Chuck Broerman
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El Paso County, CO
221040906

SUBDIVISION IMPROVEMENTS AGREEMENT

THIS AGREEMENT, made between Winsome, LLC hereinafter called the "Subdivider," and El Paso County, by and through the Board of County Commissioners of El Paso County, Colorado, hereinafter called the "County," shall become effective the date of approval of the Final Plat by the Board of County Commissioners.

WITNESSETH:

WHEREAS, the Subdivider, as a condition of approval of the final plat of Winsome Filing No. 1 wishes to enter into a Subdivision Improvements Agreement, as provided for by Section 30-28-137 (C.R.S.), Chapter 5 of the El Paso County Engineering Criteria Manual and Chapter 8 of the El Paso County Land Development Code incorporated herein; and

WHEREAS, pursuant to the same authority, the Subdivider is obligated to provide security or collateral sufficient in the judgment of the Board of County Commissioners to make reasonable provision for completion of certain public improvements set forth on Exhibit A attached hereto and incorporated herein; and

WHEREAS, the Subdivider wishes to provide collateral to guarantee performance of this Agreement including construction of the above-referenced improvements by means of an irrevocable letter of credit

NOW, THEREFORE, in consideration of the following mutual covenants and agreements, the Subdivider and the County agree as follows:

1. The Subdivider agrees to construct and install, at his sole expense, all of those improvements as set forth on the Financial Assurance Estimate attached hereto and incorporated herein by reference. To secure and guarantee performance of its obligations as set forth herein, the Subdivider agrees to provide collateral to remain in effect at all times until the improvements are completed and accepted in accordance with Chapter 5 of the ECM.

   Security and collateral shall be in the form of an irrevocable letter of credit issued by Kirkpatrick Bank in the amount of $1,246,708.60

2. Subdivider is responsible for providing any renewals of collateral to ensure that there is never a lapse in security coverage. Subdivider shall procure renewal/extension/replacement collateral at least fifteen (15) days prior to the expiration of the original or renewal/extension/replacement collateral then in effect. Failure to procure renewal/extension/replacement collateral within this time limit shall be a default under this Agreement and shall allow the County to execute on the collateral. In addition, if Subdivider allows collateral to lapse at any time, no lots in the subdivision may be sold, conveyed or transferred, whether by Deed or Contract, after the expiration date of such collateral until the improvements identified on the Financial Assurance Estimate attached hereto have been completed and final acceptance is received from the County. If replacement collateral is used for renewal, approval by Board of County Commissioners is required.

3. No lots in the subdivision shall be sold, conveyed or transferred, whether by Deed or by Contract, nor shall building permits be issued until and unless the required improvements for the subdivision have been constructed and completed in accordance with the approved construction plans and preliminary acceptance is received from the County. In the alternative, lots within the subdivision may be sold, conveyed or transferred and / or have building permits issued upon

receipt of collateral acceptable to the County, pursuant to this Agreement, which is sufficient to guarantee construction of the improvements in the attached Financial Assurance Estimate.

4. The Subdivider agrees that all of those certain public improvements to be completed as identified in the attached Financial Assurance Estimate shall be constructed in compliance with the following:

    a. All laws, resolutions and regulations of the United States, State of Colorado, El Paso County and its various agencies, affected special districts and/or servicing authorities.

    b. Such other designs, drawings, maps, specifications, sketches and other matter submitted to and approved by any of the above-stated governmental entities.

5. All improvements shall be completed by the Subdivider, meeting all applicable standards for preliminary acceptance, within 24 (twenty-four) months from the date of notice to proceed in the Construction Permit for the Subdivision. If the Subdivider determines that the completion date needs to be extended, the Subdivider shall submit a written request for a change in the completion date to the ECM Administrator at least 90 days in advance of the required completion date. The request shall include the reasons for the requested change in completion date, the proposed new completion date, and prove collateral is in place to cover the extension time requested. The completion date for the Subdivision may be extended one time, for a period no longer than 6 months at the discretion of the ECM Administrator. Any additional requests for extension of the completion date will be scheduled for hearing by the Board of County Commissioners. The ECM Administrator or the Board of County Commissioners may require an adjustment in the amount of collateral to take into account any increase in cost due to the delay including inflation.

6. It is mutually agreed pursuant to the provisions of Section 30-28-137 (3) C.R.S. that the County or any purchaser of any lot, lots, tract or tracts of land subject to a plat restriction which is the security portion of a Subdivision Improvements Agreement shall have the authority to bring an action in any District Court to compel the enforcement of any Subdivision Improvements Agreement on the sale, conveyance, or transfer of any such lot, lots, tract or tracts of land or of any other provision of this article. Such authority shall include the right to compel rescission of any sale, conveyance, or transfer of any lot, lots, tract or tracts of land contrary to the provisions of any such restrictions set forth on the plat or in any separate recorded instrument, but any such action shall be commenced prior to the issuance of a building permit by the County where so required or otherwise prior to commencement of construction on any such lot, lots, tract or tracts of land.

7. It is further mutually agreed that, pursuant to the provisions of Section 30-28-137 (2) C.R.S., and Chapter 5 of the County's Engineering Criteria Manual, as improvements are completed, the Subdivider may apply to the Board of County Commissioners for a release of part or all of the collateral deposited with said Board. Upon inspection and approval, the Board shall release said collateral. The County agrees to respond to an inspection request in a reasonable time upon receipt of the request. If the Board determines that any of such improvements are not constructed in substantial compliance with specifications it shall furnish the Subdivider a list of specific deficiencies and shall be entitled to withhold collateral sufficient to ensure such substantial compliance. If the Board of County Commissioners determines that the Subdivider will not construct any or all of the improvements in accordance with all of the specifications, the Board of County Commissioners may withdraw and employ from the deposit of collateral such funds as may be necessary to construct the improvements in accordance with the specifications.

8. The Subdivider agrees, and both parties acknowledge that the construction of the improvements identified and guaranteed through this Subdivision Improvements Agreement shall follow the inspection, collateral, and acceptance process that is identified in Chapter 5 of the County's Engineering Criteria Manual. This is to include among other things, a Preliminary Acceptance process, replacement of performance collateral with appropriate Warranty collateral at that time, and a 2 year warranty period prior to final acceptance. Where any inconsistency exists between Chapter 5 of the Engineering Criteria Manual and the Land Development Code with respect to these inspections, collateral and acceptance processes, the Engineering Criteria Manual is the controlling document.

9. The Subdivider agrees to provide the County with a title insurance commitment at time of final platting evidencing that fee simple title of all lands in the subdivision is vested with the subdivider.

10. The County agrees to approval of the final plat of Winsome Filing No. 1 subject to the terms and conditions of this Agreement.

11. Parties hereto mutually agree that this Agreement may be amended from time to time provided that such amendment be in writing and signed by all parties hereto.

12. This Agreement shall take effect on the date of approval of the Final Plat by the Board of County Commissioners.

13. The Subdivider agrees for itself and its successors and assigns that Subdivider and/or its said successors and assigns shall be required to pay traffic impact fees in accordance with the El Paso County Road Impact Fee Program at or prior to the time of building permit submittals.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year below written.

BOARD OF COUNTY COMMISSIONERS OF EL PASO COUNTY, COLORADO

01/26/2021

(Date Final Plat Approved)

By: Stan VanderWerf, Chair

ATTEST:

Chuck Broerman
County Clerk and Recorder

Approved as to Form:
Lori L. Seago
County Attorney's Office

SUBDIVIDER:

WINSOME, LLC

By: _____
Andrew J. Biggs, Manager

State of Colorado)
) ss
County of El Paso)

Subscribed, sworn to and acknowledged before me this 27th day of January, 2021, by the party above named.

My commission expires: 02-26-2022.

KIMBERLY J MCGUIRE
Notary Public
State of Colorado
Notary ID # 20184008996
My Commission Expires 02-26-2022

Kimberly J McGuire
Notary Public

2019 Financial Assurance Estimate Form

Updated: 7/16/2019

PROJECT INFORMATION		
Winsome Filing 1	1/26/2021	SF-20-003
Project Name	Date	PCD File No.

Description	Quantity	Units	Unit Cost		Total	(with Pre-Plat Construction) % Complete	Remaining	
SECTION 1 - GRADING AND EROSION CONTROL IMPROVEMENTS								
* Earthwork								*
less than 1,000; $5,300 min		CY	$ 8.00	=	$ -		$ -	*
1,000-5,000; $8,000 min		CY	$ 6.00	=	$ -		$ -	*
5,001-20,000; $30,000 min		CY	$ 5.00	=	$ -		$ -	*
20,001-50,000; $100,000 min		CY	$ 3.50	=	$ -		$ -	*
50,001-200,000; $175,000 min	56,350	CY	$ 2.50	=	$ 175,000.00	80.00%	$ 35,000.00	*
greater than 200,000; $500,000 min		CY	$ 2.00	=	$ -		$ -	*
* Permanent Seeding (inc. noxious weed mgmnt.)	10	AC	$ 800.00	=	$ 8,000.00		$ 8,000.00	*
* Mulching	10	AC	$ 750.00	=	$ 7,500.00		$ 7,500.00	*
* Permanent Erosion Control Blanket	1,140	SY	$ 6.00	=	$ 6,840.00	80.00%	$ 1,368.00	*
* Permanent Pond/BMP Construction	4,000	CY	$ 20.00	=	$ 80,000.00	80.00%	$ 16,000.00	*
* Permanent Pond/BMP (Outlet Structures)	4	EA	$ 12,000.00	=	$ 48,000.00		$ 48,000.00	*
* Permanent Pond/BMP (Spillways)	4	EA	$ 16,000.00	=	$ 64,000.00		$ 64,000.00	*
Safety Fence		LF	$ 3.00	=	$ -		$ -	
Temporary Erosion Control Blanket	22,360	SY	$ 3.00	=	$ 67,080.00	100.00%	$ -	
Vehicle Tracking Control	2	EA	$ 2,370.00	=	$ 4,740.00	100.00%	$ -	
Silt Fence	5,000	LF	$ 2.50	=	$ 12,500.00	50.00%	$ 6,250.00	
Temporary Seeding		AC	$ 628.00	=	$ -		$ -	
Temporary Mulch	2	AC	$ 750.00	=	$ 1,500.00	100.00%	$ -	
Erosion Bales		EA	$ 25.00	=	$ -		$ -	
Erosion Logs/Straw Waddle	500	LF	$ 5.00	=	$ 2,500.00	100.00%	$ -	
Rock Check Dams	4	EA	$ 500.00	=	$ 2,000.00		$ 2,000.00	
Inlet Protection	6	EA	$ 167.00	=	$ 1,002.00		$ 1,002.00	
Sediment Basin		EA	$ 1,762.00	=	$ -		$ -	
Concrete Washout Basin	1	EA	$ 900.00	=	$ 900.00		$ 900.00	
* Permanent Pond/BMP (Trickle Chan/Forebay)	617	SY	$ 48.00	=	$ 29,616.00		$ 29,616.00	
[insert items not listed but part of construction plans]				=	$ -		$ -	
		MAINTENANCE (35% of Construction BMPs)		=	$ 42,643.30		$ 42,643.30	
* - Subject to defect warranty financial assurance. A minimum of 20% shall be retained until final acceptance (MAXIMUM OF 80% COMPLETE ALLOWED)		Section 1 Subtotal		=	$ 553,821.30		$ 262,279.30	
ROADWAY IMPROVEMENTS								*
Construction Traffic Control	1	LS	$ 5,000.00	=	$ 5,000.00		$ 5,000.00	*
Aggregate Base Course (135 lbs/cf)		Tons	$ 28.00	=	$ -		$ -	*
Aggregate Base Course (135 lbs/cf) 6" Thick	6,722	CY	$ 50.00		$ 336,100.00	80.00%	$ 67,220.00	*
Asphalt Pavement (3" thick)		SY	$ 14.00		$ -		$ -	*
Asphalt Pavement (4" thick)	28,298	SY	$ 19.00		$ 537,662.00		$ 537,662.00	*
Asphalt Pavement (6" thick)		SY	$ 29.00		$ -		$ -	*
Asphalt Pavement (147 lbs/cf) _" thick		Tons	$ 88.00	=	$ -		$ -	*
Raised Median, Paved		SF	$ 8.00	=	$ -		$ -	*
Regulatory Sign/Advisory Sign	15	EA	$ 300.00	=	$ 4,500.00		$ 4,500.00	*
Guide/Street Name Sign	12	EA	$ 300.00	=	$ 3,600.00		$ 3,600.00	*
Epoxy Pavement Marking	2,063	SF	$ 13.00	=	$ 26,819.00		$ 26,819.00	*
Thermoplastic Pavement Marking	31	SF	$ 23.00	=	$ 713.00		$ 713.00	*
Barricade - Type 3	2	EA	$ 200.00	=	$ 400.00		$ 400.00	*
Delineator - Type I		EA	$ 24.00	=	$ -		$ -	*
Curb and Gutter, Type A (6" Vertical)		LF	$ 30.00	=	$ -		$ -	*
Curb and Gutter, Type B (Median)		LF	$ 30.00	=	$ -		$ -	*
Curb and Gutter, Type C (Ramp)		LF	$ 30.00	=	$ -		$ -	*
4" Sidewalk (common areas only)		SY	$ 48.00	=	$ -		$ -	*
5" Sidewalk		SY	$ 60.00	=	$ -		$ -	*
6" Sidewalk		SY	$ 72.00	=	$ -		$ -	*
8" Sidewalk		SY	$ 96.00		$ -		$ -	*
Pedestrian Ramp		EA	$ 1,150.00	=	$ -		$ -	*
Cross Pan, local (8" thick, 6' wide to include return)		LF	$ 61.00	=	$ -		$ -	*
Cross Pan, collector (9" thick, 8' wide to include return)		LF	$ 92.00		$ -		$ -	*
Curb Chase		EA	$ 1,480.00	=	$ -		$ -	*
Guardrail Type 3 (W-Beam)		LF	$ 49.00	=	$ -		$ -	*
Guardrail Type 7 (Concrete)		LF	$ 72.00	=	$ -		$ -	*
Guardrail End Anchorage		EA	$ 2,098.00	=	$ -		$ -	*
Guardrail Impact Attenuator		EA	$ 3,767.00	=	$ -		$ -	*
Sound Barrier Fence (CMU block, 6' high)		LF	$ 78.00		$ -		$ -	*
Sound Barrier Fence (panels, 6' high)		LF	$ 80.00	=	$ -		$ -	*
Electrical Conduit, Size = 4	300	LF	$ 16.00	=	$ 4,800.00		$ 4,800.00	*
Traffic Signal, complete intersection		EA	$ 425,000	=	$ -		$ -	*

PROJECT INFORMATION		
Winsome Filing 1	1/26/2021	SF-20-003
Project Name	Date	PCD File No.

Description	Quantity	Units	Unit Cost		Total	(with Pre-Plat Construction) % Complete	Remaining	
				=	$ -		$ -	
[insert items not listed but part of construction plans]				=	$ -		$ -	*
STORM DRAIN IMPROVEMENTS								*
Concrete Box Culvert (M Standard), Size (W x H)		LF		=	$ -		$ -	*
18" Reinforced Concrete Pipe	106	LF	$ 65.00	=	$ 6,890.00		$ 6,890.00	*
24" Reinforced Concrete Pipe	64	LF	$ 78.00	=	$ 4,960.80		$ 4,960.80	*
30" Reinforced Concrete Pipe	85	LF	$ 97.00	=	$ 8,245.00		$ 8,245.00	*
36" Reinforced Concrete Pipe		LF	$ 120.00	=	$ -		$ -	*
42" Reinforced Concrete Pipe	92	LF	$ 160.00	=	$ 14,720.00		$ 14,720.00	*
48" Reinforced Concrete Pipe	112	LF	$ 195.00	=	$ 21,918.00		$ 21,918.00	*
54" Reinforced Concrete Pipe	219	LF	$ 245.00	=	$ 53,679.50		$ 53,679.50	*
60" Reinforced Concrete Pipe	115	LF	$ 288.00	=	$ 33,120.00		$ 33,120.00	*
66" Reinforced Concrete Pipe		LF	$ 332.00	=	$ -		$ -	*
72" Reinforced Concrete Pipe		LF	$ 380.00	=	$ -		$ -	*
18" Corrugated Steel Pipe		LF	$ 84.00	=	$ -		$ -	*
24" Corrugated Steel Pipe		LF	$ 96.00	=	$ -		$ -	*
30" Corrugated Steel Pipe		LF	$ 122.00	=	$ -		$ -	*
36" Corrugated Steel Pipe		LF	$ 147.00	=	$ -		$ -	*
42" Corrugated Steel Pipe		LF	$ 168.00	=	$ -		$ -	*
48" Corrugated Steel Pipe		LF	$ 178.00	=	$ -		$ -	*
54" Corrugated Steel Pipe		LF	$ 260.00	=	$ -		$ -	*
60" Corrugated Steel Pipe		LF	$ 280.00	=	$ -		$ -	*
66" Corrugated Steel Pipe		LF	$ 340.00	=	$ -		$ -	*
72" Corrugated Steel Pipe		LF	$ 400.00	=	$ -		$ -	*
78" Corrugated Steel Pipe		LF	$ 460.00	=	$ -		$ -	*
84" Corrugated Steel Pipe		LF	$ 550.00	=	$ -		$ -	*
Flared End Section (FES) RCP Size = 18 (unit cost = 6x pipe unit cost)	2	EA	$ 390.00	=	$ 780.00		$ 780.00	*
Flared End Section (FES) RCP Size = 24 (unit cost = 6x pipe unit cost)	2	EA	$ 468.00	=	$ 936.00		$ 936.00	*
Flared End Section (FES) RCP Size = 48 (unit cost = 6x pipe unit cost)	2	EA	$ 582.00	=	$ 1,164.00		$ 1,164.00	*
Flared End Section (FES) RCP Size = 54 (unit cost = 6x pipe unit cost)	2	EA	$ 720.00	=	$ 1,440.00		$ 1,440.00	*
Flared End Section (FES) RCP Size = 60 (unit cost = 6x pipe unit cost)	2	EA	$ 960.00	=	$ 1,920.00		$ 1,920.00	*
End Treatment- Headwall		EA		=	$ -		$ -	*
End Treatment- Wingwall		EA		=	$ -		$ -	*
End Treatment - Cutoff Wall 18" X 2	0.36	CY	$ 1,500.00	=	$ 540.00		$ 540.00	*
End Treatment - Cutoff Wall 24" X 1	0.33	CY	$ 1,500.00		$ 495.00		$ 495.00	
End Treatment - Cutoff Wall 30" X 1	0.68	CY	$ 1,500.00		$ 1,026.00		$ 1,026.00	
End Treatment - Cutoff Wall 42" X 2	2.28	CY	$ 1,500.00		$ 3,420.00		$ 3,420.00	
End Treatment - Cutoff Wall 48" X 1	1.27	CY	$ 1,500.00		$ 1,905.00		$ 1,905.00	
End Treatment - Cutoff Wall 54" X 2	4.80	CY	$ 1,500.00		$ 7,200.00		$ 7,200.00	
End Treatment - Cutoff Wall 60" X 1	1.96	CY	$ 1,500.00		$ 2,940.00		$ 2,940.00	
Curb Inlet (Type R) L=5', Depth < 5'		EA	$ 5,542.00	=	$ -		$ -	*
Curb Inlet (Type R) L=5', 5' ≤ Depth < 10'		EA	$ 7,188.00	=	$ -		$ -	*
Curb Inlet (Type R) L =5', 10' ≤ Depth < 15'		EA	$ 8,345.00	=	$ -		$ -	*
Curb Inlet (Type R) L =10', Depth < 5'		EA	$ 7,627.00	=	$ -		$ -	*
Curb Inlet (Type R) L =10', 5' ≤ Depth < 10'		EA	$ 7,861.00	=	$ -		$ -	*
Curb Inlet (Type R) L =10', 10' ≤ Depth < 15'		EA	$ 9,841.00	=	$ -		$ -	*
Curb Inlet (Type R) L =15', Depth < 5'		EA	$ 9,918.00	=	$ -		$ -	*
Curb Inlet (Type R) L =15', 5' ≤ Depth < 10'		EA	$ 10,633.00	=	$ -		$ -	*
Curb Inlet (Type R) L =15', 10' ≤ Depth < 15'		EA	$ 11,627.00	=	$ -		$ -	*
Curb Inlet (Type R) L =20', Depth < 5'		EA	$ 10,570.00	=	$ -		$ -	*
Curb Inlet (Type R) L =20', 5' ≤ Depth < 10'		EA	$ 11,667.00	=	$ -		$ -	*
Grated Inlet (Type C), Depth < 5'		EA	$ 4,640.00	=	$ -		$ -	*
Grated Inlet (Type D), Depth < 5'		EA	$ 5,731.00	=	$ -		$ -	*
Storm Sewer Manhole, Box Base		EA	$ 11,627.00	=	$ -		$ -	*
Storm Sewer Manhole, Slab Base		EA	$ 6,395.00	=	$ -		$ -	*
Geotextile (Erosion Control)		SY	$ 6.00	=	$ -		$ -	*
Rip Rap, d50 size from 6" to 24"	1,520	Tons	$ 80.00	=	$ 121,600.00		$ 121,600.00	*
Rip Rap, Grouted		Tons	$ 95.00	=	$ -		$ -	*
Drainage Channel Construction, Size (W x H)		LF		=	$ -		$ -	*
Drainage Channel Lining, Concrete		CY	$ 570.00	=	$ -		$ -	*
Drainage Channel Lining, Rip Rap		CY	$ 112.00	=	$ -		$ -	*
Drainage Channel Lining, Grass		AC	$ 1,469.00	=	$ -		$ -	
Drainage Channel Lining, Other Stabilization				=	$ -		$ -	*
				=	$ -		$ -	
[insert items not listed but part of construction plans]				=	$ -		$ -	
* - Subject to defect warranty financial assurance. A minimum of 20% shall be retained until final acceptance (MAXIMUM OF 80% COMPLETE ALLOWED)			**Section 2 Subtotal**	=	**$ 1,208,493.30**		**$ 939,613.30**	

PROJECT INFORMATION		
Winsome Filing 1	1/26/2021	SF-20-003
Project Name	Date	PCD File No.

Description	Quantity	Units	Unit Cost		Total	(with Pre-Plat Construction) % Complete	Remaining
SECTION 3 - COMMON DEVELOPMENT IMPROVEMENTS (Private or District and NOT Maintained by EPC)**							
ROADWAY IMPROVEMENTS							
				=	$ -		$ -
				=	$ -		$ -
				=	$ -		$ -
				=	$ -		$ -
				=	$ -		$ -
				=	$ -		$ -
STORM DRAIN IMPROVEMENTS	(Exception: Permanent Pond/BMP shall be itemized under Section 1)						
				=	$ -		$ -
				=	$ -		$ -
				=	$ -		$ -
				=	$ -		$ -
				=	$ -		$ -
				=	$ -		$ -
WATER SYSTEM IMPROVEMENTS							
Water Main Pipe (PVC), Size 8"		LF	$ 64.00	=	$ -		$ -
Water Main Pipe (Ductile Iron), Size 8"		LF	$ 75.00	=	$ -		$ -
Gate Valves, 8"		EA	$ 1,858.00	=	$ -		$ -
Fire Hydrant Assembly, w/ all valves		EA	$ 6,597.00	=	$ -		$ -
Water Service Line Installation, inc. tap and valves		EA	$ 1,324.00	=	$ -		$ -
Fire Cistern Installation, complete		EA		=	$ -		$ -
				=	$ -		$ -
[insert items not listed but part of construction plans]				=	$ -		$ -
SANITARY SEWER IMPROVEMENTS							
Sewer Main Pipe (PVC), Size 8"		LF	$ 64.00	=	$ -		$ -
Sanitary Sewer Manhole, Depth < 15 feet		EA	$ 4,386.00	=	$ -		$ -
Sanitary Service Line Installation, complete		EA	$ 1,402.00	=	$ -		$ -
Sanitary Sewer Lift Station, complete		EA		=	$ -		$ -
				=	$ -		$ -
[insert items not listed but part of construction plans]				=	$ -		$ -
LANDSCAPING IMPROVEMENTS	(For subdivision specific condition of approval, or PUD)						
6' WIDE HIKING TRAIL	4,536	LF	$ 6.00	=	$ 27,216.00		$ 27,216.00
10' WIDE HIKING TRAIL/ACCESS ROAD	380	LF	$ 20.00	=	$ 7,600.00		$ 7,600.00
		EA		=	$ -		$ -
		EA		=	$ -		$ -
		EA		=	$ -		$ -
** - Section 3 is not subject to defect warranty requirements			**Section 3 Subtotal**	=	**$ 34,816.00**		**$ 34,816.00**

PROJECT INFORMATION		
Winsome Filing 1	1/26/2021	SF-20-003
Project Name	Date	PCD File No.

Description	Quantity	Units	Unit Cost		Total	(with Pre-Plat Construction) % Complete	Remaining
AS-BUILT PLANS (Public Improvements inc. Permanent WQCV BMPs)		LS	$ 5,000.00	=	$ 5,000.00		$ 5,000.00
POND/BMP CERTIFICATION (inc. elevations and volume calculations)		LS	$ 5,000.00	=	$ 5,000.00		$ 5,000.00

Total Construction Financial Assurance **$ 1,807,130.60**
(Sum of all section subtotals plus as-builts and pond/BMP certification)

Total Remaining Construction Financial Assurance (with Pre-Plat Construction) **$ 1,246,708.60**
(Sum of all section totals less credit for items complete plus as-builts and pond/BMP certification)

Total Defect Warranty Financial Assurance **$ 319,566.66**
(20% of all items identified as (*). To be collateralized at time of preliminary acceptance)

Approvals

I hereby certify that this is an accurate and complete estimate of costs for the work as shown on the Grading and Erosion Control Plan and Construction Drawings associated with the Project.

COLORADO LICENSED JOSEPH W. DESJARDIN 01/26/2021 24207 PROFESSIONAL ENGINEER

✓ Joseph W. DesJardin for Monument Hill CM, LLC

Engineer (P.E. Seal Required)

✓ Joseph W. DesJardin for Winsome, LLC 01/26/2021

Approved by Owner / Applicant Date

APPROVED
Engineering Department
01/26/2021 [illegible]:07 PM
[illegible]
EPC Planning & Community Development Department

Approved by El Paso County Engineer / ECM Administrator

Chuck Broerman El Paso County, CO
03/02/2021 02:05:13 PM
Doc $0.00 32
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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF WINSOME

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF WINSOME ("**Declaration**") is made and entered into by Winsome, LLC, a Colorado limited liability company ("**Declarant**," as hereinafter more fully defined).

RECITALS

A. Declarant is the owner of certain real property situated in the County of El Paso, ("**County**") State of Colorado, which is described on **Exhibit A**, attached hereto and incorporated herein by this reference ("**Community**" or "**Property**") as hereinafter more fully defined).

B. This Declaration is exempt from the provisions of the Colorado Common Interest Ownership Act, C.R.S. § 38-33.3-101 et seq. ("**Act**") because there are no mandatory assessments created under this Declaration, and there is no obligation to pay for real estate taxes, insurance premiums, maintenance, or improvements of other real estate or common area created under this Declaration.

C. Pursuant to C.R.S. § 32-1-1004 and other provisions of Title 32 of C.R.S., the Declarant, in imposing this Declaration on the Community, intends to empower the District (as defined in **Section 1.9** below) with the authority to provide governmental services, including but not limited to the provision of covenant enforcement and architectural review services, to the Community and to use revenues that are derived from the Community for such purposes.

AFFIRMATION

NOW, THEREFORE, the Declarant hereby declares that all of the property described on the attached **Exhibit A**, as supplemented and amended (including by all annexations to this Declaration), shall be held, sold, and conveyed subject to the following covenants, conditions, restrictions, easements, reservations, rights-of-way, obligations, liabilities, charges and other provisions set forth herein.

ARTICLE 1. DEFINITIONS

Section 1.1. Intentionally Omitted.

Section 1.2. Board of Directors or Board.

"**Board of Directors**" or "**Board**" means the governing board of the District.

Section 1.3. Builder.

"**Builder**" means and includes any Person who: (i) acquired or acquires one or more Lots for the purpose of constructing at least one residence on each such Lot and selling such Unit to the public, and/or (ii) acquires one or more Units for sale to any Person fitting the description in Section 1.3(i); and is designated as a "**Builder**" under this Declaration in a written designation that is signed by the Declarant and Recorded. (Declarant or a Builder may, subject to the terms of this Declaration, create one or more common interest communities within the Community.)

Section 1.4. Community or Property.

"**Community**" or "**Property**" means real estate and Improvements described on the attached **Exhibit A**, as supplemented and amended, and subject to the provisions of this Declaration. The name of the Community is Winsome.

Section 1.5. Community Council.

"**Community Council**" means the committee appointed by the Board, as provided in Section 4.1 of this Declaration. The Community Council shall review and approve or disapprove plans for Improvements, as more fully provided in this Declaration. The Community Council shall also provide oversight over certain governance matters in connection with the Community as delegated by the Board and as more fully provided in this Declaration.

Section 1.6. Declarant.

"**Declarant**" means Winsome, LLC, a Colorado limited liability company, as well as any other Person(s) to whom Declarant (or any subsequent Declarant), by Recorded document, expressly assigns one or more rights of a Declarant under this Declaration (which shall be the extent of the Declarant's rights to which such assignee succeeds). Use of the word "**Declarant**" in the Governing Documents denotes the aforesaid entity or their designated assignee(s), as provided in the preceding sentence.

Section 1.7. Declaration.

"**Declaration**" means this Declaration of Covenants, Conditions and Restrictions of Winsome, as supplemented and amended, and also including maps and plats of the Community.

Section 1.8. Development Rights.

"**Development Rights**" means the following rights, or combination of rights, hereby reserved by the Declarant, as such Development Rights may be further described in this Declaration, to:

1.8.1 add real estate to this Community and make such real estate subject to the Governing Documents;

1.8.2 create Units;

1.8.3 subdivide or replat Units; and

1.8.4 withdraw real estate from this Community.

The Declarant may exercise its Development Rights in all or any portion of the Community or real estate proposed to be added to the Community, subject to and in accordance with the terms and conditions of this Declaration, and no assurances are made as to the boundaries or order of exercise of any Development Rights. The Declarant's rights to exercise Development Rights shall terminate automatically as provided in Section 1.20 of this Declaration (Special Declarant Rights).

Section 1.9. District.

"**District**" means the Winsome Metropolitan District No. 1, created pursuant to §32-1-101, *et. seq.*, C.R.S., and/or any other metropolitan district to which the then-District may transfer or assign any or all of the rights and duties of the District under this Declaration. Each assignment or transfer, if any, shall be effective upon recording in El Paso County, Colorado, of a document of transfer or assignment, duly executed by the then-District.

Section 1.10. District Property.

"**District Property**" means any real and personal property within the Property now or hereafter owned or leased by the District, together with all drainage improvements, landscaping improvements, trails, open space, irrigation systems, entry monuments and any other improvements now or hereafter located on such District Property.

Section 1.11. Governing Documents.

"**Governing Documents**" means this Declaration and any Rules and Regulations (as hereinafter defined), Guidelines (as hereinafter defined), and any policies and procedures and other documents now or hereafter adopted by the District, as amended or supplemented from time to time relating to design review and/or covenant enforcement.

Section 1.12. Improvements.

"**Improvements**" means all exterior improvements, structures, and any appurtenances thereto or components thereof of every type or kind, all landscaping features and hardscaping features, including but not limited to homes, condominiums, buildings, outbuildings, car ports, solar equipment, swimming pools, hot tubs, satellite dishes, antennae, tennis courts, tree houses, gazebos, garages, sheds, signs, patios, patio covers, awnings, solar collectors, yard art (including but not limited to statues, fountains, bird baths, and decorative pieces), paintings or other finish materials on any visible structure, additions, walkways, sprinkler systems, garages, driveways, dog runs, fences, including gates in fences, basketball backboards and hoops, swing sets and other play structures, screening walls, retaining walls, walkways, stairs, decks, landscaping, hedges, windbreaks, plantings, trees, shrubs, flowers, vegetables, sod, gravel, groundcover, excavation and site work, removal of trees or plantings, exterior light fixtures, poles, signs, exterior tanks, exterior air conditioning, cooling, heating and water softening equipment, if any. The term "Improvements" includes both original Improvements and all later changes, modifications, and replacements of Improvements. In addition to all requirements and restrictions set forth herein, all Improvements must comply with all applicable laws, rules, ordinances, zoning restrictions, use restrictions and other requirements of any governmental authority having jurisdiction over the Community.

Section 1.13. Lot.

"**Lot**" means each lot that is platted within the property described on the attached **Exhibit A**, which is subject to this Declaration, or a lot platted and subsequently annexed into the Community and subjected to this Declaration pursuant to Article 9 with the exception of any property publicly dedicated on a recorded plat.

Section 1.14. Intentionally Deleted.

Section 1.15. Owner.

"**Owner**" means each fee simple title holder of a Unit, including Declarant, each Builder, and each other Person who owns a Unit, but does not include a Person having an interest in a Unit solely as security for an obligation. If there is more than one fee simple holder of title, "Owner" includes each such Person, jointly and severally.

Section 1.16. Person.

"**Person**" means a natural person, a corporation, a limited liability company, a partnership, a District, a trust, a joint venture, or any other entity recognized under the laws of the State of Colorado, or any combination thereof.

Section 1.17. Records.

"**Records**" means the official real property records of El Paso County, Colorado; "**to Record**" or "**to be Recorded,**" means to file for recording in the Records; and "**of Record**" and "**Recorded**" means having been recorded in the Records.

Section 1.18. Security Interest.

"**Security Interest**" means an interest in one or more Units, real estate or personal property, created by contract or conveyance, which secures payment or performance of any obligation. The term includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of leases or rents intended as security, and any other consensual lien or title retention contract intended as security for an obligation.

Section 1.19. Security Interest Holder.

"**Security Interest Holder**" means any Person named as a mortgagee or beneficiary, or in a similar capacity, under any Security Interest or any successor to the interest of any such Person under such Security Interest.

Section 1.20. Special Declarant Rights.

"**Special Declarant Rights**" means the following rights, which rights are hereby reserved for the benefit of the Declarant and which rights may be further described in this Declaration: to build and complete Improvements; to exercise any Development Right; to maintain sales offices, construction offices, management offices, model homes and signs advertising the Community and/or Units; to use easements through the Community for the purpose of making Improvements within the Community or within real estate which may be added to the Community. All of the Special Declarant Rights may be exercised by the Declarant with respect to any portion of the Property now or hereafter within the Community. The Declarant may exercise any or all of these Special Declarant Rights at any times. Such rights shall terminate automatically either twenty-five (25) years after the date of Recording of this Declaration or five (5) years after such time as any Declarant or any Builder no longer owns any portion of the property described on the attached **Exhibit A** whichever occurs first.

Section 1.21. Unit.

"**Unit**" means Lots that have been subdivided and intended for sale to an Owner.

ARTICLE 2. DISTRICT

Section 2.1. Authority of the District to Appoint the Community Council.

The District (through the Board) shall appoint all members of the Community Council and may remove all or any of the members of the Community Council which have been appointed by the District as provided in Section 4.1.1. The District shall use reasonable efforts to appoint the Community Council in accordance with this Declaration.

Section 2.2. Cooperation and/or Delegation.

The District shall have the right and authority to cooperate with, contract with, and/or delegate to, the Community Council, any community or home owners association, or other district(s), and/or any other Person(s), in order to increase consistency or coordination, reduce costs, or as may otherwise be determined by the Board.

Section 2.3. Rules and Regulations and Policies and Procedures.

From time to time and at any time rules and regulations ("**Rules and Regulations**") and policies and procedures concerning and governing the Community may be adopted, amended, repealed and enforced by the District (through the Board of Directors) or Community Council, if delegated such authority by the District. The District (through the Board of Directors) or Community Council, if delegated such authority by the District, shall establish penalties for the infraction thereof, including the levying and collecting of fines for the violation of any of such Rules and Regulations or policies and procedures. The District shall use commercially reasonable efforts to cause the Rules and Regulations to be issued in accordance with this Declaration. The Rules and Regulations and policies and procedures may include: procedural requirements; interpretations and applications of this Declaration and law, including blanket requirements, blanket interpretations, and blanket applications; and covenants, conditions, restrictions, requirements, and/or other provisions, pertaining to any matters, including vehicles and animals. Such rules and regulations and policies and procedures may be different for different types of Units, construction or homes. No Rules and Regulations or policies and procedures that are adopted shall be contrary to this Declaration.

Section 2.4. Authenticated Electronic Representation.

Notwithstanding anything to the contrary contained in the Governing Documents, to the extent not prohibited by applicable law, the District may use technology or electronic representation in completing its duties and responsibilities. In this regard, any reference in any of such documents to action, attendance, representation, notice, quorum, voting or acknowledgement, as well as any and all other matters, may be conducted by authenticated electronic activity and, to the extent not prohibited by applicable law, the provisions of all of such documents shall be deemed to include provisions which permit such authenticated electronic activity (including without limitation telephone and email).

Section 2.5. Conveyance and Acceptance of District Property.

The Declarant expressly reserves the right to convey to the District certain Lots, tracts, parcels and/or other property or facilities which are deemed by the Declarant to be most suitable for ownership, maintenance and administration by the District, as authorized by the District's Service Plan and Colorado Special District Act set forth in §32-1-101, *et seq.,* C.R.S., and which are hereinafter referred to as "District Property" as defined in Section 1.10. The Declarant contemplates that certain drainage facilities, open space, and trails not dedicated to the County shall be owned and maintained by District. Conveyance of any real property from the Declarant, a Builder or other Owner to the District shall be made by a separate conveyance deed, bill of sale or similar instrument. District Property shall not be subject to this Declaration.

Section 2.6. Maintenance

_____The District shall cause to be maintained and kept in good condition and state of repair all District Property and any public facilities, improvements and appurtenances constructed or installed thereon, and any other property which the District has agreed to maintain. At its option, the District may contract with third parties to perform maintenance, repair, and upkeep obligations hereunder. However, the District shall remain ultimately responsible for performance of such work. Maintenance of District Property shall include, but not be limited to, the following:

ARTICLE 3. THE DISTRICT SHALL OPERATE AND MAINTAIN ANY DRAINAGE FACILITIES LOCATED ON DISTRICT PROPERTY, INCLUDING INSPECTING, OPERATING, CLEANING, MAINTAINING, AND REPAIRING ANY DETENTION PONDS PURSUANT TO THE PLAT OF WINSOME FILING NO. 1 AND IN ACCORDANCE WITH THE PRIVATE DETENTION BASIN/STORMWATER QUALITY BEST MANAGEMENT PRACTICE MAINTENANCE AGREEMENT AND EASEMENT BY AND BETWEEN THE DISTRICT, WINSOME, LLC AND THE COUNTY. FINES

Section 3.1. Personal Obligation for Fines.

Each Owner of a Unit, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, covenants and agrees, and shall be personally obligated, to pay to the District any and all fines and penalties, as provided in this Declaration; with such fines and penalties to be established and collected as hereinafter provided. If more than one person or entity is an Owner of a Unit, then all such Owners shall be jointly and severally liable to the District for the payment of all fines and penalties attributable to their Unit.

Section 3.2. Purpose of Fines and Penalties.

The fines and penalties levied by the District are used to protect and maintain the recreation, health, safety and welfare of the residents of the Community through enforcement of the Declaration, Rules and Regulations and Guidelines.

Section 3.3. Liens.

The District has the right and authority to levy and collect fines, to impose liens (as provided in C.R.S. Section 32-1-1001(1)(j)(I), as amended), to negotiate, settle and/or take any other actions

with respect to any violation(s) or alleged violations(a) of the Governing Documents. The District may collect, and shall have a statutory perpetual lien pursuant to § 32-1-1001(1)(j)(I), C.R.S. against any Unit to secure: (1) payment for reimbursement by the violating Owner for any remedial work performed by the District to remove, correct or otherwise remedy the violation, (2) payment for expenses incurred in obtaining injunctive relief, including costs and attorneys' fees, (3) payment of any fines levied by the District against such Unit, plus the following amounts, to the extent not inconsistent with applicable laws, (4) interest on such amount at a rate equal to eighteen percent (18%), and (5) all costs and expenses of collecting the unpaid amount, including, without limitation, reasonable attorneys' fees. No further Recordation of any claim of lien is required. However, the Board of Directors may prepare and record (or cause to be prepared and recorded) in the county in which the applicable Unit is located, a written notice setting forth the amount of the unpaid indebtedness, the name of the Owner(s) of the Unit, and a description of the Unit. If a lien is filed, the reasonable costs and expenses thereof shall be added to the due amount for the Unit against which it is filed and collected as part and parcel thereof. The District's lien may be foreclosed as provided by law. The lien of the District for any fees, fines rates, tolls, penalties, or charges for services, programs, or facilities furnished by the District imposed pursuant to Section 32-1-1001, C.R.S. is not subject to the provision of any homestead exemption as allowed under state or federal law. The acceptance of a deed to a Unit subject to this Declaration shall constitute a waiver of the homestead exemption as against said lien.

Section 3.4. Certificate of Status of Fines and Penalties.

The District shall furnish to an Owner, or such Owner's designee, or to a Security Interest Holder or its designee, upon written request delivered personally or by certified mail, first class postage prepaid, to the District's registered agent, a written statement setting forth the amount of unpaid fines and penalties, if any, currently levied against such Owner's Unit. The statement shall be furnished within a reasonable time after receipt of the request and is binding on the District, the Board of Directors and every Owner. The District or its agents shall have the right to charge a reasonable fee for the issuance of such certificates.

Section 3.5. Other Charges.

To the extent permitted by law, the District may levy and assess charges, costs and fees, for matters such as, but not limited to, the following, in such amounts(s) as the Board of Directors may determine, including: reimbursement of charges that are made to the District by its managing agent or other Person; copying of District or other documents; returned checks; telefaxes; long distance telephone calls; transfer charges or fees upon transfer of ownership of a Unit; notices and demand letters; and other charges incurred by the District. To the extent permitted by law the District may own, operate, lease or contract for the operation of amenities, if any, within the Community. In the event such amenities, if any, are owned, operated (contracted for operation) or leased by the District, the District may, in accordance with applicable law, charge fees for access and use of such amenities (which fees may vary for Owners within the Community and the general public).

ARTICLE 4. ARCHITECTURAL REVIEW

Section 4.1. Composition of the Community Council; Authority of Representative.

4.1.1 The Community Council shall consist of three (3) or more natural persons. The Board of Directors of the District has the authority to appoint the Community Council. The power to "**appoint**" the Community Council shall include the power to: constitute the membership of the Community Council; appoint member(s) to the Community Council on the occurrence of any vacancy therein, for whatever reason; and remove any member(s) of the Community Council, with or without cause, and appoint the successor(s) thereof. Each such appointment may be made for such term(s) of office, subject to the aforesaid power of removal, as may be set by the Board.

4.1.2 The Community Council, with the approval of the Board of Directors of the District, shall have the right and authority to: (a) delegate, in writing, some or all of the architectural authority to one or more other Persons, who shall be the Community Council's representative to act on its behalf. If the Community Council delegates any authority, then the actions of such representative shall be the actions of the Community Council, subject to the right of appeal as provided below. However, if such a representative is appointed, the Community Council shall have the power to withdraw from such representative any of such representative's authority, and shall also have the power to remove or replace such representative.

Section 4.2. Required Review and Approval; Reimbursement for Expenses.

4.2.1 Except as provided in Sections 4.10 and 4.13 of this Declaration, no Improvements shall be constructed, erected, placed, planted, applied or installed upon any Unit, unless complete plans and specifications therefor (said plans and specifications to show exterior design, height, materials, color, and location of the Improvements, plotted horizontally and vertically, location and size of driveways, location, size, and type of landscaping, fencing, walls, retaining walls, windbreaks and grading plan, as well as such other materials and information as may be required by the Community Council), shall have been first submitted to and approved in writing by the Community Council. Each Owner acknowledges that there may be certain landscaping design requirements imposed by the Board (or other governmental authority) that each Owner may be required to observe at such Owner's sole cost.

4.2.2 The Community Council shall endeavor to exercise its judgment to the end that all Improvements reasonably conform to and harmonize with the existing surroundings, residences, landscaping and structures.

4.2.3 The Guidelines may provide for the payment of a fee to accompany each request for approval of any proposed Improvement submitted to the Community Council. Any such fee shall be uniform for similar types of proposed Improvements or shall be determined in any other reasonable manner. Additionally in its review of such plans, specifications and other materials and information, the Community Council may require that the applicant(s) reimburse the Community Council for the actual expenses incurred, or reasonably anticipated to be incurred, by the Community Council, in the review and/or approval process.

4.2.4 In addition to the required approvals by the Community Council as provided in this Article, the construction, erection, addition, deletion, change or installation of any Improvements shall also require the applicant to obtain the approval of all governmental entities with jurisdiction thereover, and issuance of all required permits, licenses and approvals by all such entities. Without limiting the generality of the preceding sentence, issuance of building permit(s) by the applicable governmental authority, if required, shall be a precondition to commencement of construction of, alteration of, addition to or change in, any Improvement. The Community Council shall not review or approve any proposed Improvements for compliance with governmental requirements. The Community Council makes no representations or warranties with respect to plans reviewed and shall have no liability with respect to review and approval of any plant or specifications.

4.2.5 In addition to the authority that is given to the Community Council in this Declaration, as well as such authority as may be implied from any provision(s) of this Declaration, the Community Council shall have all authority and to receive and review complaints from one or more Owners, any Declarant, one or more Builders, or any other Person(s), alleging that a violation of any of the Governing Documents has occurred or is occurring.

Section 4.3. Procedures.

The Community Council shall decide each request for approval within forty-five (45) days after the complete submission of the application or request and all plans, specifications and other materials and information which the Community Council may require in conjunction with such application or request. If the Community Council fails to decide any application or request within forty-five (45) days after the complete submission of the plans, specifications, materials and other information with respect thereto, then such application or request for approval shall be deemed to have been denied by the Community Council.

Section 4.4. Vote and Appeal.

The affirmative vote of a majority vote of the Community Council is required to approve a request for approval pursuant to this Article (which may be with conditions and/or requirements), unless the Community Council has appointed a representative or committee to act for it, in which case the decision of such representative or committee shall control. In the event a representative or committee acting on behalf of the Community Council denies a request for approval, then any Owner shall have the right to an appeal of such decision to the full Community Council, upon a written request therefor submitted to the Community Council within ten (10) days after such decision by the Community Council's representative. The decision of the Community Council shall be final. No additional or further appeals are permitted, nor will any be recognized.

Section 4.5. Prosecution of Work After Approval.

After approval of any proposed Improvement by the Community Council, the proposed Improvement shall be accomplished as promptly and diligently as possible and in complete conformity with the terms and conditions of the approval. Failure to complete the proposed Improvement within one (1) year after the date of approval of the application, or failure to complete the Improvement in complete conformance with terms and conditions of the approval, shall constitute noncompliance with the requirements for approval issued by the Community Council and

a violation of this Article; provided, however, that the Community Council may grant extension(s) of time for completion of any Improvement(s). Upon the completion of an Improvement, the applicant for approval of the same shall give a written **"Notice of Completion"** to the Community Council. Until the date of receipt of such Notice of Completion, the Community Council shall not be deemed to have notice of completion of any Improvement on which approval (which may be with conditions and/or requirements) has been sought and granted as provided in this Article.

Section 4.6. Inspection of Work.

The District, the Board of Directors and the Community Council, or their duly authorized representatives or committees, shall have the right to inspect any Improvement at any time, including prior to, during, or after completion during reasonable hours after reasonable notice to the Owner(s) or occupant(s) of any affected Unit; except that no such notice shall be required in connection with any exterior, non-intrusive inspection. Such inspections may be made in order to determine whether or not the proposed Improvement is being completed, or has been completed, in compliance with the approval granted pursuant to this Article.

Section 4.7. Notice of Non-Compliance.

If, as a result of inspections or otherwise, the Community Council determines that any Improvement has been done without obtaining the required approval (which may be with conditions and/or requirements), or was not done in substantial compliance with the approval that was granted, or has not been completed within one (1) year after the date of approval, subject to any extensions of time granted pursuant to Section 4.5 hereof, then the District shall notify the applicant in writing of the non-compliance. Such notice of non-compliance shall be given not later than sixty (60) days after the Community Council receives a Notice of Completion from the applicant. The notice of non-compliance shall specify the particulars of the non-compliance.

Section 4.8. Correction of Non-Compliance.

If the Community Council determines that a non-compliance exists, the Owner responsible for such non-compliance shall remedy or remove the same within not more than forty-five (45) days from the date of receipt of the notice of non-compliance. If such Owner does not comply with the ruling within such period, the District may, at its option, record a notice of non-compliance against the Unit on which the non-compliance exists, may impose fines, penalties and interest, may remove the non-complying Improvement, or may otherwise remedy the non-compliance, and the Owner responsible for such non-compliance shall reimburse the District, upon demand, for all costs and expenses, as well as anticipated costs and expenses, with respect thereto. Such fees, costs and expenses shall be the personal obligation of the Owner and shall be part of the District's lien as described in Section 3.3 and shall be collectible by the District in the same manner as other fees authorized to be charged and collected by the District pursuant to Colorado law.

Section 4.9. Standards/Guidelines.

Except as provided in the last sentence of this Section, the Board of Directors of the District, or the Community Council if delegated such authority by the District, has the authority to enact, issue, promulgate, modify, amend, repeal, re-enact, and enforce architectural standards, guidelines, rules and regulations (collectively, **"Guidelines"**) to interpret and implement the design review provisions of this Declaration. Such provisions of the Guidelines may include: clarifying the types

of designs and materials that may be considered in design approval; requirements for submissions in order to obtain review by the Community Council, procedural requirements, and acceptable Improvement(s) that may be installed without the prior approval of the Community Council; architectural standards, design guidelines, requirements, and/or other provisions pertaining to architectural design and approvals; provisions that are different for different types, sizes or prices of Units, construction of residences (including without limitation garages, sprinkler systems, porches and overhangs); and permitting the District, with respect to any violations or alleged violations of any of the Governing Documents, to send demand letters and notices, levy and collect fines and interest, and negotiate, settle and take any other action, including without limitation legal action. In addition, such provisions may provide for blanket approvals, interpretations or restrictions on Improvements. By way of example, and not by way of limitation, such provisions may state that a certain type of screen door will be acceptable and will not require approval. All Improvements proposed to be constructed, and any Guidelines that are adopted, shall be done and used in accordance with this Declaration.

Section 4.10. Variance.

The Community Council may grant reasonable variances or adjustments from any conditions and restrictions imposed by this Article or Guidelines, in order to overcome practical difficulties or prevent unnecessary hardships arising by reason of the application of any such conditions and restrictions. Such variances or adjustments shall be granted only in case the granting thereof shall not be materially detrimental or injurious to the other property or Improvements in the Community and shall not militate against the general intent and purpose hereof. However, any variance that may be granted under this Section is only a variance from the requirements of the applicable Governing Document for the individual applicant, and is not a variance from the requirements of any applicable governmental or quasi-governmental agency or entity. No granting of a variance or adjustment to any one applicant/Owner shall constitute a variance or adjustment, or the right to a variance or adjustment, to any or all other applicants/Owners.

Section 4.11. Waivers; No Precedent.

The approval or consent of the Community Council or any representative thereof, to any application for approval shall not be deemed to constitute a waiver of any right to withhold or deny approval or consent by the Community Council, or any representative thereof, as to any application or other matters whatsoever as to which approval or consent may subsequently or additionally be required. Nor shall any such approval or consent be deemed to constitute a precedent as to any other matter.

Section 4.12. Liability.

Neither the Community Council, nor any members, employees, agents or representative or committee thereof, nor any Declarant, Builder or District, nor any owners, officers, employees or agents thereof (the "**Released Parties**"), shall be liable in equity or damages to any Person submitting requests for approval or to any Person by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove. In reviewing any matter, Released Parties shall not be responsible for the safety, whether structural or otherwise, of any item(s) submitted for review, nor the conformance with applicable building codes or other governmental laws or regulations, and any approval of an Improvement by the Community Council, District, or a Declarant, shall not be

deemed an approval of any such matters, will not be deemed to represent that the Improvement conforms to applicable law or complies with any other standards or regulations, and will not constitute a warranty by the Community Council to any applicant of the adequacy of design, workmanship or quality of such work or materials for any applicants' intended use. The Community Council will not make any investigation into title, ownership, easements, rights-of-way, or other rights appurtenant to property with respect to architectural requests and shall not be liable for any disputes relating to the same. No Person shall be a third party beneficiary of any obligation imposed upon, rights accorded to, action taken by, or approval or disapproval granted by, the Community Council, District or a Declarant. Each Owner (i) waives and releases the Released Parties from all claims related to approval or disapproval of any Improvements and (ii) waives and releases all claims against the Released Parties. The foregoing release and waiver are made by each Owner to the fullest extent permitted by the law and for and on behalf of itself, its assigns, executors, heirs, occupants, personal representatives, representatives, and successors. The Community Council members, acting in that capacity, shall not be liable for any mistake of judgment, negligence or otherwise, except for their own individual willful misconduct or bad faith. The Community Council members, acting in that capacity, have no personal liability with respect to any contract or other commitment made or action taken on behalf of the Community Council.

Section 4.13. Declarant's and District's Exemption; Each Builder's Exemption.

4.13.1 Notwithstanding anything to the contrary in this Declaration, Declarant is exempt from all provisions of this Article and all other provisions of the Governing Documents and any other matters that require Community Council review and/or approval, except the requirements to obtain approval of the governmental entities (other than the District or any other governmental entity that enforces any of the Governing Documents) with jurisdiction thereover as provided in Section 4.2.4 of this Declaration.

4.13.2 Provided that each Builder's plans and specifications for construction of Improvements are in material accordance with Governing Documents and have been approved in writing by Declarant, each Builder is exempt from the provisions of this Article and all other provisions of the Governing Documents that require Community Council review and/or approval, except for the requirements to obtain approval from the governmental entities (other than the District or any other governmental entity that enforces any of the Governing Documents) with jurisdiction thereover as provided in Section 4.2.4 of this Declaration.

ARTICLE 5. INSURANCE

Section 5.1. Insurance.

The District may maintain insurance in connection with its functions. Such insurance to be maintained by the District may include property insurance, commercial general liability insurance, fidelity coverage and personal liability insurance to protect directors and officers of the District from personal liability in relation to their duties and responsibilities in acting as directors and/or officers on behalf of the District. In addition, the District may maintain insurance against such other risks as the Board of Directors may determine. Nothing herein shall be construed or interpreted as a waiver of the District's governmental immunity as provided by law.

Section 5.2. Insurance to be Maintained by Owners.

Insurance coverage on each Owner's Unit, and the Improvements thereon, as well as on personal property belonging to an Owner to provide for replacement cost coverage, and public liability insurance coverage on each Unit, is the sole responsibility of the Owner of such Unit.

ARTICLE 6. EASEMENTS

Section 6.1. Access Easement.

Each Owner hereby grants to the District, the Board of Directors, the Community Council and to their agents, employees and contractors, a right and easement on, over, under, across and through such Owner's Unit for and incidental to inspection and/or enforcement, incidental to any term or provision of any of the Governing Documents. The rights and easements granted in this Section may be exercised only during reasonable hours after reasonable notice to the Owner(s) or occupant(s) of any affected Unit; except that no such notice shall be required in connection with any exterior, non-intrusive entry. The interior of any residence shall not be subject to the easements provided for in this Section.

Section 6.2. Drainage Easement.

Declarant hereby reserves, to itself and to the District, easements for drainage and drainage facilities across the twenty-five (25) rear, twenty-five (25) front, and twenty-five (25) side feet of each Lot; provided, however, that if a residence is located upon any of the areas described in this sentence, then such easement shall be reduced in width to the width of the distance from the nearest lot line of such Lot to the exterior wall of the residence on such Lot that is nearest to such lot line. Except for residences as provided in the preceding sentence, no Improvements shall be placed or permitted to remain on any Lot nor shall any change in grading be permitted to exist which may change the direction of flow or obstruct or retard the flow of water or other moisture through channels or swales within such rear, front and side yard drainage easements. Declarant reserves to itself and to the District the right to enter in and upon each such rear, front and side yard drainage easements to construct, repair, replace or change drainage pipes, structures or drainage ways, or to perform such grading, drainage or corrective work as a Declarant or the District may deem necessary or desirable; provided, however, that such right and authority in the Declarants shall cease at such time as the Special Declarant Rights automatically terminate as provided in Section 1.20 of this Declaration.

Section 6.3. Easement for Unannexed Property.

Declarant and the District hereby reserves, for the use and benefit of any property owned by Declarant and located proximately to the Community which may be annexed pursuant to Article 9 ("**Annexable Area**"), a non-exclusive, perpetual easement for pedestrian and vehicular access, ingress and egress, on, over and across the roads, driveways, streets, alleys, sidewalks, access ways and similar areas, now or hereafter constructed, erected, installed or located in or on the Community, for utilities and the construction, location, erection, installation, storage, maintenance, repair, renovation, replacement, reading, and use of any utilities Improvements that may now or hereafter serve the Annexable Area or any portion thereof (herein collectively the "**Annexable Area Easement**"). By virtue of this Annexable Area Easement, Declarant generally intends to provide for pedestrian and vehicular access and for utilities services to those portion(s) of the

Annexable Area which have not been included in the Community. Hence, the Annexable Area Easement shall be in effect for each portion of the Annexable Area, from and after Recording of this Declaration, but shall cease to be effective as to each portion of the Annexable Area at such time as the following have occurred with respect to such portion of the Annexable Area: annexation of such portion of the Annexable Area to this Declaration; and expiration of a Declarant's right to withdraw such portion of the Annexable Area from this Declaration.

ARTICLE 7. RESTRICTIONS

Section 7.1. Restrictions Imposed.

The Community shall be held and shall henceforth be sold, conveyed, used, improved, occupied, owned, resided upon and transferred, subject to the following provisions, conditions, limitations, restrictions, agreements and covenants, as well as those contained elsewhere in this Declaration.

Section 7.2. Compliance With Laws. All Owners, all permittees, and all other Persons, who reside upon or use any Unit or any other portion of the Community, shall comply with all applicable statutes, ordinances, laws, regulations, rules and requirements of all governmental and quasi-governmental entities, agencies and authorities, including without limitation all zoning, PUD, use restrictions and other requirements set forth in any recorded zoning documents or otherwise promulgated by any governmental authority.

Section 7.3. Residential Use; Certain Permitted Business Activities.

Subject to Section 9.4 of this Declaration (Declarant's and Each Builder's Use), Units shall be used for residential use only, including uses which are customarily incident thereto, and shall not be used at any time for business, commercial or professional purposes. Notwithstanding the foregoing, however, Owners may conduct business activities within their homes provided that all of the following conditions are satisfied, as determined by the Board:

7.3.1 The business conducted is clearly secondary to the residential use of the dwelling unit and is conducted entirely within the dwelling unit;

7.3.2 The existence or operation of the business is not detectable from outside of the dwelling unit by sight, sound, smell or otherwise, or by the existence of signs;

7.3.3 The business does not result in an undue volume of traffic or parking that affects the Community;

7.3.4 The business conforms to all zoning provisions and is lawful in nature; and

7.3.5 The business conforms to all District Rules and Regulations and policies and procedures or by an adopted amendment.

Section 7.4. Nuisances.

No nuisance shall be permitted which is visible within or otherwise affects the Community or any portion thereof, nor any use, activity or practice which interferes with the peaceful enjoyment

or possession and proper use of the Units in the Community or any portion thereof. As used herein, the term "**nuisance**" shall include each violation of any of the Governing Documents or law, but shall not include any activities of a Declarant, District or Community Council which are incidental to the development and construction of, and promotion, marketing, and sales activities in, the Community. No noxious or offensive activity shall be carried on upon any Unit nor shall anything be done or placed on any Unit which is a nuisance.

Section 7.5. Animals.

Subject to applicable law, residents of the Community may keep animals on their Units. Notwithstanding the foregoing, the District through the Community Council may, from time to time, adopt rules, restrictions and requirements that may, among other things limit the number, species, type and breed of animals that may be kept within the Community. Animals shall not be kept for any commercial purpose and shall not be kept in such number or in such manner as to create a nuisance or undue noise to any resident of the Community. If the Community Council determines that any rules adopted by the Community Council have been violated, the District, through the Community Council may take any action(s) to correct the same. The right to keep any animals is coupled with the responsibility to pay for any damage caused by such animals, as well as all costs incurred by the District as a result of such pets or animals. The District may, at its election, from time to time, delegate its right and authority under this Section to the Community Council.

Section 7.6. Miscellaneous Improvements.

7.6.1 No advertising or signs of any character shall be erected, placed, permitted or maintained other than: a name plate of the occupant and a street number; a "**For Sale**," "**Open House**," "**For Rent**" and/or security sign(s) of not more than six (6) square each feet posted only for the purpose of selling, renting or evidencing the existence of a security system on such Unit; and political signs and other signs, in conformance with all other laws and regulations; and such other signs, for such length(s) of time, which have the prior written approval of the Community Council or are otherwise expressly permitted by the Rule and Regulation or Guidelines or by law; provided, however, that any and all such advertising or signs shall be subject to any and all specifications and/or Guidelines adopted by the Board of Directors. Notwithstanding the foregoing, any signs, advertising, or billboards, may be used by a Declarant, the District, or a Builder, without regard to any specifications or any Rules and Regulations, and without the prior written approval of the Board, the Community Council, or any other Person.

7.6.2 No wood piles or storage areas shall be so located as to be visible from a street, from the ground level of any Unit or from any adjoining property.

7.6.3 Except as may otherwise be permitted in writing by the Community Council, no exterior radio antenna, television antenna, or other antenna, satellite dish, or audio or visual reception device of any type shall be placed, erected or maintained on any Unit, except inside a residence (including garages, porches and overhangs) or otherwise concealed from view; provided, however, that any such devices may be erected or installed by a Declarant, the District, or a Builder during its development, sales or construction; and provided further, however, that the requirements of this subsection are subject to the Telecommunications Act of 1996 and applicable regulations, as amended from time to time.

7.6.4 No fences shall be permitted without the prior written approval of the Community Council, except such fences as may be constructed, installed or located, in the Community, by a Declarant, the District, or a Builder.

This Section 7.6 shall be construed and applied in accordance with all applicable laws.

Section 7.7. Vehicular Parking, Storage and Repairs; Use of Garages.

7.7.1 No house trailer, camping trailer, boat trailer, hauling trailer, jet ski, boat, or accessories thereto, truck (excluding, except as hereinafter provided, pickup trucks that are rated 1 ton or less), self-contained motorized recreational vehicle, or other type of recreational or commercial vehicle or equipment, may be parked or stored on a Unit, unless such parking or storage is entirely within the garage area of such Unit or will be suitably screened from view in accordance with the Rules and Regulations or prior written approval of the Community Council. However, any such vehicles may be otherwise parked as a temporary expedient for loading, delivery, or emergency for up to 72 hours maximum. This restriction, however, shall not restrict trucks or other commercial vehicles that are necessary for construction or maintenance of any portion of the Community or any Improvements located thereon.

7.7.2 No abandoned or inoperable automobiles or vehicles of any kind shall be stored or parked on a Unit, unless such parking or storage is entirely within the garage area of such Unit. An "**abandoned or inoperable vehicle**" shall be defined as any automobile, truck, motorcycle, or other similar vehicle, which has not been driven under its own propulsion for a period of thirty days or longer, or which does not have an operable propulsion system installed therein,; provided, however, that otherwise permitted vehicles may be parked for such length(s) of time as determined by the Board and/or as provided in the Rules and Regulations and/or policies and procedures of the District.

7.7.3 In the event the District (or Community Council if delegated by the District) shall determine that a vehicle is parked or stored in violation hereof, then a written notice describing said vehicle may be personally delivered to the owner thereof (if such owner can be reasonably ascertained) or may be conspicuously placed upon the vehicle (if the owner thereof cannot be reasonably ascertained), and if the vehicle is not removed within a reasonable time thereafter, as determined by the District, the District shall have the right to remove the vehicle at the sole expense of the owner thereof. If a vehicle is removed in accordance with this Section, neither the District, or any officer or agent of the District shall be liable to any Person for towing and storage costs or for any claim of damage as a result of the towing activity. The District's right to remove a vehicle is in addition to, and not in limitation of all other rights of the District, including the right to assess fines. Notwithstanding anything to the contrary in this Section, the District may elect to impose fines or use other available sanctions, rather than exercise its authority to remove a vehicle. The district may delegate its enforcement rights and obligations under this Article 7 to the Community Council.

7.7.4 No activity such as, but not limited to, maintenance, repair, rebuilding, dismantling, repainting or servicing of any kind of vehicles, trailers or boats, may be performed or conducted in the Community unless it is done within a completely enclosed structure which screens the sight and sound of the activity from the street and from adjoining property. The foregoing

restriction shall not be deemed to prevent the washing and polishing, on a Unit, of any motor vehicle, boat, trailer, motor cycle, or other vehicle, together with those activities normally incident and necessary to such washing and polishing subject to any watering restrictions.

Section 7.8. No Activities; No Hazardous Materials or Chemicals.

No activities shall be conducted on any Unit, or within Improvements constructed on any Unit, which are unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon any Unit, and no open fires shall be permitted on any Unit, except in a contained barbecue unit while attended and in use for cooking purposes, or within a fireplace and/or fire pit, or except such campfires or picnic fires on property which may be designated for such use by the District. Further, no hazardous materials or chemicals shall at any time be located, kept or stored in, on or at any Unit except such as may be contained in household products normally kept at homes for use of the residents thereof and in such limited quantities so as to not constitute a hazard or danger to person or property.

Section 7.9. No Annoying Lights, Sounds or Odors.

The Community has implemented or may implement a Dark Skies initiative to minimize nighttime light pollution in the Community. The District, through the Community Council or otherwise may, from time to time, adopt additional rules and regulations to reduce or mitigate nighttime light pollution and such rules may include, without limitation, limits on brightness, number, direction and shielding of all exterior lighting sources. No light shall be emitted from any Unit which is unreasonably bright or causes unreasonable glare. All outdoor lights must be shielded and floodlights are not permitted. No sound shall be emitted from any Unit which exceeds the El Paso County noise level ordinance of 55 DB from 7AM – 7PM or 50 DB from 7PM – 7AM. is unreasonably loud or annoying; and no odor shall be permitted from any Unit which is noxious or offensive to others Further, no annoying light, sound or odor shall be permitted in any portion of the Community that may be seen, heard or smelled from any other Unit. Additionally, the Community Counsel may from time to time adopt rules allowing and regulating the use and display of holiday lighting and displays.

Section 7.10. Restrictions on Trash and Materials.

No refuse, garbage, trash, lumber, grass, shrubs or tree clippings, plant waste, metal, bulk materials, scrap or debris of any kind shall be kept, stored, or allowed to accumulate, except inside a suitable, tightly-covered container inside the home (including garages and overhangs along the sides or rear of the home), on any Unit, nor shall any such items be deposited on a street or sidewalk, unless placed in a suitable, tightly-covered container that is suitably located solely for the purpose of garbage pickup. Further, no trash or materials shall be permitted to accumulate in such a manner as to be visible from any other portion of the Community. No trash, garbage or other refuse shall be burned in outside containers, barbecue pits or the like. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. No garbage cans, trash cans or other trash receptacles shall be maintained in an exposed or unsightly manner.

Section 7.11. Sightly Condition of Units.

Each Unit shall at all times be kept, maintained, repaired and replaced in a good, clean and sightly condition by the Owner thereof.

Section 7.12. Leases.

7.12.1 The term "**lease**," as used herein, shall include any agreement for the leasing or rental of a Unit, Improvements thereon, or any portion thereof, and shall specifically include month-to-month rentals and subleases. Any Owner shall have the right to lease his Unit, or any portion thereof, under the following conditions:

7.12.2 All leases shall be in writing and for a term of not less than 90 days and no Unit may be rented or leased for short term uses including without limitation short term rentals through VRBO, AirBnB, HomeAway or similar vacation and short term rental services without the approval of the Board; and

7.12.3 All leases shall provide that the terms of the lease and lessee's occupancy of the leased premises shall be subject in all respects to the Governing Documents; and that any failure by the lessee to comply with any of the aforesaid documents, in any respect, shall be a default under the lease.

Section 7.13. Non-Interference with Grade and Drainage.

The grading upon each Unit shall be maintained by the Owner thereof or by any owners association formed for any portion of the Property which is responsible for the maintenance of the grading on such Unit at the slope and pitch fixed by the final grading thereof. No Owner or any such owners association shall interfere in any way with the established drainage pattern over any real property maintained by the same, from adjoining or other real property. For purposes of this Section, "established drainage" is defined as the drainage which exists at the time final grading on the Unit is completed by the Builder of residence or structure on the Unit in accordance with the approved lot grading plan as approved by the County or any other governmental authority with jurisdiction over the Community. Any Owner who changes the established drainage on his or her Unit may void warranties applicable to affected components of the home and shall be liable for all costs and expenses of repairing such changes, or any costs, liabilities, damages or causes of action arising out of such changes. Each Owner shall hold harmless the District, Declarant, the Board and the Community Council for any and all damage to any party caused by any change to the established drainage on the Owner's Unit.

Section 7.14. Restrictions on Mining or Drilling.

No portion of the surface of any property within the Community may be used for the purpose of mining, quarrying, drilling, boring or exploring for or removing oil, gas or other hydrocarbons, minerals, rocks, stones, gravel, earth or water. Nothing herein is intended to prevent slant drilling or other techniques to access such minerals, oil and gas in a manner that does not utilize or damage the surface.

ARTICLE 8. WATER COVENANTS

Section 8.1. Water Replacement Plan.

8.1.1. The Community shall be subject to the obligations and requirements set forth in the February 3, 2020 Approval for Replacement Plan – Determination of Water Right No. 1692-BD for the Dawson aquifer, as recorded at Reception No. 220124157 of the El Paso County Clerk and recorder, which is incorporated by reference ("Replacement Plan"). The Replacement Plan concerns the water rights and water supply for the Community and creates obligations upon the Community and the Lot owners, which run with the land. The water supply for the Community shall be by individual wells to the not-nontributary Dawson aquifer under the Replacement Plan.

8.1.2. The Replacement Plan contemplates that each 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 Lot to the Dawson aquifer, and use of such well as consistent with the terms of the Replacement Plan, including wastewater treatment through a non-evaporative individual septic disposal system ("ISDS"). Lot owners will be the owners of the Dawson aquifer underlying each of their lots, while the District will own the Replacement Plan and be responsible for reporting and administration based on pumping records provided by each Lot Owner.

Section 8.2. Water Rights Ownership.

8.2.1 Declarant will transfer and assign to the District all right, title and interest in the Replacement Plan and water rights thereunder, except as set forth herein. Declarant will transfer and assign to each Lot owner a proportionate prorate-per-acre interest in the not-nontributary Dawson aquifer, as determined in the Ground Water Determination as the physical source of supply. Depletions resulting from the use of each Dawson aquifer well on each of the Lots shall be replaced per the terms of the Replacement Plan. Based on the Declarant's intent expressed in these Covenants that each Lot owner will be able to withdraw water from the Dawson aquifer, in order to comply with El Paso County's 300-year water supply requirement, Declarant shall convey to each Lot owner at least 180 acre-feet total (0.6 acre-feet/year x 300 years) of Dawson aquifer water.

8.2.2. The Declarant will further assign to the applicable Lot owners all obligations and responsibilities for compliance with the Replacement Plan, including monitoring, accounting and reporting obligations to the District. The owners shall assume and perform these obligations and responsibilities so that the District may comply with accounting and reporting obligations to the Ground Water Commission as required by the Replacement Plan. By this assignment to the Lot owners and the District, the Declarant is relieved of any and all responsibilities and obligations for the administration, enforcement and operation of the Replacement Plan. Such conveyance shall be subject to the obligations and responsibilities of the Replacement Plan and said water rights may not be separately assigned, transferred, or encumbered by the Lot owners. The Lot owners shall maintain such obligations and responsibilities in perpetuity, unless relieved of such replacement responsibilities by determination of the Ground Water Commission, or other properly entered administrative relief.

8.2.3. Each Lot owner's water rights in the not-nontributary Dawson aquifer underlying their respective Lot shall remain subject to the Replacement Plan, and shall transfer automatically upon the transfer of title to each Lot as an appurtenance, including the transfer by the Declarant to the initial owner of a Lot, whether or not separately deeded. The ground water rights in the Dawson aquifer subject to the Replacement Plan cannot and shall not be severable from each respective Lot, and each Lot owner covenants that it cannot sell or transfer such ground water rights to any party separate from the conveyance of the Lot.

8.2.4 The Dawson aquifer water rights conveyed to each Lot Owner, and return flows therefrom, shall not be sold, leased or otherwise used for any purpose inconsistent with the Replacement Plan and these Declarations, and shall not be separated from the transfer of title to the land, and shall not be separately conveyed, bartered or encumbered.

Section 8.3. Water Administration.

8.3.1 Each Lot owner shall limit the pumping of each individual Dawson aquifer well per Lot to a maximum of 0.60 acre feet annually, consistent with the Replacement Plan. Each Lot owner shall further ensure that the allocations of use of water resulting from such pumping as provided in the Replacement Plan is maintained, as between in-house, irrigation, stock water and other allowed uses. Each 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 District, as the owner of all obligations and responsibilities under the Replacement Plan, shall administer and enforce the Replacement Plan as applies to each Lot owner's respective Lot and pumping from individual Dawson aquifer wells. Such administration shall include, without limitation, accountings to the Colorado Division of Water Resources under the Replacement Plan and taking all necessary and required actions under the Replacement Plan to protect and preserve the ground water rights for all Lot owners. Each Lot owner, and the District, have the right to specifically enforce, by injunction if necessary, the Replacement Plan against any other Lot owner, or the District, for failing to comply with the Lot owner's and/or District's respective obligations under the Replacement Plan, including the enforcement of the terms and conditions of well permits issued pursuant to the Replacement 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 Lot owner is restricted and regulated by the terms and conditions of the Replacement Plan and these Declarations, including, without limitation, that each Lot owner is subject to the maximum annual well pumping of 0.60 acre feet. Failure of a Lot owner and/or the District to comply with the terms of the Replacement Plan may result in an order from the Division of Water Resources under the Replacement Plan to curtail use of ground water rights.

8.3.2 Each Lot owner shall promptly and fully account to the District for total pumping from the individual well to the not-nontributary Dawson Aquifer on each Lot, including for any irrigation, stockwater or other permitted/allowed uses as may be required under the Replacement Plan. The frequency of such accounting shall be annually, unless otherwise reasonably requested by the Division or Water Resources, as may be advised by the District The District shall provide the Division of Water Resources with integrated accounting for pumping of all

not-nontributary individual Dawson aquifer wells on each Lot on an annual basis, unless otherwise reasonably requested by the Division of Water Resources.

Section 8.4. Well Permits.

8.4.1 Each 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 lots, consistent with the terms and conditions of the Replacement Plan. All such Dawson aquifer wells shall be constructed and operated in compliance with the Replacement 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 each such individual well, and delivery of water therefrom to the residence located on such Lot, shall be at each Lot owner's respective expense. Each Lot owner shall comply with any and all requirements of the Division of Water Resources to geophysically log their well, and shall install and maintain in good working order an accurate totalizing flow meter on the well in order to provide the diversion information necessary for the accounting and administration of the Replacement Plan. It is acknowledged that certain well permits, and individual wells, may be in place on certain of the Lots 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.

8.4.2 No party guarantees to the Lot owners the physical availability or the adequacy of water quality from any well to be drilled under the Replacement Plan. The Dawson aquifer which are the subject of the Replacement 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.

Section 8.5. General Water Provisions.

8.5.1 The Lot owners and the District, respectively, shall perform and comply with all terms, conditions, and obligations of the Replacement Plan, and shall further comply with the terms and conditions of these Declarations, and of any well permits issued by the Division of Water Resources pursuant to the Replacement Plan, as well as all applicable statutory and regulatory authority.

8.5.2 No changes, amendments, alterations, or deletions to this Article 8 of these Declarations may be made which would alter, impair, or in any manner compromise the Replacement Plan, or the water rights of the Lot owners without the written approval of said parties, El Paso County, and from the Ground Water Commission.

8.5.3 El Paso County may enforce the provisions regarding the Replacement Plan as set forth in these Declarations, should the Lot owners and/or District fail to adequately do so.

8.5.4 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 Community

(i.e. all Lot owners and the District), 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.

8.5.5 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 Lot Owners. For purposes of this Paragraph, Declarant shall be deemed an owner of each Lot until such time as such Lot(s) are transferred to a third party.

8.5.6 Amendment of Declaration by Declarant. Until such time as Declarant has conveyed any Lots to a third party, any of the provisions, covenants, conditions, restrictions and equitable servitudes contained in these Declarations 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, including the Replacement Plan. 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 Lot owners or mortgagees (or any percentage thereof).

8.5.7 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.

8.5.8 An amendment to these Declarations required to be recorded, as set forth herein, by the District, which has been adopted in accordance with these Declarations, must be prepared, executed, recorded, and certified on behalf of the District by an officer of the District designated for that purpose or, in the absence of designation, by the president of the District.

8.5.9 Termination of the Community may be accomplished by unanimous consent of the Lot owners; however, the covenants and restrictions herein regarding compliance with the Replacement Plan shall not terminate unless the requirements of the Replacement Plan are also terminated by order of the Ground Water commission and a change of water supply is approved by El Paso County.

ARTICLE 9. DISPUTE RESOLUTION

Section 9.1. Intent and Applicability of Article and Statutes of Limitation.

9.1.1 Each Person subject to this Declaration agrees to encourage the amicable resolution of disputes under any of the Governing Documents, without the emotional and financial costs of litigation. Accordingly, each Person covenants and agrees to submit all Claims (as defined below) to final, binding arbitration in accordance with the procedures set forth in Section 8.4 hereof, and not to a court of law.

9.1.2 By acceptance of a deed for a Unit, each Owner agrees to abide by the terms of this Article.

9.1.3 No Claim (as defined below) may be initiated after the date when institution of legal or equitable proceedings based on such Claim would be barred by the applicable statute of limitation or statute of repose.

Section 9.2. Definition of "Claim" Under this Article.

For purposes of this Article, "**Claim**" means, except as excluded or exempted by the terms of this Article, any claim, grievance or dispute between any Person(s) under any of the Governing Documents, and one or more other Persons, regardless of how the same may have arisen or on what it might be based, including those arising out of or related to the interpretation, application or enforcement of any of the Governing Documents, the construction or installation of any Improvements, roads, utilities or other improvements by Declarant, or any rights, obligations or duties under any of the Governing Documents.

Section 9.3. Exclusions from "Claim".

Unless specifically exempted by this Article, all Claims shall be subject to the provisions of this Article. Notwithstanding the foregoing, unless all parties thereto otherwise agree in writing, "**Claim**" does not include any of the following, and the same shall not be subject to the provisions of this Article:

9.3.1 Any action by the Community Council, the Board of Directors of the District, or the Declarant, to enforce any provision(s) of this Declaration, the Guidelines or the Rules and Regulations, including obtaining a temporary restraining order or injunction (or equivalent emergency equitable relief), to collect any costs, fees or fines imposed by the District, and/or such other ancillary relief as a court may deem necessary; or

9.3.2 Any action that asserts a Claim which would constitute a cause of action independent of the Governing Documents.

Section 9.4. Final, Binding Arbitration.

9.4.1 If a person having a Claim ("**Claimant**") desires to pursue the Claim, Claimant shall initiate final, binding arbitration of the Claim with Judicial Arbiter Group ("**JAG**") or any other person agreed to the Claimant and the Person against whom the Claimant has asserted a Claim, in accordance with the then-current rules of JAG or other agreed arbitrator. Any judgment upon the award rendered by the arbitrator shall be final and not subject to appeal and may be

entered in and enforced by any court having jurisdiction over such Claim. Unless otherwise mutually agreed to by the parties to the dispute, there shall be one arbitrator who shall have expertise in the area(s) of dispute, which may include legal expertise if legal issues are involved.

9.4.2 Each party to a dispute shall bear its own costs and expenses, and an equal share of the arbitrator's and administrative fees of arbitration. Notwithstanding the foregoing, if a party to a dispute unsuccessfully contests the validity or scope of arbitration in a court of law, reasonable attorneys' fees and expenses incurred in defending such contests, including those incurred in trial and on appeal, shall be awarded to the non-contesting party. All decisions respecting the arbitrability of any Claim shall be decided by the arbitrator.

9.4.3 The award of the arbitrator shall be accompanied by detailed written findings of fact and conclusions of law. Except as may be required by law or for confirmation of an award, neither a party to such dispute nor an arbitrator may disclose the existence, content, or results of any arbitration without the prior written consent of all of the parties to the dispute.

Section 9.5. Liability for Certain Failures of District or District.

No director or officer of the District or member of the Community Council shall be liable to any Person for failure to institute or maintain or bring to conclusion a cause of action, mediation, arbitration, or other dispute resolution, if the following criteria are satisfied: (a) the director or officer was acting within the scope of his or her duties; (b) the director or officer was not acting in bad faith; and (c) the act or omission was not willful, wanton or grossly negligent. So long as the Special Declarant Rights remain in effect, this Article 8 shall not be amended, repealed or replaced without the written consent of the Declarant.

ARTICLE 10. GENERAL PROVISIONS

Section 10.1. Enforcement.

10.1.1 This Section 9.1 is subject to Article 8 of this Declaration (Dispute Resolution).

10.1.2 Enforcement of the covenants, conditions, restrictions, easements, reservations, rights-of-way, liens, charges and other provisions contained in any of the Governing Documents, as amended, may be by any proceeding at law or in equity against any Person(s) violating or attempting to violate any such provision. Remedies shall be cumulative and no remedy shall be exclusive of other remedies that may be available. The District shall use reasonable efforts to enforce the provisions of the governing documents in accordance with the terms of this Declaration. The District, the Declarant and any aggrieved Owner shall have the right, but not the duty, to institute, maintain and prosecute any such proceedings. For each claim, including counterclaims, cross claims and third-party claims, in any proceeding to enforce the provisions or any of the Governing Documents, the prevailing party shall be awarded its reasonable collection costs and attorney fees and costs incurred in asserting or defending the claim; except that, any Person who brings an action against any Declarant, any Builder, the District, or the Community Council, regarding enforcement, or non-enforcement, of any provision(s) of the Governing Documents, shall not be awarded their costs or any attorney fees. Failure by Declarant, the District,

the Community Council, or any Owner to enforce any covenant, restriction or other provision contained in any of the Governing Documents, shall in no event give rise to any liability for damages, nor shall such non-enforcement be deemed a waiver of the right to thereafter enforce any covenant, restriction or other provision of the Governing Documents, regardless of the number of violations or breaches that may occur.

10.1.3 The District shall have all remedies available to it at law or in equity, including, without limitation, the following remedies and any other remedies set forth herein: (a) the District may record a notice of violation against the Unit on which the violation exists; (b) The District has the right to remove, correct or otherwise remedy any violation in any manner the District deems appropriate; (c) the District may file an action for injunctive relief to cause an existing violation to be brought into compliance with the Governing Documents and the District shall recover all costs and attorneys' fees associated with bringing the action; (d) the District may levy and collect fees, charges, penalties and fines for the violation of any provisions of the Governing Documents. Prior to the imposition of any fines, the District shall give the Owner to be subject to the fine notice and the opportunity for a hearing before the Board of Directors of the District. The Rules and Regulations may further define the process by which such fines may be imposed, including but not limited to establishing the schedule of fines to be imposed. Severability.

Section 10.2. Severability.

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

Section 10.3. Annexation; Withdrawal.

10.3.1 The Declarant may annex to the Property additional property, including any property which may previously have been withdrawn from the Property. Each such annexation, if any, shall be accomplished by recording of an annexation document that expressly states that the property described therein shall be subject to this Declaration and all terms and provisions hereof.

10.3.2 Declarant hereby reserves the right to Record one or more documents in order to clarify the effect of any annexation(s). Each such document(s), if any such document(s) are Recorded by a Declarant, may state the legal description(s) of any property which has been annexed, and may include such other provisions as a Declarant may determine.

10.3.3 Declarant reserves the right to withdraw the Property, or any portion thereof, including one or more Units, from this Declaration, so long as the Declarant owns the portion of the Property to be withdrawn. Each withdrawal, if any, may be effected by the Declarant recording a withdrawal document in the Records. A withdrawal as contained in this paragraph constitutes a divestiture, withdrawal, and de-annexation of the withdrawn property from this Declaration so that, from and after the date of recording a withdrawal document, the property so withdrawn shall not be part of the Property or the Community, or in any way subject to the terms hereof.

Section 10.4. Declarant's and Each Builder's Use.

Notwithstanding anything to the contrary, it shall be expressly permissible for Declarant and each Builder, and their respective employees, agents, and contractors, to perform all activities, and to maintain Improvements, tools, equipment, and facilities, on the portion of the Property owned by them and also on public property, incidental to development, construction, use, rental, sale, occupancy, and/or advertising. The foregoing includes locating, maintaining and relocating management offices, signs, sales offices, model units and construction offices and trailers, in such numbers, of such sizes, and at such locations as Declarant or Builder determines, and for access to, from, and incidental to such uses. Nothing contained in this Declaration shall limit the rights of Declarant or a Builder to conduct all construction, promotion, sales, and marketing activities as such Declarant or such Builder determines, and to use the easements provided in this Declaration for those and other purposes. Further, nothing contained in this Declaration shall limit the rights of a Declarant or a Builder, or require a Declarant or a Builder to obtain any approvals:

10.4.1 to excavate, cut, fill or grade any property or to construct, alter, demolish or replace any Improvements;

10.4.2 to use any Improvements on any property as sales offices, management offices, model units and/or construction offices; and/or

10.4.3 to require a Declarant to seek or obtain any approvals for any activity.

Section 10.5. Duration, Revocation, and Amendment.

10.5.1 Each and every provision of this Declaration shall run with and bind the land perpetually from the date of Recording of this Declaration. Except as otherwise provided in this Declaration, this Declaration may be amended by the affirmative vote or agreement of Owners holding at least sixty-seven percent (67%) of the Units, with each Unit being allocated one vote; provided, however, prior to the termination of the Special Declarant Rights no amendment of this Declaration shall be effective without the prior written approval of the Declarant. Further, amendments shall be applicable only to disputes, issues, circumstances, events, claims or causes of action that arose out of circumstances or events that occurred after the Recording of such amendment; and no amendment shall be applied retroactively to any earlier occurring disputes, issues, events, circumstances, actions, claims or causes of action.

10.5.2 Notwithstanding anything to the contrary, any of the Governing Documents may be amended, in whole or in part, by the Declarant without the consent or approval of any other Person, in order to comply with the requirements, standards, or guidelines of any recognized secondary mortgage markets, including without limitation the department of housing and urban development, the federal housing administration, the veterans administration, the federal home loan mortgage corporation, the government national mortgage association, and the federal national mortgage association. Such right of amendment shall terminate automatically as provided in Section 1.19 of this Declaration.

10.5.3 Notwithstanding anything to the contrary, any of the Governing Documents, or any map or plat, may be amended in whole or in part, by a Declarant without the consent or

approval of any other Person in order to correct clerical, typographical, or technical errors. Such right of amendment shall terminate automatically as provided in Section 1.20 of this Declaration.

10.5.4 Except as to amendments which may be made by the Declarant, amendments to this Declaration may be prepared, executed, Recorded, and certified by any officer of the District designated for that purpose. Such certification shall, in the case of an amendment requiring the approval of Owners, certify that the District has received the requisite approvals. Amendments to this Declaration which may be made by a Declarant pursuant to this Declaration may be signed by a Declarant and shall require no other signatory.

10.5.5 No action to the challenge the validity of this Declaration may be brought more than one year after the recording of this Declaration. Further, no action to challenge the validity of any amendment to this Declaration may be brought more than one year after the recording of such amendment.

Section 10.6. Registration of Mailing Address.

Each Owner and each Security Interest Holder, insurer or guarantor of a Security Interest, shall register his mailing address with the District, and all statements, demands and other notices intended to be served upon an Owner, or upon a Security Interest Holder, insurer or guarantor of a Security Interest shall, subject to Section 2.4 of this Declaration (Authenticated Electronic Representation), be sent by U.S. mail, postage prepaid, addressed in the name of such Person at such registered mailing address. However, if any Owner fails to notify the District of a registered address, then any statement, demand or other notice may be delivered or sent, as aforesaid, to such Owner at the address of such Owner's Unit.

Section 10.7. Limitation on Liability.

Declarant, any Builder, the District, the Community Council, and their respective directors, officers, shareholders, members, partners, agents and employees, shall not be liable to any Person for any action or for any failure to act arising out of any of the Governing Documents, unless the action or failure to act was not in good faith and was done or withheld with malice. Further, the District does not waive, and no provision of this Declaration shall be deemed a waiver of, the immunities and limitations to which the District is entitled as a matter of law, including the Colorado Governmental Immunity Act, §24-10-101, et seq. C.R.S., as amended. The release and waiver set forth in Section 9.11 (Waiver) shall apply to this Section.

Section 10.8. No Representations, Guaranties or Warranties.

No representations, guaranties or warranties of any kind, express or implied, shall be deemed to have been given or made by a Declarant, any Builder, the District, the Board of Directors, the Community Council, or their respective owners, officers, directors, members, partners, agents or employees, in connection with any portion of the Community, or any Improvement, its or their physical condition, structural integrity, freedom from defects, zoning, compliance with applicable laws, fitness for intended use, or view, or in connection with the subdivision, sale, operation, maintenance, cost of maintenance, taxes or regulation thereof, unless and except as shall be specifically set forth in writing. The release and waiver set forth in Section 9.11 (Waiver) shall apply to this Section.

Section 10.9. Disclaimer Regarding Safety.

DECLARANT, EACH BUILDER, THE DISTRICT, THE BOARD OF DIRECTORS, THE COMMUNITY COUNCIL, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, OWNERS, MEMBERS, PARTNERS, AGENTS AND EMPLOYEES, HEREBY DISCLAIM ANY OBLIGATION REGARDING THE SECURITY OF ANY PERSONS OR PROPERTY WITHIN THE COMMUNITY. BY ACCEPTING A DEED TO PROPERTY WITHIN THE COMMUNITY, EACH OWNER ACKNOWLEDGES THAT DECLARANT, EACH BUILDER, THE BOARD OF DIRECTORS, THE COMMUNITY COUNCIL, AND THEIR RESPECTIVE OWNERS, OFFICERS, DIRECTORS, MEMBERS, PARTNERS, AGENTS AND EMPLOYEES, ARE ONLY OBLIGATED TO DO THOSE ACTS SPECIFICALLY ENUMERATED HEREIN, OR IN THE GOVERNING DOCUMENTS, AND ARE NOT OBLIGATED TO DO ANY OTHER ACTS WITH RESPECT TO THE SAFETY OR PROTECTION OF PERSONS OR PROPERTY WITHIN THE COMMUNITY. THE RELEASE AND WAIVER SET FORTH IN SECTION 9.11 (WAIVER) SHALL APPLY TO THIS SECTION.

Section 10.10. Development Within and Surrounding the Community and Adjacent Uses.

Each Owner acknowledges that development within and surrounding the Community may continue for an indefinite period, and that plans for the density, type and location of improvements, developments or land uses, may change over time. Such development may entail changes to or alterations in the access to the Community, views of or from the Community or the Units, surrounding land uses, open space or facilities, traffic volumes or patterns, privacy or other off-site aspects or amenities. Each Owner acknowledges that the Community may be subject to noise, fumes, dust, particles, and any other effects of agricultural operations that may take place near the Community. By accepting a deed to a Unit, each Owner accepts title to such Unit subject to the foregoing, and waives and releases any claim against the Declarant, any Builder, the District, the Board of Directors, the Community Council, and their respective owners, officers, directors, members, partners, agents and employees, heirs, personal representatives, successors and assigns, arising out of or associated with any of the foregoing. The release and waiver set forth in Section 9.11 (Waiver) shall apply to this Section.

Section 10.11. Waiver.

By acceptance of a deed to a Unit, each Owner hereby releases, waives, and discharges Declarant, each Builder, the District, the Board of Directors, the Community Council, and their respective owners, officers, directors, members, partners, agents and employees, heirs, personal representatives, successors and assigns, from all losses, claims, liabilities, costs, expenses, and damages, arising directly or indirectly from any hazards, disclosures or risks set forth in this Declaration, including without limitation those contained in Sections 9.7, 9.8, 9.9 and 9.10.

Section 10.12. Headings.

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

Section 10.13. Gender.

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

Section 10.14. Use of "Include," "Includes" and "Including".

All uses in the Governing Documents of the words "**include,**" "**includes**" and "**including**" shall be deemed to include the words "**without limitation**" immediately thereafter.

Section 10.15. Action.

Any action that has been or may be taken by a Declarant, the District, a Builder, the Board, the Community Council, any Member, any director, any committee, or any other Person, may be taken "**at any time, from time to time**". Each provision that authorizes, directs or permits action shall be deemed to include such language.

Section 10.16. Sole Discretion.

All actions which are taken by a Declarant, the District, a Builder, the Board, the Community Council, any director, any committee, or any other Person, shall be deemed to be taken "**in the sole discretion**" of each of such parties.

Section 10.17. Run with Land; Binding Upon Successors.

The benefits, burdens and all other provisions contained in this Declaration shall be covenants running with and binding upon the Community and all real property and Improvements which are now or hereafter become a part thereof. The benefits, burdens and all other provisions contained in this Declaration shall be binding upon, and inure to the benefit of Declarant, each Builder, the District, and all Owners, and upon and to their respective heirs, personal representatives, successors and assigns.

[*Signatures on following pages.*]

IN WITNESS WHEREOF, the undersigned have hereunto set their hands this 27th day of January, 2021.

DECLARANT:

Winsome, LLC,
a Colorado limited liability company

By: _____
Name: Andrew Biggs
Title: Manager

STATE OF COLORADO)
) ss.
COUNTY OF El Paso)

The foregoing instrument was acknowledged before me this 27th day of January, 2021 by Andrew Biggs as Manager of Winsome, LLC, a Colorado limited liability company.

Witness my hand and official seal.

(S E A L)

KIMBERLY J MCGUIRE
Notary Public
State of Colorado
Notary ID # 20184008996
My Commission Expires 02-26-2022

Notary Public Kimberly J McGuire

My Commission Expires: 02-26-2022

THE DISTRICT:

Winsome Metropolitan District No. 1,
a quasi-municipal corporation and political subdivision of the State of Colorado

By: _____
Name: Andrew Biggs
Title: President

Attest: _____
Secretary

STATE OF COLORADO)
) ss.
COUNTY OF El Paso)

The foregoing instrument was acknowledged before me this 27th day of January, 2021 by Andrew Biggs as President of Winsome Metropolitan District No. 1, a quasi-municipal corporation and political subdivision of the State of Colorado.

Witness my hand and official seal.

(S E A L)

Notary Public Kimberly J McGuire
My Commission Expires: 02-26-2022

KIMBERLY J MCGUIRE
Notary Public
State of Colorado
Notary ID # 20184008996
My Commission Expires 02-26-2022

EXHIBIT A
TO
DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
OF WINSOME

Lots 1-47 Inclusive and Tracts B, C, D
All as set forth on the final plat of Winsome Filing No. 1
Recorded in the real property records of El Paso County, CO on 3/2/2021
at reception number: 221714686

Chuck Broerman El Paso County, CO
03/02/2021 02:05:13 PM
Doc $0.00 32
Rec $168.00 Pages 221040908

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF WINSOME

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF WINSOME ("**Declaration**") is made and entered into by Winsome, LLC, a Colorado limited liability company ("**Declarant**," as hereinafter more fully defined).

RECITALS

A. Declarant is the owner of certain real property situated in the County of El Paso, ("**County**") State of Colorado, which is described on **Exhibit A**, attached hereto and incorporated herein by this reference ("**Community**" or "**Property**") as hereinafter more fully defined).

B. This Declaration is exempt from the provisions of the Colorado Common Interest Ownership Act, C.R.S. § 38-33.3-101 et seq. ("**Act**") because there are no mandatory assessments created under this Declaration, and there is no obligation to pay for real estate taxes, insurance premiums, maintenance, or improvements of other real estate or common area created under this Declaration.

C. Pursuant to C.R.S. § 32-1-1004 and other provisions of Title 32 of C.R.S., the Declarant, in imposing this Declaration on the Community, intends to empower the District (as defined in **Section 1.9** below) with the authority to provide governmental services, including but not limited to the provision of covenant enforcement and architectural review services, to the Community and to use revenues that are derived from the Community for such purposes.

AFFIRMATION

NOW, THEREFORE, the Declarant hereby declares that all of the property described on the attached **Exhibit A**, as supplemented and amended (including by all annexations to this Declaration), shall be held, sold, and conveyed subject to the following covenants, conditions, restrictions, easements, reservations, rights-of-way, obligations, liabilities, charges and other provisions set forth herein.

ARTICLE 1. DEFINITIONS

Section 1.1. Intentionally Omitted.

Section 1.2. Board of Directors or Board.

"**Board of Directors**" or "**Board**" means the governing board of the District.

Section 1.3. Builder.

"**Builder**" means and includes any Person who: (i) acquired or acquires one or more Lots for the purpose of constructing at least one residence on each such Lot and selling such Unit to the public, and/or (ii) acquires one or more Units for sale to any Person fitting the description in Section 1.3(i); and is designated as a "**Builder**" under this Declaration in a written designation that is signed by the Declarant and Recorded. (Declarant or a Builder may, subject to the terms of this Declaration, create one or more common interest communities within the Community.)

Section 1.4. Community or Property.

"**Community**" or "**Property**" means real estate and Improvements described on the attached **Exhibit A**, as supplemented and amended, and subject to the provisions of this Declaration. The name of the Community is Winsome.

Section 1.5. Community Council.

"**Community Council**" means the committee appointed by the Board, as provided in Section 4.1 of this Declaration. The Community Council shall review and approve or disapprove plans for Improvements, as more fully provided in this Declaration. The Community Council shall also provide oversight over certain governance matters in connection with the Community as delegated by the Board and as more fully provided in this Declaration.

Section 1.6. Declarant.

"**Declarant**" means Winsome, LLC, a Colorado limited liability company, as well as any other Person(s) to whom Declarant (or any subsequent Declarant), by Recorded document, expressly assigns one or more rights of a Declarant under this Declaration (which shall be the extent of the Declarant's rights to which such assignee succeeds). Use of the word "**Declarant**" in the Governing Documents denotes the aforesaid entity or their designated assignee(s), as provided in the preceding sentence.

Section 1.7. Declaration.

"**Declaration**" means this Declaration of Covenants, Conditions and Restrictions of Winsome, as supplemented and amended, and also including maps and plats of the Community.

Section 1.8. Development Rights.

"**Development Rights**" means the following rights, or combination of rights, hereby reserved by the Declarant, as such Development Rights may be further described in this Declaration, to:

1.8.1 add real estate to this Community and make such real estate subject to the Governing Documents;

1.8.2 create Units;

1.8.3 subdivide or replat Units; and

1.8.4 withdraw real estate from this Community.

The Declarant may exercise its Development Rights in all or any portion of the Community or real estate proposed to be added to the Community, subject to and in accordance with the terms and conditions of this Declaration, and no assurances are made as to the boundaries or order of exercise of any Development Rights. The Declarant's rights to exercise Development Rights shall terminate automatically as provided in Section 1.20 of this Declaration (Special Declarant Rights).

Section 1.9. District.

"**District**" means the Winsome Metropolitan District No. 1, created pursuant to §32-1-101, *et. seq.*, C.R.S., and/or any other metropolitan district to which the then-District may transfer or assign any or all of the rights and duties of the District under this Declaration. Each assignment or transfer, if any, shall be effective upon recording in El Paso County, Colorado, of a document of transfer or assignment, duly executed by the then-District.

Section 1.10. District Property.

"**District Property**" means any real and personal property within the Property now or hereafter owned or leased by the District, together with all drainage improvements, landscaping improvements, trails, open space, irrigation systems, entry monuments and any other improvements now or hereafter located on such District Property.

Section 1.11. Governing Documents.

"**Governing Documents**" means this Declaration and any Rules and Regulations (as hereinafter defined), Guidelines (as hereinafter defined), and any policies and procedures and other documents now or hereafter adopted by the District, as amended or supplemented from time to time relating to design review and/or covenant enforcement.

Section 1.12. Improvements.

"**Improvements**" means all exterior improvements, structures, and any appurtenances thereto or components thereof of every type or kind, all landscaping features and hardscaping features, including but not limited to homes, condominiums, buildings, outbuildings, car ports, solar equipment, swimming pools, hot tubs, satellite dishes, antennae, tennis courts, tree houses, gazebos, garages, sheds, signs, patios, patio covers, awnings, solar collectors, yard art (including but not limited to statues, fountains, bird baths, and decorative pieces), paintings or other finish materials on any visible structure, additions, walkways, sprinkler systems, garages, driveways, dog runs, fences, including gates in fences, basketball backboards and hoops, swing sets and other play structures, screening walls, retaining walls, walkways, stairs, decks, landscaping, hedges, windbreaks, plantings, trees, shrubs, flowers, vegetables, sod, gravel, groundcover, excavation and site work, removal of trees or plantings, exterior light fixtures, poles, signs, exterior tanks, exterior air conditioning, cooling, heating and water softening equipment, if any. The term "Improvements" includes both original Improvements and all later changes, modifications, and replacements of Improvements. In addition to all requirements and restrictions set forth herein, all Improvements must comply with all applicable laws, rules, ordinances, zoning restrictions, use restrictions and other requirements of any governmental authority having jurisdiction over the Community.

Section 1.13. Lot.

"**Lot**" means each lot that is platted within the property described on the attached **Exhibit A**, which is subject to this Declaration, or a lot platted and subsequently annexed into the Community and subjected to this Declaration pursuant to Article 9 with the exception of any property publicly dedicated on a recorded plat.

Section 1.14. Intentionally Deleted.

Section 1.15. Owner.

"**Owner**" means each fee simple title holder of a Unit, including Declarant, each Builder, and each other Person who owns a Unit, but does not include a Person having an interest in a Unit solely as security for an obligation. If there is more than one fee simple holder of title, "Owner" includes each such Person, jointly and severally.

Section 1.16. Person.

"**Person**" means a natural person, a corporation, a limited liability company, a partnership, a District, a trust, a joint venture, or any other entity recognized under the laws of the State of Colorado, or any combination thereof.

Section 1.17. Records.

"**Records**" means the official real property records of El Paso County, Colorado; "**to Record**" or "**to be Recorded,**" means to file for recording in the Records; and "**of Record**" and "**Recorded**" means having been recorded in the Records.

Section 1.18. Security Interest.

"**Security Interest**" means an interest in one or more Units, real estate or personal property, created by contract or conveyance, which secures payment or performance of any obligation. The term includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of leases or rents intended as security, and any other consensual lien or title retention contract intended as security for an obligation.

Section 1.19. Security Interest Holder.

"**Security Interest Holder**" means any Person named as a mortgagee or beneficiary, or in a similar capacity, under any Security Interest or any successor to the interest of any such Person under such Security Interest.

Section 1.20. Special Declarant Rights.

"**Special Declarant Rights**" means the following rights, which rights are hereby reserved for the benefit of the Declarant and which rights may be further described in this Declaration: to build and complete Improvements; to exercise any Development Right; to maintain sales offices, construction offices, management offices, model homes and signs advertising the Community and/or Units; to use easements through the Community for the purpose of making Improvements within the Community or within real estate which may be added to the Community. All of the Special Declarant Rights may be exercised by the Declarant with respect to any portion of the Property now or hereafter within the Community. The Declarant may exercise any or all of these Special Declarant Rights at any times. Such rights shall terminate automatically either twenty-five (25) years after the date of Recording of this Declaration or five (5) years after such time as any Declarant or any Builder no longer owns any portion of the property described on the attached **Exhibit A** whichever occurs first.

Section 1.21. Unit.

"**Unit**" means Lots that have been subdivided and intended for sale to an Owner.

ARTICLE 2. DISTRICT

Section 2.1. Authority of the District to Appoint the Community Council.

The District (through the Board) shall appoint all members of the Community Council and may remove all or any of the members of the Community Council which have been appointed by the District as provided in Section 4.1.1. The District shall use reasonable efforts to appoint the Community Council in accordance with this Declaration.

Section 2.2. Cooperation and/or Delegation.

The District shall have the right and authority to cooperate with, contract with, and/or delegate to, the Community Council, any community or home owners association, or other district(s), and/or any other Person(s), in order to increase consistency or coordination, reduce costs, or as may otherwise be determined by the Board.

Section 2.3. Rules and Regulations and Policies and Procedures.

From time to time and at any time rules and regulations ("**Rules and Regulations**") and policies and procedures concerning and governing the Community may be adopted, amended, repealed and enforced by the District (through the Board of Directors) or Community Council, if delegated such authority by the District. The District (through the Board of Directors) or Community Council, if delegated such authority by the District, shall establish penalties for the infraction thereof, including the levying and collecting of fines for the violation of any of such Rules and Regulations or policies and procedures. The District shall use commercially reasonable efforts to cause the Rules and Regulations to be issued in accordance with this Declaration. The Rules and Regulations and policies and procedures may include: procedural requirements; interpretations and applications of this Declaration and law, including blanket requirements, blanket interpretations, and blanket applications; and covenants, conditions, restrictions, requirements, and/or other provisions, pertaining to any matters, including vehicles and animals. Such rules and regulations and policies and procedures may be different for different types of Units, construction or homes. No Rules and Regulations or policies and procedures that are adopted shall be contrary to this Declaration.

Section 2.4. Authenticated Electronic Representation.

Notwithstanding anything to the contrary contained in the Governing Documents, to the extent not prohibited by applicable law, the District may use technology or electronic representation in completing its duties and responsibilities. In this regard, any reference in any of such documents to action, attendance, representation, notice, quorum, voting or acknowledgement, as well as any and all other matters, may be conducted by authenticated electronic activity and, to the extent not prohibited by applicable law, the provisions of all of such documents shall be deemed to include provisions which permit such authenticated electronic activity (including without limitation telephone and email).

Section 2.5. Conveyance and Acceptance of District Property.

The Declarant expressly reserves the right to convey to the District certain Lots, tracts, parcels and/or other property or facilities which are deemed by the Declarant to be most suitable for ownership, maintenance and administration by the District, as authorized by the District's Service Plan and Colorado Special District Act set forth in §32-1-101, *et seq.,* C.R.S., and which are hereinafter referred to as "District Property" as defined in Section 1.10. The Declarant contemplates that certain drainage facilities, open space, and trails not dedicated to the County shall be owned and maintained by District. Conveyance of any real property from the Declarant, a Builder or other Owner to the District shall be made by a separate conveyance deed, bill of sale or similar instrument. District Property shall not be subject to this Declaration.

Section 2.6. Maintenance

_____The District shall cause to be maintained and kept in good condition and state of repair all District Property and any public facilities, improvements and appurtenances constructed or installed thereon, and any other property which the District has agreed to maintain. At its option, the District may contract with third parties to perform maintenance, repair, and upkeep obligations hereunder. However, the District shall remain ultimately responsible for performance of such work. Maintenance of District Property shall include, but not be limited to, the following:

ARTICLE 3. THE DISTRICT SHALL OPERATE AND MAINTAIN ANY DRAINAGE FACILITIES LOCATED ON DISTRICT PROPERTY, INCLUDING INSPECTING, OPERATING, CLEANING, MAINTAINING, AND REPAIRING ANY DETENTION PONDS PURSUANT TO THE PLAT OF WINSOME FILING NO. 1 AND IN ACCORDANCE WITH THE PRIVATE DETENTION BASIN/STORMWATER QUALITY BEST MANAGEMENT PRACTICE MAINTENANCE AGREEMENT AND EASEMENT BY AND BETWEEN THE DISTRICT, WINSOME, LLC AND THE COUNTY. FINES

Section 3.1. Personal Obligation for Fines.

Each Owner of a Unit, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, covenants and agrees, and shall be personally obligated, to pay to the District any and all fines and penalties, as provided in this Declaration; with such fines and penalties to be established and collected as hereinafter provided. If more than one person or entity is an Owner of a Unit, then all such Owners shall be jointly and severally liable to the District for the payment of all fines and penalties attributable to their Unit.

Section 3.2. Purpose of Fines and Penalties.

The fines and penalties levied by the District are used to protect and maintain the recreation, health, safety and welfare of the residents of the Community through enforcement of the Declaration, Rules and Regulations and Guidelines.

Section 3.3. Liens.

The District has the right and authority to levy and collect fines, to impose liens (as provided in C.R.S. Section 32-1-1001(1)(j)(I), as amended), to negotiate, settle and/or take any other actions

with respect to any violation(s) or alleged violations(a) of the Governing Documents. The District may collect, and shall have a statutory perpetual lien pursuant to § 32-1-1001(1)(j)(I), C.R.S. against any Unit to secure: (1) payment for reimbursement by the violating Owner for any remedial work performed by the District to remove, correct or otherwise remedy the violation, (2) payment for expenses incurred in obtaining injunctive relief, including costs and attorneys' fees, (3) payment of any fines levied by the District against such Unit, plus the following amounts, to the extent not inconsistent with applicable laws, (4) interest on such amount at a rate equal to eighteen percent (18%), and (5) all costs and expenses of collecting the unpaid amount, including, without limitation, reasonable attorneys' fees. No further Recordation of any claim of lien is required. However, the Board of Directors may prepare and record (or cause to be prepared and recorded) in the county in which the applicable Unit is located, a written notice setting forth the amount of the unpaid indebtedness, the name of the Owner(s) of the Unit, and a description of the Unit. If a lien is filed, the reasonable costs and expenses thereof shall be added to the due amount for the Unit against which it is filed and collected as part and parcel thereof. The District's lien may be foreclosed as provided by law. The lien of the District for any fees, fines rates, tolls, penalties, or charges for services, programs, or facilities furnished by the District imposed pursuant to Section 32-1-1001, C.R.S. is not subject to the provision of any homestead exemption as allowed under state or federal law. The acceptance of a deed to a Unit subject to this Declaration shall constitute a waiver of the homestead exemption as against said lien.

Section 3.4. Certificate of Status of Fines and Penalties.

The District shall furnish to an Owner, or such Owner's designee, or to a Security Interest Holder or its designee, upon written request delivered personally or by certified mail, first class postage prepaid, to the District's registered agent, a written statement setting forth the amount of unpaid fines and penalties, if any, currently levied against such Owner's Unit. The statement shall be furnished within a reasonable time after receipt of the request and is binding on the District, the Board of Directors and every Owner. The District or its agents shall have the right to charge a reasonable fee for the issuance of such certificates.

Section 3.5. Other Charges.

To the extent permitted by law, the District may levy and assess charges, costs and fees, for matters such as, but not limited to, the following, in such amounts(s) as the Board of Directors may determine, including: reimbursement of charges that are made to the District by its managing agent or other Person; copying of District or other documents; returned checks; telefaxes; long distance telephone calls; transfer charges or fees upon transfer of ownership of a Unit; notices and demand letters; and other charges incurred by the District. To the extent permitted by law the District may own, operate, lease or contract for the operation of amenities, if any, within the Community. In the event such amenities, if any, are owned, operated (contracted for operation) or leased by the District, the District may, in accordance with applicable law, charge fees for access and use of such amenities (which fees may vary for Owners within the Community and the general public).

ARTICLE 4. ARCHITECTURAL REVIEW

Section 4.1. Composition of the Community Council; Authority of Representative.

4.1.1 The Community Council shall consist of three (3) or more natural persons. The Board of Directors of the District has the authority to appoint the Community Council. The power to "**appoint**" the Community Council shall include the power to: constitute the membership of the Community Council; appoint member(s) to the Community Council on the occurrence of any vacancy therein, for whatever reason; and remove any member(s) of the Community Council, with or without cause, and appoint the successor(s) thereof. Each such appointment may be made for such term(s) of office, subject to the aforesaid power of removal, as may be set by the Board.

4.1.2 The Community Council, with the approval of the Board of Directors of the District, shall have the right and authority to: (a) delegate, in writing, some or all of the architectural authority to one or more other Persons, who shall be the Community Council's representative to act on its behalf. If the Community Council delegates any authority, then the actions of such representative shall be the actions of the Community Council, subject to the right of appeal as provided below. However, if such a representative is appointed, the Community Council shall have the power to withdraw from such representative any of such representative's authority, and shall also have the power to remove or replace such representative.

Section 4.2. Required Review and Approval; Reimbursement for Expenses.

4.2.1 Except as provided in Sections 4.10 and 4.13 of this Declaration, no Improvements shall be constructed, erected, placed, planted, applied or installed upon any Unit, unless complete plans and specifications therefor (said plans and specifications to show exterior design, height, materials, color, and location of the Improvements, plotted horizontally and vertically, location and size of driveways, location, size, and type of landscaping, fencing, walls, retaining walls, windbreaks and grading plan, as well as such other materials and information as may be required by the Community Council), shall have been first submitted to and approved in writing by the Community Council. Each Owner acknowledges that there may be certain landscaping design requirements imposed by the Board (or other governmental authority) that each Owner may be required to observe at such Owner's sole cost.

4.2.2 The Community Council shall endeavor to exercise its judgment to the end that all Improvements reasonably conform to and harmonize with the existing surroundings, residences, landscaping and structures.

4.2.3 The Guidelines may provide for the payment of a fee to accompany each request for approval of any proposed Improvement submitted to the Community Council. Any such fee shall be uniform for similar types of proposed Improvements or shall be determined in any other reasonable manner. Additionally in its review of such plans, specifications and other materials and information, the Community Council may require that the applicant(s) reimburse the Community Council for the actual expenses incurred, or reasonably anticipated to be incurred, by the Community Council, in the review and/or approval process.

4.2.4 In addition to the required approvals by the Community Council as provided in this Article, the construction, erection, addition, deletion, change or installation of any Improvements shall also require the applicant to obtain the approval of all governmental entities with jurisdiction thereover, and issuance of all required permits, licenses and approvals by all such entities. Without limiting the generality of the preceding sentence, issuance of building permit(s) by the applicable governmental authority, if required, shall be a precondition to commencement of construction of, alteration of, addition to or change in, any Improvement. The Community Council shall not review or approve any proposed Improvements for compliance with governmental requirements. The Community Council makes no representations or warranties with respect to plans reviewed and shall have no liability with respect to review and approval of any plant or specifications.

4.2.5 In addition to the authority that is given to the Community Council in this Declaration, as well as such authority as may be implied from any provision(s) of this Declaration, the Community Council shall have all authority and to receive and review complaints from one or more Owners, any Declarant, one or more Builders, or any other Person(s), alleging that a violation of any of the Governing Documents has occurred or is occurring.

Section 4.3. Procedures.

The Community Council shall decide each request for approval within forty-five (45) days after the complete submission of the application or request and all plans, specifications and other materials and information which the Community Council may require in conjunction with such application or request. If the Community Council fails to decide any application or request within forty-five (45) days after the complete submission of the plans, specifications, materials and other information with respect thereto, then such application or request for approval shall be deemed to have been denied by the Community Council.

Section 4.4. Vote and Appeal.

The affirmative vote of a majority vote of the Community Council is required to approve a request for approval pursuant to this Article (which may be with conditions and/or requirements), unless the Community Council has appointed a representative or committee to act for it, in which case the decision of such representative or committee shall control. In the event a representative or committee acting on behalf of the Community Council denies a request for approval, then any Owner shall have the right to an appeal of such decision to the full Community Council, upon a written request therefor submitted to the Community Council within ten (10) days after such decision by the Community Council's representative. The decision of the Community Council shall be final. No additional or further appeals are permitted, nor will any be recognized.

Section 4.5. Prosecution of Work After Approval.

After approval of any proposed Improvement by the Community Council, the proposed Improvement shall be accomplished as promptly and diligently as possible and in complete conformity with the terms and conditions of the approval. Failure to complete the proposed Improvement within one (1) year after the date of approval of the application, or failure to complete the Improvement in complete conformance with terms and conditions of the approval, shall constitute noncompliance with the requirements for approval issued by the Community Council and

a violation of this Article; provided, however, that the Community Council may grant extension(s) of time for completion of any Improvement(s). Upon the completion of an Improvement, the applicant for approval of the same shall give a written **"Notice of Completion"** to the Community Council. Until the date of receipt of such Notice of Completion, the Community Council shall not be deemed to have notice of completion of any Improvement on which approval (which may be with conditions and/or requirements) has been sought and granted as provided in this Article.

Section 4.6. Inspection of Work.

The District, the Board of Directors and the Community Council, or their duly authorized representatives or committees, shall have the right to inspect any Improvement at any time, including prior to, during, or after completion during reasonable hours after reasonable notice to the Owner(s) or occupant(s) of any affected Unit; except that no such notice shall be required in connection with any exterior, non-intrusive inspection. Such inspections may be made in order to determine whether or not the proposed Improvement is being completed, or has been completed, in compliance with the approval granted pursuant to this Article.

Section 4.7. Notice of Non-Compliance.

If, as a result of inspections or otherwise, the Community Council determines that any Improvement has been done without obtaining the required approval (which may be with conditions and/or requirements), or was not done in substantial compliance with the approval that was granted, or has not been completed within one (1) year after the date of approval, subject to any extensions of time granted pursuant to Section 4.5 hereof, then the District shall notify the applicant in writing of the non-compliance. Such notice of non-compliance shall be given not later than sixty (60) days after the Community Council receives a Notice of Completion from the applicant. The notice of non-compliance shall specify the particulars of the non-compliance.

Section 4.8. Correction of Non-Compliance.

If the Community Council determines that a non-compliance exists, the Owner responsible for such non-compliance shall remedy or remove the same within not more than forty-five (45) days from the date of receipt of the notice of non-compliance. If such Owner does not comply with the ruling within such period, the District may, at its option, record a notice of non-compliance against the Unit on which the non-compliance exists, may impose fines, penalties and interest, may remove the non-complying Improvement, or may otherwise remedy the non-compliance, and the Owner responsible for such non-compliance shall reimburse the District, upon demand, for all costs and expenses, as well as anticipated costs and expenses, with respect thereto. Such fees, costs and expenses shall be the personal obligation of the Owner and shall be part of the District's lien as described in Section 3.3 and shall be collectible by the District in the same manner as other fees authorized to be charged and collected by the District pursuant to Colorado law.

Section 4.9. Standards/Guidelines.

Except as provided in the last sentence of this Section, the Board of Directors of the District, or the Community Council if delegated such authority by the District, has the authority to enact, issue, promulgate, modify, amend, repeal, re-enact, and enforce architectural standards, guidelines, rules and regulations (collectively, **"Guidelines"**) to interpret and implement the design review provisions of this Declaration. Such provisions of the Guidelines may include: clarifying the types

of designs and materials that may be considered in design approval; requirements for submissions in order to obtain review by the Community Council, procedural requirements, and acceptable Improvement(s) that may be installed without the prior approval of the Community Council; architectural standards, design guidelines, requirements, and/or other provisions pertaining to architectural design and approvals; provisions that are different for different types, sizes or prices of Units, construction of residences (including without limitation garages, sprinkler systems, porches and overhangs); and permitting the District, with respect to any violations or alleged violations of any of the Governing Documents, to send demand letters and notices, levy and collect fines and interest, and negotiate, settle and take any other action, including without limitation legal action. In addition, such provisions may provide for blanket approvals, interpretations or restrictions on Improvements. By way of example, and not by way of limitation, such provisions may state that a certain type of screen door will be acceptable and will not require approval. All Improvements proposed to be constructed, and any Guidelines that are adopted, shall be done and used in accordance with this Declaration.

Section 4.10. Variance.

The Community Council may grant reasonable variances or adjustments from any conditions and restrictions imposed by this Article or Guidelines, in order to overcome practical difficulties or prevent unnecessary hardships arising by reason of the application of any such conditions and restrictions. Such variances or adjustments shall be granted only in case the granting thereof shall not be materially detrimental or injurious to the other property or Improvements in the Community and shall not militate against the general intent and purpose hereof. However, any variance that may be granted under this Section is only a variance from the requirements of the applicable Governing Document for the individual applicant, and is not a variance from the requirements of any applicable governmental or quasi-governmental agency or entity. No granting of a variance or adjustment to any one applicant/Owner shall constitute a variance or adjustment, or the right to a variance or adjustment, to any or all other applicants/Owners.

Section 4.11. Waivers; No Precedent.

The approval or consent of the Community Council or any representative thereof, to any application for approval shall not be deemed to constitute a waiver of any right to withhold or deny approval or consent by the Community Council, or any representative thereof, as to any application or other matters whatsoever as to which approval or consent may subsequently or additionally be required. Nor shall any such approval or consent be deemed to constitute a precedent as to any other matter.

Section 4.12. Liability.

Neither the Community Council, nor any members, employees, agents or representative or committee thereof, nor any Declarant, Builder or District, nor any owners, officers, employees or agents thereof (the "**Released Parties**"), shall be liable in equity or damages to any Person submitting requests for approval or to any Person by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove. In reviewing any matter, Released Parties shall not be responsible for the safety, whether structural or otherwise, of any item(s) submitted for review, nor the conformance with applicable building codes or other governmental laws or regulations, and any approval of an Improvement by the Community Council, District, or a Declarant, shall not be

deemed an approval of any such matters, will not be deemed to represent that the Improvement conforms to applicable law or complies with any other standards or regulations, and will not constitute a warranty by the Community Council to any applicant of the adequacy of design, workmanship or quality of such work or materials for any applicants' intended use. The Community Council will not make any investigation into title, ownership, easements, rights-of-way, or other rights appurtenant to property with respect to architectural requests and shall not be liable for any disputes relating to the same. No Person shall be a third party beneficiary of any obligation imposed upon, rights accorded to, action taken by, or approval or disapproval granted by, the Community Council, District or a Declarant. Each Owner (i) waives and releases the Released Parties from all claims related to approval or disapproval of any Improvements and (ii) waives and releases all claims against the Released Parties. The foregoing release and waiver are made by each Owner to the fullest extent permitted by the law and for and on behalf of itself, its assigns, executors, heirs, occupants, personal representatives, representatives, and successors. The Community Council members, acting in that capacity, shall not be liable for any mistake of judgment, negligence or otherwise, except for their own individual willful misconduct or bad faith. The Community Council members, acting in that capacity, have no personal liability with respect to any contract or other commitment made or action taken on behalf of the Community Council.

Section 4.13. Declarant's and District's Exemption; Each Builder's Exemption.

4.13.1 Notwithstanding anything to the contrary in this Declaration, Declarant is exempt from all provisions of this Article and all other provisions of the Governing Documents and any other matters that require Community Council review and/or approval, except the requirements to obtain approval of the governmental entities (other than the District or any other governmental entity that enforces any of the Governing Documents) with jurisdiction thereover as provided in Section 4.2.4 of this Declaration.

4.13.2 Provided that each Builder's plans and specifications for construction of Improvements are in material accordance with Governing Documents and have been approved in writing by Declarant, each Builder is exempt from the provisions of this Article and all other provisions of the Governing Documents that require Community Council review and/or approval, except for the requirements to obtain approval from the governmental entities (other than the District or any other governmental entity that enforces any of the Governing Documents) with jurisdiction thereover as provided in Section 4.2.4 of this Declaration.

ARTICLE 5. INSURANCE

Section 5.1. Insurance.

The District may maintain insurance in connection with its functions. Such insurance to be maintained by the District may include property insurance, commercial general liability insurance, fidelity coverage and personal liability insurance to protect directors and officers of the District from personal liability in relation to their duties and responsibilities in acting as directors and/or officers on behalf of the District. In addition, the District may maintain insurance against such other risks as the Board of Directors may determine. Nothing herein shall be construed or interpreted as a waiver of the District's governmental immunity as provided by law.

Section 5.2. Insurance to be Maintained by Owners.

Insurance coverage on each Owner's Unit, and the Improvements thereon, as well as on personal property belonging to an Owner to provide for replacement cost coverage, and public liability insurance coverage on each Unit, is the sole responsibility of the Owner of such Unit.

ARTICLE 6. EASEMENTS

Section 6.1. Access Easement.

Each Owner hereby grants to the District, the Board of Directors, the Community Council and to their agents, employees and contractors, a right and easement on, over, under, across and through such Owner's Unit for and incidental to inspection and/or enforcement, incidental to any term or provision of any of the Governing Documents. The rights and easements granted in this Section may be exercised only during reasonable hours after reasonable notice to the Owner(s) or occupant(s) of any affected Unit; except that no such notice shall be required in connection with any exterior, non-intrusive entry. The interior of any residence shall not be subject to the easements provided for in this Section.

Section 6.2. Drainage Easement.

Declarant hereby reserves, to itself and to the District, easements for drainage and drainage facilities across the twenty-five (25) rear, twenty-five (25) front, and twenty-five (25) side feet of each Lot; provided, however, that if a residence is located upon any of the areas described in this sentence, then such easement shall be reduced in width to the width of the distance from the nearest lot line of such Lot to the exterior wall of the residence on such Lot that is nearest to such lot line. Except for residences as provided in the preceding sentence, no Improvements shall be placed or permitted to remain on any Lot nor shall any change in grading be permitted to exist which may change the direction of flow or obstruct or retard the flow of water or other moisture through channels or swales within such rear, front and side yard drainage easements. Declarant reserves to itself and to the District the right to enter in and upon each such rear, front and side yard drainage easements to construct, repair, replace or change drainage pipes, structures or drainage ways, or to perform such grading, drainage or corrective work as a Declarant or the District may deem necessary or desirable; provided, however, that such right and authority in the Declarants shall cease at such time as the Special Declarant Rights automatically terminate as provided in Section 1.20 of this Declaration.

Section 6.3. Easement for Unannexed Property.

Declarant and the District hereby reserves, for the use and benefit of any property owned by Declarant and located proximately to the Community which may be annexed pursuant to Article 9 ("**Annexable Area**"), a non-exclusive, perpetual easement for pedestrian and vehicular access, ingress and egress, on, over and across the roads, driveways, streets, alleys, sidewalks, access ways and similar areas, now or hereafter constructed, erected, installed or located in or on the Community, for utilities and the construction, location, erection, installation, storage, maintenance, repair, renovation, replacement, reading, and use of any utilities Improvements that may now or hereafter serve the Annexable Area or any portion thereof (herein collectively the "**Annexable Area Easement**"). By virtue of this Annexable Area Easement, Declarant generally intends to provide for pedestrian and vehicular access and for utilities services to those portion(s) of the

Annexable Area which have not been included in the Community. Hence, the Annexable Area Easement shall be in effect for each portion of the Annexable Area, from and after Recording of this Declaration, but shall cease to be effective as to each portion of the Annexable Area at such time as the following have occurred with respect to such portion of the Annexable Area: annexation of such portion of the Annexable Area to this Declaration; and expiration of a Declarant's right to withdraw such portion of the Annexable Area from this Declaration.

ARTICLE 7. RESTRICTIONS

Section 7.1. Restrictions Imposed.

The Community shall be held and shall henceforth be sold, conveyed, used, improved, occupied, owned, resided upon and transferred, subject to the following provisions, conditions, limitations, restrictions, agreements and covenants, as well as those contained elsewhere in this Declaration.

Section 7.2. Compliance With Laws. All Owners, all permittees, and all other Persons, who reside upon or use any Unit or any other portion of the Community, shall comply with all applicable statutes, ordinances, laws, regulations, rules and requirements of all governmental and quasi-governmental entities, agencies and authorities, including without limitation all zoning, PUD, use restrictions and other requirements set forth in any recorded zoning documents or otherwise promulgated by any governmental authority.

Section 7.3. Residential Use; Certain Permitted Business Activities.

Subject to Section 9.4 of this Declaration (Declarant's and Each Builder's Use), Units shall be used for residential use only, including uses which are customarily incident thereto, and shall not be used at any time for business, commercial or professional purposes. Notwithstanding the foregoing, however, Owners may conduct business activities within their homes provided that all of the following conditions are satisfied, as determined by the Board:

7.3.1 The business conducted is clearly secondary to the residential use of the dwelling unit and is conducted entirely within the dwelling unit;

7.3.2 The existence or operation of the business is not detectable from outside of the dwelling unit by sight, sound, smell or otherwise, or by the existence of signs;

7.3.3 The business does not result in an undue volume of traffic or parking that affects the Community;

7.3.4 The business conforms to all zoning provisions and is lawful in nature; and

7.3.5 The business conforms to all District Rules and Regulations and policies and procedures or by an adopted amendment.

Section 7.4. Nuisances.

No nuisance shall be permitted which is visible within or otherwise affects the Community or any portion thereof, nor any use, activity or practice which interferes with the peaceful enjoyment

or possession and proper use of the Units in the Community or any portion thereof. As used herein, the term "**nuisance**" shall include each violation of any of the Governing Documents or law, but shall not include any activities of a Declarant, District or Community Council which are incidental to the development and construction of, and promotion, marketing, and sales activities in, the Community. No noxious or offensive activity shall be carried on upon any Unit nor shall anything be done or placed on any Unit which is a nuisance.

Section 7.5. Animals.

Subject to applicable law, residents of the Community may keep animals on their Units. Notwithstanding the foregoing, the District through the Community Council may, from time to time, adopt rules, restrictions and requirements that may, among other things limit the number, species, type and breed of animals that may be kept within the Community. Animals shall not be kept for any commercial purpose and shall not be kept in such number or in such manner as to create a nuisance or undue noise to any resident of the Community. If the Community Council determines that any rules adopted by the Community Council have been violated, the District, through the Community Council may take any action(s) to correct the same. The right to keep any animals is coupled with the responsibility to pay for any damage caused by such animals, as well as all costs incurred by the District as a result of such pets or animals. The District may, at its election, from time to time, delegate its right and authority under this Section to the Community Council.

Section 7.6. Miscellaneous Improvements.

7.6.1 No advertising or signs of any character shall be erected, placed, permitted or maintained other than: a name plate of the occupant and a street number; a "**For Sale**," "**Open House**," "**For Rent**" and/or security sign(s) of not more than six (6) square each feet posted only for the purpose of selling, renting or evidencing the existence of a security system on such Unit; and political signs and other signs, in conformance with all other laws and regulations; and such other signs, for such length(s) of time, which have the prior written approval of the Community Council or are otherwise expressly permitted by the Rule and Regulation or Guidelines or by law; provided, however, that any and all such advertising or signs shall be subject to any and all specifications and/or Guidelines adopted by the Board of Directors. Notwithstanding the foregoing, any signs, advertising, or billboards, may be used by a Declarant, the District, or a Builder, without regard to any specifications or any Rules and Regulations, and without the prior written approval of the Board, the Community Council, or any other Person.

7.6.2 No wood piles or storage areas shall be so located as to be visible from a street, from the ground level of any Unit or from any adjoining property.

7.6.3 Except as may otherwise be permitted in writing by the Community Council, no exterior radio antenna, television antenna, or other antenna, satellite dish, or audio or visual reception device of any type shall be placed, erected or maintained on any Unit, except inside a residence (including garages, porches and overhangs) or otherwise concealed from view; provided, however, that any such devices may be erected or installed by a Declarant, the District, or a Builder during its development, sales or construction; and provided further, however, that the requirements of this subsection are subject to the Telecommunications Act of 1996 and applicable regulations, as amended from time to time.

7.6.4 No fences shall be permitted without the prior written approval of the Community Council, except such fences as may be constructed, installed or located, in the Community, by a Declarant, the District, or a Builder.

This Section 7.6 shall be construed and applied in accordance with all applicable laws.

Section 7.7. Vehicular Parking, Storage and Repairs; Use of Garages.

7.7.1 No house trailer, camping trailer, boat trailer, hauling trailer, jet ski, boat, or accessories thereto, truck (excluding, except as hereinafter provided, pickup trucks that are rated 1 ton or less), self-contained motorized recreational vehicle, or other type of recreational or commercial vehicle or equipment, may be parked or stored on a Unit, unless such parking or storage is entirely within the garage area of such Unit or will be suitably screened from view in accordance with the Rules and Regulations or prior written approval of the Community Council. However, any such vehicles may be otherwise parked as a temporary expedient for loading, delivery, or emergency for up to 72 hours maximum. This restriction, however, shall not restrict trucks or other commercial vehicles that are necessary for construction or maintenance of any portion of the Community or any Improvements located thereon.

7.7.2 No abandoned or inoperable automobiles or vehicles of any kind shall be stored or parked on a Unit, unless such parking or storage is entirely within the garage area of such Unit. An "**abandoned or inoperable vehicle**" shall be defined as any automobile, truck, motorcycle, or other similar vehicle, which has not been driven under its own propulsion for a period of thirty days or longer, or which does not have an operable propulsion system installed therein,; provided, however, that otherwise permitted vehicles may be parked for such length(s) of time as determined by the Board and/or as provided in the Rules and Regulations and/or policies and procedures of the District.

7.7.3 In the event the District (or Community Council if delegated by the District) shall determine that a vehicle is parked or stored in violation hereof, then a written notice describing said vehicle may be personally delivered to the owner thereof (if such owner can be reasonably ascertained) or may be conspicuously placed upon the vehicle (if the owner thereof cannot be reasonably ascertained), and if the vehicle is not removed within a reasonable time thereafter, as determined by the District, the District shall have the right to remove the vehicle at the sole expense of the owner thereof. If a vehicle is removed in accordance with this Section, neither the District, or any officer or agent of the District shall be liable to any Person for towing and storage costs or for any claim of damage as a result of the towing activity. The District's right to remove a vehicle is in addition to, and not in limitation of all other rights of the District, including the right to assess fines. Notwithstanding anything to the contrary in this Section, the District may elect to impose fines or use other available sanctions, rather than exercise its authority to remove a vehicle. The district may delegate its enforcement rights and obligations under this Article 7 to the Community Council.

7.7.4 No activity such as, but not limited to, maintenance, repair, rebuilding, dismantling, repainting or servicing of any kind of vehicles, trailers or boats, may be performed or conducted in the Community unless it is done within a completely enclosed structure which screens the sight and sound of the activity from the street and from adjoining property. The foregoing

restriction shall not be deemed to prevent the washing and polishing, on a Unit, of any motor vehicle, boat, trailer, motor cycle, or other vehicle, together with those activities normally incident and necessary to such washing and polishing subject to any watering restrictions.

Section 7.8. No Activities; No Hazardous Materials or Chemicals.

No activities shall be conducted on any Unit, or within Improvements constructed on any Unit, which are unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon any Unit, and no open fires shall be permitted on any Unit, except in a contained barbecue unit while attended and in use for cooking purposes, or within a fireplace and/or fire pit, or except such campfires or picnic fires on property which may be designated for such use by the District. Further, no hazardous materials or chemicals shall at any time be located, kept or stored in, on or at any Unit except such as may be contained in household products normally kept at homes for use of the residents thereof and in such limited quantities so as to not constitute a hazard or danger to person or property.

Section 7.9. No Annoying Lights, Sounds or Odors.

The Community has implemented or may implement a Dark Skies initiative to minimize nighttime light pollution in the Community. The District, through the Community Council or otherwise may, from time to time, adopt additional rules and regulations to reduce or mitigate nighttime light pollution and such rules may include, without limitation, limits on brightness, number, direction and shielding of all exterior lighting sources. No light shall be emitted from any Unit which is unreasonably bright or causes unreasonable glare. All outdoor lights must be shielded and floodlights are not permitted. No sound shall be emitted from any Unit which exceeds the El Paso County noise level ordinance of 55 DB from 7AM – 7PM or 50 DB from 7PM – 7AM. is unreasonably loud or annoying; and no odor shall be permitted from any Unit which is noxious or offensive to others Further, no annoying light, sound or odor shall be permitted in any portion of the Community that may be seen, heard or smelled from any other Unit. Additionally, the Community Counsel may from time to time adopt rules allowing and regulating the use and display of holiday lighting and displays.

Section 7.10. Restrictions on Trash and Materials.

No refuse, garbage, trash, lumber, grass, shrubs or tree clippings, plant waste, metal, bulk materials, scrap or debris of any kind shall be kept, stored, or allowed to accumulate, except inside a suitable, tightly-covered container inside the home (including garages and overhangs along the sides or rear of the home), on any Unit, nor shall any such items be deposited on a street or sidewalk, unless placed in a suitable, tightly-covered container that is suitably located solely for the purpose of garbage pickup. Further, no trash or materials shall be permitted to accumulate in such a manner as to be visible from any other portion of the Community. No trash, garbage or other refuse shall be burned in outside containers, barbecue pits or the like. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. No garbage cans, trash cans or other trash receptacles shall be maintained in an exposed or unsightly manner.

Section 7.11. Sightly Condition of Units.

Each Unit shall at all times be kept, maintained, repaired and replaced in a good, clean and sightly condition by the Owner thereof.

Section 7.12. Leases.

7.12.1 The term "**lease**," as used herein, shall include any agreement for the leasing or rental of a Unit, Improvements thereon, or any portion thereof, and shall specifically include month-to-month rentals and subleases. Any Owner shall have the right to lease his Unit, or any portion thereof, under the following conditions:

7.12.2 All leases shall be in writing and for a term of not less than 90 days and no Unit may be rented or leased for short term uses including without limitation short term rentals through VRBO, AirBnB, HomeAway or similar vacation and short term rental services without the approval of the Board; and

7.12.3 All leases shall provide that the terms of the lease and lessee's occupancy of the leased premises shall be subject in all respects to the Governing Documents; and that any failure by the lessee to comply with any of the aforesaid documents, in any respect, shall be a default under the lease.

Section 7.13. Non-Interference with Grade and Drainage.

The grading upon each Unit shall be maintained by the Owner thereof or by any owners association formed for any portion of the Property which is responsible for the maintenance of the grading on such Unit at the slope and pitch fixed by the final grading thereof. No Owner or any such owners association shall interfere in any way with the established drainage pattern over any real property maintained by the same, from adjoining or other real property. For purposes of this Section, "established drainage" is defined as the drainage which exists at the time final grading on the Unit is completed by the Builder of residence or structure on the Unit in accordance with the approved lot grading plan as approved by the County or any other governmental authority with jurisdiction over the Community. Any Owner who changes the established drainage on his or her Unit may void warranties applicable to affected components of the home and shall be liable for all costs and expenses of repairing such changes, or any costs, liabilities, damages or causes of action arising out of such changes. Each Owner shall hold harmless the District, Declarant, the Board and the Community Council for any and all damage to any party caused by any change to the established drainage on the Owner's Unit.

Section 7.14. Restrictions on Mining or Drilling.

No portion of the surface of any property within the Community may be used for the purpose of mining, quarrying, drilling, boring or exploring for or removing oil, gas or other hydrocarbons, minerals, rocks, stones, gravel, earth or water. Nothing herein is intended to prevent slant drilling or other techniques to access such minerals, oil and gas in a manner that does not utilize or damage the surface.

ARTICLE 8. WATER COVENANTS

Section 8.1. Water Replacement Plan.

8.1.1. The Community shall be subject to the obligations and requirements set forth in the February 3, 2020 Approval for Replacement Plan – Determination of Water Right No. 1692-BD for the Dawson aquifer, as recorded at Reception No. 220124157 of the El Paso County Clerk and recorder, which is incorporated by reference ("Replacement Plan"). The Replacement Plan concerns the water rights and water supply for the Community and creates obligations upon the Community and the Lot owners, which run with the land. The water supply for the Community shall be by individual wells to the not-nontributary Dawson aquifer under the Replacement Plan.

8.1.2. The Replacement Plan contemplates that each 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 Lot to the Dawson aquifer, and use of such well as consistent with the terms of the Replacement Plan, including wastewater treatment through a non-evaporative individual septic disposal system ("ISDS"). Lot owners will be the owners of the Dawson aquifer underlying each of their lots, while the District will own the Replacement Plan and be responsible for reporting and administration based on pumping records provided by each Lot Owner.

Section 8.2. Water Rights Ownership.

8.2.1 Declarant will transfer and assign to the District all right, title and interest in the Replacement Plan and water rights thereunder, except as set forth herein. Declarant will transfer and assign to each Lot owner a proportionate prorate-per-acre interest in the not-nontributary Dawson aquifer, as determined in the Ground Water Determination as the physical source of supply. Depletions resulting from the use of each Dawson aquifer well on each of the Lots shall be replaced per the terms of the Replacement Plan. Based on the Declarant's intent expressed in these Covenants that each Lot owner will be able to withdraw water from the Dawson aquifer, in order to comply with El Paso County's 300-year water supply requirement, Declarant shall convey to each Lot owner at least 180 acre-feet total (0.6 acre-feet/year x 300 years) of Dawson aquifer water.

8.2.2. The Declarant will further assign to the applicable Lot owners all obligations and responsibilities for compliance with the Replacement Plan, including monitoring, accounting and reporting obligations to the District. The owners shall assume and perform these obligations and responsibilities so that the District may comply with accounting and reporting obligations to the Ground Water Commission as required by the Replacement Plan. By this assignment to the Lot owners and the District, the Declarant is relieved of any and all responsibilities and obligations for the administration, enforcement and operation of the Replacement Plan. Such conveyance shall be subject to the obligations and responsibilities of the Replacement Plan and said water rights may not be separately assigned, transferred, or encumbered by the Lot owners. The Lot owners shall maintain such obligations and responsibilities in perpetuity, unless relieved of such replacement responsibilities by determination of the Ground Water Commission, or other properly entered administrative relief.

8.2.3. Each Lot owner's water rights in the not-nontributary Dawson aquifer underlying their respective Lot shall remain subject to the Replacement Plan, and shall transfer automatically upon the transfer of title to each Lot as an appurtenance, including the transfer by the Declarant to the initial owner of a Lot, whether or not separately deeded. The ground water rights in the Dawson aquifer subject to the Replacement Plan cannot and shall not be severable from each respective Lot, and each Lot owner covenants that it cannot sell or transfer such ground water rights to any party separate from the conveyance of the Lot.

8.2.4 The Dawson aquifer water rights conveyed to each Lot Owner, and return flows therefrom, shall not be sold, leased or otherwise used for any purpose inconsistent with the Replacement Plan and these Declarations, and shall not be separated from the transfer of title to the land, and shall not be separately conveyed, bartered or encumbered.

Section 8.3. Water Administration.

8.3.1 Each Lot owner shall limit the pumping of each individual Dawson aquifer well per Lot to a maximum of 0.60 acre feet annually, consistent with the Replacement Plan. Each Lot owner shall further ensure that the allocations of use of water resulting from such pumping as provided in the Replacement Plan is maintained, as between in-house, irrigation, stock water and other allowed uses. Each 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 District, as the owner of all obligations and responsibilities under the Replacement Plan, shall administer and enforce the Replacement Plan as applies to each Lot owner's respective Lot and pumping from individual Dawson aquifer wells. Such administration shall include, without limitation, accountings to the Colorado Division of Water Resources under the Replacement Plan and taking all necessary and required actions under the Replacement Plan to protect and preserve the ground water rights for all Lot owners. Each Lot owner, and the District, have the right to specifically enforce, by injunction if necessary, the Replacement Plan against any other Lot owner, or the District, for failing to comply with the Lot owner's and/or District's respective obligations under the Replacement Plan, including the enforcement of the terms and conditions of well permits issued pursuant to the Replacement 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 Lot owner is restricted and regulated by the terms and conditions of the Replacement Plan and these Declarations, including, without limitation, that each Lot owner is subject to the maximum annual well pumping of 0.60 acre feet. Failure of a Lot owner and/or the District to comply with the terms of the Replacement Plan may result in an order from the Division of Water Resources under the Replacement Plan to curtail use of ground water rights.

8.3.2 Each Lot owner shall promptly and fully account to the District for total pumping from the individual well to the not-nontributary Dawson Aquifer on each Lot, including for any irrigation, stockwater or other permitted/allowed uses as may be required under the Replacement Plan. The frequency of such accounting shall be annually, unless otherwise reasonably requested by the Division or Water Resources, as may be advised by the District The District shall provide the Division of Water Resources with integrated accounting for pumping of all

not-nontributary individual Dawson aquifer wells on each Lot on an annual basis, unless otherwise reasonably requested by the Division of Water Resources.

Section 8.4. Well Permits.

8.4.1 Each 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 lots, consistent with the terms and conditions of the Replacement Plan. All such Dawson aquifer wells shall be constructed and operated in compliance with the Replacement 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 each such individual well, and delivery of water therefrom to the residence located on such Lot, shall be at each Lot owner's respective expense. Each Lot owner shall comply with any and all requirements of the Division of Water Resources to geophysically log their well, and shall install and maintain in good working order an accurate totalizing flow meter on the well in order to provide the diversion information necessary for the accounting and administration of the Replacement Plan. It is acknowledged that certain well permits, and individual wells, may be in place on certain of the Lots 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.

8.4.2 No party guarantees to the Lot owners the physical availability or the adequacy of water quality from any well to be drilled under the Replacement Plan. The Dawson aquifer which are the subject of the Replacement 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.

Section 8.5. General Water Provisions.

8.5.1 The Lot owners and the District, respectively, shall perform and comply with all terms, conditions, and obligations of the Replacement Plan, and shall further comply with the terms and conditions of these Declarations, and of any well permits issued by the Division of Water Resources pursuant to the Replacement Plan, as well as all applicable statutory and regulatory authority.

8.5.2 No changes, amendments, alterations, or deletions to this Article 8 of these Declarations may be made which would alter, impair, or in any manner compromise the Replacement Plan, or the water rights of the Lot owners without the written approval of said parties, El Paso County, and from the Ground Water Commission.

8.5.3 El Paso County may enforce the provisions regarding the Replacement Plan as set forth in these Declarations, should the Lot owners and/or District fail to adequately do so.

8.5.4 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 Community

(i.e. all Lot owners and the District), 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.

8.5.5 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 Lot Owners. For purposes of this Paragraph, Declarant shall be deemed an owner of each Lot until such time as such Lot(s) are transferred to a third party.

8.5.6 Amendment of Declaration by Declarant. Until such time as Declarant has conveyed any Lots to a third party, any of the provisions, covenants, conditions, restrictions and equitable servitudes contained in these Declarations 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, including the Replacement Plan. 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 Lot owners or mortgagees (or any percentage thereof).

8.5.7 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.

8.5.8 An amendment to these Declarations required to be recorded, as set forth herein, by the District, which has been adopted in accordance with these Declarations, must be prepared, executed, recorded, and certified on behalf of the District by an officer of the District designated for that purpose or, in the absence of designation, by the president of the District.

8.5.9 Termination of the Community may be accomplished by unanimous consent of the Lot owners; however, the covenants and restrictions herein regarding compliance with the Replacement Plan shall not terminate unless the requirements of the Replacement Plan are also terminated by order of the Ground Water commission and a change of water supply is approved by El Paso County.

ARTICLE 9. DISPUTE RESOLUTION

Section 9.1. Intent and Applicability of Article and Statutes of Limitation.

9.1.1 Each Person subject to this Declaration agrees to encourage the amicable resolution of disputes under any of the Governing Documents, without the emotional and financial costs of litigation. Accordingly, each Person covenants and agrees to submit all Claims (as defined below) to final, binding arbitration in accordance with the procedures set forth in Section 8.4 hereof, and not to a court of law.

9.1.2 By acceptance of a deed for a Unit, each Owner agrees to abide by the terms of this Article.

9.1.3 No Claim (as defined below) may be initiated after the date when institution of legal or equitable proceedings based on such Claim would be barred by the applicable statute of limitation or statute of repose.

Section 9.2. Definition of "Claim" Under this Article.

For purposes of this Article, "**Claim**" means, except as excluded or exempted by the terms of this Article, any claim, grievance or dispute between any Person(s) under any of the Governing Documents, and one or more other Persons, regardless of how the same may have arisen or on what it might be based, including those arising out of or related to the interpretation, application or enforcement of any of the Governing Documents, the construction or installation of any Improvements, roads, utilities or other improvements by Declarant, or any rights, obligations or duties under any of the Governing Documents.

Section 9.3. Exclusions from "Claim".

Unless specifically exempted by this Article, all Claims shall be subject to the provisions of this Article. Notwithstanding the foregoing, unless all parties thereto otherwise agree in writing, "**Claim**" does not include any of the following, and the same shall not be subject to the provisions of this Article:

9.3.1 Any action by the Community Council, the Board of Directors of the District, or the Declarant, to enforce any provision(s) of this Declaration, the Guidelines or the Rules and Regulations, including obtaining a temporary restraining order or injunction (or equivalent emergency equitable relief), to collect any costs, fees or fines imposed by the District, and/or such other ancillary relief as a court may deem necessary; or

9.3.2 Any action that asserts a Claim which would constitute a cause of action independent of the Governing Documents.

Section 9.4. Final, Binding Arbitration.

9.4.1 If a person having a Claim ("**Claimant**") desires to pursue the Claim, Claimant shall initiate final, binding arbitration of the Claim with Judicial Arbiter Group ("**JAG**") or any other person agreed to the Claimant and the Person against whom the Claimant has asserted a Claim, in accordance with the then-current rules of JAG or other agreed arbitrator. Any judgment upon the award rendered by the arbitrator shall be final and not subject to appeal and may be

entered in and enforced by any court having jurisdiction over such Claim. Unless otherwise mutually agreed to by the parties to the dispute, there shall be one arbitrator who shall have expertise in the area(s) of dispute, which may include legal expertise if legal issues are involved.

9.4.2 Each party to a dispute shall bear its own costs and expenses, and an equal share of the arbitrator's and administrative fees of arbitration. Notwithstanding the foregoing, if a party to a dispute unsuccessfully contests the validity or scope of arbitration in a court of law, reasonable attorneys' fees and expenses incurred in defending such contests, including those incurred in trial and on appeal, shall be awarded to the non-contesting party. All decisions respecting the arbitrability of any Claim shall be decided by the arbitrator.

9.4.3 The award of the arbitrator shall be accompanied by detailed written findings of fact and conclusions of law. Except as may be required by law or for confirmation of an award, neither a party to such dispute nor an arbitrator may disclose the existence, content, or results of any arbitration without the prior written consent of all of the parties to the dispute.

Section 9.5. Liability for Certain Failures of District or District.

No director or officer of the District or member of the Community Council shall be liable to any Person for failure to institute or maintain or bring to conclusion a cause of action, mediation, arbitration, or other dispute resolution, if the following criteria are satisfied: (a) the director or officer was acting within the scope of his or her duties; (b) the director or officer was not acting in bad faith; and (c) the act or omission was not willful, wanton or grossly negligent. So long as the Special Declarant Rights remain in effect, this Article 8 shall not be amended, repealed or replaced without the written consent of the Declarant.

ARTICLE 10. GENERAL PROVISIONS

Section 10.1. Enforcement.

10.1.1 This Section 9.1 is subject to Article 8 of this Declaration (Dispute Resolution).

10.1.2 Enforcement of the covenants, conditions, restrictions, easements, reservations, rights-of-way, liens, charges and other provisions contained in any of the Governing Documents, as amended, may be by any proceeding at law or in equity against any Person(s) violating or attempting to violate any such provision. Remedies shall be cumulative and no remedy shall be exclusive of other remedies that may be available. The District shall use reasonable efforts to enforce the provisions of the governing documents in accordance with the terms of this Declaration. The District, the Declarant and any aggrieved Owner shall have the right, but not the duty, to institute, maintain and prosecute any such proceedings. For each claim, including counterclaims, cross claims and third-party claims, in any proceeding to enforce the provisions or any of the Governing Documents, the prevailing party shall be awarded its reasonable collection costs and attorney fees and costs incurred in asserting or defending the claim; except that, any Person who brings an action against any Declarant, any Builder, the District, or the Community Council, regarding enforcement, or non-enforcement, of any provision(s) of the Governing Documents, shall not be awarded their costs or any attorney fees. Failure by Declarant, the District,

the Community Council, or any Owner to enforce any covenant, restriction or other provision contained in any of the Governing Documents, shall in no event give rise to any liability for damages, nor shall such non-enforcement be deemed a waiver of the right to thereafter enforce any covenant, restriction or other provision of the Governing Documents, regardless of the number of violations or breaches that may occur.

10.1.3 The District shall have all remedies available to it at law or in equity, including, without limitation, the following remedies and any other remedies set forth herein: (a) the District may record a notice of violation against the Unit on which the violation exists; (b) The District has the right to remove, correct or otherwise remedy any violation in any manner the District deems appropriate; (c) the District may file an action for injunctive relief to cause an existing violation to be brought into compliance with the Governing Documents and the District shall recover all costs and attorneys' fees associated with bringing the action; (d) the District may levy and collect fees, charges, penalties and fines for the violation of any provisions of the Governing Documents. Prior to the imposition of any fines, the District shall give the Owner to be subject to the fine notice and the opportunity for a hearing before the Board of Directors of the District. The Rules and Regulations may further define the process by which such fines may be imposed, including but not limited to establishing the schedule of fines to be imposed. Severability.

Section 10.2. Severability.

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

Section 10.3. Annexation; Withdrawal.

10.3.1 The Declarant may annex to the Property additional property, including any property which may previously have been withdrawn from the Property. Each such annexation, if any, shall be accomplished by recording of an annexation document that expressly states that the property described therein shall be subject to this Declaration and all terms and provisions hereof.

10.3.2 Declarant hereby reserves the right to Record one or more documents in order to clarify the effect of any annexation(s). Each such document(s), if any such document(s) are Recorded by a Declarant, may state the legal description(s) of any property which has been annexed, and may include such other provisions as a Declarant may determine.

10.3.3 Declarant reserves the right to withdraw the Property, or any portion thereof, including one or more Units, from this Declaration, so long as the Declarant owns the portion of the Property to be withdrawn. Each withdrawal, if any, may be effected by the Declarant recording a withdrawal document in the Records. A withdrawal as contained in this paragraph constitutes a divestiture, withdrawal, and de-annexation of the withdrawn property from this Declaration so that, from and after the date of recording a withdrawal document, the property so withdrawn shall not be part of the Property or the Community, or in any way subject to the terms hereof.

Section 10.4. Declarant's and Each Builder's Use.

Notwithstanding anything to the contrary, it shall be expressly permissible for Declarant and each Builder, and their respective employees, agents, and contractors, to perform all activities, and to maintain Improvements, tools, equipment, and facilities, on the portion of the Property owned by them and also on public property, incidental to development, construction, use, rental, sale, occupancy, and/or advertising. The foregoing includes locating, maintaining and relocating management offices, signs, sales offices, model units and construction offices and trailers, in such numbers, of such sizes, and at such locations as Declarant or Builder determines, and for access to, from, and incidental to such uses. Nothing contained in this Declaration shall limit the rights of Declarant or a Builder to conduct all construction, promotion, sales, and marketing activities as such Declarant or such Builder determines, and to use the easements provided in this Declaration for those and other purposes. Further, nothing contained in this Declaration shall limit the rights of a Declarant or a Builder, or require a Declarant or a Builder to obtain any approvals:

10.4.1 to excavate, cut, fill or grade any property or to construct, alter, demolish or replace any Improvements;

10.4.2 to use any Improvements on any property as sales offices, management offices, model units and/or construction offices; and/or

10.4.3 to require a Declarant to seek or obtain any approvals for any activity.

Section 10.5. Duration, Revocation, and Amendment.

10.5.1 Each and every provision of this Declaration shall run with and bind the land perpetually from the date of Recording of this Declaration. Except as otherwise provided in this Declaration, this Declaration may be amended by the affirmative vote or agreement of Owners holding at least sixty-seven percent (67%) of the Units, with each Unit being allocated one vote; provided, however, prior to the termination of the Special Declarant Rights no amendment of this Declaration shall be effective without the prior written approval of the Declarant. Further, amendments shall be applicable only to disputes, issues, circumstances, events, claims or causes of action that arose out of circumstances or events that occurred after the Recording of such amendment; and no amendment shall be applied retroactively to any earlier occurring disputes, issues, events, circumstances, actions, claims or causes of action.

10.5.2 Notwithstanding anything to the contrary, any of the Governing Documents may be amended, in whole or in part, by the Declarant without the consent or approval of any other Person, in order to comply with the requirements, standards, or guidelines of any recognized secondary mortgage markets, including without limitation the department of housing and urban development, the federal housing administration, the veterans administration, the federal home loan mortgage corporation, the government national mortgage association, and the federal national mortgage association. Such right of amendment shall terminate automatically as provided in Section 1.19 of this Declaration.

10.5.3 Notwithstanding anything to the contrary, any of the Governing Documents, or any map or plat, may be amended in whole or in part, by a Declarant without the consent or

approval of any other Person in order to correct clerical, typographical, or technical errors. Such right of amendment shall terminate automatically as provided in Section 1.20 of this Declaration.

10.5.4 Except as to amendments which may be made by the Declarant, amendments to this Declaration may be prepared, executed, Recorded, and certified by any officer of the District designated for that purpose. Such certification shall, in the case of an amendment requiring the approval of Owners, certify that the District has received the requisite approvals. Amendments to this Declaration which may be made by a Declarant pursuant to this Declaration may be signed by a Declarant and shall require no other signatory.

10.5.5 No action to the challenge the validity of this Declaration may be brought more than one year after the recording of this Declaration. Further, no action to challenge the validity of any amendment to this Declaration may be brought more than one year after the recording of such amendment.

Section 10.6. Registration of Mailing Address.

Each Owner and each Security Interest Holder, insurer or guarantor of a Security Interest, shall register his mailing address with the District, and all statements, demands and other notices intended to be served upon an Owner, or upon a Security Interest Holder, insurer or guarantor of a Security Interest shall, subject to Section 2.4 of this Declaration (Authenticated Electronic Representation), be sent by U.S. mail, postage prepaid, addressed in the name of such Person at such registered mailing address. However, if any Owner fails to notify the District of a registered address, then any statement, demand or other notice may be delivered or sent, as aforesaid, to such Owner at the address of such Owner's Unit.

Section 10.7. Limitation on Liability.

Declarant, any Builder, the District, the Community Council, and their respective directors, officers, shareholders, members, partners, agents and employees, shall not be liable to any Person for any action or for any failure to act arising out of any of the Governing Documents, unless the action or failure to act was not in good faith and was done or withheld with malice. Further, the District does not waive, and no provision of this Declaration shall be deemed a waiver of, the immunities and limitations to which the District is entitled as a matter of law, including the Colorado Governmental Immunity Act, §24-10-101, et seq. C.R.S., as amended. The release and waiver set forth in Section 9.11 (Waiver) shall apply to this Section.

Section 10.8. No Representations, Guaranties or Warranties.

No representations, guaranties or warranties of any kind, express or implied, shall be deemed to have been given or made by a Declarant, any Builder, the District, the Board of Directors, the Community Council, or their respective owners, officers, directors, members, partners, agents or employees, in connection with any portion of the Community, or any Improvement, its or their physical condition, structural integrity, freedom from defects, zoning, compliance with applicable laws, fitness for intended use, or view, or in connection with the subdivision, sale, operation, maintenance, cost of maintenance, taxes or regulation thereof, unless and except as shall be specifically set forth in writing. The release and waiver set forth in Section 9.11 (Waiver) shall apply to this Section.

Section 10.9. Disclaimer Regarding Safety.

DECLARANT, EACH BUILDER, THE DISTRICT, THE BOARD OF DIRECTORS, THE COMMUNITY COUNCIL, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, OWNERS, MEMBERS, PARTNERS, AGENTS AND EMPLOYEES, HEREBY DISCLAIM ANY OBLIGATION REGARDING THE SECURITY OF ANY PERSONS OR PROPERTY WITHIN THE COMMUNITY. BY ACCEPTING A DEED TO PROPERTY WITHIN THE COMMUNITY, EACH OWNER ACKNOWLEDGES THAT DECLARANT, EACH BUILDER, THE BOARD OF DIRECTORS, THE COMMUNITY COUNCIL, AND THEIR RESPECTIVE OWNERS, OFFICERS, DIRECTORS, MEMBERS, PARTNERS, AGENTS AND EMPLOYEES, ARE ONLY OBLIGATED TO DO THOSE ACTS SPECIFICALLY ENUMERATED HEREIN, OR IN THE GOVERNING DOCUMENTS, AND ARE NOT OBLIGATED TO DO ANY OTHER ACTS WITH RESPECT TO THE SAFETY OR PROTECTION OF PERSONS OR PROPERTY WITHIN THE COMMUNITY. THE RELEASE AND WAIVER SET FORTH IN SECTION 9.11 (WAIVER) SHALL APPLY TO THIS SECTION.

Section 10.10. Development Within and Surrounding the Community and Adjacent Uses.

Each Owner acknowledges that development within and surrounding the Community may continue for an indefinite period, and that plans for the density, type and location of improvements, developments or land uses, may change over time. Such development may entail changes to or alterations in the access to the Community, views of or from the Community or the Units, surrounding land uses, open space or facilities, traffic volumes or patterns, privacy or other off-site aspects or amenities. Each Owner acknowledges that the Community may be subject to noise, fumes, dust, particles, and any other effects of agricultural operations that may take place near the Community. By accepting a deed to a Unit, each Owner accepts title to such Unit subject to the foregoing, and waives and releases any claim against the Declarant, any Builder, the District, the Board of Directors, the Community Council, and their respective owners, officers, directors, members, partners, agents and employees, heirs, personal representatives, successors and assigns, arising out of or associated with any of the foregoing. The release and waiver set forth in Section 9.11 (Waiver) shall apply to this Section.

Section 10.11. Waiver.

By acceptance of a deed to a Unit, each Owner hereby releases, waives, and discharges Declarant, each Builder, the District, the Board of Directors, the Community Council, and their respective owners, officers, directors, members, partners, agents and employees, heirs, personal representatives, successors and assigns, from all losses, claims, liabilities, costs, expenses, and damages, arising directly or indirectly from any hazards, disclosures or risks set forth in this Declaration, including without limitation those contained in Sections 9.7, 9.8, 9.9 and 9.10.

Section 10.12. Headings.

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

Section 10.13. Gender.

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

Section 10.14. Use of "Include," "Includes" and "Including".

All uses in the Governing Documents of the words "**include,**" "**includes**" and "**including**" shall be deemed to include the words "**without limitation**" immediately thereafter.

Section 10.15. Action.

Any action that has been or may be taken by a Declarant, the District, a Builder, the Board, the Community Council, any Member, any director, any committee, or any other Person, may be taken "**at any time, from time to time**". Each provision that authorizes, directs or permits action shall be deemed to include such language.

Section 10.16. Sole Discretion.

All actions which are taken by a Declarant, the District, a Builder, the Board, the Community Council, any director, any committee, or any other Person, shall be deemed to be taken "**in the sole discretion**" of each of such parties.

Section 10.17. Run with Land; Binding Upon Successors.

The benefits, burdens and all other provisions contained in this Declaration shall be covenants running with and binding upon the Community and all real property and Improvements which are now or hereafter become a part thereof. The benefits, burdens and all other provisions contained in this Declaration shall be binding upon, and inure to the benefit of Declarant, each Builder, the District, and all Owners, and upon and to their respective heirs, personal representatives, successors and assigns.

[*Signatures on following pages.*]

IN WITNESS WHEREOF, the undersigned have hereunto set their hands this 27th day of January, 2021.

DECLARANT:

Winsome, LLC,
a Colorado limited liability company

By: _____
Name: Andrew Biggs
Title: Manager

STATE OF COLORADO)
) ss.
COUNTY OF El Paso)

The foregoing instrument was acknowledged before me this 27th day of January, 2021 by Andrew Biggs as Manager of Winsome, LLC, a Colorado limited liability company.

Witness my hand and official seal.

(S E A L)

KIMBERLY J MCGUIRE
Notary Public
State of Colorado
Notary ID # 20184008996
My Commission Expires 02-26-2022

Notary Public Kimberly J McGuire

My Commission Expires: 02-26-2022

THE DISTRICT:

Winsome Metropolitan District No. 1,
a quasi-municipal corporation and political subdivision of the State of Colorado

By: _____
Name: Andrew Biggs
Title: President

Attest: _____
Secretary

STATE OF COLORADO)
) ss.
COUNTY OF El Paso)

The foregoing instrument was acknowledged before me this 27th day of January, 2021 by Andrew Biggs as President of Winsome Metropolitan District No. 1, a quasi-municipal corporation and political subdivision of the State of Colorado.

Witness my hand and official seal.

(S E A L)

Notary Public Kimberly J McGuire
My Commission Expires: 02-26-2022

KIMBERLY J MCGUIRE
Notary Public
State of Colorado
Notary ID # 20184008996
My Commission Expires 02-26-2022

EXHIBIT A
TO
DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
OF WINSOME

Lots 1-47 Inclusive and Tracts B, C, D
All as set forth on the final plat of Winsome Filing No. 1
Recorded in the real property records of El Paso County, CO on 3/2/2021
at reception number: 221714686

Chuck Broerman
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PRIVATE DETENTION BASIN / STORMWATER QUALITY BEST MANAGEMENT PRACTICE MAINTENANCE AGREEMENT AND EASEMENT

This PRIVATE DETENTION BASIN / STORMWATER QUALITY BEST MANAGEMENT PRACTICE MAINTENANCE AGREEMENT AND EASEMENT ("Agreement") is made by and among EL PASO COUNTY (the "County") by and through THE BOARD OF COUNTY COMMISSIONERS OF EL PASO COUNTY, COLORADO (the "Board"), WINSOME, LLC, a Colorado limited liability company ("Developer") and WINSOME METROPOLITAN DISTRICT NO. 1, a quasi-municipal corporation and political subdivision of the State of Colorado (the "Metro District"). The above may occasionally be referred to herein singularly as "Party" and collectively as "Parties."

Recitals

A. WHEREAS, the Metro District was organized in conjunction with Winsome Metropolitan District No. 2 ("District No. 2"), Winsome Metropolitan District No. 3 ("District No. 3") and Winsome Metropolitan District No. 4 ("District No. 4," and, together with the Metro District and District Nos. 2 through 4, the "Districts") as part of a common plan to provide certain public services and facilities serving the needs of the development known as Winsome; and

B. WHEREAS, the Districts are authorized pursuant to their Service Plan to provide various public improvements and services, including the design, financing, installation, construction, acquisition, operation, and maintenance of flood and surface drainage improvements, including but not limited to, detention ponds, within their boundaries; and

C. WHEREAS, the Metro District will serve as the operations and maintenance district for the Districts and will own, operate and maintain those public improvements not dedicated to another governmental entity; and

D. WHEREAS, Developer is the owner of certain real estate (the "Property") in El Paso County, Colorado, which Property is legally described in **Exhibit A,** attached hereto and incorporated herein by this reference, and lies within District No. 2; and

E. WHEREAS, Developer desires to plat and develop on the Property a subdivision to be known as Winsome Filing No. 1 (the "Subdivision"); and

F. WHEREAS, the development of this Property will substantially increase the volume of water runoff and will decrease the quality of the stormwater runoff from the Property, and, therefore, it is in the best interest of public health, safety and welfare for the County to condition approval of this subdivision on Developer's promise to construct adequate drainage, water runoff control facilities, and stormwater quality structural Best Management Practices ("BMPs") for the Subdivision; and

G. WHEREAS, Chapter 8, Section 8.4.5 of the El Paso County Land Development Code, as periodically amended, promulgated pursuant to Section 30-28-133(1), Colorado Revised Statutes (C.R.S.), requires the County to condition approval of all subdivisions on a developer's promise to so construct adequate drainage, water runoff control facilities, and BMPs in subdivisions; and

H. WHEREAS, the Drainage Criteria Manual, Volume 2, as amended by Appendix I of the El Paso County Engineering Criteria Manual ("ECM"), as each may be periodically amended, promulgated pursuant to the County's Colorado Discharge Permit System General Permit ("MS4 Permit") as required by Phase II of the National Pollutant Discharge Elimination System ("NPDES"), which MS4 Permit requires that the County take measures to protect the quality of stormwater from sediment and other contaminants, requires subdividers, developers, landowners, and owners of facilities located in the County's rights-of-way or easements to provide adequate permanent stormwater quality BMPs with new development or significant redevelopment; and

I. WHEREAS, Section 2.9 of the El Paso County Drainage Criteria Manual provides for a developer's promise to maintain a subdivision's drainage facilities in the event the County does not assume such responsibility; and

J. WHEREAS, developers in El Paso County have historically chosen water runoff detention basins as a means to provide adequate drainage and water runoff control in subdivisions, which basins, while effective, are less expensive for developers to construct than other methods of providing drainage and water runoff control; and

K. WHEREAS, Developer desires to construct for the Subdivision four (4) detention basin/stormwater quality BMP(s) ("Detention Basin/BMP(s)") as the means for providing adequate drainage and stormwater runoff control and to meet requirements of the County's MS4 Permit, and to provide for operating, cleaning, maintaining and repairing such Detention Basin/BMP(s); and

L. WHEREAS, Developer desires to construct the Detention Basin/BMP(s) designated as Pond B, Pond C, Pond D, and Detention Pond No. 3 on the map attached hereto as **Exhibit B** and incorporated herein by this reference, within the areas legally described in **Exhibit C**, attached hereto and incorporated herein by this reference; and

M. WHEREAS, Developer shall be charged with the duty of constructing the Detention Basin/BMP(s), and, following conveyance and acceptance of the Detention Basin/BMP(s) for maintenance by the Metro District, the Metro District shall be charged with the duties of operating, maintaining and repairing the Detention Basin/BMP(s) on the parcels and easements described in **Exhibit C**; and

N. WHEREAS, it is the County's experience that subdivision developers and property owners historically have not properly cleaned and otherwise not properly maintained and repaired such detention basins/BMPs, and that such detention basins/BMPs, when not so properly cleaned, maintained, and repaired, threaten the public health, safety and welfare; and

O. WHEREAS, the County, in order to protect the public health, safety and welfare, has historically expended valuable and limited public resources to so properly clean, maintain, and repair such detention basins/BMPs when developers and property owners have failed in their responsibilities, and therefore, the County desires the means to recover its costs incurred in the event the burden falls on the County to so clean, maintain and repair the Detention Basin/BMP(s) serving this Subdivision due to the Developer's or the Metro District's failure to meet its obligations to do the same; and

P. WHEREAS, the County conditions approval of this Subdivision on the Developer's promise to so construct the Detention Basin/BMP(s), and further conditions approval on the Developer's

and/or Metro District's promise to reimburse the County in the event the burden falls upon the County to so clean, maintain and/or repair the Detention Basin/BMP(s) serving this Subdivision; and

Q. WHEREAS, the County could condition subdivision approval on the Developer's promise to construct a different and more expensive drainage, water runoff control system and BMPs than those proposed herein, which more expensive system would not create the possibility of the burden of cleaning, maintenance and repair expenses falling on the County; however, the County is willing to forego such right upon the performance of Developer's and the Metro District's promises contained herein; and

R. WHEREAS, the County, in order to secure performance of the promises contained herein, conditions approval of this Subdivision upon the Developer's grant herein of a perpetual drainage easement and access easement over the portions of the Property described in **Exhibit C** to both the County and the Metro District for the purpose of allowing the County and/or the Metro District, following acceptance of the Detention Basin/BMP(s), to periodically access, inspect, and, when so necessary, to clean, maintain and/or repair the Detention Basin/BMP(s); and

S. WHEREAS, pursuant to Colorado Constitution, Article XIV, Section 18(2) and Section 29-1-203, Colorado Revised Statutes, governmental entities may cooperate and contract with each other to provide any function, services, or facilities lawfully authorized to each.

Agreement

NOW, THEREFORE, in consideration of the mutual promises contained herein, the sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Incorporation of Recitals: The Parties incorporate the Recitals above into this Agreement.

2. Covenants Running with the Land: Developer and the Metro District agree that this entire Agreement and the performance thereof shall become a covenant running with the land, which land is legally described in **Exhibit A**, and that this entire Agreement and the performance thereof shall be binding upon themselves, their respective successors and assigns.

3. Construction: Developer shall construct on that portion of the Property described in **Exhibit C** four (4) Detention Basin/BMP(s). Developer shall not commence construction of a Detention Basin/BMP(s) until the El Paso County Planning and Community Development Department ("PCD") has approved in writing the plans and specifications for such Detention Basin/BMP(s) and this Agreement has been signed by all Parties and returned to the PCD. Developer shall complete construction of the Detention Basin/BMP(s) in substantial compliance with the County-approved plans and specifications for the Detention Basin/BMP(s). Failure to meet these requirements shall be a material breach of this Agreement and shall entitle the County to pursue any remedies available to it at law or in equity to enforce the same. Construction of the Detention Basin/BMP(s) shall be substantially completed within one (1) year (defined as 365 days), which one-year period will commence to run on the date the approved plat of this Subdivision is recorded in the records of the El Paso County Clerk and Recorder. Rough grading of the Detention Basin/BMP(s) must be completed and inspected by the El Paso County Planning and Community Development Department prior to commencing road construction.

In the event construction of the four (4) Detention Basin/BMP(s) for the Subdivision (the "Project") is not substantially completed within the one (1) year period, then the County may exercise its

discretion to complete the Project and shall have the right to seek reimbursement from the Developer and its respective successors and assigns, for its actual costs and expenses incurred in the process of completing the Project. The term "actual costs and expenses" as used herein and in Paragraph 7 shall be liberally construed in favor of the County, and shall include, but shall not be limited to, labor costs, tool and equipment costs, supply costs, and engineering and design costs, regardless of whether the County uses its own personnel, tools, equipment and supplies, etc. to correct the matter. In the event the County initiates any litigation or engages the services of legal counsel in order to enforce the provisions arising herein, the County shall be entitled to its damages and costs, including reasonable attorney fees, regardless of whether the County contracts with outside legal counsel or utilizes in-house legal counsel for the same.

4. Maintenance: Subject to Paragraph 17 below, the Developer and Metro District agree for itself and its successors and assigns, that it will regularly and routinely inspect, clean and maintain the Detention Basin/BMP(s), and otherwise keep the same in good repair, all at its own cost and expense. No trees or shrubs that will impair the structural integrity of the Detention Basin/BMP(s) shall be planted or allowed to grow on the Detention Basin/BMP(s).

5. Creation of Easement: Developer hereby grants to the County and the Metro District the following easements: (i) a perpetual, non-exclusive access easement, together will all rights and privileges as are incidental to the full use and enjoyment of the easement rights upon, over, above, through and across Tract B of the Subdivision; and (ii) a non-exclusive perpetual drainage easement and access easement, together with all rights and privileges as are incidental to the full use and enjoyment of the easement rights, upon, over, above, through and across that portion of the Property described in **Exhibit C** (collectively, the "Easement"). The purpose of the Easement is to allow the County and the Metro District to access, inspect, clean, repair and maintain the Detention Basin/BMP(s); however, the creation of the easement does not expressly or implicitly impose on the County a duty to so inspect, clean, repair or maintain the Detention Basin/BMP(s), and the Metro District does not have the obligation to inspect, clean, repair and maintain the Detention Basin/BMP(s) until the Metro District accepts the Detention Basin/BMP(s) for maintenance.

6. County's Rights and Obligations: Any time the County determines, in the sole exercise of its discretion, that the Detention Basin/BMP(s) is not properly cleaned, maintained and/or otherwise kept in good repair, the County shall give reasonable notice to the Developer, the Metro District and their respective successors and assigns, that the Detention Basin/BMP(s) needs to be cleaned, maintained and/or otherwise repaired. The notice shall provide a reasonable time to correct the problem(s). Should the responsible parties fail to correct the specified problem(s) within the reasonable time provided or such other period of time with which the County agrees, the County may enter upon the Property to so correct the specified problem(s). Notice shall be effective to the above by the County's deposit of the same into the regular United States mail, postage pre-paid. Notwithstanding the foregoing, this Agreement does not expressly or implicitly impose on the County a duty to so inspect, clean, repair or maintain the Detention Basin/BMP(s).

7. Reimbursement of County's Costs: The Developer and the Metro District agree and covenant, for themselves, their respective successors and assigns, that they will reimburse the County for its costs and expenses incurred in the process of completing construction of, cleaning, maintaining, and/or repairing the Detention Basin/BMP(s) pursuant to the provisions of this Agreement.

8. Contingencies of Subdivision Approval: Developer's and the Metro District's execution of this Agreement is a condition of Subdivision approval. Additional conditions of this Agreement include, but are not limited to, the following:

a. A copy of the Covenants of the Subdivision, if applicable, establishing that the Metro District is obligated to inspect, clean, maintain, and repair the Detention Basin/BMP(s).

The County shall have the right, in the sole exercise of its discretion, to approve or disapprove any documentation submitted to it under the conditions of this Paragraph, including but not limited to, any separate agreement or amendment, if applicable, identifying any specific maintenance responsibilities not addressed herein. The County's rejection of any documentation submitted hereunder shall mean that the appropriate condition of this Agreement has not been fulfilled.

9. Agreement Monitored by El Paso County Planning and Community Development Department and/or El Paso County Department of Public Works: Any and all actions and decisions to be made hereunder by the County shall be made by the Director of the El Paso County Planning and Community Development Department and/or the Director of the El Paso County Department of Public Works. Accordingly, any and all documents, submissions, plan approvals, inspections, etc. shall be submitted to and shall be made by the Director of the Planning and Community Development Department and/or the Director of the El Paso County Department of Public Works.

10. Indemnification and Hold Harmless: To the extent authorized by law, Developer and the Metro District agree, for themselves, their respective successors and assigns, that they will indemnify, defend, and hold the County harmless from any and all loss, costs, damage, injury, liability, claim, lien, demand, action and causes of action whatsoever, whether at law or in equity, arising from or related to their respective intentional or negligent acts, errors or omissions or that of their agents, officers, servants, employees, invitees and licensees in the construction, operation, inspection, cleaning (including analyzing and disposing of any solid or hazardous wastes as defined by State and/or Federal environmental laws and regulations), maintenance, and repair of the Detention Basin/BMP(s), and such obligation arising under this Paragraph shall be joint and several. Nothing in this Paragraph shall be deemed to waive or otherwise limit the defense available to the County pursuant to the Colorado Governmental Immunity Act, Sections 24-10-101, *et seq*. C.R.S., or as otherwise provided by law.

11. Severability: In the event any Court of competent jurisdiction declares any part of this Agreement to be unenforceable, such declaration shall not affect the enforceability of the remaining parts of this Agreement.

12. Third Parties: This Agreement does not and shall not be deemed to confer upon or grant to any third party any right to claim damages or to bring any lawsuit, action or other proceeding against either the County, the Developer, the Metro District, or their respective successors and assigns, because of any breach hereof or because of any terms, covenants, agreements or conditions contained herein.

13. Solid Waste or Hazardous Materials: Should any refuse from the Detention Basin/BMP(s) be suspected or identified as solid waste or petroleum products, hazardous substances or hazardous materials (collectively referred to herein as "hazardous materials"), the Developer and the Metro District shall take all necessary and proper steps to characterize the solid waste or hazardous materials and properly dispose of it in accordance with applicable State and/or Federal environmental laws and regulations, including, but not limited to, the following: Solid Wastes Disposal Sites and Facilities Acts, §§ 30-20-

100.5 – 30-20-119, C.R.S., Colorado Regulations Pertaining to Solid Waste Disposal Sites and Facilities, 6 C.C.R. 1007-2, *et seq.*, Solid Waste Disposal Act, 42 U.S.C. §§ 6901-6992k, and Federal Solid Waste Regulations 40 CFR Ch. I. The County shall not be responsible or liable for identifying, characterizing, cleaning up, or disposing of such solid waste or hazardous materials. Notwithstanding the previous sentence, should any refuse cleaned up and disposed of by the County be determined to be solid waste or hazardous materials, the Developer and the Metro District, but not the County, shall be responsible and liable as the owner, generator, and/or transporter of said solid waste or hazardous materials.

14. Applicable Law and Venue: The laws, rules, and regulations of the State of Colorado and El Paso County shall be applicable in the enforcement, interpretation, and execution of this Agreement, except that Federal law may be applicable regarding solid waste or hazardous materials. Venue shall be in the El Paso County District Court.

15. Governmental Immunity. Nothing in this Agreement shall be construed to be a waiver, in whole or in part, of any right, privilege or protection afforded the County or its Board, the Metro District or its Board of Directors, or their respective officers, employees, servants, agents or authorized volunteers pursuant to the Colorado Governmental Immunity Act, Sections 24-10-101, et seq., C.R.S.

16. Annual Appropriations. The Metro District does not intend hereby to create a multiple-fiscal year direct or indirect debt or other financial obligation whatsoever.

17. Limitation on Developer and Metro District's Obligations and Liabilities: The obligation and liability of the Developer hereunder shall only continue until such time as all of the following occur: (i) the Final Plat for the Subdivision as described in Paragraph E of the Recitals set forth above is recorded; (ii) the Developer completes the construction of the Detention Basin/BMP(s); and (iii) the Detention Basin/BMP(s) are conveyed and accepted for ownership and maintenance by the Metro District. By execution of this agreement, the Metro District agrees to accept conveyance of the Detention Basin/BMP(s) from the Developer and all responsibilities and duties assigned to it under this Agreement, upon completion of items (i), (ii) and (iii) herein.

18. Subordination of Deed of Trust. McCune Ranch, LLC, a Colorado limited liability company, is the beneficiary ("Beneficiary") under that certain deed of trust recorded in the records of the El Paso County Clerk and Recorder at reception number 220044440 on 3/31/2020 ("Deed of Trust"). The Deed of Trust encumbers all or a portion of the property described in **Exhibit D** hereto (the "Encumbered Property"). Beneficiary consents and agrees that the Deed of Trust, and Beneficiary's interests thereunder, are hereby subordinated to the interests of the County and Metro District in such property as set forth in this Agreement such that the Deed is Trust is subordinate and inferior in all respects to the interests of the County and Metro District in the property set forth in **Exhibit D** of this Agreement.

19. Contract Modification. The Agreement may not be amended, altered or otherwise changed except by a written agreement signed by the Parties.

20. Counterpart Execution. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

[The remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, the Parties affix their signatures below.

Executed this 27th day of January, 2021, by:

WINSOME, LLC

By: _____

Andrew J. Biggs, Manager

State of Colorado
County of El Paso

The foregoing instrument was acknowledged before me this 27th day of January, 2021, by Andrew J. Biggs as Manager of Winsome, LLC.

Witness my hand and official seal.

My commission expires: 02-26-2022

KIMBERLY J MCGUIRE
Notary Public
State of Colorado
Notary ID # 20184008996
My Commission Expires 02-26-2022

_____
Notary Public

Executed this 27th day of January, 2021, by:

WINSOME METROPOLITAN DISTRICT NO. 1

By: _____

Andrew J. Biggs, President

State of Colorado

County of El Paso

The foregoing instrument was acknowledged before me this 27th day of January, 2021, by Andrew J. Biggs as President of WINSOME METROPOLITAN DISTRICT NO. 1.

Witness my hand and official seal.

My commission expires: 02-26-2022

KIMBERLY J MCGUIRE
Notary Public
State of Colorado
Notary ID # 20184008996
My Commission Expires 02-26-2022

Kimberly J McGuire

Notary Public

Executed this 17TH day of February, 2021, by:

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

By: _____
Craig Dossey, Executive Director
Planning and Community Development Department
Authorized signatory pursuant to LDC

The foregoing instrument was acknowledged before me this 24 day of February, 2021, by Craig Dossey, Executive Director of El Paso County Planning and Community Development Department.

Witness my hand and official seal.
My commission expires: October 11, 2022

_____
Notary Public

Tara Joy Younger
Notary Public
State of Colorado
Notary ID 20184040076
My Commission Expires October 11, 2022

Approved as to Content and Form:
Lori L. Seago
Assistant County Attorney

BENEFICIARY: Solely with respect the subordination in Paragraph 18 above, Beneficiary hereby agrees to be bound.

McCune Ranch, LLC,
a Colorado limited liability company

By: Mary Sue McCune Liss
Name: Mary Sue McCune Liss
Title: Manager
Date: 2/2/2021

STATE OF COLORADO)
) ss.
COUNTY OF El Paso)

The foregoing instrument was acknowledged before me this 2nd day of February, 2021, by Mary Sue McCune Liss, Manager of McCune Ranch, LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: 02-26-2022

KIMBERLY J MCGUIRE
Notary Public
State of Colorado
Notary ID # 20184008996
My Commission Expires 02-26-2022

Kimberly J McGuire
Notary Public

EXHIBIT A

A TRACT OF LAND BEING A PORTION OF SECTION 24, RANGE 11 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF EL PASO, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE WEST LINE OF THE NORTHWEST QUARTER OF SECTION 24, TOWNSHIP 11 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN BEING MONUMENTED ON THE SOUTHERLY END BY A 2-1/2" ALUMINUM CAP STAMPED "LS 28658" AND AT THE NORTHERLY END BY A 3-1/2" ALUMINUM CAP STAMPED "LS 12103" BEING ASSUMED TO BEAR N00°14'25"E A DISTANCE OF 2636.99 FEET AS SHOWN IN LAND SURVEY PLAT RECORDED UNDER RECEPTION 218900072 RECORDS OF EL PASO COUNTY, COLORADO.

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 24; THENCE S00°14'17"W, A DISTANCE OF 1,684.27 FEET TO THE POINT OF BEGINNING; THENCE S89°41'23"E, A DISTANCE OF 820.25 FEET; THENCE N29°41'56"E, A DISTANCE OF 768.98 FEET; THENCE S89°45'39"E, A DISTANCE OF 128.26 FEET; THENCE S69°47'19"E, A DISTANCE OF 306.30 FEET TO A POINT ON CURVE; THENCE ON THE ARC OF A CURVE TO THE LEFT WHOSE CENTER BEARS N69°47'19"W, HAVING A DELTA OF 2°06'42", A RADIUS OF 1,790.00 FEET, A DISTANCE OF 65.97 FEET TO A POINT A POINT OF TANGENT; THENCE N18°06'10"E, A DISTANCE OF 383.72 FEET; THENCE N19°13'35"E, A DISTANCE OF 60.00 FEET TO A POINT ON CURVE; THENCE ON THE ARC OF A CURVE TO THE LEFT WHOSE CENTER BEARS N19°13'35"E, HAVING A DELTA OF 50°01'50", A RADIUS OF 1,470.00 FEET, A DISTANCE OF 1,283.60 FEET TO A POINT ON CURVE; THENCE N30°48'16"W, A DISTANCE OF 58.07 FEET; THENCE N54°25'41"E, A DISTANCE OF 240.00 FEET; THENCE S40°33'13"E, A DISTANCE OF 117.62 FEET TO A POINT ON CURVE; THENCE ON THE ARC OF A CURVE TO THE LEFT WHOSE CENTER BEARS N40°33'13"W, HAVING A DELTA OF 7°37'13", A RADIUS OF 1,530.00 FEET A DISTANCE OF 203.49 FEET TO A POINT OF TANGENT; THENCE N41°49'33"E, A DISTANCE OF 100.05 FEET; THENCE S34°15'42"E, A DISTANCE OF 1,176.07 FEET TO A POINT ON CURVE; THENCE ON THE ARC OF A CURVE TO THE RIGHT WHOSE CENTER BEARS N38°44'46"W, HAVING A DELTA OF 3°31'19", A RADIUS OF 3,970.00 FEET, A DISTANCE OF 244.03 FEET TO A POINT OF TANGENT; THENCE S54°46'33"W, A DISTANCE OF 146.74 FEET; THENCE S35°13'27"E, A DISTANCE OF 60.00 FEET; THENCE N54°46'33"E, A DISTANCE OF 146.74 FEET TO A POINT OF CURVE; THENCE ON THE ARC OF A CURVE TO THE LEFT HAVING A DELTA OF 3°27'19", A RADIUS OF 4,030.00 FEET, A DISTANCE OF 243.03 FEET TO A POINT ON CURVE; THENCE S32°53'11"E, A DISTANCE OF 363.08 FEET; THENCE S21°16'12"E, A DISTANCE OF 333.95 FEET; THENCE S10°20'00"E, A DISTANCE OF 247.91 FEET; THENCE S00°29'45"E, A DISTANCE OF 484.81 FEET TO A POINT 30.00 FEET NORTH OF THE SOUTH LINE OF SECTION 24, TOWNSHIP 11 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN; THENCE S89°30'15"W ON A LINE 30.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID SECTION 24, A DISTANCE OF 4,535.40 FEET TO A POINT ON THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 24; THENCE N00°14'17"E ON THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 24, A DISTANCE OF 922.65 FEET TO THE POINT OF BEGINNING.

CONTAINING A CALCULATED AREA OF 7,161,246 SQUARE FEET OR 164.400 ACRES.

EXHIBIT B

(Map of Detention Ponds/BMPs)

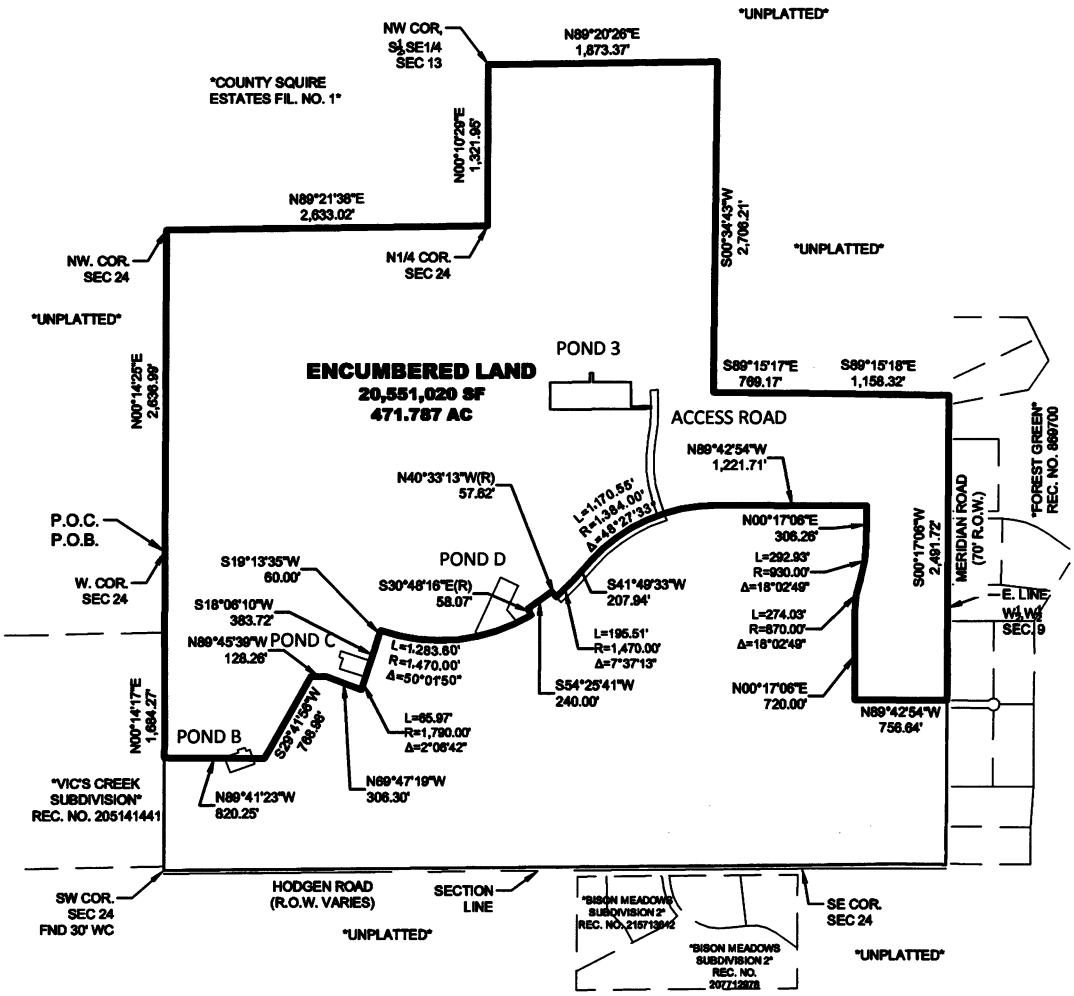
EXHIBIT B

WINSOME

ENCUMBERED LAND

LEGEND:

P.O.B.	POINT OF BEGINNING
P.O.C.	POINT OF COMMENCING
*	AREA IS NOT PART OF THIS SURVEY



THIS DRAWING DOES NOT REPRESENT A MONUMENTED LAND SURVEY AND IS ONLY INTENDED TO DEPICT THE LEGAL DESCRIPTION.

EDWARD-JAMES SURVEYING, INC.

926 Elkton Dr.
Colorado Springs, CO 80907
(719) 576-1216

4732 Eagleridge Circle
Pueblo, CO 81008
(719) 545-6240

8-25-2019

JOB NO. 1858-00
SHEET 1 OF 1

EXHIBIT C

(legal description of pond easements; must be drawn so as to be adjacent to a public road for legal access)

June 3, 2020
Job 1858.00

EXHIBIT C-1

LEGAL DESCRIPTION: POND B EASEMENT

A TRACT OF LAND BEING A PORTION OF SECTION 24, TOWNSHIP 11 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF EL PASO, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE WEST LINE OF THE NORTHWEST QUARTER OF SECTION 24, TOWNSHIP 11 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN BEING MONUMENTED ON THE SOUTHERLY END BY A 2-1/2" ALUMINUM CAP STAMPED "LS 28658" AND AT THE NORTHERLY END BY A 3-1/2" ALUMINUM CAP STAMPED "LS 12103" BEING ASSUMED TO BEAR N00°14'25"E, A DISTANCE OF 2636.99 FEET AS SHOWN ON THE LAND SURVEY PLAT RECORDED UNDER RECEPTION 218900072 RECORDS OF EL PASO COUNTY.

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 24; THENCE S20°12'43"E, A DISTANCE OF 1,726.12 FEET TO THE POINT OF BEGINNING; THENCE N70°00'00"E, A DISTANCE OF 62.32 FEET; THENCE S20°00'00"E, A DISTANCE OF 30.71 FEET; THENCE N70°00'00"E, A DISTANCE OF 30.77 FEET; THENCE S20°00'00"E, A DISTANCE OF 120.51 FEET; THENCE S70°00'00"W, A DISTANCE OF 215.16 FEET; THENCE N20°00'00"W, A DISTANCE OF 130.51 FEET; THENCE N70°00'00"E, A DISTANCE OF 122.07 FEET; THENCE N20°00'00"W, A DISTANCE OF 20.71 FEET TO THE POINT OF BEGINNING; WHENCE THE NORTHWEST QUARTER OF SAID SECTION 24, BEARS N07°49'44"W, A DISTANCE OF 4,296.84 FEET.

CONTAINING A CALCULATED AREA OF 29,063 SQUARE FEET OR 0.667 ACRES.

LEGAL DESCRIPTION STATEMENT

I, JONATHAN W. TESSIN, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY STATE THAT THE ABOVE LEGAL DESCRIPTION WAS PREPARED UNDER MY RESPONSIBLE CHARGE AND ON THE BASIS OF MY KNOWLEDGE, INFORMATION, AND BELIEF IS CORRECT.

COLORADO REGISTERED PROFESSIONAL LAND SURVEYOR JONATHAN W. TESSIN 33196

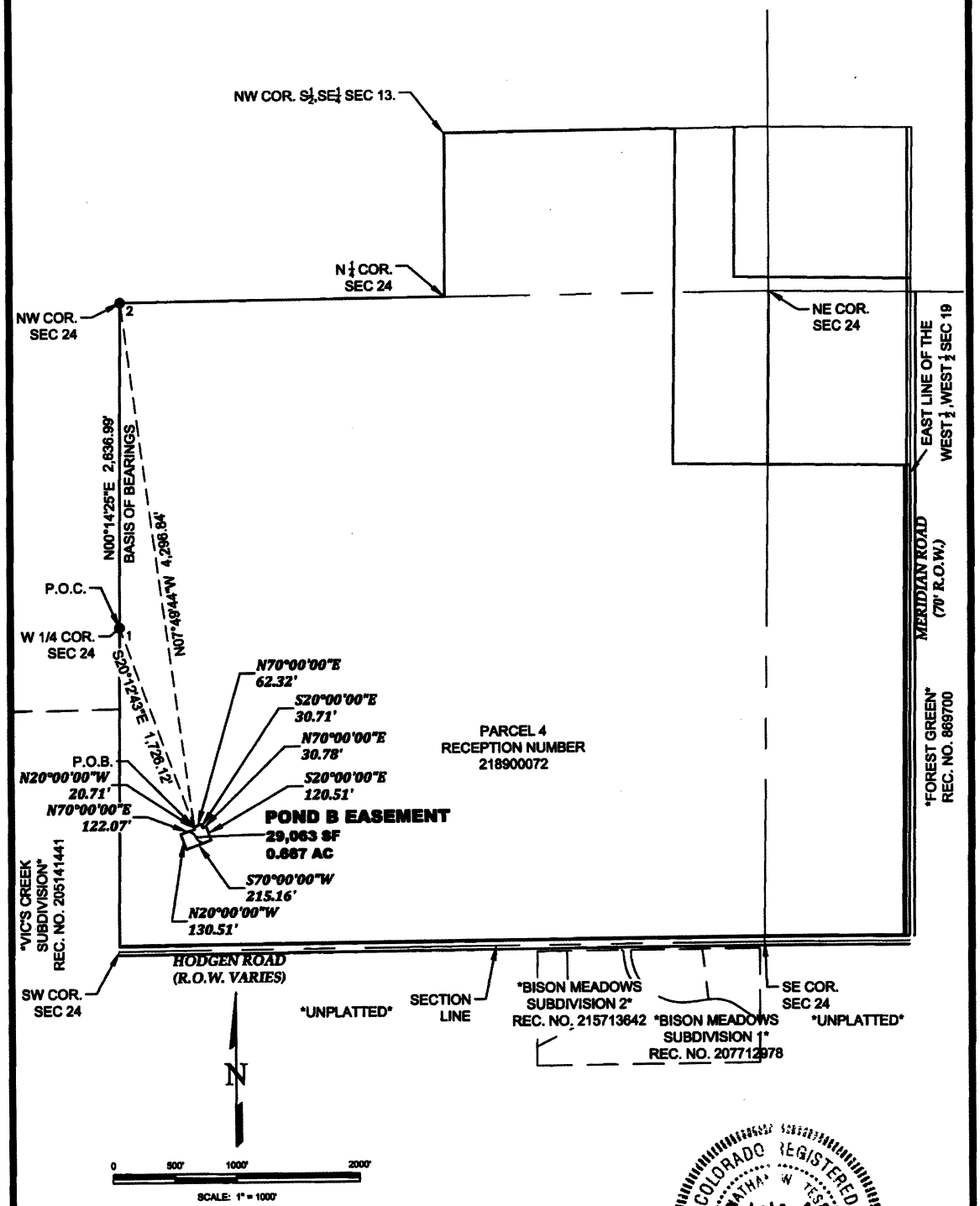
JONATHAN W. TESSIN, PROFESSIONAL LAND SURVEYOR
COLORADO PLS NO. 33196
FOR AND ON BEHALF OF EDWARD-JAMES SURVEYING, INC.

926 ELKTON DRIVE
COLORADO SPRINGS, CO 80906
PH 719-576-1216
FAX 719-576-1206

4732 EAGLERIDGE CIRCLE
PUEBLO, CO 81008
PH 719-545-6240
FAX 719-545-6247

http://www.ejsurveying.com

EXHIBIT C-1



LEGEND:

- ●1 FOUND 2-1/2" ALUMINUM CAP STAMPED "LS 28658"
- ●2 FOUND 3-1/4" ALUMINUM CAP STAMPED "LS 12103"
- P.O.B. POINT OF BEGINNING
- P.O.C. POINT OF COMMENCING

COLORADO REGISTERED PROFESSIONAL LAND SURVEYOR JONATHAN W. TESSEN 33196 6/5/2020

THIS DRAWING DOES NOT REPRESENT A MONUMENTED LAND SURVEY AND IS ONLY INTENDED TO DEPICT THE LEGAL DESCRIPTION.

EDWARD-JAMES SURVEYING, INC.
926 Elkton Dr.
Colorado Springs, CO 80907
(719) 576-1216
4732 Eagleridge Circle
Pueblo, CO 81008
(719) 545-6240

06-03-2020
POND B ESMT

JOB NO. 1858-00
SHEET 2 OF 2

June 3, 2020
Job 1858.00

EXHIBIT C-2

LEGAL DESCRIPTION: POND C EASEMENT

A TRACT OF LAND BEING A PORTION OF SECTION 24, TOWNSHIP 11 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF EL PASO, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE WEST LINE OF THE NORTHWEST QUARTER OF SECTION 24, TOWNSHIP 11 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN BEING MONUMENTED ON THE SOUTHERLY END BY A 2-1/2" ALUMINUM CAP STAMPED "LS 28658" AND AT THE NORTHERLY END BY A 3-1/2" ALUMINUM CAP STAMPED "LS 12103" BEING ASSUMED TO BEAR N00°14'25"E, A DISTANCE OF 2636.99 FEET AS SHOWN ON THE LAND SURVEY PLAT RECORDED UNDER RECEPTION 218900072 RECORDS OF EL PASO COUNTY.

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 24; THENCE S60°33'47"E, A DISTANCE OF 1,655.07 FEET TO THE POINT OF BEGINNING; THENCE S71°57'48"E, A DISTANCE OF 258.86 FEET; THENCE S18°06'10"W, A DISTANCE OF 136.73 FEET; THENCE N71°57'48"W, A DISTANCE OF 223.70 FEET; THENCE N18°02'12"E, A DISTANCE OF 87.33 FEET; THENCE N71°57'48"W, A DISTANCE OF 35.00 FEET; THENCE N18°02'12"E, A DISTANCE OF 49.40 FEET TO THE POINT OF BEGINNING;
WHENCE THE NORTHWEST QUARTER OF SAID SECTION 24, BEARS N22°30'59"W, A DISTANCE OF 3,735.10 FEET.

CONTAINING A CALCULATED AREA OF 32,325 SQUARE FEET OR 0.742 ACRES.

LEGAL DESCRIPTION STATEMENT

I, JONATHAN W. TESSIN, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY STATE THAT THE ABOVE LEGAL DESCRIPTION WAS PREPARED UNDER MY RESPONSIBLE CHARGE AND ON THE BASIS OF MY KNOWLEDGE, INFORMATION, AND BELIEF IS CORRECT.

COLORADO REGISTERED PROFESSIONAL LAND SURVEYOR JONATHAN W. TESSIN 6/5/2020 33196

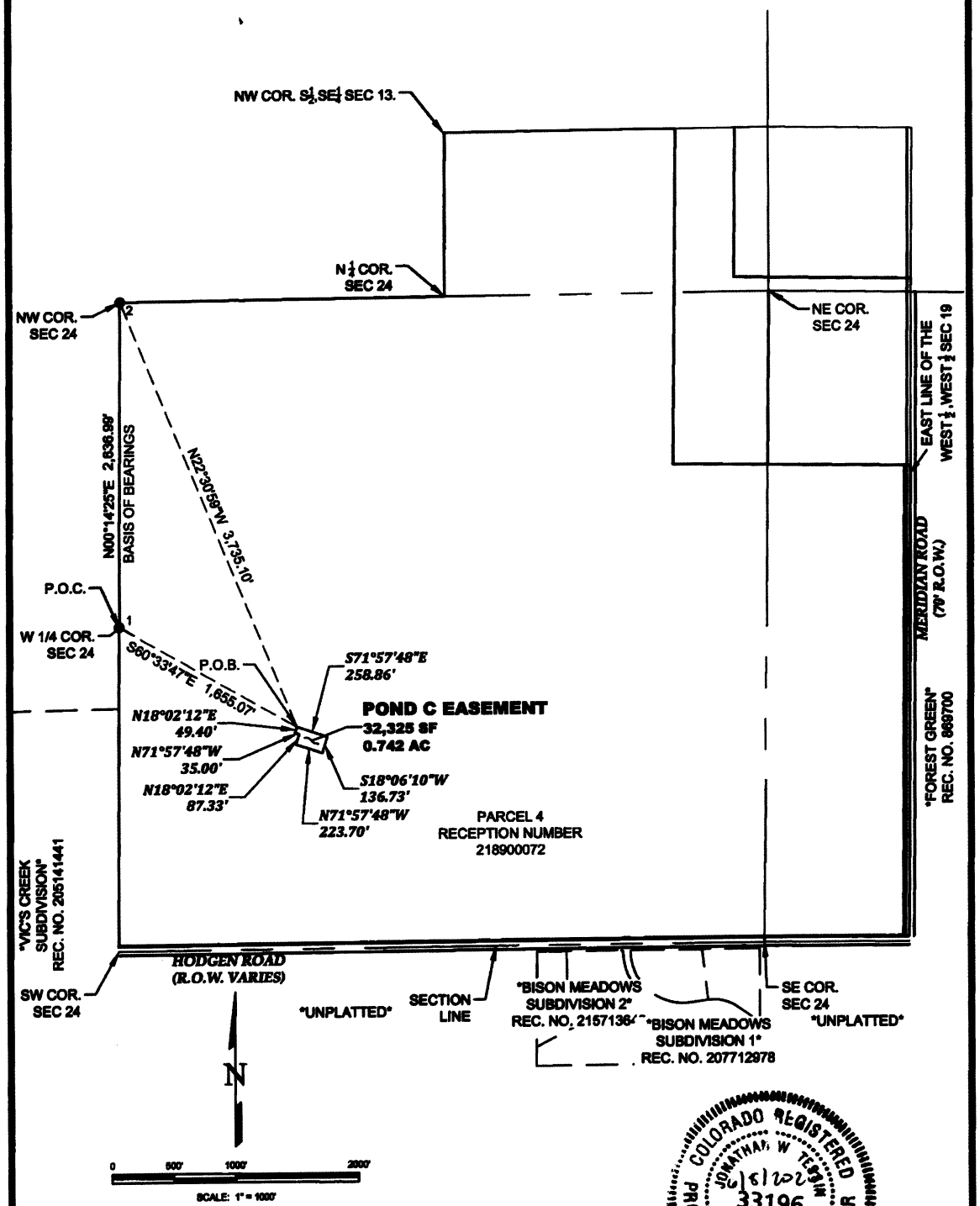
JONATHAN W. TESSIN, PROFESSIONAL LAND SURVEYOR
COLORADO PLS NO. 33196
FOR AND ON BEHALF OF EDWARD-JAMES SURVEYING, INC.

926 ELKTON DRIVE
COLORADO SPRINGS, CO 80906
PH 719-576-1216
FAX 719-576-1206

4732 EAGLERIDGE CIRCLE
PUEBLO, CO 81008
PH 719-545-6240
FAX 719-545-6247

http://www.ejsurveying.com

EXHIBIT C-2



LEGEND:

- ●1 FOUND 2-1/2" ALUMINUM CAP STAMPED "LS 28658"
- ●2 FOUND 3-1/4" ALUMINUM CAP STAMPED "LS 12103"
- P.O.B. POINT OF BEGINNING
- P.O.C. POINT OF COMMENCING

COLORADO REGISTERED PROFESSIONAL LAND SURVEYOR JONATHAN W. TEGEN 33196 6/8/2020

THIS DRAWING DOES NOT REPRESENT A MONUMENTED LAND SURVEY AND IS ONLY INTENDED TO DEPICT THE LEGAL DESCRIPTION.

EDWARD-JAMES SURVEYING, INC.
926 Elkton Dr.
Colorado Springs, CO 80907
(719) 576-1216
4732 Eagleridge Circle
Pueblo, CO 81008
(719) 545-6240

06-03-2020
POND C ESMT

JOB NO. 1858-00
SHEET 2 OF 2

June 3, 2020
Job 1858.00

EXHIBIT C-3

LEGAL DESCRIPTION: POND D EASEMENT

A TRACT OF LAND BEING A PORTION OF SECTION 24, TOWNSHIP 11 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF EL PASO, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE WEST LINE OF THE NORTHWEST QUARTER OF SECTION 24, TOWNSHIP 11 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN BEING MONUMENTED ON THE SOUTHERLY END BY A 2-1/2" ALUMINUM CAP STAMPED "LS 28658" AND AT THE NORTHERLY END BY A 3-1/2" ALUMINUM CAP STAMPED "LS 12103" BEING ASSUMED TO BEAR N00°14'25"E, A DISTANCE OF 2636.99 FEET AS SHOWN ON THE LAND SURVEY PLAT RECORDED UNDER RECEPTION 218900072 RECORDS OF EL PASO COUNTY.

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 24; THENCE S85°36'54"E, A DISTANCE OF 2,762.20 FEET TO THE POINT OF BEGINNING; THENCE S65°00'00"E, A DISTANCE OF 159.65 FEET; THENCE S25°00'00"W, A DISTANCE OF 218.11 FEET; THENCE S40°00'00"E, A DISTANCE OF 134.62 FEET TO A POINT ON CURVE; THENCE ON THE ARC OF A CURVE TO THE RIGHT, WHOSE CENTER BEARS N25°44'44"W, HAVING A DELTA OF 12°17'07", A RADIUS OF 1,470.00 FEET; A DISTANCE OF 315.19 FEET TO A POINT ON CURVE, THENCE N65°00'00"W, A DISTANCE OF 57.67 FEET, THENCE N25°00'00"E, A DISTANCE OF 495.90 FEET TO THE POINT OF BEGINNING;
WHENCE THE NORTHWEST QUARTER OF SAID SECTION 24, BEARS N43°55'23"W, A DISTANCE OF 3,954.29 FEET.

CONTAINING A CALCULATED AREA OF 86,623 SQUARE FEET OR 1.989 ACRES.

LEGAL DESCRIPTION STATEMENT

I, JONATHAN W. TESSIN, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY STATE THAT THE ABOVE LEGAL DESCRIPTION WAS PREPARED UNDER MY RESPONSIBLE CHARGE AND ON THE BASIS OF MY KNOWLEDGE, INFORMATION, AND BELIEF IS CORRECT.

COLORADO REGISTERED PROFESSIONAL LAND SURVEYOR JONATHAN W. TESSIN 6/8/2020 33196

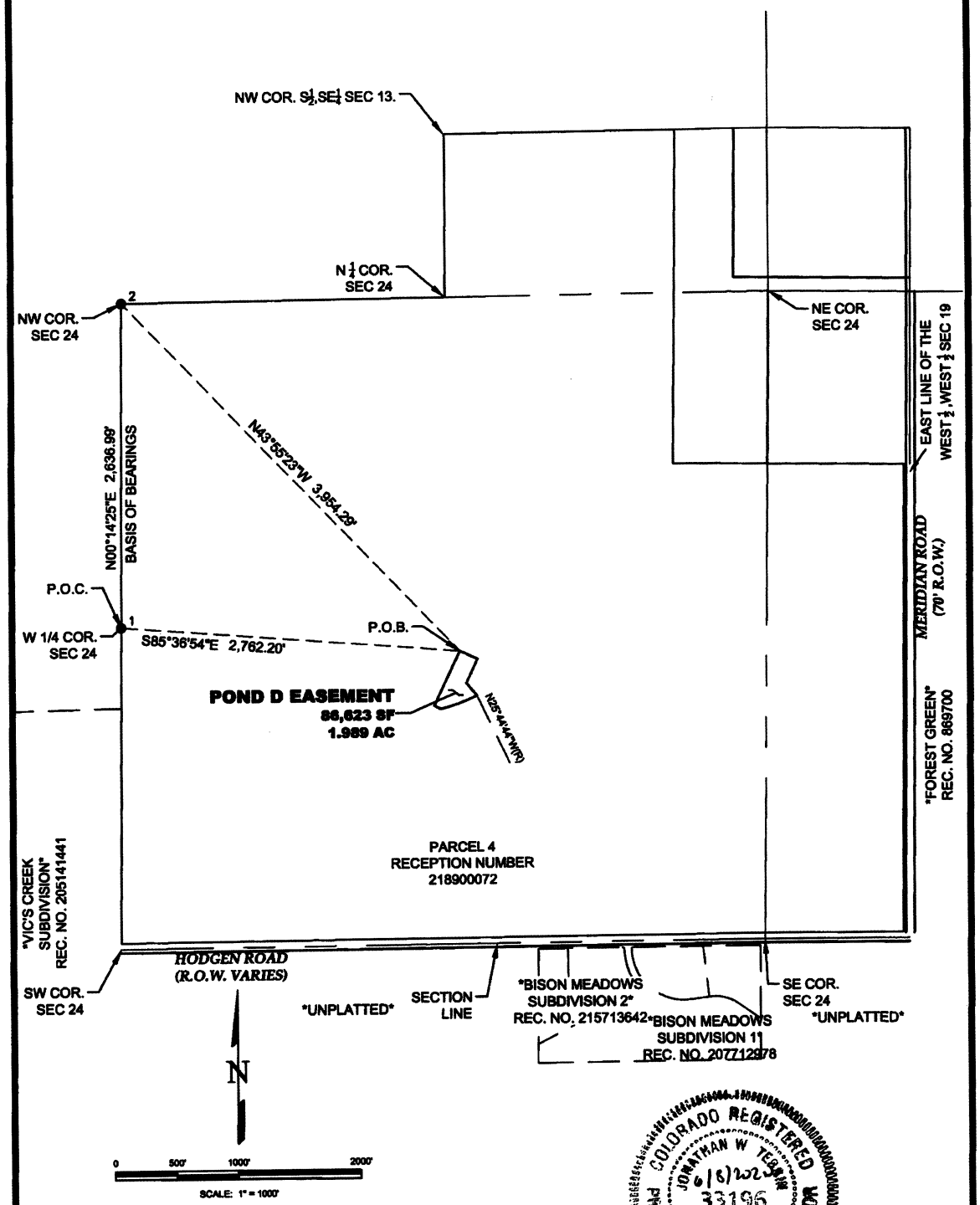
JONATHAN W. TESSIN, PROFESSIONAL LAND SURVEYOR
COLORADO PLS NO. 33196
FOR AND ON BEHALF OF EDWARD-JAMES SURVEYING, INC.

926 ELKTON DRIVE
COLORADO SPRINGS, CO 80906
PH 719-576-1216
FAX 719-576-1206

4732 EAGLERIDGE CIRCLE
PUEBLO, CO 81008
PH 719-545-6240
FAX 719-545-6247

http://www.ejsurveying.com

EXHIBIT C-3



LEGEND:

- ●1 FOUND 2-1/2" ALUMINUM CAP STAMPED "LS 28658"
- ●2 FOUND 3-1/4" ALUMINUM CAP STAMPED "LS 12103"

P.O.B. POINT OF BEGINNING
P.O.C. POINT OF COMMENCING
(R) RADIAL BEARING

COLORADO REGISTERED PROFESSIONAL LAND SURVEYOR JONATHAN W TEBBEN 6/8/2020 33196

THIS DRAWING DOES NOT REPRESENT A MONUMENTED LAND SURVEY AND IS ONLY INTENDED TO DEPICT THE LEGAL DESCRIPTION.

EDWARD-JAMES SURVEYING, INC.
926 Elkton Dr.
Colorado Springs, CO 80907
(719) 576-1216
4732 Eagleridge Circle
Pueblo, CO 81008
(719) 545-6240

06-03-2020
POND D ESMT

JOB NO. 1858-00
SHEET 2 OF 2

August 25, 2020
Job 1858.00

EXHIBIT C-4

LEGAL DESCRIPTION: POND 3 EASEMENT

A TRACT OF LAND BEING A PORTION OF SECTION 24, TOWNSHIP 11 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF EL PASO, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE WEST LINE OF THE NORTHWEST QUARTER OF SECTION 24, TOWNSHIP 11 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN BEING MONUMENTED ON THE SOUTHERLY END BY A 2-1/2" ALUMINUM CAP STAMPED "LS 28658" AND AT THE NORTHERLY END BY A 3-1/2" ALUMINUM CAP STAMPED "LS 12103" BEING ASSUMED TO BEAR N00°14'25"E, A DISTANCE OF 2636.99 FEET AS SHOWN ON THE LAND SURVEY PLAT RECORDED UNDER RECEPTION 218900072 RECORDS OF EL PASO COUNTY.

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 24; THENCE N69°47'02"E, A DISTANCE OF 3,367.33 FEET TO THE POINT OF BEGINNING; THENCE N00°30'47"W, A DISTANCE OF 219.58 FEET, THENCE N89°29'13"E, A DISTANCE OF 324.00 FEET; THENCE N00°00'00"E, A DISTANCE OF 75.09 FEET; THENCE N90°00'00"E, A DISTANCE OF 30.00 FEET; THENCE S00°00'00"E, A DISTANCE OF 74.82 FEET; THENCE N89°29'13"E, A DISTANCE OF 305.42 FEET; THENCE S00°30'47"E, A DISTANCE OF 199.58 FEET; THENCE N89°29'13"E, A DISTANCE OF 164.49 FEET TO A POINT ON CURVE; THENCE ON THE ARC OF A CURVE TO THE RIGHT; WHOSE CENTER BEARS N89°56'50"W, HAVING A DELTA OF 00°41'41", A RADIUS OF 1,650.00 FEET, A DISTANCE OF 20.01 FEET TO A POINT ON CURVE; THENCE S89°29'13"W, A DISTANCE OF 823.60 FEET; TO THE POINT OF BEGINNING; WHENCE THE NORTHWEST QUARTER OF SAID SECTION 24, BEARS N64°55'30"W, A DISTANCE OF 3,476.48 FEET.

CONTAINING A CALCULATED AREA OF 150,335 SQUARE FEET OR 3.451 ACRES.

LEGAL DESCRIPTION STATEMENT

I, JONATHAN W. TESSIN, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY STATE THAT THE ABOVE LEGAL DESCRIPTION WAS PREPARED UNDER MY RESPONSIBLE CHARGE AND ON THE BASIS OF MY KNOWLEDGE, INFORMATION, AND BELIEF IS CORRECT.

COLORADO REGISTERED PROFESSIONAL LAND SURVEYOR
JONATHAN W. TESSIN
8/26/2020
33196

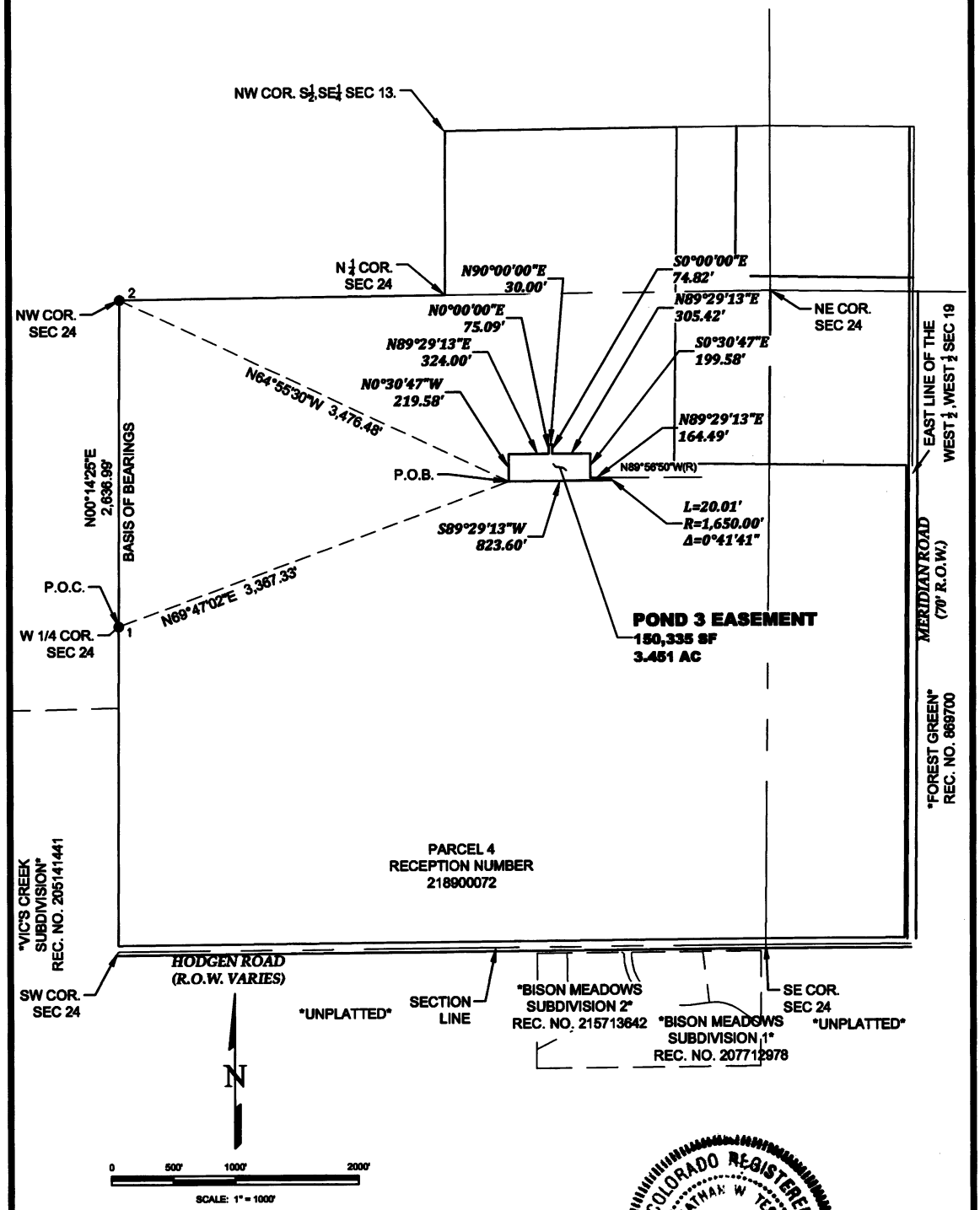
JONATHAN W. TESSIN, PROFESSIONAL LAND SURVEYOR
COLORADO PLS NO. 33196
FOR AND ON BEHALF OF EDWARD-JAMES SURVEYING, INC.

926 ELKTON DRIVE
COLORADO SPRINGS, CO 80906
PH 719-576-1216
FAX 719-576-1206

4732 EAGLERIDGE CIRCLE
PUEBLO, CO 81008
PH 719-545-6240
FAX 719-545-6247

http://www.ejsurveying.com

EXHIBIT C-4



COLORADO REGISTERED PROFESSIONAL LAND SURVEYOR JONATHAN W. TEBBE 33196 6/25/2020

LEGEND:

●1	FOUND 2-1/2" ALUMINUM CAP STAMPED "LS 28658"
●2	FOUND 3-1/4" ALUMINUM CAP STAMPED "LS 12103"
P.O.B.	POINT OF BEGINNING
P.O.C.	POINT OF COMMENCING
(R)	RADIAL BEARING

THIS DRAWING DOES NOT REPRESENT A MONUMENTED LAND SURVEY AND IS ONLY INTENDED TO DEPICT THE LEGAL DESCRIPTION.

EDWARD-JAMES SURVEYING, INC.
926 Elkton Dr.
Colorado Springs, CO 80907
(719) 576-1216
4732 Eagleridge Circle
Pueblo, CO 81008
(719) 545-6240

08-25-2020
POND 3 ESMT

JOB NO. 1858-00
SHEET 2 OF 2

June 3, 2020
Job 1858.00

EXHIBIT C-5

LEGAL DESCRIPTION: ACCESS EASEMENT

A TRACT OF LAND BEING A PORTION OF SECTION 24, TOWNSHIP 11 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF EL PASO, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE WEST LINE OF THE NORTHWEST QUARTER OF SECTION 24, TOWNSHIP 11 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN BEING MONUMENTED ON THE SOUTHERLY END BY A 2-1/2" ALUMINUM CAP STAMPED "LS 28658" AND AT THE NORTHERLY END BY A 3-1/2" ALUMINUM CAP STAMPED "LS 12103" BEING ASSUMED TO BEAR N00°14'25"E, A DISTANCE OF 2636.99 FEET AS SHOWN ON THE LAND SURVEY PLAT RECORDED UNDER RECEPTION 218900072 RECORDS OF EL PASO COUNTY.

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 24; THENCE S83°23'07"E, A DISTANCE OF 3,231.87 FEET TO THE POINT OF BEGINNING; THENCE ON THE ARC OF A CURVE TO THE LEFT, WHOSE CENTER BEARS N40°33'13"W, HAVING A DELTA OF 07°37'13", A RADIUS OF 1,470.00 FEET, A DISTANCE OF 195.51 FEET TO A POINT OF TANGENT, THENCE N41°49'33"E, A DISTANCE OF 207.94 FEET TO A POINT OF CURVE; THENCE ON THE ARC OF A CURVE TO THE RIGHT, HAVING A DELTA OF 27°50'24", A RADIUS OF 1,384.00 FEET, A DISTANCE OF 672.48 FEET TO A POINT ON CURVE; THENCE N19°05'31"W, A DISTANCE OF 124.83 FEET TO A POINT OF CURVE; THENCE ON THE ARC OF A CURVE TO THE RIGHT, HAVING A DELTA OF 29°03'11", A RADIUS OF 990.00 FEET, A DISTANCE OF 502.00 FEET, TO A POINT OF REVERSE CURVE; THENCE ON THE ARC OF A CURVE TO THE LEFT, HAVING A DELTA OF 14°20'11", A RADIUS OF 1,650.00 FEET, A DISTANCE OF 412.86 FEET TO A POINT ON CURVE; THENCE N85°37'29"E, A DISTANCE OF 60.00 FEET TO A POINT ON CURVE; THENCE ON THE ARC OF A CURVE TO THE RIGHT, WHOSE CENTER BEARS S85°37'29"W, HAVING A DELTA OF 14°20'11", A RADIUS OF 1,710.00 FEET, A DISTANCE OF 427.87 FEET TO A POINT OF REVERSE CURVE; THENCE ON THE ARC OF A CURVE TO THE LEFT, HAVING DELTA OF 29°03'11", A RADIUS OF 930.00 FEET, A DISTANCE OF 471.58 FEET TO A POINT OF TANGENT; THENCE S19°05'31"E, A DISTANCE OF 124.83 FEET; THENCE S17°51'00"E, A DISTANCE OF 60.00 FEET TO A POINT ON CURVE; THENCE ON THE ARC OF A CURVE TO THE LEFT, WHOSE CENTER BEARS S17°51'00"E, HAVING A DELTA OF 30°19'27", A RADIUS OF 1,324.00 FEET, A DISTANCE OF 700.73 FEET TO A POINT OF TANGENT; THENCE S41°49'33"W, A DISTANCE OF 207.94 FEET TO A POINT OF CURVE; THENCE ON THE ARC OF A CURVE TO THE RIGHT, HAVING A DELTA OF 7°37'13", A RADIUS OF 1,530.00 FEET; A DISTANCE OF 203.49 FEET TO A POINT ON CURVE; THENCE N40°33'13"W, A DISTANCE OF 60.00 FEET TO THE POINT OF BEGINNING;
WHENCE THE NORTHWEST QUARTER OF SAID SECTION 24, BEARS N46°45'12"W, A DISTANCE OF 4,392.17 FEET.

CONTAINING A CALCULATED AREA OF 129,349 SQUARE FEET OR 2.969 ACRES.

LEGAL DESCRIPTION STATEMENT

I, JONATHAN W. TESSIN, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY STATE THAT THE ABOVE LEGAL DESCRIPTION WAS PREPARED UNDER MY RESPONSIBLE CHARGE AND ON THE BASIS OF MY KNOWLEDGE, INFORMATION, AND BELIEF IS CORRECT.

COLORADO REGISTERED PROFESSIONAL LAND SURVEYOR JONATHAN W. TESSIN 6/12/2020 33196

JONATHAN W. TESSIN, PROFESSIONAL LAND SURVEYOR
COLORADO PLS NO. 33196
FOR AND ON BEHALF OF EDWARD-JAMES SURVEYING, INC.

926 ELKTON DRIVE
COLORADO SPRINGS, CO 80906
PH 719-576-1216
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4732 EAGLERIDGE CIRCLE
PUEBLO, CO 81008
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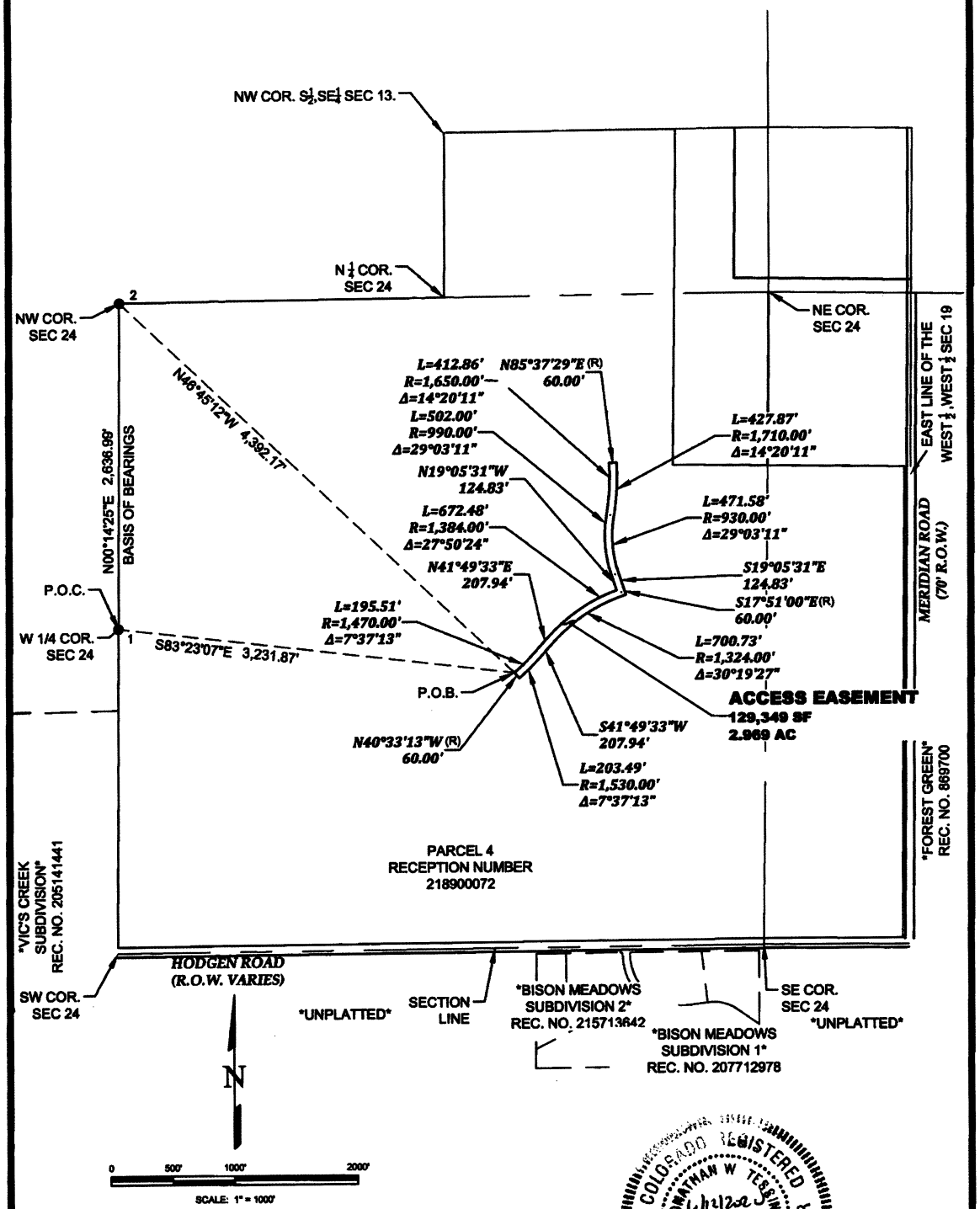
http://www.ejsurveying.com

EXHIBIT C-5



LEGEND:

- ●1 FOUND 2-1/2" ALUMINUM CAP STAMPED "LS 28658"
- ●2 FOUND 3-1/4" ALUMINUM CAP STAMPED "LS 12103"
- P.O.B. POINT OF BEGINNING
- P.O.C. POINT OF COMMENCING
- (R) RADIAL BEARING

COLORADO REGISTERED PROFESSIONAL LAND SURVEYOR JONATHAN W. TEBBE 33196

THIS DRAWING DOES NOT REPRESENT A MONUMENTED LAND SURVEY AND IS ONLY INTENDED TO DEPICT THE LEGAL DESCRIPTION.

EDWARD-JAMES SURVEYING, INC.
926 Elkton Dr.
Colorado Springs, CO 80907
(719) 576-1216
4732 Eagleridge Circle
Pueblo, CO 81008
(719) 545-6240

06-03-2020
ACCESS ESMT

JOB NO. 1858-00
SHEET 2 OF 2

EXHIBIT D

(legal description of Encumbered Property)

November 19, 2019
Job 1858.00

EXHIBIT D

LEGAL DESCRIPTION: WINSOME –ENCUMBERED LAND

A TRACT OF LAND BEING A PORTION OF THE SOUTHEAST QUARTER OF SECTION 23 AND A PORTION OF SECTION 24, RANGE 11 SOUTH, RANGE 65 WEST AND A PORTION OF THE SOUTHWEST QUARTER OF SECTION 19, TOWNSHIP 11 SOUTH, RANGE 64 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF EL PASO, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE WEST LINE OF THE NORTHWEST QUARTER OF SECTION 24, TOWNSHIP 11 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN BEING MONUMENTED ON THE SOUTHERLY END BY A 2-1/2" ALUMINUM CAP STAMPED "LS 28658" AND AT THE NORTHERLY END BY A 3-1/2" ALUMINUM CAP STAMPED "LS 12103" BEING ASSUMED TO BEAR N00°14'25"E A DISTANCE OF 2636.99 FEET AS SHOWN IN LAND SURVEY PLAT RECORDED UNDER RECEPTION 218900072 RECORDS OF EL PASO COUNTY, COLORADO.

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 24 SAID POINT BEING THE POINT OF BEGINNING; THENCE N00°14'25"E ON THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 24, SAID LINE ALSO BEING ON THE WEST BOUNDARY OF PARCEL 4, AS RECORDED UNDER RECEPTION NUMBER 218900072, A DISTANCE OF 2636.99 FEET TO THE NORTHWEST CORNER OF SAID SECTION 24; THENCE N89°21'38"E ON THE NORTHLINE OF THE NORTHWEST QUARTER OF SAID SECTION 24, A DISTANCE OF 2633.02 FEET TO THE NORTH QUARTER CORNER OF SAID SECTION 24; THENCE N00°10'29"E ON THE WEST LINE OF THE SOUTH HALF OF THE SOUTH EAST QUARTER OF SECTION 13, TOWNSHIP 11 SOUTH, RANGE 65 WEST, A DISTANCE OF 1321.95 FEET TO THE NORTHWEST CORNER OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 13; THENCE N89°20'26"E ON THE NORTH LINE OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 13, A DISTANCE OF 1873.37 FEET; THENCE S00°34'43"W A DISTANCE OF 2,706.21 FEET; THENCE S89°15'17"E A DISTANCE OF 769.17 FEET TO A POINT ON THE WEST LINE OF SECTION 19 TOWNSHIP 11 SOUTH, RANGE 64 WEST; THENCE S89°15'18"E A DISTANCE OF 1,158.32 FEET TO THE EAST LINE OF THE WEST HALF OF THE WEST HALF OF SAID SECTION 19 ; THENCE S00°17'06"W ON THE EAST LINE OF THE WEST HALF OF THE WEST HALF OF SAID SECTION 19, A DISTANCE OF 2,491.72 FEET, THENCE N89°42'54"W A DISTANCE OF 756.64 FEET; THENCE N00°17'06"E A DISTANCE OF 720.00 FEET TO A POINT OF CURVE; THENCE ON THE ARC OF A CURVE TO THE RIGHT HAVING A DELTA OF 18°02'49", A RADIUS OF 870.00 FEET, A DISTANCE OF 274.03 FEET TO A POINT OF REVERSE CURVE, THENCE ON THE ARC OF A CURVE TO THE LEFT HAVING A DELTA OF 18°02'49", A RADIUS OF 930.00 FEET, A DISTANCE OF 292.93 FEET TO A POINT OF TANGENT, THENCE N00°17'06"E A DISTANCE OF 306.26 FEET, THENCE N89°42'54"W A DISTANCE OF 1,221.71 FEET TO A POINT OF CURVE; THENCE ON THE ARC OF A CURVE TO THE LEFT HAVING A DELTA OF 48°27'33", A RADIS OF 1,384.00 FEET, A DISTANCE OF 1,170.55 FEET TO A POINT OF TANGENT; THENCE S41°49'33"W A DISTANCE OF 207.94 FEET TO A POINT OF CURVE; THENCE ON THE ARC OF A CURVE TO THE RIGHT HAVING A DELTA OF 7°37'13", A RADIUS OF 1,1470.00 FEET A DISTANCE OF 195.51 FEET TO A POINT ON CURVE; THENCE N40°33'13"W A DISTANCE OF 57.62 FEET; THENCE S54°25'41"W A DISTANCE OF 240.00 FEET; THENCE S30°48'16"E A DISTANCE OF 58.07 FEET TO A POINT ON CURVE; THENCE ON THE ARC OF A CURVE TO THE RIGHT WHOSE CENTER BEARS N30°48'16"W, HAVING A DELTA OF 50°01'50", A RADIUS OF 1,470.00 FEET, A DISTANCE OF 1,283.60 FEET TO A POINT ON CURVE; THENCE S19°13'35"W A DISTANCE

OF 60.00 FEET; THENCE S18°06'10"W A DISTANCE OF 383.72 FEET TO A POINT OF CURVE; THENCE ON THE ARC OF A CURVE TO THE LEFT HAVING A DELTA OF 2°06'42", A RADIUS OF 1,790.00 FEET, A DISTANCE OF 65.97 FEET TO A POINT ON CURVE; THENCE N69°47'19"W A DISTANCE OF 306.30 FEET; THENCE 89°45'39"W A DISTANCE OF 128.26 FEET; THENCE S29°41'56"W A DISTANCE OF 768.98 FEET; THENCE N89°41'23"W A DISTANCE OF 820.25 FEET TO A POINT ON THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 24; THENCE N00°14'17"E ON THE WEST LINE OF SOUTHWEST QUARTER OF SAID SECTION 24 A DISTANCE OF 1,684.27 FEET TO THE POINT OF BEGINNING.

CONTAINING A CALCULATED AREA OF 20,551,020 SQUARE FEET OR 471.787 ACRES.

LEGAL DESCRIPTION STATEMENT

I, JONATHAN W. TESSIN, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY STATE THAT THE ABOVE LEGAL DESCRIPTION WAS PREPARED UNDER MY RESPONSIBLE CHARGE AND ON THE BASIS OF MY KNOWLEDGE, INFORMATION, AND BELIEF IS CORRECT.

COLORADO REGISTERED PROFESSIONAL LAND SURVEYOR
JONATHAN W. TESSIN
12/9/2021
33196

JONATHAN W. TESSIN, PROFESSIONAL LAND SURVEYOR
COLORADO PLS NO. 33196
FOR AND ON BEHALF OF EDWARD-JAMES SURVEYING, INC.

EXHIBIT D

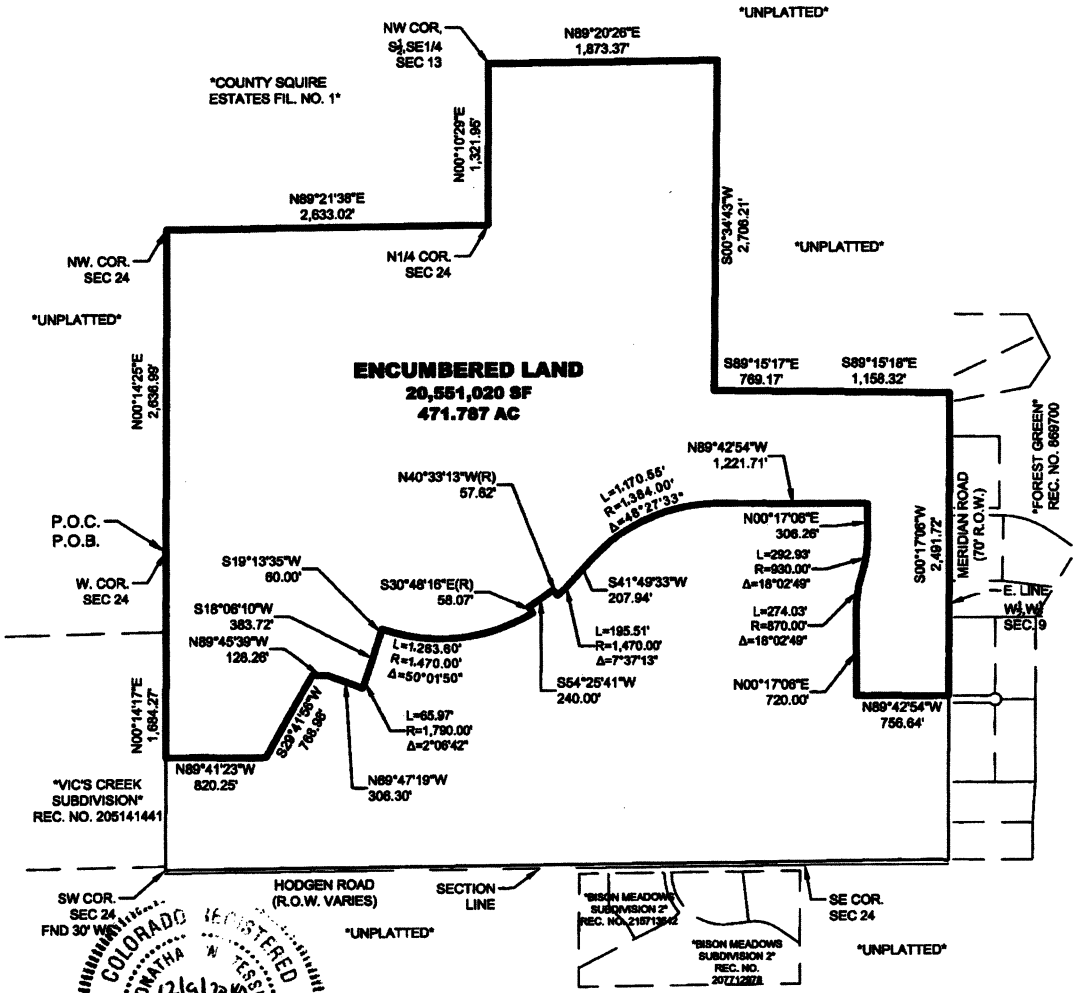
WINSOME
ENCUMBERED LAND

LEGEND:

P.O.B. POINT OF BEGINNING

P.O.C. POINT OF COMMENCING

* AREA IS NOT PART OF THIS SURVEY



COLORADO REGISTERED PROFESSIONAL LAND SURVEYOR JONATHAN W. TESSIN 12/9/2019 33196

THIS DRAWING DOES NOT REPRESENT A MONUMENTED LAND SURVEY AND IS ONLY INTENDED TO DEPICT THE LEGAL DESCRIPTION.

EDWARD-JAMES SURVEYING, INC.
926 Elkton Dr.
Colorado Springs, CO 80907
(719) 576-1216
4732 Eagleridge Circle
Pueblo, CO 81008
(719) 545-6240

11-29-2019

JOB NO. 1858-00
SHEET 3 OF 3

Chuck Broerman
03/02/2021 02:05:13 PM
Doc $0.00 9
Rec $53.00 Pages
El Paso County, CO
221040910

When Recorded, Return To:
Winsome, LLC
1864 Woodmoor Drive, Suite 100
Monument, Colorado 80132

DECLARATION OF EASEMENT AND JOINT DRIVEWAY MAINTENANCE

This Declaration of Easement and Joint Driveway Maintenance ("**Declaration**") is made this 26th day of January, 2021 ("**Effective Date**"), by Winsome, LLC, a Colorado limited liability company ("**Declarant**").

RECITALS

WHEREAS, Declarant owns that certain property known or to be known as Lot 29 ("**Lot 29**") and Lot 30 ("**Lot 30,**" collectively with Lot 29, the "**Lots**"), pursuant to the final plat of Winsome Filing No. 1 (the "**Subdivision**"), El Paso County, Colorado to be recorded by Declarant, as described on Exhibit A attached hereto.

WHEREAS, Declarant desires to provide Lot 29 with access to Mosey Trail over a portion of Lot 30 described on Exhibit B attached hereto ("**Access Easement Area**") and to provide for the construction and maintenance of a shared driveway on the Access Easement Area (the "**Joint Driveway**").

DECLARATION

NOW, THEREFORE, Declarant hereby declares, for itself, its successors and all subsequent owners of the Lots, that the Lots shall be held, sold, and conveyed subject to the following:

1. Recitals. The Recitals are hereby incorporated herein.

2. Grant of Easement. Subject to the terms, covenants, agreements and conditions of this Declaration, Declarant hereby establishes and grants a perpetual non-exclusive easement (the "**Access Easement**") in and to, over, across, under and through the Access Easement Area as reasonably necessary for vehicular and pedestrian ingress and egress to Lot 29. The Access Easement shall in perpetuity be appurtenant to and for the benefit of all owners of all or any portion of Lot 29 ("**Lot 29 Owners**"), and all of their respective successors, assigns, licensees, and invitees, and shall and run with the Lots.

3. Use of Easement.

3.1 Maintenance. Unless otherwise agreed upon by the Lot 29 Owners and owners of Lot 30 (the "**Lot 30 Owners,**" collectively with the Lot 29 Owners, the "**Owners**"), the Owners shall share equally in the construction, maintenance, repair, and/or replacement of the Joint Driveway, including, without limitation, any paving, cleaning, and snow removal, as follows: The Lot 30 Owners shall construct and maintain the Joint Driveway. All construction and maintenance shall be performed in a good and workmanlike manner and shall comply with all

laws, ordinances, building codes, permits, orders, rules, regulations and covenants applicable to the Lots. On or before January 30th of each year, the Lot 30 Owners shall provide the Lot 29 Owners with a statement (which shall include any invoices, receipts or other reasonable evidence of costs actually paid) showing the actual, out-of-pocket costs incurred by the Lot 30 Owners for the construction, maintenance and repair of the Joint Driveway for the preceding calendar year. The Lot 29 Owners shall pay to the Lot 30 Owners a contribution towards the construction, maintenance and repair of the Joint Driveway equal to one half of such costs actually incurred by the Lot 30 Owners in a single, annual payment due February 28th of each year. Notwithstanding the foregoing, to the extent any portion of the Joint Driveway is damaged or destroyed due to the negligence or intentional misconduct of an Owner or their licensees or invitees (the "**Responsible Owner**"), the Responsible Owner shall promptly repair such damage, replace the destroyed portion of the Joint Driveway or otherwise return the Joint Driveway to substantially the same condition existing prior to such damage, at the Responsible Owner's sole cost and expense. Any payments by the Owners not made when required under this Section shall bear interest at a rate of twelve percent (12%) per annum from the date such payment is due until the date such payment is made.

3.2 No Liens. The Owners shall not allow mechanics liens to be placed on the Joint Driveway in relation to any activities by or through the Owners pursuant to this Agreement. The Lot 29 Owners shall indemnify and hold harmless the Lot 30 Owners from any and all mechanics liens arising from the Lot 29 Owners use of the Joint Driveway pursuant to this Agreement, and shall cause the same to be removed of record within thirty (30) days after receipt of written notice of such lien.

4. Non-Interference. None of the Owners shall not make any use of the Access Easement Area or Joint Driveway that would interfere with the other Owners' use and enjoyment of the Access Easement or Joint Driveway.

5. Default; Remedies. Either Owner may enforce the terms of this Declaration. In the event an Owner (a "**Defaulting Owner**") defaults on any maintenance or payment obligation under this Declaration, the other Owner ("**Non-Defaulting Owner**") may serve the Defaulting Owner with a written notice to cure setting forth the nature of the default. If within thirty (30) days of receipt of said notice the Defaulting Owner fails to cure said default, or commence to cure and diligently pursue the same, then the Non-Defaulting Owner may undertake the obligation itself and invoice the Defaulting Owner for the costs incurred by the Non-Defaulting Owner in curing the default ("**Costs**"), provided reasonable evidence of such Costs is provided to the Defaulting Owner. The Defaulting Owner shall pay such Costs, plus ten percent (10%), to the Non-Defaulting Owner within fourteen (14) days of the Defaulting Owner's receipt of the Non-Defaulting Owner's invoice and reasonable evidence of the Costs incurred. Any sums not timely paid shall bear interest at the rate of twelve percent (12%) per year, compounded annually, from the date payment is due. The Non-Defaulting Owner shall have any rights or remedies available in law or equity in the event of default, and such rights shall include the right to bring an action for damages, as well as any equitable action for the specific enforcement of any of the provisions contained herein. If collection proceedings are undertaken in connection with a default on any payment obligation incurred under this Declaration, the Non-Defaulting Party shall be entitled to such relief or damages as may be available under law, together with costs and reasonable attorneys' fees incurred in connection therewith. Should any action be brought in connection with this Declaration,

including, without limitation, actions based on contract, tort or statute, the prevailing party in such action shall be awarded all costs and expenses incurred in connection with such action, including reasonable attorneys' fees.

6. No Waiver. No provision of this Agreement may be waived except by written instrument signed by the Owner to be charged with such waiver. Failure by any Owner to enforce any provision of this Declaration shall not constitute a waiver of such provision.

7. Binding Effect; Covenants Running With Land. This Declaration and each of the provisions of this Declaration touch and concern the Lots and shall be covenants running with the land, benefitting and binding on the Lots and the Owners, and their respective successors as Owners of the Lots and each part thereof. This Declaration shall inure to the benefit of and be enforceable by the Owners and their respective successors as Owners of the Lots and each part thereof. This Declaration and the easements established herein shall not be deemed waived, released, or terminated by any merger of title to any of the Lots. This Declaration shall be recorded in the real property records of El Paso County, Colorado and will serve as notice to all subsequent owners of the Lots or any portion thereof.

8. Effect on Subdivision. This Declaration shall be binding only on the Lots described herein. Nothing contained herein shall be construed as affecting or as an encumbrance on any other lot or portion of the Subdivision, except Lots 29 and 30, and any portion thereof.

9. Severability. If any clause or provision of this Declaration shall be held invalid or unenforceable, the remainder of this Declaration shall not be affected thereby.

10. Applicable Law; Venue. This Declaration shall be governed and interpreted under the laws of the State of Colorado, without regard to conflict of law principles that would result in the application of any law other than the law of the State of Colorado.

(Signatures on Following Pages)

IN WITNESS WHEREOF, the undersigned has executed and delivered this Declaration as of the date first above written.

DECLARANT:

Winsome LLC,
a Colorado limited liability company

By: _____
Name: Andrew Biggs
Title: Manager

STATE OF COLORADO)
) ss.
COUNTY OF El Paso)

2021 km The foregoing instrument was acknowledged before me this 22nd day of January, ~~2020,~~ by Andrew Biggs, as Manager of Winsome LLC, a Colorado limited liability company.

WITNESS my hand and official seal.

My commission expires 02-26-2022

KIMBERLY J MCGUIRE
Notary Public
State of Colorado
Notary ID # 20184008996
My Commission Expires 02-26-2022

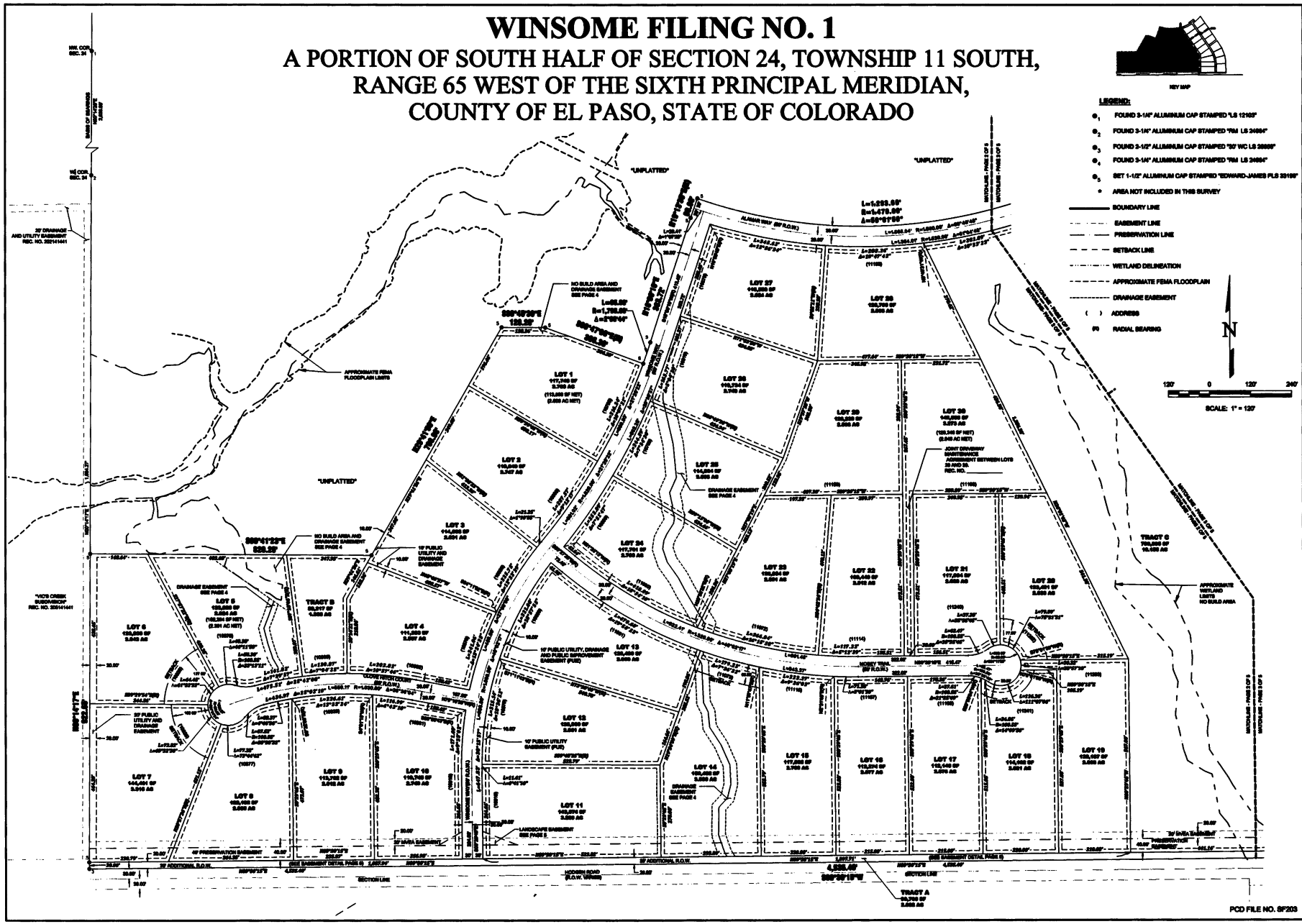
Kimberly J McGuire
Notary Public

EXHIBIT A

Depiction of the Lots

WINSOME FILING NO. 1

A PORTION OF SOUTH HALF OF SECTION 24, TOWNSHIP 11 SOUTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF EL PASO, STATE OF COLORADO



NO.	REVISIONS	DESCRIPTION	DATE

EDWARD-JAMES SURVEYING, INC.
926 Elkton Drive
Colorado Springs, CO 80907
Office: (719) 576-3215
Fax: (719) 576-3200
4732 Eagleridge Circle
Pueblo, CO 81008
Office: (719) 545-6340
Fax: (719) 545-6347

WINSOME FILING NO. 1
FINAL PLAT

A PORTION OF SOUTH HALF OF SECTION 24, TOWNSHIP 11 SOUTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF EL PASO, STATE OF COLORADO

DRAWN BY	JWT
CHECKED BY	TWS
H-SCALE	1" = 120'
JOB NO.	1999-99
DATE CREATED	12/20/19
DATE ISSUED	1/18/21
SHEET NO	2 OF 5

EXHIBIT B

Metes and Bounds Legal Description and Depiction of the Access Easement Area

January 20, 2021
Job 1858.00

EXHIBIT A

LEGAL DESCRIPTION: Driveway Access

A TRACT OF LAND BEING A PORTION OF SECTION 24, TOWNSHIP 11 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF EL PASO, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE WEST LINE OF THE NORTHWEST QUARTER OF SECTION 24, TOWNSHIP 11 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN BEING MONUMENTED ON THE SOUTHERLY END BY A 2-1/2" ALUMINUM CAP STAMPED "LS 28658" AND AT THE NORTHERLY END BY A 3-1/2" ALUMINUM CAP STAMPED "LS 12103" BEING ASSUMED TO BEAR N00°14'25"E, A DISTANCE OF 2636.99 FEET AS SHOWN ON THE LAND SURVEY PLAT RECORDED UNDER RECEPTION 218900072 RECORDS OF EL PASO COUNTY.

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 24; THENCE S50°08'27"E, A DISTANCE OF 3,095.98 FEET TO THE MOST SOUTHWEST CORNER OF PROPOSED LOT 30, WINSOME FILING NO. 1, SAID POINT BEING THE POINT OF BEGINNING; THENCE N00°29'45"W ON THE WESTERLY BOUNDARY LINE OF SAID LOT 30, A DISTANCE OF 503.51 FEET; THENCE N89°30'15"E, A DISTANCE OF 30.00 FEET; THENCE S00°29'45"E, A DISTANCE OF 30.00 FEET TO A POINT ON THE BOUNDARY LINE OF SAID LOT 30; THENCE CONTINUING S00°29'45"W, ON SAID BOUNDARY LINE, A DISTANCE OF 473.51 TO A POINT ON THE SOUTHERLY BOUNDARY LINE OF SAID LOT 30, SAID POINT ALSO BEING ON THE NORTHERLY RIGHT-OF-WAY LINE OF PROPOSED MOSEY TRAIL, WINSOME FILING NO. 1; THENCE S89°30'15"W, ON SAID SOUTHERLY BOUNDARY LINE AND NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 30.00 FEET TO THE POINT OF BEGINNING.

CONTAINING A CALCULATED AREA OF 15,105 SQUARE FEET OR 0.347 ACRES.

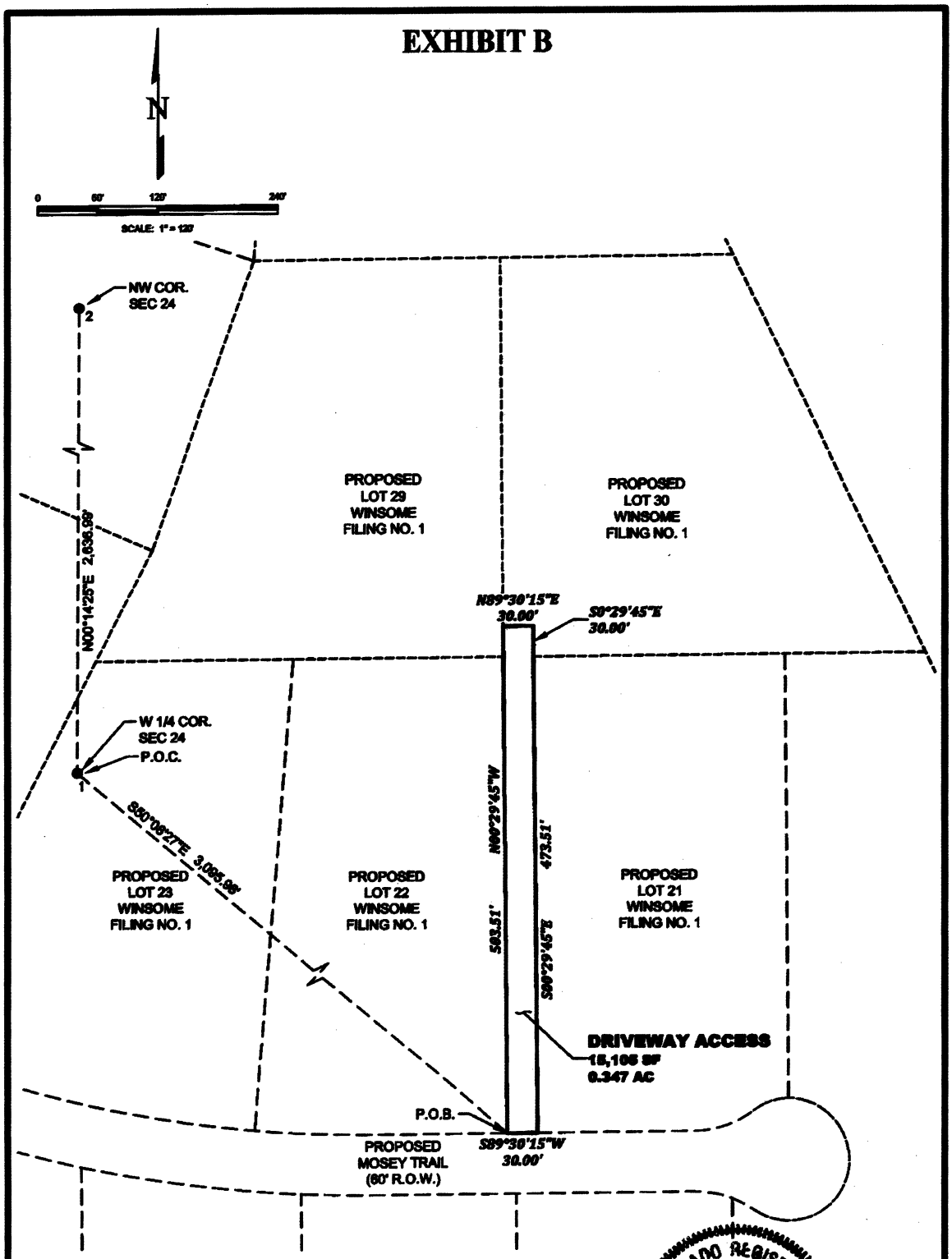
LEGAL DESCRIPTION STATEMENT

I, JONATHAN W. TESSIN, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY STATE THAT THE ABOVE LEGAL DESCRIPTION WAS PREPARED UNDER MY RESPONSIBLE CHARGE AND ON THE BASIS OF MY KNOWLEDGE, INFORMATION, AND BELIEF IS CORRECT.

COLORADO REGISTERED
JONATHAN W. TESSIN
1/20/2021
33196
PROFESSIONAL LAND SURVEYOR

JONATHAN W. TESSIN, PROFESSIONAL LAND SURVEYOR
COLORADO PLS NO. 33196
FOR AND ON BEHALF OF EDWARD-JAMES SURVEYING, INC.

EXHIBIT B



COLORADO REGISTERED
JONATHAN W. TESSIM
11/20/2021
33196
PROFESSIONAL LAND SURVEYOR

LEGEND:

- ●1 FOUND 2-1/2" ALUMINUM CAP STAMPED "LS 28658"
- ●2 FOUND 3-1/4" ALUMINUM CAP STAMPED "LS 12103"
- P.O.B. POINT OF BEGINNING
- P.O.C. POINT OF COMMENCING

THIS DRAWING DOES NOT REPRESENT A MONUMENTED LAND SURVEY AND IS ONLY INTENDED TO DEPICT THE LEGAL DESCRIPTION.

EDWARD-JAMES SURVEYING, INC.
926 Elkton Dr.
Colorado Springs, CO 80907
(719) 576-1216
4732 Eagleridge Circle
Pueblo, CO 81008
(719) 545-6240

01-20-21
DRIVEWAY ACCESS

JOB NO. 1868-00
SHEET 2 OF 2

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Rec $13.00 Page

El Paso County, CO
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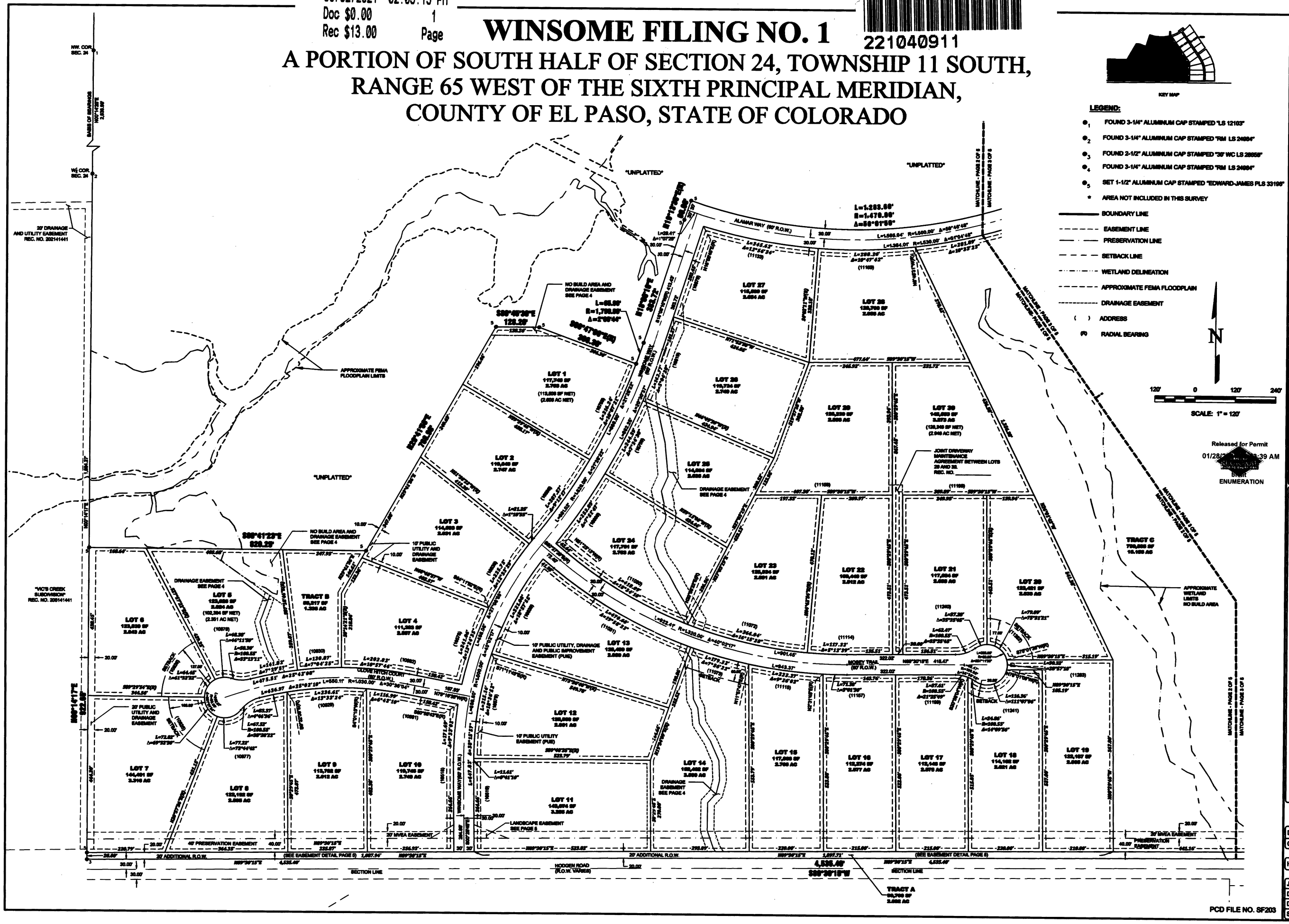
WINSOME FILING NO. 1

A PORTION OF SOUTH HALF OF SECTION 24, TOWNSHIP 11 SOUTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF EL PASO, STATE OF COLORADO



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