

**DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS,  
RESTRICTIONS AND EASEMENTS FOR  
TIMBER RIDGE WEST SUBDIVISION**

This Declaration amends, supersedes, and replaces the Declaration dated \_\_\_\_\_ and recorded on July 24, 2019, at Reception No. 219084513 of the records of the El Paso County Clerk and Recorder's Office.

Jacob Decoto ("Declarant") is the sole owner of real property which is more particularly described on **Exhibit A**, and depicted on the **Exhibit B** draft Plat, attached hereto and incorporated by this reference generally known as the Timber West Subdivision and hereinafter referenced as the "Subdivision" or the "Community". The Declarant desires to place limited protective covenants, conditions, restrictions, reservations, liens and charges upon the Subdivision to protect the Subdivision's quality residential living environment, to protect its desirability, attractiveness and value, and to ensure compliance with all applicable judicial decrees concerning water and water rights to be utilized within the Subdivision.

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

Certain documents are recorded in the real estate records of the Clerk and Recorder of El Paso County, Colorado at the reception numbers noted below, and referred to in this Declaration of Covenants as pertaining to the Subdivision. These include the Findings of Fact, Conclusions of Law, Ruling of Referee, and Decree concerning underlying groundwater entered by the Water Court, Water Division No. 2 in Case No. 17CW3002, and the associated approval of a Plan for Augmentation as entered by the Water Court, Water Division No. 2 in Case No. 18CW3005 recorded at Reception No. 218092597 ("Augmentation Plan" or "Water Decree"), collectively attached hereto as **Exhibit C**.

1. Definitions. The following terms utilized herein shall have the following definitions for purposes of these Declarations:

A. Act. The Act is the Colorado Common Interest Ownership Act, C.R.S. §§38-33.3-101 to 38-33.3-402, as amended from time to time, which may provide a uniform and comprehensive framework for common interest communities. Notwithstanding anything else herein to the contrary, Timber West Subdivision is exempt from all provisions of the Act.

B. Improvements. Improvements are any construction, structure, equipment, fixture, or facilities existing, or to be constructed on, the property that is included in the Subdivision, including, but not limited to, residences, buildings, trees, and shrubbery planted by Lot owners, or the Declarant, utility wires, pipes, poles, light poles, swimming pools, painting of the exterior surfaces of any structure, additions, outdoor sculptures or artwork, sprinkler pipes, garages, barns, carports, roads, driveways, parking areas, fences, screening walls, retaining walls, stairs, decks, patios, porches, sheds, fixtures, signs, exterior tanks, tennis courts, solar equipment, exterior air conditioning and water softener fixtures, grading, excavation, filling, or similar disturbance to the land, including, change of grade, change of drainage pattern, change of ground level, or change of stream bed, and any change to previously approved Improvements.

C. Residential Lot. As used in these Declarations, the term "Residential Lot" shall mean one of the two smaller lots created through the El Paso County land use planning process for the Timber West Subdivision (Lot 1 and Lot 2). It is Declarant's intent that the lot numbers used herein, if at all, correspond to the lot numbers assigned on the Subdivision Plat (the Plat being recorded in conjunction with these Declarations, and a draft attached as **Exhibit B**).

D. Rural-Residential Lot. As used in these declarations, the term "Rural-Residential Lot" shall mean the larger rural-residential lot created through the El Paso County land use planning process for the Timber West Subdivision (Lot 3), as described and depicted on the **Exhibit B** Plat, with said larger Rural-Residential Lot subject to fewer restrictions in light of its rural-residential character.

E. Plat. Plat means that certain document entitled "Plat of Timber Ridge West Subdivision," to be recorded in the Records of the Clerk and Recorder for El Paso County, Colorado, a draft of which is attached as **Exhibit B**.

F. Rules. The Rules are the regulations for the conduct of persons within the Community, as may be adopted by a simple majority of Residential Lot and Rural-Residential Lot owners from time to time pursuant to these Declarations.

G. Owner. Owner means the owner of a Residential Lot or Rural-Residential Lot, including Declarant, as described herein.

2. Name and Type of Community. The name of the Community is Timber Ridge West. Timber Ridge West is a planned community, but is exempt from the Act as set forth above.

3. Maintenance of Residential Lots/Property.

A. Individual Residential Lots. It shall be the duty and obligation of each Owner of a Residential Lot or Rural-Residential Lot within the Subdivision, at such Owner's expense, to beautify and keep neat, attractive, and in good order such Owner's

residence and the exterior portions of the dwelling thereon, and to maintain, repair, and replace the same.

B. Construction - Declarant's Easement. The Declarant reserves the right to perform warranty work, repairs, and construction work on Residential Lots and/or the Rural-Residential Lot, to store materials in secure areas, and to control, and have the right of access to, work and repairs until completion of Declarant's work within the Subdivision, or until the sale of a Residential Lot(s) or Rural-Residential Lot, whichever may occur first. The Declarant has an easement through the Residential Lots and Rural-Residential Lot as may be reasonably necessary for the purpose of discharging the Declarant's obligations or exercising his rights, whether arising under the Act or reserved in this Declaration. This easement includes the right to convey access, utility, and drainage easements to utility providers, special districts, El Paso County, or the State of Colorado.

4. Signs and Marketing. The Declarant reserves the right to post and maintain signs and displays on any Residential Lot or Rural-Residential Lot owned by Declarant in order to promote sales. Declarant also reserves the right to conduct general sales activities in a manner that will not unreasonably disturb the rights of Owners.

5. Declarant's Property. The Declarant reserves the right to remove and retain all his property and equipment used in the sales, management, construction, and maintenance of the Property, whether or not they have become fixtures.

6. Limitations on Special Declarant Rights. Unless terminated earlier by an amendment to these Declarations executed by the Declarant, any Special Declarant Right may be exercised by the Declarant until the later of the following: as long as the Declarant (a) is obligated under any warranty or obligation; (b) owns any Residential Lot; (c) owns any Security Interest in any Residential Lot; or (d) four (4) years have elapsed after recording of these Declarations. Earlier termination of certain rights may occur by statute. Nothing herein shall be deemed to affect the exemption from the Act as set forth in pursuant to Paragraph 1 of these Declarations.

7. Votes. The Owners in the Community, including the Declarant as to any Residential Lots/Rural-Residential Lot owned by the Declarant, shall have one vote in the affairs of the Community per Residential Lot/Rural-Residential Lot owned. If more than one person owns a Residential Lot or Rural-Residential Lot, those persons must agree on how to cast that Residential Lot/Rural-Residential Lot's membership vote. Co-owners may not cast fractional votes. A vote by a co-owner for the entire Residential Lot or Rural-Residential Lot's membership interest shall be deemed to be pursuant to a valid proxy, unless another co-owner objects at the time the vote is cast, in which case such Residential Lot/Rural-Residential Lot's membership vote shall not be counted.

8. Easements/Setbacks.

A. Existing Easements. All easements or licenses to which the Community is presently subject are shown on the Plat, attached as **Exhibit B**.

B. Granting of Future Easements. The Community may be subject to other easements or licenses granted by the Declarant if provided for by this Declaration.

C. Owner's Easement. Every Owner shall have an unrestricted right and easement for ingress to, and egress from, such owner's Residential Lot or Rural-Residential Lot over and across common elements, if any, which easement shall be appurtenant to and shall pass with the title to every Residential Lot and Rural-Residential Lot, subject to the right of the Declarant to dedicate or transfer all or part of any common elements to any public agency, authority, or utility for such purposes.

D. Easements Reserved and Restrictions on Drainage Easements. Easements and rights of way are reserved on, over, and under any common elements and the Residential Lots and Rural-Residential Lot as shown on the Plat, for construction, maintenance, repair, replacement, and reconstruction of poles, wires, pipes and conduits for lighting, heating, air conditioning, electricity, gas, telephone, drainage and any other public or quasi-public utility service purposes, for sewer and pipes of various kinds, and for any other necessary maintenance or repair.

E. Easement for Emergency Access. There is hereby created a right of access across all portions of the Subdivision for the passage of emergency vehicles and police, fire, and other emergency service workers.

F. Setback. A 100 foot setback is hereby created to the south of the northern Residential Lot line of Residential Lot 2, being the boundary in between Residential Lot 2 and Rural-Residential Lot 3, and no construction of permanent structures, fixtures, dwellings, driveways or other above ground infrastructure shall be constructed upon Lot 2 within said 100 foot setback.

9. Building/Subdivision Restriction. The Subdivision consists of two (2) Residential Lots and one (1) Rural-Residential Lot, and by these Covenants, a building restriction is hereby placed on all Residential Lots and the Rural Residential Lot within the Timber Ridge West subdivision prohibiting the construction of any permanent structures, buildings or above ground improvements on any platted drainage/stormwater easements, public utility easements, building setbacks, or other vested rights of way. An owner of one or more adjacent Residential Lots or Rural-Residential Lot may vacate interior lot lines through processes prescribed by El Paso County. No further subdivision of any Residential Lot shall be permitted.

10. Maintenance of Natural Forest/Vegetation Along Residential Lot Lines. The Timber West Subdivision is located on the southern edges of the Black Forest, a natural environment of Ponderosa pine, Douglas fir and associated montane ecosystems. Stands of mature Ponderosa pine and Douglas fir trees may remain in portions of the subdivision as of the time of these Declarations, which may create natural visual/sight

barriers between Residential Lots as well as maintain the natural ecosystem for local flora and fauna. Except for purposes of disease and blight control, public safety, and to the extent necessary to prepare building sites for a primary residence upon a platted Residential Lot, no portion of the remaining natural Ponderosa/Fir tree barrier located on a platted Residential Lot may be removed, timbered, cut down, or otherwise materially altered, absent amendment of these covenants by a majority of Residential Lot/Rural-Residential Lot owners, or by Declarant.

11. Construction Type. All construction on a Residential Lot within the Subdivision shall be new. No building previously used at another location, nor any building or structure originally constructed as a "mobile home" type dwelling or manufactured housing (to the extent such structures have the appearance of "mobile homes" or "doublewides"), nor dome-type structures may be constructed or moved onto any Residential Lot within the Subdivision. Panels and major house components may be manufactured off-site, provided that the assembly is conducted on-site and the resulting structure does not have the appearance generally associated with manufactured housing.

12. Underground Utilities. All future newly installed utilities, except for lighting standards and customary service devices for meters, transformers, access, control or use of utilities, shall be installed underground. Small satellite dishes for tele-communications shall be permissible.

13. Wells and Mineral Excavation. No portion of any Residential Lot within the Subdivision shall be used to explore for or to remove any water, soil, hydrocarbons, or other minerals of any kind, with the exception of properly permitted and authorized water wells consistent with the augmentation plan described in the Water Decree.

14. Maintaining of Drainage. There shall be no interference with the established drainage pattern as planned by Declarant for the entire Subdivision, including those drainage structures identified and included on the Plat.

15. Accessory Building and Yard Items. All future constructed "accessory buildings" or structures, or yard items, whether movable or immovable, including without limitation, children's play or swim sets, basketball hoops, equipment or appliances, fountains, yard ornaments, masonry figures, and above-ground swimming pools, shall be permitted only if they are designed and installed to blend in with the overall architecture of the main dwelling structure as concerns the Residential Lots. Metal and pre-manufactured storage sheds will not be allowed on Residential Lots, except to the extent they likewise blend in with the overall architecture of the main dwelling structure.

16. Fences. All fencing on Residential Lots shall be designed to blend with the architectural design of the main dwelling structure, and the overall appearance of the community. Three-rail and split-rail fencing is encouraged. Chain link fencing may only be used for dog run enclosures with cumulative area not to exceed eight hundred (800) square feet and height not to exceed six (6) feet on the Residential Lots.

17. Abandoned/Project Vehicles. No stripped down, abandoned, unlicensed, partially wrecked or junk motor vehicle or part thereof shall be permitted to be parked on any street or on any Residential Lot within the Subdivision in such a manner as to be visible at ground level from a neighboring Residential Lot within the Subdivision, or street.

18. Solar Collectors. Solar collectors or other solar devices are permitted so long as they are designed and installed to blend in with the overall architecture of other improvements on the Residential Lot. Any roof or wall-mounted collectors or solar devices on a Residential Lot must be built-in to the roof or wall, be flush with, and of the same or substantially similar pitch as, the adjacent portions of the building, and be architecturally compatible with the building upon which they are affixed. Ground level freestanding solar collectors or solar devices will be permitted on a Residential Lot as long as they are designed or screened in a manner so as to be visually compatible with the buildings and landscaping on the Residential Lot involved and to not impact views from adjacent of nearby Residential Lot within the Subdivision.

19. Sound Devices. No exterior speakers, horns, whistles, bells or other sound devices, except for built-in speakers on the decks and patios adjoined to or in the immediate vicinity of primary dwelling structures, and for security devices used exclusively for security purposes, shall be located, used or placed on any structure or within any Residential Lot. Volumes of such permitted exterior sound devices shall be maintained at such a level as to maintain the peace and tranquility of the community and subdivision.

20. Weeds. Residential Lot owners are responsible for removing plants infected with noxious insects or plant diseases which are likely to cause a spread of noxious insects or plant diseases to neighboring properties, and for controlling and removing weeds declared noxious by applicable governmental authorities and in accordance with Colorado and El Paso County weed control rules and regulations, whether or not structures have been constructed thereon.

21. Animals.

A. No animals or livestock of any kind shall be housed, raised or kept on any Residential Lot within the Subdivision, either temporarily or permanently, except as expressly provided in this Paragraph 21, as follows: (i) commonly accepted domesticated birds, fish, dogs, cats, and other small domestic animals permanently confined as household pets; (ii), an aggregate of not more than five (5) domesticated dogs and cats, or similar animals, may be maintained in or kept on each Residential Lot. No such domesticated animals may be kept or maintained in violation of provisions of the Water Decree, attached as **Exhibit C**, nor in violation of any government regulation, and all such domesticated animals must be thoroughly secured and maintained within the Residential Lot of the owner of such animals. No "farm animals" shall be kept on any Residential Lot, excepting fowl, chickens, ducks or similar fowl, not to exceed ten (10) such animals, only for personal use and enjoyment of the Residential Lot owner (no

commercial egg or fowl operations), consistent with all El Paso County chicken ordinances and applicable resolutions.

B. No animal of any kind shall be permitted on a Residential Lot which produces sounds or smells that may be reasonably regarded as offensive, or as a nuisance.

C. No kennels, whether for breeding, rent, or sale shall be allowed on any Residential Lot within the Subdivision.

D. Incessantly barking and/or off-leash dogs, and loose cats, may harm wildlife and disturb the peace of the Subdivision, and are therefore prohibited on all Residential Lots. No exterior doghouses or kennels will be permitted on a Residential Lot unless fully screened from all adjacent streets and houses, and designed to blend with the overall architecture of the primary dwelling structure on the Residential Lot.

22. Antennas. Attic antennas inside any dwelling (as opposed to roof antennas) are effective, are less vulnerable to damage, and are encouraged. Visible antennas are prohibited upon Residential Lots. Small satellite dish antennas may be installed where they will be unobtrusive. Only devices 28 inches in largest dimension or smaller shall be permitted unless screened in a manner that precludes unattractive views from public roads and adjoining Residential Lots within the Subdivision.

23. Nuisance. No noxious or offensive activity shall be permitted upon any Residential Lot, nor shall actions intended to or tending to cause embarrassment, discomfort, annoyance or nuisance to the neighborhood be permitted on any Residential Lot or Rural-Residential Lot. No hazardous activities may be permitted upon any Residential Lot. No annoying lights, sounds or odors shall be permitted to emanate from any Residential Lot. Outdoor lighting will be permitted to the extent it does not create a visual nuisance to neighboring or nearby property Owners. Any exterior lighting on any Residential Lot shall either be indirect or of such controlled focus and intensity as not to disturb residents of adjacent or nearby properties within the Subdivision. Lighting designs consistent with the design provisions of the "International Dark-Sky Association" are encouraged, minimizing local and regional light pollution. No trail bikes, mini-bikes, motorcycles, all-terrain vehicles, snowmobiles, or other such noise causing vehicles shall be operated within the Residential Lots, though such vehicles may be utilized on adjacent county roads, going to and from residences, for use in maintenance activities upon a Residential Lot, or during emergency situations including but not limited to flood, fire, and blizzard/snow emergencies. Such restrictions are inapplicable to the Rural-Residential Lot. No hunting of any kind by any form or device, nor the discharge of any type of firearm, explosive or fireworks devices shall be permitted on any Residential Lot.

24. Water Decree and Augmentation Plan.

A. Decree/Summary. The Subdivision shall be subject to the obligations and requirements as set forth in the August 9, 2018 Judgment and Decree affirming the July 18, 2019 Findings of Fact and Ruling of Referee approving a plan for augmentation, as entered by the District Court for Water Division 2, State of Colorado, in Case No. 18CW3005, as recorded at Reception No. 218092597 of the El Paso County Clerk and Recorder, which is incorporated by reference (“Augmentation Plan” or “Water Decree”, **Exhibit C**). The Augmentation Plan concerns the water rights and water supply for the Subdivision and creates obligations upon the Residential Lot and Rural-Residential Lot owners, which run with the land. The water supply for the Subdivision shall be by individual wells to the not-nontributary Dawson aquifer under the Augmentation Plan. The Augmentation Plan contemplates that each Residential Lot/Rural-Residential Lot owner will be responsible for obtaining a permit from the Colorado Division of Water Resources and drilling an individual well for water service to their residence and Residential Lot to the ~~shall Dawson aquifer, (or nontributary Denver aquifer),~~ and use of such well as consistent with the terms of the Augmentation Plan, including wastewater treatment through a non-evaporative individual septic disposal system (“ISDS”). Residential Lot/Rural-Residential Lot owners will be the owners of the Dawson aquifer underlying each of their respective properties, and a pro-rata portion of the plan for augmentation, and be responsible for reporting and administration based on pumping records, and eventually for replacement of any injurious post-pumping depletions requiring construction of deep wells to the Laramie-Fox Hills aquifer at such time as all Dawson aquifer pumping ceases.

B. Water Rights Ownership.

i. Declarant will transfer and assign to each Residential Lot owner a 0.32 annual acre foot interest in the not-nontributary Dawson aquifer, and a 96 acre foot (gross) allocation of the nontributary Laramie-Fox Hills aquifer, as adjudicated in the Water Decree as the physical source of supply for each Residential Lot, and post-pumping augmentation water, respectively (“Decoto Well Nos. 2 and 3”, as described in the Water Decree). The Dawson aquifer well on each Residential Lot shall be augmented per the Augmentation Plan as jointly administered by the Residential Lot/Rural-Residential Lot Owners.

ii. Declarant will transfer and assign to the Owner of the Rural Residential Lot a 0.58 annual acre foot interest in the not-nontributary Dawson aquifer, and a 174 acre foot (gross) allocation of the nontributary Laramie-Fox Hills aquifer, as adjudicated in the Water Decree as the physical source of supply for the Rural-Residential Lot, and post-pumping augmentation water, respectively (“Decoto Well No. 1”, as described in the Water Decree).

iii. The Declarant further assigns to the Residential Lot/Rural-Residential Lot Owners, collectively, all obligations and responsibilities for compliance with the Augmentation Plan, including monitoring, accounting and reporting obligations. By this assignment, the Declarant is relieved of any and all responsibilities and obligations

for the administration, enforcement and operation of the Augmentation Plan. Such conveyance shall be subject to the obligations and responsibilities of the Augmentation Plan and said water rights may not be separately assigned, transferred or encumbered by the Residential Lot/Rural-Residential Lot owners. The Residential Lot/Rural-Residential Lot Owners and their successors and assigns shall maintain such obligations and responsibilities in perpetuity, unless relieved of such augmentation responsibilities by decree of the Water Court, or properly entered administrative relief.

iv. Each Residential Lot/Rural-Residential Lot owner's water rights in the not-nontributary Dawson aquifer underlying their respective Residential Lot/Rural-Residential Lot shall remain subject to the Augmentation Plan, as may be amended, and shall transfer automatically upon the transfer of title to each Residential Lot/Rural-Residential Lot as an appurtenance, including the transfer by the Declarant to the initial owner of a Residential Lot/Rural-Residential Lot, whether or not separately deeded. The ground water rights in the Dawson and Laramie-Fox Hills aquifers subject to the Augmentation Plan cannot and shall not be severable from each respective Residential Lot/Rural-Residential Lot, and each Residential Lot/Rural-Residential Lot owner covenants that it cannot sell or transfer such ground water rights to any party separate from the conveyance of the Residential Lot/Rural-Residential Lot, absent a decree of the Water Court approving the same.

v. All Denver Basin groundwater in the Denver and Arapahoe aquifers, and any portion of the Dawson and Laramie-fox Hills aquifers not described in Paragraph 243.B.i. and ii., above, are expressly reserved to Declarant and may be used, traded, sold, encumbered or otherwise disposed of in Declarant's discretion, consistent with all applicable law and regulations.

vi. The Dawson and Laramie-Fox Hills aquifer water rights conveyed to each Residential Lot/Rural-Residential Lot Owner, as described in Paragraph 243.B.i. and ii., and return flows therefrom, shall not be sold, leased or otherwise used for any purpose inconsistent with the Augmentation Plan decreed in Case No. 18CW3005 and these Covenants, and shall not be separated from the transfer of title to the land, and shall not be separately conveyed, bartered or encumbered, absent a decree from the Water Court approving the same.

C. Water Administration.

i. Each Residential Lot owner shall limit the pumping of each individual Dawson aquifer well per Residential Lot to a maximum of 0.32 acre feet annually, consistent with the Augmentation Plan, and the owner of the Rural-Residential Lot shall limit the pumping of an Augmented Dawson aquifer well to 0.58 acre feet annually, likewise consistent with the Augmentation Plan. Each Residential Lot/Rural-Residential Lot owner shall further ensure that the allocations of use of water resulting from such pumping as provided in the Augmentation Plan is maintained, as between in-house, irrigation, stock water and other allowed uses. Each Residential Lot/Rural-Residential Lot owner shall use non-evaporative septic systems in order to ensure that

return flows from such systems are made to the stream system to replace depletions during pumping and shall not be sold, traded or used for any other purpose. The Residential Lot/Rural-Residential Lot Owners shall cooperatively and jointly administer and enforce the Augmentation Plan as applies to each Residential Lot/Rural-Residential Lot owner's respective Residential Lot/Rural-Residential Lot and pumping from individual Dawson aquifer wells. Such administration shall include, without limitation, accountings to the Colorado Division of Water Resources under the Augmentation Plan and taking all necessary and required actions under the Augmentation Plan to protect and preserve the ground water rights for all Residential Lot/Rural-Residential Lot owners. Each Residential Lot/Rural-Residential Lot owner has the right to specifically enforce, by injunction if necessary, the Augmentation Plan against any other Residential Lot/Rural-Residential Lot owner for failing to comply with the Residential Lot/Rural-Residential Lot owner's obligations under the Augmentation Plan, including the enforcement of the terms and conditions of well permits issued pursuant to the Augmentation Plan, and the reasonable legal costs and fees for such enforcement shall be borne by the party against whom such action is necessary. The use of the not-nontributary Dawson ground water rights owned by each Residential Lot/Rural-Residential Lot owner is restricted and regulated by the terms and conditions of the Augmentation Plan and these Declarations, including, without limitation, that each Residential Lot owner is subject to the maximum annual well pumping of 0.32 annual acre feet, and the Rural-Residential Lot owner is subject to maximum augmented well pumping of 0.58 annual acre feet. Failure of a Residential Lot/Rural-Residential Lot owner to comply with the terms of the Augmentation Plan may result in an order from the Division of Water Resources under the Augmentation Plan to curtail use of ground water rights.

ii. Each Residential Lot/Rural-Residential Lot owner shall promptly and fully account for total pumping from the individual well to the not-nontributary Dawson Aquifer on each Residential Lot/Rural-Residential Lot, including for any irrigation, stockwater or other permitted/allowed uses as may be required under the Augmentation Plan. The frequency of such accounting shall be annually, unless otherwise reasonably requested by the Division of Water Resources. Each Residential Lot/Rural-Residential Lot owner shall provide the Division of Water Resources with accounting for pumping of their respective not-nontributary individual Dawson aquifer wells on each Residential Lot/Rural-Residential Lot on an annual basis, unless otherwise reasonably requested by the Division of Water Resources.

iii. At such time as construction of a Laramie-Fox Hills aquifer well is required for replacement of post-pumping depletions under the Augmentation Plan, the Residential Lot/Rural-Residential Lot Owners shall be jointly and severally responsible for all cost and expense in the construction of said well, as well as all reasonable reporting requirements of the Division of Water Resources associated therewith.

D. Well Permits.

i. Each Residential Lot/Rural-Residential Lot Owner shall be responsible for obtaining a well permit for the individual well to the not-nontributary Dawson aquifer for provision of water supply to their respective dwellings upon their respective Residential Lot/Rural-Residential Lot. All such augmented Dawson aquifer wells shall be constructed and operated in compliance with the Augmentation Plan, the well permit obtained from the Colorado Division of Water Resources, and the applicable rules and regulations of the Colorado Division of Water Resources. The costs of the construction, operation, maintenance and repair of such individual well, and delivery of water therefrom to the residence located on such Residential Lot/Rural-Residential Lot, shall be at each Residential Lot/Rural-Residential Lot owner's respective expense. Each Residential Lot/Rural-Residential Lot owner shall comply with any and all requirements of the Division of Water Resources to log their well, and shall, if requested by the Division of Water Resources, install and maintain in good working order an accurate totalizing flow meter on the well in order to provide the diversion information necessary for the accounting and administration of the Augmentation Plan. It is acknowledged that well permits, and individual wells, may be in place on some of the Residential Lots/Rural-Residential Lot at the time of sale, and by these Declarations no warranty as to the suitability or utility of such permits or structures is made nor shall be implied.

ii. The Owners shall be jointly and severally responsible for obtaining any well permits, rights and authorities necessary for the construction of well(s) to the nontributary Laramie Fox Hills aquifer, though such well(s) shall be constructed only for purposes of replacing any injurious post-pumping depletions, consistent with the Augmentation Plan, and shall not be constructed unless and until such post-pumping depletions must be replaced. The Owners shall cooperate in such efforts, and shall comply with any and all requirements of the Division of Water Resources to log such wells.

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

E. Compliance. The Owners shall perform and comply with all terms, conditions, and obligations of the Augmentation Plan, and shall further comply with the terms and conditions of any well permits issued by the Division of Water Resources pursuant to the Augmentation Plan, as well as all applicable statutory and regulatory authority.

F. Amendments. Notwithstanding the provisions in Paragraph 26 to the contrary, no changes, amendments, alterations, or deletions to this Paragraph 243 of these Declarations may be made which would alter, impair, or in any manner compromise the Augmentation Plan, or the water rights of the Residential Lot/Rural-Residential Lot

owners without the written approval of all Owners, prior written approval of the amendments by the EL Paso County Planning and Community Development Department and the County Attorney's Office, and pursuant to a Decree from the Water Court approving such amendment or alterations, with notice to El Paso County Planning and an opportunity to participate in any such adjudication.

G. El Paso County Requirements. El Paso County may enforce the provisions regarding the Augmentation Plan as set forth in these Declarations, should the Owners fail to adequately do so.

25. Terms of Covenants and Severability. These Declarations shall run with the land and shall remain in full force and effect until amended or terminated, in whole or part, by the Owners of the entirety of the Subdivision, and filed for record with the Clerk and Records of El Paso County. If any of these Declarations be held invalid or become unenforceable, the other Declarations shall not be affected or impaired but shall remain in full force and effect.

26. Amendment of Declarations. Except as expressly mandated by applicable law, and except as limited by express provisions herein, these Declarations and the Plat may be amended only by vote or agreement of at least 67 percent of the Owners. For purposes of this Paragraph 26, Declarant shall be deemed an owner of each Residential Lot/Rural-Residential Lot until such time as such Residential Lot/Rural-Residential Lot(s) are transferred to a third party.

A. Amendment of Declaration by Declarant. Until such time as Declarant has conveyed any Residential Lots/Rural-Residential Lot to a third party, any of the provisions, covenants, conditions, restrictions and equitable servitudes contained in these Declarations, except the provisions in Paragraph 24, may be amended or terminated by Declarant by the recordation of a written instrument, executed by Declarant, setting forth such amendment or termination. Declarant reserves the right to unilaterally amend these Declarations in all circumstances permitted by law and which do not conflict with applicable statutes, rules or decrees. Notwithstanding anything contained within these Declarations, and to the extent permitted by law, if Declarant determines that any amendments to these Declarations shall be necessary in order for existing or future mortgages or other security instruments to be acceptable applicable authorities, then Declarant shall have and hereby specifically reserves the right and power to make, execute and record any such amendments without obtaining approval of Residential Lot owners or mortgagees (or any percentage thereof).

B. Limitation of Challenges. An action to challenge the validity of an amendment adopted by the Declarant pursuant to this Paragraph 26 may not be brought more than one year after such amendment is recorded.

C. Recordation of Amendments. Each amendment to these Declarations must be recorded in the records of the Clerk and Recorder for El Paso County, Colorado, and the amendment is effective only upon recording.

27. Termination. Termination of the Community may be accomplished by unanimous consent of the Owners; however, the covenants and restrictions herein regarding compliance with the Augmentation Plan shall not terminate unless the requirements of the Augmentation Plan are also terminated by order of the appropriate Water Court and a change of water supply is approved by El Paso County.

28. Persons and Residential Lots Subject to Declarations. All Owners, tenants, occupants of dwellings on Residential Lots/Rural-Residential Lot, and, to the extent they own Residential Lots/Rural-Residential Lot, mortgagees and the Declarant, shall comply with these Declarations and shall be subject to all rights and duties under the Declarations. The acceptance of a deed or the exercise of any incident of ownership or the entering into of a lease or the occupancy of a Residential Lot/Rural-Residential Lot constitutes agreement that the provisions of these Declarations, and any Rules properly enacted by the Owners are accepted and ratified by that Residential Lot/Rural-Residential Lot owner, tenant, mortgagee, or occupant. All provisions recorded in the Documents are covenants running with the land and shall bind any Persons having at any time any interest or estate in any Residential Lot or Rural-Residential Lot.

29. Enforcement. In the event that a dispute regarding an alleged violation of these Declarations cannot be resolved through discussion and negotiation of the parties, or subsequently by mediation, enforcement shall be by proceedings at law or in equity against any person(s) violating or attempting to violate any provision of these Declarations, including actions to restrain or enjoin such violation, and to recover damages. Venue shall be proper in the District Court for El Paso County, Colorado. The Owners shall abide by any injunctions so entered, without necessity of bond, in order to simplify judicial proceedings to remedy violations of these Declarations. In addition, if a judicial action is necessary to prohibit or correct a violation of these Declarations, the prevailing party shall be entitled to recovery of all costs of the enforcement proceeding, including reasonable attorney's fees.

30. Captions. The captions contained in these Declarations are inserted only as a matter of convenience and for reference and in no way define, limit, or describe the scope of the Declarations or the intent of any provision thereof.

31. Gender. The use of the masculine gender refers to the feminine gender, and vice versa, and the use of the singular includes the plural, and vice versa, whenever the context of these Declarations so require.

32. Waiver. No provision contained in these Declarations is abrogated or waived by reason of any failure to enforce the same irrespective of the number of violations or breaches which may occur.

33. Invalidity. The invalidity of any provision of these Declarations does not impair or affect in any manner the validity, enforceability, or effect of the remainder, and

if a provision is invalid, all of the other provisions of these Declarations shall continue in full force and effect.

34. Conflict. These Declarations are not intended to comply with the requirements of the Act, as the Community is exempt from the provisions of the Act. If there is any conflict between these Declarations other applicable statutes, the provisions of such statutes shall control.

IN WITNESS WHEREOF, the Declarant has caused these Declarations to be executed this \_\_ day of \_\_\_\_\_, 2019.

By: \_\_\_\_\_  
Jacob Decoto, Declarant