assigns having any right, title or interest in all or any part of the portion of Property currently owned by \_\_\_\_\_.

So acknowledged and consented by:

\_\_\_\_\_  
\_\_\_\_\_

**STATE OF COLORADO**                    )  
  ) ss.  
**COUNTY OF** \_\_\_\_\_                    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2017, by \_\_\_\_\_.

Witness my hand and seal of office.

My commission expires: \_\_\_\_\_

[S E A L]

\_\_\_\_\_  
Notary Public



**EXHIBIT A TO  
DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND  
EASEMENTS  
FOR BERTHOUD-HERITAGE**

**LEGAL DESCRIPTION AND MAP EXHIBITS OF  
BERTHOUD-HERITAGE METROPOLITAN DISTRICT NOS. 4, 5 10 & 11**



**DESCRIPTION: BERTHOUD-HERITAGE METRO DISTRICT No. 4**

Tracts of land located in Sections 10, 11 and 14, Township 4 North, Range 69 West of the 6th P.M., Town of Berthoud, County of Larimer, State of Colorado, and being more particularly described as follows:

Tract S, Heron Lakes Second Filing recorded at Reception No. 20160009367, Larimer County Clerk and Recorder, containing 6,953 square feet or 0.160 acres, more or less.

ALSO:

A tract of land located in the Sections 11 and 14, Township 4 North, Range 69 West of the 6th P.M., Town of Berthoud, County of Larimer, State of Colorado, and being more particularly described as follows:

Westhaven Subdivision recorded at Reception No. 20160001045, Larimer County Clerk and Recorder, containing 5,684,967 square feet or 130.509 acres, more or less;

LESS:

A tract of land being a portion of Tract A, Westhaven Subdivision, located in the Sections 11 and 14, Township 4 North, Range 69 West of the 6th P.M., Town of Berthoud, County of Larimer, State of Colorado, and being more particularly described as follows:

**BEGINNING** at the Northeast corner of Tract A, Westhaven Subdivision; thence, South 00°10'17" East, 80.81 feet; thence, South 00° 06' 54" East, 437.61 feet; thence, South 00° 16' 17" East, 440.94 feet; thence, South 89° 47' 27" West, 649.48 feet; thence, North 00° 23' 11" East, 689.41 feet; thence, North 67° 23' 50" East, 176.20 feet; thence, North 65°00'08" East, 331.36 feet; thence, North 70°07'22" East, 189.95 feet to the Point of Beginning, containing 534,186 square feet or 12.263 acres, more or less;

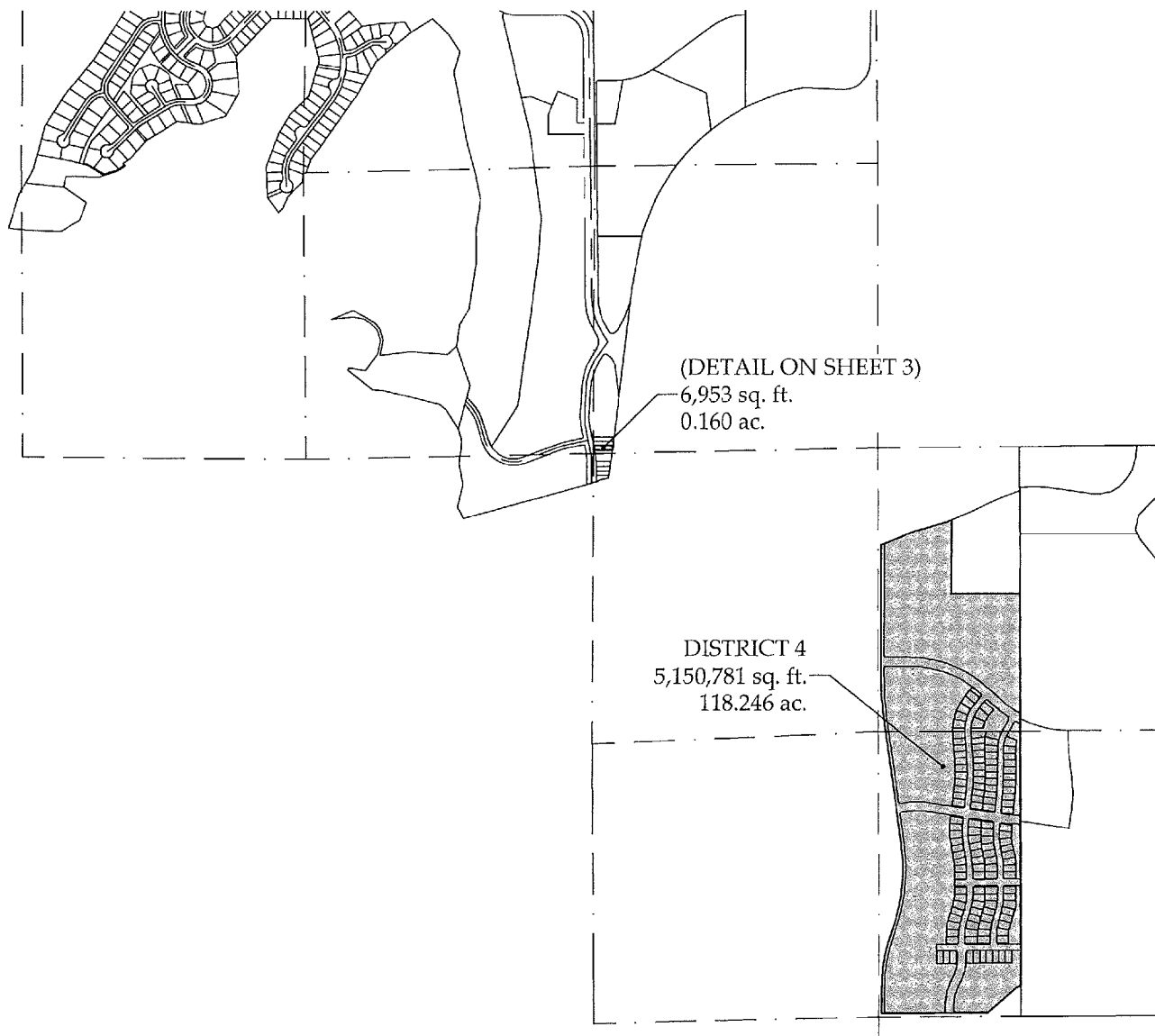
The above described tracts of land contain 5,157,734 square feet or 130.509 acres, more or less, and are subject to all easements and rights-of-way now on record or existing.

LMS

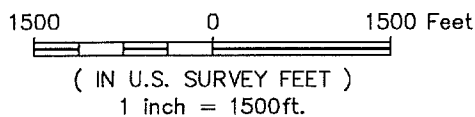
March 2, 2018

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## BERTHOUD-HERITAGE METRO DISTRICT No. 4



NOTE: THIS EXHIBIT IS NOT INTENDED TO BE A MONUMENTED LAND SURVEY. ITS SOLE PURPOSE IS AS A GRAPHIC REPRESENTATION TO AID IN THE VISUALIZATION OF THE WRITTEN PROPERTY DESCRIPTION WHICH IT ACCOMPANIES. THE WRITTEN PROPERTY DESCRIPTION SUPERCEDES THE EXHIBIT DRAWING.

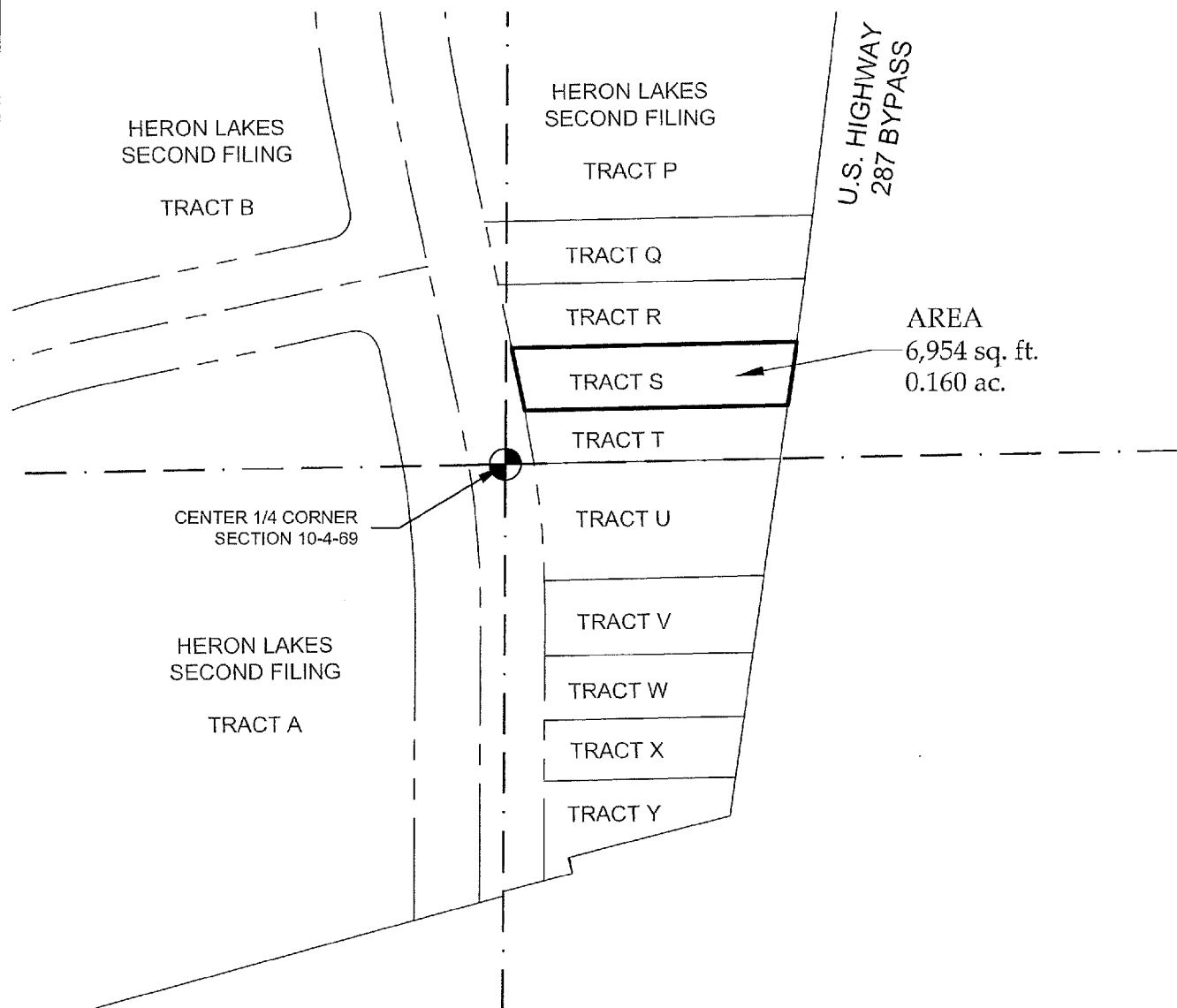


**NORTHERN  
ENGINEERING**

FORT COLLINS: 301 North Homes Street, Suite 100, 80521  
GREELEY: 820 8th Street, 80631

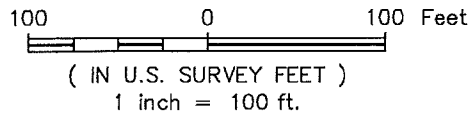
PHONE: 970.221.4158  
www.northernengineering.com

# BERTHOUD-HERITAGE METRO DISTRICT No. 4



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NOTE: THIS EXHIBIT IS NOT INTENDED TO BE A MONUMENTED LAND SURVEY. ITS SOLE PURPOSE IS AS A GRAPHIC REPRESENTATION TO AID IN THE VISUALIZATION OF THE WRITTEN PROPERTY DESCRIPTION WHICH IT ACCOMPANIES. THE WRITTEN PROPERTY DESCRIPTION SUPERCEDES THE EXHIBIT DRAWING.



**NORTHERN  
ENGINEERING**

FORT COLLINS: 301 North Homes Street, Suite 100, 80521  
GREELEY: 520 6th Street, 80631

PHONE: 970.221.4158  
www.northernengineering.com



**DESCRIPTION: BERTHOUD-HERITAGE METRO DISTRICT No. 5**

Tracts of land located in Sections 10, 11 and 14, Township 4 North, Range 69 West of the 6th P.M., Town of Berthoud, County of Larimer, State of Colorado, and being more particularly described as follows:

Tract R, Heron Lakes Second Filing recorded at Reception No. 20160009367, Larimer County Clerk and Recorder, containing 7,512 square feet or 0.172 acres, more or less.

ALSO:

A tract of land being a portion of Tract A, Westhaven Subdivision, located in the Sections 11 and 14, Township 4 North, Range 69 West of the 6th P.M., Town of Berthoud, County of Larimer, State of Colorado, and being more particularly described as follows:

**BEGINNING** at the Northeast corner of Tract A, Westhaven Subdivision; thence, South 00°10'17" East, 80.81 feet; thence, South 00° 06' 54" East, 437.61 feet; thence, South 00° 16' 17" East, 440.94 feet; thence, South 89° 47' 27" West, 649.48 feet; thence, North 00° 23' 11" East, 689.41 feet; thence, North 67° 23' 50" East, 176.20 feet; thence, North 65°00'08" East, 331.36 feet; thence, North 70°07'22" East, 189.95 feet to the Point of Beginning, containing 534,186 square feet or 12.263 acres, more or less;

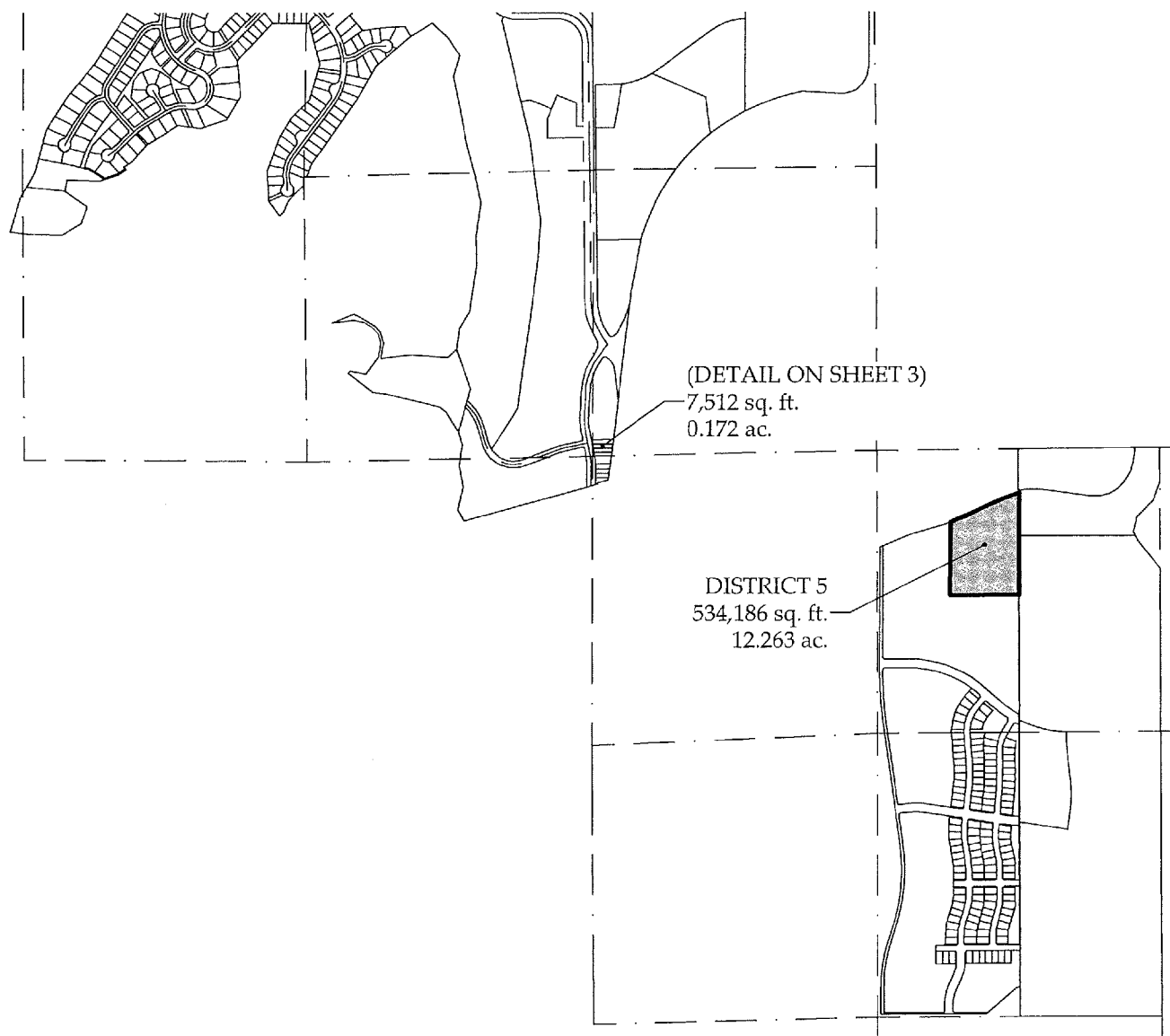
The above described tracts of land contain 541,698 square feet or 12.436 acres, more or less, and are subject to all easements and rights-of-way now on record or existing.

LMS

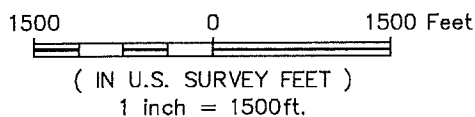
March 2, 2018

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## BERTHOUD-HERITAGE METRO DISTRICT No. 5

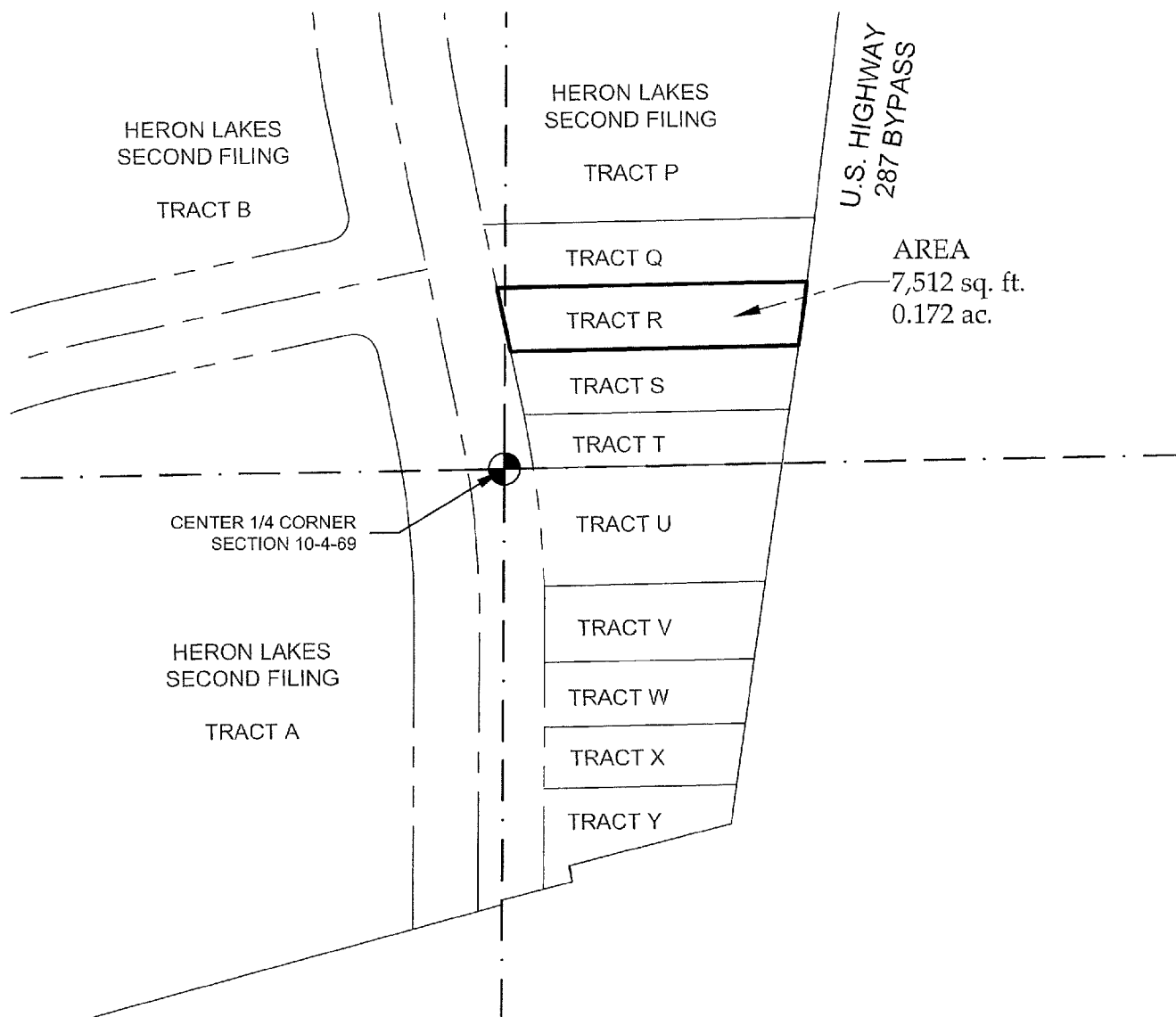


NOTE: THIS EXHIBIT IS NOT INTENDED TO BE A MONUMENTED LAND SURVEY. ITS SOLE PURPOSE IS AS A GRAPHIC REPRESENTATION TO AID IN THE VISUALIZATION OF THE WRITTEN PROPERTY DESCRIPTION WHICH IT ACCOMPANIES. THE WRITTEN PROPERTY DESCRIPTION SUPERCEDES THE EXHIBIT DRAWING.



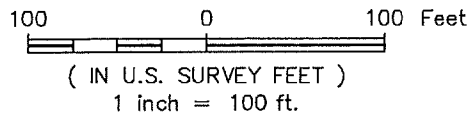


# BERTHOUD-HERITAGE METRO DISTRICT No. 5



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NOTE: THIS EXHIBIT IS NOT INTENDED TO BE A MONUMENTED LAND SURVEY. ITS SOLE PURPOSE IS AS A GRAPHIC REPRESENTATION TO AID IN THE VISUALIZATION OF THE WRITTEN PROPERTY DESCRIPTION WHICH IT ACCOMPANIES. THE WRITTEN PROPERTY DESCRIPTION SUPERCEDES THE EXHIBIT DRAWING.



**NORTHERN  
ENGINEERING**

FOOT COLLINS: 301 North Flores Street, Suite 100, 80521  
GREELEY: 870 8th Street, 80631

PHONE: 970.221.4158  
www.northernengineering.com



**DESCRIPTION: BERTHOUD-HERITAGE METRO DISTRICT No. 10**

A tract of land located in the Southwest Quarter of Section 11 and the Northwest Quarter of Section 14, Township 4 North, Range 69 West of the 6th P.M., Town of Berthoud, County of Larimer, State of Colorado, and being more particularly described as follows:

Considering the North line of the Southwest Quarter of Section 11 as bearing North 89° 30' 10" East with all bearings contained herein relative thereto;

**COMMENCING** at the West Quarter corner of Section 11; thence along the North line of the Southwest Quarter of Section 11, North 89° 30' 10" East, 1323.44 feet; thence, South 00° 17' 09" East, 380.03 feet; thence, North 70° 07' 22" East, 8.23 feet; thence, South 00° 09' 46" East, 31.87 feet; thence, South 00° 10' 17" East, 80.81 feet; thence, South 00° 06' 54" East, 322.90 feet to the **POINT OF BEGINNING**; thence, North 90° 00' 00" East, 1087.73 feet; thence, South 28° 10' 56" East, 53.69 feet; thence, South 38° 09' 56" East, 333.40 feet; thence, South 00° 19' 21" East, 1523.75 feet; thence, South 00° 30' 29" East, 2659.91 feet; thence, South 89° 43' 56" West, 1328.84 feet; thence, North 00° 25' 39" West, 290.56 feet; thence, North 89° 13' 54" East, 1.39 feet; thence, North 00° 17' 37" West, 2139.22 feet; thence, North 00° 21' 03" West, 524.87 feet; thence, North 00° 18' 35" West, 776.47 feet; thence, North 00° 16' 10" West, 653.42 feet; thence, North 00° 06' 54" West, 114.71 feet to the Point of Beginning.

The above described tract of land contains 5,903,409 square feet or 135.524 acres and are subject to all easements and rights-of-way now on record or existing.

**ALSO:**

**COMMENCING** at the Center Quarter corner of Section 11; thence along the North line of the Northeast Quarter of the Southwest Quarter of Section 11, North 89° 30' 21" East, 231.81 feet to the **POINT OF BEGINNING**; thence, South 06° 44' 13" West, 130.00 feet; thence, South 16° 19' 13" West, 100.00 feet; thence, South 30° 14' 13" West, 100.00 feet; thence, South 42° 44' 13" West, 100.00 feet; thence, South 59° 29' 13" West, 89.00 feet; thence, South 76° 14' 13" West, 89.00 feet; thence, North 89° 30' 47" West, 100.00 feet; thence, North 81° 45' 47" West, 400.00 feet; thence, North 85° 55' 47" West, 100.00 feet; thence, South 88° 44' 13" West, 100.00 feet; thence, South 82° 14' 13" West, 62.16 feet; thence, North 00° 09' 46" West, 9.99 feet; thence, South 70° 07' 22" West, 8.23 feet; thence, North 00° 17' 09" West, 380.03 feet; thence North 89° 30' 21" East, 1091.58 feet to the Point of Beginning.

The above described tract of land contains 424,482 square feet or 9.745 acres, more or less and is subject to all easements and rights-of-way now on record or existing.

**ALSO:**

A tract of land located in the Southwest Quarter of Section 3, Township 4 North, Range 69 West of the 6th P.M., Town of Berthoud, County of Larimer, State of Colorado, and being more particularly described as follows:

Lot 1, Heron Lakes Eighth Filing recorded at Reception No. 20170084194, Larimer County Clerk and Recorder

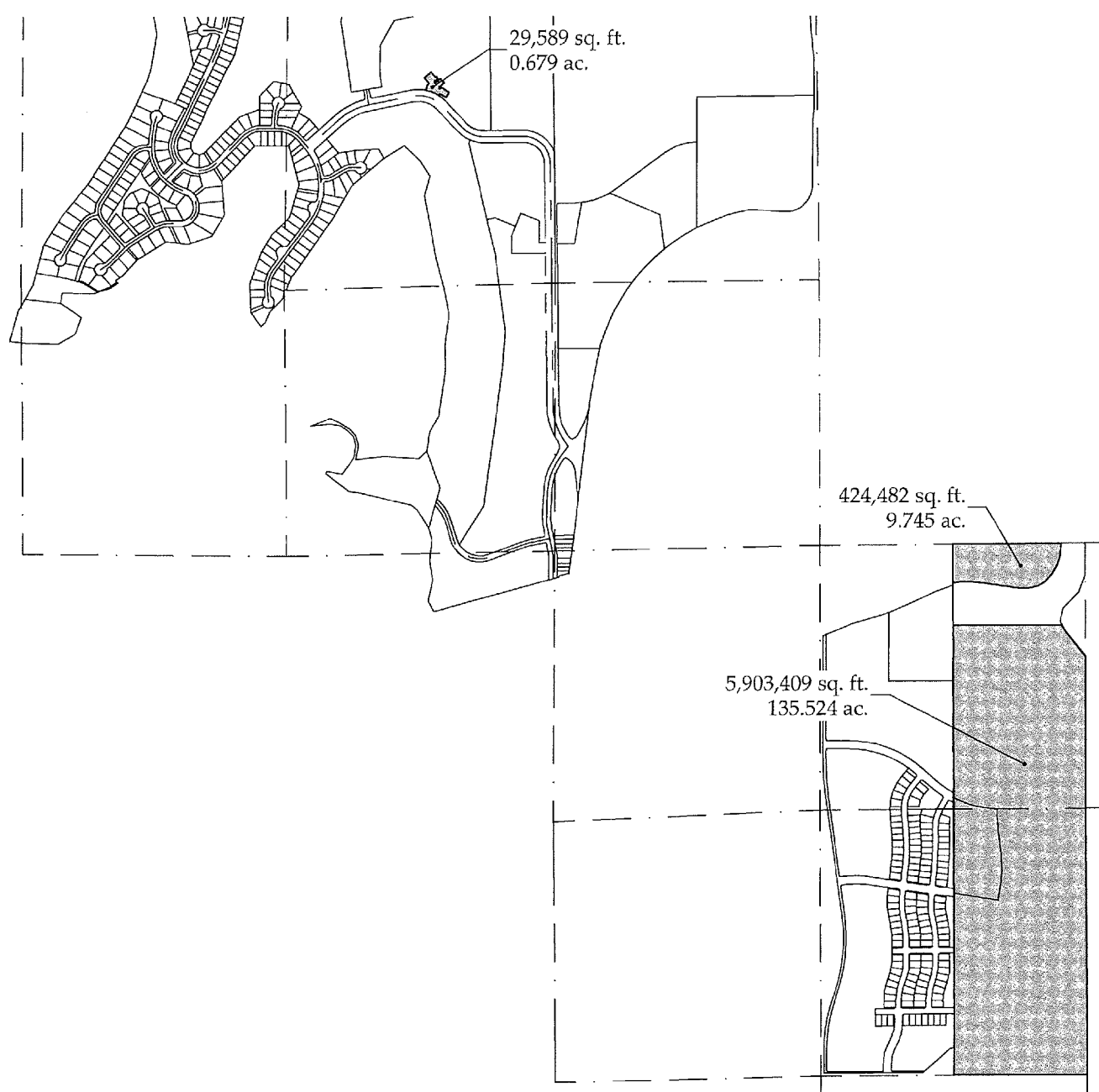
The above described tract of land contains 29,589 square feet or 0.679 acres, more or less and is subject to all easements and rights-of-way now on record or existing.

LMS

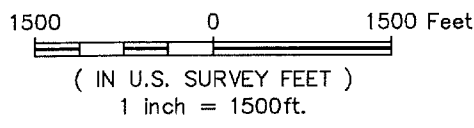
March 2, 2018

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# BERTHOUD-HERITAGE METRO DISTRICT No. 10



NOTE: THIS EXHIBIT IS NOT INTENDED TO BE A MONUMENTED LAND SURVEY. ITS SOLE PURPOSE IS AS A GRAPHIC REPRESENTATION TO AID IN THE VISUALIZATION OF THE WRITTEN PROPERTY DESCRIPTION WHICH IT ACCOMPANIES. THE WRITTEN PROPERTY DESCRIPTION SUPERCEDES THE EXHIBIT DRAWING.



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**NORTHERN**  
ENGINEERING

**DESCRIPTION: BERTHOUD-HERITAGE METRO DISTRICT No. 11**

A tract of land located in the Southwest Quarter of Section 11, Township 4 North, Range 69 West of the 6th Principal Meridian, Town of Berthoud, County of Larimer, State of Colorado, more particularly described as follows:

Considering the North line of the Northeast Quarter of the Southwest Quarter of Section 11 as bearing North 89° 30' 21" East with all bearings contained herein relative thereto;

**BEGINNING** at the Center Quarter corner of Section 11; thence, South 00° 19' 21" East, 319.50 feet; thence, South 19° 40' 04" West, 186.30 feet; thence, South 43° 53' 04" West, 221.90 feet; thence, South 12° 21' 04" West, 137.00 feet; thence, South 28° 10' 56" East, 40.31 feet; thence, North 90° 00' 00" West, 1087.73 feet; thence, North 00° 06' 54" West, 322.90 feet; thence, North 00° 10' 17" West, 80.81 feet; thence, North 00° 09' 46" West, 21.88 feet; thence, North 82° 14' 13" East, 62.16 feet; thence, North 88° 44' 13" East, 100.00 feet; thence, South 85° 55' 47" East, 100.00 feet; thence, South 81° 45' 47" East, 400.00 feet; thence, South 89° 30' 47" East, 100.00 feet; thence, North 76° 14' 13" East, 89.00 feet; thence, North 59° 29' 13" East, 89.00 feet; thence, North 42° 44' 13" East, 100.00 feet; thence, North 30° 14' 13" East, 100.00 feet; thence, North 16° 19' 13" East, 100.00 feet; thence North 06° 44' 13" East, 130.00 feet; thence, North 89° 30' 21" East, 231.81 feet to the Point of Beginning.

The above described tract of land contains 587,950 square feet or 13.497 acres, more or less and is subject to all easements and rights-of-way now on record or existing.

**ALSO:**

A tract of land located in the Southwest Quarter of Section 3, Township 4 North, Range 69 West of the 6th P.M., Town of Berthoud, County of Larimer, State of Colorado, and being more particularly described as follows:

Lot 1, Heron Lakes Eighth Filing recorded at Reception No. 20170084194, Larimer County Clerk and Recorder

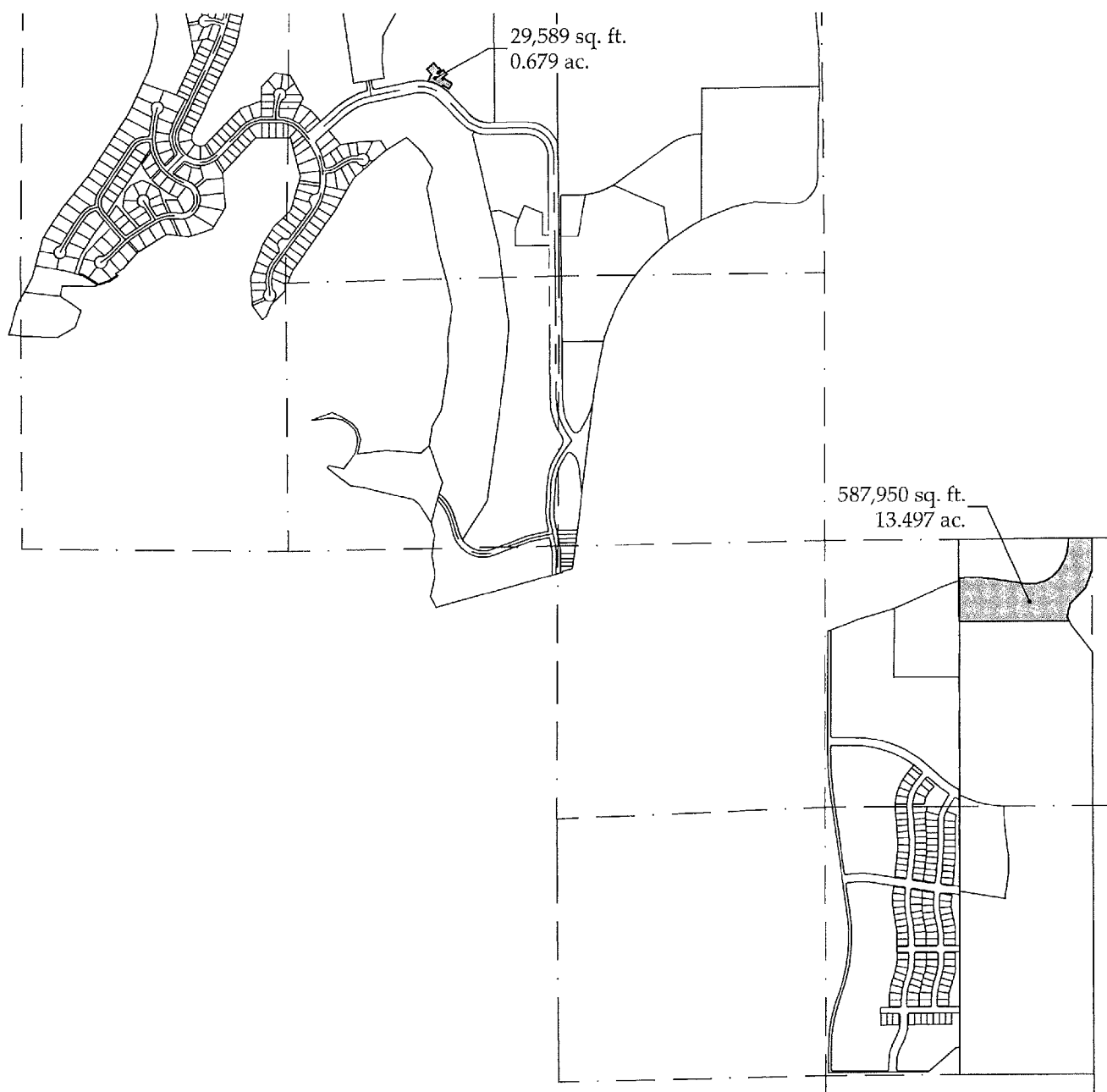
The above described tract of land contains 29,589 square feet or 0.679 acres, more or less and is subject to all easements and rights-of-way now on record or existing.

LMS

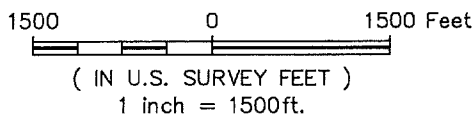
March 2, 2018

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# BERTHOUD-HERITAGE METRO DISTRICT No. 11



NOTE: THIS EXHIBIT IS NOT INTENDED TO BE A MONUMENTED LAND SURVEY. ITS SOLE PURPOSE IS AS A GRAPHIC REPRESENTATION TO AID IN THE VISUALIZATION OF THE WRITTEN PROPERTY DESCRIPTION WHICH IT ACCOMPANIES. THE WRITTEN PROPERTY DESCRIPTION SUPERCEDES THE EXHIBIT DRAWING.



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