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**AMENDED AND RESTATED
RESIDENTIAL DECLARATION OF COVENANTS,
CONDITIONS, RESTRICTIONS, AND
RESERVATION OF EASEMENTS
FOR THREE SPRINGS**

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AMENDED AND RESTATED
RESIDENTIAL DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS,
AND RESERVATION OF EASEMENTS
FOR
THREE SPRINGS

THIS Amended and Restated Residential Declaration of Covenants, Conditions, Restrictions, and Reservation of Easements (hereinafter termed the "Declaration") is made this 19th day of March, 2007, by **GRVP, LLC**, a Colorado limited liability company (hereinafter sometimes termed "Declarant").

WITNESSETH:

WHEREAS, Declarant recorded that certain Residential Declaration of Covenants, Conditions, Restrictions, and Reservation of Easements for Three Springs on June 29, 2006, at Reception No. 936838 in the records of the Clerk and Recorder for the County of La Plata, State of Colorado (the "Original Declaration"); and

WHEREAS, the Original Declaration encumbers the real property legally described on Exhibit "A" attached hereto and incorporated herein by this reference (hereinafter referred to as the "Covered Property") to this Declaration; and

WHEREAS, Declarant is the Owner of approximately six hundred twenty-one (621) acres of land in the City of Durango, La Plata County, Colorado, commonly known as Three Springs, legally described on Exhibit "B" attached hereto and incorporated herein by this reference (hereinafter referred to as the "Three Springs Property"). The Covered Property is a portion of the Three Springs Property; and

WHEREAS, the Three Springs Property is subject to that certain Amended and Restated Master Declaration of Covenants, Conditions, Restrictions, and Reservations of Easements for Three Springs dated of even date herewith (hereinafter referred to as the "Master Declaration"); and

WHEREAS, the Covered Property is zoned and the applicable Regulations were approved on March 7, 2006 (referred to herein, with amendments approved from time to time, as the "Three Springs Codes and Standards"); and

WHEREAS, Declarant has an option to purchase additional real property located generally to the north of the Three Springs Property, described on attached Exhibit "C" (hereinafter referred to as the "Additional Property"); and

WHEREAS, Declarant may, without obligation, annex all or a portion of the Three Springs Property and the Additional Property to the Covered Property, to become a part thereof and be subject to this Declaration; and

WHEREAS, Declarant desires to develop, in stages, the Covered Property and those portions of the Three Springs Property and the Additional Property which may from time to time be annexed pursuant to this Declaration and become part of the Covered Property, into planned a residential community; and

WHEREAS, as part of the various stages of development of the aforesaid lands, Declarant intends, without obligation, to Record various subdivision plats; to dedicate portions of the Covered Property to the public for streets, roadways, drainage, flood control, schools, parks, and general public use; and to Record various Supplemental Declarations covering portions of the Covered Property, which Supplemental Declarations may designate the purposes for which such portions of the Covered Property may be used and may set forth additional covenants, conditions, restrictions, assessments, charges, servitudes, liens, reservations, and easements applicable to such portions of the Covered Property; and

WHEREAS, Declarant has formed a non-profit corporation for the social, recreational, and community management purposes of benefiting the Covered Property, the Owners and the Residents (as said terms are defined herein below), which non-profit corporation (hereinafter termed the "Association") may: (1) acquire, construct, operate, manage, and maintain a variety of Common Areas upon the Covered Property; (2) establish, levy, collect, and disburse the Assessments and other charges imposed hereunder; and (3) as the agent and representative of the Members of the Association and Residents of the Covered Property, administer and enforce all provisions hereof and enforce use and other restrictions imposed on various parts of the Covered Property; and

WHEREAS, Declarant has prepared the necessary documents for the incorporation and organization of the Association and may, without obligation, seek approval thereof by the Federal Housing Administration (hereinafter termed "FHA"), the Veterans Administration (hereinafter termed "VA"), and by any other governmental agencies or financial institutions whose approval Declarant deems necessary or desirable; and

WHEREAS, Declarant desires to amend and restate the Original Declaration in its entirety as set forth herein; and

WHEREAS, the Members of the Association holding more than sixty-seven percent (67%) of the Membership Interests of the Association have voted to approve this Declaration at a duly convened meeting of the Members, as required under Section 15.2 of the Original Declaration; and

WHEREAS, the Declarant therefore wishes to subject all of the Covered Property to the covenants, conditions, restrictions, assessments, charges, servitudes, liens, reservations, and easements (hereinafter collectively called the "Declaration") hereinafter set forth; and

WHEREAS, in order to cause the Declaration to run with the Covered Property and to be binding upon the Covered Property and the Owners thereof from and after the date of the

Recording of the Original Declaration, Declarant hereby makes all conveyances of the Covered Property, whether or not so provided therein, subject to the Declaration herein set forth; and by accepting Deeds, leases, easements or other grants or conveyances to any portion of the Covered Property, the Owners and other transferees, for themselves and their heirs, executors, administrators, trustees, personal representatives, successors and assigns, agree that they shall be personally bound by all of the Declaration (including but not limited to the obligation to pay Assessments) hereinafter set forth except to the extent such persons are specifically excepted herefrom.

NOW, THEREFORE, DECLARANT hereby declares, covenants, and agrees as follows:

ARTICLE I - DEFINITIONS

The following words, phrases, or terms used in this Declaration shall have the following meanings:

A. "Act" shall mean the Colorado Common Interest Ownership Act codified at Colorado Revised Statutes ("C.R.S.") §§38-33.3-101, et. seq., as amended.

B. "Additional Property" shall mean real property situated in the State of Colorado described on attached Exhibit "C" not already included as Covered Property and the Improvements located thereon. All or part of the Additional Property may be added to the Covered Property in one or more additional phases by Supplemental Declaration or otherwise pursuant to the provisions of Article XIII hereof.

C. "Affordable Housing" shall mean housing for families earning less than eighty percent (80%) of the published area median income for La Plata County, Colorado, for a family of four (4).

D. "Annual Assessment" shall mean the charge levied and assessed each year against each Unit and Lot pursuant to Article VII, Section 7.2 hereof.

E. "Annexable Property" shall mean real property situated in the State of Colorado described on attached Exhibit "B" not already included as Covered Property, and the Improvements located thereon. All or part of the Annexable Property may be added to the Covered Property in one or more additional phases by Supplemental Declaration or otherwise pursuant to the provisions of Article XIII hereof.

F. "Apartment Development" shall mean a Parcel which is limited by a Supplemental Declaration or designated for residential use and contains Rental Apartments and surrounding area which are intended, as shown by the Final Plat therefore approved by the City of Durango, or otherwise, as one integrated apartment operation under the same Ownership.

G. "Area of Common Responsibility" shall mean the Common Area, together with such other areas, if any, for which the Association has or assumes responsibility pursuant to the

terms of this Declaration, any Supplemental Declaration, or other applicable covenants, contracts, or agreements.

H. "Articles" shall mean the Articles of Incorporation of the Association as the same may from time to time be amended or supplemented.

I. "Assessable Property" shall mean any Tract, Unit, Lot, or Parcel, except such part or parts thereof may from time to time constitute Exempt Property. When a Unit is constructed on a Tract, Lot, or Parcel, the Assessable Property shall be the Unit and the portion of the Tract, Lot, or Parcel on which the Unit is constructed shall not be treated as an additional Assessable Property.

J. "Assessment" shall mean an Annual Assessment, Special Assessment, Maintenance Charges, Reserve Contributions, Working Capital Fee, and/or Transfer Fee.

K. "Assessment Lien" shall mean the lien created and imposed by Article VII, Section 7.1 hereof.

L. "Assessment Period" shall mean the time period set forth in Article VII.

M. "Association" shall mean the Three Springs Residential Association, a non-profit corporation to be organized by Declarant, to administer and enforce the Declaration and to exercise the rights, powers, and duties set forth in this Declaration, its successors and assigns.

N. "Association Land" shall mean such part or parts of the Covered Property, together with the buildings, structures, and Improvements there on, and other real property which the Association may at any time own in fee or in which the Association may, at any time have a leasehold or other interest, for as long as the Association is the Owner of the fee, leasehold, or other interest.

O. "Association Rules" shall mean rules adopted by the Association pursuant to this Declaration, as amended from time to time.

P. "Board" shall mean the Board of Directors of the Association.

Q. "Bylaws" shall mean the Bylaws of the Association as the same may from time to time be amended or supplemented.

R. "Builder" shall mean any Person who purchases one or more Lots for the purpose of constructing improvements for later sale to consumers or who purchases one or more parcels of land within Three Springs for further subdivision, development, or resale in the ordinary course of such Person's business.

S. "City" shall mean the City of Durango, Colorado.

T. "Commercial Development" shall mean a Parcel used for various allowable uses such as mixed-use, commercial/retail, lodging, office, food and entertainment, and civic, as defined in the Three Springs Codes and Standards.

U. "Common Area and Common Areas" shall mean (a) all Association Land and the Improvements thereon; (b) all land within the Covered Property which the Declarant, by this Declaration or other Recorded instrument, makes available for use by Members of the Association and evidences its intent to convey to the Association at a later date; (c) all land within the Covered Property which the Declarant indicates on a Recorded subdivision plat is to be dedicated to the public or the City upon the expiration of a fixed period of time, but only until such time as such land is dedicated to the City and accepted for maintenance by the City; (d) all land within the Covered Property which is owned privately or by a governmental agency for which the Association has accepted responsibility for maintenance; and/or (e) any other portion of the Covered Property designated on the Master Development Plan or a Supplemental Declaration as required to be maintained by the Association. The Association may maintain other property which it does not own, including, without limitation, property dedicated to the public, if the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard. Initially, "Common Areas" shall include only private alleyways as may be designated on the Master Development Plan, a Recorded subdivision plat, or a Supplemental Declaration.

V. "Community-Wide Standard" shall mean the global standard of conduct, maintenance, or other activity generally prevailing in Three Springs, or the minimum standards established pursuant to Three Springs Codes and Standards, Three Springs Design Guidelines, Association Rules, and Board resolutions, whichever is the higher standard. Declarant may initially establish such standard and it may contain both objective and subjective elements. The Community-Wide Standard may evolve as development progresses and as the needs and desires within the community change.

W. "Conceptual Development Plan" shall mean the conceptual development plan approved by the City on January 21, 2004 and amended on February 15, 2005.

X. "County" shall mean and refer to the County of La Plata, State of Colorado.

Y. "Covered Property" shall mean the real property situated in the La Plata County, Colorado, described on Exhibit "A" attached hereto, and the Improvements to be completed thereon, and any part of the Additional Property added pursuant to Article XIII hereof.

Z. "Declarant" shall mean GRVP, LLC, a Colorado limited liability company, and the successors and assigns of Declarant's rights and powers hereunder.

AA. "Declarant Control Period" shall mean the period of time during which Declarant is entitled to appoint a majority of the members of the Board. The Declarant shall have the right to appoint and remove members of the Board until the first to occur of the following:

(1) Sixty (60) days after seventy-five percent (75%) of the Maximum Units have certificates of occupancy issued thereon and have been conveyed to Persons other than a Declarant or Builder;

(2) Two (2) years after the last conveyance of a Lot, Unit or other parcel of land within the Three Springs Property by Declarant in the ordinary course of business;

(3) Two (2) years after Declarant last exercises its unilateral right to subject the Annexable Property or the Additional Property to this Declaration as provided in Section 13.1;

(4) Twenty (20) years after Recording of this Declaration; or

(5) When, in its discretion, Declarant so determines.

Notwithstanding the foregoing, if Declarant voluntarily relinquishes its right to appoint and remove officers and directors of the Association prior to the termination of the Declarant Control Period, Declarant reserves the right to approve or disapprove specified actions of the Association as provided in the Bylaws or as designated by Declarant in a Recorded instrument relinquishing Declarant's rights to appoint and remove officers and directors of the Association.

Within sixty (60) days after termination of the Declarant Control Period, Declarant shall deliver to the Association all property and other items required by §38-33.3-303 of the Act.

BB. "Declaration" shall mean this Residential Declaration of Covenants, Conditions, Restrictions, and Reservations of Easements for Three Springs, as amended or supplemented from time to time.

CC. "Deed" shall mean a deed or other instrument conveying the fee simple title in a "Unit," "Lot," or other parcel of land.

DD. "Delegate" shall mean the natural Person selected by Members within a Delegate District to represent such Delegate District and to cast votes on behalf of Members within such Delegate District as provided in this Declaration.

EE. "Delegate District" shall mean a geographical area which may constitute any portion or portions of the Covered Property and from which all Members in that geographic area shall elect a single Delegate to represent their collective voting power. Parts of Delegate Districts need not be contiguous.

FF. "Design Review Committee" shall mean the committee of the Master Association to be created and appointed pursuant to Article XI of the Master Declaration.

GG. "Developer" means a person or entity who is engaged in residential, commercial, or other real estate development and who purchases one or more Lots from the Declarant for the

purpose of constructing Improvements thereon for sale, lease, timeshare, fractional ownership, or other method of use.

HH. "Development" shall mean and refer to the real property described on Exhibit "A" and any part of the Additional Property added pursuant to Article XIII hereof.

II. "Development Agreement" shall mean that certain Three Springs Development Agreement between Declarant and the City Recorded on April 15, 2005, at Reception Number 906896.

JJ. "Development Period" shall mean the period of time during which Declarant is entitled to exercise Development Rights and Special Declarant Rights. The Development Period shall commence upon the Recording of this Declaration and shall terminate thirty (30) years later, unless reinstated or extended by agreement between Declarant and the Association, subject to such terms as the Board may impose.

KK. "Development Rights" shall mean the rights defined as "development rights" in the Act and reserved by Declarant in Article XIV.

LL. "Dwelling Unit" shall mean any building or portion of a building situated upon a Lot designed and intended for use and occupancy as a residence by a Single Family and includes single family homes, row houses or townhouses, condominiums, apartments, and duplex units. An accessory dwelling unit shall not be considered to be a "Dwelling Unit."

MM. "Exempt Property" shall mean the following parts of the Covered Property:

(1) All land and improvements owned by or dedicated to and accepted by the United States, the State of Colorado, the County, the City, or any political subdivision that is the Owner thereof for so long as said dedication remains effective;

(2) All Association Land, for as long as the Association is the Owner, Lessee, or licensee thereof;

(3) Any well sites as generally depicted or referenced in the Conceptual Development Plan; and

(4) Any utilities facilities, including sub-stations.

NN. "Governing Documents" shall mean a collective term referring to this Declaration, any applicable Supplemental Declaration, Master Development Plan, the Three Springs Design Guidelines, the Bylaws, the Articles, and the Association Rules, each as they may be amended.

OO. "Greencourt Lots" shall mean a grouping of residential lot types and layout arrangement as defined in Section 3.4.7 of the Three Springs Codes and Standards.

PP. "Improvement" shall mean buildings, roads, driveways, levees, dams, channels, basins, parking areas, fences, walls, rocks, hedges, plantings, planted trees and shrubs, and all other structures or landscaping Improvements of every type and kind.

QQ. "Land Use Classification" shall mean the classification established by the Three Springs Codes and Standards and which may be further defined and limited by the Declarant pursuant to the Master Declaration, which designates the type of Improvements which may be constructed on a Lot or Association Land and the purposes for which such Improvements and surrounding land may be utilized.

RR. "Lease" shall mean a lease, whether oral or written and regardless of the term thereof, whereby the owner of a Residential Development lets such Residential Development to a Lessee. A Lease (when the term is so capitalized) shall not, for purposes of this Declaration, include any subleases or any leasing arrangements involving property other than a Residential Development.

SS. "Lessee" shall mean the Lessee under a Lease, including an assignee of a Lease but excluding any person who has assigned all of his interest in a Lease.

TT. "Limited Common Area" shall mean a portion of the Common Area primarily benefiting one or more, but less than all, Lots, as more particularly described in and subject to the provisions of Article X.

UU. "Live/Work Development" and "Live/Work Unit" shall mean Lots or Units with Dwelling Units intended for both Single-Family Occupancy and other uses that would typically fall within the definition set forth herein of a "Commercial Development." Live/Work Units may be condominiums.

VV. "Lot" shall mean any area of real property within the Covered Property designated as a Lot on any subdivision plat Recorded and defined as a Lot in the Three Springs Codes and Standards.

WW. "Maintenance Charges" shall mean any and all costs assessed pursuant to Article X hereof.

XX. "Master Association" shall mean the Three Springs Master Association as established by the Master Declaration.

YY. "Master Association Documents" shall mean the Master Declaration, Articles of Incorporation of the Master Association, Bylaws of the Master Association, Rules and Regulations of the Master Association, and Three Springs Design Guidelines, as such documents may be amended from time to time.

ZZ. "Master Declaration" shall mean the Master Declaration of Covenants, Conditions, Restrictions, and Reservation of Easements for Three Springs, dated of even date herewith, as amended or supplemented from time to time.

AAA. "Master Development Plan" shall mean the Preliminary Plan approved by the City of Durango on March 7, 2006, as the same may be amended from time to time and any subsequent preliminary plans approved by the City for any portion of the Covered Property.

BBB. "Maximum Units" shall mean the maximum number of Units which Declarant reserves the right to create and develop within Three Springs in accordance with the amended Conceptual Development Plan; provided, nothing in this Declaration shall require Declarant to develop the maximum number of Units. The number of Maximum Units is 2283 and may be increased if the Additional Property is approved for additional land uses and densities by the City and is annexed to the Master Declaration.

CCC. "Member" shall mean any person or entity holding a Membership in the Association pursuant to this Declaration.

DDD. "Membership" shall mean a Membership in the Association and the corresponding rights, privileges, and responsibilities of the Owners and Declarant pursuant to Article VI hereof.

EEE. "Metro District" shall mean a metropolitan district established pursuant to C.R.S. Section 32-1-101 et seq., as defined in C.R.S. Section 32-1-103 (10).

FFF. "Mortgage" shall mean a mortgage, a deed of trust, a deed to secure debt, or any other form of security instrument affecting title to any Unit. "Mortgagee" shall refer to a beneficiary or holder of a Mortgage. A "First Mortgage" shall be a Recorded Mortgage having first priority over all other Mortgages encumbering a Lot or Dwelling Unit. "First Mortgagee" shall refer to a beneficiary or holder of a First Mortgage.

GGG. "Owner" means the record Owner, whether one or more persons, of beneficial or equitable title (and legal title if the same has merged with the beneficial or equitable title) to the fee simple interest of a Unit or Lot. Owner shall not include (i) persons having an interest in a Unit or Lot merely as security for the performance of an obligation, or (ii) a Lessee or Tenant. In the case of Units or Lots the fee simple title to which is vested in a trustee pursuant to a subdivision trust agreement or similar agreement, the beneficiary of any such trust who is entitled to possession of the trust property shall be deemed to be the Owner.

HHH. "Person" means a natural person, a corporation, a partnership, a trustee, or any other legal entity.

III. "Plat" shall mean a final subdivision plat of part of the Covered Property that has been approved by the City Council of the City.

JJJ. "Record" or "Recording" shall mean placing an instrument of public record in the office of the Clerk and Recorder of La Plata County, Colorado, and "Recorded" shall mean having been so placed of public record.

KKK. "Rental Apartments" shall mean four (4) or more Dwelling Units within a building using single ownership, each of which is designed and utilized, otherwise than as a hotel or on some other transient basis, for rental or leased residential purposes to non-owners on a non-cooperative basis. This term is intended to include rented or leased apartments in the typically regarded sense as of the date hereof, and it is not intended to include unusual or atypical arrangements or any arrangements whereby the apartment occupant is, directly or indirectly, an owner or beneficiary of ownership in his apartment or whereby he occupies his apartment pursuant to some form of reciprocal use agreement, irrespective of whether any such arrangements may otherwise fall within the aforesaid definition.

LLL. "Reserve Contributions" shall have the meaning set forth in Article VII, Section 7.4 hereof.

MMM. "Resident" shall mean each natural person residing in a Dwelling Unit.

NNN. "Residential Development" shall mean Lots with Dwelling Units intended for Single Family occupancy, including, but not limited to, those residential lot types defined in the Three Springs Codes and Standards, Affordable Housing, and types of residential housing arrangements known as townhouses, row houses, village houses, cottages, duplexes, condominiums, live/work units, lofts, and apartments, together with related areas intended for the use and enjoyment of the Owners and Residents of the Lots in the Residential Development.

OOO. "Single Family" shall mean a group of one or more persons living together as a single housekeeping unit, provided that, unless all members are related to the others by blood, marriage, or legal adoption, no such group shall contain more than four (4) persons who maintain a common household in a Dwelling Unit.

PPP. "Special Assessment" shall mean any assessment levied and assessed pursuant to Article VII, Section 7.5 hereof.

QQQ. "Special Declarant Rights" shall mean the rights of Declarant defined as "special declarant rights" in the Act and set forth in Article XIV.

RRR. "Special District" shall mean a special district organized as a quasi-municipal corporation and political subdivision organized and acting pursuant to the provisions of Title 32, Colorado Revised Statutes, as amended.

SSS. "Special Use Fees" shall mean special fees authorized by this Declaration which an Owner, Resident, or any other person is obligated to pay the Association over, above, and in addition to any other Assessments imposed or payable hereunder.

TTT. "Sub-Association" shall mean an Owners association created within the Covered Property other than the Three Springs Residential Association and subject to a Supplemental Declaration. Each Owner who is a Member of a Sub-Association shall also hold Membership in the Three Springs Residential Association.

UUU. "Supplemental Declaration" shall mean a declaration Recorded pursuant to Section 2.3 and Article XIII of this Declaration.

VVV. "Tenant" shall mean any person who occupies property located within the Covered Property under any type of rental or letting arrangement but is not included in the definition of a Lessee.

WWW. "Three Springs" shall mean the large planned community consisting of the real property situated in the La Plata County, Colorado, described on Exhibit "B" attached hereto, and the Improvements to be completed thereon, and any part of the Additional Property added Pursuant to Article XIII of the Master Declaration.

XXX. "Three Springs Codes and Standards" shall mean Three Springs Three Springs Codes and Standards, a legally binding document written exclusively for the Three Springs Neighborhood and adopted by the City of Durango as a condition of the approved Conceptual Development Plan, as amended. The Code governs urban form of the community by establishing a classification system designed to organize, manage, and integrate a variety of mixed uses. The Code specifies design parameters within Transects, outlines permitted uses, establishes the necessary building-to-street and building-to-building relationship, vehicular parking requirements, desirable thoroughfare standards, and specific landscape design and maintenance standards.

YYY. "Three Springs Design Guidelines" shall mean the architectural and landscape guidelines and standards, together with any supplemental guidelines as promulgated by the Design Review Committee as provided in Article XI of the Master Declaration.

ZZZ. "Three Springs Property" shall mean the real property situated in the La Plata County, Colorado, described on Exhibit "B" attached hereto and any part of the Additional Property added pursuant to Article XIII of the Master Declaration.

AAAA. "Transfer Fee" shall have the meaning set forth in Article VII, Section 7.14 below.

BBBB. "Units" shall mean any building or portion of a building situated on the Covered Property, including, but not limited to, Single Family homes, row houses or townhouses, condominium units, apartment units, duplexes, Live/Work Units, or other Dwelling Units intended for the use and occupancy of a Single Family. Each Single Family detached home, row house, condominium unit, duplex unit, Live/Work Unit, and other Dwelling Unit intended for the use and occupancy of a Single Family shall be considered a separate Unit. An accessory dwelling unit shall not be considered a separate Unit hereunder.

XXX. "Working Capital Fee" shall have the meaning set forth in Article VII, Section 7.13 hereof.

ARTICLE II - PROPERTY SUBJECT TO THE DECLARATION

Section 2.1 **General Declaration.** Declarant intends to develop the Covered Property and to sell and convey Lots, with or without completed Units. As portions of the Covered Property are developed, Declarant may, with respect to particular property, record one (1) or more Supplemental Declarations covering Lots and Units and designating Common Areas which will incorporate this Declaration and which will establish such additional covenants, conditions, and restrictions as may be appropriate or desirable for that portion of the Covered Property. Declarant hereby declares that all of the real property within the Covered Property is, and shall be, held, conveyed, hypothecated, encumbered, leased, occupied, built upon, or otherwise used, improved, or transferred, in whole or in part, subject to this Declaration and any Recorded Supplemental Declarations applicable thereto, as amended or modified from time to time. This Declaration and the Supplemental Declarations are declared and agreed to be in furtherance of a general plan for the subdivision, improvement, and sale of Three Springs and are established for the purpose of enhancing and perfecting the value, desirability, and attractiveness of Three Springs and every part thereof. All of this Declaration shall run with the Covered Property and with all Lots, Units, and Association Land for all purposes and shall be binding upon and inure to the benefit of Declarant, the Association, all Owners, Lessees, Tenants, and Residents and their successors in interest. Nothing in this Declaration shall be construed to prevent the Declarant from modifying the Master Development Plan as to any portion of Three Springs owned by the Declarant or from dedicating or conveying portions of Three Springs owned by the Declarant, including streets or roadways, for uses other than as a Lot, Unit, or Association Land. Supplemental Declarations may be amended by approval of the Board and Owners of all Lots and Units subject to the Supplemental Declaration comprising at least sixty percent (60%) of the votes entitled to be cast by the applicable Membership. As long as the Declarant owns any portion of the Three Springs Property, Declarant approval is also required for any amendment to this Declaration or a Supplemental Declaration.

Section 2.2 **Association Bound.** Upon issuance of a Certificate of Incorporation by the applicable agency of the State of Colorado to the Association, the Covenants shall be binding upon and shall benefit the Association.

Section 2.3 **Supplemental Declarations.** Any Supplemental Declaration may contain such complementary additions and modifications of the covenants, conditions, and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the Annexable Property so annexed to the Covered Property and as are not inconsistent with the plan of this Declaration. A Supplemental Declaration may create a Sub-Association with authority with respect to the property subject to such Supplemental Declaration only. In no event, however, shall any such Supplemental Declaration revoke or modify the covenants established by this Declaration within the existing Covered Property.

ARTICLE III - EASEMENTS AND RIGHTS OF ENJOYMENT IN ASSOCIATION LAND

Section 3.1 **Easements of Enjoyment.** Every Owner, Lessee, and Tenant and other Member of the Association shall hold a right and easement of enjoyment in and to the Association Land which shall be appurtenant to and shall pass with the title to every Unit and Lot, subject to the following provisions:

(a) The right of the Association to charge reasonable admission or other Special Use Fees for the use of any recreational or other facility situated upon the Association Land. Fees shall be uniform among Members.

(b) The right of the Association to suspend the voting rights and right to use Association Land, or portions thereof elected by the Association, by any Member: (i) for any period during which any Assessment against his Unit or Lot remains delinquent; (ii) for a period not to exceed sixty (60) days for any non-continuing infraction of this Declaration, a Supplemental Declaration or the Association Rules, and (iii) for successive suspension periods if any such infraction is not corrected during any prior suspension period.

(c) The right of the Association to dedicate or transfer all or any part of the Association Land to any public agency, authority, or utility company for such purposes and subject to such conditions as may be agreed to by the Association. Unless otherwise required by the Three Springs Codes and Standards or agreements with the City effective prior to the date hereof or specified on a Recorded subdivision plat, no such dedication or transfer shall be effective unless approved by the Owners representing at least sixty percent (60%) of the votes entitled to be cast by the Membership, except that the Board shall have authority to transfer to such public agencies, authorities, or utility companies easements and rights-of-way which are intended to benefit Three Springs and which do not have any substantial adverse affect on the enjoyment of the Association Land by the Members. Nothing herein shall prohibit the Association from leasing Association Land on such terms and provisions as may be approved by the Board.

(d) The right of the Association to regulate the use of Association Land through the Association Rules and to prohibit access to certain Association Land not intended for use by the Members. The Association Rules shall be intended, in the absolute discretion of the Board, to enhance the preservation of the Association Land for the safety and convenience of the users thereof or otherwise shall serve to promote the best interests of the Owners and Residents.

Section 3.2 **Delegation of Use.** Any Member may, in accordance with the Association Rules and the limitations therein contained and this Declaration (a) delegate his right of enjoyment in the Association Land and facilities to the members of his family, his lessees, or his guests or invitees; or (b) designate another person to exercise all of his rights (but not liabilities or voting rights), which other person shall, during the period of such designation, have the sole right to delegate rights of enjoyment pursuant to subsection (a) of this Section.

ARTICLE IV - LAND USE CLASSIFICATIONS, PERMITTED USES AND RESTRICTION

Section 4.1 **Land Use Classifications.** The Covered Property subject to this Declaration shall include Residential Development within Residential Lot Types and such other Residential Lot Types as are permitted under the Three Springs Codes and Standards. Unless otherwise specifically provided in this Declaration, the definitions and characteristics of such Land Use Classifications and specific permitted and prohibited uses in such classification shall be determined in accordance with the Three Springs Codes and Standards, unless limited in a Supplemental Declaration.

Section 4.2 **Covenants, Conditions, Restrictions, and Easements Applicable to Units and Lots Within the Covered Property.** The following covenants, conditions, restrictions, and reservations of easements and rights shall apply to all Lots and Units and the Owners, Lessees, Tenants, and Residents thereof, within the Covered Property.

(a) **Animals.** All Owners shall comply with Article IV of the City of Durango Municipal Code as amended for regulations of Animals. Fowl, poultry, and livestock shall not be allowed in Three Springs. No animal shall be maintained on any Unit or Lot within the Covered Property unless it is a domestic pet and is not kept or maintained for commercial purposes. No animal shall be allowed to make an unreasonable amount of noise or to become a nuisance. Structures for the care, housing, or confinement of an animal shall not be erected, placed, or maintained outside any Unit or on any Lot unless they are erected, placed, and maintained exclusively within a fenced back yard. Upon the written request of any Member or Resident, or upon the Board's own initiative, the Board shall conclusively determine, in its sole and absolute discretion, whether, for the purposes of this Section, a particular animal is a generally recognized house or yard pet, whether such a pet is a nuisance, or whether the number of animals on any such property is reasonable. The Board may adopt Association Rules regulating animals within the Covered Property. Any decision rendered by the Board shall be enforceable in the same manner as other restrictions contained herein. The Board shall also have the authority to exempt from the foregoing restrictions, or portions thereof (i) dogs used to assist disabled persons, and (ii) dogs used for security purposes, subject to such limitations and restrictions as may be adopted by the Board.

(b) **Temporary Occupancy and Temporary Buildings.** No trailer, basement of any incomplete building, tent, shack, garage, or barn, and no temporary buildings or structures of any kind, shall be used at any time for a residence. Temporary buildings or structures used during the construction of a dwelling or other structure on any property shall be removed immediately after the completion of construction. Construction trailers and sales offices shall only be allowed subject to the approval of the Declarant or the Design Review Committee and such conditions, limitations, and fees as may be established by the Board, the Declarant, or the Design Review Committee.

(c) **Hazardous Substances.** No Owner shall allow hazardous substances and/or contaminants, including petroleum products, to be spilled or discharged within the Covered Property or to flow from an Owner's Lot or Unit into the another Owner's Lot or Unit

in violation of any applicable Federal or State rule, law, or regulation. If such event occurs, such Owner shall be responsible for all costs of clean-up related to removal and remediation of such hazardous substances and/or contaminants, including petroleum products.

(d) **Drainage/Maintenance of Land Included in the Covered Property.**

No Owner shall interfere in any way with the established drainage patterns over such Owner's Lot or from other Lots within the Covered Property or benefiting any other Lot, except as may be approved by the Design Review Committee. In the event it is necessary to change the established drainage or Lot retention basins, said Lot Owner shall make adequate provisions for proper drainage at the cost and expense of such Owner and such change(s) shall be subject to prior approval by the Design Review Committee. For these purposes, "established drainage" is defined as the drainage established or which occurred at the time the overall grading of the Covered Property was completed and the Improvements were completed. No Owner shall change the topography or finish grade elevation of individual Lots in a manner that would be inconsistent with the overall grading, harmony, and development of the Covered Property or interrupt the flow of water into drainage basins within, across, or over the Covered Property.

(e) **Maintenance of Lawns and Plantings.** Landscaping in the backyards of Lots, if applicable, is the Lot Owner's responsibility, and shall be installed within twelve (12) months of purchase, unless approved otherwise by the Design Review Committee. The Lot Owner shall be responsible for notifying utility companies to perform utility alerts prior to digging for landscape installation on the Lot. Each Owner of a Unit or Lot shall keep all shrubs, trees, hedges, grass, and plantings of every kind located on: (i) his Unit or Lot (including set back areas and Common Areas); (ii) public right-of-way planter areas located between sidewalks and the street curb in front of his Lot or Unit, if any; (iii) any other public right-of-way or easement area which abuts the Owner's Unit or Lot (except Greencourt Lots) and which is located between the boundary line of his Unit or Lot and the paved area of any street, sidewalk, alley, or similar area; and (iv) any non-street public right-of-way, private alleyway, or easement area adjacent to his Unit or Lot, neatly trimmed, and shall keep all such areas properly irrigated, cultivated and maintained and free of trash, weeds, and other unsightly material.

Nothing contained herein shall authorize or permit the Association to prohibit or limit xeriscape, to prohibit the installation or use of drought-tolerant vegetative landscapes, or to require cultivated vegetation to consist exclusively or primarily of turf grass, as the terms "xeriscape" and "turf grass" are defined in Section 37-60-126(11)(b)(III) and (IV), Colorado Revised Statutes, as amended. If an Owner's landscaping dies, any action by the Association to enforce the provisions of this Declaration requiring replacement of such landscaping shall be suspended during any period of water use restrictions declared by the City of Durango or the State of Colorado, and an Owner shall be allowed a reasonable and practical opportunity, in light of local growing seasons and practical limitations, to re-seed and revive landscaping before an Owner is required to replace landscaping with new materials.

All Owners shall address landscape maintenance for wildfire mitigation in conformance with A.8 Requirements for Wildfire Management of the Three Springs Three Springs Codes and Standards. All roofing materials installed on all building both commercial

and residential shall meet and maintain in perpetuity a Fire Class Flame spread rating of A(1) rating.

(f) **Nuisances; Construction Activities.** No rubbish, debris, petroleum products, or similar product of any kind shall be placed or permitted to accumulate upon or adjacent to any Unit or Lot and no odors shall be permitted to arise or emit therefrom so as to render any such property or any portion thereof, or activity thereon, unsanitary, unsightly, offensive, or detrimental to any other property in the vicinity thereof or to the occupants of such other property. No other nuisance shall be permitted to exist or operate upon any Unit or Lot so as to be offensive or detrimental, to any other property in the vicinity thereof or to its occupants. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, firecrackers, bells, or other sound devices, except security devices shall be used or placed on any such property without prior approval of the Board. Normal construction activities and parking in connection with the building of Improvements within the Covered Property shall not be considered a nuisance or otherwise prohibited by this Declaration, but trash and debris shall not be permitted to accumulate for an unreasonable period of time on Lots or Units during construction before being disposed of by the Developer or Builder. The Board, in its sole discretion, shall have the right to determine the existence of any such nuisance.

(g) **Diseases and Insects.** No Owner shall permit any thing or condition to exist upon any Unit or Lot which shall unreasonably induce, breed, or harbor infectious plant diseases or noxious weeds or insects.

(h) **Maintenance of Lots.** All Lots shall be maintained by the Owner thereof in an attractive manner, free of weeds, trash, debris, and waste. Each Owner shall keep his or her Lot and Unit, including, without limitation, the exterior walls, windows, roofs, and permanent fixtures and appurtenances thereto, in a clean and sanitary condition and in a state of good repair. If a Lot or Unit shall develop an unsanitary, unclean, or unsafe condition or fall into a state of disrepair, and the Owner of such Lot or Unit shall fail to correct such condition or state of disrepair promptly following written notice from the Board, the Board on behalf of the Association shall have the right, on reasonable notice and at the sole expense of the Owner and without liability to the Owner for trespass or otherwise, to enter the Lot and Unit and correct or eliminate the unsanitary or unclean condition or state of disrepair; provided, however, that the Association shall in no event have the obligation to correct or eliminate any such condition or state of disrepair and the Association's maintenance and repair authority shall apply only to the exterior of the Lot or Unit.

(i) **Maintenance and Snow Removal.** Maintenance of the sidewalk(s) adjacent to a Lot or Unit (except Greencourt Lots, Common Areas, or Limited Common Areas) and an individual driveway apron is the responsibility of the Owner of the Lot or Unit. Each Owner of a Lot or Unit shall keep the sidewalk(s) and the driveway apron free of debris and snow buildup. Each Owner of a Unit or Lot shall also be responsible for the replacement of the sidewalk(s) and the driveway apron as necessary.

(j) **Repair of Building.** No building or structure on any Unit or Lot shall be permitted to fall into disrepair, and each such building and structure shall at all times be kept in good condition and repair and adequately painted or otherwise finished. Each Owner shall be responsible for maintaining, repairing, and replacing, at such Owner's expense, all portions of such Owner's buildings and all Improvements situated thereon, in first-class condition and repair, including but not limited to, the exterior of any and all buildings, paving, and landscaping and all utility services in or upon the Improvements of such Owner. In the event any building, structure, or other improvement is damaged or destroyed, then, subject to the approvals required by the Master Declaration, such building or structure shall be immediately repaired or rebuilt in accordance with this Declaration and the Master Declaration, or shall be demolished and the Lot shall be cleared of any debris and landscaped in a manner consistent with this Declaration and with the well-being of the Covered Property, at the cost and expense of the Owner of such Lot. In the event of destruction, an Owner shall mitigate any hazards immediately and remove debris as soon as feasible, but in no event later than sixty (60) days after the event.

(k) **Antennas.** No antenna or other device for the transmission or reception of television or radio signals or any other form of electro-magnetic radiation, including, but not limited to, satellite television or radio discs, antennas, or equipment (collectively referred to herein as "Antennas") greater than eighteen inches (18") in diameter, shall be erected, used, or maintained outdoors on any Unit or Lot, whether attached to a building or structure or otherwise, unless permitted under the Three Springs Codes and Standards. The Design Review Committee may include in the Three Springs Design Guidelines regulations governing the location of Antennas upon Lots or Units. Such regulations shall comply with the requirements of the Federal Telecommunications Act of 1996, and any applicable regulations adopted pursuant thereto, as such statute and regulations may be amended from time to time.

(l) **Mineral Exploration.** No Unit or Lot shall be used in any manner to explore for or to remove any water, oil, or other hydrocarbons, minerals of any kind, gravel, earth, or any earth substance of any kind, except for grading and excavation work and the removal of fill material including, but without limitation, gravel, rock, and sand, in connection with the construction of Dwelling Units, buildings, structures, or other Improvements which have been approved in writing by the Design Review Committee or which are being constructed by, or on behalf of, the Declarant.

(m) **Trash Containers and Collection.** No garbage or trash shall be placed or kept on any Unit or Lot, except in covered containers. Trash containers shall be kept inside a Unit or within the fenced area of a side yard or back yard except when placed along the street for collection and then only for the shortest time reasonably necessary to affect such collection. All rubbish, trash, or garbage shall be removed from the Units and Lots and shall not be allowed to accumulate thereon. No incinerators shall be kept or maintained on any Unit or Lot. The Owners of those Lots and Units located on private alleys shall be required to haul containers to the nearest public thoroughfare on collection days, rather than placing them on the private alley.

(n) **Clothes Drying Facilities.** Outside clotheslines or other outside facilities or drying or airing clothes shall not be erected, placed, or maintained on outside any Unit or on

any Lot unless they are erected, placed, and maintained exclusively within a fenced side yard or back yard.

(o) **Machinery and Equipment.** No machinery or other equipment of any kind shall be placed, operated, or maintained outside the Unit upon any Lot except (i) such machinery or equipment as is usual and customary in connection with the use, maintenance, or construction (during the period of construction) of a building, appurtenant structures, or other Improvements; or (ii) that which the Declarant or the Association may require for the operation and maintenance of the Association.

(p) **Signs.** No signs whatsoever (including, but not limited to, commercial, political, and similar signs) shall be erected or maintained on any Unit or Lot except: (i) signs required by legal proceedings; (ii) no more than two (2) identification signs or Unit numbers for individual residences, each with a face area of sixty (60) square inches or less; (iii) not more than one "For Sale" or "For Lease" located on a Lot or Unit; (iv) promotional and advertising signs of Declarant, Developers and Builders on any Unit or Lot approved from time to time by Declarant as to number, size, color, design, message content, location, and type; and (v) such other signs (including, but not limited to, construction job identification signs, builder identification signs, and subdivision signs) which are in conformance with the requirements of the City and which have been approved in writing by the Design Review Committee as to size, color, design, message content, and location. Nothing contained herein shall allow the Association to prohibit the display of the American flag, a service flag, or a political sign by an Owner if such displays comply with the requirements of Section 38-33.3-106.5 of the Act, subject to reasonable rules and regulations that may be adopted by the Association as permitted under such Section of the Act.

(q) **Restriction on Further Subdivision, Property Restrictions, and Rezoning.** No Unit or Lot shall be further subdivided or separated into smaller Units or Lots, and no portion less than all of any Unit or Lot shall be conveyed or transferred by any Owner, unless permitted under the Three Springs Codes and Standards. Accessory Dwelling Units, as permitted under the Three Springs Codes and Standards, may be constructed on a Lot and may be leased and occupied separately from the main Unit on such Lot. Otherwise, if a Unit or Lot is leased or rented, the entire Unit or Lot shall be rented or leased to a Single Family. Residential Development use property shall not be leased except to a Single Family for each unit. No further covenants, conditions, restrictions, or easements shall be Recorded by any Owner, Lessee, or other person other than the Declarant against any Unit or Lot without the provisions thereof having been first approved in writing by an authorized representative of the Board and having been endorsed on such Recorded covenants, conditions, restrictions, and easements, and any covenants, conditions, restrictions, or easements Recorded without such approval being endorsed thereon shall be null and void. No Unit or Lot may be rezoned by the Owner thereof without the prior written consent of the Board.

(r) **Common Fences.** Except as hereinafter provided, the rights and duties of Owners with respect to Common Fences between Units and Lots shall be as follows: (i) the Owners of contiguous Units or Lots who have a Common Fence shall both equally have the right

to use such wall or fence, provided that such use by one (1) Owner does not interfere with the use and enjoyment of same by the other Owner; (ii) in the event that any Common Fence is damaged or destroyed through the act of an Owner or any of his Tenants, Lessees, agents, guests, or members of his family (whether or not such act is negligent or otherwise culpable), it shall be the obligation of such Owner to rebuild and repair the Common Fence without cost to the Owner of the adjoining Unit or Lot, but any liability imposed on an Owner hereunder shall not prevent the Owner from seeking reimbursement and indemnity therefore from the persons causing such damage; (iii) in the event any Common Fence is destroyed or damaged (including deterioration from ordinary wear and tear and lapse of time), other than by the act of an adjoining Owner, his Tenants, Lessees, agents, guests, or family, it shall be the obligation of all Owners whose Units or Lots adjoin such Common Fence to rebuild and repair such wall or fence at their joint expense, such expense to be allocated among the Owners in accordance with the length of their Units or Lots abutting the Common Fence; (iv) notwithstanding anything to the contrary herein contained, there shall be no modification of any Common Fence without the prior consent of all Owners of any interest therein, and only after review and approval by the Design Review Committee; (v) in the event of a dispute between Owners with respect to the construction, repair, or rebuilding of a Common Fence, or with respect to the sharing of the cost thereof, such adjoining Owners shall submit the dispute to the Board, the decision of which shall be binding. Anything in the foregoing to the contrary notwithstanding, in the case of Common Fences between Common Areas and Units or Lots, the Association shall not be responsible for any maintenance thereof unless such maintenance obligation is accepted in writing by the Board, in its sole discretion, except that each Owner of a Unit or Lot shall be responsible for painting and maintenance of the portion of the Common Fence facing his Unit or Lot or the portion thereof which is not a portion of the Common Area even if the Association accepts the responsibility for maintenance.

(s) **Utility Service.** No lines, wires, or other devices for the communication or transmission of electric current or power, including telephone, television, and radio signals, shall be erected, placed, or maintained anywhere in or upon any Unit or Lot unless the same shall be contained in conduits or cables installed and maintained underground or concealed in, under, or on buildings or other structures approved in writing by the Design Review Committee except for temporary power or telephone structures incident to the construction of buildings or structures approved in writing by the Design Review Committee.

(t) **Overhead Encroachments.** No tree, shrub, or planting of any kind in or on any Unit or Lot shall be allowed to overhang or otherwise to encroach upon any sidewalk, street, pedestrian way, or other area from ground level to a height of 13'-6" with no reductions permissible.

(u) **Trucks, Trailers, Campers, and Boats.** No motor vehicle, mobile home, recreational vehicle, travel trailer, tent trailer, camper shell, detached camper, motor boat, boat trailer, ultra lights, or other similar equipment or vehicle may be parked or maintained on any Unit or Lot or on any street, alleyway, or private driveway in Three Springs, other than in a completely enclosed area or in an area screened from view; provided, however, the provisions of this Section shall not apply to (i) motor vehicles not exceeding seven (7) feet in height measured

from ground level (excluding racks provided such racks do not exceed two (2) additional feet above the motor vehicle) and twenty-one (21) feet in length, which are parked as provided in subsection (t) below and are used on a regular and recurring basis for basic transportation which are not used for commercial purposes, or (ii) trucks, trailers and campers parked in areas designated for parking in non-residential Land Use Classifications in connection with permitted commercial activities conducted in such non-residential Land Use Classifications; (iii) recreational equipment including kayaks, skis, or bicycles or similar compartmentalized recreation equipment.

(v) **Motor Vehicles.** No automobile, motorcycle, motorbike, or other motor vehicle shall be constructed, reconstructed, or repaired upon any Unit or Lot or on any street, alleyway, or private driveway in Three Springs except within a completely enclosed area and no inoperable vehicle, including but not limited to vehicles with flat tires may be stored or parked on any Unit or Lot or on any street, alleyway, or private driveway; provided, however, that the provisions of this Section shall not apply to emergency vehicle repairs or temporary construction shelters or facilities maintained during, and used exclusively in connection with, the construction of any Improvement approved in writing by the Design Review Committee.

(w) **Parking.** Vehicles of all Owners, Lessees, Tenants, and Residents and of their employees, guests, and invitees, are to be kept in garages, carports, residential driveways of the Owner, and other designated parking areas wherever and whenever such facilities are sufficient to accommodate the number of vehicles at a Unit or Lot; provided, however, this Section shall not be construed to permit the parking in the above described areas of any vehicle whose parking is otherwise prohibited or the parking of any inoperable vehicle. The Association shall allow an Owner, Lessee, Tenant, or Resident to park an emergency vehicle in the Covered Property, provided that it is a condition of such Person's employment that the vehicle is required to be available at designated periods at the Person's residence, such vehicle has a weight rating of 10,000 pounds or less, the Person is a bona fide member of a volunteer fire department or is employed by a primary provider of emergency fire fighting, law enforcement, ambulance, or emergency medical services provider, the vehicle has an official designation on it, and the vehicle does not interfere with access or reasonable use of streets, guest parking spaces, or drives by other Persons. No parked vehicle, trailer, or object of any kind shall extend beyond the rear property line of a private or public alley.

(x) **Right of Entry.** During reasonable hours and upon reasonable notice to the Owner or other occupant of a Unit or Lot, any member of the Design Review Committee, any member of the Board, or any authorized representative of any of them, shall have the right and license to enter upon and inspect the exterior of any Unit or Lot, and the Improvements thereon, except for the interior portions of any completed Dwelling Unit, for the purpose of ascertaining whether or not the provisions of this Declaration, the Three Springs Design Guidelines, or the Association Rules have been or are being complied with and such persons shall not be deemed guilty of trespass by reason of such entry.

(y) **Health, Safety, and Welfare.** In the event additional uses, activities, and facilities are deemed by the Board to be a nuisance or to adversely affect the health, safety, or

welfare of Owners, Lessees, Tenants, and Residents, the Board may make rules restricting or regulating their presence as part of Association Rules and coordinate with the Design Review Committee as reasonably necessary to ensure compatibility with the Three Springs Design Guidelines.

(z) **Model Homes.** The provisions of this Declaration and of Supplemental Declarations which prohibit non-residential use of Units and Lots and regulate parking of vehicles shall not prohibit the construction and maintenance of model homes, sales offices (temporary or permanent) by builders or Developers engaged in the construction, sale, or leasing of Dwelling Units in Three Springs, and parking incidental to the visiting of such model homes or sales offices so long as the location of such model homes are approved in writing by the Declarant or Design Review Committee, and the construction, operation, and maintenance of such model homes and sales offices (including temporary uses) otherwise comply with all of the provisions of this Declaration. The Design Review Committee or Declarant may also permit Units, Lots, and other areas to be used for parking in connection with the showing of model homes or the visiting of sales offices so long as such parking and parking areas are in compliance with the ordinances of the City or other applicable governmental agencies and any rules of the Design Review Committee. Any Dwelling Units constructed as models shall cease to be used as models at any time the Owner or builder thereof is not actively engaged in the construction and sale of such Dwelling Units located in Three Springs.

(aa) **Incidental Uses.** The Board may approve uses of property within a Land Use Classification which are reasonably incidental to the full enjoyment by the Owners of the property within that Land Use Classification, provided that such incidental uses are permitted under the Three Springs Codes and Standards. Such approval may be subject to such regulations, limitations, and restrictions, including termination of the use, as the Board may wish to impose, in its sole discretion, for the benefit of Three Springs as a whole. By way of example and not of limitation, the uses which the Board may permit are recreation facilities intended primarily for the benefit of all or certain Owners and Residents within areas having a Land Use Classification of Residential Development use, and recreational facilities intended for usage by the Residents or Owners of more than a single Unit or Lot within any area classified for Residential Development use.

(bb) **Towing of Vehicles.** The Board shall have the right to have any truck, motor home, travel trailer, tent trailer, trailer, camper shell, detached camper, recreational vehicle, boat, boat trailer, or similar equipment or vehicle or any automobile, motorcycle, motorbike, or other motor vehicle which is parked, kept, maintained, constructed, reconstructed, or repaired in violation of this Declaration towed away at the sole cost and expense of the owner of the vehicle or equipment. Any expense incurred by the Association in connection with the towing of any vehicle or equipment shall be paid to the Association upon demand by the owner of the vehicle or equipment. If the vehicle or equipment is owned by an Owner, any amounts payable to the Association shall be secured by the Assessment Lien, and the Association may enforce collection of suit amounts in the same manner provided for in this Declaration for the collection of Assessment.

(cc) **Residential Development Use.** All Dwelling Units located within the Covered Property shall be used, improved, and devoted exclusively to residential use by a Single Family. No trade or business may be conducted on any Unit, Lot, or in or from any Dwelling Unit, except that an Owner or other Resident of a Dwelling Unit may conduct a business activity within a Dwelling Unit (main building or accessory building) so long as: (i) the business activity conforms to the Three Springs Codes and Standards and other applicable requirements of the City; (ii) the business activity does not violate any provision of this Declaration and the Association Rules, the Three Springs Codes and Standards, the Three Springs Design Guidelines; and (iii) the business activity is consistent with the residential character of the Covered Property and does not constitute a nuisance or a hazardous or offensive use or threaten security or safety of other Residents in the Covered Property, as may be determined from time to time in the sole discretion of the Board. The terms “business” and “trade” as used in this Section shall be construed to have ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider’s family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether (i) such activity is engaged in full or part time; (ii) such activity is intended or does generate a profit; or (iii) a license is required for such activity. Business activities such as musical lessons, tutoring, and the like are intended to be among the types of uses permitted under this Section. The Board may revoke its approval of a business activity after it has been approved by the Board and commenced operation if the Board finds that the business activity is creating problems with traffic, safety, noise, or a nuisance, as determined by the Board in its sole discretion.

ARTICLE V - ORGANIZATION OF ASSOCIATION

Section 5.1 **Formation of Association.** The Association shall be a non-profit Colorado corporation charged with the duties and invested with the powers prescribed by law and set forth in the Articles, Bylaws, and this Declaration. Neither the Articles nor Bylaws shall, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

Section 5.2 **Board of Directors and Officers.** The affairs of the Association shall be conducted by the Board and such officers as the Board may elect or appoint in accordance with the Articles and the Bylaws as the same may be amended from time to time. The Board may also appoint various committees and appoint a manager who shall, subject to the direction of the Board, be responsible for the day-to-day operation of the Association. The Board shall determine the compensation to be paid to the manager or any other employee of the Association. Unless this Declaration specifically requires a vote of the Members, approvals or actions to be given or taken by the Association shall be valid if given or taken by the Board.

Section 5.3 **The Association Rules.** The Board may, from time to time, and subject to the provisions of this Declaration, adopt, amend, and repeal rules and regulations pertaining to: (i) the management, operation, and use of the Common Areas including, but not limited to, any recreational facilities situated upon the Common Areas; (ii) minimum standards for any maintenance of Unit and Lots; or (iii) the health, safety, or welfare of the Owners and Residents.

In the event of any conflict or inconsistency between the provisions of this Declaration and the Association Rules, the provisions of this Declaration shall prevail. The Association Rules shall be enforceable in the same manner and to the same extent as the covenants, conditions, and restrictions set forth in this Declaration.

Section 5.4 **Personal Liability.** No member of the Board or of any committee of the Association, no officer of the Association, and no other employee or representative of the Association shall be personally liable to any Member, or to any other person, including the Association, for any damage, loss, or prejudice suffered or claimed on account of any act, omission, error, or negligence of the Association, the Board, any representative or employee of the Association, or any committee, committee member, or officer of the Association; provided, however, the limitations set forth in this Section 5.4 shall not apply to any person who has failed to act in good faith or has engaged in willful or intentional misconduct.

Section 5.5 **Sub-Association.** In the event any homeowners or similar association is to be formed by a Developer (other than the Declarant) of a Unit, Lot, or subdivision on the Covered Property, the covenants, conditions, and restrictions, the Articles of Incorporation and Bylaws or other governing documents for such association shall not be effective unless the contents thereof have been approved by the Board of Directors of the Master Association and the governing documents specify that such association and the rights of its members are subject and subordinate to the provisions of the Master Declaration, the Master Association Documents, this Declaration, the provisions of the Articles and Bylaws of the Association, the provisions of the Association Rules, and the Three Springs Design Guidelines.

Section 5.6 **Delegation of Duties.** The Association hereby delegates to the Master Association and the Master Association shall perform the following matters on behalf of the Association, at the cost and expense of the Association, for those portions of the Covered Property subject to this Declaration:

(a) Collect Annual Assessments, Special Assessments, Working Capital Fees, and Transfer Fees and pay these amounts to the Association. Any and all funds collected by the Master Association on behalf of the Association shall be paid to the Association within thirty (30) days from the Master Association's receipt of said funds;

(b) Enforce payment of Assessments as set forth in Article VIII of this Declaration;

(c) Deliver all notices to Members as required in this Declaration in accordance with the applicable provisions of the By-Laws of the Association;

(d) Deliver certificates required by Section 7.8 (Evidence of Payment of Assessments) of this Declaration;

(e) Maintain records and conduct reviews in accordance with Section 9.4 (Association Records) of this Declaration; and

- (f) Pay bills from monies collected on behalf of the Association.

The Association may, from time to time, modify, withdraw, or expand the foregoing delegation of authority to the Master Association upon sixty (60) days prior written notice to the Board of Directors of the Master Association. Notwithstanding this delegation, as may be modified, withdrawn, or expanded from time to time by the Association, the Association shall have the right to enforce any and all provisions of this Declaration, as it so chooses.

Section 5.7 **Powers of the Master Association Relating to Any Association.** The Master Association shall have the power to veto any action taken or contemplated to be taken by any Association, which the Board reasonably determines to be adverse to the interests of the Master Association or its Members or inconsistent with the Community-Wide Standard.

The Master Association also shall have the power to require that specific action be taken by any Association in connection with its obligations and responsibilities. The Association shall take appropriate action required by the Master Association in a written notice within the reasonable time frame set by the Master Association in the notice. If any Association fails to comply, the Master Association shall have the right to effect such action on behalf of the Association and levy Assessments to cover the costs, as well as an administrative charge and sanctions against the Association. Further, the Master Association shall have the right to bring an action against any Association that fails to comply with the requirements of Section 5.6, to cover the costs, as well as administrative charges and sanctions against the Association.

Section 5.8 **Master Declaration and Master Association.** The Covered Property is part of a master planned community known as Three Springs. The Covered Property shall be subject to the terms and conditions of the Master Association Documents. The authority of the Master Association includes architectural control governing exterior modifications. Each Owner will be obligated to pay the Master Association Assessments to the Master Association in accordance with the Master Association Documents. All Assessments and other charges due to the Association hereunder shall be in addition to the Master Association Assessments payable to the Master Association. All consents or approvals of the Board required by this Declaration shall be in addition to any consents or approvals required under the terms of the Master Association Documents. In the event of any conflict or inconsistency between the restrictions with respect to the use or occupancy of the Units and Lots set forth in the Master Declaration and the restrictions set forth in Article IV of this Declaration, the more restrictive provision shall control.

ARTICLE VI - MEMBERSHIPS AND VOTING

Section 6.1 **Owners of Units and Lots.** Every Owner (including the Declarant) of a Unit or Lot which is Assessable Property shall be a Member of the Association. Each such Owner shall have the following number of Memberships:

- (a) One Membership for each Lot or Unit (excluding Rental Apartments) owned by the Member;

(b) One Membership for each completed Rental Apartments owned by a Member; and

(c) In the case of the Owner of a Lot or Unit restricted to Apartment Development use, but as to which construction has not been completed, one Membership for each Rental Apartments permitted under the Master Development Plan, the number of such Dwelling Units to be determined on the assumption that the number of Dwelling Units within a density classification on the Master Development Plan will be spread evenly over all land within the density classification. If a final plan for a Lot or Unit is subsequently approved by the Design Review Committee and the City for a number of Dwelling Units or Rental Apartments different from the number of Dwelling Units or Rental Apartments permitted under the Master Development Plan, the number of Memberships shall be adjusted, as to the portion of the Lot or Unit covered by the final plan and effective as of the date of adjustment, to reflect the actual number of Dwelling Units or Rental Apartments authorized by the final plan.

Section 6.2 **Voting.** The Association shall have one class of voting Memberships consisting of all Memberships, and each Owner shall be entitled to one vote for each Membership held by such Owner. The Declarant reserves the right to create Delegate Districts within the Covered Property and to provide that Members will vote for a Delegate who in turn will exercise such Members' voting rights in connection with all votes provided for in this Declaration or in connection with the Association. Delegate Districts may be created through an Amendment to this Declaration and/or a Supplemental Declaration.

Section 6.3 **Right to Vote.** No change in the ownership of a Membership shall be effective for voting purposes unless and until the Board is given actual written notice of such change and is provided satisfactory proof thereof. The vote for each such Membership must be cast as a unit, and fractional votes shall not be allowed. In the event that a Membership is owned by more than one person or entity and such Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Member casts a vote representing a certain Membership, it will thereafter be conclusively presumed for all purposes that he was acting with the authority and consent of all other Owners of the same Membership unless objection thereto is made at the time the vote is cast. In the event more than one vote is cast for a particular Membership, none of said votes shall be counted and all said votes shall be deemed void.

Section 6.4 **Membership Rights.** Each Member shall have the rights, duties, and obligations set forth in this Declaration and such other rights, duties, and obligations as are set forth in the Articles and Bylaws, Association Rules, and Three Springs Design Guidelines as the same may be amended from time to time.

Section 6.5 **Transfer of Membership.** The rights and obligations of the Owner of a Membership in the Association shall not be assigned, transferred, pledged, conveyed, or alienated in any way except upon transfer of ownership to an Owner's Unit or Lot, as applicable, and then only to the transferee of ownership to the Unit or Lot. A transfer of ownership to a Unit or Lot may be effected by deed, intestate succession, testamentary disposition, foreclosure of a

mortgage or deed of trust of record, or such other legal process as now in effect or as may hereafter be established under or pursuant to the laws of the State of Colorado. Any attempt to make a prohibited transfer shall be void. Any transfer of ownership to a Unit or Lot shall operate to transfer the Membership(s) appurtenant to said Unit or Lot to the new Owner thereof.

Section 6.6 **Suspension of Voting Rights.** Any Member who fails to pay an Assessment provided herein within sixty (60) days of the due date thereof, shall have all voting rights as provided herein suspended until such amounts plus any accrued interest, attorney's fees, and/or collection costs are paid in full.

Section 6.7 **Delegate Districts.** The Covered Property may be divided into Delegate Districts by Declarant and each Delegate District shall elect one (1) Delegate to the Association to exercise the voting power of all Members within such Delegate District. Delegate Districts may be established in a Notice of Establishment of Delegate District, a Supplemental Declaration, or a Notice of Annexation annexing property to this Declaration, each of which shall describe the portion of the Covered Property to be included in each Delegate District created thereby. The Board shall have the authority to reconfigure Delegate Districts after expiration of the Declarant Control Period. If and when Delegate Districts are established, the Members within each Delegate District shall have the right to elect one (1) Delegate at a duly-convened meeting of such Members called for such purpose, at which the Members in attendance in person or by proxy equal to at least twenty percent (20%) of the total voting power of the Members in the Delegate District, with each Delegate to be elected by the majority vote of the Members in attendance in person or by proxy. Each Delegate shall hold such position for one year or until their successor is duly elected. A Delegate must be a Member owning a Lot within the Delegate District from which the Delegate is elected.

ARTICLE VII - COVENANT FOR ASSESSMENTS

Section 7.1 **Personal Obligation of Assessments and Maintenance Charges.** The Declarant, and every Owner of each Unit and Lot located within the Covered Property hereby covenants and agrees, and each Owner by acceptance of a Deed therefore (whether or not it shall be so expressed in such Deed) is deemed to covenant and agree, to pay to the Association the following assessments and charges: (1) Annual Assessments established by this Article VII; (2) Special Assessments for capital improvements or other extraordinary expenses or costs established by this Article VII; (3) Maintenance Charges established by Article X, Sections 10.2 and 10.3; (4) Reserve Contributions established pursuant to Section 7.4; (5) Working Capital Fee; and (6) Special Use Fees; all such Assessments to be established and collected as hereinafter provided. Additional assessments may be established pursuant to a Supplemental Declaration. The Annual and Special Assessments against each Unit or Lot shall be based on the number of Memberships appurtenant to the Unit or Lot (including, without limitation, Memberships attributable to Dwelling Units or Rental Apartments located on such Lot or Unit). Each such Annual and Special Assessment and Maintenance Charge, together with interest, costs, and reasonable attorney's fees shall also be the personal obligation of the person who was the Owner of the Unit or Lot at the time when the Assessment fell due. The Reserve Contribution and Working Capital Fee shall be the personal obligation of the Owner responsible thereto. The personal obligation for delinquent Assessments shall not pass to the successors in

title of the Owner unless expressly assumed by them. However, such exemption does not apply to the obligation of the successor in title of the Owner to correct any violation of the Declaration, the Association Rules, or the Three Springs Design Guidelines by the Owner pursuant to Article XI; however, the transfer of title shall not extinguish any Assessment Lien except a transfer pursuant to foreclosure of a superior lien in which the Assessment Lien has been extinguished by such foreclosure proceeding.

Section 7.2 **Annual Assessments.** In order to provide for the uses and purposes specified in Article IX hereof, including the establishment of replacement and maintenance reserves, the Board in each year, commencing with the year in which the first Supplemental Declaration is Recorded, shall assess against each Unit and Lot which is Assessable Property an Annual Assessment. The amount of the Annual Assessment, subject to the provisions of Section 7.3 hereof, shall be in the sole discretion of the Board but shall be determined with the objective of fulfilling the Association's obligations under this Declaration and providing for the uses and purposes specified in Article IX.

Section 7.3 **Determination of Assessment.** The amount of any Annual or Special Assessment to be levied against each Unit and Lot shall be determined as follows:

(a) For purposes of this Section 7.3, the term "Membership Assessment" shall mean the total amount of any Annual Assessment or Special Assessment to be levied against all Units and Lots which are Assessable Property divided by the total number of paying Memberships attributable to the Assessable Property.

(b) Except for Units and Lots covered by subsections (c) through (f) each Unit and Lot shall be assessed an Annual Assessment or Special Assessment, as the case may be, in an amount equal to the number of Memberships attributable to such Unit or Lot pursuant to Section 6.1 of this Declaration.

(c) The Owner of a Lot shall be assessed twenty-five percent (25%) of the amount equal to the number of Memberships attributable to his Lot multiplied by the Membership Assessment until the earlier of (i) the issuance of a Certificate of Occupancy of the first Dwelling Unit on the Lot, (ii) six (6) months from the commencement of construction of the first Dwelling Unit on the Lot, or (iii) three (3) years from the date the title is first transferred from Declarant to an Owner.

(d) The Owner of a Lot restricted to Apartment Development use shall be assessed twenty-five percent (25%) of the amount equal to the number of Memberships attributable to the Lot multiplied by the Membership Assessment until the issuance of a Certificate of Occupancy for the Apartment Development on the Lot or six (6) months have elapsed since construction of the Development was commenced.

(e) The Owner of a Lot restricted to uses other than Residential Development use and Apartment Development use shall be assessed twenty-five percent (25%) of the amount equal to the number of Memberships attributable to the Lot multiplied by the Membership

Assessment, until the earlier of: (i) the issuance of a Certificate of Occupancy of the first building on the Lot; (ii) six (6) months from the commencement of construction of the first building on the Lot, or (iii) three (3) years from the date the title is first transferred from Declarant to an Owner.

(f) Reduced Assessments referred to in this Article VII, Section 7.3(c) through 7.3(e) above, upon approval by the Board, may be continued for unimproved portions of Lots when improvements are to be phased. The portions of the Assessments affected by the phasing shall be determined by the Board.

For the purposes of this Section 7.3, a Dwelling Unit or other building shall be deemed completed when, in the opinion of the Board, the building has received a Certificate of Occupancy from the City of Durango and is ready for occupancy. If the rate of Assessment for a Lot increases during the period to which an Annual Assessment or Special Assessment is attributable, the Assessment shall be prorated between the applicable rates on the basis of the number of days in the period that the Owner qualified for each rate. Annual Assessments may be collected on a monthly, quarterly, or annual basis, and Special Assessments may be collected as specified by the Board unless otherwise determined by the resolution of the Members of the Association approving the Special Assessment.

Section 7.4 **Reserve Contribution.**

(a) Effective upon the date established in Section 7.4 (c), the Assessments shall include a Reserve Contribution in reasonable amounts as determined by the Board, collected as reserves for the future periodic maintenance, repair, or replacement of all or a portion of the Common Areas, or any other purpose related to the Common Areas as determined by the Board. All amounts collected as reserves, whether pursuant to this Section or otherwise, shall be deposited by the Board in a separate bank account (the "Reserve Account") to be held in trust for the purposes for which they are collected and are to be segregated from and not commingled with any other funds of the Association. Such reserves shall be deemed a contribution to the capital account of the Association by the Members. The Board shall not expend funds designated as reserve funds for any purpose other than for purposes of repairing, replacing, or maintaining the Common Areas, and in no event shall the Reserve Accounts be used for purposes of litigation involving the Board, the Association, or the Project. Withdrawal of funds from the Association's reserve account shall require the signatures of either (a) two (2) members of the Board; or (b) one (1) member of the Board and an officer of the Association who is not also a member of the Board. The Board shall obtain a reserve study prior to sale of the first Lot, and at least once every three (3) years, which study shall at a minimum include (a) identification of the major components of the Common Areas which the Association is obligated to repair, replace, restore, or maintain which, as of the date of the study, have a remaining useful life of less than thirty (30) years; (b) identification of the probable remaining useful life of the identified major components as of the date of the study; (c) an estimate of the cost of repair, replacement, restoration, or maintenance of the identified major components during and at the end of their useful life; (d) an estimate of the total annual contribution necessary to defray the cost to repair, replace, restore, or maintain the identified major components during and at the end

of their useful life, after subtracting total reserve funds as of the date of the study and expected contributions to the reserves from the initial sale of the Units and taking into account warranties and or guaranties, if any. The results of any reserve study shall be for advisory purposes only and the Board shall have the right to provide for reserves which are greater or less than those shown in the reserve study, and may take into account other factors they deem relevant in setting reserve amounts. The costs of the reserve studies may, at the discretion of the Board, be paid from the Reserve Account.

(b) All Reserve Contributions shall be deposited in the Reserve Account, established pursuant to Subsection 7.4(a) above, shall be non-refundable and shall not be considered as an advance payment of Assessments.

(c) The full Reserve Contribution payable hereunder shall not become effective until the date the first Lot or Unit is sold to an Owner other than a Declarant or Developer. The Owner of a Lot on which a Reduced Assessment is imposed pursuant to Subsections 7.3(c) through (e) shall be assessed a Reserve Contribution equal to twenty-five percent (25%) of a full Reserve Contribution until issuance of a Certificate of Occupancy for the first building on the Lot.

Section 7.5 **Special Assessments for Capital Improvements and Extraordinary Expenses.** In addition to the Annual Assessments authorized above, the Association may levy, in any Assessment Period, a Special Assessment applicable to that period only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, or for the purpose of defraying other extraordinary expenses, provided that any such assessment shall have the assent of sixty percent (60%) of the votes of any meeting of the Members who are voting in person or by proxy at such meeting duly called for such purpose. The provisions of this Section are not intended to preclude or limit the assessment, collection, or use of Annual Assessments for the aforesaid purposes.

Section 7.6 **Intentionally Omitted.**

Section 7.7 **Master Association Collection of Assessments.** In addition to the Assessments and other charges payable hereunder, each Owner shall pay to the Master Association the Assessments set forth in this Declaration until such time as the Association revokes its delegation of authority to the Master Association.

Section 7.8 **Notice and Quorum for An Action Authorized Under Section 7.5.** Written notice of any meeting called for the purpose of taking any action authorized under Section 7.5 of this Article shall be sent to all Members no less than thirty (30) days nor more than sixty (60) days in advance of the meeting at the addresses of such Members on the records of the Association. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of all the Membership votes (exclusive of suspended voting rights) shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent

meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the initially scheduled meeting.

Section 7.9 **Establishment of Annual Assessment Period.** The period for which the Annual Assessment is to be levied (the "Assessment Period") shall be the calendar year, except that the first Assessment Period shall commence upon the issuance of the first certificate of occupancy for a Unit and terminate on December 31 of such year. The Board in its sole discretion from time to time may change the Assessment Period by giving notice thereof to the Members of the Association.

Section 7.10 **Rules Regarding Billing and Collection Procedures.** The Board shall have the right to adopt rules and regulations setting forth procedures for the purpose of making the Assessments provided herein and for the billing and collection of the Annual and Special Assessment, Special Use Fees, the Maintenance Charges imposed pursuant to Article X, Section 10.2 and 10.3, the Reserve Contributions, Working Capital Fee, and Transfer Fees provided that said procedures are not inconsistent with the provisions hereof. The failure of the Association to send a bill to a Member shall not relieve any Member of his liability for any Assessment or charge under this Declaration, but the Assessment Lien therefore shall not be foreclosed or otherwise enforced until the Member has been given not less than thirty (30) days' written notice prior to such foreclosure or enforcement, at the address of the Member on the records of the Association, that the Assessment or any installment thereof is or will be due and of the amount owing. Such notice may be given at any time prior to or after delinquency of such payment. The Association shall be under no duty to refund any payments received by it even though the ownership of a Membership changes during an Assessment Period; successor Owners of Units or Lots shall be given credit for prepayments, on a prorated basis, made by prior Owners. In case the Owner of a Membership becomes liable for payment of an increased sum pursuant to Section 7.3 of this Article during the Assessment Period, he shall notify the Association but his failure to notify the Association shall not relieve him of the liability for such amounts. The Association shall be entitled to retain any surplus funds of the Association remaining at the end of each fiscal year. The amount of the Annual Assessment against Members who became such during an Assessment Period upon the Recording of a Supplemental Declaration shall be prorated and such new Members shall be liable for a proportionate share of any previously levied Special Assessment if such Assessments are paid in installments. **Members must notify Association in writing of a change of mailing address when applicable.**

Section 7.11 **Collection Costs and Interest on Delinquent Assessments.** Any Assessment or installment thereof not paid when due shall be deemed delinquent and shall bear interest from thirty (30) days after the due date until paid at a rate equal to the greater of (a) twelve percent (12%) per annum or (b) the then prevailing interest rate on loans insured by the Federal Housing Association, plus five percent (5%) or (c) the then prevailing interest rate on loans guaranteed by the Veterans Administration plus five percent (5%), and the Member shall be liable for all taxable and incidental costs, including attorneys' fees, which may be incurred by the Association in collecting the same. The applicable interest rate on such delinquent amounts

shall be determined on a daily basis. Late fees and interest rates may be established by the Board to be adjusted from time to time. The Board may also record a Notice of Delinquent Assessment against any Unit or Lot as to which any such amount is delinquent and constitutes a lien and may establish a fixed fee to reimburse the Association for the Association's cost in Recording such Notice, processing the delinquency and Recording a notice of payment, which fixed fee shall be treated as a collection cost of the Association secured by the Assessment Lien.

Section 7.12 **Evidence of Payment of Assessments and Maintenance Charges.** Upon receipt of a written request by a Member or any other person, the Association, within a reasonable period of time (not to exceed fourteen (14) days) thereafter shall issue to such Member or other person a written certificate stating (a) that all Assessments (including interest, costs, and attorneys' fees, if any, as provided in Section 7.10 above) have been paid with respect to any specified Unit or Lot as of the date of such certificate, or (b) if all Assessments have not been paid, the amount of such Assessments (including interest, costs, and attorneys' fees, if any) due and payable as of such date. The Association may make a reasonable charge for the issuance of such certificates, which charges must be paid at the time the request for any such certificate is made. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with respect to any matter therein stated as against any bona fide purchaser of, or lender on, the Unit or Lot in question.

Section 7.13 **Property Exempted from the Assessment and Assessment Lien.** Exempt Property shall be exempted from the assessment of the Annual and Special Assessments, Reserve Contributions, Working Capital Fee, Transfer Fees, and, except as provided in Article X, Section 10.3, from Maintenance Charges and the Assessment Lien; provided, however, that in the event any change of ownership of Exempt Property results in all or any part thereof becoming Assessable Property in any year, the same thereupon shall be subject to the Assessment and, if theretofore exempt therefrom, Maintenance Charges (prorated as of the date such Exempt Property became Assessable Property) and the Assessment Lien.

Section 7.14 **Working Capital Fund.** To ensure that the Association shall have adequate funds to meet its expenses or to purchase necessary equipment or services, each person or entity who purchases a Unit or Lot which is restricted by a Supplemental Declaration to Residential Development shall pay to the Association immediately upon becoming the Owner of the Unit or Lot a sum equal to the current Annual Assessment for the Unit or Lot. Funds paid to the Association pursuant to this Section may be used by the Association for payment of operating expenses or any other purpose permitted under this Declaration. Payments made pursuant to this Section shall be nonrefundable and shall not be offset or credited against or considered as an advance payment of any Assessments levied by the Association pursuant to this Declaration. The foregoing fees shall be called the "Working Capital Fee."

Section 7.15 **Association Budgets.** Within ninety (90) days after adoption of any proposed budget, the Board shall mail, by ordinary first class mail, or otherwise deliver a summary of the budget to all Owners and shall set a date for a meeting of Owners to consider the budget within a reasonable time after mailing or other delivery of the summary, pursuant to notice and within the time periods set forth in the By-Laws. Unless, at that meeting, at least seventy-five percent (75%) of the voting power of all Owners veto the budget, the budget is

deemed approved by the Owners, whether or not a quorum is present. In the event the proposed budget is vetoed, the periodic budget last ratified by the Owners must be continued until a subsequent budget proposed by the Board of Directors is not vetoed by at least seventy-five percent (75%) of the Owners.

ARTICLE VIII - ENFORCEMENT OF PAYMENT OF ASSESSMENTS AND MAINTENANCE CHARGES AND CREATION AND ENFORCEMENT OF ASSESSMENT LIEN

Section 8.1 **Association as Enforcing Body.** Notwithstanding the delegation of duties provided for in Section 5.6 above, the Declarant and the Association, as the agent and representative of the Members, shall each have the right to enforce the provisions of this Declaration and the right to enforce the provisions of the Master Declaration as delegated by the Master Association.

Section 8.2 **Association's Remedies to Enforce Payment of Assessments.** . If any Member fails to pay any Assessments or installments when due, the Association and the Master Association each may enforce the payment of the Assessments by taking either or both of the following actions, concurrently or separately (and, by exercising either of the remedies hereinafter set forth, the Association does not prejudice or waive its rights to exercise the other remedy);

(a) Bring an action at law and recover judgment against the Member personally obligated to pay the Assessments;

(b) Foreclose the Assessment Lien against the Unit or Lot in accordance with the then prevailing Colorado law relating to the foreclosure of realty mortgages (including the right to recover any deficiency) and the Unit or Lot may be redeemed after foreclosure sale as provided by law. The Association shall have the right to bid at any foreclosure sale.

Section 8.3 **Creation of Assessment and Subordination of Assessment Lien; Priority of Lien.** In accordance with §38-33.3-316 of the Act, and subject to the limitations of any other applicable provisions of the Act or Colorado law, the Association shall have a statutory lien against each Unit and Lot to secure payment of delinquent assessments, as well as interest, late charges (subject to the limitations of Colorado law), and costs of collection (including attorneys' fees). Such lien shall be perfected upon the Recordation of this Declaration.

Such lien shall be superior to all other liens, except: (a) the liens of all real estate taxes and other governmental assessments (as provided in the Act); (b) the lien or charge of any Recorded First Mortgage made in good faith and for value prior to the date that assessments being enforced against the Unit became delinquent; provided, the Association's assessment lien shall have priority over such security interests to the extent of the assessments based on the annual budget adopted by the Association pursuant to Section 7 which would have become due during the six (6) months immediately preceding institution of an action to enforce the lien for assessments; (c) liens and encumbrances Recorded prior to this Declaration; and (d) labor or materialmen's liens, to the extent required by law.

Such lien, when delinquent, may be enforced in the same manner as provided for the foreclosure of Mortgages under the laws of the State of Colorado. All such costs and expenses of any such foreclosure, including reasonable attorneys' fees, shall be secured by the lien being foreclosed.

The Association may bid for the Unit or Lot, as applicable, at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Unit or Lot. While a Unit or Lot is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Unit or Lot shall be charged, in addition to its usual assessment, its pro rata share of the assessment that would have been charged such Unit or Lot had it not been acquired by the Association. The Association may sue for unpaid assessments and other charges authorized hereunder without foreclosing or waiving the lien securing the same.

Sale or transfer of any Unit or Lot shall not affect the assessment lien or relieve such Unit or Lot from the lien for any subsequent assessments. However, the sale or transfer of any Unit or Lot pursuant to foreclosure of the First Mortgage shall extinguish the lien as to any installments of such assessments due prior to the Mortgagee's foreclosure, except as otherwise provided in this Section. The subsequent Owner of the foreclosed Unit or Lot shall not be personally liable for assessments on such Unit or Lot due prior to such acquisition of title. Such unpaid assessments shall be deemed to be Assessments collectible from Owners of all Units or Lots subject to assessment under Section 7, including such acquirer, its successors and assigns.

Section 8.4 Costs to be Borne by Member in Connection with Enforcement of Payment of Assessments and Maintenance Charges. In any action taken pursuant to Section 8.2 of this Article, the Member shall be personally liable for, and the Assessment Lien shall be deemed to secure the amount of, the Assessments and Special Use Fees together with interest and the Association's incidental and taxable costs including collection costs and attorneys' fees, including those costs and fees specified in Article VII, Section 7.11. The Assessment Lien shall also secure payment of any other sums which may become payable to the Association by an Owner pursuant to this Declaration.

Section 8.5 Provision of Services. The Association may provide, or provide for, services and facilities for the Members, their guests, lessees, and invitees, and shall be authorized to enter into and terminate contracts or agreements with other entities, including Declarant, to provide such services and facilities. The Board may charge use and consumption fees for such services and facilities. By way of example, some services and facilities which might be offered include landscape maintenance, pest control service, cable television service, security, caretaker, transportation, fire protection, utilities, including access to fiber optics networks, and similar services and facilities. In the event Declarant enters into any contracts for such services during the Declarant Control Period, such contracts are subject to termination in accordance with Section 305 of the Act. Nothing herein shall be construed as a representation by Declarant or the Association as to what, if any, services shall be provided. In addition, the Board, in its discretion, shall be permitted to modify or cancel existing services provided unless otherwise

required by the Governing Documents. No Owner shall be exempt from the obligation to pay for such services, if provided to all Owners as a Common Expense, based upon non-use or any other reason.

Section 8.6 **Governmental Interests.** For so long as Declarant owns any property described in Exhibit "B" or Exhibit "C", the Declarant may designate sites within the Covered Property for fire, police, water, and sewer facilities; public schools and parks; and other public facilities. Some or all of the sites may be made part of a Special District, and the sites may include Common Areas.

Section 8.7 **Relations with Other Properties.** The Association may enter into contractual agreements or covenants to share costs with any neighboring property to contribute funds for, among other things, shared or mutually beneficial property or services or a higher level of Common Area maintenance.

Section 8.8 **Facilities and Services Open to the Public.** Certain facilities and areas within the Covered Property may be open for use and enjoyment of the public. Such facilities and areas may include, by way of example: pocket parks and other neighborhood facilities, such as a Neighborhood Center, conducive to gathering and interaction. Declarant may designate such facilities and areas as open to the public at the time Declarant makes such facilities and areas a part of the Area of Common Responsibility or the Board may so designate at any time thereafter.

Section 8.9 **Cooperation with Special District.** The Association shall have the power, and is hereby authorized, to contract with and to cooperate with a Special District in order to ensure that their respective responsibilities are discharged. The Association is further authorized to act on behalf of its Members to ensure that the level of services provided by such Special District is consistent with the Community-Wide Standard.

Each Owner, by acceptance of a deed or Recorded contract or sale, is deemed to covenant and consent to the creation of a Special District and to executing a separate document evidencing such consent, if requested to do so by Declarant.

Section 8.10 **Relationship with Tax-Exempt Organizations.** The Declarant or the Association may create, enter into agreements or contracts with, or grant exclusive and/or non-exclusive easements over the Common Area to non-profit, tax-exempt organizations, the operation of which confers some benefit upon Three Springs, the Covered Property, the Association, the Members, or residents of the community. The Association may contribute money, real or personal property, or services to such entity. Any such contribution shall be a Common Expense and included as a line item in the Association's annual budget. For the purposes of this Section, a "tax-exempt organization" shall mean an entity which is exempt from federal income taxes under the Internal Revenue Code ("Code"), such as, but not limited to, entities which are exempt from federal income taxes under Sections 501(c)(3) or 501(c)(4), as the Code may be amended from time to time.

ARTICLE IX - USE OF FUNDS; BORROWING POWER

Section 9.1 **Purposes for Which Association's Funds May be Used.** The Association shall apply any property collected and received by it (including the Assessments, fees, loan proceeds, surplus funds, and all funds and property received by it from any other source) for the common good and benefit of the Covered Property and the Members and Residents by devoting said funds and property, among other things, to the acquisition, construction, alteration, maintenance, provision, and operation, by any manner or method whatsoever, of any and all land, properties, improvements, facilities, services, projects, programs, studies and systems, within or without the Covered Property which may be necessary, desirable, or beneficial to the general common interests of the Covered Property, the Members, and the Residents, subject to the limitations herein. The following are some; but not all, of the areas in which the Association may seek to aid, promote and provide for such common benefit: social interaction among Members and Residents, maintenance of landscaping on Common Areas, public right-of-way, drainage areas within the Covered Property, recreation, liability insurance, communications, education, transportation, cultural and other events, health, utilities, public services, safety, and indemnification of officers and directors of the Association. The Association also may expend its funds for any purposes for which any municipality may expend its funds under the laws of the State of Colorado or such municipality's charter.

Section 9.2 **Borrowing Power.** The Association may borrow money in such amounts, at such rates, upon such terms and security (with the approval of a vote of at least two-thirds (2/3) of the Members), and for such periods of time as is necessary or appropriate.

Section 9.3 **Association's Rights in Spending Funds From Year to Year.** The Association shall not be obligated to spend in any year all the sums received by it in such year (whether by way of Annual or Special Assessments, fees, or otherwise), and may carry forward as surplus any balances remaining. The Association shall not be obligated to reduce the amount of the Annual Assessment in the succeeding year if a surplus exists from a prior year and the Association may carry forward from year to year such surplus as the Board in its discretion may determine to be desirable for the greater financial security of the Association and the accomplishment of its purposes.

Section 9.4 **Administration of Special Use Fees.** The Association is authorized to bill for, sue for, collect, administer, and disburse all Special Use Fees and the payment thereof shall be secured by the Assessment Lien; provided, however, that all Special Use Fees collected shall, if imposed in connection with a particular improvement, be separately accounted for as to each separate improvement pertaining to which they are collected and shall be expended on the particular improvement to which they pertain.

Section 9.5 **Insurance.** The Association shall maintain insurance against liability incurred as a result of death or injury to persons or damage to property on the Common Areas with minimum bodily injury limits of \$1,000,000.00 per occurrence and minimum property damage liability limits of \$500,000.00 per occurrence or a combined single limit of \$1,000,000.00 per occurrence, or such other amounts as the Board deems appropriate. The Master Association may obtain such insurance on behalf of the Association.

Section 9.6 **Association Records.** The Association shall maintain and provide accounting records in accordance with the following:

(a) The Association shall keep its accounting records, using generally accepted accounting principles (GAAP) and shall maintain records of meeting minutes, Board actions, committee actions, notices of meetings, and a record of all voting Owners and their addresses. The Association shall keep at its principal office and make available to Owners, First Mortgagees, and insurers or guarantors of any First Mortgage, current copies of the Declaration, the Articles of Incorporation, Bylaws, Association Rules, books, records, and financial statements of the Association, resolutions adopted by the Board or any committee of the Board, minutes of all Owners' meetings and actions for at least three (3) years, written communications to Owners for at least three (3) years, a list of the names and addresses of current Directors and officers of the Association, the most recent annual report, and all audits and financial reviews for at least three (3) years. The Association shall make available to prospective purchasers of Lots, Dwelling Units, Rental Apartments, Affordable Housing, Single-Family Dwelling Units, Other Units, and any other residential development within the Covered Property, current copies of the Declaration, the Articles of Incorporation, Bylaws, Association Rules, and the most recent audited annual financial statement of the Association, if available. "Available" shall mean available for inspection, upon request that is made in good faith and for a proper purpose and for records that are relevant to such proper purpose, during normal weekday business hours or under other reasonable circumstances. The Association may charge a fee for inspection and copying of the Association books and records, not to exceed the Association's actual costs.

(b) Within ninety (90) days after the first election of a Board of Directors after the end of the Declarant Control Period, and within ninety (90) days after the end of each fiscal year thereafter, the Association shall make the following information available to Owners at the Association's principal place of business:

- (i) Fiscal year commencement date;
- (ii) Current fiscal year operating budget;
- (iii) List of the Association's current assessments (regular and special) by Unit type;
- (iv) Annual financial statements, including amounts held in reserve for the previous fiscal year;
- (v) The results of any audit for the previous fiscal year;
- (vi) List of all Association insurance policies, including names, limits, deductibles, additional named insureds, and expiration dates;
- (vii) All Bylaws, Articles of Incorporation, and Association Rules of the Association;

(viii) Board and Member meeting minutes for the previous fiscal year;
and

(ix) The Association's governance policies.

Such information also may be disclosed by posting the information on the Association's website and providing notice of the Association's website to all Owners via e-mail or first-class mail, or the Association may mail or deliver such information to all of the Owners.

(c) The Association shall adopt, and may amend from time to time, responsible governance policies that require the Association to keep its accounting records in accordance with GAAP and adopt policies, procedures, and Association Rules concerning the collection of unpaid assessments, Board members' conflicts of interest, the conduct of meetings, enforcement of the Declaration, including notice and hearing procedures and the assessment of fines, policies on the investment of the Association's reserve funds, inspection and copying of Association records by Owners, and procedures for adoption and amendment of its policies, procedures, and rules.

(d) At least annually, and within ninety (90) days after any of the following information changes, the Association shall provide written notice to all Unit Owners, stating the following:

- (i) name of the Association;
- (ii) name of designated agent or management company of the Association, if any;
- (iii) valid physical address and telephone number for the Association and its agents;
- (iv) name of the Common Interest Community;
- (v) initial date of recording of the Declaration; and
- (vi) the Reception Number or book and page number for the Declaration.

(e) The Association shall perform a review of its financial records, using "Statements on Standards for Accounting and Review Services," or an audit of its financial records using generally accepted auditing standards, by an independent and qualified person selected by the Board of Directors of the Association when required under the following provisions. An audit shall be required only if the Association has annual revenues or expenditures of at least \$250,000 and the audit is requested by the Owners of at least one-third (1/3) of the Units and Parcels. A review shall be required only when requested by the Owners of at least one-third (1/3) of the Units and Parcels. Copies of an audit or review shall be made available upon request to any Owner, beginning no later than thirty (30) days after its

completion. The Association shall also provide an audited financial statement for the immediately preceding fiscal year to any First Mortgagee or any insurer or guarantor of such First Mortgage, within a reasonable time after written request therefor is made by any such First Mortgagee, or insurer, or guarantor of any First Mortgage; provided that if the Association has not previously received an audit for such fiscal year, the Association may require the requesting First Mortgagee, or insurer, or guarantor of a First Mortgage to pay the expense of the audit to the Association in advance.

ARTICLE X - MAINTENANCE

Section 10.1 **Common Areas and Public Right-of-Way.** The Association, or its duly delegated representatives, shall maintain and otherwise manage all Common Areas, including, but not limited to private alleys. Specific areas to be maintained by the Association may be identified on Recorded subdivision plats, in Supplemental Declarations, and in Deeds from the Declarant to a transferee of a Unit or Lot. The Board shall use a standard of reasonable care in providing for the repair, management, and maintenance of the Common Area. The Board shall be the sole judge as to the appropriate maintenance of all Common Areas and other properties maintained by the Association. The Association may restrict and prohibit parking of vehicles on private alleys and other rights of way subject to Association authority.

In the event any Recorded Subdivision Plat, Supplemental Declaration, or this Declaration permits the Board to determine whether or not Owners of certain Units or Lots will be responsible for maintenance of certain Common Areas or public right-of-way areas, the Board shall have the sole discretion to determine whether or not it would be in the best interest of the Owners, Lessees, and Residents of Three Springs for the Association or an individual Owner to be responsible for such maintenance, considering cost, uniformity of appearance, location, and other factors deemed relevant by the Board. The Board may cause the Association to contract with others for the performance of the maintenance and other obligations of the Association under this Article X and, in order to promote uniformity and harmony of appearance, the Board may also cause the Association to contract to provide maintenance services to individual or groups of Owners of Units and Lots and having such responsibilities in exchange for the payment of such fees as the Association and Owner(s) may agree upon.

Section 10.2 **Assessment of Certain Costs of Maintenance and Repair of Common Areas and Public Areas.** In the event that the need for maintenance or repair of Common Areas and other areas maintained by the Association is caused through the willful or negligent act of any Member, his family, guests, or invitees, the cost of such maintenance or repairs shall be added to and become a part of the Assessment to which such Member and the Member's Unit or Lot is subject and shall be secured by the Assessment Lien. The decision of the Board shall be final and binding as to whether any need for repair is caused by any willful or negligent act of any persons described in the preceding sentence. Any charges or fees to be paid by the Owner of a Unit or Lot pursuant to Section 10.1 of this Article X in connection with a contract entered into by the Association with an Owner for the performance of an Owner's maintenance responsibilities shall also become a part of such Assessment and shall be secured by the Assessment Lien.

Section 10.3 **Improper Maintenance and Use of Units and Lots.** In the event any portion of any Unit or Lot is so maintained as to present a public or private nuisance, or as to substantially detract from the appearance or quality of the surrounding Units and Lots or other areas of the Three Springs Property which are substantially affected thereby or related thereto, or in the event any portion of a Unit or Lot is being used in a manner which violates this Declaration or any Supplemental Declaration applicable thereto, the Three Springs Codes and Standards, the Association Rules, or the Three Springs Design Guidelines or in the event the Owner or Lessee of any Unit or Lot is failing to perform any of its obligations under this Declaration with respect to the maintenance, repair, or replacement of the Improvements located on such Unit or Lot, the Board may by resolution make a finding to such effect, specifying the particular condition or conditions which exist, and pursuant thereto give written notice thereof to the Owner by mail to the mailing address of the Unit or Lot and make demand that corrective action be taken with fourteen (14) calendar days of the date of the notice. If, at the expiration of the said fourteen (14) day period, the requisite corrective action has not been taken, the Board shall be authorized and empowered to cause such action to be taken, including but not limited to performing such maintenance or corrective work and the hiring of an attorney to take action on behalf of the Board, whether by informal pre-suit action or by formal legal proceedings. The costs of any action taken by the Board as set forth herein, including but not limited to incidental and taxable costs, attorneys' fees, and any fines assessed against said Owner or his family, guests, invitees, licensees, employees, or designees shall be added to and become a part of the Assessment to which the offending Owner and the Owner's Unit or Lot is subject and shall be secured by the Assessment Lien. Provided, however, the Association may not allocate any of its costs and attorneys' fees incurred in asserting or defending a claim against a Unit Owner where such Unit Owner is the prevailing party.

Section 10.4 **Maintenance of Limited Common Areas.** The Association may assess the cost of maintenance, repair, and replacement of Limited Common Areas solely to those Members whose Lots or Units are served or benefited by such Limited Common Areas, as determined by the Board in its sole discretion. Private alleys that provide access only to certain Lots but also provide pedestrian and/or vehicular access for all Members to parks and other areas shall be not be Limited Common Areas.

ARTICLE XI - DESIGN REVIEW

Section 11.1 **Architectural Control.** No addition, alteration, repair, change, or other work which in any way alters the exterior appearance, including but without limitation, the exterior color scheme, of any part of a Unit, or any Improvements located thereon, shall be made or done without the prior written approval of the Design Review Committee pursuant to the provisions of Article XI of the Master Declaration. Any person, proposing to engage in any alterations or modifications shall be required to submit an application to conduct such activity to the Design Review Committee in accordance with its submittal requirements.

Section 11.2 **Procedures.** Any Owner desiring approval of the Design Review Committee for the construction, installation, addition, alteration, repair, change, or replacement

of any Improvement shall follow the Design Approval Process for Three Springs set forth in Article XI of the Master Declaration. No building permits shall be issued to an Owner by the City of Durango until the Owner has received written approval from the Design Review Committee in the form of a Letter Certificate of Design Compliance.

Section 11.3 **Appeal**. Any Owner or other Resident aggrieved by a decision by the Design Review Committee may appeal the decision to the Board of Directors of the Master Association in accordance with procedures established in the Appeal Process of the Three Springs Design Guidelines and the applicable provisions of Article XI of the Master Declaration.

Appeals of Design Review Committee decisions on public improvement projects shall be forwarded to the City Council as necessary as defined in Section 8.07 of the Development Agreement.

Section 11.4 **Design Review Fee**. The applicant shall be responsible for paying any Design Review Fee established by the Design Review Committee.

Section 11.5 **Inspections; Enforcement**. The Design Review Committee, or its designated representative(s), shall have the right during reasonable business hours to enter upon and inspect any building site and any Improvements then under construction to determine whether or not the construction, installation, addition, alteration, repair, change, or other work therefore have been approved by the Design Review Committee, and to require correction of construction as provided in Article XI of the Master Declaration.

ARTICLE XII - RIGHTS AND POWERS OF ASSOCIATION

Section 12.1 **Association's Rights and Powers as Set Forth in Articles and Bylaws**. . In addition to the rights and powers of the Association set forth in this Declaration, the Association shall have such rights and powers as are set forth in its Articles and Bylaws or as provided by Colorado common law or statute. Such rights and powers, subject to the approval thereof by any agencies or institutions deemed necessary by Declarant, may encompass any and all things which a natural person could do or which now or hereafter may be authorized by law, provided such Articles and Bylaws are not inconsistent with the provisions of this Declaration and are necessary, desirable, or convenient for effectuating the purposes set forth in this Declaration. After incorporation of the Association, a copy of the Articles and Bylaws of the Association shall be available for inspection at the office of the Association during reasonable business hours. In addition to all other rights and remedies granted to the Association by this Declaration, the Association shall have the power to impose reasonable fines against an Owner for any violation of this Declaration or the Association Rules by the Owner, a Lessee, or Tenant of the Owner, or by any Resident or occupant of the Owner's Unit or Lot.

Section 12.2 **Association's Rights of Enforcement of Provisions of this and Other Instruments**. The Association, as the agent and representative of the Owners, shall have the right to enforce the covenants set forth in this Declaration and/or any and all covenants, restrictions, reservations, charges, servitudes, assessments, conditions, liens, or easements provided for in any contract, deed, declaration, or other instrument which (a) shall have been

executed pursuant to, or subject to, the provisions of this Declaration, or (b) otherwise shall indicate that the provisions of such instrument were intended to be enforced by the Association or by Declarant.

Section 12.3 **Contracts with Others for Performance of Association's Duties.** Subject to the restrictions and limitations contained herein, the Association may enter into contracts and transactions with others, including Declarant and its affiliated companies, and such contracts or transactions shall not be invalidated or in any way affected by the fact that one or more directors or officers of the Association or members of any committee are employed by or otherwise connected with Declarant or its affiliates, provided that the fact of such interest shall be disclosed or known to the either directors acting upon such contract or transaction, and provided further that the transaction or contract is fair and reasonable. Any such director, officer, or committee member may be counted in determining the existence of a quorum at any meeting of the Board or committee of which he is a member which shall authorize any contract or transaction described above or grant or deny any approval sought by the Declarant, its affiliated companies, or any competitor thereof and may vote thereon to authorize any such contract, transaction, or approval with like force and effect as if he were not so interested.

Section 12.4 **Change of Use of Association Land and Procedure Therefore.** Upon (a) adoption of a resolution by the Board stating that in the Board's opinion the then present use of a designated part of the Common Areas is no longer in the best interests of the Owners and Residents, and (b) the approval of such resolution by a majority of the Members who are voting in person or by proxy at a meeting duly called for such purpose, the Board shall have the power and right to change the use thereof (and in connection therewith, construct, reconstruct, alter, or change the buildings, structures, and other Improvements thereon in any manner deemed necessary by the Board to accommodate the new use), provided such new use (i) shall be for the benefit of the Owners and Residents, and (ii) shall be consistent with any deed restrictions, (or zoning regulations), or applicable Supplemental Declaration (as may be amended from time to time).

Section 12.5 **Acceptance and Control of Association Property.**

(a) The Association, through action of its Board, may acquire, hold, and dispose of tangible and intangible personal property and real property, subject to the provisions of Sections 14.2 and 14.3. Declarant shall transfer all Common Area to the Association not later than thirty (30) days after termination of the Declarant Control Period. Assessments shall commence on Dwelling Units or Lots as provided in Article VII even though the Common Area may not have been transferred to the Association.

(b) Declarant and its designees may convey to the Association personal property and fee title, leasehold, or other property interests in any real property, improved or unimproved, described in Exhibit "A," Exhibit "B," or Exhibit "C". The Association shall accept and maintain such property at its expense for the benefit of its Members, subject to any restrictions set forth in the deed or other instrument transferring such property to the Association. Upon Declarant's written request, the Association (upon a vote of at least two-thirds (2/3) of the

Members, excluding Lots owned by Declarant) shall reconvey to Declarant any unimproved portions of the Covered Property originally conveyed by Declarant to the Association for no consideration, to the extent conveyed by Declarant in error or needed by Declarant to make minor adjustments in property lines.

(c) The Association shall be responsible for management, operation, and control of the Common Area, subject to any covenants and restrictions set forth in the deed or other instrument transferring such property to the Association. The Board may adopt such reasonable rules regulating use of the Common Area as it deems appropriate.

Section 12.6 **Security**. The Association may, but shall not be obligated to, maintain or support certain activities within the Covered Property designed to make the Covered Property safer than it otherwise might be. Neither the Association nor Declarant shall in any way be considered insurers or guarantors of security within the Covered Property, nor shall either be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

No representation or warranty is made that any systems or measures, including any mechanism or system for limiting access to the Covered Property, cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended.

Each Owner acknowledges, understands, and covenants to inform its tenants and all occupants of its Dwelling Unit that neither the Association, its Board and committees, nor Declarant are insurers and that each Person using the Covered Property assumes all risks of personal injury and loss or damage to property, including Dwelling Units and the contents of Dwelling Units, resulting from acts of third parties

ARTICLE XIII - ANNEXATION OF ADDITIONAL PROPERTY/WITHDRAWAL

Section 13.1 **Annexation Without Approval**. All or any part of the Annexable Property and Additional Property may be annexed to the Covered Property and become subject to this Declaration and subject to the jurisdiction of the Association without the approval, assent, or vote of the Association or its Members, by the execution and Recording of a Supplemental Declaration, a Notice of Annexation, or a deed by Declarant or its successors and assigns describing the part of the Annexable Property or Additional Property to be annexed and stating that such property is being annexed to this Declaration. No Supplemental Declaration, Notice of Annexation, or deed so executed and Recorded pursuant to this Section more than twenty-five (25) years after the later of (i) the recording of this Declaration, or (ii) the last Recording of a Supplemental Declaration, Notice of Annexation, or deed annexing property to this Declaration, shall affect an annexation of the property described therein to this Declaration. Thereafter, the Association shall have the right to annex and subject to this Declaration all or any part of the Annexable Property and Additional Property only with the written approval of the Owner thereof and by executing and Recording a Supplemental Declaration or Notice of Annexation. The

Recording of said Supplemental Declaration, Notice of Annexation, or deed annexing property to this Declaration shall constitute and effectuate the annexation of said portion of the Annexable Property or Additional Property described therein, making said real property subject to this Declaration and subject to the functions, powers, and jurisdiction of the Association, and thereafter said property shall be part of the Covered Property and all of the Owners of Units or Lots in said real property shall automatically be Members of the Association. Memberships, voted, and allocated interests in the Common Areas shall be allocated to the property annexed to this Declaration in accordance with the applicable provisions of this Declaration. The total number of votes in the Association shall be increased in an amount equal to the number of votes allocated to the property that is annexed and total number of Units and Lots subject to assessment shall be increased in the amount of the memberships allocated to the property annexed to this Declaration. Although Declarant or its successors and assigns or the Association shall have the ability to so annex all or any portion of the Annexable Property or Additional Property in accordance with the provisions of this Section 13.1, neither Declarant nor its successors and assigns or the Association shall be obligated to annex all or any portion of such Annexable Property or Additional Property and such Annexable Property and Additional Property shall not become subject to this Declaration unless and until a Supplemental Declaration, Notice of Annexation, or deed annexing property to this Declaration shall have been so executed and Recorded.

Section 13.2 **Withdrawal of Property.** Declarant reserves the unilateral right during the Development Period to amend this Declaration to withdraw any portion of the Covered Property from the coverage of this Declaration whether originally described in Exhibit "A" or added by Supplemental Declaration, Notice of Annexation, or deed; provided, no property shall be withdrawn after a Dwelling Unit has been conveyed by Declarant to any Person other than an affiliate of Declarant, a Developer, or a Builder. If the property withdrawn contains Units, such a withdrawal shall reduce the total number of Maximum Units. The total number of votes in the Association shall be reduced in an amount equal to the number of Units withdrawn and the total number of Units, Lots, or Dwelling Units subject to assessment shall be reduced in a like amount. Such amendment shall not require the consent of any Person other than the Owner of the property to be withdrawn. If the property is Common Area, the Association shall consent to such withdrawal upon the request of Declarant and shall reconvey to Declarant any rights of the Association.

ARTICLE XIV - DEVELOPMENT RIGHTS AND PROTECTIONS

Section 14.1 **Reasonable Rights to Develop.** Declarant may be undertaking the work of constructing improvements to and upon the Covered Property, including but not limited to the Dwelling Units Commercial Development, Common Areas, and Apartment Development (collectively "Property Improvements"). The completion of such construction and the sale or other disposal of such improvement is essential to the establishment and welfare of the Covered Property as a residential community. Therefore, until the expiration of the Development Period, nothing in this Declaration or the other Governing Documents shall be understood or construed to:

(a) Prevent Declarant, its contractors, or its subcontractors from doing in the Covered Property or on any Dwelling Unit whatever is reasonably necessary or advisable in connection with the development, construction, and sale of Improvements;

(b) Prevent Declarant or its representatives from erecting, constructing, and maintaining on any part of the Covered Property such structures as reasonably may be necessary for the conduct of its business of completing the work, establishing the Covered Property as a residential community and disposing of the Improvements by sale, lease, or otherwise;

(c) Prevent Declarant from conducting on any part of the Covered Property its business of completing the work, of establishing the Covered Property as a residential community, and of disposing of the Improvements by sale, lease, or otherwise;

(d) Prevent Declarant from maintaining such signs and conducting such activities on any part of the Covered Property owned by Declarant or the Association as Declarant may deem to be reasonably necessary for the sale, lease, or disposition of Improvements; or

(e) Prevent Declarant from placing on and utilizing Improvements or other property which it owns one or more mobile homes or temporary structures as sales offices or for construction activities, provided such structures and Improvements for sales offices have been approved by the Design Review Committee.

However, nothing in this Section shall give Declarant the right to damage any Unit or other property not owned by Declarant.

Section 14.2 **Special Declarant Rights** During the Development Period, Declarant reserves the following Special Declarant Rights which shall be in conformance with the Three Springs Codes and Standards and the Three Springs Design Guidelines:

(a) The right to complete any improvements indicated on Plats, development plans Recorded with the Declaration, or the Master Development Plan;

(b) The right to exercise any of the following Development Rights:

(i) The right to expand the Covered Property as provided in Article X;

(ii) The right to create additional Units up to the number of Maximum Units;

(iii) The right to subdivide or combine Lots which it owns or convert Lots which it owns into Common Areas;

(iv) Subject to Section 13.2, the right to withdraw from the Covered Property any Dwelling Unit or Lots or any portion of a Dwelling Unit or Lot not yet conveyed by Declarant, subject to such local government approvals as may be required; and

(v) The right to reconfigure the boundaries of the Common Area;

(c) The right to maintain sales offices, management offices, and advertising signs on the Covered Property as set forth in Section 14.3;

(d) The right of access over the Common Area for the purpose of making improvements within the Covered Property;

(e) The right to merge or consolidate the Association with another common interest community of the same form of ownership; and

(f) The right to appoint and remove any director or officer of the Association during the Declarant Control Period as provided in the Bylaws.

The foregoing rights may be exercised with respect to different portions of the Covered Property at different times. If a Development Right is exercised with respect to any portion of the Covered Property, it need not be exercised with respect to all or any other portion of the Covered Property. No assurances are made as to the boundaries of the Covered Property, nor with respect to the order in which such Development Rights may be exercised.

Section 14.3 **Marketing and Sales Activities.** Until the termination of the Development Period, Declarant and Builders authorized by Declarant may construct, relocate, maintain, and carry on upon any Unit Declarant owns or upon portions of the Common Area, such facilities and activities as may be reasonably required, convenient, or incidental to the construction or sale of Dwelling Units or Lots, in Declarant's sole opinion. Such facilities, if approved by the Design Review Committee, and activities may include, without limitation, business offices, construction offices, signs, model Dwelling Units, and sales offices. There shall be no limit on the number or size of such facilities. Declarant and authorized Builders shall have easements for access to and use of such facilities. Declarant reserves the right to remove any personal property used in connection with its activities on the Common Area upon termination of its rights under this Section.

Section 14.4 **Construction of Improvements.** Until the termination of the Development Period, Declarant and its employees, agents, and designees shall have a right of access and use and an easement over and upon all of the Common Area for the purpose of making, constructing, and installing such improvements to the Common Area as it deems appropriate in its sole discretion.

Every Person that acquires any interest in the Covered Property acknowledges that the Covered Property is a planned community, the development of which is likely to extend over many years, and agrees not to protest, challenge, or otherwise object to (a) changes in uses or density of property outside the Neighborhood in which such Person holds an interest, or

(b) changes in the Master Development Plan as it relates to property outside the Neighborhood in which such Person holds an interest.

Section 14.5 **Right to Approve Additional Covenants.** For so long as Declarant owns the Covered Property or Additional Property, no Person shall Record any declaration of covenants, conditions, and restrictions, or declaration of condominium or similar instrument affecting any portion of the Covered Property without Declarant's review and written consent. Any attempted Recordation without such consent shall result in such instrument being void and of no force and effect unless Declarant subsequently approves by signed and Recorded written consent.

Section 14.6 **Right to Transfer or Assign Declarant Rights.** Any or all of Declarant's special rights and obligations set forth in this Declaration or the Bylaws may be transferred in whole or in part to other Persons; provided, the transfer shall not reduce an obligation nor enlarge a right beyond that which Declarant has under this Declaration or the Bylaws. No such transfer or assignment shall be effective unless it is in a Recorded instrument which Declarant signs. The foregoing sentence shall not preclude Declarant from permitting other Persons to exercise, on a one time or limited basis, any right reserved to Declarant in this Declaration where Declarant does not intend to transfer such right in its entirety. In such case it shall not be necessary to Record any written assignment.

Section 14.7 **Additional Restrictions and Assessments on Portions of the Covered Property.** During the Development Period, Declarant reserves the right to impose additional covenants, restrictions, easements, and obligations on, and create a separate homeowners' association and separate assessments (in addition to those created under this Declaration) for, any portion of the Covered Property owned by Declarant prior to its conveyance by Declarant. However, in the event of a conflict between any such additional covenants and restrictions and this Declaration, the more restrictive shall control.

Section 14.8 **Right to Designate Sites for Governmental and Public Interests.** Until the termination of the Development Period, Declarant may designate sites within the Covered Property for government, education, or religious activities and interests, including without limitation, fire, police, and utility facilities, schools and educational facilities, houses of worship, parks, and other public facilities. The sites may include Common Area, in which case the Association shall take whatever action is required with respect to such site to permit such use, including dedication or conveyance of the site, if so directed by Declarant.

Section 14.9 **Right to Approve Changes in Community Standards.** Until the termination of the Development Period, no amendment to or modification of any Association Rules shall be effective without prior notice to and the written approval of Declarant.

ARTICLE XV - TERM; AMENDMENTS; TERMINATION

Section 15.1 **Term; Method of Termination.** This Declaration shall be effective upon the date of Recording hereof and, as amended from time to time, shall continue in full force and effect for a term of thirty (30) years from the date this Declaration is Recorded. From and after

said date, this Declaration, as amended, shall be automatically extended for successive periods of ten (10) years each, unless there is an affirmative vote to terminate this Declaration by the Members holding at least sixty-seven (67%) of all Membership Interests vote in favor of termination at an election held for such purpose in person or by proxy within six (6) months prior to the expiration of the initial effective period hereof or any ten (10) year extension. The Declaration may likewise be terminated at any time if sixty-seven percent (67%) of all Membership Interest vote in favor of termination at an election held for such purpose. If the necessary votes and consents are obtained, the Board shall cause to be Recorded with the Clerk and Recorder of La Plata County, Colorado, a Certificate of Termination, duly signed by the President or Vice-President and attested by the Secretary or Assistant Secretary of the Association, with their signatures acknowledged. Thereupon this Declaration and the covenants contained herein shall have no further force and effect, and the Association shall be dissolved pursuant to the terms set forth in its Articles.

Section 15.2 **Amendments**. This Declaration may be amended by Recording with the Clerk and Recorder of La Plata County, Colorado, a Certificate of Amendment, duly signed and acknowledged as required for a Certificate of Termination in Section 15.1 of this Article. The Certificate of Amendment shall set forth in full the amendment adopted, and, except as provided in Section 15.3 of this Article, shall certify that at an election duly called and held pursuant to the provisions of the Articles and Bylaws the Members casting sixty-seven percent (67%) of all the votes held by Members who own a Unit or Lot at the election voted affirmatively either in person or by proxy for the adoption of the amendment. A Supplemental Declaration may be amended with (i) the approval of the Board; (ii) the approval of the Declarant as long as the Declarant owns any property in the Covered Property; and (iii) the affirmative vote of the sixty-seven percent (67%) of all Membership Interest by Members who own a Unit or Lot within the property subject to the Supplemental Declaration. Notwithstanding the foregoing to the contrary, (i) all amendments must be approved by the Board, and (ii) all amendments to the Article VIII, Section 8.3 affecting lienholder priority must be approved by the holders of any and all first mortgages and deeds of trust affected thereby.

Section 15.3 **Right of Amendment if Requested by Governmental Agency or Federally Chartered Lending Institutions**. Anything in this Article to the contrary notwithstanding, Declarant so long as the Declarant owns any Unit or Lot, and thereafter, the Board, may amend all or any part of this Declaration to such an extent and with such language as may be requested by the Federal Housing Administration ("FHA") or the Veterans Administration ("VA") and to further amend to the extent, requested by any other federal, state, or local governmental agency which requests such an amendment as a condition precedent to such agency's approval of this Declaration, or by any federally chartered lending institution as a condition precedent to lending funds upon the security of any Units or Lots or portions thereof. Any such amendment shall be effected by the Recording, by Declarant, if made by the Declarant, or by the Board if made by the Board, of a Certificate of Amendment, specifying the federal, state, or local governmental agency or the federally chartered lending institution requesting the amendment and setting forth the mandatory language requested by such agency or institution. The Recording of such a Certificate shall be deemed conclusive proof of the agency's or

institution's request for such an amendment, and such Certificate, when Recorded, shall be binding upon all of the Covered Property and all persons having an interest therein.

ARTICLE XVI - GENERAL PROVISIONS

Section 16.1 **Severability**. Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not affect the validity or enforceability of any of the other provisions hereof.

Section 16.2 **Non-Waiver**. Failure by the Declarant, the Association, any Owner, or other person or entity to enforce any covenant, condition, restriction, easement, reservation, right-of-way, or other provision contained in this Declaration shall in no way or event be deemed to be a waiver of the right to do so thereafter.

Section 16.3 **Change of Circumstances**. Except as otherwise expressly provided in this Declaration, no change of conditions or circumstances shall operate to extinguish, terminate, or modify any of the provisions of this Declaration.

Section 16.4 **Rules and Regulations**. In addition to the right to adopt rules and regulations on the matters expressly mentioned elsewhere in this Declaration, the Association shall have the right to adopt rules and regulations with respect to all other aspects of the Associations rights, activities, and duties, provided said rules and regulations are not inconsistent with the provisions of this Declaration and after the notice and hearing requirements of Section 302(1)(k) of the Act.

Section 16.5 **Declarant's Disclaimer of Representations**. Anything to the contrary in the Declaration notwithstanding, and except as otherwise may be expressly set forth on a Recorded plat or other instrument Recorded in the office of the Clerk and Recorder of La Plata County, Colorado, Declarant makes no warranties or representations whatsoever that the plans presently envisioned for the complete development of Three Springs can or will be carried out, or that any land now owned or hereafter acquired by it is or will be subjected to this Declaration, or that any such land (whether or not it has been subjected to this Declaration) is or will be committed to or developed for a particular (or any) use, or that if such land is once used for a particular use, such use will continue in effect.

Section 16.6 **References to the Covenants in Deeds**. Deeds to and instruments affecting any Unit or Lot or any part of the Covered Property may contain the covenants herein set forth by reference to this Declaration; but regardless of whether any such reference is made in any Deed or instrument, each and all of the covenants shall be binding upon the grantee, Owner, or other person claiming through any instrument and his heirs, executors, administrators, successors and assigns.

Section 16.7 **Successors and Assigns of Declarant**. Any reference in this Declaration to Declarant shall include any successors or assignees of Declarant's rights and powers hereunder.

Section 16.8 **Gender and Number.** Wherever the context of this Declaration so requires, words used in the masculine gender shall include the feminine and neuter genders; words used in the neuter fender shall include the masculine and feminine genders; words in the singular shall include the plural; and words in the plural shall include the singular.

Section 16.9 **Captions and Titles.** All captions, titles, or headings of the Articles and Sections this Declaration are for the purpose of reference and convenience only and are not to be deemed to limit, modify, or otherwise affect any of the provisions hereof or to be used in determining the intent or context thereof.

Section 16.10 **Notices.** If notice of any action or proposed action by the Board or any committee or of any meeting is required by applicable law, this Declaration or resolution of the Board to be given to any Owner or Resident then, unless otherwise specified herein or in the resolution of the Board, such notice requirement shall be deemed satisfied if notice of such action or meeting is published once in any newspaper in general circulation within the City of Durango. This Section shall not be construed to require that any notice be given if not otherwise required and shall not prohibit satisfaction of any notice requirement in any other manner.

Section 16.11 **FHA/VA Approval.** If this Declaration has been initially approved by the FHA or the VA in connection with any loan programs made available by FHA or VA and any loans have been made which are insured or guaranteed by FHA or VA, then during the Declarant Control Period the following actions will require the prior approval of the FHA or the VA, as applicable, unless the need for such approval has been waived by FHA or VA: (1) dedications of Common Areas (except where such dedication is required as of the date hereof to the City of Durango); (2) annexation of Additional Property and amendment of this Declaration; (3) any changes to the Articles or Bylaws during the Declarant Control Period.

Section 16.12 **Conveyance or Encumbrances of Association Land.** The Association Land shall not be mortgaged, transferred, dedicated, or encumbered without the prior affirmative vote of a majority of Members in attendance at a duly called meeting (based upon a quorum being present) or written approval of Members representing at least two-third (2/3) of the Membership Interest including two-third (2/3) of all non-Declarant votes.

Section 16.13 **Attorneys' Fees.** In addition to any other remedies set forth in this Declaration regarding costs and attorneys' fees, in the event the Association employs an attorney to enforce any lien granted to it under the terms of this Declaration or to collect any Assessments or other amounts due from an Owner or to enforce compliance with or recover damages for any violation or noncompliance with the Declaration, Articles, Bylaws, Association Rules, or Three Springs Design Guidelines, the offending Owner or other person or entity shall pay to the Association, upon demand, all attorneys' fees and court costs incurred by the Association, whether or not suit is filed, which fees and costs shall be secured by the Assessment Lien. Provided, however, the Association may not allocate any of its costs and attorneys' fees incurred in asserting or defending a claim against a Unit Owner where such Unit Owner is the prevailing party.

Section 16.14 **Dispute Resolution.** Any dispute between the Association and the Declarant, between any Owner and the Declarant, or between the Association and any Owner, with respect to a matter other than delinquent assessments, shall be submitted to arbitration in Durango, Colorado, before a panel of three (3) arbitrators, under the supervision, rules, and procedures of the American Arbitration Association then in effect and in accordance with the provisions of the Uniform Arbitration Act set forth as Part 2 of Article 22 of Title 13, Colorado Revised Statutes, as modified herein. The Association shall comply with the provisions of the following paragraph of this Section 16.14, if applicable to the subject matter of the arbitration. Discovery in such arbitration will be conducted in accordance with the Colorado Rules of Civil Procedure, except that all discovery must be completed within one hundred eighty (180) days after selection of the arbitrators. If the parties to the dispute are unable to agree on the selection of three (3) arbitrators, then the American Arbitration Association will select and implement a method for selection of the arbitrators. The decision of the arbitrators in such cases will be final and binding. The cost of the arbitration proceedings, including reasonable attorneys' fees and expenses of the parties, will be paid by the party(ies) which is not or are not the substantially prevailing party(ies) in the arbitration proceedings (in equal shares, if there are more than one such non-prevailing parties). In any arbitration hereunder, the arbitrators will determine, in addition to any matters submitted by the parties, which party(ies) is or are the substantially prevailing party(ies). The prevailing party(ies) will be the party(ies) who prevail(s) on substantially more of the matters submitted to arbitration, including, without limitation, claims, defenses, remedies, and amounts of damages sought, than any of the other party(ies) to the arbitration. However, all parties to the arbitration shall share equally in all fees required to be paid to the American Arbitration Association and/or the arbitrators, subject to reimbursement of such fees to the prevailing party(ies) from the non-prevailing party(ies).

Notwithstanding any other provisions of this Declaration, the Articles of Incorporation, or Bylaws of the Association, or any Association Rules, any action or arbitration brought by the Association in which it seeks to recover an unspecified amount of damages or damages in excess of Twenty-Five Thousand Dollars (\$25,000) shall first be approved by the vote of the Members holding at least seventy-five percent (75%) of the voting power of the Association. All costs and fees to be incurred in connection with such action shall be described in a budget which is approved by the vote of the Members holding at least seventy-five percent (75%) of the voting power of the Association at the same time as the required vote of the Members is obtained to bring the action. Any expenditures in excess of such approved budget shall be approved as an amendment to the budget, which is approved by the same percentage vote of the Members. The proposed litigation budget and a summary of the claims to be asserted in the action shall be mailed to all of the Members, with a notice of the meeting, describing the purpose of the meeting, at least thirty (30) days prior to the date of the meeting. The costs and fees incurred in connection with such action shall be assessed against all of the Owners, other than the Owner against whom any such action is proposed, as a special assessment. Such costs and fees shall not be paid from Annual Assessments, Maintenance Charges, Reserve Contributions, Transfer Fees, Working Capital Fees, Special Use Fees, or other Special Assessments. The Association may not bring an action for breach of warranty or other claims that did not arise out of a violation of the provisions of this Declaration. The foregoing requirements shall not apply to any action brought by the Association to collect assessments from Members or to obtain injunctive relief in

connection with a violation of the provisions of this Declaration, whether or not the Association seeks to recover its costs of suit and attorneys' fees. Any action, including arbitration pursuant to this Declaration, brought by the Association on behalf of itself or any Owners with respect to alleged construction defects in any Common Area shall be brought within one (1) year after completion of such Common Area improvements. In the event the Board of Directors of the Association intends to bring an action asserting defects in construction, the Board shall comply with the requirements of Section 13-20-802 through 807, Colorado Revised Statutes, as amended, and 38-33.3-303-5, Colorado Revised Statutes, as amended, in addition to complying with the foregoing requirements.

Section 16.15 **Remedies Cumulative.** Each remedy afforded the Association herein is cumulative and not exclusive.

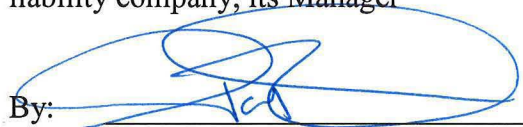
Section 16.16 **Responsibility of Successors in Interest to Owner's Violations.** Successors in title of an Owner to a Unit or Lot are obligated to correct any violation of the Declaration, the Association Rules, or the Three Springs Design Guidelines by any preceding Owner of the Unit or Lot.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, Declarant has caused this Declaration to be duly executed.

GRVP, LLC, a Colorado limited liability company

By: GPMC, LLC, a Colorado limited liability company, its Manager

By: 
Its: Duly Authorized Agent

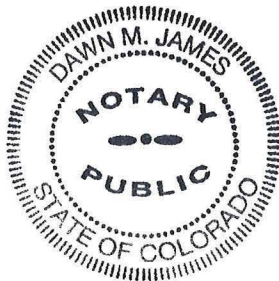
STATE OF COLORADO)
) ss:
COUNTY OF LA PLATA)

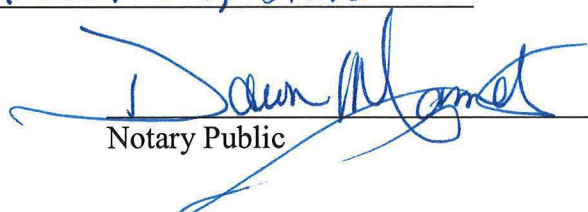
The foregoing Declaration was acknowledged before me this 19th day of March, 2007, by Patrick Vachon a duly authorized officer of GPMC, LLC, a Colorado limited liability company, the Manager of **GRVP, LLC**, a Colorado limited liability company.

WITNESS my hand and official seal.

My commission expires:

August 21, 2010

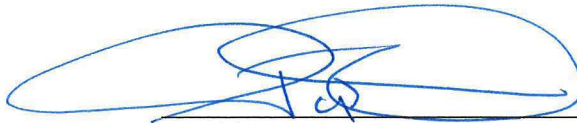



Notary Public

CERTIFICATE OF AMENDMENT

The undersigned, as President of Three Springs Residential Association, a Colorado non-profit corporation (the "Association"), hereby certifies that the foregoing Amended and Restated Residential Declaration of Covenants, Conditions, Restrictions, and Reservation of Easements for Three Springs was approved at a duly called election of the Members of the Association held pursuant to the Articles of Incorporation and Bylaws of the Association by the affirmative vote of more than sixty-seven percent (67%) of all Membership Interests by Members who own a Unit or Lot within the property subject to the Original Declaration. The Amended and Restated Residential Declaration of Covenants, Conditions, Restrictions, and Reservation of Easements for Three Springs is incorporated herein by this reference.

EXECUTED on the 19 day of MARCH, 2007.



President

Attest:



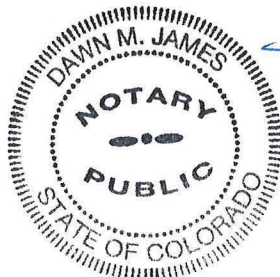
Secretary

STATE OF COLORADO)
) ss:
COUNTY OF LA PLATA)

The foregoing Certification of Amendment was acknowledged before me this 19th day of MARCH, 2007, by PATRICK VAUGHN as President and BOB WOLFE as Secretary of Three Springs Residential Association, a Colorado non-profit corporation.

WITNESS my hand and official seal.

My commission expires: AUGUST 21, 2010

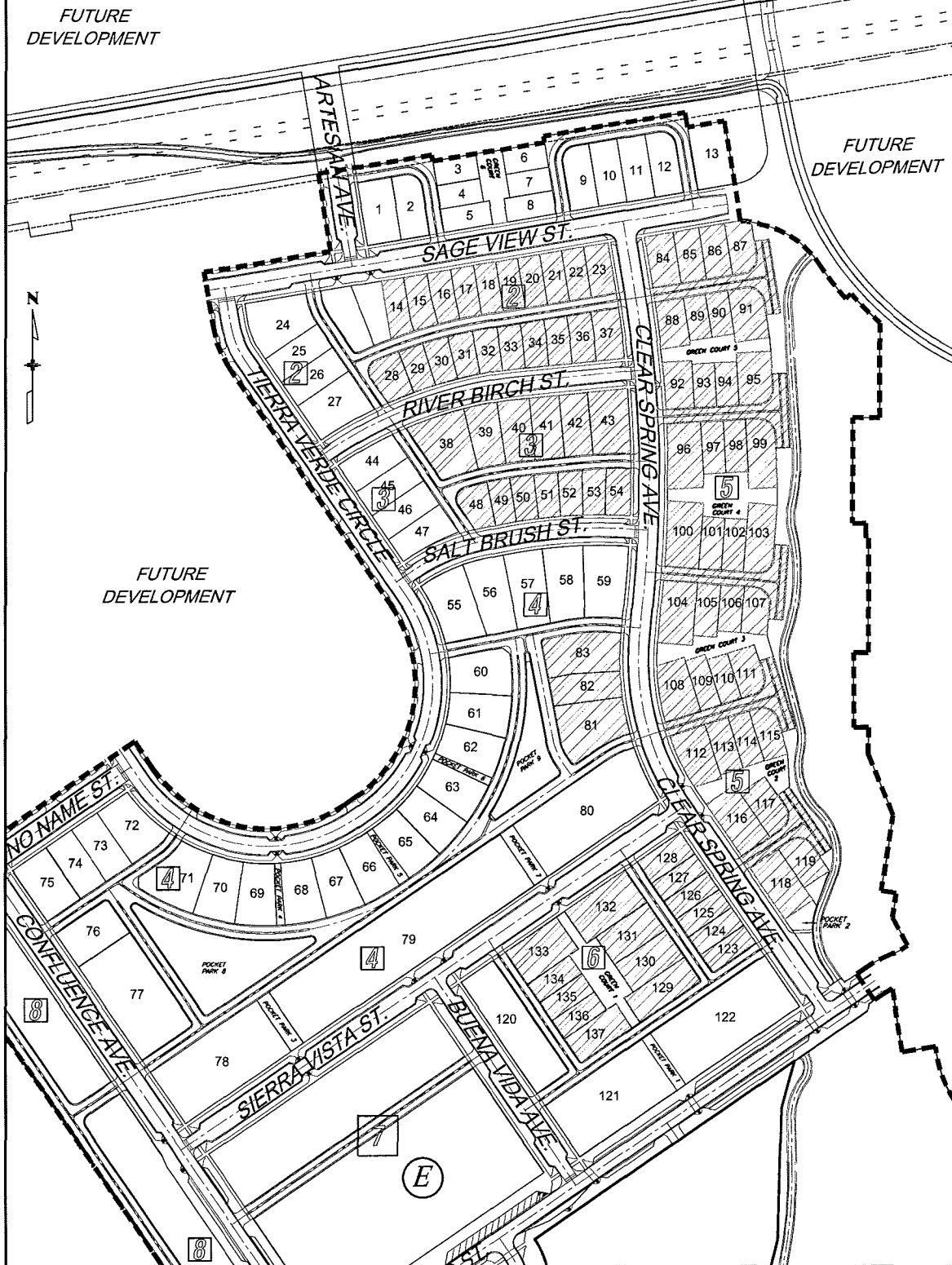


Notary Public

LIST OF EXHIBITS

Exhibit "A"	Legal Description of Covered Property Subject to Declaration
Exhibit "B"	The Annexable Property
Exhibit "C"	The Additional Property

EXHIBIT A RESIDENTIAL ASSOCIATION COVERED PROPERTY



 COVERED PROPERTY
 FILING 2A BOUNDARY

RESIDENTIAL ASSOCIATION COVERED PROPERTY DESCRIPTION:

Block 2-Lots 14-37 inclusive, Block 3-Lots 38-54 inclusive, Block 5-Lots 84-119, inclusive, Block 6-Lots 123-137, inclusive, of Three Springs Village I Filing 2A, City of Durango, State of Colorado, according to the Final Plat thereof recorded on June 29, 2006, at Reception Number 937030, in the records of the Clerk and Recorder for the County of La Plata, State of Colorado.


BECHTOLT
 ENGINEERING, LLC
 3059 Main Ave., DURANGO, COLORADO 81301
 (970) 259-7534

SCALE: nts
 DATE: 1_29_07
 DRAWN BY: MAP
 CHECKED BY:
 Page 1
 of 1

**EXHIBIT A
COVERED PROPERTY**
 SECTION 2, T34N, R9W, N.M.P.M.

**EXHIBIT B
THREE SPRINGS
PROPERTY**

THREE SPRINGS DESCRIPTION:
Tracts 3,4, and 5 of the Three Springs Minor Subdivision Plat recorded in the office of the La Plata County Clerk and Recorder under Reception Number 883523, and as amended by the Three Springs Subdivision First Amendment Plat, recorded in the office of the La Plata County Clerk and Recorder under Reception Number 922613.

BECHTOLT
ENGINEERING, LLC
3059 Main Ave. DURANGO, COLORADO 81301
(970) 259-7534

SCALE: nts
DATE: 6/13/06
DRAWN BY: MAP
CHECKED BY:
Page 1 of 1

**EXHIBIT B
THREE SPRINGS
PROPERTY**
SECTION 2, T34N, R9W, N.M.P.M.
&
SECTION 35, T 34.5 N R9W, N.M.P.M.

Tracts 3,4, and 5 of the Three Springs Minor Subdivision Plat recorded in the office of the La Plata County Clerk and Recorder under Reception Number 883523, and as amended by the Three Springs Subdivision First Amendment Plat, recorded in the office of the La Plata County Clerk and Recorder under Reception Number 922613.

ENGINEERING, LLC

3059 Main Ave. DURANGO, COLORADO 81301
(970) 259-7534

SCALE: nts

DATE: 6/13/06

DRAWN BY: MAP

CHECKED BY:

Page 1

of 1

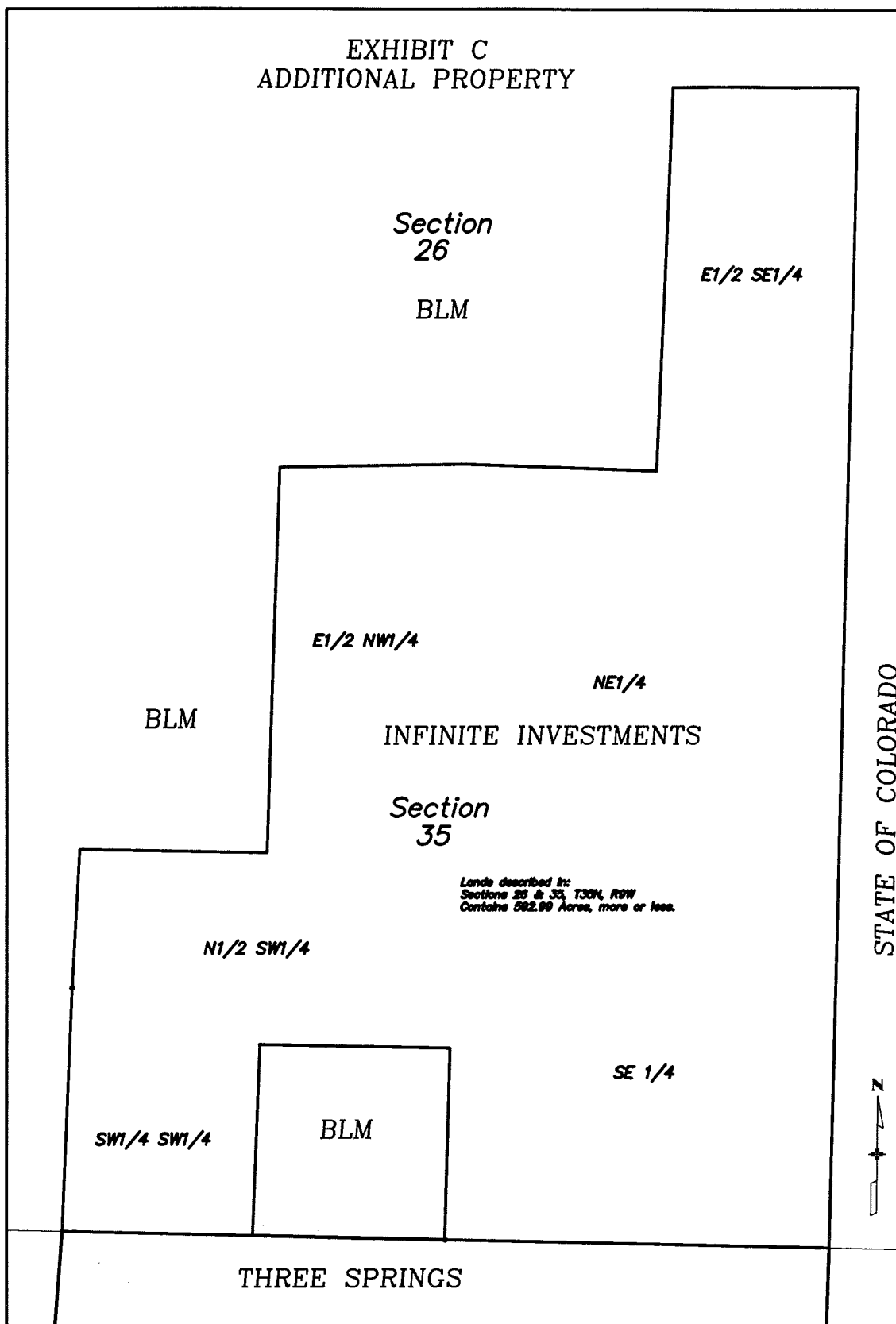
**EXHIBIT B
THREE SPRINGS
PROPERTY**

SECTION 2, T34N, R9W, N.M.P.M.

SECTION 35, T 34.5 N R9W, N.M.P.M.

NAME: METRO DIST EXHIBITS BASE.DWG	
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EXHIBIT C ADDITIONAL PROPERTY



*Land described in:
Sections 26 & 35, T35N, R9W
Contains 662.60 Acres, more or less.*

ADDITIONAL PROPERTY DESCRIPTION:

All of the E1/2NE 1/4 of Section 35, T35N, R9W, N.M.P.M.
TOGETHER WITH: a tract of land lying and being in Section 26, T35N,
R9W, N.M.P.M. on a line 74.00 feet north of and parallel to the southerly
line of said Section 26.

AND

The E1/2SE1/4 OF Section 26, T35N,R9W, N.M.P.M.
The NE1/4, SE1/4, E1/2NW1/4,N1/2SW1/4,SW1/4SW1/4, of Section 35, T35n,
R9W, N.M.P.M.

BECHTOLT

ENGINEERING, LLC

3059 Main Ave. DURANGO, COLORADO 81301
(970) 259-7534

SCALE: nts

DATE: 6/15/06

DRAWN BY: MAP

CHECKED BY:

Page 1

of 1

**EXHIBIT C
ADDITIONAL PROPERTY**

SECTION 2, T34N, R9W, N.M.P.M.
&
SECTION 35, T 34.5 N R9W, N.M.P.M.

OWN: METRO DIST EXHIBIT BASELINE



2

983613
1 of 2

9/16/2008 3:26 PM
AMD R\$11.00 D\$0.00

Linda Daley
Laplata County Clerk

CERTIFICATE OF AMENDMENT

TO

AMENDED AND RESTATED

**RESIDENTIAL DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS,
AND RESERVATION OF EASEMENTS**

FOR

THREE SPRINGS

THIS CERTIFICATE OF AMENDMENT TO AMENDED AND RESTATED RESIDENTIAL DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, AND RESERVATION OF EASEMENTS FOR THREE SPRINGS (the "Certificate of Amendment") is made as of the 16th day of September, 2008, by the President of **THREE SPRINGS RESIDENTIAL ASSOCIATION**, a Colorado non-profit corporation (the "Association").

WITNESSETH:

WHEREAS, that certain Amended and Restated Declaration of Covenants, Conditions, Restrictions, and Reservation of Easements for Three Springs was recorded on March 28, 2007, at Reception No. 954049 in the records of the Clerk and Recorder for the County of La Plata, State of Colorado (the "Residential Declaration") (all capitalized terms used herein that are defined terms in the Residential Declaration shall have the same meaning herein); and

WHEREAS, an election of the Owners of Lots and Units within the Covered Property was duly called and held pursuant to the provisions of the Articles and Bylaws of the Association, at which meeting the Members holding more than sixty-seven percent (67%) of the votes held by Members of the Association who own a Unit or Lot voted affirmatively either in person or by proxy for the adoption of the amendment set for in this Certificate of Amendment; and

WHEREAS, pursuant to the provisions of Section 15.2 of the Residential Declaration, the Members desire to amend the Residential Declaration as set forth herein.

NOW, THEREFORE, in consideration of the premises, the President of the Association hereby certifies that Section 4.2(u) of the Residential Declaration was and is hereby amended and restated in its entirety by the Members of the Association to read as follows:

"(u) Trucks, Trailers, Campers, and Boats. No mobile home, recreational vehicle, travel trailer, tent trailer, camper shell, detached camper, motor boat, boat trailer, ultra light, snowmobile, golf cart, motorcycle, industrial or commercial (cab or trailer), abandoned or

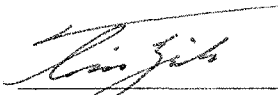
Return to
Susan Morris
175 Merceda St. Ste 240

inoperable vehicle or other similar equipment or vehicle may be parked, stored, or maintained on any Unit or Lot in Three Springs except within a fully enclosed garage. This provision shall not prohibit the storage or parking of construction equipment and machinery within Three Springs during the period of construction activities for which all applicable permits and Design Review Committee approvals have been obtained.”

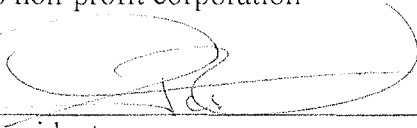
IN WITNESS WHEREOF, this Certificate of Amendment has been executed as of the day and year first set forth above.

THREE SPRINGS RESIDENTIAL ASSOCIATION, a
Colorado non-profit corporation

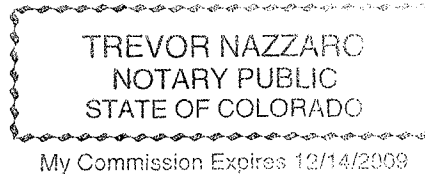
ATTEST:



Secretary

By: 
Its: President

STATE OF COLORADO)
) ss.
COUNTY OF LA PLATA)



The foregoing instrument was acknowledged before me this 16 day of September, 2008, by PATRICK VAUGHN as President of **THREE SPRINGS RESIDENTIAL ASSOCIATION**, a Colorado non-profit corporation.

WITNESS my hand and official seal.

My commission expires: 12/14/09



Notary Public