

Appendix D: Covenants & Declarations

The following pages contain the Covenants and Declarations of this Association as recorded as instruments 1648763 and 1648764 of the Pueblo County, Colorado Clerk and Records Office on November 18th, 2005.

AMENDED AND RESTATED DECLARATION OF COVENANTS FOR LOTS A, D, & E OF HOLLYDOT PARK AND
HOLLYDOT PARK RESUBDIVISION a/k/a MEADOWCREEK

This Amended and Restated Declaration of Covenants for Hollydot Park Resubdivision a/k/a Meadowcreek and hereinafter referred to as Meadowcreek is made this 9th day of November, 2005, by not less than two-thirds of all of the Owners in the resubdivision and of the Owners of Lots A, D and E of Hollydot park according to the plat thereof filed for record on February 23, 1972, which is not part of the resubdivision.

This declaration revokes and cancels all previously recorded declarations of covenants for Hollydot Park and amendments thereto including, but not limited to, the covenants made April 3, 1972 and recorded April 18, 1972 beginning at Book 1715 at Page 629 and the covenants made May 1, 1973 and recorded August 15, 1973 beginning at Book 1757 at Page 641 and the covenants made August 26, 1976 and recorded September 7, 1976 beginning at Book 1859 at page 662, and the covenants made November 13, 1983 and recorded December 2, 1983 beginning at Book 2178 at Page 465 and the covenants made November 9th, 2005 and recorded as instrument number 1648764 November 11th, 2005, and renders them null and void and waives and releases any and all claims and rights those signatory hereto may otherwise have.

I. DECLARATIONS AND PURPOSE

1.1 The persons signatory to these covenants, being not less than two-thirds of the Owners of the real property hereinafter defined as "The Property", acknowledge "The Property" as an area designed to contain detached single-family residential living units, town houses, condominium units, recreational facilities and other amenities for the residents of said area.

1.2 By this declaration, the Owners intend to establish and reauthorize an Association as the vehicle to perform certain functions and to hold and manage certain property for the common benefit of all Owners of The Property and to define certain rights and obligations of the Association, and certain rights and obligations of the owners of The Property with respect to the Association.

II. DEFINITIONS

2.1 The Property: "The Property" shall mean Block 1, Lots 1 through 24; Block 2, Lots 1 through 8; Block 3, Lots 1 and 2; Block 4, Lots 1 through 5, Lot 7, Lots 9 through 27, Lots 29 through 33; Block 5, Lots 1 through 5; Block 6, Lots 1 and 2; Block 7, Lot 1; Block 8, Lots 1 through 5; Block 9, Lots 1 through 6; and Block 10, Lots 1 and 2; Hollydot Park Resubdivision a/k/a Meadowcreek according to the plat thereof filed for record in November 23, 1983, under reception No. 733065 in Book 2177 at pages 647 through 652 inclusive, and Lots 1 and 2 of Meadowcreek Business Center (formerly Lot 1, Block 3), recorded in Book 2270 at Page 170, and Lots 1 through 4, of The Summit, (formerly Lot 28, Block 4), as recorded under reception No. 1477186, and Parcel A and Parcel B, of Lot Line Rearrangement No. 98-07, (formerly Lot 6&8, Block 4) as recorded under reception No. 1273776, of the records of the office of the Clerk and Recorder for Pueblo County, Colorado, together with Parcels A, B, C, D, E, F, G, H, I, J, K, M and N of that same described plat and the roads shown on that same described plat and Lots A, D and E of Hollydot Park (and the roads shown in those Lots) according to the plat thereof filed for record on February 23, 1972, under Reception No. 422047, in Book 1711 at pages 42 through 49 inclusive of the records of the office of the Clerk and Recorder for Pueblo County, Colorado, together with that tract of land more particularly described on Exhibit "A" attached hereto and incorporated herein, and including any currently effective or subsequently effective re-plat or re-subdivision of any property included within The Property.

2.2 Lot: "Lot" shall mean each separately owned parcel of real property within The Property, including each condominium unit as that term is defined in the Condominium Ownership Act of the State of Colorado, and each town house lot as that term is hereinafter defined, but excluding Block 2 Lot 4, and Block 6 Lot 1, and Parcels A through K and M and N of the resubdivision and any other portion of The Property owned, held or used in its entirety by the Association hereinafter referred to, or any governmental entity for or in connection with the actual distribution of electricity, gas, water, sewer, telephone, television or other utility service. Block 1 Lot 7; Block 2 Lot 8; Block 4 Lot 28 and Block 8 Lot 3 and Lots A, D and E of Hollydot Park all being part of The Property referred to above shall constitute one lot until such time as the same is divided into town house sites or condominium units as evidenced by the filing or recording of a subdivision plat or condominium map in the office of the Clerk and Recorder for Pueblo County, Colorado.

Undeveloped Property: "Undeveloped Property" shall mean the portion of The Property described as Parcels A through K and M and N.

2.3 Recreational Property: "Recreational Property" shall mean Block 2 Lot 4 and Block 6 Lot 1 of The Property.

2.4 Access Property: "Access Property" shall mean all portions of The Property designated in the recorded plat of Hollydot Park Resubdivision a/k/a Meadowcreek, or designated on the plat of Hollydot Park as Lots A, D and E, as dedicated public roads, streets, drives, avenues, parkways, cul de sacs or as easements therefore or as otherwise designated as being intended to provide pedestrian or vehicular access to lots.

2.5 Common Property: "Common Property" shall mean the portions of Block 1 Lot 7; Block 2 Lot 8; Block 4 Lot 28; Block 8 Lot 3 of Hollydot Park Resubdivision a/k/a Meadowcreek, all part of The Property referred to above which may hereafter be designated as "common property" on a subdivision plat or condominium plan dividing any of said lots into town houses or condominium sites.

2.6 Town House Lots: "Town House Lots" shall mean Block 1 Lot 7; Block 2 Lot 8; Block 4 Lot 28; Block 8 Lot 3 of Hollydot Resubdivision a/k/a Meadowcreek and Lots A, D and E of Hollydot Park a/k/a Meadowcreek of The Property.

Owner: "Owner" shall mean the person or persons, entity or entities who own fee simple title to a Lot. Each Owner shall also be the Owner of the regular membership in the Association which is appurtenant to such Lot. The term Owner is singular and each lot may have only one Owner and one vote in any election, membership vote or other similar matter.

2.7 Owners: "Owners" shall mean, in a collective sense, the Owner of each Lot included within The Property, or a portion thereof, as the context may require.

2.8 Association: "Association" shall mean the Meadowcreek Community Association, a Colorado Corporation not for profit, formed, incorporated, and constituting the Association to which reference is made in this Declaration.

Proposed Covenant Revisions

III RESTRICTIONS APPLICABLE TO THE PROPERTY

3.1 Lots: Each Lot shall be used and occupied only for single-family residential purposes; provided that the foregoing shall not apply to Block 1 Lot 7; Block 2 Lot 8; Block 4 Lot 28; and Block 8 Lot 3 of The Property and Lots A, D and E of Hollydot Park Subdivision, also part of the Property, prior to the division

of any such Lot into town house sites or condominium units. Single-family residential purposes shall mean use as an independent dwelling unit by one family which may consist of a single individual living upon the premises as a separate, independent housekeeping unit; a collective body of persons doing their own cooking and living together on the premises as a separate housekeeping unit in a domestic relationship based upon birth or marriage; or a group of not more than three unrelated persons doing their own cooking and living together on the premises as a separate housekeeping unit. No more than one single-family residential dwelling unit, together with authorized accessory buildings, shall be constructed on The Property except the Recreational Property and The Town House Lots as defined above. No more town house sites or condominium units may be created in the Town House Lots as defined above than may be authorized from time to time by the zoning resolution in and for Pueblo County. Each town house site and condominium unit shall be used and occupied only for single-family residential purposes.

3.2 Undeveloped Property: Subject to this section, the Undeveloped Property shall be utilized for open space, recreational purposes and utility facilities and no residential, commercial or industrial buildings shall be erected thereon. Recreational buildings, other recreational improvements, walk-ways, bridges, access roads, drainage facilities, utility facilities and similar structures may be constructed on any portion of the Undeveloped Property in the discretion of the Association.

3.3 Recreational Property: The Recreational Property shall be utilized for recreational purposes for the benefit of the Owners, provided that, any recreational facility now or hereafter constructed or established on the Recreational or Undeveloped Property may be opened to public use or use by designated persons other than the Owners as determined by the Association. The Association shall have the right to modify, alter, renovate or reconstruct any Recreational Facilities now existing on the Recreational Property, to construct new Recreational Facilities thereon and to devote any portion of the Recreational Property to any recreational purpose whether or not the Recreational Property is presently devoted to such use.

3.4 Maintenance of Lots: All the lots, including all improvements thereon, shall be kept and maintained by the Owner thereof in a clean, safe, attractive and sightly condition and in good repair.

3.5 No Hazardous Activities: No activities shall be conducted on The Property and no improvements constructed on The Property which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no fire arms shall be discharged upon The Property and

no open fires shall be lighted or permitted on The Property except in a contained barbecue facility while attended and in use for cooking purposes or within a safe and well-designed interior or exterior fireplace or except such campfires or picnic fires on The Property at a location designed and intended for such use by the Association. Nothing herein shall prohibit the burning of tree trimmings and other vegetation when done in a safe and managed manner and with a valid permit from the appropriate fire department.

3.6 No Division of Lots: No lots shall be divided, resubdivided, replatted or split without the Owner thereof having first obtained the prior written consent to do so from the Association. In all cases, approval of Pueblo County shall be required.

3.7 Standards for Preservation of Aesthetic Quality: (a) Automobiles, trucks, trailers, Recreation Vehicles, tractors, boats and other personal vehicles of a similar nature shall be parked and stored only on Lots and not on any roadways or other Access Property. No inoperable, not currently licensed (if required to be licensed for use), or commercial vehicle shall be stored on any Lot unless stored in an enclosed garage. Nothing contained herein shall restrict parking of motor vehicles by Owners or guests on paved areas of roadways and other Access Property for temporary periods of not more than twelve consecutive hours; (b) No lumber, grass, shrubs or tree clippings, metals, bulk materials, scrap or refuse shall be kept, stored or allowed to accumulate on The Property except in enclosed areas or when placed in trash containers; (c) No trash or construction debris shall be allowed to blow onto any adjoining Lot; (d) Trash containers shall be placed near roadways and Access Property only for such periods of time as may be temporarily required to allow collection by refuse haulers; (e) The Architectural Control Committee is granted the authority to require the correction of unsightly conditions or other violations of this section existing on any Lot; (f) the Association shall not be responsible for any damage to property or the theft of any stored items.

3.8 Restrictions on Animals: Other than exceptions specified herein, no animals, birds, insects or livestock shall be kept on any Lot except domesticated dogs, cats, or other household pets which do not unreasonably bother or constitute a nuisance to others. No one shall have more than three such pets. [One horse may be kept on any five (5) acre lot so long as proper fencing is provided for on the lot; two horses may be kept so long as written approval of the Architectural Control Committee is first given and the horses are not kept for breeding purposes.]

3.9 Residential Use: No residential Lot shall be used for the purposes of conducting a business or occupation therein or thereon; providing that the foregoing shall not preclude the renting of a dwelling unit for single-family residential purposes or preclude use of telephones, computers, other office electronics and home offices in a dwelling unit for business or professional purposes. All tenants shall be bound by these covenants.

3.10 No Mining: No Property shall be used for the purpose of mining, quarrying, drilling, boring or exploring for or removing water, oil, gas, hydrocarbons, minerals, rocks, stones, gravel or earth.

3.11 No Cesspools or Septic Tanks: No cesspools, septic tanks or other private, individual sewage disposal system shall be permitted on any Lot.

3.12 Conveyance by Association: The Association shall have the right to sell or otherwise to transfer all or part of the Association Property to any other person or entity, including without limitation, a municipal district or other public or quasi-public entity whether now or hereafter in existence and whether formed for the purpose of accepting such transfer or for some other purpose. Such transfer shall be subject to full compliance with all applicable statutes and regulations.

IV RIGHTS OF OWNERS

4.1 Easement of Owners: Each Owner shall have a non-exclusive easement for ingress, egress and access over the Access Property and any other dedicated public roads, streets, drives, parkways and cul de sacs which provide access to the lots, the Recreational Facilities and to any present or future Association Property, as hereinafter defined. Each Owner shall pay to Association an equal share of the cost of maintaining Access Property.

4.2 Use of Recreational Facilities: Each Owner shall have the right to use and enjoy the Recreational Facilities, subject to Sections 3.3 and 5.5 hereof, at all times notwithstanding the ownership of the Recreational Facilities

4.3 Owner's Rights and Obligations Appurtenant: All rights and easements of an Owner under this Declaration and all rights of an Owner with respect to membership in the Association and all obligations of an Owner under this Declaration are hereby declared to be and shall be appurtenant to the title to the Lot owned by such Owner and may not be transferred, conveyed, devised bequeathed, encumbered

or otherwise disposed of separate or apart from title to the Lot. Every transfer, conveyance, grant, devise, bequest, encumbrance or other disposition of a Lot shall be deemed to constitute a conveyance, grant, devise, bequest, encumbrance or transfer or disposition of such rights and obligations.

V. ASSOCIATION PROPERTY

5.1 Property: The Undeveloped property, Recreational Property, Access Property and the improvements, equipment and other personal property now or hereafter constructed thereon, shall be referred to herein as "Association Property. The tennis court and swimming pool included in Association Property shall not be sold by the Association without the approval of a majority of the Owners. No thing herein contained shall be construed to limit the Owners' easements and rights described in Article IV hereof, nor shall the creation and exercise of said easements and rights be construed to constitute a grant, assignment, lease or other conveyance of any property to the Association whatsoever.

5.2 Maintenance of Association Property: The Association shall operate, maintain, manage, repair and restore all Association Property and shall pay all taxes and assessments assessed against the Association Property and shall obtain and at all times maintain in full force and effect casualty insurance on all Association Property for its full replacement value, including fire and extended coverage, vandalism and malicious mischief. The Association shall obtain broad form comprehensive liability insurance in such amounts and with such deductible provisions as good business practice may dictate. All insurance shall cover each Owner without each Owner necessarily being specifically named as an additional insured.

5.3 Rules and Regulations: The Association may adopt and enforce uniform rules and regulations with respect to the Association Property. The Association may provide for the enforcements of its rules and regulations through reasonable and uniformly applied fines and penalties and through the exclusion of violators from the Association Property. Each Owner shall comply with said rules and regulations and any enforcement procedure adopted by the Association in conformity herewith.

5.4 Fees for Use of Recreational Facilities: The Association shall have the right to charge fees for the use of recreational facilities.

5.5 Implied Rights of Association: The Association shall have and may exercise any right or privilege expressly given to the Association in this Declaration and any other right or privilege necessary or desirable to fulfill its obligations hereunder, including without limitation, the right to hire employees,

retain independent contractors, purchase or acquire the use of equipment and other personal property and obtain professional services

VI. ADDITIONAL PROVISIONS RELATING TO TOWNHOUSE LOTS

6.1 Supplemental Declarations: It is anticipated that all or portions of Block 1 Lot 7, Block 2 Lot 8, Block 4 Lot 28, and Block 8 Lot 3 of The Property and Lots A, D, and E of Hollydot Park subdivision, also part of The Property, will subsequently be divided into Town House Sites or made a part of condominium ownership projects under the Condominium Ownership Act of the State of Colorado.

6.2 Town House Sites: Each Town House Site, together with all improvements thereon, shall be owned in fee simple, subject however to the terms and provisions of this Declaration and any Supplemental Declaration applicable thereto. Each Owner of a Town House Site shall have the exclusive right to construct, maintain, repair, expand or otherwise modify and replace any building, structure or other improvement on the Town House Site, subject to prior architectural approval as herein specified. Each Owner shall be obligated to maintain, repair, and replace all such buildings, structures or other improvements, all in accordance with the terms and provisions of this Declaration. Each Owner shall be solely responsible for obtaining and paying for fire and extended coverage on such party's Town House Unit, furnishings and other items of personal property, and for casualty and public liability insurance coverage within the Town House Site owned by such Owner.

6.3 Encroachments: If improvement on Association Property or Common Property encroaches or shall hereafter encroach upon a building, structure or other improvement erected on Town House Sites, approval of Pueblo County must be obtained.

6.4 Common Walls: The Owner of each Town House Site on which is constructed a building or structure which shares a common wall with another building or structure on an adjoining Town House Site shall share equally with the Owner of such other Town House Site the cost and responsibilities of maintenance, repair and replacement of the common wall. No material alterations may be made to or upon said common wall without the consent of both Owners and the County of Pueblo.

6.5 Condominium Projects: In the event all or any part of the Town House Lots of The Property become a part of any condominium ownership project, the condominium map therefore may designate that portion of said property which shall become Common Property, as that term is herein used and

defined. Unless the condominium map or condominium declaration for such condominium ownership project shall specifically so state, no part of the common elements of said project which are structural components of any building or structure shall be deemed to be Common Property as used herein. Any condominium declaration committing to condominium ownership any portions of the Town House Lots of the Property shall be deemed to be a Supplemental Declaration hereunder.

VII THE MEADOWCREEK COMMUNITY ASSOCIATION

7.1 General Purposes and Powers: The Meadowcreek Community Association, Inc. has been formed and incorporated as a Colorado corporation not for profit to be and constitute the Association to which reference is made in this Declaration, to perform functions and hold or sell property and manage property as provided in this Declaration, and to further the common interests of all Owners of Lots within The Property. It shall have all powers necessary or desirable to effectuate these purposes.

7.2 Regular Membership: There shall be one regular membership in the Association for each Lot, which regular membership shall be appurtenant to such Lot. The Owner of a Lot shall automatically be the Owner of the regular membership appurtenant to that Lot and title to and ownership of the regular membership for that Lot shall automatically pass with fee simple title to the Lot. The Owner of a Lot shall automatically be entitled to the benefits and subject to the burdens relating to the regular membership for his Lot. If fee simple title to a Lot is held by more than one person or entity, the regular membership appurtenant to that Lot shall be shared by all such persons or entities in the same proportion of interest and by the same type of ownership as fee simple title to the Lot is held. In the event of any conflict among the co-owners of any Lot as to which co-owner is entitled to vote as Owner in any association election or other vote, then any co-owner of record of such Lot may require that all voting rights of such Lot be suspended until such conflict is resolved between the co-owners of the Lot. Any Lot on which voting rights are so suspended shall not be considered in determining the existence of a quorum or the satisfaction of any minimum vote requirement. Regular memberships in the Association shall be limited to Owners of Lots.

7.3 Board of Directors: The affairs of the Association shall be managed by a Board of Directors which may, however, by resolution delegate any portion of its authority to an executive committee, or to an executive manager or director for the Association. The Board of Directors shall be composed of nine Directors to be elected by Owners. Following the initial election of this nine member Board of Directors,

the newly elected Board of Directors shall determine the term of each of the nine members, with three Directors to serve a one year term, three Directors to serve a two year term and three Directors to serve a three year term. All subsequently elected Directors will be elected to a term of three years. In the event any Director is removed by Owners or resigns, the Board of Directors shall fill the vacancy by appointment. The newly appointed Director shall serve the remaining term of the Director being replaced. To the extent that any provision of these covenants may be inconsistent with this section 7.3, this section 7.3 controls.

7.4 Voting Rights: For purposes of voting, each Owner shall be entitled to one vote for each Lot in which they hold the interest required for membership.

In all voting, voting by proxy shall be permitted and cumulative voting shall be prohibited

7.5 Notices: Except as a greater period is specified in this declaration, each Owner entitled to vote at any meeting, shall be entitled to at least ten (10) days' notice of such meeting. Notices of the meeting shall be in writing and shall state the date, time and place of the meeting and shall indicate in general matters to be voted on at the meeting which is known to the Association at the time notice of the meeting is given. Any notice shall be deemed furnished or delivered to a party at the time a copy thereof is deposited in the mail, postage prepaid, addressed to the Owner, or personally delivered to the Owner's residence. Any notice, information or material shall be deemed properly addressed to an Owner if it is addressed to the last known address of such Owner as shown on the records of the Association at the time of such mailing, or, if the name and address is not so shown, if it is addressed "To the Owner" at the address of the Lot of such Owner.

7.6 Record Date: The Board of Directors of the Association shall have the power to fix in advance a date as a record date for the purpose of determining Owners entitled to notice of or to vote at any meeting or to be furnished with any budget or other information or materials, or in order to make a determination of Owners of Lots for any purpose. A record date shall not be more than fifty (50) days prior to the date on which the particular action requiring determination of Owner of Lots is proposed or expected to be taken or to occur. If no record date is established for a meeting, the date on which notice of such meeting is first given to any Owner shall be deemed the record date for the meeting.

7.7 Certificate of Incorporation and Bylaws: The purposes and powers of the Association and the rights and obligations with respect to Owners and Lots set forth in this Declaration may and shall be amplified

by the provisions of the Certificate of Incorporation and Bylaws of the Association, but no such provision may be, at any time, inconsistent with the provisions of this Declaration.

VIII ASSESSMENTS

8.1 General and Special Assessments: Each Owner of a Lot shall be deemed to covenant and agree to pay to the Association general assessments and special assessments established and levied from time to time as hereinafter provided.

8.2 General Assessments: The Association shall and is hereby authorized to levy an assessment against all Lots for the purpose of defraying all costs and expenses of the Association incurred in the performance of its obligations under this Declaration or any other obligations rightfully undertaken by said Association. The amount of said assessment shall be no more than equal to the total cost of operating the Association, and of maintaining a reasonable reserve fund, with such cost to be determined and projected on an annual or semi-annual basis, but in no event shall the total of Association fees and Association assessments referred to anywhere in these Covenants be less than \$30.00 per month or more than \$50.00 per month without approval of a majority of the Owners and this particular provision may not be amended without approval of a majority of the Owners. The Board of Directors of the Association shall have the power and authority to determine all matters in connection with general assessments, including the power and authority to determine the amount of general assessment and where, when and how general assessments shall be paid to the Association, and each Owner shall be obligated to pay and shall pay to the Association the amount so established in the manner so established. At the discretion of the Association it may charge a user fee for the use of the recreational property.

8.3 Budget for General Assessments: The total amount required to be raised by general assessments for the Association shall be determined for each fiscal year of the Association in accordance with the following procedure.

8.3.1 Not less than thirty (30) days prior to the commencement of each fiscal year of the Association, the Board of Directors of the Association shall prepare a budget for the forthcoming fiscal year showing, in reasonable detail, the various matters proposed to be covered by the budget, the estimated costs and expenses which will be incurred by the Association, the estimated income

and other funds which will be earned by the Association, and the estimated total amount to be raised by the general assessments to cover the costs and expenses to be incurred by the Association in fulfilling its obligations specified in this Declaration and in fulfilling any and all long-term or continuing commitments of the Association made in connection with or contemplated under any previously approved budget. The total amount of general assessments required to be raised by the Association, as shown in a budget prepared in the foregoing manner, shall be apportioned equally to each Lot.

8.4 Notice of General Assessment: Within the thirty (30) day period preceding the commencement of each fiscal year of the Association, the association shall furnish a copy of the budget arrived at in the foregoing manner to all Owners. Accompanying such budget shall be a notice to each Owner setting forth the amount of general assessments due and payable with respect to each Lot of an Owner and specifying where, when and how such general assessment shall be paid to the Association.

8.5 If at any time it appears to the association that the amount to be raised by the association for any fiscal year shall exceed the amount estimated in the budget previously prepared for such fiscal year, the Board of Directors of the Association may prepare a supplemental budget and may, at any time, deliver to Owners a copy of such supplemental budget together with a notice reflecting the change in the general assessment per Lot due and payable by each such Owner from and after the date of such notice.

8.6 Special Assessments: In addition to the general assessments herein authorized, the Association may levy in any fiscal year a special assessment, which may be payable in that year, or payable over a period of years, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, unexpected repair or replacement of a capital improvement of the Association, provided however, that any such assessment must first be approved by a two-thirds (2/3) vote of the Owners who vote in person or by proxy at a meeting duly called for the purpose of voting on such proposed special assessment. Written notice of any such meeting shall be sent to all Owners at least thirty (30) days in advance of such meeting and shall set forth the purpose of the meeting. The date or dates on which such special assessment shall be due and payable shall be fixed by the Board of Directors of the Association.

8.7 Interest on Delinquent Assessment: The amount of any general assessment, special assessment, charge, fine, penalty or other amount payable with respect to any Lot shall become due and payable as

specified by the Association and any such amount shall bear interest at the rate of eighteen percent (18%) per annum from and after the date due and payable until the same is paid.

8.8 Lien for Assessments: The Association shall have a lien against each Lot to secure payment of any assessment, charge, fine, penalty or other amount due and owing to the Association with respect to the Lot, plus interest from the date due and payable, plus all costs and expenses of collecting the unpaid amount, including reasonable attorneys' fees. The lien may be foreclosed in any manner allowed under the laws of the State of Colorado, and the Association may commence any other appropriate legal action to recover all such unpaid amounts.

8.9 Liability of Owners, Purchasers and Encumbrancers: The amount of any assessment, charge, fine or penalty payable with respect to any Owner, or Lot shall be a joint and several obligation to the Association of such Owner and such Owner's heirs, personal representative, successors and assigns. All amounts due to the Association for assessments, charges, fines or penalties are charges against the subject Lot, and any party acquiring fee simple title to a Lot shall be jointly and severally liable with the former Owner of the Lot for all such amounts which had accrued and were payable at the time of the acquisition of fee simple title to the Lot by such party, without prejudice to such party's right to recover any of said amount from the former Owner. Each such amount together with interest thereon may be recovered by suit for a money judgment by the Association without foreclosing or waiving any liens securing the same. Notwithstanding the foregoing, the lien of the Association for any such assessments, charges, fines or penalties shall be junior to any mortgage, deed of trust, or other lien or encumbrance on a Lot taken in good faith and for value and perfected by recording in the office of the County Clerk and Recorder of Pueblo County, Colorado, prior to the time a notice of failure to pay any such amount due to the Association is recorded in said office, describing the Lot and naming the Owner of the Lot.

8.10 Estoppel Certificate: Upon payment of a reasonable fee not to exceed \$15.00 and upon written request of any Owner or any person with any right, title, or interest in a Lot, the Association shall furnish a written statement setting forth the amount of any assessments charges, fines or penalties, if any, due or accrued and then unpaid with respect to a Lot and the amount of the general and special assessments, if any, for the current fiscal period of the Association payable with respect to the Lot, which statement shall, with respect to the party to whom it is issued, be conclusive against the Association and all parties, for all purposes, that no greater or other amounts were then due or accrued and unpaid.

IX ARCHITECTURAL CONTROL AND CONSTRUCTION

9.1 Architectural Control: No freestanding house shall be constructed having less than 1500 square feet. No structure which meets any of the following conditions shall be erected on any part of The Property by any person without the written approval of the Architectural Control Committee: (a) any structure which contains more than 800 cubic feet; (b) any structure which occupies more than 100 square feet of ground area (c) any structure of which the highest point is more than eight (8) feet above the ground; (d) any fence or wall which is more than four (4) feet high at any point; and (e) any structure on a Town House Site. For purposes of this section the word "structure" shall be broadly construed and shall include but not be limited to buildings, swimming pools, fences, sheds, walls, porches, tents, towers, television antennae and any other thing erected or placed by man upon any part of The Property. For purposes of this section an addition to a present structure shall be considered a structure and shall require review if it meets any of the criteria set forth in the first sentence in this section. Structures which do not meet any of the above criteria must have exteriors made of materials approved by the Architectural Control Committee and designated on a list of approved materials. If the Architectural Control Committee does not maintain such a list of approved materials, then such structures which do not otherwise meet the above criteria shall not be subject to architectural control. If the Architectural Control Committee has not approved or disapproved a structure within forty-five (45) days of receipt of all necessary information by the Committee, then such structure shall not be subject to architectural control, however, Pueblo County approval shall remain a requirement.

9.2 Necessary information: The following information must be submitted in order to obtain approval from the Architectural Control Committee: (a) complete landscape, grading, drainage and building plans and specifications, including elevations and cross-sections, showing the shape, height, type, material and color scheme thereof; and (b) a plot plan indicating the location of the structure on the Lot.

9.3 Construction: Construction must commence within a reasonable time after obtaining Architectural Control Committee approval and must be substantially completed within twelve (12) months from the time of laying foundations. All necessary building and related permits must be obtained prior to the commencement of construction and all construction must be performed in accordance with applicable building codes and the approved plans and specifications.

9.4 Landscape Control: No earth, dirt, soil or rocks shall be removed from any Lot, nor shall any tree of more than eight (8) feet in height be removed from any Lot, nor shall any shrub with a branch spread of more than four (4) feet be removed from any Lot, without the approval of the Architectural Control Committee.

9.5 Sign Control: No sign or billboard shall be placed on The Property without the approval of the Architectural Control Committee and the County of Pueblo.

9.6 Utility Control: No wires, poles or other facilities for the transmission or reception of electricity, and utility meters and other utility facilities shall be constructed or maintained above or below the surface of the ground without the approval of the Architectural Control Committee.

9.7 Architectural Control Committee: The Architectural Control Committee shall consist of three persons. All members of the Architectural Control Committee shall be appointed by the Board of Directors of the Association. All shall serve in office until their successors are duly elected or appointed. The names of the initial members of the Committee and all changes thereto shall be designated in a written instrument which shall be delivered to the last known address of each Owner.

X. GENERAL PROVISIONS

10.1 Each provision of this Declaration shall continue and remain in full force and effect unless at any given time after the recording of this Declaration, this Declaration is terminated by recorded instrument signed by the Owners, as shown by the records in the office of the County Clerk and Recorder of Pueblo County, Colorado, of not less than two-thirds (2/3) of the Lots in existence as of the date of such instrument of termination.

10.2 Amendments: Any provision contained in this Declaration may be amended or repealed by the Owners. Any proposal to amend or repeal a provision contained in this Declaration must be approved by the Board of Directors of the Association who shall then mail such proposal to each Owner along with a ballot reflecting approval or disapproval of such amendment or repeal. Said ballot shall reflect that it will be considered by the Board of Directors only if returned and received by the Board of Directors or its designated agent within thirty days following mailing by the Board of Directors to the Owner. An amendment or repeal shall be approved only if 1) a majority of all Owners submit ballots for approval and 2) two-thirds of all ballots received from Owners within the specified thirty day period are for

approval. Each returned ballot shall be date stamped as received. Any approved amendment or repeal shall be implemented by a resolution of the Board of Directors of the Association wherein the proposed amendment or repeal is set forth and approval by the Owners is confirmed. This resolution shall then be recorded in the office of the County Clerk and Recorder of Pueblo County, Colorado and shall become effective when so recorded. To the extent that any provision of these covenants may be inconsistent with this section 10.2, this section 10.2 controls

10.3 Effect of Provisions of Declaration: Each provision of this Declaration, and an agreement, promise, covenant and undertaking to comply with each provision of this Declaration, and any necessary exception or reservation or grant of title, estate, right or interest necessary or desirable to effectuate any provision of this Declaration, and any necessary exception or reservation or grant of title, estate, right or interest necessary or desirable to effectuate any provision of this Declaration:

(a) Shall be deemed incorporated in each deed or other instrument by which any right, title or interest in any of The Property is granted, devised, or conveyed, whether or not set forth or referred to in such deed or other instrument;

(b) Shall, by virtue of acceptance of any right, title or interest in any of The Property by an Owner or by the Association, be deemed accepted, ratified, adopted and declared as a personal covenant of such Owner or of the Association, as the case may be, and, as a personal covenant, shall be binding on such Owner or the Association and such Owner's or the Association's heirs, personal representatives, successors, and assigns and, as a personal covenant of an Owner, shall be deemed a personal covenant to, with and for the benefit of the Association but not to, with or for the benefit of any other Owner, and, if a personal covenant of the Association, shall be deemed a personal covenant to, with and for the benefit of each Owner within The Property;

(c) Shall be deemed a covenant, obligation and restriction secured by a lien biding, burdening and encumbering this title to each parcel of the real property which lien, with respect to any Lot, shall be deemed a lien in favor of the Association.

10.4 Enforcement and Remedies: Each provision of the Declaration with respect to the Association or property of the Association shall be enforceable by any Owner by a proceeding for a prohibitive or mandatory injunction. Each provision of this Declaration with respect to an Owner or property of any Owner shall be enforceable by the Association by a proceeding for prohibitive or mandatory injunction or by a suit or action to recover damages, or, in the discretion of the Association, for so long as any

Owner fails to comply with any such provision, by exclusion of such Owner and such Owner's Guest's from use of any facility or property of the Association and from enjoyment of any function of the Association. If court proceedings are instituted in connection with the rights of enforcement and remedies provided in this Declaration, the prevailing party shall be entitled to recover its costs and expenses in connection therewith, including reasonable attorneys' fees.

10.5 Protection of Encumbrancer: No violation or breach of, or failure to comply with, any provision of this Declaration and no action to enforce any such provision shall affect, defeat, render invalid or impair the lien of any mortgage, deed of trust or other lien on any property taken in good faith and for value and perfected by recording in the office of the County Clerk and Recorder of Pueblo County, Colorado, prior to the time of recording in said office of an instrument describing said property and listing the name or names of the Owner of fee simple title to the Property and giving notice of such violation, breach, or failure to comply, nor shall such violation, breach, failure to comply or action to enforce affect, defeat, render invalid or impair the title or interest of the holder of such mortgage, deed of trust or other lien or title or interest acquired by any purchaser upon foreclosure of such mortgage, deed of trust or other lien, or result in any liability, personal or otherwise, of any such holder or purchaser. Any such purchaser on foreclosure shall, however, take subject to this Declaration except only that violations or breaches of, or failure to comply with, and provisions of the Declaration which occurred prior to the vesting of fee simple title in such purchaser shall not be deemed breaches or violations hereof or failures to comply herewith with respect to such purchaser, his heirs, personal representatives, successors or assigns.

10.6 Limited Liability: Neither the Association, the Board of Directors of the Association nor any member, agent or employee of any of the same shall be liable to any party for any action or for any failure to act with respect to any matter if the action taken or failure to act was in good faith and without malice.

10.7 Successors and Assigns: Except as otherwise provided herein, this Declaration shall be binding upon and shall inure to the benefit of the Association, and each Owner and the heirs, personal representatives, successors and assigns of each.

10.8 Severability: Invalidity or unenforceability of any provision in this Declaration in whole or in part shall not affect the validity or enforceability of any other provision or any valid and enforceable part of a provision of this Declaration.

10.9 Captions: Captions and heading in this instrument are for convenience only and shall not be considered in construing any provision of this Declaration.

10.10 No Waiver: Failure to enforce any provision of this Declaration shall not operate as a waiver of any such provision or of any other provision of this Declaration.

IN WITNESS WHEREOF, not less than two-thirds of the present Owners of The Property executed this Amended and Restated Declaration of Covenants the day and year first above written.

EXHIBIT "A"

TO

AMENDED AND RESTATED DECLARATION OF COVENANTS FOR HOLLYDOT PARK RESUBDIVISION

TRACT I:

A parcel of land being a portion of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 24, Township 24 South, Range 67 West of the 6th P.M., more particularly described as follows:

Beginning at the southwest corner of Lot 65 in Hollydot Park, as filed for record February 23, 1972, (now know as Lot 3, Block 4, Hollydot Park Re-Subdivision), thence along the Hollydot Park boundary S 00'13'13" E., a distance of 30.01 feet; thence S 88'21'13" W., a distance of 204.01 feet; thence N 04'26'47" W, a distance of 288.94 feet' thence N 59'35'08" E a distance of 276.81 feet; thence N 72'30'13" E, a distance of 627.10 feet; thence S 87'03'44" E a distance of 281.52 feet' thence N 14'15'46"W a distance of 345.65 feet; thence N 85'25'33" E a distance of 297.14 feet; thence N 09'23'47" E a distance of 185.47 feet; thence N 60'53'17" E a distance of 509.84 feet; thence N71'22'27" E, a distance of 195.90 feet; thence S 72' 45'26" E, a distance of 158.43 feet to a point on the boundary of the said Hollydot Park, said point lying on the westerly Right-of-Way of South Parkway; thence westerly along the said boundary of Hollydot Park, according to the said recorded plat thereof, to the point of beginning.

Containing 11.33 acres, more or less.

TRACT II:

A parcel of land being a portion of the SE ¼ of Section 24, Township 24 South, Range 67 West, and of the SW ¼ and the NW ¼ OF Section 19, Township 24 South, Range 66 West of the 6th P.M., more particularly described as follows:

Beginning at the northwest corner of Lot 238 of Hollydot Park, as filed for record February 23, 1972, (now known as Lot 1, Block 6, Hollydot Park Re-Subdivision), said point lying on the easterly right-of-way line of South Parkway, thence along the said right-of-way line, the following two courses:

N 18'24'20" E a distance of 147.36 feet;

Along the arc of a curve to the left, whose radius is 415.00 feet, a distance of 32.61 feet; thence S 72'45'26" E, a distance of 187.71 feet; thence N 50'40'16" E, a distance of 277.47 feet; thence N 09'48'16" W, a distance of 157.25 feet; thence N 88'11'49" E, a distance of 411.11 feet; thence S 86'58'58" E, a distance of 101.50 feet; thence N 05'29'43" W, a distance of 152.10 feet; thence N 84'30'17" E, a distance of 400.00 feet; thence N 5'29'43" E, a distance of 200.00 feet; thence N 84'30'17" e, a distance of 110.07 feet' thence N 02'55'26" W, a distance of 137.34 feet; thence N 65'04'03" E, a distance of 355.08 feet; thence N 15'20'15" E, a distance of 160.27 feet; thence N 65'25'04" E, a distance of 357.10 feet; thence S 88'26'47" E, a distance of 208.39 feet; thence N 20'01'19" E, a distance of 253.54 feet; thence N 18'25'10" W, a distance of 206.85 feet; thence N 05'49'49" E, a distance of 298.49 feet; thence N 38'23'41" E, a distance of 227.34 feet; thence S 65'07'23" E, a distance of 130.07 feet; thence N 57'33'32" E, a distance of 114.84 feet; thence S 36'13'01" E, a distance of 110.04 feet; thence S 34'34'15" E, a distance of 60.56 feet to a point on the northerly boundary of the said Hollydot Park; thence westerly along the said northerly boundary of Hollydot Park, according to the said recorded plat thereof, to the point of beginning.

Containing 22.11 acres, more or less.