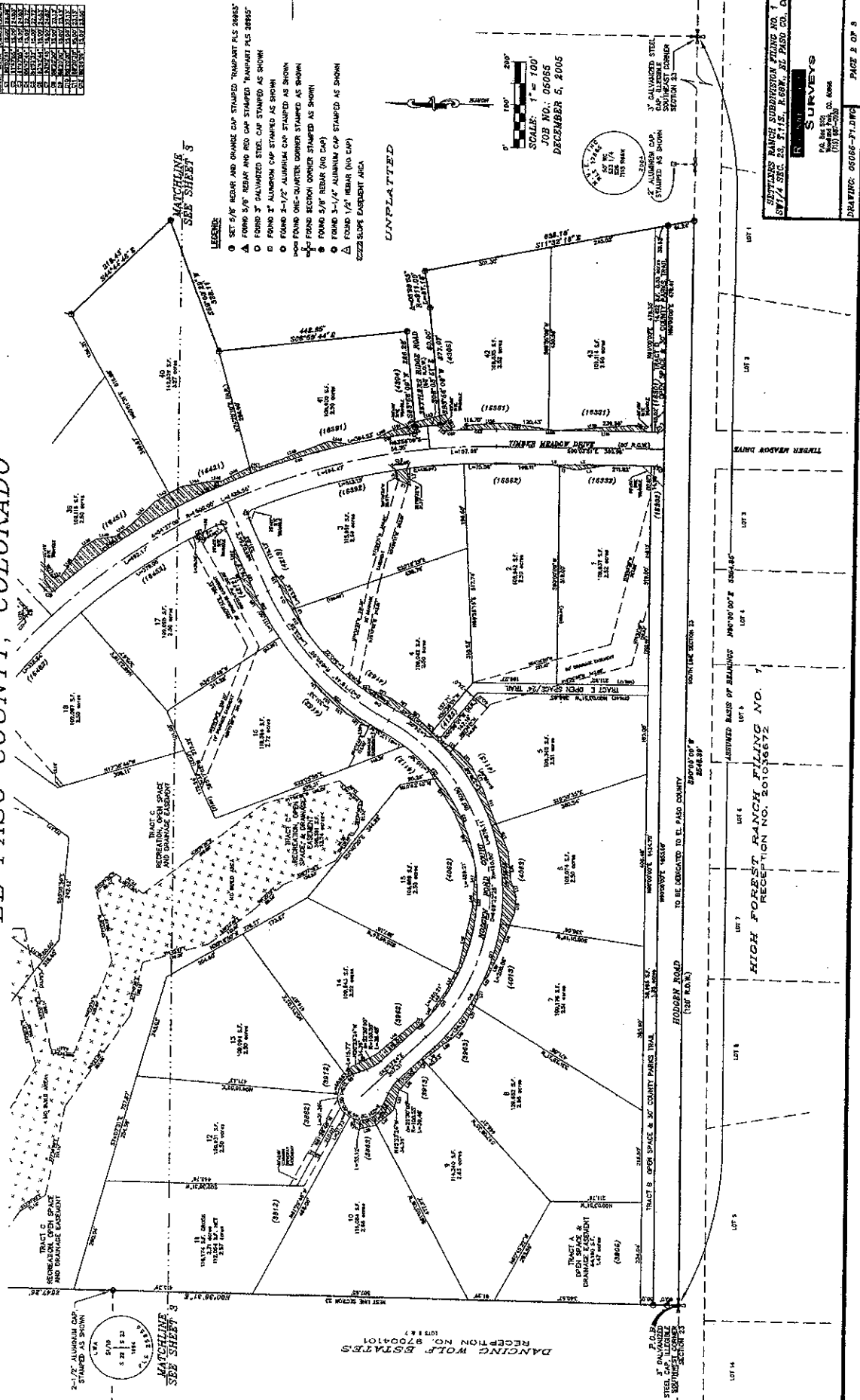


A PORTION OF THE SOUTHWEST ONE-QUARTER (SW¹/₄) OF SECTION 23,
TOWNSHIP 11 SOUTH, RANGE 66 WEST OF THE 6th P.M.,
EL PASO COUNTY, COLORADO

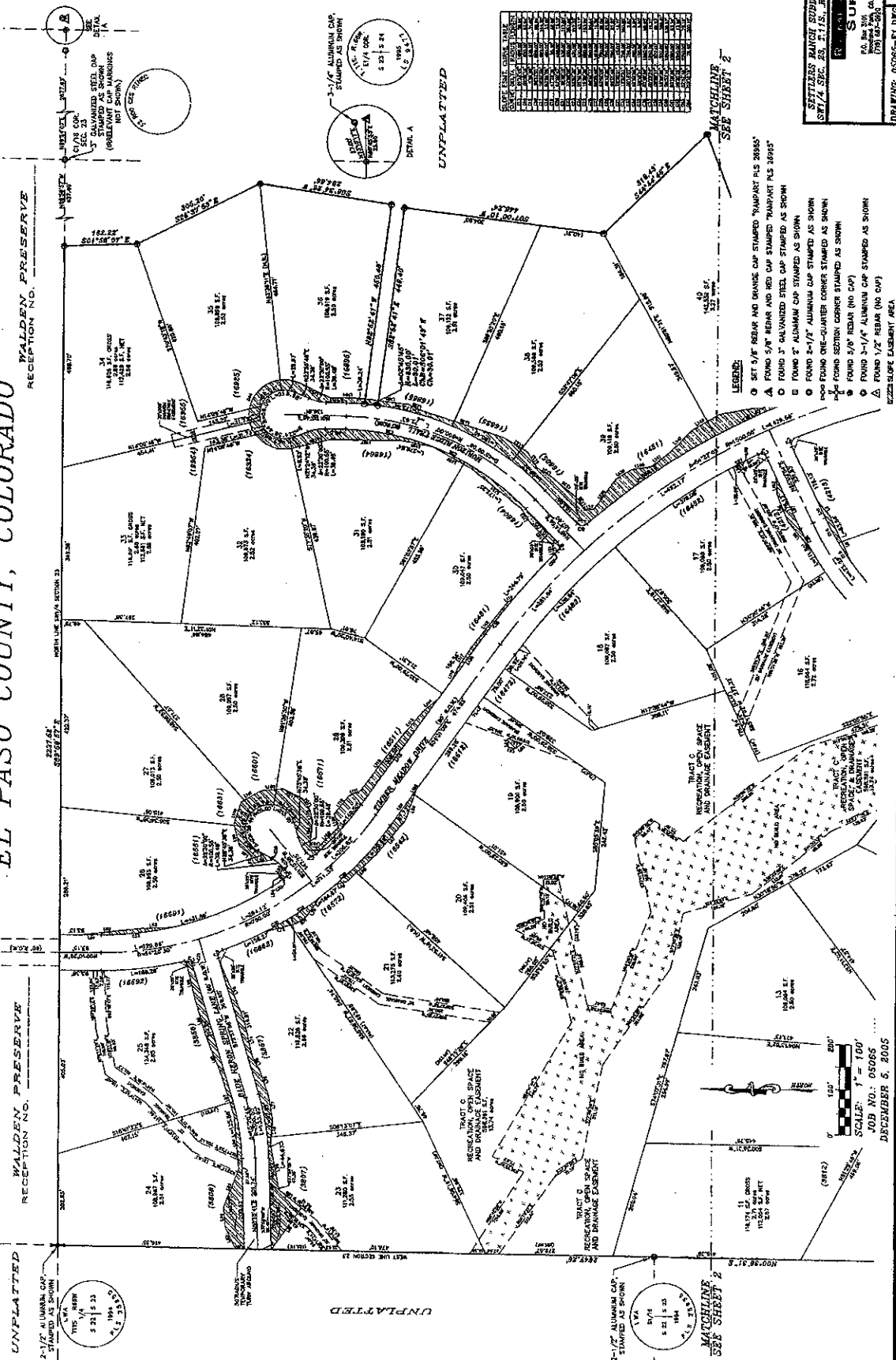
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SETTLERS RANCH SUBDIVISION FILING NO. 1 12225 A PORTION OF THE SOUTHWEST ONE-QUARTER (SW1/4) OF SECTION 23, TOWNSHIP 11 SOUTH, RANGE 66 WEST OF THE 6th P.M., EL PASO COUNTY, COLORADO

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SETTLERS RANCH SUBDIVISION FILING NO. 1 12225
A PORTION OF THE SOUTHWEST ONE-QUARTER (SW1/4) OF SECTION 23
TOWNSHIP 11 SOUTH, RANGE 66 WEST OF THE 6th P.M.,
EL PASO COUNTY, COLORADO



DECLARATION
OF
CONDITIONS, COVENANTS RESTRICTIONS AND EASEMENTS FOR
SETTLERS RANCH

ROBERT C. "BOB" BALINK El Paso County, CO

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DECLARATION
OF
CONDITIONS, COVENANTS RESTRICTIONS AND EASEMENTS FOR
SETTLERS RANCH

RECITALS

A. Hodgen Settlers Ranch, LLC, a Colorado limited liability company (hereinafter called "Declarant") is the sole owner of the real property described on Exhibit "A" attached hereto and incorporated herein by this reference (hereinafter called the "Subdivision" which term shall include any real property known as Settlers Ranch Filing No. 1 and also any real estate subsequently added to and submitted to this Declaration by Declarant).

B. In the event Hodgen Settlers Ranch, LLC or any subsequent Declarant transfers substantially all of its vacant lots in the subdivision to another person and specifically transfers its rights under this Declaration, such transferee shall become the Declarant hereunder and Hodgen Settlers Ranch, LLC or such transferring Declarant shall no longer be the Declarant.

C. Declarant desires to place protective covenants, conditions, restrictions, reservations, liens and charges upon the Subdivision to protect the Subdivision's quality residential living environment and also to protect its desirability, attractiveness and value.

D. The Declarant hereby declares that all of the Subdivision as hereinafter described, with all appurtenances facilities and improvements thereon, shall be held sold, used, improved, occupied, owned, resided upon, hypothecated, encumbered, liened, and conveyed subject to the following easements, reservations, uses, limitations, obligations, restrictions, covenants, provisions and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Subdivision and all of which shall run with the land and be binding on and run to the benefit of all parties having any right, title or interest in the Subdivision or any part thereof, their heirs, successors and assigns.

E. Certain documents are recorded in the real estate records of the Clerk and Recorder of El Paso County, Colorado at the reception noted below, and referred to in this Declaration of Covenants. These include: the Judgment and Decree Granting Underground Water Rights and Plan for Augmentation of the District Court, State of Colorado, in Case No. 03 CW 241 (Water Division No.1) and 03 CW 50 (Water Division No.2) recorded at Reception 205007424 ("Augmentation Plan" or "Water Decree"); and the Private Detention Basin Maintenance Agreement and Easement recorded at Reception _____ ("Maintenance Agreement").

F. Declarant has formed a nonprofit corporation "Settlers Ranch Homeowners Association" (the "Association") under Colorado law to perform the functions of the Association under this Declaration of Covenants. Purposes of the Association shall include, without limitation, managing, operating, cleaning, maintaining and repairing the Detention Basins; administering and enforcing covenants, conditions, restrictions, agreements, reservations and easements

contained in the Maintenance Agreement; and levying, collecting and enforcing the assessments, charges, and liens imposed herein and under the Maintenance Agreement, and carrying out the provisions of the Augmentation Plan and Water Decree.

G. The Declarant is causing the Subdivision to be platted as "Settlers Ranch Filing No. 1" into a total of 43 single-family Lots (the "Lots") and tracts A, B, C, D and E (the "Tracts") situate in the County of El Paso and State of Colorado. The Subdivision is part of a larger development known as "Settlers Ranch" whose current legal description is on Exhibit B but which term shall include any additions to Settlers Ranch as stated in covenants later recorded in the real estate records of El Paso County, Colorado provided such additions are submitted to these Covenants. The Declarant specifically reserves the right to add the rest of the property described on Exhibit B. Any reference herein to "Lots" or "Tracts" shall include any lots or tracts included in any such additions to these Covenants.

ARTICLE I

COVENANTS TO PRESERVE THE RESIDENTIAL CHARACTER OF THE SUBDIVISION

Section 101. Property Uses.

All single family residential Lots in the Subdivision shall be used exclusively for private residential purposes. No dwelling erected or maintained within the Subdivision shall be used or occupied for any purpose other than for a single-family dwelling. No trade, business profession, commercial activity or other activity conducted for gain shall be carried on or within any Lot, except as provided in Section 107 and Quiet Home Businesses. Quiet Home Businesses shall mean businesses that (1) limit deliveries to common couriers such as Federal Express and UPS, (2) restrict parking to no more than one on-street parked vehicle and off-street parking to no more than two vehicles spaces, (3) limit staff, other than residents of the Lot, to no more than two temporary employees (or similar contract workers) and no more than one employee (or similar contract worker), which employee shall work less than 20 hours per week, (4) curtail customer, vendor and business associate visits to no more than ten total vehicle visits per week, (5) do not produce noise beyond normal household noise, (6) have no outdoor storage, (7) do not park visibly commercial vehicles on the Lot, and (8) retain the residential neighborhood nature of the Subdivision. The construction of separate guest quarters may be allowed on a Lot on a case-by-case basis if approved by the Approving Authority and the appropriate zoning authority, subject to any conditions in such approvals. No Lot shall be used for a human services home, human service residence, human services facilities and human services shelter, health care support facility, hospice, or youth home, generally as such facilities and uses are defined in the zoning code of the El Paso County, or if not so defined, the zoning code of the City of Colorado Springs. In-home child care shall be permitted provided the operation is licensed under regulations of the State of Colorado and has no more than four children at any one time who are not residents of the Lot.

Section 102. Structures.

No Structure shall be erected within the Subdivision except single-family dwellings and those

Accessory Buildings and other Structures that have been approved by the Approving Authority. Other than a dwelling, no Structure, trailer, tent or other similar or temporary quarters may be used for living purposes. No Structure may be placed on any Lot except with the permission of the Approving Authority after its review and approval of the Structure's location on the Building Site.

Section 103. Construction Type.

All construction shall be new. No building previously used at another location nor any building or Structure originally constructed as a mobile dwelling or manufactured housing may be moved onto a Lot, except as expressly hereinafter provided for temporary buildings. Panels and major house components may be manufactured off-site, provided that the assembly is conducted on-site and does not have the appearance generally associated with manufactured housing.

Section 104. Storage.

No building materials shall be stored on any Lot except temporarily during continuous construction of a building or its alteration or improvement.

Section 105. Substantial Completion.

A Structure shall not be occupied in the course of original construction until substantially completed and approved for occupancy by the appropriate governmental authorities. All work of construction shall be prosecuted diligently and continuously from the time of commencement until fully completed.

Section 106. Construction Completion.

The exterior of all buildings or other Structures must be completed within one year after the commencement of construction except where such completion is impossible or would result in great hardship due to strikes, fires, national emergency or natural calamities. If not so completed, or if construction shall cease for a period of sixty days without permission of the Approving Authority, the Approving Authority will give the Owner thereof Due Notice of such fact, and if construction on such Structure is not diligently commenced within thirty days after such notice, the unfinished Structure or unfinished portion thereof shall be deemed a nuisance and shall be removed forthwith by and at the cost of the Owner. Erosion control Structures must be installed prior to the commencement of any construction upon any Lot.

Section 107. Construction or Sales Offices.

Temporary buildings for construction or administration purposes or for sales offices may be erected or maintained only by Declarant or with the written permission of the Approving Authority. Model homes may be used and exhibited only by Declarant or with the permission of the Approving Authority.

Section 108. Drilling Structures and Tanks.

The only drilling Structures and tanks permitted shall be during the construction phase of a

single family residential home, in order to place a household well and septic system in place. All tanks shall be installed underground and the surrounding area shall be left free and clear of debris and returned to its natural state. Water tanks and cisterns shall be permitted for landscaping purposes, provided they are appropriately screened as may be required by the Approving Authority.

Section 109. Easement.

There are hereby reserved to Declarant, its successors and assigns, perpetual, alienable, divisible and releasable easements and the right from time to time to grant such easements to others over, under, in and across each of the strips as shown on the plat of Settlers Ranch for lines for transmission of electric current or impulses or electronic signals, for heat and fuel lines, for utility lines, for drainage and for other similar or dissimilar facilities and purposes, and for any one or more of such purposes, including wind power facilities and communications towers

Section 110. Underground Utilities.

All utilities, except lighting standards and customary service devices for meters, transformers, access, control or use of utilities, shall be installed underground.

Section 111. Maintenance Agreement/Drainage.

Declarant hereby adopts the Private Detention Basin Maintenance Agreement (referred to in these Covenants as "Maintenance Agreement") and said Maintenance Agreement is incorporated herein by this reference. The Maintenance Agreement touches and concerns each and every Lot within the Subdivision. The Association shall adopt the Maintenance Agreement and shall clean, maintain and repair the detention basins as provided in the Maintenance Agreement.

- a. Retention and or detention structures exist on some Lots and Tracts, and drainage easements and areas may exist on portions of certain Lots and Tracts as shown on the recorded plat. The purpose of these structures, easements and areas is to maintain historic drainage flows, since home and road construction may slightly increase drainage flow. No structures, landscaping or other materials shall be placed within any drainage easements so as to potentially obstruct drainage. Declarant, El Paso County, Soil Conservation entities, the Association, and their successors and assigns reserve the right to enter upon said easements and areas periodically for purposes of inspection, maintenance and related matters. All Lots and all Lot Owners may be subject to an obligation as set forth in the Maintenance Agreement. The individual Lot Owners are responsible for minor regular maintenance of such drainage ways and structures located on their Lots and may not redirect or impede the drainage flows therein. The Association is obligated to maintain all such detention and drainage structures and shall include the cost of maintenance, including reasonable reserves for major maintenance and replacement, in Assessments charged to the Lot Owners.
- b. All excavation and construction activities must comply with the County approved drainage report and storm water management plan and excavation activities on individual Lots must comply with best management practices and obtain any County required erosion control and storm water quality permit.

ARTICLE II

DENSITY, SETBACK AND QUALITY STANDARDS

Section 201. Resubdivision.

No more than one dwelling Structure and a private garage shall be erected or maintained within any Lot. No Lot shall be subdivided into additional Lots without the prior written approval of the Approving Authority. This covenant shall not preclude any further subdivision or replatting by Declarant or any minor Lot line adjustments to resolve building hardships, as long as such adjustments meet all legal requirements and are approved by Declarant and the Approving Authority in writing.

Section 202. Setback Areas.

Dwellings, Structures and buildings, including Accessory Buildings, shall not be constructed within the "No Build Areas" as shown on the plat approved by El Paso County and any setbacks included in the PUD zoning. Any variance from such provisions must be approved by the Approving Authority and in addition must be approved by El Paso County, probably through a change to the PUD zoning or zoning variance. In addition, all buildings shall be set back from property lines as follows: 75 feet from front lot lines, 35 feet from side lot lines, and 50 feet from rear lot lines. In the event any Lot has more than one lot line at an adjoining street, each such lot line shall be considered a front lot line. Setbacks shall be measured perpendicularly from property line to the foundation line for any building. The Approving Authority may reduce the front lot line setback on flag lots. Except with approval of the Approving Authority, no building, porch, eaves, overhang, projection or other part of a building shall be located closer to Lot Lines than permitted by these Covenants or the PUD plan requirements. The Approving Authority's approval may be given for (a) fireplace projections integral with the building; (b) eaves and overhangs; and (c) construction, which extends less than one foot into the setback area and which the Approving Authority determines to be minor in nature and to be consistent with the Lot's shape, topography and in the interest of superior design. Lot owners are encouraged to place garage doors with minimal exposure to the street and to use designs that minimize garage doors' visual impact on any elevation.

Section 203. Dwelling Area Requirements.

No dwelling Structure shall be constructed unless the ground floor area, or footprint area, of the main Structure, exclusive of open porches, basements and garages, is more than 2,200 square feet for a one-story dwelling and more than 2,000 square feet on the main level of a dwelling more than one story, whether split-level or otherwise. Minimum finished area for the upper two levels of a two-story home shall be at least 2,800 square feet. Attached garages are required for all homes and shall be of size to accommodate not less than three full-sized cars and must contain a minimum of 800 square feet. Owners are encouraged to have a full basement whenever possible. Ranch styles must have a basement equal to at least three-fourths of the square footage of the main level.

Section 204. Height Restrictions.

No dwelling or other Structure shall exceed 34 feet in height or be more than two stories high. Height shall be measured from the highest finished grade contour at any point adjoining the foundation perimeter of the Structure to the highest point on the Structure exclusive of standard chimneys. Finished grade contour shall mean the ground contour established by Declarant during development of the Lots and existing immediately prior to commencement of construction of any dwelling or other Structure, or such other finished grade as may be approved by the Approving Authority.

Section 205. Roofs.

All roof areas shall be of "concrete" tile, slate, and/or copper. Asphalt shingles are not allowed. Other roofing materials may also be used, but only if approved by the Approving Authority.

Section 206. Building Material Standards.

At least 30% of the front facade shall consist of stone, manufactured stone, brick, heavy timber or a combination of these materials. Siding, such as aluminum, steel and vinyl, is not permitted. Lap siding shall be no more than 6 inches. Aluminum clad wood windows are the preferred window type. Wood or vinyl clad windows may be permitted. All aluminum windows shall be anodized and painted or coated with a color to blend with or compliment the color of the dwelling. Gutters, if installed, shall be painted the same color as the adjoining trim color of the dwelling. Erosion control Structures must remain in place until disturbed ground has been returned to its natural state. All exterior building materials in combination must meet the requirements for fire protection recommended by the applicable fire district.

Section 207. Accessory Buildings and Yard Items.

Accessory Buildings or Structures and yard items, whether movable or immovable, including, without limitation, children's play or swing sets, basketball hoops, equipment or appliances, fountains, yard ornaments, masonry figures, and above-ground swimming pools, shall be permitted only if approved by the Approving Authority in its sole discretion. Metal and pre-manufactured storage sheds will not be allowed. All accessory Structures shall be architecturally consistent with the main Structure.

Section 208. Antennas.

No aerial, antenna, satellite dish or other device for reception or transmission of radio or television or other electronic signals shall be maintained on the roof of any building, nor shall they be maintained at any other exterior location unless screened in a manner approved by the Approving Authority. Devices 28 inches in largest dimension or smaller shall be permitted. Plans for other such Structures must be submitted to and approved by the Approving Authority prior to installation. If the Approving Authority disapproves, the party requesting approval may modify its plans to eliminate the Approving Authority's objections and resubmit them for approval.

Section 209. Owner Maintenance.

Each Owner shall maintain the exterior of the dwelling, any Accessory Building and all other

Structures, lawns and landscaping, walks and driveways, in good condition as determined by the Approving Authority, shall cause dead or diseased landscaping to be promptly replaced, and shall cause such other items to be repaired or replaced as the effects of damage or deterioration become apparent. Exterior building surfaces and trim shall be repainted, sealed or stained periodically and before the surfacing has a weather-beaten or worn appearance as determined by the Approving Authority.

Section 210. Rebuilding or Restoration.

Any dwelling or building which may be destroyed in whole or in part by fire, windstorm or from any other cause or act of God must be rebuilt or all debris must be removed and the Lot restored to a *sightly condition*; such rebuilding or restoration shall be completed with reasonable promptness and in any event within six months from the time the damage occurred.

Section 211. Fences.

Fencing is generally discouraged. Animal control is encouraged to be by invisible fence (electric collar), but must be sufficient to effectively control the animal.

- a. The height, location and material of all fences, dog runs and other similar items must be approved by the Approving Authority. Split rails are encouraged as the primary fencing material.
- b. Chain link or similar wire or wire-mesh fencing shall not be allowed as the primary fencing material.
- c. No privacy fences shall be allowed, except surrounding an area not to exceed 800 square feet and set within the designated building area of the Lot. Any such fences shall be brick, stone or stucco. Dog runs may not exceed 800 square feet, shall be constructed of a maximum four-foot high split rail with wire screen and shall not be located in front yards, and unless otherwise permitted by the Approving Authority, shall be at least 50 feet from Lot lines.
- d. All fencing shall comply with the requirements of El Paso County and shall be submitted for prior written approval by the Approving Authority.
- e. The Lots on the far eastern boundary of Settlers Ranch may be exposed to ranching operations. Owners acknowledge and agree that the property to the East has been and may continue to be a working cattle ranch, and all Lot owners, family, domestic pets, and guests shall respect the adjoining property and allow no trespassing, at any time, and shall not have any right of action against the Declarant, the Association, nor the adjoining owner for on account of any such ranching operations carried out on the land adjoining Settlers Ranch to the East. So long as the property to the East of Settlers Ranch is a working ranch, the Association shall maintain and repair a five-strand barbed wire fence between the Lots and the property to the East being used for actual ranch animal grazing. The Association shall not be liable to Lot owners for any damage caused by failure to maintain such fence. Under Colorado law, landowners are responsible to fence out grazing animals from their property.

Section 212. Driveways.

All drives, driveways and walks for vehicular or pedestrian ingress and egress shall be constructed of black asphalt, concrete, or decomposed crushed gravel. Owners of Lots are advised that the County has no responsibility for and will not plow snow or otherwise maintain driveways whether on flag Lots or other Lots. Such responsibility is solely that of the Lot Owner. Metal flared end extensions with additional stone, rock, brick or other masonry treatment are required on all driveway culverts, or alternatively, concrete or masonry headwalls must be used to prevent bent and exposed driveway culverts and consequently unattractive appearance. Owners must submit plans to the Approving Authority to include the manner in which the driveways will be constructed and must obtain approval prior to start of construction.

Section 213. Approval by Approving Authority.

Homes shall be subject to review and approval by the Approving Authority, which may require that a \$125 non-refundable filing fee be paid with each submission, plus a \$500 refundable compliance fee. No home may begin construction until plans are approved in writing by the Approving Authority and erosion control Structures are in place.

Section 214. Relief from Violations.

If any object, including, without limitation, aerial, antenna, solar collector, satellite dish or other device or any fence, Accessory Building, or improvement is installed or placed without the approval of the Approving Authority, or any action is taken in violation of these Covenants, Declarant or the Approving Authority or both shall have the right (but not the obligation), after Due Notice, to enter the Lot in question and remove the object or correct the action. Declarant and the Approving Authority shall not be liable for any losses, costs or damages to any Owner of the Lot on account of such removal of the offending object or corrective action, except for any such loss, cost or damage caused by Declarant or the Approving Authority's gross negligence or willful misconduct. Declarant and the Approving Authority may delegate their entry and removal rights hereunder to agents and independent contractor. In the event Declarant or the Approving Authority elects to remove an object or correct the action pursuant to this section, Declarant or the Approving Authority will submit to the Owner of the Lot, from which the object was removed, a written statement of the costs incurred by Declarant or the Approving Authority in removing the object or action corrected. These costs shall be paid to Declarant or the Approving Authority within twenty days after receipt of such notice. If the costs of Declarant or the Approving Authority have not been paid after expiration of this twenty-day period, Declarant or the Approving Authority may thereafter record a lien against the Lot involved for all costs (including without limitation reasonable attorneys' fees and expert witness fees) incurred by Declarant or the Approving Authority in removing the object and correcting the action and in collecting such costs and enforcing and foreclosing upon the lien, which lien shall be junior to other liens or encumbrances of record with respect to the Lot on the date this lien is recorded. This lien may thereafter be foreclosed upon in the manner provided by Colorado law for foreclosing upon real estate mortgages. This lien shall provide that all sums expended by Declarant or the Approving Authority in foreclosing the lien and collecting the amount due Declarant or the Approving Authority (including reasonable attorneys' fees, expert witness fees and other expenses) shall be additional indebtedness secured by the lien.

Section 215. Compliance with Zoning and other Laws.

In the construction of any Structure or use of any Lot, the Owner shall comply with any and all federal, state and local laws and regulations, all of which are incorporated herein by this reference and may be enforced as part of these Covenants. Such laws and regulations shall include without limitation the notes and restrictions of the recorded Plat and the subdivision regulations of El Paso County. All construction must also conform to the building codes, zoning codes and subdivision regulations of El Paso County and the Regional Building Department, which regulations may vary from provisions of these Covenants. In the event of any conflict, the most restrictive requirements shall prevail and control.

Section 216. Design Guidelines.

The Approving Authority may adopt Design Guidelines dealing with technical and aesthetic issues that set forth the Approving Authority's guidance and expectations on such issues to assist applicants with obtaining approval. Such Design Guidelines may include such issues as color, style, decorative motifs, and similar aesthetic issues. Nothing in such Design Guidelines shall restrain the Approving Authority from approving design elements that do not conform to such Design Guidelines; however, the Approving Authority may require adherence to such Design Guidelines and may vary such Design Guidelines from time to time.

ARTICLE III

LIVING ENVIRONMENT STANDARDS

Section 301. Building and Grounds Conditions.

Each Owner shall prevent the development of any unclean, unsightly or unkempt conditions or building or grounds on his Lot that tend to substantially decrease the beauty of the neighborhood as determined by the Approving Authority in its sole discretion.

Section 302. Garage Doors.

All garage doors shall be equipped with automatic remote-control openers and shall be kept closed except when being used to permit immediate ingress or egress to or from the garage.

Section 303. Maintenance Equipment.

All maintenance equipment shall be stored in an enclosed building or otherwise adequately screened so as not to be visible from neighboring property or adjoining streets. All Structures shall be approved by the Approving Authority.

Section 304. Clotheslines.

All outdoor clothes poles, clotheslines or other facilities for drying or airing clothing or household goods are prohibited, unless completely screened from view on adjoining Lots and public streets.

Section 305. Refuse.

No ashes, trash, rubbish, garbage, grass or shrub clippings, scrap material or other refuse, or receptacles or containers therefor shall be stored, accumulated or deposited outside the residential dwelling or Accessory Building, except during refuse collections. Containers or other equipment for the storage or disposal of garbage, trash, rubbish or other refuse shall be kept in a clean, sanitary condition. All garbage or trash containers shall be kept at all times in a closed garage, except on the day of trash pick up. The Association may contract for trash pick up on behalf of all Lot Owners, in which case the Association may charge a fee for such service in addition to all other fees. Bottled gas tanks, if any, must be underground, or concealed behind walled-in areas designed to blend in with the house, and must be approved by the Approving Authority and may be subject to the approval of the Fire Department. No trash, litter, junk, equipment, boxes or other such items shall be permitted to remain exposed upon any Lot and visible from public streets or from other Lots within the subdivision. Construction dumpsters shall be removed within seven days of occupancy or completion of the house on the Lot, whichever occurs first. Daily fines may be assessed for any violation of this Section or other sections of the Declaration or rules and regulations. Such fines or special assessments for violations may only be imposed after written notice and opportunity for a hearing in front of the Board, and may be enforced by legal action including without limitation recovery of the Association's legal fees and expenses of enforcement, or by lien, or both. The failure to enforce any right, reservation, restriction or condition contained herein, however long continued, shall not be deemed a waiver of the right to do so thereafter as to the same breach or as to a breach occurring prior to or subsequent thereto and shall not bar or affect its enforcement. The invalidation by any court of any restriction contained in these Covenants shall not in any way affect any of the other restrictions, but they shall remain in full force and effect.

Section 306. Nuisances.

No noxious or offensive activity shall be carried on upon any Lot or anything done thereon tending to cause embarrassment, discomfort, annoyance or nuisance to the neighborhood. No offensive or hazardous activities may be carried on any Lot or in any living unit. No annoying lights, sounds or odors shall be permitted to emanate from any living units. No floodlights, spotlights or other bright lights shall be allowed which are visible from the roads or Lots; indirect lighting shall be required. Any exterior lighting on any Lot shall either be indirect or of such controlled focus and intensity as not to unduly disturb residents of adjacent or nearby property. Nothing shall be done on the Subdivision that pollutes or threatens to pollute any well. No trail bikes, mini-bikes, motorcycles, all-terrain vehicles, snowmobiles, or other such noise causing vehicles shall be operated within the Subdivision other than on County roads and going to and from residences. No activity shall be permitted which will generate a noise level sufficient to interfere with the reasonable quiet enjoyment of the persons on any adjoining or nearby Lots. Neither hunting of any kind nor the discharge of firearms shall be permitted in the Subdivision.

Section 308. Sound Devices.

No exterior speakers, horns, whistles, bells or other sound devices, except for built-in speakers on the rear decks and for security devices used exclusively for security purposes, shall be located, used or placed on any Structure or within any Building Site.

Section 308. Weeds.

Lot Owners shall keep all yards and open spaces and the entire area of every Lot, whether or not a Structure has been constructed thereon, free from plants, thistle or weeds infected with noxious insects or plant diseases and from weeds or thistle which, in the reasonable opinion of the Approving Authority or as specified by governmental authorities, are likely to cause the spread of infection or weeds to neighboring property and shall keep such Lot free from brush or other growth or trash which in the reasonable opinion of the Approving Authority causes danger of fire, pests or vermin. The Association may require Owners to spray for noxious weeds on their Lots. The Association may remove any infected trees or noxious weeds from Lots and recover the cost of removal from the Owner.

Section 309. Mowing and Pruning.

In order to control pest, insect, weed and fire dangers and to prevent and remove nuisances, the Owner of any Lot, whether or not a Structure has been constructed thereon, shall mow, cut, prune, clear and remove from the Lot any unsightly brush, weeds and other unsightly growth and shall remove any trash which may collect or accumulate on the Lot. Declarant and the Association shall have the right (but not the duty) to enter any Lot and perform this work after Due Notice to the Owner, at such Owner's expense. No fence, wall, hedge, tree, shrub planting or other structure which unduly obstructs lines-of-sight shall be placed or permitted to remain on any corner formed by the intersection of a driveway or street with another street. The Approving Authority shall be the sole and exclusive judge of whether said lines-of-sight are unduly obstructed. However, Owners and their guests must also observe the line-of-sight obstruction restrictions on the Plat.

Section 310. Grading Patterns.

No material change may be made in the ground level, slope, pitch or drainage patterns of any Lot as fixed by any development or drainage plan approved by El Paso County or the Approving Authority for said Lot. Erosion control Structures shall be required prior to commencement of construction and anyone undertaking construction on such Lot shall maintain "best practices" as determined by El Paso County to avoid transport of silt and sediment.

Section 311. Animals.

No animals, except domesticated birds or fish and other small domestic animals permanently confined, and except an aggregate of not more than three domesticated dogs and cats shall be maintained in or on any Lot within the Subdivision and then only if kept as pets. No animal of any kind shall be permitted which in the opinion of the Approving Authority makes an unreasonable amount of noise or odor or is a nuisance. No animals shall be kept, bred or maintained within the Subdivision for any commercial purposes. No kennels whether breeding or sale shall be allowed. No farm animals shall be permitted. The Association may adopt reasonable rules and regulations that may regulate, restrict or prohibit particular animals or animal related activities within the Subdivision. Barking dogs and loose cats may harm wildlife and disturb the peace of the Subdivision, and so are prohibited; the Association may require the immediate removal of any animal or pet which violates these Covenants or the rules or both. Dogs shall not

be permitted to run loose and shall be kept under control of Owners at all times. The Association may require any animal considered intimidating by the neighbors to be kept behind solid fencing at least six feet high, and may designate breeds and types of animals requiring such fencing. No exterior doghouses or kennels will be permitted unless fully screened from all adjacent streets and houses.

Section 312. Trailers, Canoes, Boats and Other Vehicles.

No boat, trailer, camper (on or off supporting vehicles), tractor, commercial vehicle, mobile home, motor home, recreational vehicle, motorcycle, or any towed trailer unit or truck, excepting only pickup trucks solely for the private use of residents of a dwelling, shall be parked for more than three days, as determined by the Approving Authority in its sole discretion, on any street or within any Lot, except in a completely enclosed Structure. All such enclosed Structures shall require the approval of the Approving Authority. If any such vehicle is not removed from the Subdivision or placed in a completely enclosed Structure within three days after Due Notice to the Owner of the Lot on or adjacent to which the offending vehicle is parked, then Declarant or the Approving Authority both shall have the right, but not the obligation, to enter the Lot in question, remove or cause to be towed the offending vehicle and may store the same; any expenses thereof, including, without limitation, reasonable attorneys fees, shall be paid by the owner of the offending vehicle. Declarant and the Approving Authority shall not be liable from any losses, costs or damages to any Owner of the Lot or the owner of the vehicle on account of such removal of the offending vehicle, except for any such loss, cost or damage caused by Declarant's or the Approving Authority's gross negligence or willful misconduct.

Section 313. Vehicle Violations.

No stripped down, abandoned, unlicensed, partially wrecked or junk motor vehicle or part thereof, as determined by the Approving Authority in its sole discretion, shall be permitted to be parked on any street or on any Lot in such a manner as to be visible at ground level from any neighboring property or street. Residents shall generally park inside garages vehicles they own or use.

Section 314. Vehicle Repairs.

No maintenance, servicing, repair, dismantling or repainting of any type of vehicle, boat, machine or device may be carried on within the Subdivision except within a completely enclosed Structure which screens the sight and sound of the activity from the street and from adjoining property.

Section 315. Signs

The only signs permitted on any Lot or Structure shall be:

- a. One sign of a maximum of three square feet for offering the signed property for sale or for rent;
- b. One sign of a maximum of one square foot for identification of the occupant and address of any dwelling;

c. Multiple signs for information, sale, administration and directional purposes installed by or with the permission of Declarant during development and sales of Lots and/or homes and project identification signs installed by Declarant or builders authorized by Declarant;

d. Signs as may be necessary to advise of rules and regulations or to caution or warn of danger;

e. Such signs as may be required by law;

f. Signs approved by the Approving Authority.

g. Except for permitted signs, there shall not be used or displayed on any Lot or Structure any signs or any banners, streamers, flags, lights or other devices calculated to attract attention whether for sale or rental or otherwise unless approval thereof is granted by the Approving Authority. All permitted signs must be professionally painted, printed, lettered and constructed.

h. The Association may construct, maintain, repair and replace entry monuments for the Subdivision on Lots where Entry Monuments Easements exist. Such Entry Monuments shall be Common Elements and the cost of such construction, maintenance, repair and replacement shall be a common expense. Entry Monuments may be located by the Declarant and Association on Lots 1, 25, 26 and 43. The specific site and easement associated with each entry monument shall be delineated at the time of recording the deed from the Declarant to the first purchaser of such Lot.

Section 316. Mailboxes.

Mailboxes may be initially installed by the Declarant in accordance with the U.S. Postal Service design specifications. The U.S. Postal Service may require mailboxes to be clustered in one or more central locations. Declarant hereby reserves easements for any mailboxes and signs located by Declarant upon any Lot or Tract. Mailboxes and their support structures must be approved by the Approving Authority and in compliance with requirements of the United States Postal Service and El Paso County Department of Transportation. Colored plastic or metal newspaper boxes are not permitted; U.S. Postal Service rules prohibit placing newspapers or anything other than U.S. mail in a mailbox. Unless otherwise assumed by the Association, maintenance of mailboxes is the sole responsibility of the individual Lot Owner.

Section 317. Solar Collectors.

Solar collectors or other devices are permitted so long as they are designed and installed to blend in with the overall architecture of other improvements on the Lot. Any roof or wall-mounted collectors or solar devices must be built-in to the roof or wall, be flush with and of the same pitch as the adjacent portions of the building, and be architecturally compatible with the building upon which they are affixed. Ground level freestanding solar collectors or devices will be permitted so long as they are designed or screened a manner accepted by the Approving Authority so as to be visually compatible with the buildings and landscape on the Lot involved and do not impact views from adjacent Lots. Plans or any such solar collectors or other devices must be submitted to the Approving Authority for its review and approval prior to installation. If the Approving

Authority disapproves, the party requesting approval may modify its plans to eliminate the Approving Authority's objections and resubmit them for approval.

Section 318. Homeowners Association.

The Association shall operate as a Colorado nonprofit corporation pursuant to its Articles of Incorporation and Bylaws, which may include, without limitation, provisions for the indemnification of officers and directors. Every Owner of a Lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. If additional Lots are added to the Association, membership shall automatically be expanded thereby. Members shall have the right to cast votes for all matters to be voted on by the members, as provided in the Associations Articles of Incorporation and Bylaws. Each Lot shall be entitled to one vote. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine and as set forth in the Bylaws, but in no event shall more than one vote be cast with respect to any Lot. The Approving Authority shall be appointed as set forth in Section 501. The Association's Board of Directors may adopt rules and regulations, not in conflict with Design Guidelines adopted by the Approving Authority. Such rules and regulations may include, without limitation, construction and use and standards and procedures for architectural control appeals from the Approving Authority, provisions relating to and for use of the Common Elements and fines for violations of rules and these Covenants, to supplement and interpret these Covenants, and any rule or decision of the Board shall be final, conclusive and binding on all Owners and other persons or parties. Pursuant to CRS 38-33.3-116 (Exception for new small cooperatives and small and limited expense planned communities), the Association and the Subdivision shall be subject only to C.R.S. 38-33.3-105 (Separate titles, separate taxation), 38-33.3-106 (Applicability of local ordinances, regulations, and building codes) and 38-33.3-107 (Eminent domain), and no other sections of Article 33.3, the Colorado Common Interest Ownership Act.

ARTICLE IV

ARCHITECTURAL CONTROL

Section 401. Building Approval.

No Structure, construction or improvement shall be commenced, erected or replaced on any Lot, permitted to remain on any Lot or altered in any way so as to materially change the Lot's previously existing exterior appearance, except in accordance with plans, specifications and other information submitted to the Approving Authority and approved by the Approving Authority no more than one year before start of the construction, alteration or installation. Matters which require the approval of the Approving Authority include but are not limited to: the exterior appearance, material, color, height and location of each Structure, construction or improvement on any Lot. In granting or withholding approval, the Approving Authority shall consider among other things: the adequacy of the materials for their intended use, the harmonization of the external appearance with the surroundings, the proper relation of the Structure, construction or improvement to the environment and to surrounding uses, the degree to which the proposed Structure preserves existing natural vegetation, the degree, if any, to which the proposed Structure or covering will cause intrusions of sound, light or other effect,

including, without limitation, any blockages of view corridors established by the Declarant or the Approving Authority on neighboring sites beyond those reasonably to be expected in a quality residential area from considerate neighbors. Notwithstanding the foregoing or any provision of these Covenants, the houses and improvements, which exist on the Subdivision when these Covenants are recorded, shall not be subject to architectural review and standards hereunder, but any modifications or additions thereto shall be.

Section 402. Development Approval.

No Structure, construction or improvement shall be commenced, erected, or placed on any Lot, nor shall any land be graded or otherwise disturbed for purposes of development for any other purpose unless such disturbance is undertaken in accordance with a plan submitted to the Approving Authority and approved by the Approving Authority no more than one year before start of the disturbance and erosion control Structures are in place. The requirements for the plans, including grading plan, erosion control and reclamation, landscaping plans, and any other requirements, may be set forth in rules and design standards adopted by the Approving Authority and must not conflict with the laws and regulations of El Paso County. The Association is not responsible for enforcing the laws and regulations of El Paso County except as expressly set forth herein and in any other agreement between the County and the Association. The Lots shall be maintained in a state compatible with the natural surroundings, except as approved by the Approving Authority, and except that reasonably sized lawns and/or gardens may be planted around the house. The Approving Authority may require the grass to be mowed. The objectives of such plans are:

- a. To conserve the unique natural features and aesthetic qualities of the Subdivision;
- b. To minimize land disturbance;
- c. To protect natural plant and animal communities;
- d. To minimize water runoff and soil erosion problems incurred in adjustment of the terrain to meet development needs;
- e. To assure proper restoration of disturbed areas;
- f. To avoid or reasonably mitigate visual impacts upon offsite areas. Mitigation measures may included but are not limited to:
 - (i) Alternative siting of Structures so that there is a mountain, hillside or forest backdrop to the Structure from areas where the Structure is visible. However, this shall not preclude siting of Structures on ridgelines where alternative siting is not available.
 - (ii) Use of existing vegetation to soften structural mass when Building Sites are located in highly visible areas.
 - (iii) Use of supplementary native landscaping to soften structural mass when Building Sites are located in highly visible areas.
 - (iv) Use of visually compatible stabilization measures for cuts and fills.

Section 403. Tree Management and Landscaping Program.

- a. Within six months of closing on the initial sale of a Lot from Declarant, Owners shall install 12 evergreen trees not less than eight feet in height and must water and maintain those trees. The trees within the Subdivision are an important asset to the entire community. Therefore, the Approving Authority shall be responsible for an ongoing and perpetual program of inspection to identify potential insect and disease problems in a timely manner. The Approving Authority shall also be responsible for a program to properly thin trees for better fire control, to promote a healthy growth of existing trees, to maintain views, which may be defined as view corridors in the Association's design standards, and to provide for the growth of new trees to perpetuate the forest. The thinning process is not intended to create a tree farm look or to replicate perfect fire protection recommendations. The object is to create a natural look to assist nature and promote an environment as healthy, beautiful and safe as possible. Owners shall not remove any tree taller than twenty feet without the prior written approval of the Approving Authority.
- b. The foregoing inspection and thinning programs shall be administered by the Approving Authority with funding provided by assessments against the Lots as provided in Article VII hereof. The Approving Authority shall retain the services of a professional forester or an experienced landscape professional to prescribe appropriate thinning and maintenance programs.
- c. A perpetual easement is hereby reserved to Declarant, its successors and assigns and the Approving Authority over and across each Lot for the purpose of instituting, maintaining and administering the aforementioned tree inspection and thinning programs.

Section 404. Approval Process.

All action required or permitted to be taken by the Approving Authority shall be in writing, and any such written statement shall establish the action of the Approving Authority and shall protect any person relying on the statement. If the Approving Authority does not execute and acknowledge such a statement within sixty days after delivery of all the required materials to the Approving Authority, the materials so delivered shall be deemed approved for the purpose of these Covenants. The Approving Authority may charge reasonable fees to cover expenses incurred in review of plans, samples and materials submitted pursuant to these Covenants, exclusive of reimbursement to the members of the Approving Authority for their services. The Approving Authority shall be entitled to retain one copy of all approved plans as part of its files and records.

Section 406. Variances.

The Approving Authority shall have the authority to grant a Lot a variance from the terms of these Covenants, including without limitation, Sections 106, 110, and 202 through 212, subject to terms and conditions which maybe fixed by the Approving Authority and which will not be contrary to the interests of the Owners and residents of the Subdivision where, owing to exceptional and extraordinary circumstances, literal enforcement of any section will result in

unnecessary hardship. Separate variances from the El Paso County Land Development Code may also be required (not available from the Approving Authority).

Following an application for a variance:

- a. The Approving Authority shall, within sixty days after the request for the variance was delivered, determine whether to grant or deny the variance. If the Approving Authority fails to act on the request for a variance within this sixty day period, the variance will be deemed granted.
- b. A variance granted hereunder shall run with the Lot for which granted.
- c. A variance shall not be granted unless the Approving Authority shall find, in its sole discretion, that all of the following conditions exist:
 - (i) The variance will not authorize the operation of a use other than as specified herein;
 - (ii) Owing to the exceptional and extraordinary circumstances, literal enforcement of the section above enumerated will result in unnecessary hardship;
 - (iii) The variance will not substantially or permanently injure the use of other property in the Subdivision;
 - (iv) The variance will not alter the essential character of the Subdivision;
 - (v) The variance will not weaken the general purposes of these Covenants;
 - (vi) The variance will be in harmony with the spirit and purpose of these Covenants;
 - (vii) The circumstances leading the applicant to seek a variance are unique to the Lot or its Owner and are not applicable generally to Lots in the Subdivision or their Owners.
- d. If the Approving Authority denies the request for a variance, the applicant may request a meeting of the Owners be held to reconsider the denial. In this case, the Approving Authority shall call a meeting of Owners of Lots in the Subdivision, to be held after Due Notice at the Approving Authority's principal office, at which meeting all Owners shall have an opportunity to appear and express their views. Whether or not anyone appears at the meeting in support of or in opposition to the application for variance, the Approving Authority shall within one week after the meeting either grant or confirm its denial of the variance. The decision to grant or deny the variance shall always rest with the Approving Authority.
- e. If a variance is denied, another application for a substantially similar variance for the same Lot may not be made for a period of six months after submittal of the original request.

ARTICLE V

APPROVING AUTHORITY

Section 501. Composition of the Approving Authority.

The Approving Authority shall consist of three individuals, but may be increased to a maximum of five individuals by resolution of the Board of Directors. Until the Declarant has conveyed all of the Lots to residential purchasers or January 1, 2018, whichever occurs earlier ("Period of Declarant Approval"), the Declarant may appoint and remove all members of the Approving

Authority. Following such Period of Declarant Approval, or sooner with Declarant's written consent, the Board of Directors of the Association may, by majority vote, appoint or change the membership of the Approving Authority, so long as the members of the Approving Authority, which may consist of the Board itself, are Owners of Lots within the Subdivision. After the Period of Declarant Approval, whenever a member of the Approving Authority shall be deceased or unwilling or unqualified to act, the Board of Directors of the Association shall appoint an Owner of Lot within the Subdivision as a member of the Approving Authority so as to fill the existing vacancies.

Section 502. Authority of Approving Authority.

- a. The Approving Authority is empowered to approve or disapprove in writing all matters delegated to it under these Covenants, including, without limitation, all plans for construction, site locations, clearing, plantings, fencing, addition to existing Structures, remodeling that alters the exterior, replacement of natural environment of Lots or appearance of homes in the Project. Disapproval of submissions by the Approving Authority may be based upon any grounds, including purely aesthetic grounds. If such submissions are disapproved, the Approving Authority shall give written reason for the requirements of the applicant including, but not limited to, submission of additional plans, specifications and material samples, and may require such changes as it deems necessary to conform to the overall intent as herein expressed.
- b. The Approving Authority shall have the right to alter site locations, as shown on the submitted site plan, or deny construction if, in the opinion of the Approving Authority, the proposed site locations will unduly interfere with adjoining Lots as to view, intrusions of sound or light, sanitation, proximity or type of construction, actual or proposed, or unduly damage the natural growth and terrain.
- c. The Approving Authority may prohibit the construction of fences, Structures, houses or any other improvements to any Lot, and is empowered to order their removal if written application was not made by the Owner, or if approval was not granted in accordance with these Covenants, or if actual construction is different from the approved plans.
- d. The Approving Authority shall be the sole and exclusive judge of whether or not plans or Structures comply with these Covenants. It is the intent of these Covenants that the Approving Authority shall exercise broad discretionary powers hereunder. The Association's Board of Directors shall resolve all questions and interpretations of these Covenants, which shall be interpreted in accordance with their general purpose and intent as herein expressed; the Board's decisions shall final and conclusive.

Section 503. Delivery of Items.

Any item required or permitted to be delivered to the Approving Authority shall be deemed properly delivered when actually received by the Approving Authority at such address as it may from time to time designate.

Section 504. Non-Liability.

The Association, Declarant, the Approving Authority, members of the Approving Authority and the Association's Board of Directors shall not be liable to any party whatsoever for any act or omission unless the act or omission is in bad faith and amounts to wanton and willful misconduct. Members of the Approving Authority appointed by the Declarant shall be entitled to exercise their judgment, on the basis of the best interests of the Declarant, and shall owe no fiduciary duty to other Owners or the Association. Members of the Approving Authority not appointed by Declarant shall owe a fiduciary duty to act in the best interests of the Association and Lot Owners. The Association, Declarant, the Approving Authority, members of the Approving Authority and the Association's Board of Directors shall not have any responsibility or liability for construction quality, nor compliance with building codes or governmental requirements. The Association shall indemnify the Approving Authority and its members, to the fullest extent allowed by law, and may provide insurance to cover such indemnification as a common expense.

ARTICLE VI

WATER AND LANDSCAPE FEATURES

Section 601. Water Augmentation Plan.

All Lots in the Subdivision shall be subject to the obligations and requirements as set forth in the Judgment and Decree Granting Underground Water Rights and Plan for Augmentation of the District Court, State of Colorado, in Case No. 03 CW 241 (Water Division No.1) and 03 CW 50 (Water Division No.2) as recorded at the reception number set forth on the first page of these Covenants which is incorporated by reference (the "Water Decree" or "Augmentation Plan"). The Augmentation Plan concerns the water rights and water supply for the Subdivision and creates obligations upon the Owners, the Lots and the Association that run with the land. The water supply for the Subdivision shall be by individual wells under the Augmentation Plan. Each Lot shall have the right to one well permit under the Augmentation Plan. Well locations shall be shown on the site plan provided to the Approving Authority. Each Lot owner waives the 600 foot well separation rule provided under Colorado Revised Statutes Section 37-90-137(2)(b)(I) for wells located in the Subdivision, but must satisfy the provisions of Section 37-90-137(4) with respect to wells owned by others on adjacent properties.

Section 602. Water Rights Ownership.

a. Declarant will assign to the Owners all right, title and interest in the Augmentation Plan and water rights thereunder, except as set forth below. Those water rights assigned to Lot Owners shall be 50.6 acre-feet per year and a total of 15,180 acre-feet in the not nontributary Dawson aquifer (based on a 300 year supply and 92 residential Lots) as adjudicated in the Augmentation Plan. Each Lot's proportionate share in the water rights so assigned shall be the proportion of a fraction the numerator of which is the number one and the denominator of which is the total number of Lots under the Augmentation Plan within the Subdivision. Declarant shall retain ownership of all Dawson, Denver and Arapahoe aquifer water rights in the Decree not required for individual Lot water supplies (including post-pumping reserve requirements) according to the Decree.

b. The Declarant will assign to the Association all ground water rights in the nontributary Laramie-Fox Hills aquifer (89.6 acre-feet per year and 8960 acre-feet total) and 62.6 acre-feet per year and 6260 acre-feet total of the nontributary Arapahoe aquifers under the Augmentation Plan for purposes of meeting post pumping stream depletions under the Augmentation Plan, together with all obligations and responsibilities for compliance with the Augmentation Plan. The Declarant shall retain any Arapahoe aquifer water rights not so conveyed. The Association agrees to assume and perform these post pumping obligations and responsibilities. By this assignment to the Association, the Declarant is relieved of any and all responsibilities and obligations for the administration, enforcement and operation of the Augmentation Plan. Such conveyance shall be subject to the obligations and responsibilities of the Augmentation Plan, and said water rights may not be separately assigned, transferred or encumbered by the Association, provided, however, to the extent the Laramie-Fox Hills and Arapahoe ground water rights conveyed to the Association are not needed to meet post pumping depletions under the Augmentation Plan, those ground water rights shall be reconveyed to the Lot Owners.

c. Each Lot Owner's water rights under the Augmentation Plan shall transfer automatically upon the transfer of title to a Lot as an appurtenance, including the transfer by the Declarant to the initial Owner of a Lot. The ground water rights under the Augmentation Plan cannot and shall not be severable from their respective Lot, and each Owner covenants that it cannot sell or transfer such ground water rights to any party separate from the conveyance of the Lot.

Section 603. Administration

a. The Association was formed for the purpose, among others, of carrying out the provisions of the Augmentation Plan and thus shall administer and enforce the Augmentation Plan. Such administration shall include, without limitation, accountings to the Colorado Division of Water Resources under the Augmentation Plan and taking all necessary and required actions under the Augmentation Plan to protect and preserve the ground water rights for all Lot Owners. The Association shall have the right to specifically enforce, by injunction if necessary, the Augmentation Plan against any Lot Owner failing to comply with the Owner's obligations under the Augmentation Plan, including the enforcement of the terms and conditions of well permits issued pursuant to the Augmentation Plan. A Lot Owner shall also have the individual right to enforce, administer and require specific performance of the Augmentation Plan upon the failure of the Association to do so. The use of the ground water rights by each Owner is restricted and regulated by the terms and conditions of the Augmentation Plan, including, without limitation, that each Lot Owner is subject to the maximum annual well pumping limitations under the Augmentation Plan of 0.55 acre-feet per year for a total of 165 acre-feet based on a 300 year supply. Failure of the Association or the Owners to comply with the terms of the Augmentation Plan may result in an order from the Division of Water Resources under the Augmentation Plan to curtail use of ground water rights.

b. Each Owner shall promptly and fully provide to the Association any and all information necessary for the Association to comply with its obligation to administer and enforce the Augmentation Plan. The frequency of such accounting shall be in the Association's discretion, whether monthly, quarterly or annually. The Association shall have the power to impose fines

upon any Owner who fails to provide well diversion records or otherwise fails to comply with the Augmentation Plan or these Covenants, in such reasonable amounts as determined by the Association to compensate it for its time and expenses and to discourage noncompliance by Owners.

Section 604. Well Permits.

a. Each Owner shall be responsible for obtaining a well permit for the water supply to their respective Lot and for the physical delivery of water to their Lot. All wells shall be constructed and operated in compliance with the Augmentation Plan, the well permit obtained from the Colorado Division of Water Resources, and the applicable rules and regulations of the Colorado Division of Water Resources. The costs of the construction, operation, maintenance and repair of such well and delivery of water to the Lot shall be at the Owner's expense. Owners shall comply with any requirements to log their well and shall install and maintain in good working order an accurate totalizing flow meter on the well in order to provide the diversion information necessary for the accounting and administration of the Augmentation Plan.

b. No party guarantees to the Owners the physical availability or the adequacy of water quality from any well to be drilled under the Augmentation Plan. The Denver Basin aquifers, which are the subject of the Augmentation Plan, are considered a nonrenewable water resource, and due to anticipated water level declines, the useful or economic life of the aquifers' water supply may be less than the 100 years allocated by State statutes or the 300 years of the El Paso County water supply requirements.

c. Well locations within each Lot are required to be approved by the Approving Authority in accordance with the well spacing and location requirements of the Water Decree and as may be shown on the plat.

Section 605. Compliance.

The Association and the Lot Owners shall perform and comply with the terms, conditions and obligations of the Augmentation Plan, and the Owners shall further comply with the terms and conditions of the well permits issued to them under the Augmentation Plan.

Section 606. Rules and Regulations.

The Association may adopt and enforce reasonable rules and regulations for the administration and enforcement of the Augmentation Plan. Those rules and regulations may include, without limitation, fines for an Owner's noncompliance with the Augmentation Plan or this Declaration, provision for pro rata rationing of water usage between Lot Owners in the event of water shortage or other emergency, and the recovery of the costs and expenses of the Association, including reasonable attorney fees, in the enforcement of the Augmentation Plan against an Owner.

Section 607. Amendments.

No changes or deletions to this Article may be made which would alter, impair or in any manner compromise the Augmentation Plan or the water rights of the Owners without the written approval of said parties, the Water Court and El Paso County. The Owners agree not to request or permit any change in the Augmentation Plan without the consent of the Declarant as long as the Declarant owns any Lots. To be effective, any such changes in the Augmentation Plan shall require approval by the Water Court. The Declarant may seek changes to the Augmentation Plan without approval of the Association or the Owners or El Paso County provided that such changes do not concern any water rights conveyed to the Lot Owners or the Association to meet the requirements for platting such Lots. If the requested change is to the plan upon which the approved water supply for the Lots is based, then El Paso County must approve the change.

Section 608. El Paso County Requirements.

El Paso County may enforce the provisions regarding the Augmentation Plan as set forth in this Declaration.

Section 609. Landscaping.

The Association may landscape and maintain the Common Elements so as to enhance the attractiveness of the Subdivision as a residential area and to preserve the enjoyment of the appearance and open appearance afforded by said Common Elements.

ARTICLE VII

COVENANTS FOR ASSESSMENTS

Section 701. Assessments.

The Association shall assess the Owners for the costs of common expenses as determined by the Association's Board of Directors. The assessments hereunder shall be imposed equally upon each Lot and each Owner, provided however, notwithstanding any contrary provision, any assessments hereunder shall commence upon the earlier of (a) the completion of a residential dwelling unit upon the Lot, as demonstrated by final governmental approval, or (b) 12 months from the date on which the Lot is conveyed by the Declarant, and provided further, that the Association's Board of Directors may impose an assessment which shall be applicable only to a particular Lot or particular Owner or both for any violation of the Association's rules or any violation or expense under these Covenants, including without limitation Section 216 hereof. Until a house is completed on such Lot, or 48 months after such Lot is platted, whichever is earlier, the Declarant shall not be obligated to pay assessments on any Lots owned by it nor shall Declarant's Lots be subject to lien hereunder.

Section 702. Purpose of Assessments.

Assessments may also be levied by the Association's Board of Directors for promoting the health, safety, property values, welfare and convenience of the members, including the enforcement of these Covenants, and to pay for the costs of the ownership, maintenance, taxes,

watering, mowing, fertilization and landscaping of the Common Elements, and any other common expenses as determined by the Association's Board of Directors. Such common expenses shall include (1) administrative, legal and insurance expenses (including, without limitation, insurance on the Common Elements and Association activities, which insurance shall generally to the extent reasonably appropriate, available and practical, meet the requirements of C.R.S. 38-33.3-313, now existing or hereafter amended, and as may be required by First Mortgagees); (2) maintenance expenses (including common fences, property boundary fences, monument signs and related landscaping, street signs, maintenance and repair of drainage and detention facilities within the Common Elements, tree inspection and thinning programs); (3) the creation of adequate reserve funds for maintenance, repairs and replacement of those portions of the Common Elements that must be maintained or replaced on a periodic basis and are payable in regular installments of Assessments; (4) expenses of the Approving Authority hereunder; and (5) other activities of the Association including especially any amounts which are based on the Association's obligations as set forth in (1) this Declaration, (2) the Maintenance Agreement and (4) the Augmentation Plan and Water Decree and related court decree(s). At a minimum, the annual assessment shall be adequate to clean, maintain and repair (to include replacement as may be necessary) the Detention Basin. The Association shall perform any obligations required of it under the recorded Maintenance Agreement with El Paso County recorded at the reception number set forth on the first page of these Covenants. The Association shall not make any assessments for legal expenses or costs associated with or respecting any lawsuit or other legal action against the Declarant, or the Approving Authority or its members appointed by the Declarant and acting as the Approving Authority.

Section 703. Assessments a Liens and Personal Obligation.

Each Owner, by acceptance of a conveyance of his Lot, whether or not it shall be so expressed in the conveyance, shall be deemed to covenant and agree to pay to the Association annual assessments and other assessments authorized by these Covenants. Each such assessment and charge, together with the interest thereon and costs of collection, shall be a continuing lien upon the Lot against which it is made and shall also be the personal obligation of the person who owned the Lot at the time the assessment or charge fell due, except Declarant.

Section 704. Procedure and Payment of Assessments.

The foregoing assessments shall be payable in advance in annual or other installments as the Association's Board of Directors may fix. The Board may set the annual assessments in any amount which does not exceed the maximum amount set forth in Section 705 hereof. The Association's Board of Directors shall give each member written notice of each assessment at least ten days in advance of the due date. Such notice shall state the amount of the assessment and if the assessment is payable in other than in a single payment, and the amount and due dates of each installment as fixed by the Association's Board of Directors. Failure to give such notice shall not affect or impair the assessment but shall postpone its effective date. The Association may furnish an Owner, upon written request delivered to the Association's registered agent and payment of a reasonable fee therefor, a written statement setting forth the amount of any unpaid Assessments levied against a Lot, and the statement may be relied upon by all Owners acting in good faith as conclusive evidence of the status of such assessments with respect to such Lot. Fines or special assessments for violations may only be imposed after written notice and opportunity for a hearing in front of the Board, and may be enforced by legal

action including without limitation recovery of the Association's legal fees and expenses of enforcement, or by lien, or both. The failure to enforce any right, reservation, restriction or condition contained herein, however long continued, shall not be deemed a waiver of the right to do so thereafter as to the same breach or as to a breach occurring prior to or subsequent thereto and shall not bar or affect its enforcement. The invalidation by any court of any restriction contained in these Covenants shall not in any way affect any of the other restrictions, but they shall remain in full force and effect.

Section 705. Limit on Annual Assessments.

The annual average common expense liability of each Lot, exclusive of optional user fees and any insurance premiums paid by the Association, may not exceed the amount required to qualify with the requirements for exemption from the application of provisions of the Colorado Common Interest Ownership Act set forth in C.R. S. 38-33.3-116. At the time of this Declaration that amount was expressed as follows:

38-33.3-116. Exception for new small cooperatives and small and limited expense planned communities.

(2) ...If a planned community created in this state after July 1, 1998, provides, in its declaration, that the annual average common expense liability of each unit restricted to residential purposes, exclusive of optional user fees and any insurance premiums paid by the association, may not exceed four hundred dollars, as adjusted pursuant to subsection (3) of this section, it is subject only to sections 38-33.3-105, 38-33.3-106, and 38-33.3-107, unless the declaration provides that this entire article is applicable.

(3) The four-hundred-dollar limitation set forth in subsection (2) of this section shall be increased annually on July 1, 1999, and on July 1 of each succeeding year in accordance with any increase in the United States department of labor bureau of labor statistics final consumer price index for the Denver-Boulder consolidated metropolitan statistical area for the preceding calendar year. The limitation shall not be increased if the final consumer price index for the preceding calendar year did not increase and shall not be decreased if the final consumer price index for the preceding calendar year decreased.

It is the Declarant's stated intent that pursuant to CRS 38-33.3-116 (Exception for new small cooperatives and small and limited expense planned communities), these Covenants, the Association and the Subdivision shall be subject only to C.R.S. 38-33.3-105 (Separate titles, separate taxation), 38-33.3-106 (Applicability of local ordinances, regulations, and building codes) and 38-33.3-107 (Eminent domain), and no other sections of Article 33.3, the Colorado Common Interest Ownership Act. Any references herein to that Act are only for the purposes of describing or imposing similar rights and duties and do not make said Act generally applicable hereto.

Section 706. Collection of Assessments.

a. Personal Liability. Assessments shall be the personal liability of each Owner of a Lot against which such Assessment is made. Any assessment which is not paid when due shall be delinquent, and the Association may impose a late charge for each month any assessment is delinquent, may charge interest at a pre-stated rate, not to exceed 18% annual percentage rate,

and may also collect the attorneys' fees, costs and expenses of any collection. Additionally, the Association may bring an action at law against any Owner personally obligated to pay any assessment and, in the event of any lawsuit, the delinquent Owner shall pay all attorneys' fees, expert witness costs, court costs and any expenses of such lawsuit. Venue shall be proper in El Paso County District Court.

b. Lien. Additionally, any such unpaid assessment, together with all expenses of collection (including attorneys' fees and expenses) shall be a continuing lien upon the Lot against which such assessment was made. The Association may enforce such lien by filing with the Clerk and Recorder of El Paso County a statement of lien with respect to said Lot, setting forth such information as the Association may deem appropriate. Said lien shall run with the land and shall additionally secure all assessments and expenses which become due after its filing. Said lien may be foreclosed by the Association in the manner provided for foreclosures of mortgages under the laws and statutes of the State of Colorado. All rights and remedies of the Association are cumulative, and foreclosure of the lien shall not prevent a lawsuit against the Owner personally liable therefor whether taken before, after or during such foreclosure. Such lien may be released by recording an appropriate document executed by an officer or agent of the Association. Such lien is in addition to any statutory lien allowed to the Association by any law or statute. Such lien shall be superior and prior to any homestead rights or similar exemption now or hereafter provided under state or federal law to any Owner, whose acceptance of a deed to a Lot shall constitute a waiver of such homestead or other rights.

Section 707. Protection of Lenders.

The lien for any assessment provided for herein shall be subordinate to the lien of a First Mortgage recorded before the delinquent assessment was due. Sale or transfer off any Lot shall not affect the lien for said assessment except that sale or transfer of any Lot pursuant to foreclosure of any such First Mortgage, or any proceeding in lieu thereof, including deed in lieu of foreclosure, shall, except to the extent of six months' Assessments, extinguish the lien of any assessment which became due prior to any acquisition of title to such Lot by the First Mortgagee pursuant to any such sale or transfer, or foreclosure, or any proceeding in lieu thereof including, without limitation, any deed in lieu of foreclosure. No such sale, transfer, foreclosure or any above-described proceeding in lieu thereof, shall relieve any Lot from liability for any assessment becoming due after such acquisition of title, nor from the lien thereof, nor the personal liability of the Owner of such Lot for assessments due during the period of his ownership.

Section 708. Funding Fees/Enforcement Account.

a. Upon conveyance from Declarant to the initial Owner, that Owner shall pay to the Association an Association Funding Fee of \$200.00. By agreement with a builder, the Declarant may defer this fee until occupancy. This fee shall be paid to the Association to provide initial working capital and to meet unforeseen expenditures or acquire additional equipment or services deemed necessary or desirable by the Board. Furthermore, payment of such sum shall not relieve an Owner from making the regular payment of assessments as the same become due.

b. In addition to the Association Funding Fee, the purchaser of a Lot and the seller of a Lot (including Declarant) shall pay matching fees of \$50.00 each at closing of each Lot, and such funds shall be kept in a separate account (the "Enforcement Account") by the Approving Authority to be used for enforcement of the protective covenants. Any Covenant violation penalties that may be collected from time to time shall also be placed in the Enforcement Account. The Approving Authority shall use the Enforcement Account for paying legal and other expenses involved in enforcing these covenants, and Declarant is hereby authorized to use the Enforcement Account on behalf of the Approving Authority during the Period of Declarant Approval. In addition, the Approving Authority may transfer a portion of the Enforcement Account into the Association treasury and may be used at the discretion of the Association for continuing common expenses. However, such transfers shall not deplete the Enforcement Account to the extent that insufficient funds are available to enforce the covenants. In like manner, the Board of Directors of the Association may transfer Association funds into the Enforcement Account if needed to enforce covenants. The Association and/or any individual Lot Owner desiring to use the Enforcement Account for the enforcement of these covenants, shall make written request of Approving Authority for the use of monies in the Enforcement Account, and the Approving Authority shall have sole authority to approve or deny any such request. Denial of such request shall not preclude an individual Owner from bringing suit to enforce these covenants. During the Period of Declarant Approval, the Enforcement Account shall be kept by the Declarant in an interest-bearing account. After the Period of Declarant Approval, such funds shall be turned over to and kept by the Association for the uses provided herein.

ARTICLE VIII

GENERAL PROVISIONS FOR EFFECT OF THE COVENANTS

Section 801. Definitions.

The following words and expressions used in these Covenants have the meanings indicated below unless the context clearly requires another meaning:

- a. Accessory Building. Detached garages, patios, swimming pools, covers, enclosures, dressing rooms or other similar Structures, spas, hot tubs, gazebos, recreation facilities and other buildings customarily used in connection with the single family residence.
- b. Approving Authority. The architectural review board established pursuant to Section 501 of these covenants.
- c. Association. The Settlers Ranch Homeowners Association, Inc., a Colorado nonprofit corporation organized under the laws of the State of Colorado, its successors and assigns.
- d. Building Site. The location within a Lot on which a Structure may be erected with the prior written approval of the Approving Authority and in conformity with the provisions of this Declaration.
- e. Common Elements. All real property and improvements deeded or otherwise transferred

to the Association for the use and benefit of its Owners, which may include easements, erosion control and drainage Structures (specifically those in the drainage and detention easement shown on the plat) and the water rights for replacement of post-pumping depletion pursuant to the Water Decree. The Declarant may also deed easements to the Association for construction, maintenance and replacement of a monument or monuments at the entrance to the subdivision, and for maintenance of common mail facilities. The Association shall have an easement on the Subdivision to discharge the Association's responsibilities in connection with the Augmentation Plan and the forest health and wildfire mitigation plan. Unless and until the Declarant deeds any tracts or fee interest in any portion of the Subdivision to the Association, and unless the Association acquires such fee interest by other means, the Common Elements will consist solely of easements and Structures thereon and the water rights deeded to the Association pursuant to the Water Decree. Declarant has not made and will not make any representation or guarantee what Structures or whether any Structures or Facilities will be constructed.

f. Covenants. This Declaration of Conditions, Covenants Restrictions And Easements For Settlers Ranch and the provisions contained in them and any amendments thereto.

g. Declarant. Hodgen Settlers Ranch, LLC, a Colorado limited liability company, its agents, employees, contractors, successors and assigns to whom it expressly transfers all or any part of its rights as Declarant hereunder.

h. Detention Basin. As defined in the Maintenance Agreement.

i. Lot. Each area designated as a Lot in any recorded Plat of the Subdivision, including any lot in any addition to the Subdivision as set forth herein.

j. Lot Lines. Front, side and rear Lot Lines shall be the same as defined in the zoning regulations of El Paso County in effect from time to time. In the absence of such a definition, a front Lot Line is each boundary line (whether one or more) between the Lot and any public street. A side Lot Line is any boundary line which meets and forms an angle with a public street except that, for a corner Lot with two front Lot Lines, the side Lot Line is the boundary which forms an angle with the street which affords the principal access to the Lot.

k. Plat. The plat which has been or will be recorded for this Subdivision.

l. Mortgagee. Any person or entity, or any successor or assign thereof, which holds or owns a deed of trust, mortgage or similar encumbrance. The term shall also include the Administrator of the Department of Veterans Affairs, an office of the United States of America, and his assigns under any executed land sales contract wherein the said Administrator is identified as the seller, whether such contract is recorded or not, but if not recorded, then written notice thereof shall be delivered to the Board. First Mortgagee shall mean a mortgage upon a Lot having priority of record over all other recorded encumbrances and liens thereon, except those governmental liens made superior by statute (such as general ad valorem tax liens and special assessments). "First Mortgagee" means a mortgagee whose encumbrance is a First Mortgage.

m. Owner. Person or entity having fee simple legal title to a Lot. If more than one person has such title, all such persons are referred to collectively the "Owner" and shall exercise their rights as an Owner through such one of them as they may designate from time to time. A vote of

Owners shall be determined on the basis of one vote for each Lot.

n. Structure. Any thing or device, including related improvements, such as Accessory Buildings, painting, fences, trees and Landscaping, the placement of which upon any Lot or Building Site might affect its architectural appearance, including, by way of illustration and not limitation, any dwelling, building, garage, porch, shed, greenhouse, driveway, walk, patio, swimming pool, tennis court, fence, wall, tent, covering, antenna, mailbox, solar collector or outdoor lighting. Structure shall also mean an excavation or fill, the volume of which exceeds five cubic yards, or any excavation, fill, ditch, diversion dam or other thing or device which affects or alters the natural flow of surface waters upon or across any Lot or which affects or alters the flow of any waters in any natural or artificial stream, wash or drainage channel upon or across any Lot.

o. The Subdivision. The area described in Exhibit "A" hereto and any property added subsequently by Declarant or by the Association as provided in these Covenants.

p. Tract. Any area designated as a "tract" on the recorded plat of the Subdivision.

q. Enumerations Inclusive. A designation which describes parcels or other things as from one number, letter or other designation to another includes both such numbers, letters or other designations and all in between.

r. Gender and Number. Whenever the context permits, Owner or Owners shall be deemed to refer equally to persons of both sexes and to entities or corporations, singular to include plural and plural to include singular.

s. Due Notice. Due Notice means written notice sent by the United States mails, either first class or certified mail, delivery confirmation or return receipt requested, or by hand delivery to the Lot or the Owner at least ten days prior to the action required by the notice.

Section 802. Captions.

Captions, titles and headings in these Covenants are for convenience only and do not expand or limit the meaning of the section and shall not be taken into account in construing the section.

Section 803. Association Resolves Questions of Construction.

If any doubt or questions shall arise concerning the true intentment or meaning of any of these Covenants, the Association's Board of Directors shall determine the proper construction of the provision in question; the Board may set forth its decision in written instruments duly acknowledged and filed for record with the Clerk and Recorder of El Paso County; those decisions will thereafter be binding on all parties so long as they are not arbitrary or capricious. Matters of interpretation involving Declarant shall not be subject to this Section 803.

Section 804. Covenants Run with the Land.

These Covenants shall run with the land and shall inure to and be binding on each Lot and upon each person or entity hereafter acquiring ownership or any right, title and interest in any Lot in the Subdivision. The Declarant, its successors or assigns, may assign any and all of its rights,

powers, obligations and privileges as Declarant under this instrument to any other corporation, business organization, association, committee or person by instrument specifically assigning its interest as Declarant under this Declaration of Covenants.

Section 805. Covenants are Cumulative.

Each of these Covenants is cumulative and independent and is to be construed without reference to any other provision dealing with the same subject matter or imposing similar or dissimilar restriction. A provision shall be fully enforceable although it may prohibit an act or omission sanctioned or permitted by another provision. Any and all rights and remedies of the Association and the Approving Authority are distinct and cumulative to any other right or remedy hereunder or afforded by law or equity and may be exercised concurrently, independently or successively without affect or impairment upon one another.

Section 806. Waivers.

Except as these Covenants may be amended or terminated in the manner hereinafter set forth, they may not be waived, modified or terminated and a failure to enforce shall not constitute a waiver or impair the effectiveness or enforceability of these Covenants. Every person bound by these Covenants is deemed to recognize and agree that it is not the intent of these Covenants to require constant, harsh or literal enforcement of them as a requisite of their continuing vitality and that leniency or neglect in their enforcement shall not in any way invalidate these Covenants or any part of them or operate as an impediment to their subsequent enforcement, and each such person agrees not to plead as a defense in any civil action to enforce these Covenants that these Covenants have been waived or impaired or otherwise invalidated by a previous failure or neglect to enforce them.

Section 807. Enforcement.

These Covenants are for the benefit of the Owners, jointly and severally, the Association, and the Approving Authority and may be enforced by action for damages, suit for injunction, mandatory and prohibitive, and other relief, and by any other appropriate legal remedy instituted by one or more Owners, the Association, or the Approving Authority, or any combination of these. Until January 1, 2018, these covenants shall also be for the benefit of Declarant, and Declarant may also enforce these Covenants in any manner as Declarant is permitted herein or by law or statute. All costs, including reasonable attorneys' fees, incurred by the Association or by the Approving Authority in connection with any successful enforcement proceeding initiated by them (alone or in combination with Owners) or, during the period it is permitted to enforce these Covenants, incurred by Declarant, shall be paid by the party determined to have violated these Covenants. Any party exercising its right to enforce these Covenants shall not be required to post any bond as a condition to the granting of any restraining order, temporary or permanent injunction or other order. The rights and remedies for enforcement of these Covenants shall be cumulative, and the exercise of any one or more of such rights and remedies shall not preclude the exercise of any of the others. Any amounts collected through enforcement efforts shall reimburse the party that may have advanced the money for the enforcement action. Any fines or special assessments collected shall be paid to the Enforcement Fund. The Board of Directors shall set the amount of any fines or special assessments. If the Board of Directors or the Approving Authority determines to enforce these Covenants by legal action, the violating Owner shall be subject to a

Special Assessment of One Thousand Dollars, unless otherwise determined by the Board of Directors.

Section 808. Duration of Restrictions.

Unless sooner terminated as provided in Section 809, the restrictions and other provisions set forth in these Covenants shall remain in force until January 1, 2031, and shall be automatically renewed for successive periods of ten years unless before January 1, 2031, or before the end of any ten year extension, there is filed for record with the Clerk and Recorder of El Paso County an instrument stating that extension is not desired signed by and acknowledged by Owners of at least two-thirds of the Lots in the Subdivision. However, the provisions of Section 601 (and to the extent controlled by the Water Decree, the provisions of Section 602 through 608 inclusive) shall not terminate or be amended except by both (1) order of the Water Court, which may amend, modify or change such provisions by judicial order, and (2) approval of at least two-thirds of the Lots in the Subdivision. Neither this Section 808 nor Section 814 shall be terminated without the consent of the Declarant.

Section 809. Amendment and Extensions.

From time to time Owners of at least two-thirds of the Lots may amend any one section of these Covenants (except Sections 109, 601 [and to the extent controlled by the Water Decree, the provisions of Section 602 through 608 inclusive] and 814) or add a new section to these Covenants, provided an instrument certifying such approval certified by the President and Secretary of the Association is filed for record with the Clerk and Recorder of El Paso County. Such amendment shall be effective upon such recording, unless a later date for effectiveness is stated in such instrument. Such amendments may not be inconsistent with the Augmentation Plan, or any water court approved amendments thereto, and shall comply with all applicable zoning and subdivision requirements of El Paso County, Colorado regarding the water supply. All changes shall be legally drawn and formally recorded in El Paso County. Notwithstanding the above, any provisions regarding the obligations of the Declarant (except as otherwise provided in the Detention Basin Agreement), the Association and the Lot Owners with respect to the Maintenance Agreement and the provisions regarding the Augmentation Plan shall neither terminate nor be amended except by written agreement of the Board of County Commissioners of El Paso County, Colorado. Notwithstanding the foregoing, provisions regarding the Declarant's rights and for the Declarant's benefit shall not be amended without the Declarant's written consent.

Section 810. Termination.

All sections of these Covenants (except Sections 109, 601 [and to the extent controlled by the Water Decree, the provisions of Section 602 through 608 inclusive] and 814) may be terminated at any time by an instrument signed and acknowledged by the Association's Board of Directors certifying approval by Owners of at least two-thirds of the Lots and filed for record with the Clerk and Recorder of El Paso County. Section 601 (and to the extent controlled by the Water Decree, the provisions of Section 602 through 608 inclusive) shall not terminate or be amended except by both (1) order of the Water Court, which may amend, modify or change such provisions by judicial order, and (2) approval of at least two-thirds of the Lots in the Subdivision. Notwithstanding the above, any provisions regarding the obligations of the Declarant (except as

otherwise provided in the Maintenance Agreement), the Association and the Lot Owners with respect to the Maintenance Agreement and the provisions regarding the Augmentation Plan shall not terminate except by written agreement of the Board of County Commissioners of El Paso County, Colorado. Notwithstanding the foregoing, provisions regarding the Declarant's rights and for the Declarant's benefit shall not be terminated without the Declarant's written consent.

Section 811. Severability.

If any of these Covenants shall be held invalid or become unenforceable, the other Covenants shall not be affected or impaired but shall remain in full force and effect.

Section 812. Action in Writing.

Notices, approval, consents, applications and other action provided for or contemplated by these Covenants shall be in writing and shall be signed on behalf of the party who originates the notice, approval, consent, applications or other action.

Section 813. Notices.

Any notice or writing described in these Covenants, including but not limited to any communication from the Approving Authority to an Owner, shall be sufficiently served if delivered by mail or otherwise: (a) to the dwelling situated on the Lot owned by the Owner; (b) if there is no dwelling, then to the address furnished by the Owner to the Approving Authority and if the Owner has not furnished an address then to the most recent address of which the Association has a record.

Section 814. Rights of Declarant.

Notwithstanding any contrary provision of these Covenants, the Declarant, its successors or assigns, expressly reserves the following rights and privileges, which may or may not be exercised in Declarant's sole discretion:

Declarant may on any number of occasions amend or change the Subdivision by adding additional property to the Subdivision, change Lot Lines or subdivide Lots into more Lots, combine Lots into fewer Lots, grant utility or other easements, and any combination of the foregoing.

Declarant, or any builder authorized by Declarant, may construct and maintain sales offices, management offices, advertising signs, model homes, construction yards and construction materials within the Subdivision.

Declarant may grant easements for utilities or public purposes through the Subdivision and make improvements or changes necessitated by such easements.

Until the Declarant has conveyed 67% of the Lots to residential purchasers or December 31, 2007, whichever occurs earlier ("Period of Declarant Control"), the Declarant may appoint and remove all officers and members of the Board of Directors of the Association. Upon termination of the Period of Declarant Control, the Owners shall elect one member of the Board of Directors

for a two-year term as an Additional Member of the Board of Directors, in addition to the members appointed by the Declarant, thereby expanding the Board to four members. One year following termination of the Period of Declarant Control, the Owners shall elect a second member of the Board for a two-year term as an Additional Member of the Board of Directors, thereby expanding the Board to five members. Two years following the termination of the Period of Declarant Control, at least one of the Directors appointed by the Declarant (as determined by the Declarant) shall leave the Board. Then the Owners shall elect two members of the Board of Directors to serve two-year terms, and, if necessary to bring the Board to five members, the Owners shall elect a third member to serve a one-year term, thereby maintaining the Board at five members, at least three of which have been elected by the Owners. Three years following the termination of the Period of Declarant Control, the Owners shall elect two members to serve two-year terms, and the number of Directors appointed by the Declarant shall be reduced to one, thereby maintaining the Board at five Directors. Thereafter each year the Owners shall elect two or three members to replace members whose terms are ending, maintaining the number of Directors at five. The Declarant shall continue to have the right to appoint one member of the Board of Directors until the end of the Period of Declarant Approval, as set forth in the Declaration.

a. Until the Declarant has conveyed all of the Lots to residential purchasers or January 1, 2018, whichever occurs earlier, or such earlier date determined by the Declarant ("Period of Declarant Approval"), the Declarant may appoint and remove all members of the Approving Authority. Following such Period of Declarant Approval, the Association's Board of Directors shall appoint the Approving Authority as provided in these Covenants, the Articles of Incorporation and the Bylaws.

b. Notwithstanding any contrary provisions of these Covenants or any other document, the Declarant hereby reserves the right, until January 1, 2018, but without approval or vote of the Members or Mortgagees, to amend these Covenants, the Articles of Incorporation and/or the Bylaws, as may be necessary to correct typographical errors or make clarifications or as may be approved or required by any governmental entity or as may be approved in writing by Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Housing Administration, or the Department of Veterans Affairs so as to induce any of such organizations to make, purchase, sell, insure or guarantee First Mortgages covering any portion of the subdivision, and each Owner and Mortgagee by accepting a deed, mortgage or other instrument affecting a Lot appoints Declarant as his attorney-in-fact for purposes of executing in said Owner's or Mortgagee's name and recording any such amendments to these Covenants or other document, and each deed, mortgage, trust deed, other evidence of obligation or other instrument affecting a Lot and the acceptance thereof shall be deemed to be a grant and acknowledgment of and a consent to the reservation of the power to the Declarant to make, execute and record any such amendments.

c. Declarant may enter into agreements with the purchase of any Lot or Lots (without the consent of the purchasers of other Lots or adjoining or adjacent property) to deviate from any those conditions, restrictions, limitations and agreements here in set forth, and any such deviation which shall be manifested by agreement in writing shall not constitute a waiver of any such condition, restriction, limitation, or agreement as to the remaining Lots in the Subdivision, and the same shall remain fully enforceable on all other Lots located in the Subdivision by Declarant, its successors or assigns, and the Association or other Owners, except as against the Lot where

such deviation is permitted.

d. Until January 1, 2018, Declarant reserves the right to expand the Subdivision, without approval of the Owners or Mortgagees, to include additional real property and improvements, but the total number of Lots as expanded shall not exceed 98 Lots. Such expansion may be accomplished by recording a supplement or supplements to these Covenants with the Clerk and Recorder of El Paso County, Colorado containing a legal description of the real property thereby annexed and any additional provisions deemed appropriate by Declarant, which may annex the property in phases, but shall not be liable or obligated to annex any property. Upon annexation, the additional property and the owners thereof shall be bound by these Covenants, the Association's Articles of Incorporation, Bylaws and Rules, and any additional provisions in the annexation supplement, which may include, without limitation, additional designations of additional custom home areas. By accepting a deed to any Lot or a Mortgage, each Owner and Mortgagee grants Declarant a right to expand the Subdivision and consents to such annexation expanding the Subdivision and will not oppose or hinder Declarant's right to expand and annex additional real property and improvements or to develop adjoining properties and improvements. The right to annex additional property shall pass to the Association after the expiration of Declarant's rights stated above, and the Association may undertake such annexation upon approval of at least two-thirds of the Owners present at a meeting duly called for such purpose.

ARTICLE IX

COMMON ELEMENTS

Section 901. Title to the Common Elements.

It is anticipated that the Association will hold a fee interest title in certain tracts ("Tracts") as shown on the Plat of the Subdivision. The Association may also hold an interest in certain other property, such as easements on property the fee interest of which is held by others, including Lot Owners. Together, these are referred to as the Common Elements. The Common Elements shall be maintained and insured by the Association, which shall also maintain, repair and replace the Structures on the Common Elements, common fences, common signs and all other maintenance described in Section 702 hereof.

Section 902. Non-Division of Common Elements.

The Common Elements shall remain undivided and shall not be subject to partition by the Owners. By the acceptance of his deed or other instrument of conveyance or assignment, each Owner specifically waives his right to institute and/or maintain a partition action or any other action designed to cause a division of the Common Elements. Each Owner specifically agrees not to institute any action therefor. Further, each Owner agrees that this Section may be pleaded as a bar to the maintenance of such an action. A violation of this provision, or any other provision of these Covenants, shall entitle the Association to personally collect, jointly and severally, from the parties violating the same, the actual attorney fees, costs and other damages the Association incurs in connection therewith. It is agreed by all Owners that the foregoing restrictions are necessary to preserve the rights of all Owners regarding the operation and

management of the Common Elements.

Section 903. Owners' Common Elements Easement of Enjoyment.

Subject to the rights of the owner of the fee interest underlying the Common Elements that are easements, and to the limitations and restrictions of these Covenants, every Owner shall have an equal, nonexclusive right and easement of enjoyment in and to the Common Elements, and such easement shall be appurtenant to and shall pass automatically with the title to every Lot without the necessity of additional reference. Except as specifically set forth herein, such easement shall not permit the Common Elements to be used for individual purposes, but only for the common purposes. For instance, any easement on a Lot for drainage or detention purposes shall be simply for such purposes and not for access or recreation. Any easement on a Lot for maintenance of an entrance monument shall be solely for the maintenance of such monument and not available for individual Lot Owners to maintain a private sign.

Section 904. Extent of Owner's Common Elements Easement.

The rights and easements of enjoyment created hereby in the Common Elements shall be subject to the following:

- a. The right of the Association to enforce the restrictions, contained in these Covenants, and to promulgate and publish rules and regulations with which every Owner, his family members, guests, tenants, and contractors shall strictly comply, including, but not limited to, the right of the Association to establish reasonable charges for the use of all or a portion of the Common Elements if deemed necessary. During the Period of Declarant Approval, such Rules and Regulations and the enforcement thereof shall be by the Approving Authority;
- b. The right of the Association, as provided in its Articles or Bylaws, to suspend an Owner's voting rights and the right to the use of the Common Elements for any period during which such Owner is in default under these Covenants, including without limitation the nonpayment of any assessment levied by the Association, and to make such suspensions for a period not to exceed 60 days for any infraction of its published rules and regulations;
- c. The right of the Association to close or limit the use of the Common Elements while improving, maintaining, repairing and making replacements in the Common Elements;
- d. The right of the Association to dedicate or transfer all or any part of the Common Elements to any public agency, authority, or utility for such purposes, subject to such conditions as may be imposed by the public entity, for example, if any drainage Structures are private and have not been built to County specifications and so might not be accepted by them;
- e. The rights of the Association as set forth in the Association's Articles of Incorporation and Bylaws, including, without limitation, to borrow money for the purpose of improving the Common Elements and to mortgage said property as security for any such loan;
- f. The right of the Association to take such steps as are reasonably necessary to protect the Common Elements against foreclosure;

g. The right of the Declarant to construct improvements on the Common Elements and, notwithstanding any provision of these Covenants to the contrary, Declarant reserves the right to create, grant and transfer non-exclusive easements in, under, over, across, through and upon the Subdivision for the purpose of installing, maintaining, repairing and replacing any utilities or related services, including but not limited to any gas, electric, water or sewer line, wells, mains or laterals, any telephone, internet, cable television lines and other communication lines and communications towers any heating or cooling installations, any master television antenna system, any drainage or retention areas, or for other public purposes consistent with the intended use of the Subdivision under these Covenants. The foregoing easements shall include, without limitation, the right of ingress and egress, the right to erect and maintain the necessary pipes, wires, poles and other equipment and the right to enter into agreements relating to such utility service and easements: all of which shall be binding upon the Association and the Owners. Should any person or party furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, Declarant shall have the right to grant such easement on the Subdivision without conflicting with the terms hereof. The foregoing easements shall be in addition to any other recorded easements on the Subdivision, including, but not limited to, any easements granted in the recorded subdivision map. The rights reserved herein for Declarant shall pass to the Association when the Declarant no longer owns any Lot or real property in the Subdivision, and any and all of the covenants, terms, provisions, rights and duties arising from such easements granted by the Declarant and any related agreements shall thereupon pass to the Association and be assumed by it in place of the Declarant. Except for the Declarant's possible dedication of a trail as set forth below, any consideration for any such easement shall be delivered to and become the property of the Association, whether the grant of easement was made by the Declarant or by the Association; and

h. If the Association or Declarant should need to construct any wells pursuant to the requirements of the Augmentation Plan to access and withdraw water, the Association and Declarant shall have an easement within the Common Elements to allow the Association and Declarant to use necessary easements therefor in a manner reasonably determined to meet the Association's or Declarant's requirement under the Augmentation Plan.

Section 905. Delegation of Use.

Any Owner may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Elements to the members of his family, his tenants, his guests, invitees or contract purchasers who reside on his Lot. Each Owner shall, to the maximum extent permitted by law, be liable for any damage done to the Common Elements by his family, tenants, guests, invitees or contract purchasers and for any breach of the Association's rules and regulations by such persons.

Section 906. Non-Dedication of Common Elements.

Declarant, in recording these Covenants, has designated certain portions of the Subdivision for use as Common Elements intended for the common use of Owners for specified purposes. Nothing contained in these Covenants shall be deemed to dedicate the Common Elements for use by the general public.

Section 907. Association Maintenance.

The Association shall provide all repair, replacement, improvement and maintenance of the Common Elements and all improvements located thereon, including without limitation, if applicable, all landscaping, sprinkler system, any wells, parking, roadways, driveways, utility lines ponds, recreational areas, trail easements, any drainage Structures or facilities or public improvements to the extent applicable and any light fixtures, sidewalks, and pathways, or other improvements located on the Common Elements. The Association shall maintain and be responsible for keeping the common drainage areas and Structures clear and free of silt to insure the areas drain properly. The Association shall advise the El Paso County Highway Department when maintenance of drainage areas and Structures is needed, under the terms of the Maintenance Agreement.

Section 908. Dedication of Public Trail.

Notwithstanding anything foregoing, Declarant shall have the right (but not the obligation) to dedicate a portion of the Common Elements as a public trail and related facilities pursuant to an agreement with El Paso County and to grant the fee interest in such portion of the Common Elements to El Paso County. It is anticipated that such dedication may result in El Paso County refunding fees previously paid by Declarant in lieu of such dedication or may result in Declarant avoiding such fees. In any event, any such consideration for such dedication shall belong exclusively to Declarant.

IN WITNESS WHEREOF, Declarant has executed these Covenants this 11th day of JANUARY 2006.

DECLARANT:

Hodgen Settlers Ranch LLC,
a Colorado limited liability company

By [Signature]
Mark Davis, Manager

STATE OF COLORADO

)

)ss.

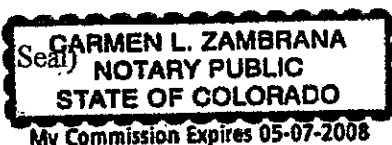
COUNTY OF EL PASO

)

The foregoing instrument was acknowledged before me this 11th day of JANUARY 2006 by Mark Davis, as Manager of Hodgen Settlers Ranch, LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires 05-07-2008.



[Signature]
Notary Public



EXHIBIT B

, Inc.

LEGAL DESCRIPTION: (HODGEN SETTLERS RANCH - INCLUDING OUT PARCEL)

THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER, AND A PORTION OF THE SOUTH HALF OF SECTION 23, TOGETHER WITH THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 24, ALL IN TOWNSHIP 11 SOUTH, RANGE 66 WEST OF THE 6TH P.M., EL PASO COUNTY, COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

(BEARINGS REFERRED TO HEREIN ARE BASED ON THE NORTH LINE OF THE SOUTHWEST QUARTER OF SECTION 23, MONUMENTED AT THE WEST END BY A 3 1/4" ALUMINUM CAP STAMPED WITH P.L.S. NO. 25955, AND AT THE EAST END WITH 3 1/4" ALUMINUM CAP WITH NO P.L.S. NUMBER STAMPING, SAID LINE ASSUMED TO BEAR N88E57'13"E.)

BEGINNING AT THE SOUTHWEST CORNER OF SAID SOUTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER, SECTION 23; (THE FOLLOWING TWO (2) COURSES ARE ALONG THE WEST AND NORTH LINES OF SAID SOUTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER.)

- 1.) THENCE N00E15'28"W, 622.50 FEET;**
- 2.) THENCE N89E00'10"E, 1347.50 FEET TO THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 24; (THE FOLLOWING FOUR (4) COURSES ARE ALONG THE WEST, NORTH, EAST AND SOUTH LINES OF SAID SOUTHWEST QUARTER OF THE NORTHWEST QUARTER, SECTION 24.)**
 - 1.) THENCE N00E35'08"W, 663.14 FEET;**
 - 2.) THENCE N88E41'04"E, 1310.38 FEET;**
 - 3.) THENCE S00E34'02"E, 1321.51 FEET;**
 - 4.) THENCE S88E28'33"W, 1310.03 FEET TO THE NORTHEAST CORNER OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 23;**

THENCE S89E01'52"W, 748.15 FEET ALONG THE NORTH LINE OF SAID EAST HALF OF THE SOUTHEAST QUARTER;

THENCE ALONG THE ARC OF A CURVE TO THE RIGHT, CONCAVE TO THE NORTHWEST, SAID CURVE HAVING A CHORD BEARING AND DISTANCE OF S49E12'27"W, 685.89 FEET, A CENTRAL ANGLE OF 80E38'27", A RADIUS OF 530.00 FEET, FOR AN ARC DISTANCE OF 745.95 FEET;

THENCE S89E31'40"W, 78.31 FEET TO THE EAST LINE OF THE WEST HALF OF SAID SOUTHEAST QUARTER OF SECTION 23;

THENCE S00E42'57"E, 1907.66 FEET ALONG SAID EAST LINE TO THE NORTHEAST CORNER OF THAT

TRACT OF LAND DESCRIBED IN BOOK 1781 AT PAGE 413 OF THE RECORDS OF SAID EL PASO

1 OF 2

Engineers X Surveyors

1903 Lelaray Street, Suite 200 X Colorado Springs, CO 80909 X Phone 719-635-5736

Fax 719-635-5450 X e-mail mve@mvecivil.com

COUNTY; (THE FOLLOWING TWO (2) COURSES ARE ALONG THE NORTH AND WEST LINE OF SAID TRACT OF LAND DESCRIBED IN BOOK 1781 AT PAGE 413.)

- 1.) THENCE S88E56'54"W, 199.91 FEET (200.00 FEET RECORDED);
- 2.) THENCE S00E40'51"E, 299.94 FEET (300.00 FEET RECORDED) TO THE SOUTH LINE OF SAID WEST HALF OF THE SOUTHEAST QUARTER;

THENCE S88E56'59"W, 1138.48 FEET ALONG SAID SOUTH LINE TO THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 23; (THE FOLLOWING FOUR (4) COURSES ARE ALONG THE SOUTH, WEST AND NORTH LINE OF SAID SOUTHWEST QUARTER.)

- 1.) THENCE CONTINUE S88E56'59"W, 2677.13 FEET;
- 2.) THENCE N00E24'51"W, 1323.76 FEET TO THE NORTHWEST CORNER OF THE SOUTHWEST OF SAID SOUTHWEST QUARTER OF SECTION 23;
- 3.) THENCE N00E24'08"W, 1323.68 FEET;
- 4.) THENCE N88E57'13"E, 2674.94 FEET TO THE NORTHWEST CORNER OF SAID WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 23;

THENCE N88E59'24"E, 1326.54 FEET ALONG THE NORTH LINE OF SAID WEST HALF OF THE SOUTHEAST QUARTER TO THE POINT OF BEGINNING AND CONTAINING 307.35 ACRES MORE OR LESS.

Prepared By:
M.V.E., Inc.
1903 Lelaray Street, Suite 200
Colorado Springs, CO 80909
June 20, 2004

60733 adj-brdy.wpd-04

BYLAWS

OF

SETTLERS RANCH HOMEOWNERS ASSOCIATION

ARTICLE I - INTRODUCTION

These are the Bylaws of Settlers Ranch Homeowners Association (the "Association"), a Colorado nonprofit corporation, which shall operate under the Colorado Revised Nonprofit Corporation Act, as amended (the "CRNCA") but not under the Colorado Common Interest Ownership Act, as amended (the "Act"), which Act may be referred to herein as a means of incorporating procedures or terms by reference. Terms used herein shall have the meaning set forth in The Declaration Of Conditions, Covenants Restrictions And Easements For Settlers Ranch as recorded in with the Clerk and Recorder of El Paso County at Reception number 204010000 (the "Declaration"). The purpose of the Association shall be to carry out the responsibilities of the Settlers Ranch Homeowners Association as set forth in the Declaration. One specific purpose of the Association shall be to operate, maintain and enforce, to the extent applicable, all the requirements of that plan for augmentation decreed in Case Nos. 03 CW 241 (Water Division No.1) and 03 CW 50 (Water Division No.2) on July 22, 2004. The responsibility to operate, maintain and enforce the Water Decree cannot be abrogated by the Association. The Declarant under the Declaration is Settlers Ranch Development Corporation, a Colorado corporation.

ARTICLE 2- BOARD OF DIRECTORS

Section 2.1 Number and qualification. A Board of Directors shall govern the affairs of the Association. The initial Board of Directors shall consist of three (3) members appointed by the Incorporator of the Association according to the direction of the Declarant. Only Owners, eligible to vote and otherwise in good standing, may be entitled or appointed to fill a vacancy on the Board of Directors; provided, however, Declarant shall have the right to appoint members to the Board of Directors and to have such appointed members remain on the Board of Directors as provided in the Declaration and these Bylaws and such members of the Board of Directors appointed by the Declarant need not be Owners. In the case where, through removal or resignation, the total number of Board of Directors members is less than three, the Board of Directors will be considered properly constituted until such vacancies are filled. The number of members of the Board of Directors may be increased or decreased as set forth in these Bylaws and by amendment of these Bylaws; provided, however the number must be an odd number.

(a) The Declaration shall govern appointment of members of the Board of Directors during the period set forth in the Declaration for such appointments by the Declarant ("Period of Declarant Control").

(b) Until the Declarant has conveyed 67% of the Lots to residential purchasers or December 31, 2007, whichever occurs earlier ("Period of Declarant Control"), the Declarant may appoint and remove all officers and members of the Board of Directors of the Association. Upon termination of the Period of Declarant Control, the Owners shall elect one member of the

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Board of Directors for a two-year term as an Additional Member of the Board of Directors, in addition to the members appointed by the Declarant, thereby expanding the Board to four members. One year following termination of the Period of Declarant Control, the Owners shall elect a second member of the Board for a two-year term as an Additional Member of the Board of Directors, thereby expanding the Board to five members. Two years following the termination of the Period of Declarant Control, at least one of the Directors appointed by the Declarant (as determined by the Declarant) shall leave the Board. Then the Owners shall elect two members of the Board of Directors to serve two-year terms, and, if necessary to bring the Board to five members, the Owners shall elect a third member to serve a one-year term, thereby maintaining the Board at five members, at least three of which have been elected by the Owners. Three years following the termination of the Period of Declarant Control, the Owners shall elect two members to serve two-year terms, and the number of Directors appointed by the Declarant shall be reduced to one, thereby maintaining the Board at five Directors. Thereafter each year the Owners shall elect two or three members to replace members whose terms are ending, maintaining the number of Directors at five. The Declarant shall continue to have the right to appoint one member of the Board of Directors until the end of the Period of Declarant Approval, as set forth in the Declaration.

(c) At any time Owners, other than the Declarant, are entitled to elect a member of the Board of Directors, the Association shall call a meeting and shall give not less than ten (10) nor more than fifty (50) days' notice to the Owners for this purpose. This meeting may be called and the notice given by any Owner if the Association fails to do so.

(d) Each Board of Directors member shall hold office until the election and qualification of his or her successor. At any meeting at which the Board of Directors is to be elected, the Owners may, by resolution, adopt specific procedures are not inconsistent with these Bylaws or the CRNCA for conducting the elections.

Section 2.2 Powers and Duties. The Board of Directors may act in all instances on behalf of the Association, except as provided in the Declaration or these Bylaws. The Board of Directors shall have, subject to the limitations contained in the Declaration, the powers and duties necessary for the administration of the affairs of the Association and of the Subdivision, including the following powers and duties:

- (a) Adopt and amend Bylaws and Rules and Regulations.
- (b) Adopt and amend budgets for revenues, expenditures and reserves.
- (c) Collect Assessments from Owners.
- (d) Suspend the voting interests allocated to a Lot, and the right of an Owner to cast such votes, or by proxy the votes of another, during any period in which such Owner is in default in the payment of any Assessment, or, after notice and a hearing, during any time in which a Owner is in violation of any other provision of the Governing Documents.
- (e) Hire and discharge managing agents.

(f) Hire and discharge employees, independent contractors and agents other than managing agents.

(g) Institute, defend or intervene in litigation or administrative proceedings or seek injunctive relief for violations of the Governing Documents in the Association's name on behalf of the Association or on behalf of two or more Owners in matters affecting the Subdivision.

(h) Make contracts and incur liabilities.

(i) Regulate the use, maintenance, repair, replacement and modification of all property within the Subdivision.

(j) Cause additional improvements to be made as a part of the Common Elements.

(k) Acquire, hold, encumber and convey, in the Association's name, any right, title or interest to real estate or personal property, but Common Elements may be conveyed or subjected to a security interest only pursuant to the affirmative vote of a majority of the Owners.

(l) Grant easements for any period of time, including permanent easements, and grant leases, licenses and concessions, through or over the Common Elements.

(m) Impose and receive, on behalf of the Association, a payment, fee or charge for services provided to Owners and for the use, rental or operation of the Common Elements.

(n) Establish from time to time, and thereafter impose, charges for late payment of Assessments or any other sums due and, after notice and hearing, levy a reasonable fine for a violation of the Governing Documents.

(o) Impose a reasonable charge for the preparation and recording of amendments to the Declaration or statements of unpaid Assessments.

(p) Provide for the indemnification of the Association's officers and the Board of Directors to the extent provided by law, provide for the indemnification of committee members to the extent the Board of Directors deems just and reasonable, and maintain directors' and officers' liability insurance.

(q) Declare the office of a member of the Board of Directors to be vacant in the event such member shall fail to participate in three (3) regular meetings of the Board of Directors during any one-year period.

(r) Appoint any committee as required or permitted by the Declaration or these Bylaws or as may be deemed appropriate by the Board of Directors to carry out its purposes and duties, and by resolution, establish committees, permanent and standing, to perform of the above functions under specifically delegated administrative standards as designated in the resolution establishing the committee.

(s) By resolution, set forth policies and procedures which shall be considered

incorporated herein by reference as though set forth in full, and which provide for corporate actions and powers which are different than those set forth in the CRNCA but which are permitted by the CRNCA to be 'otherwise set forth in the Bylaws.' Such resolutions shall be given the same force and effect as if specifically enumerated in these Bylaws.

(t) Exercise any other powers conferred by the Declaration, the Articles of Incorporation, these Bylaws or the CRNCA.

(u) Exercise any other power necessary and proper for the governance and operation of the Association.

(v) Exercise any other power that may be exercised in the state by a legal entity of the same type as the Association.

(w) Operate, maintain and enforce, to the extent applicable, all the requirements of that plan for augmentation decreed in Case Nos. 03 CW 241 (Water Division No.1) and 03 CW 50 (Water Division No.2) on July 22, 2004.

Section 2-3 Manager. The Board of Directors may employ a Manager for the Subdivision, at a compensation established by the Board of Directors, to perform duties and services authorized by the Board of Directors; provided, however:

(a) The Board of Directors may delegate to the Manager only the powers granted to the Board of Directors by these Bylaws under Section 2.2, Subdivisions (c), (f), (g), (h), (i) and (j).

(b) Licenses, concessions and contracts may be executed by the Manager pursuant to specific resolutions of the Board of Directors and to fulfill the requirements of the budget.

(c) The Board of Directors may require: (i) that the manager shall maintain fidelity insurance coverage or a bond in amount not less than fifty thousand dollars or such higher amount as the Board of Directors may require and; (ii) that the manager shall maintain all funds and accounts of the association separate from the funds and accounts of other associations managed by the manager agent and maintain all reserve accounts of each association so managed separate from operational accounts of the association; and (iii) that an annual accounting for association finds and a financial statement be prepared and presented to the association by the managing agent, a public accountant, or a certified public accountant and that a review or an audit be completed by a certified public accountant at least every three years.

Section 2.4 Removal of Board of Directors Member. The Owners, by a vote of sixty-seven percent of all persons present and entitled to vote at any meeting of the Owners may remove any member of the Board of Directors, with or without cause other than one appointed by the Declarant; provided, however (i) notice that removal of one or more Board members must be given in the notice for the meeting, and (ii) the Board members who are subject to removal at such a meeting must be given an opportunity to be heard. Written ballots given pursuant to Section 3.9 below shall not be utilized for this meeting. For purposes of this meeting a quorum of fifty percent (50%) of the Owners shall be required. Any member of the Board of Directors

appointed by the Declarant during the period of Declarant Control may only be removed by the Declarant. Vacancies created by removal according to this Section 2.4 shall be filled as follows:

(a) As to vacancies of Board of Directors members not appointed by the Declarant, by a majority of the remaining Board of Directors; provided, however, if the entire Board of Directors is removed at once, an election shall be held immediately thereafter at the same meeting; and

(b) As to vacancies of Board of Directors members whom the Declarant has the right to appoint, by the Declarant.

Each person so elected or appointed shall serve on the Board of Directors for the remainder of the term of the member so replaced.

Section 2.5 Vacancies. Except in the case of removal of an Board of Directors member pursuant to Section 2.4 above, vacancies may be filled at a special meeting of the Board of Directors held for that purpose at any time after the occurrence of the vacancy, even though the members of the Board of Directors present at that meeting may constitute less than a quorum. These appointments shall be made, as to vacancies of Board of Directors members, and each person so elected or appointed shall serve on the Board of Directors for the remainder of the term of the member so replaced.

Section 2.6 Regular Meetings. The first regular meeting of the Board of Directors following each annual meeting of the Owners shall be held within sixty (60) days after the annual meeting at a time and place to be set by the Board of Directors at the meeting at which the Board of Directors shall have been elected. No notice shall be necessary to the newly elected Board of Directors in order to legally constitute such meeting, provided a majority of the Board of Directors members are present. The Board of Directors may set a schedule of additional regular meetings by resolution, and no further notice is necessary to constitute regular meetings.

Section 2.7 Special Meetings. Special meetings of the Board of Directors may be called by the President or by a majority of its members on at least three (3) business days' notice to each member.

Section 2.8 Quorum; Actions of the Board of Directors. A majority of the total number of Board of Directors members who are present shall constitute a quorum for all meetings and consents. Unless otherwise determined by a vote of the Board of Directors as to a particular issue, a majority vote of those present constitutes a valid corporate action. Except as provide in Section 2.4, for purposes of this Article 2, the term "present" shall include attendance in person, by proxy (to the fullest extent provided by the CRNCA), via telephonic or other electronic means, or via "real time" e-mail.

Section 2.9 Location of Meetings. All meetings of the Board of Directors shall be held either (i) within the State of Colorado, unless all members thereof consent in writing to another location, or (ii) in such a manner as to permit discussions and deliberations via telephonic means or communication via "real time" e-mail.

Section 2.10 Waiver of Notice. Any Board of Directors member may waive notice of any meeting in writing. Attendance by any Board of Directors member at any meeting of the Board of Directors shall constitute a waiver of notice. If all the members of the Board of Directors are present at any meeting participating in a meeting through any means authorized by these Bylaws, no notice shall be required, and any business may be transacted at such meeting.

Section 2.11 Consent to Corporate Action. (1) Unless otherwise provided in these bylaws, any action required or permitted by to be taken by the Board or any Committee at a Board of Directors' (or committee) meeting may be taken without a meeting if each and every member of the Board (or committee) in writing either:

(a) Votes for such action; or

(b) (I) Votes against such action or abstains from voting; and

(II) Waives the right to demand that action not be taken without a meeting.

(2) Action is taken under this section only if the affirmative vote for such action equals or exceeds the minimum number of votes that would be necessary to take such action at a meeting at which all of the Directors (or committee members) then in office were present and voted.

(3) No action taken pursuant to this section shall be effective unless writings describing the action taken and otherwise satisfying the requirements of subsection (1) of this section, signed by all Directors (or committee members) and not revoked pursuant to subsection (4) of this section, are received by the Association. Unless otherwise provided by the bylaws, any such writing may be received by the Association by electronically transmitted facsimile or other form of wire or wireless communication providing the Association with a complete copy of the document, including a copy of the signature on the document. A Director's (or committee member's) right to demand that action not be taken without a meeting shall be deemed to have been waived if the Association receives a writing satisfying the requirements of subsection (1) of this section that has been signed by the Director (or committee member) and not revoked pursuant to subsection (4) of this section. Action taken pursuant to this section shall be effective when the last writing necessary to effect the action is received by the Association unless the writings describing the action taken state a different effective date.

(4) Any Director (or committee member) who has signed a writing pursuant to this section may revoke such writing by a writing signed and dated by the Director (or committee member) describing the action and stating that the Director's (or committee member's) prior vote with respect thereto is revoked, if such writing is received by the Association before the last writing necessary to effect the action is received by the Association.

(5) Action taken pursuant to this section has the same effect as action taken at a meeting of Directors (or committee) and may be described as such in any document.

(6) All signed written instruments necessary for any action taken pursuant to this section shall be filed with the minutes of the meetings of the Board of Directors (or committee).

Section 2.12 Types of Communication in Lieu of Attendance. Any member of the Board of Directors may attend a meeting of the Board of Directors by: (i) using an electronic or telephonic communication method whereby the member may be heard by the other member and may hear the deliberations of the other members on any matter properly brought before the Board of Directors; or (ii) by participating in "real time" e-mail communication when all Board members are participating in this form of communication. The vote of such member shall be counted and the presence noted as if that member was present in person on that particular matter.

Section 2.13 Compensation. No member of the Board of Directors shall receive any compensation from the Association for acting as such, however members of the Board of Directors may be reimbursed for expenses incurred on behalf of the Association upon approval of a majority of the other Board of Directors members. Nothing herein shall prohibit the Association from compensating a member of the Board of Directors, or any entity with which a Board of Directors member is affiliated, for services or supplies furnished to the Association in a capacity other than as an Board of Directors member pursuant to a contract or agreement with the Association, provided that such Board of Directors member's interest was made known to the Board prior to entering into such contract and such contract was approved by a majority of the Board of Directors, excluding the interested member of the Board of Directors. Nothing herein shall prevent any member of the Board of Directors or any committee thereof from receiving compensation from the Declarant in connection with his or her service due to appointment by the Declarant.

ARTICLE 3-OWNERS

Section 3.1 Meetings of the Owners. The following types of "meetings" (as that term is used in the CRNCA) shall be or may be held, as provided below.

3.1.1 Annual Meetings. An annual meeting of Owners shall be held at least once a year within the greater Colorado Springs metropolitan area, in the State of Colorado, at such date set forth in the notice. At these meetings, members of the Board of Directors shall be elected by ballot of the Owners, in accordance with the provisions of Article 2 of these Bylaws. The Owners may transact other business as may properly come before them at these meetings.

3.1.2 Special Meetings. Request that a special meeting of the Association be called may be made by the president, by a majority of the members of the Board of Directors or by a written instrument signed by Owners comprising twenty percent (20%) of the votes in the Association.

3.1.3 Meeting to Approve Annual Budget. At the annual meeting of the Association or at a special meeting of the Association called for such purpose, the Owners shall be afforded the opportunity to veto the budget of the projected revenues, expenditures and reserves for the Association's next fiscal year as proposed by the Board of Directors. A summary of the proposed budget approved by the Board of Directors shall be mailed to the Owners within thirty (30) days after its adoption along with a notice of a meeting of the Association to be held not less than fourteen (14) nor more than fifty (50) days after mailing of the summary to the Owners (or, in the alternative, together with a ballot and information sufficient to satisfy the provisions of Section 109 of the CRNCA and Section 3.9 below). Unless a majority of all Owners rejects the

proposed budget, the budget is ratified. There are no quorum requirements for this meeting. In the event the proposed budget is rejected, the budget last ratified by the Owners continues until such time as the Owners ratifies a subsequent budget proposed by the Board of Directors as provided above.

Section 3.2 Place of Meetings. Meetings of the Owners shall be held within the greater Colorado Springs metropolitan area and may be adjourned to a suitable place convenient to the Owners, as may be designated by the Board of Directors or the president.

Section 3.3 Notice of Meetings. Except as otherwise set forth in Subsection 3.1.3, the secretary shall cause notice of all meetings of the Owner set forth in Section 3.1 to be hand-delivered, sent via a nationally recognized over-night or express delivery service, or sent prepaid by United States mail directed to the mailing address of each Lot or to the mailing address designated in writing by the Owner, or sent by telefax transmittal to the fax number designated in writing by the Owner with a written confirmation of receipt, not less than ten (10) nor more fifty (50) days in advance of a meeting. The date of the notice shall be the date notice is so sent or the date received by the recipient or three days after placing the notice in the United States mail, whichever is sooner. No action shall be adopted at a special meeting except as stated in the notice.

Section 3.4 Adjournment of Meeting. At any meeting of Owners, a Majority Vote may adjourn the meeting to another time.

Section 3.5 Order of Business. The order of business at all meetings of the owners shall be as set forth in the written meeting agenda available at the beginning of each meeting.

Section 3.6 Voting

(a) If only one of several Owners of a Lot is present at a meeting of the Association, the Owner or Owners present is entitled to cast the vote allocated to that Lot. If more than one of the Owners is present, the vote allocated to the Lot may be cast only in accordance with the agreement of a majority of the Owners of that Lot. Majority agreement exists if any one of the Owners casts the vote allocated to the Lot without protest being made promptly to the person presiding over the meeting by another Owner of the Lot.

(b) The vote allocated to a Lot may be cast under a proxy duly executed by an Owner. If a Lot is owned by more than one person, each Owner of the Lot may vote or register protest to the casting of votes by the other Owners of the Lot through a duly executed proxy. An Owner may revoke a proxy given under this section only by actual notice of revocation to the person presiding over a meeting of the Association. A proxy is void if it is not dated or purports to be revocable without notice. A proxy terminates eleven months (11 months) after its date, unless it specifies a shorter term.

(c) The vote of a corporation or limited liability company may be cast by an officer of that corporation or by the manager of the limited liability company in the absence of express notice of the designation of a specific person by such Owner's governing body, members, manager, operating agreement or bylaws. The vote of a limited liability limited partnership or a

limited partnership may be cast by the general partner (or any general partner if there is more than one general partner). Any general partner of the owning partnership may cast the vote of a general partnership in the absence of express notice of the designation of a specific person by the owning partnership. The moderator of the meeting may require reasonable evidence that a person voting on behalf of an Owner which is a corporation, limited liability company, limited liability limited partnership, limited partnership, general partnership or any other type of entity recognized by Colorado law is qualified to vote.

(d) Votes allocated to a Lot owned by the Association may not be cast

Section 3.7 Quorum. Except as otherwise provided in these Bylaws, the Owners present in person or by proxy at any meeting of Owners, representing twenty percent (20%) of the votes in the Association, shall constitute a quorum at that meeting. For purposes of this Article 3, the term "present" shall include attendance in person, by proxy, via telephonic or other electronic means, via "real time" e-mail or, in the case of written ballots, by providing written response on or before the date responses are due as set forth in the written ballot. Only Owners eligible to vote may cast proxies for other Owners and only Owners eligible to vote may be considered "present."

Section 3.8 Majority Vote. The term "Majority Vote" shall mean the vote of a majority of the Owners (casting one vote per Lot) present and shall be binding upon all Owners for all purposes except where a higher percentage vote is required in the Declaration or these Bylaws. Reference to a "majority of all Owners" in the Declaration or these Bylaws shall mean a vote cast by Owners representing one more than one-half of all Lots in the Subdivision.

Section 3.9 Voting by Mail. Except as limited by Section 2.4 above, the Board of Directors may decide that voting of the Owners on any matter required or permitted by the statutes of Colorado, the Declaration, the Articles of Incorporation, or these Bylaws shall be by written ballot. Pursuant to the CRNCA, any action that may be taken at any annual, regular, or special meeting of Owners may be taken without a meeting if the secretary delivers a written ballot to every member entitled to vote on the matter. "Delivery" to the Owner of the ballot, and the Owner's return of the completed ballot shall be made by the same methods available for providing notice to a member set forth in Section 3.3 above.

(a) A written ballot shall: (i) set forth each proposed action; and (ii) provide an opportunity to vote for or against each proposed action.

(b) Approval by written ballot shall be valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

(c) All solicitations for votes by written ballot shall: (i) indicate the number of responses needed to meet the quorum requirements; (ii) state the percentage of approvals necessary to approve each matter other than the election of member of the Board of Directors; (iii) specify the time by which a ballot must be received by the Association in order to be counted; and (iv) be

accompanied by written information sufficient to permit each person casting such ballot to reach an informed decision on the matter.

(d) A written ballot, once received by the Association, may not be revoked, unless the Owner casting the written ballot appears in person at a meeting convened to consider any one or more of the mailers on the ballot.

ARTICLE 4 - OFFICERS

Section 4.1 Designation. The principal officers of the Association shall be the president, the vice president, the secretary and the treasurer, all of whom shall be elected by the Board of Directors. The Board of Directors may appoint an assistant treasurer, an assistant secretary and other officers as it finds necessary. Any two offices may be held by the same person, except the offices of president and secretary. The office of vice president may be vacant. The president, vice president, secretary and treasurer must be members of the Board of Directors. All members of the Board of Directors vote on election of officers, regardless of any office they may hold.

Section 4.2 Election of Officers. At the organizational meeting of each new Board of Directors, the Board of Directors shall elect the officers of the Association.

Section 4.3 Resignation and Removal of Officers. Upon the affirmative vote of a majority of the Board of Directors, any officer may be removed, either with or without cause. A successor may be elected at any regular meeting of the Board of Directors or at any special meeting of the Board of Directors called for that purpose. Any officer may resign at any time by giving written notice to the president or secretary.

Section 4.4 President. The president shall be the chief executive officer of the Association. The president shall preside at all meetings of the Owners and of the Board of Directors. The president shall have all of the general powers and duties which are incident to the office of president of a nonprofit corporation organized under the laws of the State of Colorado, including but not limited to the power to appoint committees from among the Owners from time to time as the president may decide is appropriate to assist in the conduct of the affairs of the Association. The president may fulfill the role of treasurer in the absence of the treasurer. The president may cause to be prepared and may execute amendments, attested by the secretary, to the Declaration and these Bylaws on behalf of the Association, following authorization or approval of the particular amendment as applicable.

Section 4.5 Vice President. The vice president shall take the place of the president and perform the president's duties whenever the president is absent or unable to act. If neither the president nor the vice president is able to act, the Board of Directors shall appoint another of its members to act in the place of the president on an interim basis. The vice president shall also perform other duties imposed by the Board of Directors or by the president.

Section 4.6 Secretary. The secretary shall keep the minutes of all meetings of the Owners and the Board of Directors. The secretary shall have charge of the Association's books and papers as the Board of Directors may direct and shall perform all the duties incident to the office of secretary of a nonprofit corporation organized under the laws of the State of Colorado. The secretary may

cause to be prepared and may attest to execution by the president of amendments to the Declaration and these Bylaws on behalf of the Association, following authorization or approval of the particular amendment as applicable.

Section 4.7 Treasurer. The treasurer shall be responsible for Association funds and securities, for keeping full and accurate financial records and books of account shown all receipts and disbursements and for the preparation of all required financial data. This officer shall be responsible for the deposit of all monies and other valuable effects in depositories designated by the Board of Directors and shall perform all the duties incident to the office of treasurer of a nonprofit corporation organized under the laws of the State of Colorado. The treasurer may endorse on behalf of the Association, for collection only, checks, notes and other obligations and shall deposit the same and all monies in the name of and to the credit of the Association in banks designated by the Board of Directors. Except for reserve funds described below, the treasurer may have custody of and shall have the power to endorse for transfer, on behalf of the Association, stock, securities or other investment instruments owned or controlled by the Association or as fiduciary for others. Reserve funds of the Association shall be deposited in segregated accounts or in prudent investments, as the Board of Directors decides. Funds may be withdrawn from these reserves for the purposes for which they were deposited, by check or order, authorized by the treasurer, and executed by two members of the Board of Directors, one of whom may be the treasurer.

Section 4.8 Execution of Instruments. Except as provided in Sections 4.4, 4.6, 4.7 and 4.9 of these Bylaws, all agreements, contracts, deeds, leases, checks and other instruments of the Association shall be executed by any officer of the Association or by any other person or persons designated by the Board of Directors.

Section 4.9 Statements of Unpaid Assessments. The treasurer, assistant treasurer, a manager employed by the Association or, in their absence, any officer having access to the books and records of the Association may prepare, certify, and execute statements of unpaid assessments. The amount of the fee for preparing statements of unpaid Assessments and the time of payment shall be established by resolution of the Board of Directors. Any unpaid fees may be assessed as a Common Expense Assessment against the Lot for which the certificate or statement is furnished.

ARTICLE 5- ENFORCEMENT

Section 5.1 Abatement and Enjoinment of Violations by Owners. The violation of any provision of the Governing Documents shall give the Board of Directors the right, in addition to any other rights set forth in the Governing Documents, after notice and an opportunity be heard (except in case of an emergency when no notice is required):

(a) To enter the Lot in which, or as to which, the violation or breach exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing or condition (except for additions or alterations of a permanent nature that may exist on that Lot) that is existing and creating a danger to the Common Elements contrary to the intent and meaning of the provisions of the Governing Documents. The Board of Directors shall not be deemed liable for any manner of trespass or damage by this action; or

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

Section 5.2 Fines for Violation. The Board of Directors may adopt resolutions providing for fines or other monetary penalties for the infraction of its Rules and Regulations or of the Declaration. Fines will be levied after notice thereof and an opportunity to be heard. The Board of Directors may levy fines in amounts that it, in its sole discretion, shall determine to be reasonable for each such violation, including those violations which persist after notice and an opportunity for a hearing is given.

ARTICLE 6-INDEMNIFICATION

Section 6.1 Actions Other Than By Or In The Right of The Association. The Association shall indemnify any person who was or is a party, or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Association) by reason of the fact that he or she is or was a member of the Board of Directors or officer of the Association, who is or was serving at the request of the Association in such capacity, against expenses (including expert witness fees, attorneys' fees and costs) judgments, fines, amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit or proceeding, if he or she acted in good faith and in a manner which such individual reasonably believed to be in the best interests of the Association, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. Determination of any action, suit or proceeding by judgment, order, settlement or conviction, or upon a plea of *nolo contendere* or its equivalent, shall not of itself create a presumption that the person did not act in good faith and in a manner he or she reasonably believed to be in the best interests of the Association and, with respect to any criminal action or proceeding, had reasonable cause to believe his or her conduct was unlawful. Such liability shall be satisfied within thirty (30) days after request therefor if there exists adequate operating funds but, if not, the funds shall be raised by a special assessment of the Owners as quickly as possible, without the need of Owners' approval.

Section 6.2 Actions By Or In The Right of The Association. The Association shall indemnify any person who was or is a party or who is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Association to procure judgment in its favor by reason of the fact that such person is or was a member of the Board of Directors or officer of the Association or is or was serving at the request of the Association in such capacity, against expenses (including expert witness fees, attorneys' fees and costs) actually and reasonably incurred by him or her in connection with the defense or settlement of such action or suit if such person acted in good faith and in a manner which he or she reasonably believed it be in the best interests of the Association; but no indemnification shall be made in respect of any claim, issue or matter as to which such person has been adjudged to be liable for negligence, recklessness, or willful misconduct in the performance of his or her duty in the Association unless, and to the extent that the court in which such action or suit was brought determines upon application that, despite the adjudication of liability, but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnification for such expenses if such court deems proper.

Section 6.3 Successful on the Merits. To the extent that a member of the Board of Directors or any manager, officer, project manager, employee, fiduciary or agent of the Association has been wholly successful on the merits in defense of any action, suit or proceeding referred to in Sections 6.1 or 6.2 of this Article 6, or in defense of any claim, issue or matter therein, such person shall be indemnified against expenses (including expert witness fees, attorneys' fee and costs) actually and reasonably incurred him or her in connection therewith.

Section 6.4 Determination Required. Any indemnification under Sections 6.1 or .2 of this Article 6 (unless ordered by a court) and as distinguished from Sections 6.3 of this Article 6, shall be made by the Association only as authorized by the specific case upon a determination that indemnification of the member of the Board of Directors or officer is proper in the circumstances because such individual has met the applicable standard of conduct set forth in Sections 6.1 or 6.2 above. Such determination shall be made by the Board of Directors by majority vote of a quorum consisting of those members of the Board who were not parties to such action, suit or proceeding or, if a majority of disinterested members of the Board of Directors so directs, by independent legal counsel or by members entitled to vote thereon. Such determination shall be reasonable, based on substantial evidence of record, and supported by a written opinion. The Board of Directors shall provide a copy of its written opinion to the officer or Board of Directors member seeking indemnification upon request.

Section 6.5 Payment in Advance of Final Disposition. The Association shall pay for or reimburse the reasonable expenses incurred by a former or current member of the Board of Directors or officer who is a party to a proceeding in advance of final disposition of the proceeding if (i) the member of the Board of Directors or officer furnishes to the Association a written affirmation of the Board of Directors member's good faith belief that he or she has met the standard of conduct described in Sections 6.1 or 6.2 of this Article 6; (ii) the Board of Directors member or officer furnishes to the Association a written undertaking, executed personally or on the Board of Directors member's or officer's behalf to repay the advance if it is ultimately determined that the Board of Directors member or officer did not meet the standard of conduct; and (iii) a determination is made that the facts then known to those making the determination would not preclude indemnification under this Article. The undertaking required in this Section 6.5 shall an unlimited general obligation of the Board of Directors but need not be accepted by the Board of Directors member or officer or may be accepted without reference to financial ability to make repayment.

Section 6.6 No Limitation of Rights. The indemnification provided by this Article 6 shall not be deemed exclusive of nor a limitation upon any other rights to which those indemnified may be entitled under any bylaw, agreement, vote of the members or disinterested members of the Board of Directors, or otherwise, nor by any rights which are granted pursuant to CRNCA. Upon a vote of the Board of Directors, the Association may also indemnify a member appointed by the Board of Directors to serve on a committee (when such committee member is not also a member of the Board of Directors) upon such terms and conditions as the Board of Directors shall deem just and reasonable.

Section 6.7 Directors and Officers Insurance. The Association shall purchase and maintain insurance on behalf of any person who is or was a member of the Board of Directors or

an officer of the Association against any liability asserted against him or her and incurred by such individual in any such capacity or arising out of his or her status as such, whether or not the Association would have the power to indemnify such individual against such liability under provisions of this Article 6.

ARTICLE 7- RECORDS

Section 7.1 Records and Audits. The Association shall maintain financial records. The cost of any audit or review shall be a Common Expense unless otherwise provided the Declaration. An audit or review shall be done no less often than every three years, less otherwise provided for in the Declaration or as determined by the Board of Directors.

Section 7.2 Examination. All records maintained by the Association or the Manager shall be available for examination and copying by any Owner or by any of their duly authorized representatives, at the expense of the person examining the records, during normal business hours and after reasonable notice in accordance with the CRNCA.

Section 7.3 Records. The Association shall keep the following records:

- (a) An account for each Lot, which shall designate the name and address of each Owner, the name and address of each mortgagee who has given notice to the Association that it holds a mortgage on the Lot, the amount of each Common Expense Assessment, the dates on which each Assessment comes due, the amounts paid on the account and the balance due;
- (b) The current operating budget;
- (c) A record of insurance coverage provided for the benefit of Owners and the Association for the immediately preceding three years;
- (d) Tax returns for state and federal income taxation for the preceding seven years;
- (e) Minutes of proceedings of incorporators, Owners, Board of Directors and its committees (including written consents), and waivers of notice;
- (f) A copy of the most current versions of the Articles of Incorporation, Declaration, these Bylaws, Rules and Regulations, and resolutions of the Board of Directors, along with their exhibits and schedules;
- (g) All written communications to Owners (which communications shall only be made available to the Owner with whom the Association has communicated);
- (h) A list of the names and business or home addresses of the current members of the Board of Directors and officers;
- (i) A copy of the Association's most recent corporate report filed with the secretary of state in accordance with the CRNCA; and

(j) Such other records the Board of Directors shall determine from time to time are necessary or desirable.

ARTICLE 8- MISCELLANEOUS

Section 8.1 Notices. All notices to the Association or the Board of Directors shall be delivered to the office of the Manager, or, if there is no Manager, to the office of the Association, or to such other address as the Board of Directors may designate by written notice to all Owners. Except as otherwise provided, all notices to any Owner shall be sent to the Owner's address as it appears in the records of the Association. All notices shall be deemed to have been given when deposited into the United States mail, first class postage prepaid, except notices of changes of address, which shall be deemed to have been given when received.

Section 8.2 Fiscal Year. The Board of Directors shall establish the fiscal year of the Association.

Section 8.3 Waiver. No restriction, condition, obligation or provision contained in these Bylaws shall be deemed to have been abrogated or waived by reason or any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

Section 8.4 Office. The principal office of the Association shall be within the Subdivision or at such other place as the Board of Directors may from time to time designate.

Section 8.5 Reserves. As a part of the adoption of the regular budget the Board of Directors shall include an amount which, in its reasonable business judgment, will establish and maintain an adequate reserve fund for the expansion, modification or replacement of improvements to the Common Elements based upon the age, remaining life and the quantity and replacement cost of improvements to the Common Elements.

Section 8.6 Conflict of Documents. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control; in the case of any conflict between the Articles of Incorporation and the Declaration, the Declaration shall control.

ARTICLE 9- AMENDMENT OF BYLAWS

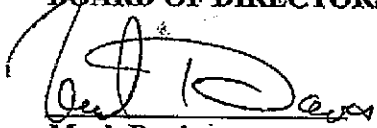
Section 9.1 Vote. These Bylaws may be amended only by vote of the Board of Directors.

Section 9.2 Rights of Mortgagees/Declarant. No amendment of these Bylaws of the Association shall be adopted which: (i) affects or impairs the validity or priority of any Mortgagee (ii) changes the provisions of these Bylaws with respect to First Mortgagees; or (iii) effects any provisions for the benefit of Mortgagees as set forth in Article XVII of the Declaration. Without the Declarant's consent in writing, no amendment of these Bylaws of the Association shall be adopted which negatively affects or impairs the rights of the Declarant.

Section 9.3 Obligations, Water Court Decree. The obligations of the Association regarding the operation of and compliance with the Water Decree may not be altered except by order of the Water Court, which may amend, modify or change such provisions by judicial order.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands this day of
Dec. 10, 2005.

BOARD OF DIRECTORS:


Mark Davis


John Balk


John Marshall

KNOW ALL MEN BY THESE PRESENTS:

That the undersigned secretary of the Settlers Ranch Homeowners Association does hereby certifies that the above and foregoing Bylaws were duly adopted by the members of the Board of Directors of the Association as the Bylaws of the Association on the Tenth day of December 2005 and that they now constitute the Bylaws of the Association.


John Balk, Secretary