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10/18/2002 13:01:42
261.00 PG: 0001-052
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**DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS
RESTRICTIONS FOR BRADBURN AND
RESIDENTIAL AREAS**



ABR 879463

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**DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND
RESTRICTIONS FOR BRADBURN RESIDENTIAL AREAS**

THIS DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS FOR BRADBURN RESIDENTIAL AREAS is made as of October 14, 2002, by BRADBURN COMMUNITY ASSOCIATES, LLC, a Colorado limited liability company, and the Consenting Landowner.

ARTICLE 1

GENERAL

1.1 **Capitalized Terms.** Capitalized terms used in this Declaration are defined in Article 2 below.

1.2 **Purpose.** This Declaration is executed and made to impose upon the Neighborhood mutually beneficial restrictions under a general plan of improvement for the benefit of the Owners and to establish a flexible and reasonable procedure for the overall development, administration, maintenance and preservation of the Neighborhood.

1.3 **Declaration.** Declarant, for itself and its successors and assigns and with the consent of the Consenting Landowner, hereby declares that all of the Neighborhood shall, from and after the date hereof, constitute a planned community under the Act and shall be owned, held, conveyed, encumbered, leased, improved, used, occupied and enjoyed subject to the covenants, conditions, restrictions, reservations, easements and other provisions set forth in this Declaration in furtherance of, and the same shall constitute, a general plan for the subdivision, ownership, improvement, sale, use and occupancy of the Neighborhood and to enhance the value, desirability and attractiveness of the Neighborhood. This Declaration shall: (i) run with the Neighborhood at law and as an equitable servitude; (ii) bind any Person having or acquiring any right, title or interest in any portion of the Neighborhood; (iii) inure to the benefit of and be binding upon every part of the Neighborhood and every interest therein; and (iv) inure to the benefit of and be binding upon Declarant and its successors in interest and assigns, each Owner and its heirs, successors in interest and assigns, and the Association and its successors in interest.

ARTICLE 2

DEFINITIONS

The following terms shall have the meanings set forth below when used herein:

2.1 **Act:** The Colorado Common Interest Ownership Act, codified at Colo. Rev. Stat. § 38-33.3-101 et seq., as the same has been and may hereafter be amended from time to time, and any statute which from time to time may replace the same.

2.2 **Additional Lands:** The real property described on Exhibit B attached to this Declaration.

2.3 Architectural Control Committee: The Bradburn Master Architectural Control Committee established pursuant to the Master Design Review Covenants.

2.4 Articles of Incorporation or Articles: The Articles of Incorporation of the Association that have been or will be filed with the Secretary of State of the State of Colorado, as amended from time to time.

2.5 Assessment: An assessment, which may be a Common Assessment, a Special Assessment or a Specific Assessment, that is levied by the Association on one or more Lots pursuant to the terms of this Declaration.

2.6 Association. Bradburn Residential Owners Association, a Colorado nonprofit corporation that is incorporated or will be incorporated pursuant to the terms of this Declaration.

2.7 Authorized Representative: A natural person who is appointed by an Owner, pursuant to Section 7.3, as a proxy, attorney-in-fact or authorized representative to vote on behalf of such Owner in matters coming before the Association.

2.8 Board of Directors or Board: The Board of Directors of the Association.

2.9 Bradburn. The mixed-use traditional neighborhood development known as Bradburn of which the Neighborhood is a part.

2.10 Bylaws: The Bylaws of the Association, as amended from time to time.

2.11 City: The City of Westminster, State of Colorado.

2.12 Common Allocation: A percentage allocated to each Lot that is derived from a fraction, the numerator of which is one and the denominator of which is the total number of Lots within the Neighborhood. The percentages comprising the Common Allocations for the various Lots may be rounded by the Association in accordance with its ordinary practices adopted from time to time, provided the rounding methodology is applied in a materially uniform and consistent manner for all of the Lots.

2.13 Common Assessment: An Assessment levied on all Lots subject to assessment to fund the Common Expenses as more particularly described in Section 8.3.

2.14 Common Elements: All property or possessory interests therein (and, in the case of real property, the Improvements thereon) within the Neighborhood owned by the Association pursuant to this Declaration for the benefit, use or enjoyment of the Owners. As of the initial Recording of this Declaration, there are no Common Elements. Common Elements may be established in the future pursuant to the terms of this Declaration.

2.15 Common Expenses: Except for those costs and expenses expressly excluded below, all costs, expenses and financial liabilities incurred by the Association pursuant to this Declaration or the Bylaws, including, without limitation: all costs of operating, managing,

maintaining, replacing or restoring the Common Elements; taxes on the Common Elements; general administrative costs incurred by the Association, including any administrative costs incurred in levying and collecting Assessments; and contributions to the Reserve Fund. Except as expressly provided in this Declaration, Common Expenses shall not include costs or expenses to be funded by or payable through the levying of Special Assessments or Specific Assessments.

2.16 Consenting Landowner: Continuum Bruchez Associates, LLC, a Colorado limited liability company.

2.17 Declarant: Bradburn Community Associates, LLC, a Colorado limited liability company, or any successor in interest or assignee who takes title to any portion of the Neighborhood for the purpose of development and/or sale and who is designated as the Declarant in a Recorded instrument executed by the immediately preceding Declarant.

2.18 Declarant Control Period: Declarant Control Period means the period beginning on the date the Association is formed and ending on the first to occur of (i) 60 days after 75% of the total number of Lots that may be created pursuant to Section 3.2 have been conveyed to Owners other than Declarant; (ii) two years after the last conveyance of a Lot by Declarant in the ordinary course of business; (iii) two years after any right to create new units pursuant to this Declaration was last exercised; or (iv) the date on which Declarant, in its sole discretion, voluntarily terminates the Declarant Control Period pursuant to a Recorded statement of termination executed by Declarant. If Declarant terminates the Declarant Control Period pursuant to the preceding clause (iv), Declarant may require that, for the balance of what would have been the Declarant Control Period had Declarant not terminated it, certain actions of the Association or the Board, as described in the Recorded statement of termination, be approved by Declarant before they become effective. After termination of the Declarant Control Period, Declarant, if still an Owner, will have all of the rights and duties given to Owners under this Declaration and will retain all of the rights belonging to Declarant under this Declaration (including without limitation the Special Declarant Rights) other than those that expire by their terms or pursuant to the Act upon the expiration of the Declarant Control Period.

2.19 Declaration: This Declaration, as amended or supplemented from time to time.

2.20 Delinquency Costs: Is defined in Section 9.1.

2.21 Design Review Guidelines: Any applicable design review guidelines adopted and enforced by the Architectural Control Committee, as such guidelines may be amended from time to time.

2.22 Developer: Any Person who, in the ordinary course of such Person's business, purchases one or more Lots for the purpose of constructing Improvements for later sale or rental or purchases one or more Lots for further subdivision into additional Lots, development, leasing and/or resale.

2.23 Development Period: The period of time during which Declarant is entitled to exercise the Development Rights and the other Special Declarant Rights. The

Development Period shall commence upon the Recording of this Declaration and shall terminate on the 50th anniversary of such Recording unless reinstated or extended by agreement between Declarant and the Association; provided, however, that the exercise of any Special Declarant Rights pursuant to such agreement shall be subject to such terms as the Association may impose in such agreement. Declarant may terminate the Development Period at any time by Recording a notarized instrument executed by Declarant stating that the Development Period is terminated.

2.24 Development Rights: The rights reserved by Declarant pursuant to Section 4.1.

2.25 Director: A member of the Board of Directors.

2.26 District: Collectively and individually, Bradburn Metropolitan Districts Nos. 1, 2 and 3, each a special district established pursuant to Colo. Rev. Stat. § 32-1-201 et seq.

2.27 District Property. All tracts, parcels or outlots dedicated to the District pursuant to the Final Plat. The property that is the District Property as of the date this Declaration is Recorded is described on Exhibit D of this Declaration.

2.28 Eligible Holder: An institutional holder, insurer or guarantor of a First Mortgage who provides a written request for notices to the Association, stating the name and address of such holder, insurer or guarantor and the street address, or, if not available, other sufficient information, of the Lot to which its Mortgage relates.

2.29 Final Plat: The Final Plat of Bradburn Subdivision Filing No. 1 and any other final plat subdividing any portion of the Neighborhood approved by the City pursuant to the Municipal Code or any amended or replacement version of any such final plat in effect from time to time. A Final Plat may include areas of land that are not included within the Neighborhood.

2.30 First Mortgage: A Mortgage that is Recorded and has priority of record over all other Recorded liens except those liens made superior by statute (e.g., general *ad valorem* tax liens and special assessments and mechanics' liens).

2.31 Fiscal Year: The fiscal year of the Association set from time to time by the Board pursuant to the Bylaws.

2.32 Improvements: All structures, improvements and appurtenances on or to real property of every type and kind including, without limitation, buildings, outbuildings, fixtures, billboards, utilities, patios, tennis courts, swimming pools, garages, doghouses, mailboxes, aerials, antennas, facilities associated with regular or cable or satellite television, roads, driveways, parking areas, fences, screening walls, retaining walls, stairs, decks, landscaping, grading, drainage facilities, windbreaks, plantings, planted trees and shrubs, poles, signs, exterior air conditioning units, water softener fixtures or equipment, pumps, wells, tanks, solar collectors, reservoirs, pipes, lines, meters, towers and other facilities used in connection with water, sewer, gas, electricity, solar energy, telephone or other utilities or

telecommunications facilities, as well as any construction activities necessary to construct any such items.

2.33 Lot: A physical portion of the Neighborhood, whether developed with Improvements or undeveloped, that is a separate, legally established lot, parcel or unit of real property that may be legally transferred or conveyed without further subdivision or other similar approval from the City. Without limiting the generality of the preceding sentence, the term Lot shall include any superblocks, plots, tracts, lots, planning areas or similar portions of the Neighborhood that are described by the preceding sentence and that have not been further subdivided into smaller Lots, though such subdivision into smaller Lots is likely to occur in the future. Upon the subdivision of any existing Lot into two or more Lots, the Lot so subdivided shall no longer be recognized as one Lot for any purpose hereunder. Notwithstanding the foregoing, the term "Lot" shall not include any Common Elements owned in fee simple by the Association or any other "common elements" (as defined in the Act) established under any Supplemental Declaration, or any property dedicated or otherwise conveyed to any government, special district or other quasi-governmental entity for a public purpose. Any condominium unit within a legally established "condominium" (as defined in the Act) shall constitute a separate Lot under this Declaration.

2.34 Master Design Review Covenants. The Declaration of Master Architectural Restrictions for Bradburn that are or will be Recorded against the property comprising Bradburn, as such covenants may be amended from time to time.

2.35 Member: A Person who is a member of the Association pursuant to Section 7.2.

2.36 Membership. The membership in the Association held by a Member.

2.37 Mortgage: An unpaid or outstanding mortgage, deed of trust, deed to secure debt or any other form of security instrument encumbering the Neighborhood or a portion thereof.

2.38 Mortgagee: A beneficiary or holder of a Mortgage.

2.39 Municipal Code: The ordinances, resolutions, and regulations of the City, as codified, amended and replaced from time to time.

2.40 Neighborhood: All of the real property described on Exhibit A attached to this Declaration and any portion of the Additional Lands added to the Neighborhood pursuant to this Declaration, the appurtenances thereto, and all Improvements now in place or hereafter constructed thereon.

2.41 ODP: Collectively, the Preliminary Development Plan for Bradburn that was Recorded on August 8, 2001, at Reception No. C0839767, and the Official Development Plan for the Bradburn Planned Unit Development that was Recorded on August 17, 2001, at Reception No. C0844144, as either of them is supplemented, amended and/or restated from time to time.

2.42 Owner: A Person or Persons, including Declarant or any Developer, owning fee simple title of record to any Lot from time to time. The term "Owner" shall include a seller under an executory contract for sale and exclude a buyer thereunder and shall include a landlord pursuant to a lease for a Lot and exclude a tenant thereunder.

2.43 Permittee: A Person, other than an Owner, who is a tenant or occupant of a Lot or a Person who is an agent, employee, customer, contractor, licensee, guest or invitee of an Owner or of such tenant or occupant.

2.44 Person: A natural person, corporation, partnership, limited liability company, trust, municipality, special district, or other legal entity, whether public or private.

2.45 Quorum: With respect to a meeting of the Members or the Board, the percentage or number of the Members or Board that constitutes a quorum pursuant to the applicable provisions of the Bylaws.

2.46 Records: The official real property records maintained by the clerk and recorder of Adams County, Colorado; the phrases "to Record" and "Recording" mean, respectively, to file or filing for recording in the Records, and the phrases "of Record" and "Recorded" mean having been recorded in the Records.

2.47 Reserve Fund: A reserve fund to be established and maintained by the Association for the periodic major repair or replacement of the Common Elements and for unbudgeted and unplanned Common Expenses incurred by the Association from time to time.

2.48 Rules: The rules and regulations, if any, governing the use of the Neighborhood adopted from time to time by the Association. The Rules shall be binding upon all Owners and their Permittees.

2.49 Special Assessment: An Assessment levied in accordance with Section 8.4.

2.50 Special Declarant Rights: The rights of Declarant set forth in Article 6.

2.51 Specific Assessment: An Assessment levied in accordance with Section 8.5.

2.52 Supplemental Association: An association established pursuant to a Supplemental Declaration in which all of the Owners of Lots subject to such Supplemental Declaration are members by virtue of being the Owners of such Lots.

2.53 Supplemental Declaration: Any subsequent declaration of covenants, conditions or restrictions or similar instrument Recorded against a specified portion of the Neighborhood that provides for the establishment of an owners association for the management, maintenance and/or administration of the Lots and any common elements allocated to such Lots comprising the portion of the Neighborhood subject to such declaration. Without limiting the generality of the foregoing, any "declaration," as such term is defined in the Act, affecting a

portion of the Neighborhood shall be considered a Supplemental Declaration. The Master Design Review Covenants is not a Supplemental Declaration.

2.54 Taking: A taking by the exercise of eminent domain or conveyance in lieu thereof.

ARTICLE 3

CREATION OF THE COMMUNITY

3.1 Creation. Upon the Recording of this Declaration, the Neighborhood shall be a "planned community" pursuant to the Act, and the name of the planned community shall be "Bradburn Residential Areas." The Neighborhood is located entirely within the City.

3.2 Number of Lots. Declarant reserves the right to create a maximum of 1,200 Lots within the Neighborhood (as it may be enlarged to incorporate all of the Additional Lands).

3.3 Allocations.

(a) Allocation of Votes. In all matters submitted to a vote of the Members, each Lot is allocated one vote in the Association; provided, however, that no vote shall be exercised for any Lot owned by the Association.

(b) Allocation of Common Expenses. Each Lot is allocated, and the Owner of the Lot is liable for, a percentage of the Common Expenses equal to such Lot's Common Allocation in effect from time to time. All other costs and expenses of the Association are allocated among the Lots as otherwise provided in this Declaration.

ARTICLE 4

DEVELOPMENT OF THE PROPERTY

4.1 Declarant's Development Rights. Declarant hereby reserves the following Development Rights for the duration of the Development Period:

(a) Withdrawal of Property. Declarant reserves and has the unilateral right to amend this Declaration to withdraw all or any portion of the Neighborhood from the coverage of this Declaration. The amendment to this Declaration effecting such withdrawal shall not require the consent of any Person other than the Owner of the portion of the Neighborhood to be withdrawn, if other than Declarant.

(b) Inclusion of Property. Declarant reserves and has the right to amend this Declaration to include as part of the Neighborhood any of the Additional Lands. If the portion of the Additional Lands to be included as part of the Neighborhood is owned by Declarant, no approval of such inclusion by any other Person shall be required. If the portion of the Additional Lands to be included as part of the

Neighborhood is owned by a Person other than Declarant, the approval of the inclusion by such owner shall be required. No contiguity between the parcel to be included and the existing boundary of the Neighborhood shall be required.

(c) Subdivision and Replatting. Declarant reserves the unilateral right to subdivide into additional Lots, change¹ the boundary line of or resubdivide any Lot or other portion of the Neighborhood. The subdivision, resubdivision or similar modification of any Lot by Declarant shall not require the consent of any Person other than the Owner of the subject Lot, if other than Declarant. No such subdivision or resubdivision of a Lot shall require an amendment to this Declaration.

(d) Additional Lots and Common Elements. Declarant reserves the unilateral right to amend this Declaration to create additional Lots and Common Elements and convert any Lot or portion thereof into Common Elements, provided that the conversion of any Lot not owned by Declarant into Common Elements shall require the written consent of the Owner of the Lot.

4.2 Deed Restrictions. In conveying any Lot to an Owner, Declarant may impose by real covenants contained in the conveying instrument or any other instrument, any restrictions or requirements that Declarant desires on the development or use of such Lot, including, without limitation, requirements for commencing and completing construction on the Lot and limitations on the number of additional Lots into which the conveyed Lot may be subdivided.

4.3 Supplemental Declarations. During the Development Period, no Supplemental Declaration shall be Recorded against any Lot(s) without the written approval (which approval must be included as part of the Supplemental Declaration) of the Declarant.

4.4 Other Covenants. Without limiting the effect of Section 4.3, during the Development Period, no Person other than Declarant shall Record any declaration of covenants, conditions and restrictions, declaration of condominium or similar instrument affecting any portion of the Neighborhood, including, without limitation, any Supplemental Declaration, without prior review and written consent of Declarant. Any attempted Recording without such consent shall result in such instrument being void and of no force and effect unless subsequently approved by a written consent signed by Declarant and Recorded.

4.5 Governmental Interests. For so long as Declarant owns any of the Neighborhood, Declarant may designate sites within the Neighborhood for fire, police and utility facilities, public schools and parks, and other public or quasi-public facilities. Such a site may include Common Elements, in which case the Association shall take whatever action is required with respect to such site to permit such use, including conveyance of the site, if so directed by Declarant. Such a site may include other property not owned by Declarant or the Association only if the Owner of such property consents. Subject to Declarant's consent during the Development Period, but otherwise within the discretion of the Board, the Association may dedicate portions of the Common Elements to the City or to any other local, state or federal

governmental or quasi-governmental (including any special district) entity subject to such approval as may be required by Section 14.2.

4.6 Declarant's Right to Construct Common Elements. Without creating any obligation on the part of Declarant to construct any Common Elements or Improvements thereon, Declarant shall have the right to construct at its expense any Common Elements or Improvements thereon.

4.7 Subdivision by Owners. No Lot may be subdivided, resubdivided or reconfigured except in accordance with the ODP. Amendments to the ODP are subject to Section 11.15. The provisions of this Section 4.7 shall not apply or be construed to limit Declarant's rights under Section 4.1, 4.2, 6.1 or 6.2, or any other Declarant rights that might otherwise be affected. The provisions of this Section 4.7 shall not be construed as limiting the authority or discretion of the Architectural Control Committee pursuant to the Master Design Review Covenants and the Design Review Guidelines.

ARTICLE 5

EASEMENTS

5.1 Easement for Use, Access and Enjoyment in and to the Common Elements. Declarant hereby establishes and grants to each Owner a nonexclusive easement of use, access and enjoyment in and to the Common Elements for the purposes for which the Common Elements are intended and operated by the Association. Any Owner may extend its right of use and enjoyment to its Permittees subject to reasonable regulation by the Association. Unless otherwise provided in a writing furnished to the Association by the Owner, an Owner who leases its Lot shall be deemed to have exclusively assigned all such rights to the lessee or lessees of such Lot. Without limiting the generality of the foregoing, Declarant hereby grants to each Owner a nonexclusive easement over and across all walkways and other pedestrian accessways designated as Common Elements for the purpose of gaining pedestrian or vehicular access between and among the public streets and sidewalks adjoining or within the Neighborhood, other Common Elements and any Lots. The easement established by this Section 5.1 shall be appurtenant to and pass with the title to the Lots and shall be subject to:

- (a) This Declaration and any other applicable covenants, including any applicable Supplemental Declaration;
- (b) Any restrictions or limitations contained in any deed conveying the Common Elements to the Association;
- (c) The right of the Association to adopt Rules regulating the use and enjoyment of the Common Elements;
- (d) The right of the Association to charge reasonable admission or other use fees for the use of any recreational facility or other amenity of any type situated within or on the Common Elements;

(e) The right of the Association to suspend the right of any Owner or such Owner's Permittees to use any recreational facility or other amenity of any type situated within or on the Common Elements (i) for any period during which any Assessment against such Owner's Lot remains delinquent, and (ii) for a period not to exceed 30 days for a single violation (or for a longer period in the case of any continuing violation) of this Declaration, the Bylaws or the Rules, after providing such notice and hearing as may be required by the Bylaws;

(f) The right of the Association to permit use of any recreational facility or other amenity of any type situated within or on the Common Elements by owners or tenants of other property within Bradburn upon payment of use fees established by the Association, which fees the Association shall include as Association revenue in calculating the amount of Common Assessments necessary to satisfy the Common Expenses of the Association;

(g) The right of the Association to dedicate or transfer all or any part of the Common Elements, subject to Section 14.2 and such other approval requirements as may be set forth in this Declaration or the Act; and

(h) The right of the Association to mortgage, pledge or hypothecate any or all of the Common Elements as security for money borrowed or debts incurred, subject to the limitations of the Act and the approval requirements set forth in Section 14.2.

5.2 Easements for Encroachment of Common Elements. In the event that, as a result of the construction, reconstruction, shifting, settlement, restoration, rehabilitation, alteration or improvement of any Improvement located on the Common Elements or any portion thereof, any portion of any Common Elements now or hereafter is unintentionally and without the actual knowledge of the Association made to encroach upon any Lot, Declarant hereby establishes and grants an easement for the continued existence and maintenance of such encroachment that will continue for so long as such encroachment exists and that will burden the Lot encroached upon and benefit the Association and the encroaching Common Element. In no event, however, will an easement for any such encroachment be deemed established or granted if such encroachment is materially detrimental to or interferes with the reasonable use and enjoyment of the Lot(s) burdened by such encroachment or if such encroachment occurred with the actual knowledge of the Association.

5.3 Easements Benefiting Declarant. Declarant reserves such easements over and across the Neighborhood, which easements will exist for the duration of the Development Period, as may be reasonably necessary for Declarant's exercise of any Special Declarant Right, performance of any of Declarant's obligations hereunder, and the showing of the Neighborhood or any portion thereof to prospective purchasers or lessees.

5.4 Easements for Utilities and Data Systems. Declarant reserves for itself and its expressly designated successors, transferees, assigns and designees, perpetual non-exclusive easements upon, across, over and under (a) the Common Elements (including any

structures constructed thereon) and (b) the utility easement areas depicted on any Final Plat along the side and rear boundary lines of Lots (but not through or under any enclosed structure on a Lot) for the purposes of installing, monitoring, replacing, repairing, maintaining and operating cable television systems, master television antenna systems, antennas for wireless data transmissions, cables and conduits for data transfer and other devices for sending or receiving data and/or other electronic signals, and all utilities, including, without limitation, water, sewer, stormwater drainage, telephone, data transmission, gas and electricity. The designees of Declarant for the purposes of such easement rights may include, without limitation, any governmental or quasi-governmental entity, utility company, data service provider or wireless service provider. The easements provided for in this Section 5.4 shall in no way affect, void, extinguish or modify any other Recorded easement in the Neighborhood. Any damage to a Lot resulting from the exercise of the easement rights described in this Section 5.4 shall promptly be repaired by, and at the expense of, the Person exercising the rights conferred by the easement. The exercise of such easement rights shall not extend to permitting entry into the structures on any Lot, nor shall it unreasonably interfere with the use of any Lot.

5.5 Right of Entry. Declarant reserves for the Association an easement for the right, but not the obligation, to enter upon any Lot: (i) for emergency, security and safety reasons; and (ii) to inspect any Lot for the purpose of ensuring compliance with this Declaration, the Bylaws and the Rules. Such right may be exercised by any member of the Board and the Association's officers, agents, employees and managers and, for emergency, security and safety purposes, all police, fire and ambulance personnel and other similar emergency personnel in the performance of their duties. This right of entry shall include the right of the Association to enter upon any Lot to cure any condition that may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure such condition within a reasonable time after requested by the Association, but shall not authorize entry into the residence located on or constituting any Lot without permission of the occupant, except by emergency personnel acting in their official capacities.

5.6 Additional Easements.

(a) Declarant's Right to Grant Easements. Declarant reserves the non-exclusive right and power to grant, during the Development Period, such additional specific easements over any portion of the Neighborhood owned by Declarant and the Common Elements as may be necessary, in the sole discretion of Declarant, to the orderly development of any portion of the Neighborhood.

(b) Association's Right to Grant Easements. Notwithstanding anything to the contrary in Section 14.2 or other Sections of this Declaration, the Association, acting through the Board and without the approval of the Members of the Association, may grant easements over the Common Elements for installation and maintenance of utilities, drainage facilities and roads and for other purposes that benefit the Members.

5.7 Easements Run with Land. Except for the easements described in Section 5.3, all easements established and granted pursuant to this Article 5 are appurtenant to

and run with the Neighborhood and will be perpetually in full force and effect so long as this Declaration is in force and will be binding upon Declarant, the Association, Owners, Permittees and any other Persons having any interest in the Neighborhood or any part thereof. The Lots and the Common Elements will be conveyed and encumbered subject to all easements set forth in this Article 5, whether or not specifically mentioned in such conveyance or encumbrance.

ARTICLE 6

SPECIAL DECLARANT RIGHTS

6.1 Special Declarant Rights. In addition to and without limiting any other rights reserved by or for the benefit of Declarant in this Declaration or by operation of the Act, Declarant reserves the following Special Declarant Rights, which may be exercised by Declarant during the Development Period anywhere within the Neighborhood with no limitations on the extent to or the order in which such rights are exercised:

- (a) To complete any Improvements described from time to time on any Final Plat or the ODP and to use the easement rights established pursuant to Section 5.3 for such purposes;
- (b) To exercise any of the Development Rights;
- (c) To maintain sales offices, management offices and advertising signs on and in the Neighborhood, as set forth in Section 6.3;
- (d) To merge or consolidate the common interest community established by this Declaration with a common interest community of the same form of ownership;
- (e) Subject to Section 7.5, to appoint or remove any officer of the Association or any member of the Board of Directors during the Declarant Control Period; and
- (f) To make the common interest community established by this Declaration subject to a "master association" as defined in the Act.

6.2 Transfer of Special Declarant Rights. Declarant may transfer any or all of the Special Declarant Rights, Development Rights and other special rights and obligations of Declarant set forth in this Declaration or the Bylaws, in whole or in part, to other Persons, provided that such transfer shall not reduce an obligation nor enlarge a right beyond that which Declarant has under this Declaration or the Bylaws. No such transfer shall be effective unless it is in a Recorded written instrument executed by Declarant specifically describing the Special Declarant Right(s), Development Right(s) or other special right(s) or obligation(s) so transferred.

6.3 Models and Offices. During the Development Period, Declarant and Developers authorized by Declarant may maintain and carry on upon any Lot owned by them or any portion of the Common Elements such facilities and activities as, in the reasonable opinion

of Declarant, may be required, convenient or incidental to the development, construction or sale of Lots or any portion of the Neighborhood, including, without limitation, business offices, signs, model units, sales offices and parking areas for such uses (subject to any necessary approvals or limitations pursuant to the Master Design Review Covenants). Such facilities may be of any number, size and location that Declarant determines will adequately accommodate Declarant's or a Developer's development, sale and marketing of the Lots and the Neighborhood.

ARTICLE 7

THE ASSOCIATION

7.1 Function of Association, Generally. The Association shall be responsible for management, maintenance, repair, replacement, operation and control of the Common Elements and collection of the Assessments. The Association shall be the primary entity responsible for enforcement of this Declaration and the Rules. The purposes and powers of the Association and the rights and obligations of Members may and shall be amplified by provisions of the Articles and the Bylaws. Except as required by the Act or other applicable law, neither the Articles, the Bylaws nor the Rules shall for any reason be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration. In case of conflict between the Declaration and the Articles, the Bylaws or the Rules, this Declaration shall govern.

7.2 Membership. Every Owner, including Declarant to the extent it is the Owner of one or more Lots, shall be a Member. When an Owner consists of more than one Person, all such Persons will, collectively, be considered one Member of the Association and all such Persons shall be jointly and severally obligated to perform the responsibilities of Owner. Membership will automatically terminate when a Person ceases to be an Owner, whether through sale, transfer, intestate succession, testamentary disposition, foreclosure or otherwise. The Association will recognize a new Owner as a Member upon presentation of satisfactory evidence of the sale, transfer, succession, disposition, foreclosure or other transfer of a Lot to such Owner. Membership may not be transferred, pledged or alienated in any way, except to a new Owner upon conveyance of a Lot. Any attempted prohibited transfer of a Membership will be void and will not be recognized by the Association.

7.3 Authorized Representative. Any Owner who is either: (i) two or more Persons; or (ii) one Person that is not a natural person (Le., an estate or a trust, corporation, partnership, limited liability Association or other entity), shall appoint, and any Owner who is one natural person may appoint, an Authorized Representative. Any Owner so required to appoint an Authorized Representative shall do so immediately upon becoming an Owner. Any Owner who is required or elects to appoint an Authorized Representative shall provide written notice to the Association of the appointment of such Authorized Representative or any subsequent replacement therefor within 10 days after appointment. Such notice must (a) be signed by all Persons constituting the Owner; (b) be dated; and (c) contain a statement that the natural person named therein will remain the Authorized Representative of such Owner until a subsequent notice is given to the Association naming a successor. Such notice will be deemed a proxy given by all Persons constituting such Owner to the Authorized Representative named therein for all purposes under this Declaration, the Bylaws, the Act and the Colorado Revised

Nonprofit Corporation Act. The appointment of an Authorized Representative will be binding upon all Persons comprising the appointing Owner and the vote of the Authorized Representative will be conclusive as to the Association, unless and until the Association receives a notice appointing a replacement Authorized Representative (or, in the case of an Authorized Representative appointed by an Owner who is one natural person, a notice terminating the appointment of such Authorized Representative). Unless the notice of appointment expressly states otherwise, the Authorized Representative shall be authorized to designate in a writing delivered to the Association a temporary, substitute Authorized Representative. Upon receipt of any notice appointing an Authorized Representative, the Association may request such additional evidence of authority as it may reasonably deem necessary to verify the due appointment of the named Authorized Representative. If an Owner who is required or elects to appoint an Authorized Representative owns more than one Lot, such Owner may elect to appoint: (1) the same natural person to serve as Authorized Representative for each Lot owned by such Owner; (2) a different natural person to serve as Authorized Representative for each such Lot; or (3) the same natural person to serve as Authorized Representative for two or more of such Lots and one or more different natural persons to serve as Authorized Representatives for the remaining Lot(s) owned by such Owner.

7.4 Majority Approval. Except as otherwise provided in this Declaration, the Bylaws or the Act, the affirmative vote of the Owners present and voting, either in person or by proxy, at a meeting of the Association called and held in accordance with the Bylaws will be sufficient to approve any matter submitted to a vote of the Association if such Owners hold a majority (i.e., more than 50%) of the votes in the Association represented at such meeting.

7.5 Board of Directors. The affairs of the Association shall be governed by the Board of Directors, which may, by resolution, delegate any portion of its authority to an executive committee or an officer, executive manager or Director of the Association. The qualifications and number of Directors, the term of office of Directors, the manner in which Directors shall be elected and the manner in which Directors shall be replaced upon removal or resignation shall be as set forth in the Bylaws. The Bylaws shall contain provisions that are identical in all substantive respects to the following provisions:

(a) Appointment of Directors during Declarant Control Period. Upon commencement of the Declarant Control Period, there shall be three Directors, all of whom shall be appointed by Declarant. From the date that is 60 days after the date on which 25% of the maximum number of Lots that may be created pursuant to Section 3.2 have been conveyed to Owners other than Declarant, until the end of the Declarant Control Period, the Board will consist of three Directors, two of whom will be appointed by Declarant and one of whom will be elected by Owners other than Declarant. No Director appointed by Declarant shall be required to be an Owner or the Authorized Representative of an Owner.

(b) Election of Directors after Declarant Control Period. Except as otherwise provided in Section 220(5) of the Act, from and after the end of the Declarant Control Period, the Board will consist of three Directors (or such other number, but never fewer than, three, as may from time to time be set forth in the Bylaws), elected by the

Owners, at least a majority of which Directors must be Owners other than Declarant or Authorized Representatives of Owners other than Declarant. Directors elected under this Section 7.5(b) shall take office upon termination of the Declarant Control Period.

7.6 Removal of Directors. Notwithstanding any provision of this Declaration or the Bylaws to the contrary, the Owners, by the affirmative vote of Owners holding more than 50% of the votes in the Association present, either in person or by proxy, and entitled to vote at any meeting of the Association at which a Quorum is present, may remove, with or without cause, any Director other than a Director appointed by Declarant. Any Director appointed by Declarant may be removed, with or without cause, only by Declarant.

7.7 Delivery of Property to Association. Within 60 days after the Owners other than Declarant elect a majority of the Directors, Declarant shall deliver to the Association all property of the Association, as required by Section 303(9) of the Act.

7.8 Powers. In the performance of its functions and duties, the Association shall have the power to:

(a) adopt and amend the Bylaws, and make and enforce the Rules, consistent with the rights, duties, terms and conditions established by this Declaration and the Bylaws;

(b) subject to Section 8.1(d), adopt and amend budgets for revenues, expenditures and reserves and assess and collect any Assessments and any other amounts due from Owners or others to the Association;

(c) hire and terminate managing agents and other employees, agents and independent contractors;

(d) exercise any of the enforcement powers set forth in Section 7.9 or elsewhere in this Declaration;

(e) institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more Owners on matters affecting the Neighborhood or the Association;

(f) make contracts and incur liabilities in accordance with a properly ratified budget;

(g) borrow funds to cover Association expenditures and pledge Association assets as security therefor, provided that Common Elements may be subjected to a security interest only pursuant to Section 14.2;

(h) provide for the use, maintenance, repair, replacement and modification of the Common Elements in accordance with a properly ratified budget or otherwise in accordance with this Declaration;

(i) cause additional Improvements to be made as a part of the Common Elements in accordance with the properly ratified budget, or otherwise in accordance with this Declaration;

(j) acquire, hold, encumber and convey in its own name any right, title or interest to real or personal property (including, without limitation, one or more Lots), provided that Common Elements may be conveyed or encumbered only pursuant to Section 14.2;

(k) grant easements, leases, licenses, and concessions through or over the Common Elements;

(l) impose and receive any payments, fees or charges for the use, rental or operation of the Common Elements and for any services provided to Owners and/or owners, tenants or users of other property in Bradbum;

(m) impose charges for late payment of Assessments and recover reasonable attorneys' fees and other legal costs for collection of Assessments and other actions to enforce the powers of the Association, regardless of whether or not suit was initiated, and, after providing notice and an opportunity to be heard pursuant to the Bylaws, levy reasonable fines for violations of this Declaration, the Bylaws or the Rules;

(n) impose reasonable charges and fees for services including, but not limited to, the preparation, copying and recordation of amendments to this Declaration or statements of unpaid Assessments pursuant to Section 9.8;

(o) provide for the indemnification of its officers and Directors as provided in the Bylaws or the Articles and maintain directors' and officers' liability insurance;

(p) assign its right to future income, including the right to receive Assessments;

(q) enter into any agreements with any other owners association with jurisdiction over any part of Bradbum and/or the District for the coordinated performance of any permitted functions the Association desires to have performed uniformly within Bradbum or any portion thereof;

(r) enter into any agreements with other landowners (including, without limitation, the District) within Bradbum by which the Association agrees to perform property management, maintenance or upkeep functions in exchange for a fee;

(s) perform any duties or functions properly delegated to the Association by any Supplemental Association or the Architectural Control Committee;

(t) exercise any other powers expressly conferred by this Declaration, the Bylaws or the Act or reasonably implied from or necessary to effectuate such powers;

(u) except as prohibited by the Act, exercise all other powers that may be exercised in the State of Colorado by a nonprofit corporation; and

(v) exercise any other powers necessary and proper for the governance and operation of the Association.

This Declaration may not and is not intended to impose any limitations on the powers of the Association to deal with the Declarant that are more restrictive than the limitations imposed on the power of the Association to deal with any other Person.

7.9 Enforcement.

(a) Sanctions and Self-Help. The Association may impose sanctions for violations of this Declaration, the Bylaws or the Rules in accordance with procedures set forth in the Bylaws, including reasonable monetary fines and suspension of the right to use any Common Elements. In addition, in accordance with the Bylaws, the Association may exercise self-help (e.g., enter upon a Lot and make any corrective measure necessary to cure a violation) to cure violations and suspend any services it provides to the Lot of any Owner who is more than thirty days delinquent in paying any Assessment or other charge due to the Association following delivery of a notice of such violations to such Owner. All remedies set forth in this Declaration and the Bylaws shall be cumulative of each other and of any remedies available at law or in equity. In any action to enforce the provisions of this Declaration or the Rules, if the Association prevails it shall be entitled to recover all costs, including, without limitation, attorneys' fees and court costs, reasonably incurred in such action.

(b) No Waiver. In no event shall the Association's failure to enforce any covenant, requirement, restriction or rule provided for in this Declaration, the Bylaws or the Rules- Gor^tit-ute-^waiverof-th^A^ooktion-'s-right-to later- enforce- sueh-previs-ion- or any other covenant, requirement, restriction or rule.

7.10 Board Authority. Except as otherwise specifically provided by law or in this Declaration, the Articles or the Bylaws, all rights and powers of the Association may be exercised by the Board without a vote of the Members. In the performance of their duties, the Directors will act according to their ordinary business judgment, except to the extent the Act requires a greater standard of care. Unless otherwise provided in this Declaration or the Act, the affirmative vote of a majority (i.e., more than 50%) of the Directors will be necessary and sufficient to approve any matter before the Board. The Board shall select the officers of the Association, which officers may also serve as Directors, except that during the Declarant Control Period, Declarant may appoint and may remove the officers of the Association.

ARTICLE 8

FINANCIAL MATTERS, BUDGET AND ASSESSMENTS

8.1 General Financial Matters; Budget. The Board, on behalf of the Association, shall discharge the following obligations with respect to financial matters:

(a) Books and Records. The Board shall cause to be maintained full and complete books and records of the Association's business and operations, including, without limitation, current copies of this Declaration and all amendments hereto, the Articles, the Bylaws, the Rules, the approved budget for the current Fiscal Year, financial statements, books and records reflecting all assets, liabilities, capital, income and expenses of the Association, and supporting materials, such as bank statements and invoices, for at least the shorter of (i) the prior seven Fiscal Years or (ii) all of the Fiscal Years in which the Association has been in existence. All of such books and records will be made available for inspection by any Owner, holder of a First Mortgage, insurer or guarantor of a First Mortgage or their respective authorized representatives during normal business hours upon reasonable prior written request.

(b) Returns. The Board will cause to be prepared and filed before delinquency any and all tax, corporate or similar returns or reports that the Association is required by law to prepare and file.

(c) Preparation of Budget. The Board will cause to be prepared and will adopt annually, prior to the beginning of each Fiscal Year of the Association, a proposed budget for the Association. The proposed budget will include all of the following items, in addition to any other items the Board deems appropriate:

(i) the estimated Common Expenses of the Association for such Fiscal Year;

(ii) the estimated revenues of the Association that will be necessary to defray the Common Expenses;

(iii) the current cash balance in the Reserve Fund, which fund shall be established and maintained by the Board;

(iv) an estimate of the amount required to be spent during such Fiscal Year from the Reserve Fund for the major repair or replacement of the Common Elements; and

(v) a statement of the amount required to be added to the Reserve Fund during such Fiscal Year to cover anticipated withdrawals and adequately address contingencies and anticipated needs in future Fiscal Years.

(d) Ratification of Budget. Within 90 days after adoption by the Board of any proposed budget for the Association, the Board will mail by ordinary first-class mail or otherwise deliver to all Owners a summary of the proposed budget and will set a date for a meeting of the Owners to consider the proposed budget. Such meeting will occur within a reasonable time after mailing or other delivery of the summary. The Board will give notice to the Owners of the meeting as allowed for in the Bylaws. The budget proposed by the Board does not require the affirmative approval of the Owners and it will be deemed approved by the Owners in the absence of a veto at the noticed meeting by more than 50% of the total number of Owners, whether or not a Quorum is

present. In the event that the proposed budget is vetoed, the budget last proposed by the Board and not vetoed by the Owners will continue in effect until such time as a subsequent budget proposed by the Board is not vetoed by the Owners as described above. For the first Fiscal Year of the Association, the Board may adopt the Declarant's estimated budget for the Association and assess Common Assessments according to such budget, provided that the Board submits such budget to the Owners in accordance with the foregoing provisions after adopting the same.

(e) Annual Financial Statements. The Board will cause to be prepared annually a report with respect to the financial condition of the Association. Such report shall consist of a balance sheet as of the end of the preceding Fiscal Year, an operating (income) statement for such Fiscal Year and a statement of changes in the Association's financial position for such Fiscal Year. A copy of such annual report will be distributed to each Owner within 120 days after the close of each Fiscal Year.

(f) Reserve Fund. The Board shall cause the Reserve Fund to be maintained in a bank account that is separate from the bank account(s) used for the Association's ordinary receipts and disbursements.

8.2 Creation of Assessments. There shall be three types of Assessments: (a) Common Assessments as described in Section 8.3; (b) Special Assessments as described in Section 8.4; and (c) Specific Assessments as described in Section 8.5. Each Owner, by accepting a deed for any Lot, is deemed to covenant and agree to pay these Assessments pursuant to the terms and conditions of this Declaration.

8.3 Common Assessments. Subject to Section 8.6, each Lot is subject to Common Assessments for the Lot's share of the Common Expenses as allocated pursuant to Section 3.3(b). Common Assessments will commence as to each Lot pursuant to Section 8.6. Prior to the time that Common Assessments have commenced as to all of the Lots, Declarant shall fund any shortfall in the revenues of the Association as necessary to cover the Common Expenses. Common Assessments will be calculated, paid, adjusted and reconciled in accordance with the following provisions:

(a) Budget and Payment. Taking into account any funds provided by Declarant pursuant to Section 8.3, the Association shall set the Common Assessments for each Fiscal Year at a level that is reasonably expected to produce total revenues for the Association for such Fiscal Year equal to the total Common Expenses set forth in the budget adopted by the Board and ratified by the Owners pursuant to Section 8.1(d). In determining the total funds to be generated through the levy of Common Assessments, the Board may consider other sources of funds available to the Association, including any surplus from prior Fiscal Years.

(b) Adjustment. If during any Fiscal Year it becomes apparent that the estimated Common Expenses and/or revenues of the Association as set forth in the budget upon which the Common Assessments were based were in error for any reason, including nonpayment by any Owner of its Common Assessments, to the extent that the

Common Assessments the Board determines will be received for the balance of such Fiscal Year will be inadequate, or more than required, to meet the Association's obligations intended to be covered by such Common Assessments, the Board may increase or decrease the Common Assessments for the balance of such Fiscal Year upon not less than 30 days' prior notice to all Owners. Notwithstanding the foregoing, however, if any such amendment individually or in the aggregate with all previous amendments within any Fiscal Year would increase the total Common Assessments for a Fiscal Year by more than 10% of the Common Assessments called for by the budget previously ratified by the Owners pursuant to Section 8.1(d), then prior to increasing the Common Assessments the Board must submit a revised budget for ratification by the Owners using the procedures set forth in Section 8.1(d).

(c) Reconciliation. If the Board, in its discretion, determines that one or more Owners may have been materially under-billed or over-billed for their proper allocated shares of the Common Expenses for any Fiscal Year, the Board shall cause the actual Common Expenses incurred by the Association during such Fiscal Year to be reconciled against the Common Assessments received by the Association from the Owners. To the extent that any Owner has paid more than its Common Allocation of such actual Common Expenses, the Board may in its discretion either refund the overpayment to the Owner or credit such overpayment against such Owner's obligation for Common Assessments for the next ensuing Fiscal Year. To the extent any Owner has underpaid its Common Allocation of such actual Common Expenses, the Board may in its discretion either demand in writing that such Owner pay the amount of such underpayment of Common Assessments to the Association within a specified period of time, as determined by the Board, after the Board notifies such Owner of such underpayment (which period of time may not be less than 30 days), or the Board may include such underpayment in such Owner's obligations for Common Assessments for the next ensuing Fiscal Year. Nothing in this Section 8.3(c) shall be construed as limiting any of the enforcement rights of the Association with respect to delinquent Assessments under Article 9.

(d) Failure to Assess. Failure of the Association to fix Common Assessments amounts or rates for a given Fiscal Year or to deliver or mail to each Owner a Common Assessments notice shall not be deemed a waiver, modification or release of any Owner's obligation to pay its allocated share of Common Assessments. In such event, each Owner shall continue to pay Common Assessments on the same basis as during the last year for which Common Assessments amounts were set by the Association, if any, until new Common Assessments are levied, at which time the Association may retroactively assess any shortfalls in collections.

8.4 Special Assessments. In addition to other authorized Assessments, the Association may levy Special Assessments from time to time to cover unbudgeted expenses or expenses in excess of those budgeted, including, without limitation, the costs of any construction, restoration, unexpected repair or replacement of any Common Elements, Improvements thereon or any other capital improvements that benefit all of the Owners and are not covered by the Reserve Fund. Special Assessments shall commence as to each Lot pursuant

to Section 8.6. Subject to Section 8.6, each Lot is subject to Special Assessments for the Lot's Common Allocation of the total Special Assessments levied by the Association. Except as otherwise specifically provided in this Declaration, no Special Assessment shall require the approval of the Members, but if such Special Assessment is levied during the Development Period, the consent of Declarant shall be required. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the Fiscal Year in which the Special Assessment is approved. The Board shall have the right to require that Special Assessments be paid in advance of the provision of the subject services or Improvements. Without limiting the generality of the foregoing, the Board may levy Special Assessments to cover certain costs of restoration or replacement of Common Elements in the event of damage, destruction or Taking of Common Elements, as set forth in Sections 12.2(a)(v) and 12.3.

8.5 Specific Assessments. The Association shall have the power to levy Specific Assessments against one or more particular Lot(s) as follows:

(a) to cover the costs, including overhead and administrative costs, of providing benefits, items or services to such Lot or occupants thereof upon request of the Owner of such Lot pursuant to a menu of special services that the Board may from time to time authorize to be offered to Owners and occupants (which may include, without limitation, landscaping maintenance, janitorial service, snow removal, and pest control), which Specific Assessments may be levied in advance of the provision of the requested benefit, item or service as a deposit against charges to be incurred by the Owner;

(b) to cover costs incurred in bringing the Lot into compliance with the terms of this Declaration, the Bylaws or the Rules, or costs incurred as a consequence of the conduct of the Owner or such Owner's Permittees; provided, however, the Board shall give the Owner of such Lot notice and an opportunity to be heard as provided in the Bylaws before levying any Specific Assessment under this Section 8.5(b);

(c) to cover necessary costs or expenses incurred by the Association that benefit one or more Lots but fewer than all Lots, such as, for example, the costs of repairing a utility line that serves only one or two Lots but no others, and, unless the Owners of all the benefited Lots otherwise agree, each benefited Lot shall be assessed a percentage of the Special Assessments so incurred that is derived from a fraction, the numerator of which is one and the denominator of which is the total number of Lots so benefited, and the Board shall have the authority to assess Specific Assessments for such costs without the approval of the benefited Owners;

(d) to cover any costs or expenses that are recoverable as Specific Assessments pursuant to other provisions of this Declaration.

8.6 Commencement of Assessments. The obligation to pay Common Assessments and Special Assessments shall commence as to each Lot on the later of: (a) the day on which a temporary or final certificate of occupancy is issued for any structure constructed on the Lot or (b) the day on which the Association first levies Assessments pursuant to this

Article 8; provided, that Declarant may, in a Recorded deed or closing agreement, provide that Common Assessments and Special Assessments will commence at an earlier time as to Lots being purchased by any Developer if such earlier commencement date is not inconsistent with the terms of Declarant's purchase and sale agreement with such Developer. The obligation to pay Specific Assessments shall commence as to any Lot when the Association levies the Specific Assessments against the Lot pursuant to this Declaration. The first annual Common Assessments and Special Assessments levied on each Lot shall be prorated according to the number of months remaining in the Fiscal Year at the time Assessments commence on the Lot.

8.7 Working Capital Fund. To provide the Association with sufficient initial working capital and funding to meet its obligations and to cover the cost of unforeseen expenditures or to purchase any additional equipment or services, an initial "Working Capital Fund" will be established in an amount equal to three months' Common Assessments for each Lot. For each Lot, the contribution to the Working Capital Fund in an amount equal to three months' Common Assessments is due on the closing of the sale of the Lot with a completed house on such Lot to an Owner other than the Developer of such Lot. Amounts contributed to the Working Capital Fund do not constitute advance payments of Common Assessments. Declarant may not use the Working Capital Fund to defray any of Declarant's expenses, reserve contributions or construction costs or to make up any budget deficits during the Declarant Control Period.

ARTICLE 9

ENFORCEMENT OF ASSESSMENTS

9.1 Payment of Assessments. Each Owner shall pay, or cause to be paid, all Assessments assessed against such Owner's Lot by the Association in accordance with the terms of this Declaration. Each Assessment is a separate, distinct and personal debt and obligation of the Owner against whose Lot the Assessment is levied. All Assessments are payable in full without offset for any reason whatsoever. Each Owner's obligation to pay Assessments is entirely independent of any obligation of the Association to the Owner or of Declarant or any other Owner to that Owner. No Owner may exempt itself from liability for any Assessment by non-use of Common Elements, abandonment of its Lot or any other means. Any Assessment or installment of an Assessment not paid within 30 days after it becomes due is delinquent. If an Assessment or installment of an Assessment is delinquent, the Association may recover all of the following (collectively, the "Delinquency Costs"): (a) interest from the date due at the rate established from time to time by the Board (but not to exceed 21% per year); (b) one-time late charges and other monetary penalties imposed by the Association pursuant to this Declaration and the Bylaws; and (c) all collection and enforcement costs, including reasonable attorneys' fees, incurred by the Association, together with any and all other costs incurred and/or accrued after the date of the Delinquency Notice described in Section 9.2 below. Each Assessment, together with any applicable Delinquency Costs, shall be a charge and continuing lien upon the Lot against which the Assessment is levied until paid, as more particularly provided in Section 9.4. Each such Assessment, together with any applicable Delinquency Costs, also shall be the personal obligation of the Person that was the Owner of such Lot at the time the Assessment and the applicable Delinquency Costs arose. Where the Owner consists of multiple

Persons, each such Person shall be jointly and severally liable for each and every obligation of the Owner.

9.2 Delinquency Notice. If any Assessment or installment of any Assessment is delinquent, the Association may notify the Owner of the delinquency and state in the notice: (a) the amount and due date of the delinquent Assessment or installment thereof; (b) the Delinquency Costs accrued to date; and (c) the date by which the delinquent Assessment installment thereof and all associated Delinquency Costs must be paid.

9.3 Acceleration. If the Association gives the written notice required by Section 9.2 with respect to a delinquent Assessment that is payable in regular uniform installments (e.g., a Common Assessment) and the Owner responsible for such Assessment does not pay, or cause to be paid, such delinquent Assessment (including all associated Delinquency Costs) in full by the due date specified in the notice, then the Association may declare all unpaid installments of the subject Assessment for the current Fiscal Year of the Association to be immediately due and payable in full without further demand or notice and may enforce the collection of the Assessment (including any associated Delinquency Costs and any installments that were so accelerated) in accordance with Section 9.5, subject, however, to the protection afforded First Mortgagees pursuant to Section 9.4.

9.4 Lien for Assessments. The Association has an automatic lien against each Lot to secure payment of all Assessments and associated Delinquency Costs levied by the Association against such Lot. Such lien shall be perfected upon the Recording of this Declaration, and no further claim of lien shall be required. Notwithstanding the foregoing and without limitation on the automatic lien against each Lot established hereby, the Association has the right, but not the obligation, to prepare and Record a "Notice of Lien" setting forth (i) the amount of any Assessment or Delinquency Costs or other amount due and owing to the Association; (ii) the date such amount was due and payable and the date from which interest accrues; (iii) all Delinquency Costs accrued as of the date of Recording of such Notice of Lien; (iv) the Lot affected by the lien; and (v) the name or names, last known to the Association, of the Owner of the Lot. The automatic lien of the Association against each Lot established and perfected by this Section 9.4 shall be superior to all other liens and encumbrances, except (a) liens and encumbrances Recorded before this Declaration; (b) liens for real estate taxes and other governmental assessments or charges against the Lot; and (c) subject to the limited priority established in favor of the Association pursuant to Section 38-33.3-316(2)(b)(I) of the Act, any First Mortgage on the Lot that was Recorded before the date on which the Assessment or installment thereof the Association is seeking to enforce became delinquent. Subject to the limitations of the preceding sentence, the sale or transfer of any Lot shall not affect the lien for any existing delinquent Assessments.

9.5 Enforcement of Assessments. The amount of any delinquent Assessments (including any installments accelerated by the Association pursuant to Section 9.3) and associated Delinquency Costs may be enforced against the Owner liable for them in either or both of the following ways, at the option of the Association (which shall not be exclusive of any other remedies or enforcement rights available to the Association at law or in equity):

(a) Suit. The Association may bring a suit or suits at law to enforce the Owner's obligation to pay a delinquent Assessment (including any installments accelerated by the Association pursuant to Section 9.3) and associated Delinquency Costs. Each action will be brought in the name of the Association. If the Association prevails in any such action, the Association will be entitled to receive the reasonable attorneys' fees and costs incurred by the Association in bringing the action against the defaulting Owner. Upon full satisfaction of the judgment, the Association, by one of its officers, will execute and deliver to the judgment debtor an appropriate satisfaction of the judgment.

(b) Lien Foreclosure. If the Association gives a notice concerning the delinquent Assessment that substantially complies with the provisions of Section 9.2 and the delinquent Assessment is not paid in full by the due date specified in such notice, then the Association may foreclose, in the same manner as the foreclosure of a mortgage under the laws of the State of Colorado, the lien established in Section 9.4 securing the Assessment, any installments accelerated by the Association pursuant to Section 9.3, and any associated Delinquency Costs. The Association may bid for a Lot at any foreclosure sale, pay all or part of the bid amount by crediting the lien amount against the bid, and acquire, hold, lease, mortgage and convey such Lot. While a Lot is owned by the Association following foreclosure: (a) no right to vote shall be exercised on behalf of the Association as the Owner of such Lot; and (b) no Assessments shall be levied against such Lot; and (c) each other Lot shall be charged, in addition to its usual Assessments, its pro rata share of the Assessments that would have been charged the Lot acquired by foreclosure had such Lot not been acquired by the Association.

9.6 Reallocation. If any Assessment remains unpaid for more than six months after it is first due, the Association may treat the unpaid Assessment as a Common Expense to be assessed against all Lots; provided, however, that if the Association subsequently collects all or any part of the unpaid Assessment, through foreclosure of its lien or otherwise, then any Owner who has paid a portion of the unpaid Assessment as a Common Expense is entitled to a credit (in an amount equal to its pro rata share of the amount of the unpaid Assessment subsequently collected by the Association) against any Common Assessments subsequently due from that Owner.

9.7 Disputes and Records. Any Owner or an Owner's authorized representative may inspect the books and records of the Association during regular business hours upon reasonable prior notice. If an Owner disputes the amount of any Assessment against its Lot and is unable to resolve the issue through an inspection of the Association's books and records, the Owner will continue to pay in a timely manner the full amount of the disputed Assessment until, if ever, it is finally determined that the amount is incorrect (in which case the Association will promptly refund any overpayment). If the Owner fails to pay the disputed Assessment while the dispute is pending, the Association may immediately pursue any of its remedies for the failure (including, without limitation, suit against the Owner and/or foreclosure of the Association's lien against the Owner's Lot), and the pendency of the dispute is not a bar or defense to any actions by the Association.

9.8 Certificate. Within 14 calendar days after receiving a written request from any Owner, Mortgagee or a designee of either of them, delivered personally or by certified mail, first-class postage prepaid, return receipt requested, to the Association's registered agent, the Association will furnish to the requesting party, by personal delivery or certified mail, first-class postage prepaid, return receipt requested, a certificate executed on behalf of the Association and addressed to the requesting party, stating any then unpaid Assessments due from the requesting Owner or the Owner of the Lot encumbered by the requesting Mortgagee's Mortgage, or stating that there are no unpaid Assessments due from such Owner, as the case may be. A certificate furnished by the Association pursuant to this Section 9.8 is binding on the Association, the Board and every Owner. Such Owner's Lot shall not be subject to a lien for any unpaid Assessments against the Lot to the extent that (a) the lien arises before the date of the certificate and the amount of the lien exceeds any unpaid amounts stated in the certificate, or (b) if the Association does not furnish a certificate pursuant to this Section 9.8, the unpaid Assessments are due as of the date of the request. The Association may charge the Owner of any Lot for which such a certificate is furnished pursuant to this Section 9.8, and the Owner will pay, a reasonable fee for the preparation of the certificate in an amount determined by the Board from time to time.

ARTICLE 10

MAINTENANCE

10.1 Association's Responsibilities.

(a) Maintenance of Common Elements. The Association shall maintain and keep in good repair the Common Elements.

(b) Maintenance of District Property. The Association shall maintain and keep in good repair all of the District Property. The District may relieve the Association from such obligation with respect to all or any designated portion of the District Property by expressly so providing in a written instrument that is Recorded.

(c) Maintenance of Other Property. The Association may maintain other property which it does not own, including, without limitation, any property that has been transferred to the City or dedicated to or for the benefit of the public or to any governmental or quasi-governmental entity (including any special district), if the Board determines that such maintenance is necessary or desirable to maintain the Neighborhood as an attractive, clean and well-maintained residential community. Without limiting the foregoing, the Association shall be obligated to maintain water drainage and retention facilities that serve the Neighborhood and that are owned by City within and in the vicinity of the Neighborhood, as more specifically provided in the ODP.

(d) Operation of Facilities. The Association shall maintain the Improvements, facilities and equipment, if any, within the Common Elements in continuous operation, except for any periods necessary, as determined in the sole discretion of the Board, to perform required maintenance or repairs. The Common

Elements shall not be reduced during the Development Period by amendment of this Declaration or any other means except with the prior written approval of Declarant.

(e) Election to Perform Owners' Duties. The Association may elect to maintain or repair any Lot or portion thereof or Improvements thereon; the maintenance or repair of which is the responsibility of an Owner pursuant to Section 10.2, if (i) such Owner has failed, for more than 30 days after notice from the Association, to perform its responsibilities under this Declaration with respect to the maintenance or repair of its Lot (provided, however, that no such 30-day notice period will be required in the case of emergencies), and (ii) such failure has a material effect on the appearance of such Lot when viewed from any area outside such Lot or has a material adverse effect on the use of another Lot or any Common Element for its permitted and intended use; provided, however, that if such failure is not susceptible of being cured within such 30-day period, the Association will not be entitled to perform any repairs or maintenance if such Owner commences performance of its obligations within such 30-day period and thereafter diligently completes such performance. Such Owner will pay as a Specific Assessment all costs reasonably incurred by the Association in accordance with this Section 10.1(e).

10.2 Owner's Responsibility.

(a) Maintenance and Repair of Lot. Each Owner shall maintain its Lot and Improvements on the Lot and perform all required repairs of such Lot and Improvements.

(b) Damages Caused by Owners. Each Owner will pay as a Specific Assessment all costs of repair or replacement of any portion of the Neighborhood that is damaged or destroyed by reason of the misconduct or negligence of such Owner or any of its Permittees.

10.3 Maintenance Standard. Unless otherwise specifically provided herein or in other instruments creating and assigning such maintenance responsibility, responsibility for maintenance shall include responsibility for repair and replacement, as necessary. All maintenance shall be performed in a manner consistent with the quality of maintenance prevailing within the Neighborhood. Neither the Association nor any Owner shall be liable for any damage or injury occurring on or arising out of the condition of property which it does not own, except pursuant to Section 10.2(b) or to the extent that it has been negligent in the performance of its maintenance responsibilities.

10.4 Party Structures. Each wall, fence, driveway or similar structure, or portion thereof, built as a part of the original construction on the Lots which serves and/or separates any two adjoining Lots shall constitute a party structure. To the extent not inconsistent with the provisions of this Section 10.4 or the provisions of any applicable Supplemental Declaration, the laws of the State of Colorado regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto. The cost of reasonable repair and maintenance of a party structure shall be shared equally by the Owners who make use

of the party structure, unless otherwise provided in an applicable Supplemental Declaration or agreed to by such Owners.

10.5 Security. The Association may, but shall not be obligated to, maintain or support certain activities in the Neighborhood designed to make the Neighborhood safer than it otherwise might be. Neither the Association nor Declarant shall in any way be considered an insurer or guarantor of security in the Neighborhood, nor shall any of them be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. No representation or warranty is made that any fire protection system, or security system or measures, cannot be compromised or circumvented, nor that any such system or security measure undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands and covenants to inform his or her Permittees that the Association, the Board of Directors and committees thereof, and Declarant and any successor Declarant are not insurers and that each Person using the Neighborhood assumes all risks of personal injury and loss or damage to property, including Lots and Improvements and the contents of Lots, resulting from acts of third parties.

ARTICLE 11

USE RESTRICTIONS

11.1 Mineral Operations. No oil or gas drilling, oil or gas development operations, oil refining, quarrying or mining operations of any kind shall be permitted in the Neighborhood.

11.2 Unsightly or Unkempt Conditions. All portions of a Lot outside of enclosed structures shall be kept in a clean and tidy condition at all times. Nothing shall be done, maintained, stored or kept outside of enclosed structures on a Lot which, in the determination of the Board, causes an unclean, unhealthy or untidy condition to exist or is obnoxious to the senses. Any structures, equipment or other items which may be permitted to be erected or placed on the exterior portions of Lots shall be kept in a neat, clean and attractive condition and shall promptly be removed upon request of the Board if, in the judgment of the Board, they have become rusty or dilapidated or have otherwise fallen into disrepair. No Owner or Permittee shall dump grass clippings, leaves or other debris, petroleum products, fertilizers or other potentially hazardous or toxic substances in any drainage ditch, stream, pond or lake or elsewhere in the Neighborhood.

11.3 Quiet Enjoyment. Nothing shall be done or maintained on any part of a Lot that emits foul or obnoxious odors outside the Lot or creates noise or other conditions that tend to disturb the peace, quiet, safety, comfort or serenity of the Owners and Permittees of other Lots. In addition, no noxious or offensive activity shall be carried on upon any Lot nor shall anything be done or placed on any Lot that is or may become a nuisance or cause any significant embarrassment, disturbance or annoyance to others. As used herein, the term "noxious or offensive activity" shall not include any activities that are reasonably necessary to the development of and construction of a Lot so long as such activities do not violate the statutes,

rules or regulations of any governmental authority having jurisdiction with respect thereto and do not unreasonably interfere with the permitted use of another Lot or with any Owner's or Permittee's ingress and egress to or from a Lot.

11.4 Water Drainage and Retention Facilities. The Association shall have the right to regulate use of all water drainage or retention facilities in the Neighborhood owned by the Association, if any. The Association shall not be responsible for any loss, damage or injury to any person or property arising out of the authorized or unauthorized use of any such water drainage or retention facilities.

11.5 Firearms, Fireworks and Explosives. Except as permitted under Section 11.6, the discharge of any firearms, fireworks or explosives in the Neighborhood is prohibited. The term "firearms" includes "B-B" guns, pellet guns and other firearms of all types, regardless of size. Notwithstanding anything to the contrary contained herein or in the Bylaws, the Association shall not be obligated to take action to enforce this Section 11.5.

11.6 Hunting. Hunting, killing, trapping or poisoning of wildlife on or from the Neighborhood shall be prohibited except to prevent imminent danger to human life or unless conducted by or at the direction of the Association or the Colorado Division of Wildlife or other law enforcement or public officials having jurisdiction to protect human life or property, reduce overpopulation or eliminate nuisances or as may otherwise be required by law.

11.7 No Hazardous Activities. No activities shall be conducted on any Lot and no Improvements shall be constructed on any Lot that are or might be unsafe or hazardous to any natural Person or property. Without limiting the generality of the foregoing, no outdoor fires shall be lighted or permitted on any Lot except within an enclosed clay vessel or outdoor fireplace intended for such purpose or within a contained barbecue grill while attended and in use for cooking purposes.

11.8 Laws and Ordinances. Every Owner and Permittee shall comply with the ODP and all laws, statutes, ordinances and rules of federal, state, local and municipal governments applicable to the Neighborhood. Any violation may be considered a violation of this Declaration. However, the Association shall have no obligation to take action to enforce such laws, statutes, ordinances and rules.

11.9 Storage of Recreational Vehicles. Mobile homes, recreational vehicles, travel trailers, tent trailers, trucks (except pickup trucks used for personal, and not commercial transport), snowmobiles, golf carts, boats, boat trailers, tractors, detached campers, camper shells, snow removal equipment and garden or maintenance equipment shall be kept in an enclosed structure at all times.

11.10 Use of Recreational Vehicles. No motorcycle, snowmobile, all terrain vehicle, or other motorized recreational vehicle shall be operated within the Neighborhood, except for vehicles licensed by the State of Colorado for use on public streets and highways that are driven on public streets and except as permitted by the Association. The Association may

permit the operation of go-carts within the Neighborhood subject to such regulations as it deems appropriate.

11.11 Trash Containers and Refuse. Refuse, garbage and trash shall be kept in a covered container at all times and any such container shall be kept within an enclosed structure except on the days of pick-up by a waste management service. No lumber, grass, shrub or tree clippings or plant waste, compost, metals, bulk materials or scrap or refuse or trash or unused items of any kind shall be kept, stored or allowed to accumulate on any Lot except for during short time periods (in no event longer than 14 days) pending removal from the Neighborhood.

11.12 Clotheslines. Service areas and facilities for hanging, drying or airing clothing or fabrics shall be kept within an enclosed structure.

11.13 Animals and Pets. No animals of any kind shall be raised, bred or kept on or within any Lot for any commercial purposes. No dog or cat shall be permitted to roam within the Neighborhood except under the direct manual control and supervision of its owner or keeper.

11.14 Lights and Sounds. No light shall be emitted from any Lot which is unreasonably bright or causes unreasonable glare or shines directly onto an adjacent Lot. No sound shall be emitted from any Lot which is unreasonably loud or annoying.

11.15 Variances and Rezonings. No Owner shall apply for or permit another Person to apply for any variance, rezoning or ODP amendment concerning the Owner's Lot or any portion thereof without the prior written consent of the Association and, during the Development Period, Declarant, which consent may be denied or withheld in the absolute discretion of the Association or Declarant.

11.16 Exception for Construction. During the course of actual construction of Improvements, the above use restrictions of this Article 11 shall not apply to the extent reasonably necessary to permit such construction to be undertaken in a reasonable manner, provided that nothing is done or occurs during the period of construction that will result in the violation of any such use restriction upon the completion of such construction or extraction.

11.17 Declarant's Exemption. Nothing contained in this Declaration shall be construed to prevent (i) the exercise by Declarant of any Special Declarant Rights; or (ii) the erection or maintenance by Declarant or its duly authorized agents, of temporary structures, trailers, Improvements or signs necessary or convenient to the development, marketing or sale of property within Bradburn.

ARTICLE 12

INSURANCE, DAMAGE AND TAKINGS

12.1 Association's Insurance.

(a) Required Coverage. The Association, acting through the Board or its duly authorized agent, shall obtain and continue in effect the following types of

insurance if reasonably available or, if not reasonably available, the most nearly equivalent coverages as are reasonably available:

(i) Blanket "all risk" property insurance covering any insurable Improvements owned by the Association. The Association shall have the authority to insure any property for which it has maintenance or repair responsibility, regardless of ownership. All property insurance policies obtained by the Association shall have policy limits sufficient to cover the full replacement cost of the insured Improvements.

(ii) Commercial general liability insurance, insuring the Association and the Owners against damage or injury caused by the negligence of the Association or any of its Members, employees, agents or contractors while acting on its behalf. If generally available at reasonable cost, the commercial general liability coverage (including primary and any umbrella coverage) shall have a limit of at least \$2,000,000.00 per occurrence with respect to bodily injury, personal injury and property damage.

(iii) Workers' compensation insurance and employer's liability insurance to the extent required by law.

(iv) Directors' and officers' liability coverage in an amount determined by the Board.

(v) Fidelity insurance covering all Persons responsible for handling Association funds in an amount determined in the Board's business judgment but not less than two months' Assessments plus all reserves on hand, and containing a waiver of all defenses based upon the exclusion of Persons serving without compensation.

(vi) Such additional insurance as the Board determines advisable, which may include, without limitation, automobile insurance, flood insurance, boiler and machinery insurance and building ordinance coverage.

(b) Policy Requirements. All Association policies shall provide for a certificate of insurance to be furnished to the Association and, upon request, to any Owner or Mortgagee. Each policy may provide for a deductible which may not exceed the lesser of \$10,000.00 or one percent (1%) of the policy face amount, and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of Section 12.1 (a). Premiums for all insurance maintained by the Association pursuant to this Section 12.1 shall be Common Expenses and shall be included in the Common Assessment. In the event of an insured loss, the deductible shall be treated as a Common Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after providing notice and an opportunity to be heard in accordance with the Bylaws, that the loss is the result of the recklessness or willful misconduct of one or more Owners or

their Permittees, then the Association may specifically assess the full amount of such deductible against such Owners and their Lots as Specific Assessments pursuant to Section 8.5. All insurance coverage obtained by the Association shall:

(i) be written with companies authorized to do business in the State of Colorado;

(ii) be written in the name of the Association as trustee for the Association and the Members;

(iii) be written as a primary policy, not contributing with and not supplemental to the coverage that any Owners, occupants or their Mortgagees may carry individually;

(iv) include an inflation guard endorsement, as applicable;

(v) include an agreed amount endorsement, if the policy contains a co-insurance clause;

(vi) provide that each Owner is an insured person under the policy with respect to liability arising out of such Owner's membership in the Association;

(vii) include an endorsement precluding cancellation, invalidation, suspension or non-renewal by the insurer on account of any curable defect or violation or any act or omission of any Owner, without prior written demand to the Association to cure the defect, violation, act or omission and allowance of a reasonable time to effect such cure;

(viii) include an endorsement precluding cancellation, invalidation or condition to recovery under the policy on account of any act or omission of any Owner, unless such Owner is acting within the scope of its authority on behalf of the Association; and

(ix) include an endorsement requiring at least 30 days' prior written notice to the Association, and to each Owner and Mortgagee to whom a certificate of insurance has been issued, of any cancellation, substantial modification or non-renewal.

(c) Other Policy Provisions. In addition, the Association may use reasonable efforts to secure insurance policies which list the Owners as additional insureds and provide:

(i) a waiver of subrogation as to any claims against the Board, the officers or employees of the Association, and the Owners and their Permittees;

(ii) a waiver of the insurer's rights to repair and reconstruct instead of paying cash;

(iii) an endorsement excluding Owners' individual policies from consideration under any "other insurance" clause;

(iv) a cross liability provision; and

(v) a provision vesting in the Association exclusive authority to adjust losses; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in settlement negotiations, if any, related to such losses.

12.2 Damage and Destruction.

(a) Property Insured by Association.

(i) Immediately after damage or destruction to all or any part of the Neighborhood covered by insurance written in the name of the Association, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repair or reconstruction. Repair or reconstruction, as used in this paragraph, means the repair or restoration of the damaged property to substantially the condition in which it existed prior to the damage, allowing for changes necessitated by changes in applicable building codes.

(ii) Any damage to or destruction of the Common Elements shall be repaired or reconstructed unless: (i) a decision not to repair or reconstruct is made by Members representing at least 67% of the total votes in the Association, and, if the damage or destruction occurs during the Development Period, the vote of Declarant; (ii) repair or reconstruction would be illegal under any state or local statute governing health and safety; or (iii) the planned community established by this Declaration is terminated pursuant to Section 16.2(b).

(iii) If the damage or destruction to the Common Elements will not be repaired or reconstructed pursuant to Section 12.2(a)(ii) and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive landscaped condition.

(iv) Any insurance proceeds attributable to damage to Common Elements will be applied to the costs of repair or reconstruction (if any) and then, if any insurance proceeds remain, distributed among all Lots in proportion to their Common Allocations.

(v) If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Association may, without a vote of the Members, levy Special Assessments to cover the shortfall.

(vi) Each Lot will continue to be subject to Assessments following any damage to any portion of the Common Elements, without abatement as a result of such damage.

(b) Property of Owners. Each Owner covenants and agrees that in the event of damage or destruction to Improvements on or comprising such Owner's Lot, the Owner shall proceed promptly to repair or reconstruct such structures in a manner consistent with the original construction or such other plans and specifications as are approved by the Architectural Control Committee and the City and pursuant to all other applicable land use regulations. The Owner shall pay any costs of such repair and reconstruction or clearing and maintenance which are not covered by insurance proceeds.

12.3 Takings.

(a) Taking of Lots. In the event of a Taking of all or any part of any Lot, the Owner thereof will be solely responsible for negotiating with the condemning authority concerning the award for such Taking and will be entitled to receive such award after the liens of all Mortgagees on the affected Lot or portion thereof have been satisfied or otherwise discharged. If only part of a Lot is acquired by a Taking, the Owner of such Lot will be responsible for the restoration of its Lot as necessary to return the Lot to a safe and lawful condition that does not adversely affect the use or enjoyment of the other Lots or Common Elements or detract from the general character or appearance of the Neighborhood.

(b) Taking of Common Elements.

(i) Each Owner shall be entitled to written notice of any Taking of any Common Elements or portion thereof. The Association will be solely responsible for negotiating, and is hereby authorized to negotiate with the condemning authority on behalf of all Owners concerning, the amount of the award for any Taking by which a condemning authority acquires any Common Elements or portion thereof without also acquiring 100% of the Lots, and the acceptance of such award by the Association will be binding on all Owners. Any award made for such Taking shall be payable to the Association as trustee for all Owners and shall be disbursed as set forth in Sections 12.3(b)(ii) and 12.3(b)(iii). Notwithstanding the foregoing, no Common Elements shall be conveyed in lieu of and under threat of condemnation without the approval of the Board, acting with the approval of Members representing at least 67% of the total votes in the Association and, during the Development Period, with Declarant's consent.

(ii) If the Taking involves a portion of the Common Elements on which Improvements have been constructed, the Association shall restore or

replace such Improvements on the remaining land included in the Common Elements to the extent available, unless, within 60 days after such Taking Members representing at least 67% of the total votes in the Association and, if the Taking occurs during the Development Period, Declarant shall otherwise agree. Any such construction shall be in accordance with plans approved by the Association. If the award made for such Taking is insufficient to cover the costs of restoration or replacement, the Association may, without a vote of the Members, levy Special Assessments to cover the shortfall.

(iii) If the Taking does not involve any Improvements on the Common Elements, or if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds shall become an asset of the Association.

ARTICLE 13

MORTGAGEE PROVISIONS

13.1 No Priority. No provision of this Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the First Mortgagee of any Lot in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a Taking of the Common Elements.

13.2 Notice to Mortgagees. Upon receipt by the Association of a written request for notices as described in Section 2.28, any Eligible Holder who provides such request will be entitled to timely written notice of:

(a) Any condemnation loss or casualty loss that affects a material portion of the Neighborhood or that affects any Lot on which there is a First Mortgage held, insured or guaranteed by such Eligible Holder;

(b) Any delinquency in the payment of Assessments or charges owed by a Lot subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of 60 days after notice of such delinquency has been delivered to the Owner, or any other violation of this Declaration or the Bylaws relating to such Lot or the Owner or occupant thereof which is not cured within 60 days of notice of such violation;

(c) Any lapse, cancellation or material modification of any insurance policy maintained by the Association.

ARTICLE 14

CONVEYANCING AND ENCUMBRANCING

14.1 Lots. A description of any Lot in accordance with the requirements of Colorado law for the conveyance of real property will, if included in an otherwise proper

instrument, be sufficient for all purposes to sell, convey, transfer, encumber and otherwise affect not only such Lot but also all easements, rights and other benefits appurtenant thereto as provided in this Declaration. A Person who becomes an Owner will promptly notify the Association of his or her ownership of a Lot. An Owner may encumber his or her Lot as he or she sees fit, subject to the provisions of this Declaration.

14.2 Common Elements. The Common Elements or portions thereof may be conveyed or subjected to a lien or security interest in accordance with the Act, with the written approval of Owners to whom are allocated at least 67% of the votes in the Association, including at least 67% of the votes in the Association allocated to Lots not owned by Declarant. Such conveyance or encumbrance will not affect the priority or validity of pre-existing encumbrances. Any net proceeds from the sale of any portion of the Common Elements will be an asset of the Association.

ARTICLE 15

AMENDMENT

15.1 Required Votes.

(a) Declarant, without the vote or consent of the Board or the Owners, may amend this Declaration to correct clerical, typographical or technical errors.

(b) Declarant, without the vote or consent of the Board or the Owners, may amend this Declaration to comply with the requirements, standards or guidelines of recognized secondary mortgage markets, the U.S. Department of Housing and Urban Development, the Federal Housing Administration, the Veteran's Administration, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or the Federal National Mortgage Association.

(c) Declarant, without the vote or consent of the Board or the Owners, may amend this Declaration from time to time to exercise any Special Declarant Rights contemplated by or permitted under Section 6.1.

(d) Amendments to this Declaration that, under the Act, may be made by the Association without the approval of the Owners may be so made by the Association, subject, however, to any required consent in favor of any Person expressly required by this Declaration.

(e) Except as otherwise expressly permitted under this Declaration and the Act, any amendment to this Declaration that increases the Special Declarant Rights, increases the number of Lots, changes the boundaries of any Lot, or changes the allocated interests of any Lot requires the vote or agreement of Owners to which at least 67% of the votes in the Association are allocated, including 67% of the votes allocated to Lots not owned by Declarant.

(f) Except as otherwise, expressly permitted under the Act, any amendment to this Declaration that changes the uses to which any Lot is restricted requires the vote or agreement of Owners to which at least 67% of the votes in the Association are allocated and, during the Development Period, Declarant.

(g) Any amendment to this Declaration that changes a specific clause or provision prescribing a certain percentage of affirmative votes for action to be taken under that clause or provision shall require the affirmative vote of those Owners of Lots to which at least that percentage (as prescribed in that clause or provision) of the votes in the Association are allocated.

(h) Any amendment to this Declaration that changes a specific clause or provision requiring the agreement of any Person(s) for action to be taken under that clause or provision shall require the written consent of such Person(s).

(i) Any amendment to this Declaration made during the Development Period affecting a right that Declarant may exercise during that period requires the written approval of Declarant in each case.

(j) Except as provided above in this Section 15.1 and in any other provision of this Declaration, this Declaration may be amended by the affirmative vote or agreement of the Owners of Lots to which more than 50% of the votes in the Association are allocated, provided that during the Development Period any such amendment shall also require the approval of Declarant.

15.2 Amending Documents. Except for any amendment that by the terms of this Declaration may be and is duly executed, acknowledged and Recorded by Declarant or by or on behalf of the Board, an amendment to this Declaration is effective only when all of the following events occur:

(a) Owner Approval. The amendment is reduced to a writing that is approved (by affirmative vote or agreement) by the Owners of Lots to which at least the applicable required percentage of votes in the Association are allocated.

(b) Certificate by Association. A written certificate, executed and acknowledged by the president or any other authorized officer of the Association, is attached to the written amendment which states that the amendment was approved by the applicable required percentage of Owners pursuant to Section 15.1.

(c) Recording. The approved written amendment described in Section 15.2(a) and the certificate described in Section 15.2(b) are Recorded.

ARTICLE 16

GENERAL PROVISIONS

16.1 Permittees Bound. All provisions of this Declaration, the Bylaws and the Rules shall also apply to all Permittees of any Owner. Each Owner shall cause all of its Permittees to comply with the this Declaration, the Bylaws and the Rules, and each Owner shall be responsible for all violations and losses to the Common Elements caused by such Permittees, notwithstanding the fact that such Permittees of a Lot are fully liable and may be sanctioned for any violation.

16.2 Duration and Termination.

(a) Perpetual Duration. Unless terminated as provided in Section 16.2(b), this Declaration shall have perpetual duration. If Colorado law hereafter limits the period during which covenants may run with the land, then to the extent consistent with such law, this Declaration shall automatically be extended at the expiration of such period for successive periods of twenty years each, unless terminated as provided herein.

(b) Termination. Unless otherwise provided by Colorado law, in which case such law shall control, this Declaration may not be terminated within the Development Period without the consent of Owners who represent at least 80% of the votes in the Association and Declarant. Thereafter, it may be terminated only by an instrument signed by Owners who represent at least 67% of the votes in the Association. Any termination instrument shall be Recorded and must comply with the termination procedures set forth in the Act. Nothing in this Section 16.2(b) shall be construed to permit termination of any easement created in this Declaration without the consent of the holder of such easement.

16.3 Compliance; Right of Action. Every Owner and Permittee shall comply with this Declaration, the Bylaws and the Rules. In recognition of the fact that a violation of any of the easements, restrictions, requirements, conditions and covenants set forth in this Declaration will cause irreparable damage to the Neighborhood that is subject to this Declaration, it is hereby declared, and by acquiring an interest in any Lot all Owners and Mortgagees will be deemed to have agreed, that, except to the extent expressly provided to the contrary in this Declaration, any violation or attempted violation of any provision of this Declaration will give the Declarant, the Association and any aggrieved Owner the right to prosecute a proceeding at law or in equity against the Person who is violating or attempting to violate such provision and the right to recover sums due or damages or to obtain any other remedy available at law or in equity, including, without limitation, injunctive relief. In any action where a court determines that the Declarant and/or the Association is the substantially prevailing party, the Declarant and/or the Association shall be entitled to receive an award of its costs and reasonable attorneys' fees incurred in maintaining or defending such action.

16.4 Indemnity. Each Owner will be liable to and will protect, defend, indemnify and hold the Association harmless from and against any and all damages, claims, demands, liens (including, without limitation, mechanics' and materialmen's liens and claims), losses, costs and expenses (including, without limitation, reasonable attorneys' fees, court costs and other expenses of litigation) and liabilities of any kind or nature whatsoever suffered or incurred by, or threatened or asserted against, the Association as a result of or in connection with (a) the willful misconduct, negligence or breach of the Act, this Declaration, the Bylaws or the Rules by the indemnifying Owner or his or her Permittees; or (b) any repair, restoration, replacement, alteration or other construction, demolition, installation or removal work on or about the Neighborhood contracted for, or performed by, the indemnifying Owner or his or her Permittees. The indemnifying Owner will pay for all such claims suffered or incurred by the Association for which such Owner is responsible hereunder promptly upon receipt of a demand from the Association therefor. The amount of such claims will constitute Specific Assessments against the indemnifying Owner's Lot. Nothing herein will be deemed to relieve any Permittee from liability for its own acts or omissions. Nothing contained in this Section 16.4 will be construed to provide for any indemnification which would violate applicable laws, void any or all of the provisions of this Section 16.4, or negate, abridge, eliminate or otherwise reduce any other indemnification or right which the Association or the Owners have by law.

16.5 Severability. In the event any provision of this Declaration is deemed illegal or invalid by judgment or court order, a legally valid provision similar to the invalidated provision shall be substituted therefor. Invalidation of any provision of this Declaration, in whole or in part, or of any application of a provision of this Declaration, by judgment or court order shall in no way affect other provisions or applications of this Declaration.

16.6 Governing Law. This Declaration shall be governed by and construed under the laws of the State of Colorado.

16.7 Captions. The captions and section headings in this Declaration are for convenience only and shall not be considered in construing any provisions of this Declaration.

16.8 Notices. Except for notices concerning meetings of the Association or the Board, which will be given in the manner provided in the Bylaws, any notices required or permitted hereunder or under the Bylaws to be given to any Owner, the Association, the Board or any Eligible Holder will be sent by certified mail, first-class postage prepaid, return receipt requested, to the intended recipient at, in the case of notices to an Owner, the mailing address of such Owner in the City or any other address designated by such Owner in writing to the Association; in the case of notices to the Association or the Board, the address of the Association's registered agent; or in the case of notices to an Eligible Holder, the address thereof most recently given to the Association by notice from such Eligible Holder. All notices will be deemed given and received three business days after such mailing. Any Owner or Eligible Holder may change its address for purposes of notice by notice to the Association in accordance with this Section 16.8. The Association or the Board may change its address for purposes of notice by notice to all Owners in accordance with this Section 16.8. Any such change of address will be effective five days after giving of the required notice.

16.9 Colorado Common Interest Ownership Act. This Declaration shall be subject to all mandatory requirements of the Act, as amended. In the event of any conflict between any term or provision of this Declaration and any mandatory provision of the Act, the mandatory provisions of the Act shall control in all instances. In the event of any conflict between any term of provision of this Declaration and any permissive or non-mandatory provision of the Act, the provisions of this Declaration shall control in all instances.

16.10 Disclosure of Mineral Interests. The Neighborhood is subject to the following interests regarding mineral rights: (a) The right of proprietor of a vein or lode to extract or remove his ore should the same be found to penetrate or intersect the premises thereby granted as reserved in United States patent recorded January 27, 1886, in Book A2 at page 261; and any and all assignments thereof or interest therein; and (b) an undivided one-half interest in all oil, gas and other minerals as reserved by the heirs of Ernest N. Graves in Deed recorded August 27, 1954, in Book 511 at page 368, and any and all assignments thereof or interests therein.

16.11 Additional Mortgage Provisions. No breach of or default under any of the covenants, conditions, restrictions or easements contained in this Declaration shall render invalid or affect in any manner the lien of any Mortgage given in good faith and for value and encumbering any portion of the Neighborhood, but the title of any Owner who acquires any portion of the Neighborhood by foreclosure or deed-in-lieu of foreclosure of any such Mortgage Recorded after the date of Recording of this Declaration or subordinated to this Declaration shall be subject to any such covenants, conditions, restrictions or easements.

[signature pages follow]

IN WITNESS WHEREOF, the undersigned Declarant and Consenting Landowner have executed this Declaration as of the dates given below.

DECLARANT:

BRADBURN COMMUNITY ASSOCIATES, LLC, a Colorado limited liability company

By: [Signature]
Name: Mark G. Falcone
Title: Executive Committee Member

CONSENTING LANDOWNER:

CONTINUUM BRUCHEZ ASSOCIATES, LLC, a Colorado limited liability company

By: [Signature]
Name: Mark G. Falcone
Title: Executive Committee Member

STATE OF COLORADO)
CITY AND) ss:
COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this 15th day of October, 2002, by Mark G. Falcone as an Executive Committee Member of BRADBURN COMMUNITY ASSOCIATES, LLC, a Colorado limited liability company.

Witness my hand and official seal.
My commission expires: 11/15/06



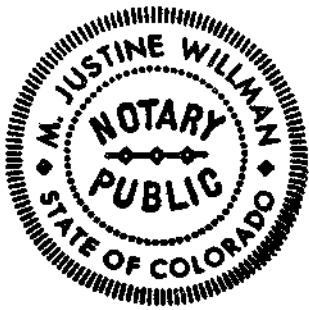
[Signature]
Notary Public

STATE OF COLORADO)
CITY AND) ss:
COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this 15 day of October, 2002, by YVYLxiC O VQJLC J-5TJL as an Executive Committee Member of CONTINUUM BRUCHEZ ASSOCIATES, LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: November 15, 2005



Justine Willman / Continuum
Notary Public

EXHIBIT A
Description of the Neighborhood

All Lots south of West 118th Place within Bradbum Subdivision Filing No. 1, City of Westminster, County of Adams, State of Colorado.

Together with:

Lot 4, Block 16,
Lots 2 through 3, Block 17, and
Lots 4 through 7, Block 19,
Bradbum Subdivision Filing No. 1,
City of Westminster,
County of Adams,
State of Colorado.

EXHIBIT B
Description of the Additional Lands

THE FOLLOWING PROPERTY IN THE CITY OF WESTMINSTER, COUNTY OF ADAMS, STATE OF COLORADO TO THE EXTENT NOT ALSO DESCRIBED ON EXHIBIT A ABOVE, PROVIDED THAT ANY OF THE FOLLOWING PROPERTY SUBSEQUENTLY INCLUDED WITHIN THE NEIGHBORHOOD AS PERMITTED UNDER THIS DECLARATION WILL BE DEEMED EXCLUDED FROM THE FOLLOWING DESCRIPTION OF THE ADDITIONAL LANDS:

All Lots north of West 118th Place within Bradburn Subdivision Filing No. 1, City of Westminster, County of Adams, State of Colorado.

TOGETHER WITH:

A PARCEL OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 6, TOWNSHIP 2 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF ADAMS, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER OF SAID SECTION 6, WHENCE THE SOUTHEAST CORNER OF THE WEST HALF OF THE EAST HALF OF THE NORTHEAST QUARTER THEREOF BEARS S89°50'23"E, A DISTANCE OF 1981.88 FEET; THENCE S89°50'23"E, ALONG THE SOUTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 6 A DISTANCE OF 713.43 FEET TO THE POINT OF BEGINNING; THENCE N00°09'37"E, A DISTANCE OF 186.93 FEET TO A POINT ON A CURVE; THENCE ALONG A CURVE TO THE RIGHT HAVING A DELTA OF 19°52'41", A RADIUS OF 324.25 FEET, AN ARC LENGTH OF 112.49 FEET AND A CHORD BEARING N39°20'59"W, A DISTANCE OF 111.93 FEET TO A POINT OF TANGENT; THENCE N29°24'38"W, A DISTANCE OF 94.83 FEET TO A POINT OF CURVE; THENCE ALONG A CURVE TO THE LEFT HAVING A DELTA OF 06°50'19", A RADIUS OF 1261.77 FEET AND AN ARC LENGTH OF 150.60 FEET TO A POINT OF TANGENT; THENCE N36°14'58"W, A DISTANCE OF 53.12 FEET; THENCE N55°26'00"E, A DISTANCE OF 52.02 FEET; THENCE N36°14'58"W, A DISTANCE OF 57.09 FEET TO A POINT OF CURVE; THENCE ALONG A CURVE TO THE RIGHT HAVING A DELTA OF 47°26'28", A RADIUS OF 94.00 FEET AND AN ARC LENGTH OF 77.83 FEET TO A POINT OF TANGENT; THENCE N11°11'30"E, ALONG SAID TANGENT, A DISTANCE OF 32.17 FEET TO A POINT OF CURVE; THENCE ALONG A CURVE TO THE RIGHT HAVING A DELTA OF 33°48'30", A RADIUS OF 300.00 FEET AND AN ARC LENGTH OF 177.02 FEET TO A POINT OF TANGENT; THENCE N45°00'00"E, ALONG SAID TANGENT, A DISTANCE OF 484.00 FEET; THENCE S45°00'00"E, A DISTANCE OF 223.06 FEET; THENCE S46°39'11"E, A DISTANCE OF 52.00 FEET; THENCE S45°00'00"E, A DISTANCE OF 246.38 FEET TO A POINT OF CURVE; THENCE ALONG A CURVE TO THE LEFT HAVING A DELTA OF 26°17'01", A RADIUS OF 124.50 FEET AND AN ARC LENGTH OF 57.11 FEET TO A POINT OF REVERSE CURVE; THENCE ALONG A CURVE TO THE RIGHT HAVING A

DELTA OF 19°35'06", A RADIUS OF 493.75 FEET AND AN ARC LENGTH OF 168.77 FEET TO A POINT OF NON-TANGENT; THENCE S49°44'52"E, A DISTANCE OF 98.93 FEET; THENCE S47°33'00"E, A DISTANCE OF 35.93 FEET TO A POINT OF CURVE; THENCE ALONG A CURVE TO THE RIGHT HAVING A DELTA OF 18°57'09", A RADIUS OF 435.23 FEET AND AN ARC LENGTH OF 143.97 FEET TO A POINT OF TANGENT; THENCE S28°35'51"E, ALONG SAID TANGENT, A DISTANCE OF 47.80 FEET TO A POINT OF CURVE; THENCE ALONG A CURVE TO THE RIGHT HAVING A DELTA OF 01°40'49", A RADIUS OF 829.99 FEET AND AN ARC LENGTH OF 24.34 FEET; THENCE N63°04'57"E, A DISTANCE OF 44.00 FEET TO A POINT ON A CURVE; THENCE ALONG A CURVE TO THE RIGHT HAVING A DELTA OF 15°33'18", A RADIUS OF 873.99 FEET, AN ARC LENGTH OF 237.28 FEET AND A CHORD BEARING S19°08'24"E, A DISTANCE OF 236.55 FEET TO A POINT OF COMPOUND CURVE; THENCE ALONG A CURVE TO THE RIGHT HAVING A DELTA OF 14°35'14", A RADIUS OF 101.00 FEET AND AN ARC LENGTH OF 25.71 FEET TO A POINT OF COMPOUND CURVE; THENCE ALONG A CURVE TO THE RIGHT HAVING A DELTA OF 69°33'57", A RADIUS OF 169.13 FEET AND AN ARC LENGTH OF 205.35 FEET TO A POINT OF COMPOUND CURVE; THENCE ALONG A CURVE TO THE RIGHT HAVING A DELTA OF 13°08'33", A RADIUS OF 101.00 FEET AND AN ARC LENGTH OF 23.17 FEET; THENCE S00°09'37"W, A DISTANCE OF 77.56 FEET TO A POINT ON THE SOUTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 6; THENCE N89°50'23"W, ALONG SAID SOUTH LINE, A DISTANCE OF 960.19 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH:

A TRACT OF LAND LOCATED IN THE NORTHWEST QUARTER OF SECTION 6,
TOWNSHIP 2 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN,

COUNTY OF ADAMS, STATE OF COLORADO, ALSO BEING A PART OF BLOCKS 3
AND 4, THREE-M TRACT AS RECORDED IN FILE 12, MAP 173 OF THE CLERK AND
RECORDER OF ADAMS COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION 6, WHENCE
THE NORTHWEST CORNER THEREOF BEARS S89°57'33"W, 2579.36 FEET; THENCE
S00°19'03"E, ALONG THE EAST LINE OF SAID NORTHWEST QUARTER, 185.00 FEET;
THENCE S89°57'33"W, 40.00 FEET TO THE NORTHEAST CORNER OF BLOCK 3,
THREE-M TRACT BEING THE POINT OF BEGINNING; THENCE S00°19'03"E, ALONG
THE WESTERLY RIGHT-OF-WAY LINE OF TENNYSON STREET, 723.01 FEET;
THENCE S89°57'33"W, 653.43 FEET; THENCE N00°06'27"W, 723.00 FEET TO THE
NORTH LINE OF SAID BLOCK 3; THENCE N09°57'33"E, ALONG SAID NORTH LINE,
650.78 FEET TO THE POINT OF BEGINNING.

EXHIBIT C
Description of the Initial District Property

Tracts C through W, and
Outlots 1,2, 4, 5, 6, 7, 8, 10, 11, 13 and 14,
Bradburn Subdivision Filing No. 1, City of Westminster, County of Adams, State of Colorado.