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DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS

FOR

GREAT WESTERN INDUSTRIAL PARK

DATED 03/19/07

POGUE, CORBETTA & O'LEARY, P.C.
821 Seventeenth Street, Suite 600-B
Denver, Colorado 80202

*Rev. 2/07 - See also Rev. 1/07 and 1/06 with the
950 17th St, Ste 1600
Denver, CO 80202*





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LIST OF EXHIBITS

EXHIBIT A Description of Property

EXHIBIT B Design Guidelines

EXHIBIT C Future Parcels



**DECLARATION
OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR GREAT WESTERN INDUSTRIAL PARK**

This DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR GREAT WESTERN INDUSTRIAL PARK (the "Declaration") is made and entered into to be effective as of the 18 day of April, 2007, by BROE LAND ACQUISITIONS II, LLC, a Colorado limited liability company, BROE LAND ACQUISITIONS 10, LLC, a Colorado limited liability company, and BROE LAND ACQUISITIONS 11, LLC, a Colorado limited liability company, (collectively, the "Declarant"), upon the following terms and conditions:

RECITALS

A. Declarant is the owner of that certain real property located in Weld County, Colorado, within the Town of Windsor, 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").¹

B. 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 to be developed, which shall be known as Great Western Industrial Park (the "Development").

C. 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 Windsor and Weld County, Colorado.

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

E. Declarant shall cause the Great Western Metropolitan District No. 1 (the "District"), to be organized under the laws of the State of Colorado, which District shall, pursuant to Section 32-1-1004 (8) of the Colorado Revised Statutes, enforce the covenants, conditions, restrictions and easements, and exercise the functions of the Design Review Committee as set forth herein, except as otherwise provided herein.

F. 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 Properties, their heirs, successors, successors-in-kind, and assigns.

¹ The portion of the Property owned by Great Western Railway Company of Colorado, L.L.C. (the "Railroad") within the Development is not subject to this Declaration. Certain oil and gas wells and related collection and distribution facilities and related mineral rights exist within the Development and are not subject to this Declaration.

ARTICLE I
General

Section 1.01 Purpose of Declaration. Declarant desires to further a common and general plan for development of the Property and to protect and enhance the quality, value and desirability of all such Property. Declarant further hereby states that the District shall maintain, care for and manage the Lots and Common Areas from time to time, and perform certain functions for the benefit of the Owners as further described herein. The District may also be delegated certain responsibilities and rights under Supplemental Declarations as hereafter provided. This Declaration shall also define certain duties, powers, and rights of the Owners and Declarant.

Section 1.02 Declaration. 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 covenants, conditions, restrictions, limitations, reservations and other provisions set forth herein for the term. All of such provisions are deemed to be part of the Property, and shall be deemed to run with the land and be binding on all parties and heirs, successors, and assigns of parties having any right, title, or interest in all or any part of the Property and any Future Parcel(s).

Section 1.03 Property. The Property shall be developed and used as an industrial and/or commercial development known as "Great Western" for the purposes contemplated and permitted by this Declaration.

Section 1.04 Future Parcels. Additional property may be annexed ("Annexed Property") to the Development and made subject to this Declaration; provided that the annexation of any Annexed Property must be approved as an amendment to this Declaration subject to the requirements of Article XII.

ARTICLE II
Definitions

The following words when used in this Declaration, unless inconsistent with the context of this Declaration, shall have the following meanings:

Section 2.01 Affiliate. "**Affiliate**" shall mean any and all partnerships, ventures, limited liability companies or other entities in which the Declarant owns or either of the entities comprising the Declarant, either directly or indirectly, a controlling interest.

Section 2.02 Agent. "**Agent**" shall mean a person, firm, corporation or other entity employed or engaged as an independent contractor by the Declarant or District.

Section 2.03 Annexed Property. "**Annexed Property**" shall mean any Future Parcel(s) or portion thereof, which is annexed to this Declaration by means of a Supplemental Declaration.

Section 2.04 Board of Directors. "**Board of Directors**" or "**Board**" shall mean the Board of Directors of the Great Western Metropolitan District No. 1, its successors and assigns.

Section 2.05 Building Site. "**Building Site**" shall mean that portion of a Lot which is designated by Declarant on the Plat or other site plan for the Lot which has been approved by the Design



Review Committee, as suitable for location of a building thereon, as the same may be modified or amended in accordance with the provisions hereof.

Section 2.06 Common Area. “**Common Area(s)**” shall mean all land, improvements, and other properties not within the boundaries of a Lot, which are or have been designated on a Plat or other recorded document as such, and are set aside for use by any Owner or Occupant for the purposes indicated. All Common Areas will be maintained by the District pursuant to the provisions hereof. Common Areas shall include, but not limited to, all common drainage or storm water collection facilities and other ditches which are located on, traverse or otherwise benefit any portion of the Property, whether located within or off of the Property, all open space, Parking Areas not included within a Lot, if any, incidental and interior roadways, perimeter sidewalks and walkways, curbs, parking islands and landscaped areas, easements, facilities and structures to be used by any Owner, Occupant or Guest, and all other areas outside the boundaries of a Lot unless the same are expressly identified as something other than Common Areas. Declarant shall have the right to designate which lands, improvements and other properties are Common Areas in an instrument duly recorded in the Clerk and Recorder’s Office of Weld County, Colorado. The District shall have the right to transfer all or any part of its ownership rights and/or the maintenance responsibilities with respect to any Common Area to any quasi-public authority established for such purpose. Common Areas may also be dedicated to the Town of Windsor, Weld County, Colorado, or any other public or quasi-public authority for use by the general public.

Section 2.07 Common Area Easements. “**Common Area Easements**” shall mean and include reciprocal nonexclusive or limited use easements granted pursuant to Article IV of this Declaration, any supplement hereto, or other recorded document executed by Declarant, over the Common Areas and Limited Common Areas, or any such areas which have already been so identified or created.

Section 2.08 Completed Structures. “**Completed Structures**” shall mean and include any building or other structure for which a certificate of occupancy has been issued by the Town.

Section 2.09 Declarant. “**Declarant**” shall mean Broe Land Acquisitions II, LLC, a Colorado limited liability company, Broe Land Acquisitions 10, LLC a Colorado limited liability company, and Broe Land Acquisitions 11, LLC, a Colorado limited liability company, and their grantees, successors or assigns. 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 II.

Section 2.10 Declaration. “**Declaration**” shall mean this Declaration of Covenants, Conditions, Restrictions and Easements for Great Western, as amended and supplemented from time to time.

Section 2.11 Dedicated Easements. “**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.

Section 2.12 Default Rate. “**Default Rate**” shall mean eighteen percent (18%) per annum, or such lesser amount as may be the legal maximum rate that may be imposed according to Colorado law.

Section 2.13 Design Guidelines. “**Design 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 Design Review Committee.

Section 2.14 Design Review Committee. “**Design Review Committee**” (DRC) shall mean that certain committee created pursuant to the terms of this Declaration for the purpose of reviewing all proposed plans for initial development, modification or revision of any Improvements on a Lot.

Section 2.15 Development. “**Development**” shall mean the Great Western 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 Great Western Metropolitan District No. 5 and No. 6 and all future Annexed Property.

Section 2.16 Development Plan. “**Development Plan**” shall mean a development plan that has been approved by the Town and is recorded with the Weld County Clerk and Recorder, as to any portion of the Property.

Section 2.17 Director. “**Director**” shall mean a member of the Board of Directors of the Great Western Metropolitan District No. 1 or their successor or assign as provided in Section 2.18.

Section 2.18 District. “**District**” shall mean Great Western Metropolitan District No. 1, a quasi-municipal corporation and political subdivision of the State of Colorado, its successor or assign. Declarant shall, upon formation of the District, appoint and assign to the District all duties, obligations and responsibilities delineated in this Declaration. In the event that District is not organized or 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 District under this Declaration.

Section 2.19 District Properties. “**District Properties**” shall mean all real and personal property including any improvements, Common Areas, and Limited Common Areas, now or hereafter owned by the District, or with respect to which the 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.

Section 2.20 Drainage Easements. “**Drainage Easements**” shall mean the reciprocal, easements granted pursuant to Article IV of 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 2.21 Future Parcels. “**Future Parcels**” shall mean and refer 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. The Future Parcels currently contemplated are more particularly described on Exhibit C. Additional Future Parcels may be added to this Declaration by the Declarant other than those Future Parcels currently contemplated in Exhibit C.

Section 2.22 Governing Documents. “**Governing Documents**” shall refer to this Declaration, any Supplemental Declaration, any Rules and Regulations promulgated by the Declarant or District, and the Design Guidelines, and the Service Plan for the District, as each may be supplemented and amended from time to time, and any other recorded instruments, however denominated, that create or apply to this Development, including plats and maps, and any supplements and amendments to those instruments.



Section 2.23 Guest. “**Guest**” shall mean and include any Person who by express or implied invitation from an Owner or Occupant has the right to enter on and use all or any portion of the Property.

Section 2.24 Improvements. “**Improvements**” shall mean and include, as the context requires but not be limited, to buildings, ditch improvements, drainage, retention and detention ponds or facilities, storm sewer and other collection facilities, streets, sidewalks, trails, bridges, parking areas, fences, walls, signs, structures and any appurtenances thereto or components thereof of every type or kind, all landscaping features, any painting, signage or other finish materials on any visible structure, additions, walkways, sprinkler systems, driveways, fences, screening walls, retaining walls, stairs, landscaping, hedges, windbreaks, berming, plantings, trees, shrubs, flowers, vegetables, sod, gravel, bark, exterior light fixtures, poles, exterior tanks, utilities facilities, pipes, lines and exterior air conditioning, cooling, heating and water softening equipment, if any.

Section 2.25 Limited Common Areas. “**Limited Common Areas**” are any areas that would otherwise be included within the term **Common Areas** but are designated for the use by Owners, Occupants and Guests of more than one but fewer than all Lots. Such Areas shall be so identified on the Plat in which they are included and may also be specially dealt with in the Supplemental Declaration annexing the same to the terms of this Declaration, or other document recorded by Declarant. Any areas identified on a Plat (or other recorded document) as Common Areas or owned by the District shall be deemed to be Common Areas unless expressly identified as Limited Common Areas. Limited Common Areas shall be deemed included within the definition of Common Areas and shall be a subcategory thereof.

Section 2.26 Lot. “**Lot**” shall mean any lot, tract, or other designated parcel shown on any subdivision or resubdivision plat that includes all or any part of the Property or, with respect to those parts of the Property that are not platted, any Parcel or tract. Each part of any Lot which is resubdivided pursuant to an exemption or resubdivision process, or is transferred as a result of a “non regulated land transfer,” shall be included in the definition of Lot following each such division. Reference to a “Lot” in this Declaration shall be construed as meaning and referring to a Parcel if the particular plot of real property so referred to has not been subjected to a final plat, as the context so requires. In no event, however, shall any provision of this Declaration be construed as conferring rights on an Owner to construct Improvements or perform other work on any Lot or Parcel without such Owner’s compliance with all applicable zoning, platting, subdivision, and other building requirements of the Town.

Section 2.27 Lot Common Area. “**Lot Common Area**” shall mean those portions of a Lot intended for use by the general public or for maintenance of set backs and landscape buffers, frontage areas, public sidewalks, entry features, and utility easements designated on an approved Plat or other site plan. These Lot Common Areas are intended for access by the general public or by the District or Declarant when necessary to operate and maintain public facilities or improvements owned and operated by the District or Declarant. Lot Common Areas do not include portions of the Lot occupied by any building constructed thereon, identified as a Building Site if no Completed Structure exists, or designated for only private use by the Owner for the benefit of the Owner, its Occupants and guests. If no Building Site has been identified for a Lot upon execution of this Declaration, then at such time as when a Building Site has been defined for the Lot on an approved Plat or other site plan, the Lot Common Area shall be adjusted to exclude those portions of the Lot identified as a Building Site or identified as areas for only private use by the Owner for the benefit of the Owner, its Occupants and guests. Lot Common Area is not deemed to be included within the definition of Common Areas nor represent a subcategory thereof.

Section 2.28 Maintenance Standard. “**Maintenance Standard**” shall mean the standard of maintenance generally prevailing throughout the Development as established by the Governing



Documents. Such standards may include both objective and subjective elements. The Maintenance Standard may evolve and change as development progresses and as the needs and desires within the Properties change. Any determination or interpretation regarding the Maintenance Standard, including, without limitation, whether the Maintenance Standard has been met in a particular situation, shall be made by the Board.

Section 2.29 Maintenance Provider. “**Maintenance Provider**” shall mean the District, or other person or entity, which is obligated (or has been allowed to conditionally assume such obligation as hereafter provided), to maintain any Common Areas or other District Properties, pursuant to the terms of this Declaration.

Section 2.30 Occupant. “**Occupant**” shall mean and refer to any Person from time to time entitled to the use and occupancy of any portion of the Property under any lease, license or concession agreement or other similar agreement.

Section 2.31 Owner. “**Owner**” shall mean and refer to any Person from time to time entitled to the use and occupancy of any portion of the Property as record owner of fee simple title. In addition, unless expressly set forth to the contrary, and specifically from and after the date a Completed Structure exists on any Lot owned by Declarant, the Declarant shall be deemed to be an Owner as to such Lot.

Section 2.32 Parcel. “**Parcel**” shall mean any unplatted portion of the Property designated by Declarant in a recorded document, including a deed of conveyance from Declarant (and legally described) as a separate and distinct parcel from other land for purposes of sale, use or otherwise.

Section 2.33 Parking Area. “**Parking Area**” shall mean any portion of a Common Area which the Declarant or the District, as the case may be, from to time designates or otherwise sets aside for use of vehicular parking by Owners, Occupants, Permittees and/or Guests. The District shall have the right at all times to perform and control the upkeep, maintenance and repair of all Parking Areas within these Common Areas (as may be amended in Supplemental Declarations annexing additional property or annexing land from Future Parcels on which the same are located or on other recorded documents executed by Declarant). It is understood that a reciprocal, nonexclusive perpetual easement shall exist over some Parking Areas for the use and benefit of all Lots. The District shall have the ability to recoup from Lot Owners directly any maintenance or repair costs incurred in maintaining areas within the Lots as a result of the Lot Owners failure to properly maintain their Lots in accordance with this Declaration.

Section 2.34 Period of Declarant Control. “**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 Design Review Committee. The Period of Declarant Control will continue to run from the date of the recording of this Declaration and will end with the first to occur of the following: (i) 40 years from the date of recordation hereof; or (ii) the date which is 15 years after neither Declarant nor any of its Affiliates own any portion of any property which is encumbered by this Declaration or any supplement thereto.

Section 2.35 Permittee. “**Permittee**” shall mean and include all Occupants and their respective officers, directors, employees, agents, contractors, customers, visitors, invitees, licensees, subtenants and concessionaires.



Section 2.36 Person. “**Person**” shall mean and include individual natural persons, partnerships, firms, associations, corporations, trusts, limited liability companies, or any other form of business or government entity.

Section 2.37 Property. “**Property**” shall mean and refer to the real property as set forth in Exhibit A attached hereto and any Future Parcel(s), or portion thereof, which has been annexed hereto by a Supplemental Declaration or otherwise in the manner provided in Article XII. At such time as any Annexed Property becomes subject to this Declaration the term Property shall automatically be construed to mean and include all of the real property at that time which is covered by the terms of this Declaration.

Section 2.38 Railroad. “**Railroad**” shall mean that portion of the railroad and adjacent real property owned by Great Western Railway Company of Colorado, L.L.C., and its successors and assigns, which is located on the Property described in Exhibit A. This Declaration shall not apply to any Property owned by the Great Western Railway Company of Colorado, L.L.C., and its successors and assigns, if any.

Section 2.39 Site Plan. “**Site Plan**” shall mean any drawing with respect to all or any portion of the Property depicting thereon certain improvements contemplated or permitted by a Development Plan to be constructed on the Property.

Section 2.40 Supplemental Declaration. “**Supplemental Declaration**” shall mean a declaration 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 and restrictions contained in the Governing Documents applicable to such portion of real property, and may create Common Areas or Limited Common Areas. Any recorded document which establishes or creates Common Areas or Limited Common Areas shall be deemed to be a Supplemental Declaration for the purposes of this Declaration, whether or not it is labeled or identified as such.

Section 2.41 Successor. “**Successor**” shall mean any party or entity to whom Declarant specifically assigns any or all of its rights, obligations, or interest as Declarant, as evidenced by an assignment or deed of record executed by both Declarant and the transferee or assignee and recorded in the Office of the Clerk and Recorder for Weld County, Colorado, designating such party as a successor to the Declarant. Upon such recording, Declarant’s rights and obligations under this Declaration shall cease and terminate to the extent provided in such document.

Section 2.42 Town. “**Town**” shall mean the Town of Windsor, Colorado.

Section 2.43 Utility Easements. “**Utility Easements**” shall mean the reciprocal, nonexclusive easements for the purpose of providing utility easements granted pursuant to Article IV of 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.

ARTICLE III
Parties

Section 3.01 Declarant.

A. 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 hereby reserves the right during the Period of Declarant Control to place and operate such temporary and permanent structures, signage and advertising devices on the Property owned by Declarant or its affiliates as it deems necessary or appropriate for the purpose of conducting sales activities. Further, Declarant shall have all rights of an Owner hereunder.

B. Cessation of Declarant Control. At the end of the Period of Declarant Control, ("Cessation of Control Date"), Declarant may file a statement with the District and record said statement setting forth and confirming the Cessation of Control Date. Following the Cessation of Control Date, Declarant shall be deemed to have relinquished its position as Declarant, and its duties hereunder, and the provisions hereof relating or referring to the Declarant shall cease to be of any further force and effect. Following the Cessation of Control Date, all references herein (or in any Supplemental Declaration) to Declarant shall mean and refer to the District, acting by and through its Board. If at any time during the Period of Declarant Control, Declarant relinquishes its rights in writing (or deemed to have relinquished its rights) then the Declarant's rights shall be exercised by the District. Nothing in this Section 3.01(B) shall be deemed to limit Declarant's right to assign the rights, duties, powers, and reservations of Declarant or to limit Declarant's right to assign the rights, duties, powers, and reservations of Declarant as set forth in this Section 3.01(B) prior to the Cessation of Control Date.

C. Assignment. Any and all of the rights, powers, and reservations of the Declarant contained herein may be assigned (in whole or in part) by the Declarant to the District, its successor or assigns, or to any Person or entity which has succeeded to Declarant's interest in the Property, or any portion thereof. Such assignment and assumption shall be evidenced by a recorded document executed by both Declarant and assignee. Upon such Person evidencing its consent in writing to accept such assignment, said assignee shall, to the extent of such assignment, assume the Declarant's duties hereunder, have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by the Declarant herein. Upon such assignment, and to the extent thereof, the Declarant shall be relieved from all liabilities, obligations, and duties hereunder after the date of such assignment.

Section 3.02 District. The District shall have the right to enforce the covenants, conditions, restrictions and easements of this Declaration, provide design review services, as well as any other matters within such metropolitan district area and as authorized by the District's service plan, and the District shall exercise any right or privilege given to it expressly in this Declaration or, except to the extent limited by the terms and provisions of this Declaration, given to it by law and shall have and may exercise every other right, privilege, power and/or authority necessary or desirable to fulfill its obligations under this Declaration. The Declarant reserves the right to designate an alternate special district or Person to assume the District's rights, duties and obligations set forth herein. Such designation shall be evidenced by a recorded document executed by both the Declarant and designee.



Section 3.03 Owner.

A. At such time as any Person becomes an owner of any portion of the Property, such Person shall automatically become an "Owner" in and shall be conclusively presumed to have taken title subject to and assumed all of the obligations, duties, and burdens set forth in this Declaration, to be entitled to all the rights and benefits of this Declaration, to have joined in any restrictions of use in this Declaration, and to have automatically granted and conveyed all easements described in this Declaration to all other Owners, their successors and assigns, immediately upon acceptance of delivery of a deed granting and conveying any portion of the Property to such Owner.

B. Each Owner, now or hereafter, of any portion of the Property shall be personally liable for the performance of all covenants, obligations and undertakings herein (unless specifically excluded therefrom as provided herein), which accrue during the period of such ownership, but such accrual of liability shall terminate upon conveyance by such Owner of its ownership interest in such land provided that:

1. The transferring Owner shall not be in default in the performance of any provision of this Declaration, and all amounts which may be due and owing under this Declaration shall have been paid by that Owner as required under this Declaration; and

2. The transferring Owner shall have given notice to the District of the sale, transfer, conveyance or assignment, and shall have delivered with such notice a written assumption statement executed by the transferee stating:

- (a) the name and notice address of the transferee;
- (b) the legal description of the Lot(s) transferred; and
- (c) the transferee's acknowledgment that it is bound by this Declaration and agreeing to perform all obligations imposed under this Declaration with respect to the Lots(s) acquired.

C. Nothing contained herein to the contrary shall affect the existence, priority, validity or enforceability of any lien placed upon the transferred Lots(s) prior to receipt of the notice and statement.

ARTICLE IV
Easements

Section 4.01 Recorded Easements. The Property shall be subject to all easements, licenses, covenants and restrictions affecting the Property, any other easements of record or of use as of the date of recordation of this Declaration and those easements set forth in this Article or otherwise contemplated by this Declaration. Declarant reserves the right to record any additional easements or other instruments which it deems reasonable or necessary with respect to any portion of the Property prior to the conveyance of such portion of the Property.

Section 4.02 Easement over Common Areas. Declarant hereby reserves for itself, its successors, assignees and designees, a perpetual non-exclusive easement over the Common Areas and Limited Common Areas for ingress, egress, access, use and enjoyment, emergency access and for such other purposes as Declarant, in its sole discretion determines appropriate, together with the right to grant additional easements to such Persons and for such purposes as Declarant deems appropriate in its

reasonable discretion. Declarant shall exercise such reserved right in a manner determined by Declarant in its reasonable judgment as minimizing the adverse impact of utilization of such right upon the operations of all Owners.

Section 4.03 General Maintenance Easement. An easement is hereby reserved to Declarant for the benefit of the Declarant and its affiliates, successors and specific assigns, and granted to the District and its successors and assigns, upon, across, over, in, and under the Common Areas, Lot Common Areas, and within Utility Easements on the Property to make such use of the Property as may be necessary or appropriate to perform the duties and functions which such parties are obligated or permitted to perform pursuant to the Governing Documents. Declarant and the District shall exercise such reserved right in a manner determined by Declarant or District in its reasonable judgment as minimizing the adverse impact of utilization of such right upon the operations of all Owners.

Section 4.04 Support Easement. Each Lot is subject to a blanket easement for support and a blanket easement for the maintenance of the structures or improvements presently situated, or to be built in the future, on each such Lot and all other Lots, including, but not limited to, irrigation structures, utility structures, trails, etc., provided any utilization of such easement shall minimize the adverse impact on the use of an Owner's Lot, including any structures thereon.

Section 4.05 Emergency Access Easement. A general easement is hereby granted to all police, sheriff, fire protection, ambulance, animal control, wildlife protection and other similar emergency agencies or persons to enter upon the Property in the proper performance of their duties.

Section 4.06 Reciprocal Easement for Ingress, Egress, Interior Travel, Parking.

A. Each Owner hereby grants and conveys to each other Owner for such other Owner's respective use, and for the use of the respective Permittees in the regular and ordinary course of said other Owner's business, in common with all others entitled to use the same, perpetual, non-exclusive easements over the Limited Common Areas within its respective Lot which are designated and/or improved as a pedestrian walkway or path, driveway, entryway, roadway, public Parking Area, or other area suitable for vehicular or pedestrian movement by the general public through areas within the Lots designated by approved plat or other site plan as public roadways or access routes for the general public and over the Common Area which is so improved or designated, for the following:

1. For ingress and egress from all Lots by way of those certain public access points and interior vehicular travel lanes as shown on a Site Plan or on any individual site plan for a Lot that may be approved by the Town at the time a building permit is issued for improvements to be constructed on said Lot;

2. For the entrance of motor vehicles, bicycles, and pedestrians onto the Common Area Parking Areas and across Common Area Parking Areas, and for pedestrian access over and across all Limited Common Areas and Lot Common Areas on and over those portions thereof designated and improved as public access pedestrian paths, trails or sidewalks intended for use by the general public or as Common Areas on approved plat or other site plans;

3. For the passage of vehicles on and through such respective portions of such Lot Common Area or other Common Area as are, or are to be, set aside, maintained and authorized as public Parking Area to enable or facilitate access to and from one Lot to another Lot in accordance with final plans approved by the DRC and/or the Town;



4. For such other things as are authorized or required to be done on said Lot, set backs, landscape buffers or frontage areas or other Common Areas pursuant to this Declaration.

These reciprocal easements shall exclude those areas within a Lot designed for only private use by the Owner or Owner’s Occupants and Permittees.

B. The easements set forth above are Common Area Easements and, unless expressly provided to the contrary, are for the benefit of and are appurtenant to all portions of the Property.

Section 4.07 Reciprocal Easements for Utilities.

A. Declarant or the Owners have established, or will establish, for the benefit of the Property, certain Dedicated Easements for providing utility service to the Property, which will or have been dedicated to the appropriate entity or appear on Plats and are identified thereon as easements dedicated for use by such entities for utilities, or which may be created by separate written document (the “Dedicated Easements”).

B. Each Owner hereby grants and conveys to each other Owner a nonexclusive perpetual Utility Easement in, to, over, and under the Lot Common Area on its respective Lot, and the Declarant hereby so grants and conveys Utility Easements in, to, over and under the Common Areas, for the installation, maintenance, repair, and replacement of utilities (including but not limited to, storm sewers and drains, grading, drainage pipes, water and gas mains, telephone lines, cable facilities, electrical power lines, other pipes, ducts, conduits and facilities for utilities), to permit each Owner to connect to the Dedicated Easements, and for Declarant to locate such other utilities as are required for operation of the Common Areas. No Owner shall install, maintain, repair and replace any utilities within the Utility Easement area that would unreasonably interfere with the use of the Lot by the Owner granting such easement. The Owner that is granted a Utility Easement shall be responsible for all costs associated with the installation, maintenance, repair, and replacement of utilities within the Utility Easement and for restoration of the surface to the condition prior to such installation, maintenance, repair or replacement and for connecting to the Dedicated Easements. Declarant shall pay all costs associated with the installation, maintenance, repair, and replacement of utilities in the Common Areas.

C. Declarant reserves for itself, its successors, assignees and designees, the right to place, locate, or relocate Dedicated Easements, Utility Easements, and any and all utility and other service lines under the surface of the Property as are reasonably necessary for the operation of the development of the Property. Declarant and its successors, assignees and designees, shall be responsible for all costs associated with placing, locating or relocating Dedicated Easements and for restoring the surface of any affected Owner’s Lot to its condition prior to such placement or relocation. Declarant shall exercise such reserved right in a manner determined by Declarant in its reasonable judgment as minimizing the adverse impact of utilization of such right upon the operations of all owners.

Section 4.08 Reciprocal Easements for Drainage.

A. Declarant or the Owners have established, or may in the future establish, for the benefit of the Property, certain Drainage Easements for the purpose of constructing and maintaining storm drainage conveyance and detention facilities, including, but not limited to, inlet, outlet, and overflow structures, pipes, channels, swales, detention ponds and erosion control facilities (“Drainage Facility”) thereon. Certain Drainage Easements may have already been recorded or appear on Plats and are identified thereon as easements dedicated for such use.

B. Each Owner hereby grants and conveys to each other Owner for such other Owner's respective use in the regular and ordinary course of said other Owner's business, in common with all others entitled to use the same, a perpetual, non-exclusive Drainage Easement over the Lot Common Area on its respective Lot. No Owner to whom a Drainage Easement has been granted shall utilize said easement in such a manner that would unreasonably interfere with the use of the Lot by the Lot Owner. An Owner who uses a Drainage Easement in such a manner shall be liable to such other Lot Owner(s) for any damage arising from such use.

C. Declarant hereby reserves for itself, its successors, assignees and designees, Drainage Easements in, to, and over the Common Areas, for the installation, maintenance, repair and replacement of a Drainage Facility. Declarant shall exercise such reserved right in a manner determined by Declarant in its reasonable judgment as minimizing the adverse impact of utilization of such right upon the operations of all owners. Declarant shall pay all costs associated with the installation, maintenance, repair, and replacement of a Drainage Facility in the Common Areas.

Section 4.09 Encroachments. If construction, reconstruction or repair activities which have been approved by the DRC, or if shifting, settlement or other movements of any portion of DRC-approved Improvements, or if construction, reconstruction or repair activities by the Declarant during the Period of Declarant Control, results either in the Common Areas encroaching on a Lot or in a Lot encroaching on the Common Areas or on another Lot, and unless otherwise directed by the DRC, a valid easement not to exceed twelve (12) inches in width shall then and there exist to permit the encroachment and reasonable and necessary maintenance activities related thereto.

Section 4.10 Easements to Serve Additional Property. The Declarant and its duly authorized agents, representatives and employees, as well as its successors, assigns, licensees and mortgagees, shall have and hereby reserve a non-exclusive, perpetual easement and right-of-way on, over, across and under the Common Areas for the purposes of enjoyment, use, access and development of any Future Parcels subject to annexation under Article XII of this Declaration, whether or not such property is made subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Areas for construction of roads and for connecting and installing utilities on the additional property, for vehicular and pedestrian access, utilities, construction, location, erection, installation, storage, maintenance, repair, renovation, replacement and use of any utilities Improvements that may now or hereafter serve the Future Parcels or any portion thereof. Declarant agrees that it and its successors, assignees or designees, shall be responsible for any damage caused to the Common Areas as a result of vehicular traffic and construction activities connected with the development of such Future Parcels.

Section 4.11 Right of Entry. The District shall have the right, but not the obligation, to enter upon any Lot for emergency, security and safety reason, and to inspect for the purpose of ensuring compliance with the Governing Documents. Except in an emergency situation, entry into any portion of the Completed Structure not generally open to the public shall only be during reasonable hours and after prior written notice to the Owner or Occupant. This right of entry shall include the right of the District to enter upon a Lot to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner or Occupant fails or refuses to cure the condition within a reasonable time after written notice by the Board. The easement granted hereunder shall not create an obligation or duty on the part of the Declarant or the District to provide for the safety or security within the Property.



ARTICLE V
Maintenance

Section 5.01 Maintenance by the District.

A. The District shall cause to be maintained and kept in a first class manner, good condition and state of repair all Common Areas and any other property which the District has agreed to maintain. Any or all of the obligations set forth herein may be delegated by the District to a Maintenance Provider. However, the District shall remain ultimately responsible for performance of such work. Maintenance shall include, but not be limited to, the following:

1. Maintaining all paved surfaces of the Parking Areas within Common Areas or, by Supplemental Declaration and agreement by the District, Limited Common Areas, if any, including any drive through lanes and all improvements associated therewith, in a smooth and evenly covered condition, which maintenance work shall include, without limitation, cleaning, snow removal, sweeping, restriping, repairing and resurfacing (using surfacing material of a quality equal or superior to the original surfacing material);

2. Removing all paper, debris, filth, refuse, ice and/or snow, and of sweeping of all areas utilized for the Common Area Easements to the extent necessary to keep said areas in a clean and orderly condition;

3. Placing, keeping in repair and replacing any appropriate traffic pattern directional signs, markers, striping, and lines, repairing, maintaining and replacing all improvements within any Parking Area;

4. Maintaining any common signage and monumentation for the Property;

5. Operating, keeping in repair and replacing, when necessary, such Parking Area lighting facilities as may be reasonably required;

6. Mowing, fertilizing, grooming, irrigating, replacing, repairing automatic sprinkler systems or water lines in the Common Areas, and otherwise maintaining and replacing the landscaping upon the Common Areas;

7. Operating and maintaining any drainage facilities including detention ponds, including any repair and or replacement of said facilities; and

8. Cleaning, maintaining and repairing all sidewalks (including those situated on the perimeter or outside the boundaries of the Common Areas).

Section 5.02 Maintenance of Lot Common Area by Owner.

A. Notwithstanding any provision in this Article V to the contrary, and except as may otherwise be provided in a Supplemental Declaration, the Owner of a Lot shall, at its sole cost and expense, perform all maintenance, repair and replacement of all Lot Common Areas on its Lot. The maintenance of the Lot Common Area, and all Improvements and Completed Structures on a Lot, shall be performed in strict compliance with the Maintenance Standard. Such responsibility shall include, but is not limited to, the following:

1. Maintaining, repairing and replacing all buildings and improvements;



2. Removing all litter, trash, refuse and waste from the Owner's Lot on a regular basis;
3. Complying with all government health and police requirements;
4. Repairing of exterior damage to improvements and signage;
5. Repainting or staining of improvements and signage, as appropriate;
6. Maintaining landscaping around all buildings and improvements, set backs, landscape buffers and frontage areas including mowing, fertilizing and watering;
7. Keeping exterior lighting and maintenance facilities in proper working order; and
8. Repairing and replacing roof as necessary to maintain a neat, uniform appearance over the surface of the roof.

B. Failure of an Owner to properly care for and maintain its Lot in violation of the provisions hereof, and in compliance with the Maintenance Standard, shall permit the District to enter the Lot, after 5 days' prior written notice to Owner and Owner's failure to respond and take corrective action as required by such notice, to cure the violation or cause compliance with this provision. Owner shall reimburse the District for the costs and expense of the District in so doing; provided, however, there shall be no entry into the interior of a Completed Structure not generally accessible to the general public without the consent of the Owner thereof unless a clear emergency exists.

Section 5.03 Maintenance by the Town. The Town shall, at its sole cost and expense, operate and perform all maintenance, repair and replacement of the bike path and road right-of-way as such bike path and right-of-way are designated on the plat for the Development.

ARTICLE VI
Rights and Obligations of the District

Section 6.01 Implied Rights of the District. The District shall give and may exercise any right or privilege given to it expressly in this Declaration or, except to the extent limited by the terms and provisions of this Declaration, as provided in the Service Plan for the District or given to it by law and shall have and may exercise every other right, privilege, power and/or authority necessary or desirable to fulfill its obligations under this Declaration, including without limitation the rights to:

A. Power to Serve on the Design Review Committee. The District shall have the power to be members of the Design Review Committee and to carry out all the duties and responsibilities of said committee in accordance with Article VII of this Declaration.

B. Power to Employ Independent Contractors. The District shall have the power to hire and terminate agents and independent contractors as necessary to assist the District in performing its duties authorized by this Declaration and enforcing the terms and conditions of this Declaration. Neither the District nor the Board shall 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 District.



C. Covenant Enforcement Power and Design Review Services. The District shall have the power to enforce all covenants described herein in accordance with Article IX hereof and to provide design review services, including the adoption and amendment of the Design Guidelines.

D. Rules and Regulations. The District shall have the power to adopt, amend and enforce rules and regulations applicable within the Development and to implement the provisions of this Declaration including, but not limited to, rules and regulations to protect and preserve property and property rights. The rules and regulations shall be reasonable and shall be uniformly applied, except such rules may differentiate between reasonable categories of Lots. The District may provide for enforcement of any such rules and regulations through reasonable and uniformly applied fines and penalties or otherwise. Each Owner, lessee, guest and member of the general public shall be obligated to and shall comply with and abide by such rules and regulations and pay such fines or penalties upon failure to comply with or abide by such rules and regulations and such unpaid fines. ALL OWNERS AND OCCUPANTS OF LOTS ARE GIVEN NOTICE THAT USE OF THEIR LOTS IS LIMITED BY THE RULES AS THEY MAY BE AMENDED, EXPANDED AND OTHERWISE MODIFIED HEREUNDER. EACH OWNER, BY ACCEPTANCE OF A DEED OR ENTERING INTO A RECORDED CONTRACT OF SALE, ACKNOWLEDGES AND AGREES THAT THE USE AND ENJOYMENT AND MARKETABILITY OF ITS PROPERTY MAY BE AFFECTED BY THIS PROVISION AND THAT THE RULES MAY CHANGE FROM TIME TO TIME.

Section 6.02 Function. The District, subject to the rights of the Owners set forth in this Declaration shall be responsible for the exclusive management and control of the Common Areas and all improvements thereon (including, without limitation, furnishings and equipment related thereto and common landscaped areas), and shall keep it in good, clean, attractive, and sanitary condition, order, and repair, pursuant to the terms and conditions hereof and consistent with the Maintenance Standard. The District shall also be the primary entity responsible for enforcement of this Declaration, including the Design Guidelines of Article VII of this Declaration, and such rules regulating use of the Property as the District may adopt pursuant to this Declaration. The District shall perform its functions in accordance with the Governing Documents and Colorado law.

Section 6.03 Maintenance by the District. The District shall cause to maintain all Common Areas and any other property which the District has agreed to maintain pursuant to Section 5.01 of this Declaration.

Section 6.04 Personal Property and Real Property for Common Use. The District may acquire, hold, and dispose of tangible and intangible personal property and real property subject to such restrictions as are set forth in the Governing Documents. The Declarant may convey to the District improved or unimproved real estate located within the Properties, personal property and leasehold or other property interests; provided, the Declarant shall not convey any real estate to the District as Common Area which the Declarant knows to contain hazardous substances which would require remediation or create environmental liability for the property owner under state or federal law. The District may accept, and thereafter maintain, any property conveyed or dedicated to it by the Declarant.

Section 6.05 Indemnification. To the extent permitted by law, the District shall indemnify each director of the District against any and all expenses, including attorney's fees, reasonably incurred by or imposed upon any such director in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the Board) to which he or she may be a party by reason of being or having been a director or committee member, to the fullest extent permitted by Colorado law. Nothing in this section 6.05 shall be deemed to constitute a waiver, in whole or in part, of the District's rights under the Colorado Governmental Immunity Act, § 24-10-101, *et seq.*, C.R.S. The



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directors and members of the District shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The directors and Design Review Committee members shall have no personal liability with respect to any contract or other commitment made or action taken, in good faith, on behalf of the District. The District shall indemnify and forever hold each such directors and committee member harmless from any and all liability to others on account of any such contract, commitment or action. Any right to indemnification provided for herein shall not be exclusive of any other rights which any director or committee member, or former director or committee member may be entitled.

Section 6.06 Security. The District may, but shall not be obligated to, maintain or support certain activities within the Property designed to make the Property safer or more secure than they otherwise might be. HOWEVER, NEITHER THE DISTRICT, THE DECLARANT, NOR ANY OFFICER, DIRECTOR OR PARTNER OF THE FOREGOING SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE PROPERTY, AND NEITHER THE DISTRICT, THE DECLARANT NOR ANY OFFICER, DIRECTOR OR PARTNER OF THE FOREGOING SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN, OR FOR ANY OTHER REASON.

All Owners and Occupants of any lot and all tenants, occupants, guests and invitees of any owner, acknowledge that the District and its Board of Directors, Declarant, any successor Declarant, and DRC, do not represent or warrant that any fire protection system, burglar alarm system or other security system designed by or installed according to guidelines established by the Declarant or the DRC may not be compromised or circumvented; nor that any fire protection or burglar alarm systems or other security systems will in all cases provide the detection or protection for which the system is designed or intended. All Owners and Occupants of any Lot and all tenants, occupants, guests and invitees of any owner assume all risks for loss of damage to persons, to lots, to Completed Structures and their contents and further acknowledge that the District, its Board of Directors, the DRC, Declarant or any Successor Declarant, have made no representations or warranties, nor has any Owner, Occupant or any tenant, guest or invitee of any Owner relied upon any representations of warranties, expressed or implied, including any warranty of merchantability or fitness for any particular purpose, relative to any fire and/or burglar alarm systems or other security systems recommended or installed or any security measures undertaken within the Property.

Section 6.07 Construction Activities. All Owners are hereby placed on notice that Declarant, any affiliate of Declarant, and/or their agents, contractors, subcontractors, licensees and other designees, successors or assignees, may be, from time to time, conducting excavation, construction and other development activities within or in proximity to the Property. By the acceptance of a deed or other conveyance or mortgage, leasehold, license, easement or other interest, and by using any portion of the Property, each Owner automatically acknowledges, stipulates and agrees (a) that none of the aforesaid activities shall be deemed nuisances or noxious or offensive activities, under any applicable covenants or at law generally, (b) not to enter upon, or allow any person under their control or direction to enter upon (regardless of whether such entry is trespass or otherwise) any property within or in proximity to any portion of the Property where such activities are being conducted (even if not being actively conducted at the time of entry, such as at night or otherwise during non-working hours), (c) Declarant, any affiliate of Declarant, and all of their agents, contractors, subcontractors, licensees and other designees, successors and assignees, shall not be liable but, rather, shall be held harmless, for any and all losses and damages (compensatory, consequential, punitive or otherwise), injuries or deaths arising from or relating to the activities described herein, and (d) any purchase or use of any portion of the Property has been and will be made with full knowledge of the foregoing.



ARTICLE VII
Design Review Committee and Approval of Plan

Section 7.01 Design Review Committee and Design Guidelines. There is hereby established the Great Western Design Review Committee (the "DRC"), which will be responsible for the establishment and administration of the Great Western Design Guidelines ("Design Guidelines") to facilitate the purpose and intent of this Declaration. This Article shall not apply to the construction activities of the Declarant.

Section 7.02 Purpose and General Authority. The DRC will review, and, as appropriate, approve or disapprove proposed Lot Improvements submitted by Owners in accordance with this Declaration and enforce any design criteria, standards and guidelines set forth in the Design Guidelines, as may be amended by the DRC from time to time.

Section 7.03 Design Guidelines. The Declarant has promulgated initial Design Guidelines, attached hereto as Exhibit B, which regulate the construction, installation, alteration or removal of certain Improvements that may or may not be allowed within the Development. The Design Guidelines will be binding on all Owners and other persons governed by this Declaration. The Design Guidelines may be amended at the direction of the Board as permitted by the requirements of the Town. The Design Guidelines are intended to provide guidance to Owners regarding matters of particular concern to the DRC in considering applications hereunder. The DRC is authorized to adopt different Design Guidelines to apply to different portions of the Property within the Development at the discretion of the DRC. Each Owner acknowledges that the Design Guidelines in effect on the date of submission of his plans and specifications shall control in the event that such Design Guidelines vary from prior versions. In case of conflict between this Declaration and the Design Guidelines, the Declaration shall control.

Section 7.04 DRC Members and Organization. The DRC shall be composed of the Board of Directors of the District ("Members"); provided, however, that the Declarant reserves the right to appoint such Persons in lieu of the Board of Directors of the District in the event the District is not organized or ceases to exist.

A. Members of the DRC shall appoint a DRC Coordinator from among the Members by a majority vote of such Members. The DRC Coordinator will take charge of and conduct all meetings and will provide reasonable notice to each Member of the DRC prior to any meeting.

B. In order to formally conduct business, a majority of Members of the DRC must attend any meeting called for by the DRC Coordinator, and any action taken by the DRC shall require the affirmative vote of a majority of the Members.

C. The DRC may avail itself of other technical and professional advice and consultants, including but not limited to architects, engineers, planners, surveyors, and attorneys, as it deems appropriate. The DRC may delegate its plan review responsibilities, except final review and approval, to one or more of its members or to consultants retained by the DRC.

Section 7.05 DRC Approval. No Improvement shall be constructed, erected, installed or maintained on any Lot, nor shall any Improvement be altered, enlarged, demolished or removed in a manner that alters the exterior appearance (including paint color) of the Improvement or of the Lot on which it is situated, unless the plans and specifications therefor have been approved by the DRC or unless the Design Guidelines expressly authorize the same without requiring specific approval. In no event shall an Owner have the right to construct any Improvements on any Common Area appurtenant to its Lot without the DRC's prior written approval and otherwise complying with the terms and provisions hereof.

A. The DRC will have the right to charge a fee for each application submitted to it for review in an amount which may be established by the DRC. Such fees will be collected by the DRC to help defray the expenses of the DRC's operation. The DRC may retain the services of a third party consultant to assist the DRC in reviewing a particular application as provided in Section 7.04(C). In such event, the DRC may charge the applicant for the professional fees incurred in retaining such consultant.

B. Until receipt by the DRC of all required or requested Plans and Specifications and other information, the DRC may postpone review of any material submitted for approval. Any modification or change to an approved set of Plans and Specifications must again be submitted to the DRC for its inspection and approval. Approval in writing of all Plans and Specifications and amendments thereto must be obtained from the DRC prior to the issuance of any building permits.

C. Approval by the DRC may be conditioned upon compliance with stated changes or conditions and shall be based on, among other things, conformity and harmony of exterior design, colors, and materials with neighboring structures; visual and environmental impact; ecological compatibility; relation of the proposed Improvements to the natural topography; relation of grade and finished ground elevation of the structure to that of neighboring structures and natural features of the Property; conformity of the plans and specifications to regulatory documents adopted by the Town; and conformity of the Site Plan and the Plans and Specifications to the purpose, general plan, and intent of this Declaration.

D. Approval of proposals, plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar proposals, plans and specifications, drawings or other matters subsequently or additionally submitted for approval. The Design Guidelines are not the exclusive basis for decisions of the DRC, and compliance with the Design Guidelines does not guarantee approval of any application. The DRC is empowered in its discretion to grant variances from the requirements of the Design Guidelines in accordance with Section 7.08 herein when such requirements are not necessary or appropriate in specific situations and may permit compliance with different or alternative requirements. Upon written request of any Owner, the DRC may waive any of the requirements for obtaining approval of Plans and Specifications upon good cause shown. Any waiver issued by the DRC pursuant to this Section must be in writing and also must be approved by the Town.

E. Any disapproval shall set forth the reason or reasons for such disapproval. If the DRC disapproves any part of the Plans and Specifications submitted (or approves the same subject to conditions), the Owner shall revise its Plans and Specifications to incorporate such changes and shall deliver the required number of complete sets of revised Plans and Specifications (reflecting responses to all items) to the DRC. The Owner may, within ten (10) days after the DRC's disapproval, make a written request for a hearing before the DRC to reconsider the Plans and Specifications. The DRC shall notify the Owner in writing of its decision within ten (10) days after the hearing. The decision of the DRC shall be final and binding upon the Owner.

F. After the plans and specifications therefor have been approved, all Improvements shall be constructed, installed, maintained, altered, enlarged, demolished or removed strictly in accordance with the approved plans and specifications. An Owner shall secure the approval of the DRC to any change or revision in approved Plans and Specifications in the manner provided in this Article for approval of Plans and Specifications.

G. Upon commencing the construction, installation, alteration, enlargement, demolition or removal of an Improvement, all of the work related thereto shall be carried on with reasonable diligence and dispatched in accordance with the construction schedule, if any, approved by the

DRC. Following completion of the Improvements, at its discretion the DRC may schedule a walk through with the Owner (or its representative) to confirm compliance with the Plans as approved. Any discrepancies, omissions or incomplete work noted on such walk through shall be immediately remedied. Failure to immediately remedy such identified items shall constitute a default by the Owner hereunder. Such default may result in the Town not releasing a certificate of occupancy and/or other related permits regarding said matters of default. All work related to any Improvements must be approved by the Town, in addition to the approval requirements set forth herein.

H. If construction under approved Plans and Specifications does not commence within 12 months of such approval, such approval shall be deemed withdrawn, and it shall be necessary for the Owner to re-submit the plans and specifications for reconsideration prior to commencement of any construction.

Section 7.06 Limitation of Liability. The approval by the DRC of any plans and specifications and any requirement by the DRC that the plans and specifications be modified shall not constitute a warranty or representation by the DRC or the Declarant of the adequacy, technical sufficiency, code compliance or safety of the Improvements described in such plans, as the same may be modified; and the Declarant and the DRC shall have no liability whatsoever for the failure of the plans and specifications or the Improvements to comply with applicable building codes, laws and ordinances or to comply with sound engineering, architectural and construction practices. Neither the Declarant nor the DRC nor any committee or panelist of any of the foregoing shall be held liable for any injury, damage or loss arising out of the manner or quality of approved construction or modification to any Lot. Neither the Declarant nor the DRC shall bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, the adequacy of soils or drainage or compliance with building codes and other governmental requirements. In addition, in no event shall the Declarant or the DRC have any liability whatsoever to any person for any costs or damages (consequential or otherwise) that may be incurred or suffered on account of the DRC's approval, disapproval or conditional approval of any plans and specifications. The standards and procedures established pursuant to this Article are intended to provide a mechanism for maintaining and enhancing the overall aesthetics of the Development only, and shall not create any duty to any person.

Section 7.07 Enforcement. Declarant or the DRC, or the representatives of each, shall have the right, during reasonable hours and after 72 hours notice to the Owner, to enter upon any Lot to inspect for the purpose of ascertaining whether any Improvement is in violation of this Article. Any Improvement placed or made in violation of this Article shall be deemed to be nonconforming. Upon written request from the DRC, the Owner shall, at his own cost and expense, remove such Improvement and restore the Lot to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to remove and restore as required, any authorized agent of Declarant or the DRC shall have the right to enter the Lot, remove the violation and restore the Lot to substantially the same condition as previously existed. Entry for such purposes and in compliance with this Subsection shall not constitute a trespass. In addition to the foregoing, the District and any Declarant shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Article and the decisions of the DRC. All costs of enforcement, together with attorney's fees and interest at the lesser rate of 18% per annum or the maximum rate then allowed by law, may be assessed against the Owner.

Section 7.08 Variances. The DRC may authorize variances from compliance with the Design Guidelines and any required procedures when extraordinary circumstances such as topography, natural obstructions, hardship or aesthetic or environmental considerations so require, or when architectural merit warrants such variance. No Owner shall have any right to obtain a variance. Such variances shall not, however, (i) be effective unless in writing; or (ii) estop the DRC from denying a variance in other

circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not constitute hardships.

Section 7.09 Contractor Performance. Neither the District, the DRC nor the Declarant or any affiliate of Declarant, is a co-venturer, partner, agent, employer, stockholder or affiliate of any kind of or with any contractor engaged to construct, in whole or in part, any Completed Structure, nor is any such contractor an agent of Declarant or an affiliate of Declarant. Therefore, the District, DRC, the Declarant and affiliates of Declarant shall not be responsible for, or guarantors of, performance by any such contractor of all or any of its obligations to any Owner pursuant to any contracts for the sale or construction of a Completed Structure or otherwise. Neither the District, the DRC, or the Declarant nor any affiliates of Declarant has made, or have made, any warranty or representation with respect to performance by any such contractor under any contract or otherwise. Owner acknowledges and agrees that Owner has not, in entering into any contract with a contractor, relied upon any representations or recommendations, oral or written, of the District, the DRC, the Declarant or any affiliate of Declarant or any salesperson with regard to the structural integrity or soundness of approved construction or modifications, for ensuring the effectiveness of any drainage plans, nor for ensuring compliance with building codes and other governmental requirements. Neither the District, the DRC, nor the Declarant or any affiliate of Declarant, shall be held liable for any injury, damages or loss arising out of the manner or quality of approved construction on or modifications to any Lot, nor for any defect in any structure constructed from approved Plans and Specifications.

ARTICLE VIII **Operation and Use Restrictions**

Section 8.01 General Restriction Applicable to Property. All Property shall be held, used and enjoyed subject to the limitations and restrictions set forth herein, and subject to the exemptions of Declarant set forth in this Declaration. Nothing shall be done or kept on the Property which will increase the rate of insurance on any Common Area, without the written approval of the DRC, nor shall anything be done or kept on or at the Property which would result in the cancellation of insurance on any Common Area or which would be in violation of any law. The strict application of the limitations and restrictions in any specific case may be modified or waived in whole or in part by the DRC if such strict application would be unreasonable or unduly harsh under the circumstances. Any such modification or waiver must be in writing or be contained in written guidelines or rules promulgated by the DRC or the District.

Section 8.02 Uses. During the term of this Declaration, the Property shall only be used for purposes consistent with the most recently approved general development plan for the Property, which includes, without limitation, heavy industrial use, or other similar or consistent uses as may be approved by the DRC, from time to time. No portion of the Property is to be used for any residential purposes which would fall under the coverage of the Colorado Common Interest Ownership Act. Notwithstanding anything set forth herein to the contrary, the DRC may, with the written consent of Declarant and so long as Declarant owns any Future Parcels, authorize any other use of the Future Parcels which is not otherwise precluded by law. Further, if Declarant places any additional restrictions on use in a Supplemental Declaration or in a deed or lease from Declarant to an Owner, such restriction which is more restrictive in use shall supersede any restriction contained herein. Any such deed restriction may be amended or modified by a written agreement of the Declarant and the Owner of said Site. Declarant shall have the right to designate the use and operation of the Common Areas. Notwithstanding the foregoing, no use, effect or operation will be made, conducted or permitted on or with respect to all or any part of the Property which use, effect or operation is obnoxious to the development, including the following:

- (a) any public or private nuisance;



(b) any noise or sound that is objectionable due to intermittence, beat, frequency, shrillness or loudness;

(c) any noxious or offensive odor aside from and beyond what is reasonably anticipated for heavy industrial use, or other similar or consistent uses as may be approved by the DRC, from time to time;

(d) any noxious, toxic, caustic or corrosive fuel or gas, except reasonable amounts thereof contained in safe and lawful containers as necessary for, or incidental to, activities permitted hereunder;

(e) any dust, dirt or ash in excessive quantities or materials handling without proper dust control;

(f) any dumping, disposal, incineration or reduction of garbage or refuse;

(g) any removal or extraction of minerals, oil, gas or other subsurface substances, or any drilling or other work related to such removal or extraction, other than as necessary and normal excavation in connection with construction of improvements and other than slant or other methods of drilling designed to leave the surface of the Parcels undisturbed except as provided in section 13.09 below;

(h) any uses other than specifically enumerated above or consistent, in the opinion of the DRC therewith;

(i) allowing construction suppliers and contractors to clean their equipment other than at a location designated for that purpose by the DRC;

(j) removal of any rock, plant material, top soil or similar items from any property of others;

(k) using of surface water for construction;

(l) careless disposal of cigarettes and other flammable materials;

(m) any unreasonable or inappropriate discharge of process waters and other fluids into common drainage systems that is not consistent, in the opinion of the DRC, with the appropriate use of the site;

(n) capturing, trapping, harassing or killing of wildlife within the Property, except in circumstances posing an imminent threat to the safety of persons using the Property and except as may be permitted by law;

(o) any activity which materially disturbs, threatens or destroys the vegetation, wildlife, wetlands, or air quality within the Property or which uses excessive amounts of water or which results in unreasonable levels of sound or light pollution;



(p) any parking or waiting of trucks, vehicles, or other means of transporting goods or materials in common areas or public access roads that impedes or unreasonably delays access along roads or thoroughfares; or

(q) Except as provided elsewhere herein and subject to compliance with the applicable provisions hereof, the prohibitions set forth in subparagraphs above shall not apply to any incidental consequences of work of construction, improvement or maintenance of any part of the Property.

Section 8.03 No Further Subdivision. No Owner may further subdivide any Lot unless such Owner complies with all applicable laws, rules, regulations and orders of all governmental authorities with jurisdiction and unless such Owner obtains the prior approval of the District. In applying for such approval, the Owner must provide copies of all maps, plats and other documentation required to be submitted to any governmental authority to obtain such approval. Such approval shall be granted or denied based upon a determination by the District as to the effect on the interests of the other Owners of such subdivision. The foregoing shall in no event preclude Declarant from further subdividing any Lot or Parcel which it owns or creating any easements or other partial interests without the approval of the District so long as the subdivision or conveyance is in accordance with this Declaration and in compliance with all applicable laws. However, a Lot, including improvements, may be transferred or sold to more than one person to be held as tenants-in-common or joint tenants without the approval of the District. Further such approval is not required for the granting of any mortgage, deed of trust, foreclosure of a deed of trust, deed in lieu of foreclosure, or lease on a Lot or for the transfer of title by way of a deed in lieu of foreclosure thereof.

Section 8.04 Employee Parking. Employees of an Owner or Owner's Occupant shall be permitted to park vehicles only on those parts of the Common Area designated as Parking Areas by the Declarant or District or on those parts of the Lot which are designated by the Owner or Owner's occupant for employee parking, regardless of the fact that such areas are within a privately owned Lot. Each Owner shall make all reasonable efforts to assure that all employees comply with this requirement and park within the Lot Owner's parking areas or Common Area Parking Areas. Nothing herein shall prohibit the District from adopting rules and regulations regarding parking of any Permittees, including the imposition of monetary fines or penalties for excessive parking use. No Owner shall have any liability to any other Owner based on excessive use of parking facilities by a Permittee.

Section 8.05 No Interference With Railroad. No Owner shall enter upon, cross, or have ingress to and egress from any portion of the Railroad located on the Property, except at designated Railroad crossings. No Owner shall construct any Improvement within right-of-way of the Railroad or construct, install, use, or maintain any Improvement that would interfere with the usage of the Railroad.

Section 8.06 No Hazardous Activities; No Hazardous Substances.

A. No activities shall be conducted on any Lot or within Improvements constructed on any Lot which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon any Lot and no open fires shall be lighted or permitted on any Lot except in a contained barbecue unit or outdoor gas fire pit, while attended.

B. Each Owner shall comply with all obligations imposed by applicable law, rules, regulations, or requirements of any governmental authority upon the generation and storage of Hazardous Substances, to prohibit any generation, storage, or disposal of Hazardous Substances on the Property except as permitted by law, to deliver promptly to Declarant and District true and complete copies of all notices received from any governmental authority with respect to the generation, storage or disposal of

Hazardous Substances, and to promptly notify Declarant of any spills or accidents involving a Hazardous Substance. "Hazardous Substances" shall mean (i) "hazardous substances" as defined in the Comprehensive Environmental Response, Compensation and Liability Act, as amended, (ii) "PCBs" as defined in 40 C.F.R. 761, *et seq.*, or analogous regulations promulgated under the Toxic Substances Control Act, as amended, (iii) "asbestos" as defined in 29 C.F.R. 1910.1001, *et seq.*, or analogous regulations promulgated under the Occupational Safety and Health Act of 1970, as amended, (iv) oil and petroleum based products, (v) radioactive material or waste, (vi) biological and other medical products and waste material, (vii) "hazardous wastes" as defined in Resource Conservation and Recovery Act, as amended and all regulations promulgated thereunder and (viii) hazardous air pollutants as defined in the Clean Air Act, 42 U.S.C. §7401 *et seq.* and all regulations promulgated thereunder; as such acts may be amended from time to time, and as such terms may be expanded by additional legislation of a general nature.

C. Each Owner shall be responsible for, and shall promptly commence and complete, the remediation and clean up of any Hazardous Substances which it has caused to be generated, stored, spilled, or otherwise placed on any portion of the Property. Each Owner shall immediately notify the District in writing of any act or omission by an Owner or its agent or subcontractor which may result in any remediation or clean up of Hazardous Substances as provided in the foregoing sentence. Further, each Owner shall provide the District with copies of all reports, analysis and writings of any kind or nature relating to the foregoing.

Section 8.07 Restrictions on Unsightly Articles. Unsightly articles shall not be permitted to remain on any Lot or other portion of the Property if visible from adjoining property or public or private roadways. This general statement is not limited by the specific references in the following sentence. Trailers, mobile homes, recreation vehicles, graders, trucks (other than pickups), boats, tractors, buses, garden and maintenance equipment, and all other unused equipment, shall be kept at all times in an enclosed structure or otherwise fully screened from view, except when in use, and the same shall not be kept on the Property for a period of time longer than 72 hours without the consent of the DRC. Further, repair or maintenance work, other than minor emergency repairs, on all moveable equipment and vehicles shall be done in an enclosed garage or other structure. Refuse, garbage and trash shall at all times be kept in covered containers within an enclosed structure or appropriately screened from view.

Section 8.08 Landscaping, Weed and Pest Control. Lot(s) shall be suitably landscaped with living ground covers, grass, shrubs and trees as soon as reasonably possible following construction of Improvements, in accordance with the Town of Windsor standards and in accordance with plans submitted to and approved by the DRC as set forth above. All ground covers, grass, shrubs and trees shall be kept and maintained in an attractive healthy, live and growing condition. All dead or diseased plant material shall be promptly removed and replaced with suitable replacement landscaping. The Design Guidelines may include a list of plant species restricted from use on the Property. All weed and other pest control activities shall be conducted in accordance with the Maintenance Standard. Chemicals shall not be applied outdoors without the approval of the DRC and notice to neighboring Owners. Use of chemicals for weed and pest control shall be consistent with current DRC rules and regulations. No overspray, runoff or other discharge of chemicals to adjacent properties or Common Areas is permitted. Each Owner shall be responsible for appropriate pest control in accordance with the Design Guidelines.

Section 8.09 Lighting. Lots shall be lit in accordance with the Design Guidelines and approval of the DRC. Lighting shall be designed, installed, and operated to provide safe and adequate views without creating a nuisance glare or hazard to adjacent properties or Common Areas. Lighting shall be directed to the ground and shall be subject to the criteria and standards set forth in the Design Guidelines.



Section 8.10 No Temporary Structures. Except for construction trailers used during active construction of Improvements on any Lot, no tent, shack, temporary structure or temporary building shall be placed upon any property within the Property except with the prior written consent of the DRC obtained in each instance. Location and placement of such construction trailers or structures shall be submitted to the DRC at such time as plans for any Improvements are submitted. Subject to reasonable standards uniformly enforced, no construction activities shall be considered to constitute a nuisance or a violation of this Declaration by reason of noise, dust, presence of vehicle or construction machinery, posting or signs as required by law or otherwise permitted by the Design Guidelines, or similar activities, so long as such construction is: (i) pursued to completion with reasonable diligence; (ii) in compliance with all applicable, federal, state and local laws and ordinances and any associated rules and regulations; and (iii) conforms to a Best Management Practices for construction in the area. In the event of any dispute, a temporary waiver of the applicable provision may be granted by the DRC for a reasonable limited period for such construction. All streets, driveways and other access ways shall be swept daily and kept clean and free of all dirt and debris. No construction activities shall be carried on in such a way as to create a health hazard or unreasonably interfere with the use by any Owner of its Lot.

Section 8.11 Fencing. Per approved DRC Plans, Owner or Declarant may construct certain entryways, fences, pillars or walls on any Lot and the Common Areas. No Owner shall modify, repair, replace, paint or otherwise obstruct any such entryways, fence, fence pillars or walls without DRC Approval. No fence or other barrier which would in any way prevent or obstruct the use of the Common Area Easements (including, without limitation, those that would interfere with the passage of vehicles across Lot or other Common Areas, for the purposes herein permitted), shall be erected or permitted by Owner within or across Lot or other Common Areas, except such barricades as are reasonably necessary in connection with the construction, reconstruction or repair and maintenance of improvements. In no event may any fence or other barrier be constructed placed or permitted within or across any Lot Common Area which would in any way impede or obstruct storm drainage flows within the designated storm drainage conveyance and detention facilities.

Section 8.12 Restrictions on Antennae, Pipes and Utility Lines. Pipes for water, gas, sewer, drainage or other purposes and wires, poles, antennae and other facilities for the transmission or reception of audio or visual signals or electricity, and utility meters or other utility facilities shall be kept and maintained, to the extent reasonably possible, underground or within an enclosed structure. No exterior radio antenna, television antenna, satellite dish, aerial or other reception receiver device or other antennae of any type shall be erected or maintained on the Property without the prior written approval of the DRC. Notwithstanding the foregoing, neither the restrictions nor requirements of this Section shall apply to those antenna (which may include some satellite dishes and other devices) that are specifically covered by the Telecommunications Act of 1996, as amended, revised or replaced, from time to time. As to antennas which are specifically covered by any such Act, the District or DRC shall have the right to adopt rules and regulations governing the types of antennas that are permissible hereunder, to the extent such rules and regulations are permitted by said Act, which rules shall establish reasonable, non-discriminatory restrictions relating to appearance, safety, location and maintenance of same.

Section 8.13 Restrictions on Signs and Advertising Devices. No sign, poster, billboard, advertising device or display of any kind shall be erected or maintained anywhere within the Property so as to be evident to public view except signs as may be approved in writing by the DRC. The Design Guidelines may contain provisions relating to such signage. A sign advertising a Lot for sale or for lease may be placed on such Lot for sale or for lease, provided, however, that standards relating to dimensions, color, style and location of such sign must be approved by the DRC. Declarant may adopt additional standards relating to such signage which will also be applicable, and the provisions set forth below



regarding approval by the DRC will be applicable. No flashing or moving signs shall be permitted on any Lot if the same would be visible from the outside of a structure.

Section 8.14 Maintenance of Grade and Drainage. Each Owner agrees for themselves and their heirs, personal representatives, successors and assigns, that they will not in any way interfere with or obstruct the established grading or drainage pattern over any portion of the Property except as approved in writing by the DRC. In the event that it is necessary or desirable to change the established drainage over any Lot or Common Area, then the party responsible for the maintenance of such real property shall submit a plan to the DRC for its review and approval in accordance with these Declarations and any such change shall also be made in accordance with all laws, regulations and resolutions of all applicable governmental entities. Approval shall not be granted unless a provision is made for adequate alternate drainage. The "established drainage pattern" shall mean the drainage pattern which exists at the time the overall grading of any portion of the Property is completed and shall include any established drainage pattern shown on any plans approved by the DRC and the Town. The established drainage pattern may include the drainage pattern from Common Areas or District Properties over any Lot, from any Lot over the Common Areas, District Properties, or from any Lot over another Lot. The party developing the Lot or Common Area shall be responsible for the costs associated with changing the established drainage pattern thereon.

Section 8.15 Restrictions on Water and Sewage Disposal Systems. No cesspool, septic tank or other sewage disposal system shall be installed on the Property without the prior written approval of the DRC. No individual water supply system shall be installed or maintained on the Property without the prior written approval of the DRC. Any sewage disposal or water supply system shall also be designed, located, constructed and equipped in accordance with all applicable recommendations, laws, rules and regulations of any governmental authority having jurisdiction there over.

Section 8.16 Non-Potable Water. Certain water that is or may be in the Development may be non-potable and should not be used as drinking water or for any use which might result in consumption of the same. Each Owner is solely responsible for any adverse consequence or reaction from consumption of any non-potable water by the Owner, a relative or employee of the Owner, a tenant, guest, or invitee of such Owner, or any animal(s) (such as dogs) for which such Owner is responsible. Further, neither the Declarant, the Design Review Committee, nor the District plan to attempt to protect any Person, animal or property from, or to provide any physical barriers or impediments to, any water in the Development. Neither the Declarant nor the District plan to provide signage warning about the possible dangers of consumption of non-potable water or other matters. The Declarant, District, Board of Directors, Design Review Committee, and their officers, directors, members, partners, agents and employees, hereby disclaim any responsibility for the safety of any Persons or property with respect to non-potable water. The waiver and release set out in this Declaration shall apply to this Section.

Section 8.17. Non-Potable Water System. Declarant or the District may, in the future, develop a non-potable water irrigation system to provide water for landscaping irrigation purposes upon the Property. If such a system is developed and installed, each Owner shall be obligated to purchase such non-potable irrigation water from Declarant, the District, or such other entity that may develop the same in the District's stead so long as the rate charged by such entity does not exceed the rate which would be charged by the District for same or similar service to other constituents under the same or similar circumstances when purchasing potable water for landscaping irrigation purposes. The cost of creating and equipping such system may be amortized into the rates charged to the Owners, subject to the foregoing qualification.



Section 8.18 Paint. Paint on all Completed Structures shall be applied and maintained according to the Maintenance Standard. The painting or repainting of any Completed Structure or Improvement shall be subject to the prior approval of the DRC.

Section 8.19 Utilities. Each Owner shall be responsible for the maintenance and repair of the utility lines and facilities which are solely for the purpose of serving such Owner's Lot, except as expressly provided in any Supplemental Declaration.

Section 8.20 Prohibited Uses. See the Design Guidelines for a list of allowable and prohibited uses. The DRC shall make the final determination on any use permitted on the Property regardless of whether such use is otherwise permitted by applicable Town zoning and land use regulations.

Section 8.21 Compliance with Laws. Nothing shall be done or kept on any portion of the Property in violation of any law, ordinance, rule or regulation of any governmental authority having jurisdiction.

Section 8.22 Restoration in the Event of Damage or Destruction. In the event of damage or destruction of any Improvement on any Lot, the Owner thereof shall cause the damaged or destroyed Improvement to be restored or replaced to its original condition or such other condition as may be approved in writing by the DRC, or the Owner shall cause the damaged or destroyed Improvement to be demolished and the Lot to be suitably landscaped, subject to the approval of the DRC, so as to present a pleasing and attractive appearance.

Section 8.23 Taxes. Each Owner shall pay, or cause to be paid, prior to delinquency, all taxes and assessments upon its Lot, and the Improvements and personalty located on such Lot, provided that if the taxes or assessments, or any part thereof, may be paid in installments, the Owner may pay each such installment as and when the same becomes due and payable, and in any event, prior to the delinquency thereof.

Section 8.24 Exemption of Declarant. Declarant intends to conform voluntarily to relevant provisions and restrictions of this Declaration during the Period of Declarant Control; however, neither Declarant, nor any of Declarant's activities shall be under the direct jurisdiction of the DRC except with respect to Declarant's construction activities on Lots which are not related to the construction and development of the Common Areas. Without in any way limiting the generality of the preceding sentence, this Declaration shall not limit the right of Declarant to conduct reasonable and responsible activities related to construction and development of the Common Areas. Declarant may: (i) excavate and grade; (ii) construct and alter drainage patterns and facilities; (iii) construct any and all other types of Improvements; (iv) maintain construction, sales and leasing offices and similar facilities; and (v) post signs incidental to construction, sales and lease, anywhere on the Common Area. However, no such activities shall be carried on in such a way as to create a health or environmental hazard or unreasonably interfere with the use and enjoyment by any Owner.

ARTICLE IX
Enforcement

Section 9.01 Enforcement of Covenants.

A. These conditions, covenants, reservations, and restrictions may be enforced as provided herein by the District acting by and through its Board of Directors, or by the Declarant acting for itself, and as attorney-in-fact on behalf of all Owners. Each Owner by acquiring an interest in the



Property shall appoint irrevocably the District as its attorney-in-fact for such purposes; provided, however, that if an Owner notifies the District or Declarant of a claimed violation of these conditions, covenants, restrictions, and reservations and the District and/or Declarant fails to act within thirty (30) days after receipt of such notification, then, and in that event only, an Owner may separately, at his own cost and expense, enforce the conditions, covenants, restrictions, and reservations herein contained. The Declarant shall have the right to take any action authorized and reserved under this Article to the District if the District requests the Declarant to so act. In such event the Declarant shall be entitled to all the same protections as would otherwise accrue and inure to the benefit of the District.

B. Violation of any condition, covenant, restriction, or reservation herein contained or contained in the Governing Documents shall give to the District the right to enter upon the portion of the Property wherein said violation or breach exists and to summarily abate and remove at the expense of the violating Owner ("Defaulting Owner") any structure, thing, or condition that may be or exists thereon contrary to the intent and meaning of the provisions of the Governing Documents, or to prosecute a proceeding at law or in equity against the Defaulting Owner, Occupants, or other Persons who have violated or are attempting to violate any of the conditions, covenants, restrictions, and reservations contained in the Governing Documents to enjoin or prevent them from doing so, to cause said violation to be remedied, or to recover damages for said violation.

C. Each Owner, by acquiring title to any portion of the Property, hereby agrees to indemnify, defend and hold the Declarant and its affiliates, assignees, and successors, the District and its Board of Directors, affiliates, assignees, successors, and any other Owner owning or occupying any portion of the Property, and harmless from and against any loss, cost, damage or expense which all or any of them may incur as a result of indemnitor's breach or violation of any condition, covenant, restriction or reservation herein contained or for any of Owner's own actions and inactions. Such indemnity shall include all costs and expenses, including reasonable attorney's fee incurred by the Declarant and its affiliates, assignees, and successors, the District and its Board of Directors, affiliates, assignees, successors, and any other Owner as a result of the actions or inactions of the Defaulting Owner.

D. Every violation of this Declaration or any part thereof is hereby declared to be and to constitute a nuisance, and every public or private remedy allowed therefor by law or equity against a Defaulting Owner, Occupant or other Person shall be applicable against every such violation and may be exercised by the District.

E. Within 30 days of billing therefor, the Defaulting Owner shall reimburse the District (Declarant, or other Owner enforcing this Declaration) for any sum reasonably expended to enforce this Declaration and for fees, interest at the maximum rate permitted by Colorado law, costs and legal expenses.

F. Each and every day that a violation of this Declaration or the Design Guidelines occurs shall constitute a separate and distinct violation and shall be subject to such fines and other penalties as the DRC and the Board may establish and amend from time to time.

Section 9.02 Enforcement of Monetary Obligations.

A. Any charges or fees due to the District in accordance with the provisions of this Declaration, including amounts due for reimbursement for the cost of enforcing this Declaration, shall be paid within the time limits set forth herein. Any amount not so paid shall accrue interest at the Default Rate from the date such amount should have been paid.



B. Until paid to the District, all such charges and fees due to the District shall constitute a perpetual lien on and against the property served, and any such lien may be foreclosed in the same manner as provided by the laws of the State of Colorado for the foreclosure of mechanic's liens. In any foreclosure, the non-prevailing Party shall be required to pay the reasonable costs, expenses, attorney and expert witness fees of the prevailing Party. Any additional amounts owing under this Declaration which are unpaid and established in accordance with the provisions of this Article may be added as a claim in the foreclosure proceeding by an amendment of the complaint in foreclosure.

Section 9.03 Remedies. This Declaration may be enforced against any Person violating or attempting or threatening to violate any provision of the same, which enforcement may occur by self-help, or by legal proceeding to restrain or enjoin any such violation or to compel specific performance of any obligation hereunder, or to recover damages for any breach or default hereof, or any other remedy available at law or in equity, or by any combination of any of the foregoing, all remedies in connection herewith, being cumulative and non-exclusive, except as otherwise provided by law. In addition, in the event of a violation of any of the provisions of this Declaration, the District may invoke one or more of the following remedies: (i) impose a fine upon the Defaulting Owner in a per diem amount determined by the District for each day that the violation continues after written notice thereof is provided to the Defaulting Owner and the same has not been cured (commencing with the 10th day following such notice); (ii) cause the violation to be cured and charge the cost thereof to the Owner; and (iii) obtain injunctive relief against the continuance of such violation. Without in any manner limiting the District's right to take any action deemed necessary in an emergency, any enforcement by self-help shall be limited to violations of this Declaration which are minor in nature, and shall not be available for any major violations. Examples of minor violations would include matters such as a failure to store trash and garbage in adequate containers; any obnoxious odor; dust, dirt, or ash in excessive quantities; or dumping of garbage or refuse. Examples of major violations would include matters such as breach of the provisions relating to Hazardous Substances, the construction, expansion or modification of any Improvement without the DRC's approval or the use of a Lot or Parcel for purposes in violation of the provisions hereof. Suit to recover a money judgment for such unpaid amounts may be maintainable without foreclosing or waiving the lien securing same. Any liability hereunder of an Owner prior to transfer of all or any portion of said Owner's Lot shall remain a liability of the affected property, notwithstanding such transfer.

Section 9.04 Attorneys' Fees and Expenses. In the event the District, Declarant, or any Owner shall institute any action or proceeding against a Defaulting Owner relating to the provisions of this Declaration hereunder, or to collect any amounts owing hereunder, then in and in such event the nonprevailing party, in such action or proceeding, agrees to reimburse the prevailing party therein for the reasonable expenses of legal fees, expert witness fees and disbursements incurred therein by the successful litigant, including such costs and expenses incurred in connection with any such action or proceeding, and any appeals therefrom.

ARTICLE X
Dispute Resolution

Section 10.01 Disputes between Owners. Matters of dispute or disagreement between Owners or Occupants with respect to interpretation or application of the provisions of the Governing Documents shall be determined by the Board. This determination (absent arbitrary and capricious conduct or gross negligence) shall be final and binding upon all Owners and Occupants.

Section 10.02 Dispute Resolution.



A. Right to Correct. Prior to the District or any Owner commencing any proceeding to which Declarant is a party, including but not limited to an alleged defect of any improvement, Declarant shall have the right to be heard by the Owners, or the particular Owner, and to access, inspect, correct the condition of, or redesign any portion of any improvement as to which a defect is alleged or otherwise correct the alleged dispute.

B. Alternative Method for Resolving Disputes. Declarant, its officers, directors, employees and agents; the District, its officers, directors, employees and agents; all Persons subject to this Declaration; any contractor, its officers, directors, employees and agents; and any person not otherwise subject to this Declaration who agrees to submit to this Section 11.02 (each such entity being referred to as a "Bound Party") agree to encourage the amicable resolution of disputes, without the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees to submit those claims, grievances or disputes described in Section 10.02(C) (collectively, the "Claims") to the mandatory procedures set forth in Section 10.02(D).

C. Claims. Unless specifically exempted below, all Claims between any of the Bound Parties regardless of how the same might have arisen or on what it might be based including, but not limited to Claims (i) arising out of or relating to the interpretation, application or enforcement of the Governing Documents or the rights, obligations and duties of any Bound Party under the Governing Documents; (ii) relating to the design or construction of improvements; or (iii) based upon any statements, representations, promises, warranties, or other communications made by or on behalf of any Bound Party shall be subject to the provisions of this Section 10.02. Notwithstanding the above, unless all parties thereto otherwise agree, the following shall be considered Claims and shall be subject to the provisions of this Section 10.02:

1. any suit by the District against any Bound Party to enforce any of the provisions of this Declaration;
2. any suit by the District or Declarant to obtain a temporary restraining order or injunction (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the District's ability to act under and enforce the provisions of this Declaration;
3. any suit between or among Owners, which does not include Declarant, a contractor, or the District as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents; and
4. any suit in which any indispensable party is not a Bound Party.



D. Mandatory Procedures.

1. Notice. Any Bound Party having a Claim (“Claimant) against any other Bound Party (Respondent) (the Claimant and Respondent referred to herein being individually, as a “Party,” or, collectively, as the “Parties”) shall notify each Respondent in writing (the “Notice”), stating plainly and concisely:
 - (a) The nature of the Claim, including the Persons involved and Respondent’s role in the Claim;
 - (b) The legal basis of the Claim (i.e., the specific authority out of which the Claim arises);
 - (c) The proposed remedy; and
 - (d) The fact that Claimant will meet with Respondent to discuss in good faith ways to resolve the Claim.

2. Negotiation and Mediation.
 - (a) The Parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the Parties in negotiation.
 - (b) If the Parties do not resolve the Claim within 30 days after the date of the Notice (or within such other period as may be agreed upon by the Parties) (“Termination of Negotiations”), Claimant shall have two days to submit the Claim to mediation under the auspices of the American Arbitration District (“AAA”) in accordance with the AAA’s Commercial or Construction Industry Mediation Rules, as appropriate.
 - (c) If Claimant does not submit the Claim to mediation within such time, or does not appear for mediation, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to any Person other than the Claimant.
 - (d) Any settlement of the Claim through mediation shall be documented in writing by the mediator and signed by the Parties. If the Parties do not settle the Claim within 30 days after submission of the matter to the mediation, or within such other time as determined by the mediator or agreed to by the Parties, the mediator shall issue a notice of termination of the mediation proceedings (“Termination of Mediation”). The Termination of

Mediation Notice shall set forth that the Parties are at an impasse and the date that mediation was terminated.

- (e) Each Party shall bear its own costs of the mediation, including attorneys' fees, and each Party shall share equally all charges rendered by the mediator. If the Parties agree to a resolution of any Claim through negotiation or mediation in accordance with this Section and any Party thereafter fails to abide by the terms of such agreement, then any other Party may file suit or initiate Arbitration proceedings to enforce such agreement without the need to again comply with the procedures set forth in this Section. In such event, the Party taking action to enforce the agreement shall be entitled to recover from the non-complying Party (or if more than one noncomplying Party, from all such Parties pro rata) all costs incurred in enforcing such agreement including, without limitation, attorneys' fees and court costs.

3. Binding Arbitration.

- (a) Upon Termination of Mediation, Claimant shall thereafter be entitled to initiate final, binding Arbitration of the Claim under the auspices of the AAA in accordance with the AAA's Commercial or Construction Industry Arbitration Rules, as appropriate. Such Claims shall not be decided by or in a court of law. Any judgment upon the award rendered by the Arbitrator may be entered in and enforced by any court having jurisdiction over such Claim.
- (b) Each Party shall bear its own costs and expenses and an equal share of the Arbitrator's and administrative fees of Arbitration. Notwithstanding the foregoing, if a Party unsuccessfully contests the validity or scope of Arbitration in a court of law, the non-contesting Party shall be awarded reasonable attorneys' fees and expenses incurred in defending such contest. All decisions respecting the arbitration of any Claim shall be decided by the Arbitrator(s).
- (c) The award of the Arbitrator(s) shall be accompanied by detailed written findings of fact and conclusions of law. Except as may be required by law or for confirmation of an award, neither a Party nor an Arbitrator may disclose the existence, content, or results of any Arbitration hereunder without the prior written consent of both Parties.

ARTICLE XI
Duration, Amendment and Termination

Section 11.01 Duration. Unless otherwise terminated as provided herein, this Declaration shall have perpetual duration. To the extent Colorado law limits the period during which covenants may run with the land, then to the extent consistent with such law, this Declaration shall automatically extend at

the expiration of such period for successive periods of 20 years unless the Owners terminate this Declaration as provided below. Notwithstanding the foregoing, if any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until 21 years after the death of the last survivor of the now living descendants of George Herbert Walker Bush, 39th President of the United States of America.

Section 11.02 Amendment. Until termination of the Period of Declarant Control, the Declarant may, but shall not be required to, unilaterally amend this Declaration for any purpose. This Declaration, or any provision of it, may be amended at any time by a vote of fifty-one percent (51%) of the Owners at a meeting of the Owners called for that purpose or by written consent; provided, however, any amendment which materially and adversely affects one or more Owners shall require the consent of such Owner(s). For purposes of this Subsection, each Lot shall be deemed to have one Owner. Any amendment must be executed by the District and recorded. Approval of such amendment may be shown by attaching a certificate from the District to the recorded instrument certifying the approval of the amendment by a sufficient number of Owners. No amendment to the Declaration which affects the rights of Declarant reserved hereunder shall be valid without the written consent of Declarant. Notwithstanding the foregoing, Declarant, acting alone, reserves to itself the right and power to modify and amend this Declaration to correct clerical, typographical or technical errors, or to comply with the requirements, standards, or guidelines set forth by federal or state law.

Section 11.03 Termination. This Declaration shall not be terminated without consent of ninety percent (90%) of the Owners at a meeting of the Owners called for that purpose or by written consent, evidenced by a written instrument duly recorded. For purposes of this Subsection, each Lot shall be deemed to have one Owner.

ARTICLE XII
Annexation, Withdrawal and Modification

Section 12.01 Annexation. Declarant hereby reserves unto itself, for a period commencing with the date of recordation hereof and continuing for the entirety of the Period of Declarant Control, the right to annex into the Property governed by this Declaration and entitled to the rights, duties and benefits and subject to all of the burdens, duties, restrictions and obligations arising out of this Declaration all or any part of the Future Parcels, by one or more annexations, just as if such annexed portion or portions of the Future Parcels was originally included within the Property currently subject hereto. Such annexation, or multiple annexations, shall each be evidenced by 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. Upon each such annexation, wherever herein the word "Property" is used, it shall mean and refer to the real property described in this Declaration and the legal description of all of such portion of the remainder of the Future Parcel as is annexed. Upon such annexation, wherever the word "Parcel" or "Lot" is used herein, it shall also mean and refer to the Lots and/or Parcels included within the Annexed Property which may, at the option of Declarant, be treated as one or more separate additional Parcels or Lots. In addition to the foregoing right, Declarant reserves the right during said Period of Declarant Control, to amend the description of the Future Parcels described herein, to add or delete property therefrom. At such time as Declarant acquires an interest in any one or more parcels which it deems appropriate for possible annexation hereto or identifies the same, Declarant may record a notice of amended description which notice shall specifically reference this Declaration and the provisions of this Article and shall set forth the legal description(s) of any Future Parcel(s) which from and after the date of recordation of such notice shall be deemed to be part of the real property which may be annexed hereto in the manner provided herein.

Section 12.02 Withdrawal of Property. The Declarant reserves the right to amend this Declaration unilaterally at any time so long as it holds an unexpired option to expand the Property pursuant to Section 11.01 for the purpose of removing certain portions of the Property; provided such withdrawal does not reduce the total number of square feet then subject to the Declaration by more than ten percent (10%). Such amendment shall not require the consent of any Person other than the Owner of the withdrawn property. If the property is a Common Area, the District shall consent to such withdrawal.

Section 12.03 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 parking requirements of the Town or County in which the Property is located or any other governmental entity having jurisdiction.

ARTICLE XIII
Miscellaneous

Section 13.01 Notices. All notices, demands, statements and requests required or permitted to be given under this Declaration must be in writing and shall be deemed to have been properly given or served, in any event, upon actual receipt, or whether received or not, five days following depositing same in the United States mail, addressed to a Owner, first-class postage prepaid, and registered or certified mail, return receipt requested, at the address set forth below, or at such other address as may be designated in accordance herewith. At such time as an Owner may transfer its Lot or portion thereof to a new Owner, the transferee shall send notice to the District of the name and address to which notice to that new Owner, when such is required herein, shall be sent. Notice to Declarant, District, and DRC, shall be addressed as follows, until each Owner is notified of a change in writing:

- | | |
|---------------------|--|
| If to Declarant: | Broe Land Acquisitions II, LLC and/or
Broe Land Acquisitions 10, LLC
Broe Land Acquisitions 11, LLC
252 Clayton Street, 4 th Floor
Denver, Colorado 80206
Attention: Eric D. Swanson
Telecopy: (303) 825-6525 |
| With a copy to: | Otten, Johnson, Robinson, Neff & Ragonetti, P.C.
950 Seventeenth Street, Suite 1600
Denver, Colorado 80202
Attention: Frank L. Robinson
Telecopy: (303) 825-6525 |
| If to the District: | Great Western Metropolitan District No. 1
c/o Pinnacle Consulting Group, Inc.
5110 Granite Street, Suite C
Loveland, CO 80538
Attention: District Manager
Telecopy (970)-669-3611 |



With a copy to: Pogue, Corbetta & O'Leary, P.C.
821 Seventeenth Street, Suite 600-B
Denver, Colorado 80202
Attention: David S. O'Leary
Telecopy: (303) 294-9112

If to the DRC: Great Western Design Review Committee
c/o Great Western Metropolitan District No. 1

Attention: DRC Coordinator

Section 13.02 Condemnation. Any award, whether the same be obtained by agreement prior to or during the time of any court action, or by judgment, verdict, or order resulting from or entered after any such court action, which results from a taking or damaging by condemnation of the Property, or any portion thereof, or of any rights or interests in the Property or any portion thereof, will be paid to the Owner owning such land so taken. Any other Owner, which might have an easement or other property interest in land so taken, shall release or waive such property interest with respect to such award. If any portion of the total award is made for a taking of any portion of any Owner's Lot which at the time of such taking was a Lot Common Area, then the portion of such award for the Lot Common Area (which will include the reciprocal easement interests of other parties) will be used to the extent necessary to:

(a) Replace Lot Common Area improvements, other than Parking Areas, so taken;

(b) Replace the Parking Area, so taken, on such Owner's Lot, to the extent required to bring the Parking Area to the minimum parking ratios required by governmental regulation, including the construction of a parking structure if it is possible to construct such a structure on such Owner's Lot and if the portion of such award is sufficient to construct such a structure without any other contribution from the Owner of the Lot. No such construction will be commenced until the DRC has approved the plans therefor in the manner provided herein and

(c) Any portion of such award not necessary for items (a) and (b) above shall be the sole and separate property of the Owner of such Lot.

Section 13.03 Mechanics' Lien. Wherever under the terms of this Declaration any Owner is permitted to perform any work upon the Lot of another Owner, it is expressly understood and agreed that such Owner will not permit any mechanics', materialmen's, or other similar liens to stand against the Lot on which such labor or material has been furnished in connection with any work performed by any such Owner. Should any liens be filed and recorded against any Lot or any action commenced affecting title as a result of such work, the Owner causing such work to be performed shall cause any such lien to be removed of record within 10 days after notice of the existence of such lien. The Owner may bond and contest the validity of any such lien, but on final determination of the validity and the amount of such lien, the Owner will immediately pay any judgment rendered, with all proper costs and charges, and will have the lien released at such Owner's expense.

Section 13.04 Registration with the District. No Person transferring title to a Lot shall be relieved of its obligations as an Owner hereunder until and unless:



(a) The transferring Owner has given written notice to the District of the transfer, including the name(s) and mailing address(es) of the grantee(s), and has delivered copies of the current Declaration and District rules to the grantee(s); and

(b) all monetary obligations to the District have been satisfied.

Each and every Occupant and Owner shall have an affirmative duty and obligation to originally provide, and thereafter revise and update in writing to the District, within fifteen (15) days after a material change has occurred, various items of information to the District such as the full name, business address, mailing address and telephone numbers of each Owner and Occupant and such other information as may be reasonably requested from time to time by the District. In the event any Owner and/or Occupant fails, neglects or refuses to so provide, revise and update such information, then the District may, but is not required to, use whatever means it deems reasonable and appropriate to obtain such information and the offending Owner and/or Occupant shall become automatically jointly and severally liable to promptly reimburse the District for all reasonable costs and expenses incurred.

Section 13.05 Run with the Land; Binding Effect upon Successors. The benefits, burdens and all other provisions contained in this Declaration shall run with the land, be binding upon and inure to the benefit of Owners, and their respective heirs, personal representatives, successors and assigns who become owners of any portion of the Property.

Section 13.06 Singular and Plural. Whenever required by the context of this Declaration, the singular shall include the plural, and vice versa, and the masculine shall include the feminine and neuter genders, and vice versa.

Section 13.07 Negation of Partnership. None of the terms or provisions of this Declaration shall be deemed to create a partnership between or among the Owners, District and/or Declarant and their respective businesses or otherwise, nor shall it cause them to be considered joint venturers or members of any joint enterprise. This Declaration is not intended, nor shall it be construed to create any third-Owner beneficiary rights to any person who is not an Owner hereto, unless expressly provided otherwise.

Section 13.08 Replatting of Lots. The Declarant hereby reserves the right to replat any Lot(s) owned by the Declarant in the Development or owned by any other Owner (with the written consent of such Owner). Without limiting the generality of the foregoing, the Declarant reserves the right to move any Lot lines(s), for the purpose of accommodating Improvements which are constructed or are to be constructed. The rights provided for in this Section shall terminate automatically upon termination of the Period of Declarant Control, as provided in Section 2.33 hereof.

Section 13.09 Oil and Gas Wells. Oil and Gas sites and related surface use agreements exist on certain parcels of property within and adjacent to the Property subject to this Declaration. These oil and gas wells and related mineral rights are property not subject to this Declaration. Oil and gas production, collection, and distribution facilities and related appurtenances may exist or be constructed and operated on such property now and in the future.

Section 13.10 High Pressure Gas Line. Each Owner, by acceptance of a deed to a Lot, acknowledges the existence of a high pressure gas line located in the Development and/or the Future Parcels Area, and each Owner assumes the risk of owning property near or adjacent to a high pressure gas line. Such risks include, without limitation: injury or damage to persons and/or property; explosion and fire; and leakage. The waiver and release set out in this Declaration shall apply to this Section.

Section 13.11 Captions. The captions preceding the text of each paragraph and subparagraph hereof are included only for convenience of reference and shall be disregarded in the construction and interpretation of this Declaration, and in no way define, describe or limit the scope or intent of this Declaration or any provisions hereof.

Section 13.12 No Merger. It is the intent of the Parties that the easements granted and declared by this Declaration shall be perpetual in duration. If any owner shall become the fee owner of any servient tenement burdened by any such easement, whether by operation or law or otherwise, the easement shall continue in full force and effect, despite any partial or complete merger of estates.

Section 13.13 Disclaimer Regarding Safety.

DECLARANT, THE DISTRICT, THE DESIGN REVIEW COMMITTEE, AND THEIR OFFICERS, DIRECTORS, MEMBERS, PARTNERS, AGENTS AND EMPLOYEES, HEREBY DISCLAIM ANY OBLIGATION REGARDING THE SECURITY OF ANY PERSONS OR PROPERTY WITHIN THE DEVELOPMENT. BY ACCEPTING A DEED TO PROPERTY WITHIN THE DEVELOPMENT, EACH OWNER ACKNOWLEDGES THAT DECLARANT, THE DISTRICT, THE DESIGN REVIEW COMMITTEE, AND THEIR OFFICERS, DIRECTORS, MEMBERS, PARTNERS, AGENTS AND EMPLOYEES, ARE ONLY OBLIGATED TO DO THOSE ACTS SPECIFICALLY ENUMERATED HEREIN, OR IN THE SERVICE PLAN, BYLAWS AND RULES AND REGULATIONS OF THE DISTRICT, AND ARE NOT OBLIGATED TO DO ANY OTHER ACTS WITH RESPECT TO THE SAFETY OR PROTECTION OF PERSONS OR PROPERTY WITHIN THE COMMUNITY. THE RELEASE AND WAIVER SET FORTH BELOW (WAIVER) SHALL APPLY TO THIS SECTION.

Section 13.14 Eminent Domain. The taking by eminent domain of a Lot(s) or Common Elements, or any portion thereof, shall be done in accordance with applicable law.

Section 13.15 Waivers. No delay or omission by an Owner in exercising any right or power accruing upon any default, non-compliance, or failure of performance of any of the provisions of the Declaration shall constitute or give rise to a waiver of such event or any such subsequent or similar event. No express waiver of any default shall affect any other default or pertain to any other period of time, except as specified in such express waiver. The consent or approval by any Owner to or of any act or request by any other Owner shall not be deemed to waive or render unnecessary the consent or approval to any subsequent or similar acts or requests.

By acceptance of a deed to a Lot, each Owner hereby releases, waives, and discharges the Declarant, the District, the Design Review Committee, 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.

Section 13.16 Limitations on Liability. The District, its Board, the DRC, the Declarant, and any member, agent or employee of the same shall not be liable to any Owner for any action or inaction if the action or inaction was under good faith without malice.

Section 13.17 Declarant's Right of Assignment. Declarant reserves the right to assign any or all of its rights, obligations or interest as Declarant by recording an assignment or deed of record executed by both Declarant and the transferee or assignee in the Office of the Clerk and Recorder in which the property is located. Upon such recording, Declarant's rights and obligations under this Declaration shall cease and terminate to the extent provided in such document.



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Section 13.18 Duty to Accept Property and Facilities Transferred by Declarant. The District shall accept title to any property, including Improvements thereon, as well as personal property, equipment, and easements, transferred to the District by the Declarant, together with responsibility to perform all duties and functions of the District which are set forth in this Declaration or otherwise assumed by the District. As of the date of recording of this Declaration, interests which are planned to be transferred by the Declarant to the District are planned to consist only of fee simple title to Common Area elements and/or easements, in the property described on the attached Exhibit A and/or the Annexable Area.

Section 13.19 Governing Law. This Declaration shall be construed and interpreted in accordance with the laws of the State of Colorado applicable to conducts made in and to be performed wholly within Colorado.


Section 13.20 Severability. Invalidation of any one of these covenants, provisions or restrictions by judgment or court order or otherwise, shall in no way affect any other provisions which shall remain in full force and effect. All provisions of this Declaration and the District's Service Plan are severable.



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IN WITNESS WHEREOF, the undersigned have executed this Declaration this 18th day of April, 2007.

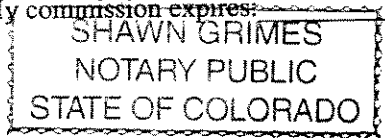
Broe Land Acquisitions II, LLC,
 a Colorado limited liability company

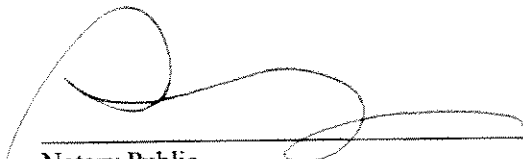
By: 
 Name: Eric D. Swanson
 Title: Manager

STATE OF COLORADO)
) SS.
 COUNTY OF DENVER)

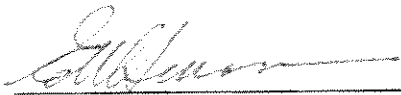
The foregoing instrument was acknowledged before me this 17th day of April, 2007, by Eric D. Swanson as Manager of Broe Land Acquisitions II, LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: _____

 My Commission Expires Aug. 10, 2009


 Notary Public

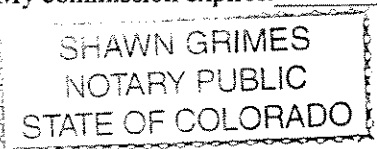
Broe Land Acquisitions 10, LLC,
 a Colorado limited liability company

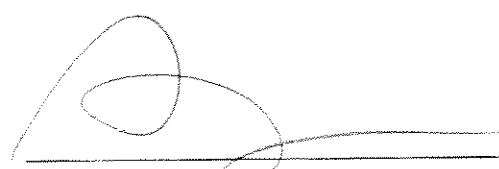
By: 
 Name: Eric D. Swanson
 Title: Manager

STATE OF COLORADO)
) SS.
 COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this 17th day of April, 2007, by Eric D. Swanson as Manager of Broe Land Acquisitions 10, LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: _____

 My Commission Expires Aug. 10, 2009


 Notary Public



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**EXHIBIT A
TO
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS AND EASEMENTS
FOR GREAT WESTERN INDUSTRIAL PARK**

DESCRIPTION OF PROPERTY



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GREAT WESTERN METROPOLITAN DISTRICT 5

WINDSOR, COLORADO
 EXHIBIT B

REVISED AREA 4-5-07

N. 1/4 COR. SEC. 28, T6N, R67W,
 FOUND 3/8" ALUM. CAP STAMPED
 LS 20685 IN MON. BOX

N89°44'07"E
 (BASIS OF BEARING)

E. 1/4 COR. SECS. 23/26, T6N,
 R67W FOUND 3/8" ALUM. CAP
 STAMPED LS 22098 IN MON. BOX

EASTMAN PARK DRIVE

S00°25'22"E
 65.00'

POINT OF
 BEGINNING

REV 1-29-07
 EXCLUDED FRE PARCEL
 REV 2-16-07
 INCLUDED VESTAS PARCEL
 REV 3-28-07
 EXCLUDED VESTAS PARCEL

FRONT RANGE ENERGY
 LOT B RE-4063
 REC. NO. 3291873

DISTRICT 5

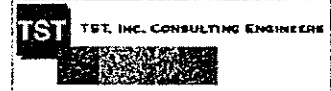
460.62 ACRES
 (20,064,759 SQUARE
 FEET)

WELD COUNTY ROAD 23



1"=1,000'

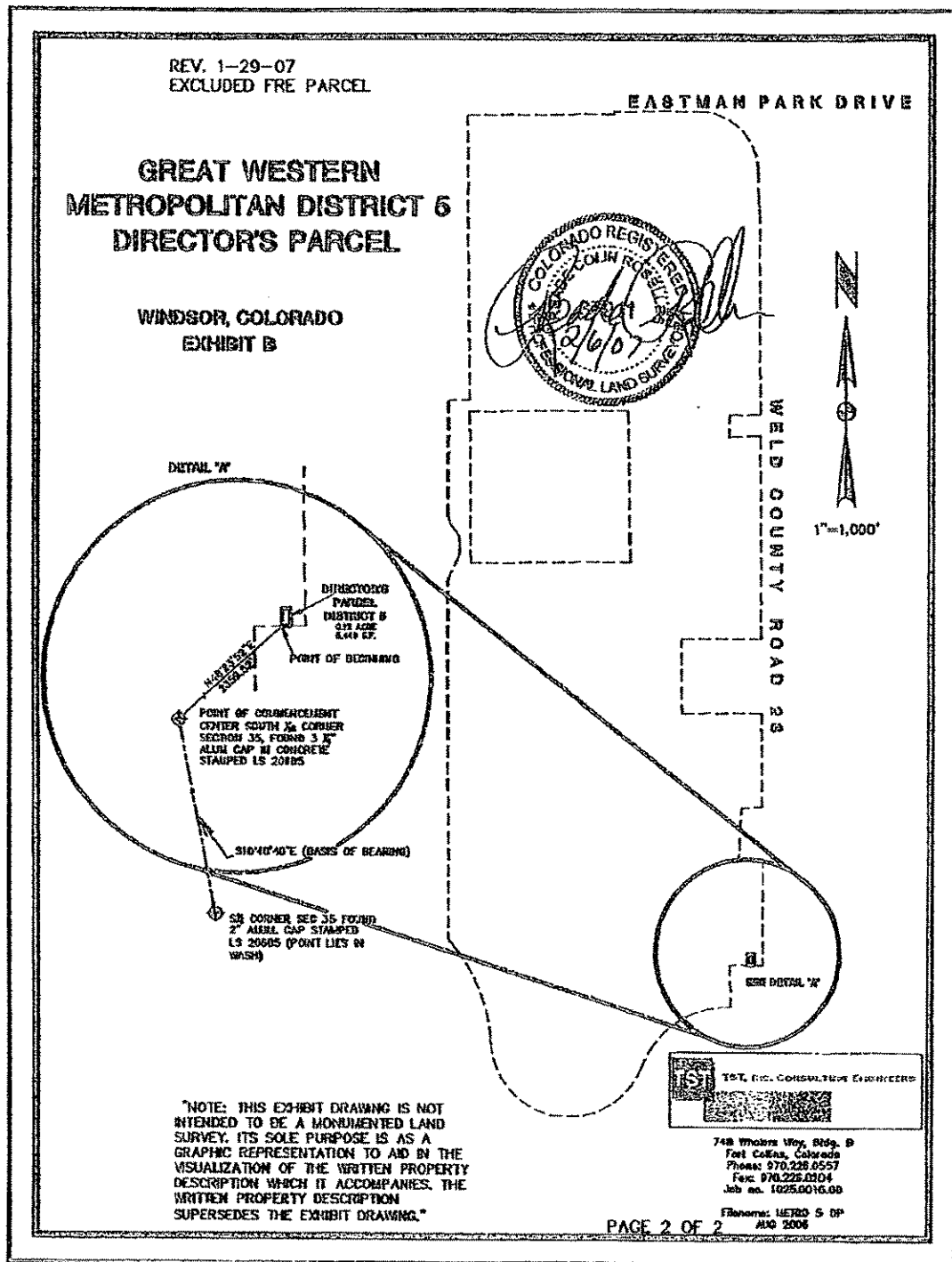
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 INTENDED TO BE A MONUMENTED LAND
 SURVEY. ITS SOLE PURPOSE IS AS A
 GRAPHIC REPRESENTATION TO AID IN THE
 VISUALIZATION OF THE WRITTEN PROPERTY
 DESCRIPTION WHICH IT ACCOMPANIES. THE
 WRITTEN PROPERTY DESCRIPTION
 SUPERSEDES THE EXHIBIT DRAWING."



748 Whalers Way, Bldg. D
 Fort Collins, Colorado
 Phone: 970.228.0557
 Fax: 970.228.0204
 Job no. 1025.0016.00



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**GREAT WESTERN
 METROPOLITAN DISTRICT 6**

**WINDSOR, COLORADO
 EXHIBIT B**



EASTMAN PARK DRIVE

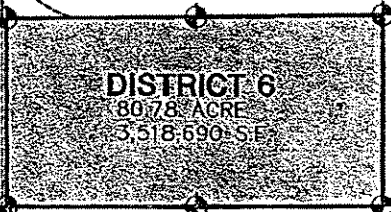
WELD COUNTY ROAD 23

N 1/16 CORNER SECS. 25 AND
 26, T6N, RANGE 67 WEST, SET
 NO. 6, REBAR & 2-1/2"
 ALUMINUM CAP STAMPED LS
 31169

W 1/4 CORNER
 SECTION 25 FOUND
 2 1/2" ALUM CAP
 STAMPED LS 30462

NW 1/16 CORNER SEC. 25, T6N,
 RANGE 67 WEST, FOUND 3 1/4"
 ALUMINUM CAP STAMPED LS
 22098

CENTER N 1/16 CORNER SEC. 25,
 T6N, RANGE 67 WEST, FOUND 3
 1/4" ALUMINUM CAP STAMPED LS
 22098



DISTRICT 6
 80.78 ACRE
 S. 518-690 S.E.

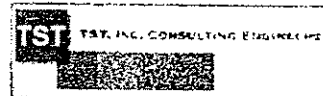
CENTER W 1/16
 CORNER SEC. 25,
 T6N, RANGE 67
 WEST, FOUND 3
 1/4" ALUMINUM CAP
 STAMPED LS 22098

CENTER 1/4 CORNER
 SEC. 25, T6N,
 RANGE 67 WEST,
 FOUND 3 1/4"
 ALUMINUM CAP
 STAMPED LS 22098



1" = 1,000'

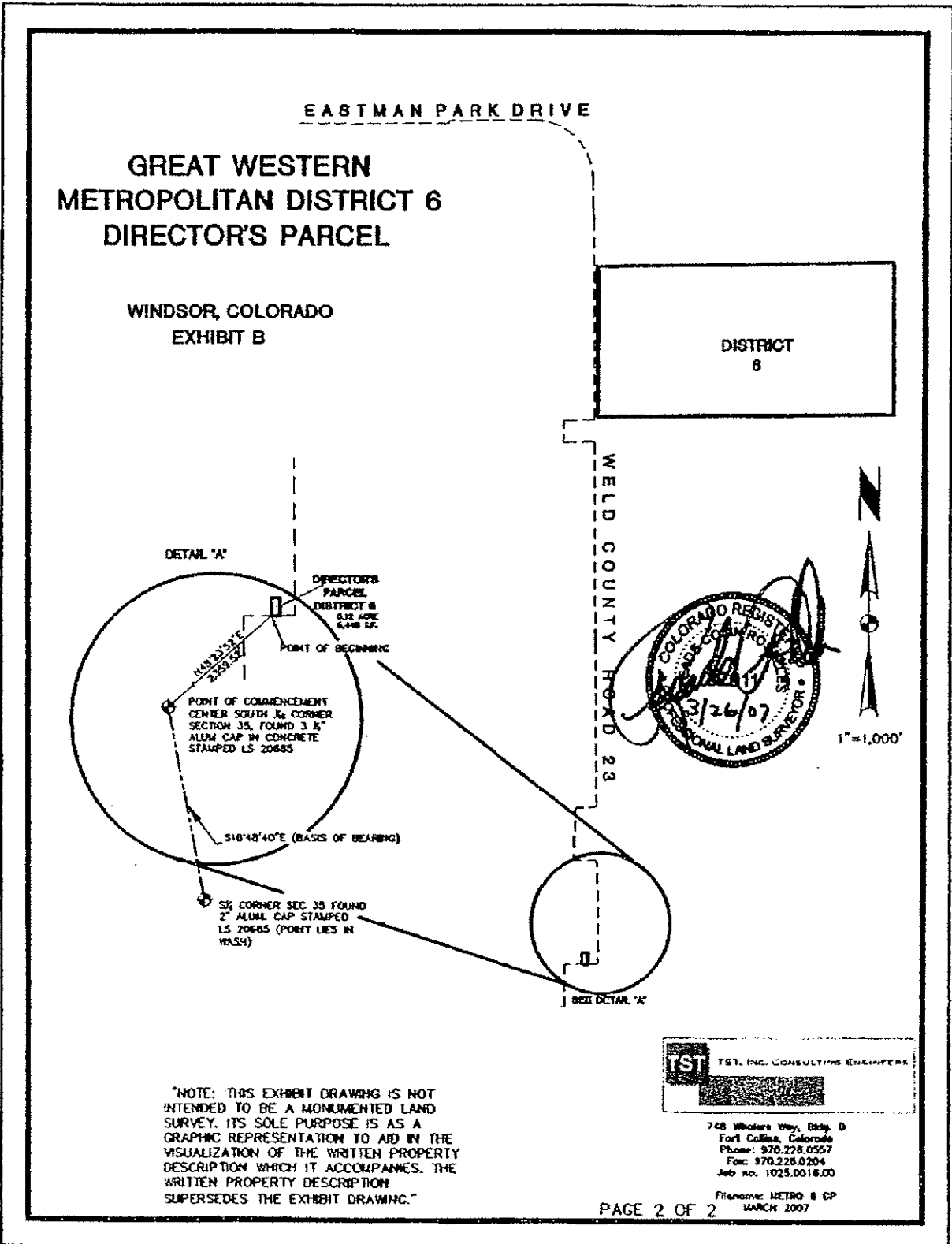
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748 Windsor Way, Bldg. 0
 Fort Collins, Colorado
 Phone: 970.228.0557
 Fax: 970.228.0204
 Job no. 1025.0018.00



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GREAT WESTERN METROPOLITAN DISTRICT 5
 EXHIBIT A

A TRACT OF LAND SITUATE IN SECTIONS 26, 35, THE SOUTHEAST QUARTER OF SECTION 34, AND THE SOUTHWEST QUARTER OF SECTION 36, TOWNSHIP 6 NORTH, RANGE 67 WEST, OF THE 6TH P.M.; COUNTY OF WELD, STATE OF COLORADO

BEGINNING AT THE NORTH QUARTER CORNER OF SAID SECTION 26, SAID POINT BEING MARKED BY A NO. 6 REBAR WITH A 3 1/4" ALUM. CAP STAMPED LS 20685; AND CONSIDERING THE NORTH LINE OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 26 TO HAVE A BEARING OF S89°44'07"W, (EAST END OF SAID LINE BEING MARKED BY A #6 REBAR WITH 3 1/4" ALUM. CAP STAMPED LS 20685 IN MON. BOX) BEING A GRID BEARING OF THE COLORADO STATE PLANE COORDINATE SYSTEM, NORTH ZONE, NORTH AMERICAN DATUM 1983, WITH ALL OTHER BEARINGS RELATIVE THERETO;

THENCE S00°25'22"E, 65.00 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF EASTMAN PARK DRIVE, ALSO BEING THE POINT OF BEGINNING; THENCE ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, THE FOLLOWING THREE (3) COURSES:

1. N89°44'07"E, 1,319.98 FEET;
2. N00°21'54"W, 25.00 FEET;

3. N89°44'55"E, 755.81 FEET TO A POINT OF WESTERLY RIGHT-OF-WAY OF WELD COUNTY ROAD 23 AS SET FORTH ON THE DEED OF DEDICATION RECORDED AT RECEPTION NO. 3281762 IN THE OFFICE OF THE WELD COUNTY CLERK AND RECORDER;

THENCE ALONG SAID RIGHT-OF-WAY LINE THE FOLLOWING FOUR (4) COURSES:

1. 824.10 FEET ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 525.00 FEET, A CENTRAL ANGLE OF 89°56'16", AND A CHORD WHICH BEARS S45°16'57"E, 742.06 FEET;
2. S00°18'49"E, 228.26 FEET;
3. 110.15 FEET ALONG A CURVE TO THE LEFT HAVING RADIUS OF 605.00 FEET, A CENTRAL ANGLE OF 10°25'54", AND A CHORD WHICH BEARS S05°31'46"E, 110.00 FEET TO A POINT ON THE EXISTING RIGHT-OF-WAY LINE FOR WELD COUNTY ROAD 23;

4. S00°19'23"E, 1,769.86 FEET TO A POINT ON THE NORTH BOUNDARY OF RECORDED EXEMPTION RE-4063, RECEPTION NO. 3291873, SAID POINT ALSO BEING ON THE NORTH LINE OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 26;

THENCE ALONG SAID NORTH LINE, S89°40'44"W, 274.79 FEET;

THENCE S01°22'02"W, 195.05 FEET;

THENCE N88°02'10"E, 280.65 FEET TO A POINT ON THE EXISTING RIGHT-OF-WAY LINE FOR WELD COUNTY ROAD 23;



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THENCE ALONG SAID RIGHT-OF-WAY, S00°19'12"E, 1,769.99 FEET;
THENCE DEPARTING SAID WESTERLY RIGHT-OF-WAY LINE, S89°38'31"W,
709.45 FEET;
THENCE S00°18'28"E, 648.00 FEET TO A POINT ON THE NORTH LINE OF THE
NORTHEAST QUARTER OF SAID SECTION 35;
THENCE ALONG SAID NORTH LINE, N89°39'11"E, 709.59 FEET TO A POINT ON
THE WESTERLY RIGHT-OF-WAY LINE OF WELD COUNTY ROAD 23;
THENCE S00°33'37"E, 826.57 FEET;
THENCE S86°39'52"W, 187.11 FEET;
THENCE S02°19'53"W, 462.13 FEET;
THENCE N89°38'52"E, 210.20 FEET TO A POINT ON THE WESTERLY RIGHT-OF-
WAY LINE OF WELD COUNTY ROAD 23;
THENCE ALONG SAID WESTERLY RIGHT-OF-WAY LINE, S00°33'37"E, 918.99
FEET;
THENCE DEPARTING SAID RIGHT-OF-WAY LINE, S89°28'46"W, 35.00 FEET;
THENCE N00°33'37"W, 104.33 FEET;
THENCE S89°26'23"W, 52.18 FEET;
THENCE S00°33'37"E, 104.29 FEET;
THENCE S89°28'46"W, 299.73 FEET;
THENCE S00°32'10"E, 372.52 FEET;
THENCE S89°33'56"W, 36.33 FEET;
THENCE 783.41 FEET ALONG A CURVE TO THE LEFT HAVING A RADIUS OF
821.36 FEET, A CENTRAL ANGLE OF 54°38'55", AND A CHORD WHICH BEARS
S62°14'29"W, 754.05 FEET;
THENCE CONTINUING 194.54 FEET ALONG A CURVE TO THE LEFT HAVING A
RADIUS OF 821.36 FEET, A CENTRAL ANGLE OF 13°34'14", AND A CHORD
WHICH BEARS S28°07'54"W, 194.09 FEET;
THENCE 1,911.24 FEET ALONG A REVERSE CURVE TO THE RIGHT HAVING A
RADIUS OF 705.23 FEET, A CENTRAL ANGLE OF 155°16'37", AND A CHORD
WHICH BEARS N81°00'55"W, 1,377.78 FEET;
THENCE 40.32 FEET ALONG A REVERSE CURVE TO THE LEFT HAVING A
RADIUS OF 1,428.79 FEET, A CENTRAL ANGLE OF 01°37'01", AND A CHORD
WHICH BEARS N04°11'07"W, 40.32 FEET;
THENCE CONTINUING 832.16 FEET ALONG A CURVE TO THE LEFT HAVING A
RADIUS OF 1,428.79 FEET, A CENTRAL ANGLE OF 33°22'14", AND A CHORD
WHICH BEARS N21°40'44"W, 820.45 FEET;
THENCE N38°21'50"W, 122.32 FEET;
THENCE N00°04'37"W, 3,158.77 FEET;
THENCE N24°53'10"E, 220.09 FEET;
THENCE 57.14 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A
RADIUS OF 130.50 FEET, A CENTRAL ANGLE OF 25°05'21", AND A CHORD
WHICH BEARS N12°20'30"E, 56.69 FEET;
THENCE N00°12'11"W, 82.36 FEET;



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THENCE 72.95 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 116.50 FEET, A CENTRAL ANGLE OF 35°52'47", AND A CHORD WHICH BEARS N18°08'34"W, 71.77 FEET;
THENCE N36°04'57"W, 82.47 FEET;
THENCE 87.84 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 139.50 FEET, A CENTRAL ANGLE OF 36°04'44", AND A CHORD WHICH BEARS N18°02'35"W, 86.40 FEET;
THENCE N00°00'13"W, 1,011.59 FEET;
THENCE N89°42'01"E, 188.97 FEET TO A POINT ON THE EAST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 26;
THENCE ALONG SAID EAST LINE, N00°25'22"W, 2,475.57 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF EASTMAN PARK DRIVE, SAID POINT ALSO BEING THE POINT OF BEGINNING.

LESS AND EXCEPT A TRACT OF LAND SITUATE IN SECTION 26, TOWNSHIP 6 NORTH, RANGE 67 WEST, OF THE 6TH P.M.; COUNTY OF WELD, STATE OF COLORADO; BEING A PORTION OF LOT B OF RECORDED EXEMPTION 4063, RECORDED JUNE 6, 2005 AT RECEPTION NO. 3291873 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE CENTER QUARTER CORNER OF SECTION 26 AND CONSIDERING THE NORTH LINE OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 26 TO HAVE A BEARING OF N89°41'47"E, BEING A GRID BEARING OF THE COLORADO STATE PLANE COORDINATE SYSTEM, NORTH ZONE, NORTH AMERICAN DATUM 1983, WITH ALL OTHER BEARINGS RELATIVE THERETO;

THENCE ALONG THE NORTH LINE OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 26, N89°41'47"E, 1,252.79 FEET TO A POINT ON THE WESTERLY LINE OF THE RIGHT-OF-WAY DEDICATED AT RECEPTION NO. 34080669;
THENCE ALONG SAID LINE, S00°22'48"E, 1,319.79 FEET TO A POINT ON THE SOUTH LINE OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 26;
THENCE ALONG SAID SOUTH LINE, S89°40'37"W, 1,251.74 FEET TO THE CENTER SOUTH SIXTEENTH CORNER OF SAID SECTION 26;
THENCE ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 26, N00°25'32"W, 1,320.21 FEET TO THE POINT OF BEGINNING.



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AND ALSO LESS AND EXCEPT,
A TRACT OF LAND SITUATE IN SECTION 26, TOWNSHIP 6 NORTH,
RANGE 67 WEST, OF THE 6TH P.M.; COUNTY OF WELD, STATE OF
COLORADO; BEING A PORTION OF LOT B OF RECORDED EXEMPTION 4063,
RECORDED JUNE 8, 2005 AT RECEPTION NO. 3291873 AND BEING MORE
PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER EAST SIXTEENTH CORNER OF SECTION 26;
THENCE N89°41'50"E, 65.00 FEET TO THE POINT OF BEGINNING;

THENCE N89°41'50"E, 45.07 FEET;
THENCE S01°01'35"E, 1,319.82 FEET;
THENCE S89°40'37"W, 59.96 FEET;

THENCE N00°22'48"W, 1,319.74 FEET TO THE POINT OF BEGINNING

SAID TRACT CONTAINS 460.62 ACRES (20,064,759 SQUARE FEET) MORE OR
LESS AND IS SUBJECT TO ALL RIGHTS-OF-WAY, EASEMENTS, AND
RESTRICTIONS OF RECORD, OR THAT NOW EXIST ON THE GROUND.

REVISED 1-29-06 TO EXCLUDE THE FRE PARCEL
REVISED 2/18/2007 TO ADD VESTAS PARCEL
REVISED 3/26/2007 EXCLUDED VESTAS PARCEL
REVISED 3/28/07 INCLUDED ROW THROUGH LOT B (FRE)
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GREAT WESTERN METROPOLITAN DISTRICT 5
DIRECTOR'S PARCEL
EXHIBIT A

A TRACT OF LAND SITUATE IN SECTION 35, TOWNSHIP 6 NORTH, RANGE 67 WEST, OF THE 6TH P.M.; COUNTY OF WELD, STATE OF COLORADO

BEGINNING AT THE CENTER SOUTH QUARTER CORNER OF SAID SECTION 35, SAID POINT BEING MARKED BY A NO. 6 REBAR WITH A 3 1/4" ALUM. CAP STAMPED LS 20685; AND CONSIDERING THE WEST LINE OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 35 TO HAVE A BEARING OF S10°48'40"E, (SOUTH END OF SAID LINE BEING MARKED BY A #6 REBAR WITH 3 1/4" ALUM. CAP STAMPED LS 20685) BEING A GRID BEARING OF THE COLORADO STATE PLANE COORDINATE SYSTEM, NORTH ZONE, NORTH AMERICAN DATUM 1983, WITH ALL OTHER BEARINGS RELATIVE THERETO;

THENCE N48°23'52"E, 2,359.52 FEET TO THE POINT OF BEGINNING;

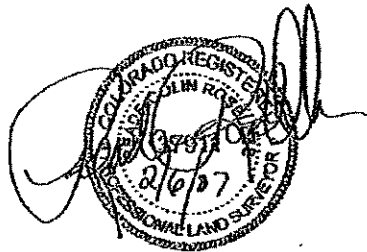
THENCE N00°33'37"W, 104.25 FEET;

THENCE N89°26'23"E, 52.17 FEET;

THENCE S00°33'37"E, 104.29 FEET;

THENCE S89°28'46"W, 52.18 FEET TO THE POINT OF BEGINNING.

SAID TRACT CONTAINS 0.12 ACRES (5,440 SQUARE FEET) MORE OR LESS AND IS SUBJECT TO ALL RIGHTS-OF-WAY, EASEMENTS, AND RESTRICTIONS OF RECORD, OR THAT NOW EXIST ON THE GROUND.





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GREAT WESTERN METROPOLITAN DISTRICT 6
EXHIBIT A

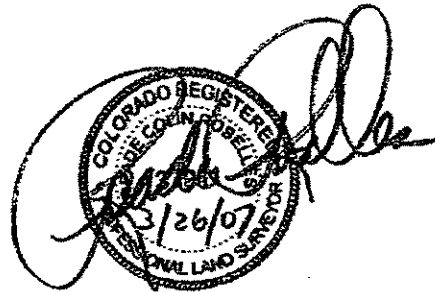
A TRACT OF LAND SITUATE IN SECTION 25, TOWNSHIP 6 NORTH, RANGE 67 WEST, OF THE 6TH P.M.; COUNTY OF WELD, STATE OF COLORADO; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE SW ¼ OF THE NW ¼ AND THE SE ¼ OF THE NW ¼ OF SECTION 25, TOWNSHIP 6 NORTH, RANGE 67 WEST, OF THE 6TH P.M.; COUNTY OF WELD, STATE OF COLORADO.

SAID TRACT CONTAINS 80.78 ACRES (3,518,690 SQUARE FEET) MORE OR LESS AND IS SUBJECT TO ALL RIGHTS-OF-WAY, EASEMENTS, AND RESTRICTIONS OF RECORD, OR THAT NOW EXIST ON THE GROUND.

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3/26/2007





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GREAT WESTERN METROPOLITAN DISTRICT 6
 DIRECTOR'S PARCEL
 EXHIBIT A

A TRACT OF LAND SITUATE IN SECTION 35, TOWNSHIP 6 NORTH, RANGE 67 WEST, OF THE 6TH P.M.; COUNTY OF WELD, STATE OF COLORADO

BEGINNING AT THE CENTER SOUTH QUARTER CORNER OF SAID SECTION 35, SAID POINT BEING MARKED BY A NO. 6 REBAR WITH A 3 1/4" ALUM. CAP STAMPED LS 20685; AND CONSIDERING THE WEST LINE OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 35 TO HAVE A BEARING OF S10°48'40"E, (SOUTH END OF SAID LINE BEING MARKED BY A #6 REBAR WITH 3 1/4" ALUM. CAP STAMPED LS 20685) BEING A GRID BEARING OF THE COLORADO STATE PLANE COORDINATE SYSTEM, NORTH ZONE, NORTH AMERICAN DATUM 1983, WITH ALL OTHER BEARINGS RELATIVE THERETO;

THENCE N48°23'52"E, 2,359.52 FEET TO THE POINT OF BEGINNING;

THENCE N00°33'37"W, 104.25 FEET;

THENCE N89°26'23"E, 52.17 FEET;

THENCE S00°33'37"E, 104.29 FEET;

THENCE S89°28'46"W, 52.18 FEET TO THE POINT OF BEGINNING.

SAID TRACT CONTAINS 0.12 ACRES (5,440 SQUARE FEET) MORE OR LESS AND IS SUBJECT TO ALL RIGHTS-OF-WAY, EASEMENTS, AND RESTRICTIONS OF RECORD, OR THAT NOW EXIST ON THE GROUND.





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**EXHIBIT B
TO
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS AND EASEMENTS
FOR GREAT WESTERN INDUSTRIAL PARK
DESIGN GUIDELINES**

GREAT WESTERN INDUSTRIAL PARK DESIGN GUIDELINES

TOWN OF WINDSOR
COLORADO

March 19, 2007

1. Title. This document, the Great Western Industrial Park Design Guidelines, shall be referenced to herein as "Design Guidelines".
2. Effective Date. The Design Guidelines shall become effective upon recording against the Property.
3. Design Review Guidelines. The Design Review Guidelines for Great Western Industrial Park are comprised of the Town of Windsor's zoning, fire, building, plumbing and similar technical codes. All development projects, buildings, structures and facilities, both in their current form or as amended, shall comply with all applicable Town technical codes. These guidelines can be changed from time to time, as allowed for in the covenants for the Great Western Industrial Park. ALWAYS BE SURE YOU HAVE OBTAINED AND READ THE MOST RECENT EDITION OF THE DESIGN REVIEW GUIDELINES.
4. Design Review Committee Approval Required. Development projects within the Great Western Industrial Park must first submit drawings or plans for a proposed improvement to the Great Western Industrial Park Design Review Committee (DRC) before submitting to the Town of Windsor. After approval is gained by both the DRC and the Town of Windsor, the project may be submitted for building permit application.



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**EXHIBIT C
TO
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS AND EASEMENTS
FOR GREAT WESTERN INDUSTRIAL PARK
FUTURE PARCELS**

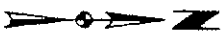
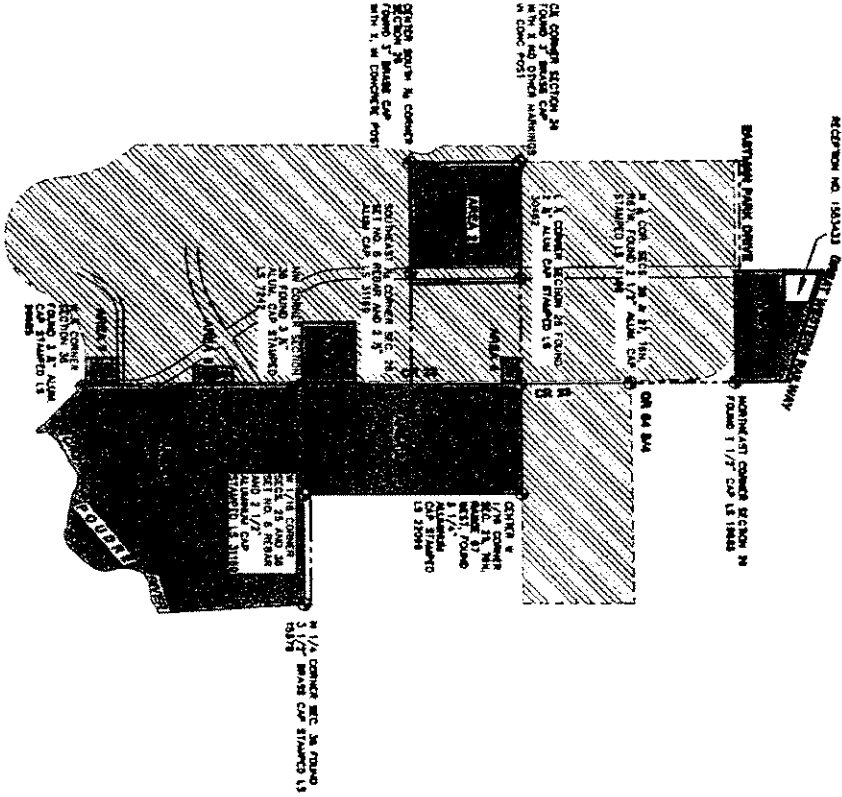
This Exhibit C reflects Future Parcels currently contemplated by the Declarant. Additional Future Parcels, other than those Future Parcels described in this Exhibit C, may be subjected to this Declaration in the future as provided by Section 2.21 of this Declaration



GREAT WESTERN METROPOLITAN DISTRICT FUTURE INCLUSION AREA

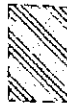
WINDSOR, COLORADO

REV: 3-28-07 TO ENCLOSE NOW IN THE PARCEL



EXHIBIT

MAP OF FUTURE INCLUSION AREA
 BOUNDARIES

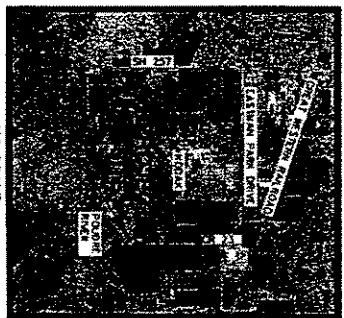


GREAT WESTERN METRO
 DISTRICT BOUNDARIES

FUTURE INCLUSION AREA

FUTURE INCLUSION AREA APPROXIMATE ACRES

AREA	APPROXIMATE ACRES
AREA 1	22.73
AREA 2	39.54
AREA 3	253.77
AREA 4	1.35
AREA 5	11.00
AREA 6	2.45
AREA 7	2.82
TOTAL	333.66



NO SCALE

TST TST, INC. CONSULTING ENGINEERS

714 Windsor Hwy
 Fort Collins, Colorado
 Phone: 970.226.0537
 Fax: 970.226.0704
 Job no. 1023.0016.00
 Filename: future_inclusions 11/17 overlaid.dwg
 REVISION 2, 2007



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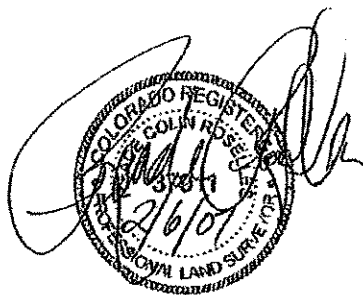
GREAT WESTERN METROPOLITAN DISTRICT
FUTURE INCLUSION AREA 1
EXHIBIT A

A TRACT OF LAND SITUATE IN SECTION 23, TOWNSHIP 6 NORTH, RANGE 67 WEST, OF THE 6TH P.M.; COUNTY OF WELD, STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL THAT PART OF THE E 1/2 OF THE SE 1/4 OF SECTION 23, TOWNSHIP 6 NORTH, RANGE 67 WEST OF THE 6TH P.M., COUNTY OF WELD, STATE OF COLORADO, LYING SOUTH OF THE RIGHT OF WAY OF THE COLORADO AND SOUTHERN RAILWAY COMPANY, AS THE SAME NOW EXTENDS OVER AND ACROSS SAID LANDS. EXCEPT THAT PORTION AS CONVEYED BY DEED RECORDED AUGUST 21, 1970 AT RECEPTION NO. 1553433 IN BOOK 631, WELD COUNTY RECORDS.

SAID TRACT CONTAINS 22.73 ACRES (990,375 SQUARE FEET) MORE OR LESS AND IS SUBJECT TO ALL RIGHTS-OF-WAY, EASEMENTS, AND RESTRICTIONS OF RECORD, OR THAT NOW EXIST ON THE GROUND.

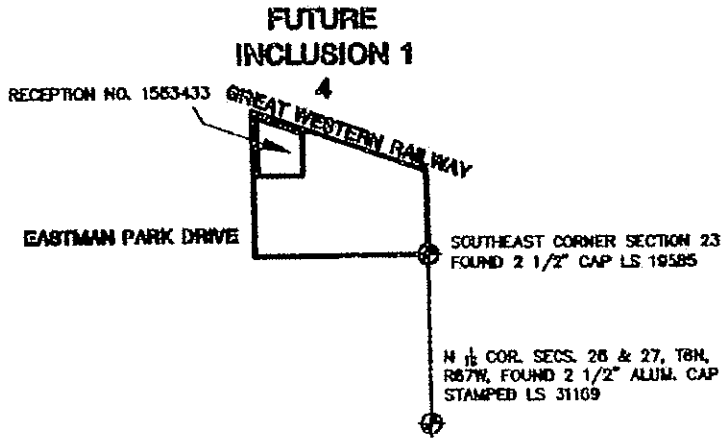
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**GREAT WESTERN METROPOLITAN DISTRICT
 FUTURE INCLUSION AREA 1
 WINDSOR, COLORADO
 EXHIBIT B**



"NOTE: THIS EXHIBIT DRAWING 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 SUPERSEDES THE EXHIBIT DRAWING."



TST TEST, INC. CIVIL ENGINEERS

748 Wilshire Way, Bldg. D
 Fort Collins, Colorado
 Phone: 970.228.0657
 Fax: 970.228.0204
 Job no. 1020.0016.00

Filename: FUTURE INCLUSION 1
 JUN 2007



GREAT WESTERN METROPOLITAN DISTRICT
 FUTURE INCLUSION AREA 2
 EXHIBIT A

A TRACT OF LAND SITUATE IN SECTION 26, TOWNSHIP 6 NORTH,
 RANGE 67 WEST, OF THE 6TH P.M.; COUNTY OF WELD, STATE OF
 COLORADO; BEING A PORTION OF LOT B OF RECORDED EXEMPTION 4063,
 RECORDED JUNE 6, 2005 AT RECEPTION NO. 3291873 AND BEING MORE
 PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE CENTER QUARTER CORNER OF SECTION 26 AND
 CONSIDERING THE NORTH LINE OF THE NORTHWEST QUARTER OF THE
 SOUTHEAST QUARTER OF SAID SECTION 26 TO HAVE A BEARING OF
 N89°41'47"E, BEING A GRID BEARING OF THE COLORADO STATE PLANE
 COORDINATE SYSTEM, NORTH ZONE, NORTH AMERICAN DATUM 1983, WITH
 ALL OTHER BEARINGS RELATIVE THERETO;

THENCE ALONG THE NORTH LINE OF THE NORTHWEST QUARTER OF THE
 SOUTHEAST QUARTER OF SAID SECTION 26, N89°41'47"E, 1,252.79 FEET TO A
 POINT ON THE WESTERLY LINE OF THE RIGHT-OF-WAY DEDICATED AT
 RECEPTION NO. 34080669;

THENCE ALONG SAID LINE, S00°22'48"E, 1,319.79 FEET TO A POINT ON THE
 SOUTH LINE OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER
 OF SAID SECTION 26;

THENCE ALONG SAID SOUTH LINE, S89°40'37"W, 1,251.74 FEET TO THE
 CENTER SOUTH SIXTEENTH CORNER OF SAID SECTION 26;

THENCE ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF THE
 SOUTHEAST QUARTER OF SAID SECTION 26, N00°25'32"W, 1,320.21 FEET TO
 THE POINT OF BEGINNING.

AND ALSO,

A TRACT OF LAND SITUATE IN SECTION 26, TOWNSHIP 6 NORTH,
 RANGE 67 WEST, OF THE 6TH P.M.; COUNTY OF WELD, STATE OF
 COLORADO; BEING A PORTION OF LOT B OF RECORDED EXEMPTION 4063,
 RECORDED JUNE 6, 2005 AT RECEPTION NO. 3291873 AND BEING MORE
 PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER EAST SIXTEENTH CORNER OF SECTION 26;
 THENCE N89°41'50"E, 65.00 FEET TO THE POINT OF BEGINNING;

THENCE N89°41'50"E, 45.07 FEET;
 THENCE S01°01'35"E, 1,319.82 FEET;
 THENCE S89°40'37"W, 59.96 FEET;



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THENCE N00°22'48"W, 1,319.74 FEET TO THE POINT OF BEGINNING

SAID TRACT CONTAINS 39.54 ACRES (1,722,298 SQUARE FEET) MORE OR LESS
AND IS SUBJECT TO ALL RIGHTS-OF-WAY, EASEMENTS, AND RESTRICTIONS
OF RECORD, OR THAT NOW EXIST ON THE GROUND.

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REVISED 3/28/2007





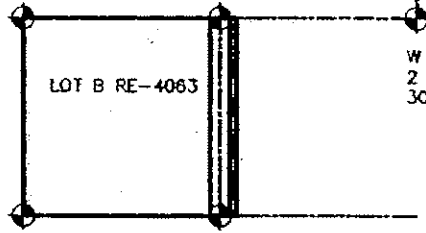
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GREAT WESTERN METROPOLITAN FUTURE INCLUSION AREA 2
WINDSOR, COLORADO
EXHIBIT B

C $\frac{1}{4}$ CORNER SECTION 26
 FOUND 3" BRASS CAP
 WITH X NO OTHER MARKINGS
 IN CONC POST

POINT OF BEGINNING
 CENTER EAST $\frac{1}{8}$ CORNER FD
 NO. 8 REBAR AND 2 $\frac{1}{2}$ "
 ALUM CAP, LS 31169

CR 28



W $\frac{1}{4}$ CORNER SECTION 25 FOUND
 2 $\frac{1}{2}$ " ALUM CAP STAMPED LS
 30462

CENTER SOUTH $\frac{1}{8}$ CORNER
 SECTION 26
 FOUND 3" BRASS CAP
 WITH X IN CONCRETE POST

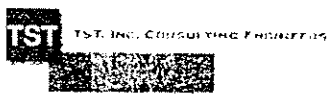
SOUTHEAST $\frac{1}{8}$ CORNER SEC. 26,
 SET NO. 6 REBAR AND 2 $\frac{1}{2}$ "
 ALUM CAP, LS 31169

"NOTE: THIS EXHIBIT DRAWING 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 SUPERSEDES THE EXHIBIT DRAWING."

[Handwritten Signature]



1"=1,000'



748 Walters Way, Bldg. D
 Fort Collins, Colorado
 Phone: 970.228.8557
 Fax: 970.228.0204
 Job no. 1025.0016.00

Filename: FUTURE INCLUSION 9
 JAN 2007
 REV. 2-16-07



3469860 04/18/2007 03:29P Weld County, CO
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GREAT WESTERN METROPOLITAN DISTRICT
FUTURE INCLUSION AREA 3
EXHIBIT A

PARCELS OF LAND SITUATE IN SECTIONS 25 AND 36, TOWNSHIP 6 NORTH, RANGE 67 WEST, OF THE 6TH P.M.; COUNTY OF WELD, STATE OF COLORADO; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE WEST HALF OF THE SOUTHWEST QUARTER, ALL IN SECTION 25, ALL OF THE NORTHWEST QUARTER AND THAT PART OF THE SOUTHWEST QUARTER OF SECTION 36, TOWNSHIP 6 NORTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, LYING EAST OF THE WEST COUNTY ROAD AND NORTH OF THE CENTER OF THE CACHE LA POUDE RIVER, COUNTY OF WELD, STATE OF COLORADO.

SAID PARCELS CONTAIN 253.77 ACRES (11,054,221 SQUARE FEET) MORE OR LESS AND ARE SUBJECT TO ALL RIGHTS-OF-WAY, EASEMENTS, AND RESTRICTIONS OF RECORD, OR THAT NOW EXIST ON THE GROUND.

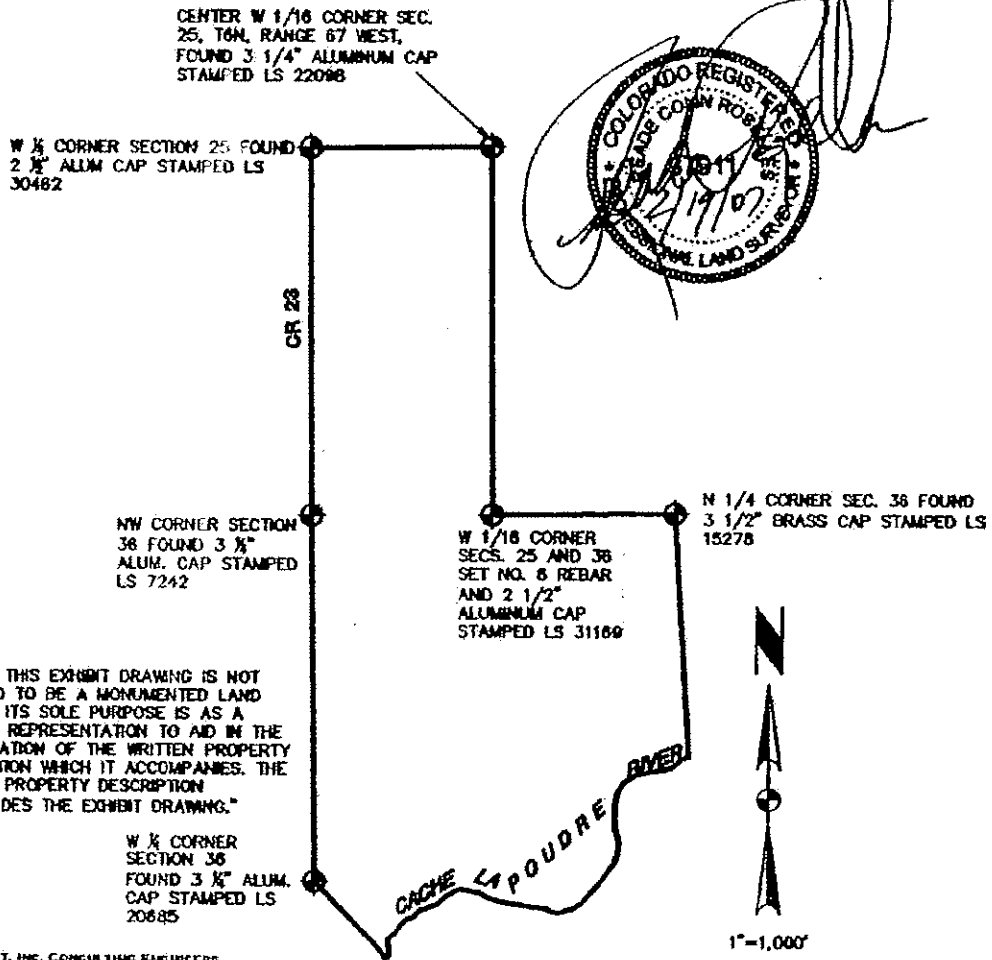
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Revised: 2/19/2007





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**GREAT WESTERN METROPOLITAN DISTRICT
 FUTURE INCLUSION AREA 3
 WINDSOR, COLORADO
 EXHIBIT B**



"NOTE: THIS EXHIBIT DRAWING 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 SUPERSEDES THE EXHIBIT DRAWING."

TST TMT, INC. CONSULTING ENGINEERS

740 Whelan Way, Ste. D
 Fort Collins, Colorado
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 Fax: 970.226.0204
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Filename: FUTURE INCLUSION 3
 JUN 2007



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GREAT WESTERN METROPOLITAN DISTRICT
FUTURE INCLUSION AREA 4
EXHIBIT A

A TRACT OF LAND SITUATE IN SECTION 26, TOWNSHIP 6 NORTH,
RANGE 67 WEST, OF THE 6TH P.M.; COUNTY OF WELD, STATE OF
COLORADO; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

LOT A RECORDED EXEMPTION RE-455

SAID TRACT CONTAINS 1.35 ACRES (58,601 SQUARE FEET) MORE OR LESS
AND IS SUBJECT TO ALL RIGHTS-OF-WAY, EASEMENTS, AND RESTRICTIONS
OF RECORD, OR THAT NOW EXIST ON THE GROUND.

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**GREAT WESTERN
 METROPOLITAN DISTRICT
 FUTURE INCLUSION AREA 4**

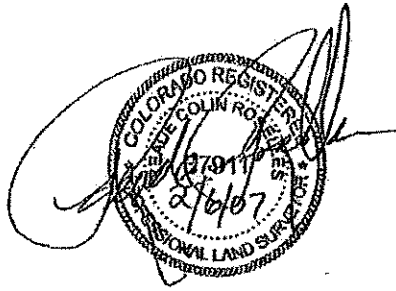
**WINDSOR, COLORADO
 EXHIBIT B**

"NOTE: THIS EXHIBIT DRAWING IS NOT
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 VISUALIZATION OF THE WRITTEN PROPERTY
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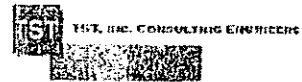
LOT A
 RE-455

E 1/4 CORNER SECTION 26
 FOUND 2 1/2" ALUM CAP
 STAMPED LS 30462

WELD COUNTY ROAD 28



1"=200'



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GREAT WESTERN METROPOLITAN DISTRICT
FUTURE INCLUSION AREA 5
EXHIBIT A

A TRACT OF LAND SITUATE IN SECTION 26, TOWNSHIP 6 NORTH,
RANGE 67 WEST, OF THE 6TH P.M.; COUNTY OF WELD, STATE OF
COLORADO; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

LOT B RECORDED EXEMPTION RE-1245.

SAID TRACT CONTAINS 11.00 ACRES (479,259 SQUARE FEET) MORE OR LESS
AND IS SUBJECT TO ALL RIGHTS-OF-WAY, EASEMENTS, AND RESTRICTIONS
OF RECORD, OR THAT NOW EXIST ON THE GROUND.

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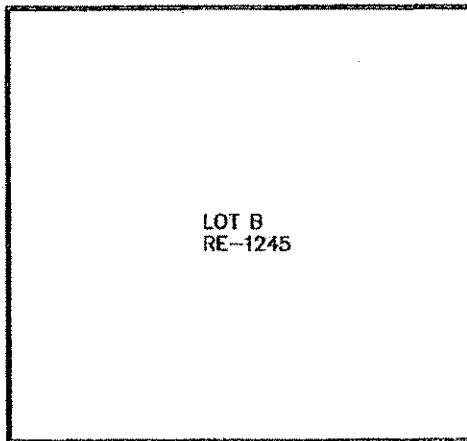




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**GREAT WESTERN
 METROPOLITAN DISTRICT
 FUTURE INCLUSION AREA 5**

WINDSOR, COLORADO
 EXHIBIT B



LOT B
 RE-1245

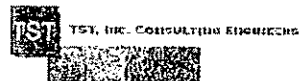
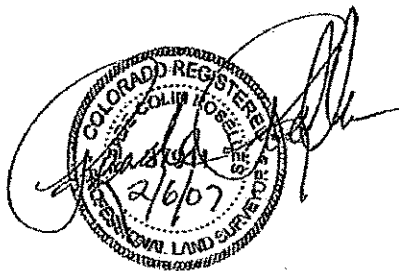
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WELD COUNTY ROAD 28

SE CORNER SECTION 26
 FOUND 3 1/4" ALUM. CAP
 STAMPED LS 7242



1"=200'



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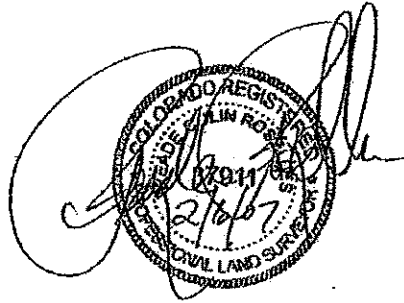
GREAT WESTERN METROPOLITAN DISTRICT
FUTURE INCLUSION AREA 6
EXHIBIT A

A TRACT OF LAND SITUATE IN SECTION 35, TOWNSHIP 6 NORTH,
RANGE 67 WEST, OF THE 6TH P.M.; COUNTY OF WELD, STATE OF
COLORADO; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

LOT B RECORDED EXEMPTION RE-1244.

SAID TRACT CONTAINS 2.45 ACRES (106,728 SQUARE FEET) MORE OR LESS
AND IS SUBJECT TO ALL RIGHTS-OF-WAY, EASEMENTS, AND RESTRICTIONS
OF RECORD, OR THAT NOW EXIST ON THE GROUND.

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LOT B
 RE-1245

NE CORNER SECTION 35
 FOUND 3 1/4" ALUM. CAP
 STAMPED LS 7242

**GREAT WESTERN
 METROPOLITAN DISTRICT
 FUTURE INCLUSION AREA 6**

**WINDSOR, COLORADO
 EXHIBIT B**

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 DESCRIPTION WHICH IT ACCOMPANES. THE
 WRITTEN PROPERTY DESCRIPTION
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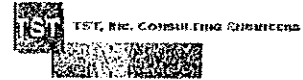


LOT B
 RE-1244

WELD COUNTY ROAD 23



1"=200'



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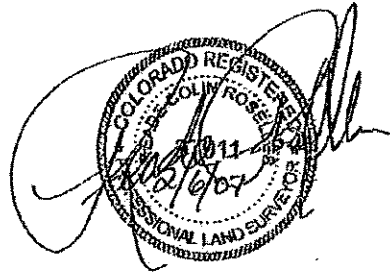
GREAT WESTERN METROPOLITAN DISTRICT
FUTURE INCLUSION AREA 7
EXHIBIT A

PARCELS OF LAND SITUATE IN SECTION 35, TOWNSHIP 6 NORTH,
RANGE 67 WEST, OF THE 6TH P.M.; COUNTY OF WELD, STATE OF
COLORADO; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

RECORDED EXEMPTION RE-475 AND RECORDED EXEMPTION RE 76.

SAID PARCELS CONTAIN 2.82 ACRES (122, 941 SQUARE FEET) MORE OR LESS
AND ARE SUBJECT TO ALL RIGHTS-OF-WAY, EASEMENTS, AND RESTRICTIONS
OF RECORD, OR THAT NOW EXIST ON THE GROUND.

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**GREAT WESTERN
 METROPOLITAN DISTRICT
 FUTURE INCLUSION AREA 7**

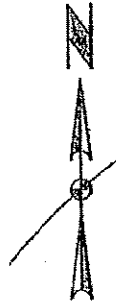
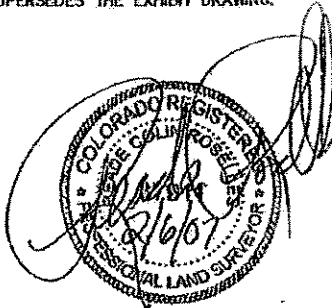
**WINDSOR, COLORADO
 EXHIBIT B**

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LOT B
 RE-1214

LOT A
 RE-475

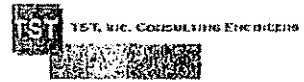
LOT A
 RE-476



1"=200'

WELD COUNTY ROAD 23

E 1/4 CORNER SECTION 35
 FOUND 3 1/4" ALUM. CAP
 STAMPED LS 20685



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