

ANNUAL REPORT FOR THE CALENDAR YEAR 2021

TIMBERLEAF METROPOLITAN DISTRICT

TO: Thornton City Clerk
State of Colorado

The following information and documents (attached as exhibits) are provided for calendar year 2021 pursuant to Section VII of the Service Plan of the Timberleaf Metropolitan District (the “**District**”) approved by the City Council of the City of Thornton (the “**City**”) and filed with the District Court and City Clerk:

1. Boundary changes made or proposed to the District’s boundary as of December 31st.

The District had no boundary changes in 2021.

2. Intergovernmental Agreements with other governmental entities either entered into or proposed as of December 31 of the prior year.

Intergovernmental Agreement between the City of Thornton and Timberleaf Metropolitan District Regarding the Service Plan for the District dated August 28, 2007; sets forth the rights and obligations of the District and the City as contemplated by the District's Service Plan.

The District has not entered into any other intergovernmental agreements, and there are none proposed, with any other governmental entities as of December 31, 2021.

3. A copy of the District’s rules and regulations, if any, as of December 31st.

The District has not yet adopted any rules and regulations; however, the District does enforce the Declaration of Covenants, Conditions, Restrictions and Easements for Timberleaf Subdivision, a copy of which are attached as Exhibit A, and the District has adopted Policies and Procedures Governing the Enforcement of the Declaration of Covenants, Conditions, Restrictions and Easements for Timberleaf Subdivision, a copy of which are attached as Exhibit B.

4. A summary of any litigation which involves the District Public Improvements as of December 31 of the prior year.

The District had not constructed any public improvements as of December 31st and is not involved in any litigation relating thereto.

5. Status of the District's construction of the Public Improvements as of December 31 of the prior year.

As of December 31, 2021, the District accepted costs related to public improvements. While the District did not construct the public improvements detailed in the cost certification report attached as Exhibit C, the District did finance them.

6. A list of all Public Improvements constructed by the District that have been dedicated to and accepted by the City as of December 31 of the prior year.

See #5 above.

7. The assessed valuation of the District for the current year.

The 2021 assessed valuation of the District is \$2,825,610.

8. Current year budget including a description of the Public Improvements to be constructed in such year.

Attached as Exhibit D is a copy of the District's 2022 Budget Documents. The District does not plan to construct any Public Improvements in 2022.

9. Audit of the District's financial statements, for the year ending December 31 of the previous year, prepared in accordance with generally accepted accounting principles or audit exemption, if applicable.

Audited financial statements for 2021 will be filed with the Town Clerk upon completion.

10. Notice of any uncured events of default by the District, which continue beyond a ninety (90) day period, under any Debt instrument.

None.

11. Any inability of the District to pay its obligations as they come due, in accordance with the terms of such obligations, which continue beyond a ninety (90) day period.

None.

Respectfully submitted this 24th day of June, 2022.

COCKREL ELA GLESNE GREHER & RUHLAND
A Professional Corporation

By 

Matthew P. Ruhland
Attorney for Timberleaf Metropolitan District

EXHIBIT A

**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND
EASEMENTS FOR TIMBERLEAF SUBDIVISION**

**DECLARATION
OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR TIMBERLEAF SUBDIVISION**

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR TIMBERLEAF SUBDIVISION (the "Declaration") are made and entered into to be effective as of the 4th day of September, 2020 by Melody Homes, Inc., a Delaware corporation ("Declarant"), upon the following terms and conditions:

RECITALS

WHEREAS, Declarant is the owner and/or Developer of that certain real property located in Adams County, Colorado, within the City of Thornton, as more particularly described in **Exhibit A** attached hereto and incorporated herein by this reference, as supplemented and amended from time to time, (the "Property"); and

WHEREAS, Declarant desires to create a system of covenants, conditions, restrictions, easements, reservations, rights-of-way, obligations, liabilities and other charges to protect and enhance the quality, value, aesthetics, desirability, and attractiveness of the Property and Improvements to be developed thereon, which shall be known as the Timberleaf Subdivision (the "Development"); and

WHEREAS, the covenants, conditions, restrictions, easements, reservations, rights-of-way, obligations, liabilities, and other charges set forth herein are in addition to the laws of any and all applicable governmental entities with jurisdiction over the Property, including but not limited to the City of Thornton and Adams County, Colorado; and

WHEREAS, Declarant desires that all Property shall be improved, held, used, occupied, leased, sold, and/or conveyed subject to this Declaration; and

WHEREAS, pursuant to service plan for the Timberleaf Metropolitan District (the "Metropolitan District," as hereinafter more fully defined), as approved by the Board of Trustees of the City of Thornton on August 28, 2007, the Metropolitan District may furnish covenant enforcement and design review services and the Metropolitan District intends to exercise its powers to provide covenant enforcement and design review services, as defined Section 32-1-1004 (8) of the Colorado Revised Statutes, for the Property.; and

WHEREAS, the Governing Board has or will adopt a resolution acknowledging its power to provide covenant enforcement and design review services pursuant to state statute, and authorizing the Metropolitan District to provide covenant enforcement and

design review services within the service area of the Metropolitan District using revenue derived from the areas in which the services are to be furnished

WHEREAS, this Declaration shall run with the land and be binding on and inure to the benefit of all parties having any right, title, or interest in any portion of the Properties, their heirs, successors, successors-in-kind, and assigns; and

WHEREAS, Declarant further hereby states that the Metropolitan District shall maintain, care for and manage the Metropolitan District owned portions of the Property and related Metropolitan District Improvements from time to time, and perform certain functions for the benefit of the Owners as further described herein and within the Service Plan. This Declaration shall also define certain duties, powers, and rights of the Owners, Declarant, and Metropolitan District; and

WHEREAS, this Declaration does not create a Common Interest Community, as defined by the Colorado Common Interest Ownership Act at C.R.S. §38-33.3-103(8), as amended; therefore, this Declaration and its Covenants shall not be governed by the Colorado Common Interest Ownership Act or any provisions thereof.

NOW, THEREFORE, in addition to the foregoing, the Declarant for itself, its successors and assigns, and for and on behalf of all existing Owners, hereby declares that the Property and any Future Parcel(s) which is annexed to this Declaration in the manner provided for herein shall, from the date it so becomes annexed be owned, held, transferred, conveyed, sold, leased, rented, encumbered, used, occupied, maintained, altered and improved subject to the following covenants, conditions, restrictions, easements, reservations, rights-of-way, obligations, liabilities, and other provisions set forth above and herein, as the same may be amended and/or supplemented from time to time; provided that the provisions of this Declaration and its Covenants shall apply only to those portions of the Property actually used for residential purposes or designated for such use.

ARTICLE 1. DEFINITIONS

Section 1.1 Definitions. When used in this Declaration, unless the context clearly indicates otherwise, capitalized terms not otherwise defined in the Plat of the Property shall have the meanings provided in the following sections of this Article:

1.1.1 “Affiliate” means any and all partnerships, ventures, limited liability companies or other entities in which the Declarant owns or any of the entities compromising the Declarant owns, either directly or indirectly, a controlling interest.

1.1.2 “Agent” means a person, firm, corporation or other entity employed or engaged as an independent contractor by the Declarant or Metropolitan District.

1.1.3 “Annexed Property” means any Future Parcel(s) or portion thereof, which is annexed to this Declaration by means of a Supplemental Declaration.

1.1.4 “Architectural Control Committee” or “ACC” shall mean and refer to the committee created pursuant to the terms of this Declaration established to review and approve plans for the construction or alteration of Improvements on Lots as set forth in Article 2 of this Declaration.

1.1.5 “City” shall mean the City of Thornton, Colorado.

1.1.6 “Covenants” means the covenants, conditions, restrictions and easements of Timberleaf contained in this Declaration, as amended and supplemented from time to time.

1.1.7 “Declarant” and “Developer” means Melody Homes, Inc., a Delaware Company, and/or any other Person to whom the Declarant may, at any time from time to time, assign one or more of the Declarant’s rights (which shall be the extent of the Declarant’s rights to which such assignee succeeds); provided, that no assignment of any Declarant rights shall be effective unless such assignment is duly executed by the assignor Declarant and recorded in Weld County, Colorado. The term “Declarant” as used herein includes any entity that results from reorganization or restructuring of the existing entity or the conversion thereof to another form of entity. For purposes of determining which Lots or Future Parcels are owned by Declarant, “Declarant” shall automatically be deemed to include “Affiliates” as that term is defined in this Article 1.

1.1.8 “Declaration” shall mean this Declaration of Covenants, Conditions, Restrictions and Easements for Timberleaf, as amended and supplemented from time to time.

1.1.9 “Development” shall mean the Timberleaf Subdivision development subject to this Declaration, consisting of the Property described in Exhibit A attached hereto and incorporated herein by this reference, as supplemented and amended from time to time. The Development is intended to be the property within the boundaries of Timberleaf Metropolitan District and all future Annexed Property.

1.1.10 “Future Parcels” means and refers to any real property adjacent to the Property or in its vicinity which the Declarant identifies as annexable to this Declaration or included into the Development, in any recorded document executed by it which refers to this Declaration, as hereafter provided. Future Parcels need not be owned by Declarant so long as the Owner thereof consents to the potential annexation of such real estate to this Declaration. Future Parcels may be added to this Declaration by the Declarant, provided such Future Parcels are properly annexed to the City of Thornton, included within the Timberleaf Metropolitan District, and provided such inclusion is in accordance with law and any Service Plan or City requirements.

1.1.11 “Governing Board” means the board of directors of the Timberleaf Metropolitan District.

1.1.12 “Guidelines” shall mean the guidelines and rules published, and as amended and supplemented from time to time in accordance with the terms therein, by the Architectural Control Committee.

1.1.13 “Improvement(s)” shall mean and include the following: (a) the construction, installation, alteration, demolition in whole or in part, or expansion of any exterior improvement, building, structure, appurtenance, or other improvements, including, but not limited to, buildings, outbuildings, swimming pools, tennis courts, patios, patio covers, awnings, solar collectors, painting or other finish materials on any visible structure, additions, walkways, sidewalks, trails, bridges, sprinkler systems, garages, driveways, parking areas, fences, including gates in fences, basketball backboards and hoops, swing-sets or other play structures, screening walls, retaining walls, stairs, decks, exterior light fixtures, poles, signs, exterior tanks, utilities, facilities, pipes, lines, and exterior air conditioning, cooling, heating and water softening equipment, if any; (b) the staking, clearing, grading, excavation, filling or similar disturbance to the surface of the land, including without limitation any change of grade, change of ground level, change of drainage pattern, or change of stream bed or course, ditch improvements, drainage, retention and detention ponds or facilities, storm sewer and other collection facilities; (c) all initial planting of and subsequent material modifications to landscaping, hedges, windbreaks, berming, plantings, trees, shrubs, flowers, vegetables, sod, gravel, bark, and all planting, clearing or removing of trees, shrubs, grass or perennial plants, but in each instance excluding removal of dead or diseased plants and trees and excluding any replacement that is substantially similar to the item being replaced; (d) any change or alteration to the exterior appearance of Improvements previously approved by the ACC, including any change in finish material, color or texture; (e) the repainting and resurfacing of exterior surfaces of structures, including roofing materials, gutters, downspouts, drainspouts, exterior siding or stucco finish, entry doors, windows, trim around doors and windows, surfaces of garage doors, external vents and flues and glass surfaces, exclusive of any replacement that is substantially identical to the item being repainted or resurfaced; and (f) reconstruction of any structures.

1.1.14 “Lot” means each platted lot that is now or hereafter included in the real estate described on the attached Exhibit A, as the same may be subdivided or replatted from time to time (and “Lot” shall include all lots created as a result of such subdivision or replatting), as well as any other platted lots now or hereafter included in any real estate.

1.1.15 “Metropolitan District” or “District” means the Timberleaf Metropolitan District, a quasi-municipal corporation and political subdivision of the State of Colorado, its successor or assign, and/or any other metropolitan district(s) to whom the then-

Metropolitan District may, from time to time, transfer or assign any or all of the rights, duties obligations, and responsibilities delineated in this Declaration. Each such assignment or transfer, if any, shall be effective upon recording in Adams County, Colorado, of a document of transfer or assignment, duly executed by the then Metropolitan District. The Metropolitan District is the entity authorized and empowered to enforce the Covenants contained herein, and to provide design review services for the Development. In the event that Metropolitan District ceases to exist, Declarant may appoint a successor entity to serve as enforcer of this Declaration, which entity shall assume all rights and responsibilities of the Metropolitan District under this Declaration.

1.1.16 “Owner” means each fee simple title holder of a Lot, including without limitation the Declarant or any other Person who owns a Lot, but does not include a Person having an interest in a Lot solely as security for an obligation.

1.1.17 “Person” means a natural person, a corporation, a limited liability company, a partnership, a trust, a joint venture, an unincorporated association, or any other entity or any combination thereof and includes, without limitation, each Owner, Builder, Developer and the Declarant.

1.1.18 “Project Documents” means this Declaration, rules and regulations, Guidelines and any documents now or hereafter adopted by or for the Metropolitan District, as amended or supplemented from time to time.

1.1.19 “Property” means the real estate described on the attached Exhibit A, and any Future Parcel(s), or portion thereof, which has been annexed hereto by a Supplemental Declaration or otherwise as provided herein; all of which may be supplemented and amended from time to time, as the same may now or hereafter be improved, and as the Declarant may now or hereafter subdivide or resubdivide any portion thereof; provided, however, that the Property shall include any real estate and Improvements that are annexed and shall not include any real estate or Improvements that have been withdrawn, as provided in this Declaration.

1.1.20 “Supplemental Declaration” shall mean a declaration or covenants recorded by Declarant, with respect to any Future Parcel, or portion thereof, which annexes such parcel to the terms of this Declaration. A Supplemental Declaration may establish additional covenants, conditions and restrictions applicable to such portion of real property, may contain exceptions, deletions or modifications from the covenants, conditions, restrictions and easements contained herein applicable to such portion of real property. Any recorded document which establishes or creates a declaration or covenant shall be deemed to be a Supplemental Declaration for the purposes of this Declaration, whether or not it is labeled or identified as such.

1.1.21 “Utility Easements” shall mean the reciprocal, nonexclusive easements for the purpose of providing utility easements granted pursuant to this Declaration or

which may be created and identified as such in a Supplemental Declaration or other recorded document executed by Declarant and the then Owner of a Lot.

Section 1.2 Other Terms in Covenants. Other terms in this Declaration may be defined in specific provisions contained herein and shall have the meaning assigned by such definition.

ARTICLE 2. DESIGN AND/OR ARCHITECTURAL REVIEW

Section 2.1 Appointment of Members to ACC. The members of the Architectural Control Committee shall be appointed by the Governing Board. There shall initially be three (3) members of the ACC. Members of the ACC may be, but need not be, directors of the Governing Board.

Section 2.2 Term. Each member of the ACC shall serve at the pleasure of the Governing Board. In the event of the death, incapacity, or resignation of any member of the ACC, the Governing Board shall appoint a successor.

Section 2.3 Design Review Requirements.

2.3.1 No Improvements shall be constructed, erected, placed, altered, planted, applied or installed upon any Lot unless said Improvements are in full compliance with the provisions of the Project Documents and unless at least one (1) set of complete plans and specifications therefor (said plans and specifications to show exterior design, height, materials, color, and location of the Improvements, plotted horizontally and vertically, location and size of driveways, location, size, and type of landscaping, fencing, walls, windbreaks and grading plan, as well as such other materials and information as may be required by the ACC), shall have been first submitted to and approved in writing by the ACC.

2.3.2 The ACC shall exercise its reasonable judgment to the end that all Improvements conform to and harmonize with the existing surroundings, residences, landscaping and structures. In its review of such plans, specifications and other materials and information, the ACC may require as a condition to its consideration of an approval request that the applicant(s) pay or reimburse the ACC for the expenses incurred by the ACC in the review process.

2.3.3 In addition to the foregoing review and approvals, the construction, erection, addition, deletion, change or installation of any Improvements shall also require the applicant to obtain the approval of all governmental entities with jurisdiction thereover, and issuance of all required permits, licenses and approvals by all such entities. Without limiting the generality of the preceding sentence, issuance of building permit(s) by the applicable governmental entity, if required, shall be a precondition to

commencement of any construction of, alteration of, addition to or change in any Improvement.

2.3.4 The Governing Board of the Metropolitan District may at any time, from time to time, appoint a representative to act on its behalf. If the Governing Board does so, then the actions of such representative shall be the actions of the Governing Board, subject to the right of appeal as provided below. However, if such a representative is appointed by the Governing Board, then the Governing Board shall have full power over such representative, including without limitation the power to at any time withdraw from such representative any of such representative's authority to act on behalf of the Governing Board and the power to at any time remove or replace such representative.

2.3.5 In addition to the foregoing Sections, the ACC shall likewise have the power to delegate the responsibility for reviewing any application submitted to the ACC to a professional architect, landscape architect, engineer, or other professional Person who is qualified to review the issues raised in the application. The ACC shall also have the power to require that the applicant pay the fees reasonably incurred by the ACC in retaining such professional to review the application submitted.

Section 2.4 Guidelines. The Governing Board of the Metropolitan District is authorized to promulgate design and/or architectural standards, rules, regulations and/or guidelines (collectively the "Guidelines"). Any such Guidelines may be included in rules and regulations promulgated by the Metropolitan District as set forth in Section 6.1 of this Declaration ("Rules and Regulations"). Without limiting the generality of the foregoing, such Guidelines may contain provisions to clarify the designs and materials that may be considered in design approval, may state requirements for submissions, may state procedural requirements, or may specify acceptable Improvement(s) that may be installed without the prior approval of the ACC. By way of example, and not by way of limitation, such provisions may state that a certain type of screen door will be acceptable and will not require approval, or may state that only one or more types of fences are acceptable and no other types will be approved. All Improvements proposed to be constructed, and any Guidelines that are adopted, shall be done and used in accordance with this Declaration.

Section 2.5 Procedures. The ACC shall approve or disapprove all requests for approval within forty-five (45) days after the complete submission of all plans, specifications, and other materials and information which the ACC may require in conjunction therewith. A stamped or printed notation, initialed by a member of the ACC, affixed to any of the plans and specifications, shall be deemed a sufficient approval. However, the ACC shall not be required to maintain records of plans, specifications or other documents or information that have been submitted to it for approval. Approval by the ACC shall be conclusive evidence of compliance with this Article 2, provided that the Improvements are constructed in compliance with the plans and specifications as approved. Failure to approve within forty-five (45) days shall be deemed disapproval.

Section 2.6 Voting and Appeals. A majority vote of the ACC is required to approve a request for architectural approval or any other matter to be acted on by the ACC, unless the ACC has appointed a representative to act for it, in which case the decision of such representative shall control. In the event a representative acting on behalf of the ACC decides a request for architectural approval which is adverse to the applicant, then the applicant shall have the right to an appeal of such decision to the full ACC, upon a written request therefor submitted to the ACC within ten (10) days after such decision by the ACC's representative. In the event the ACC decides a request for architectural approval which is adverse to the applicant, then the applicant shall have the right to an appeal of such decision to the full Governing Board, upon a written request therefor submitted to the Governing Board within ten (10) days after such decision by the ACC. Notwithstanding anything to the contrary in this Declaration, the Governing Board may intercede of its own volition in matters of architectural approval by the ACC, and the Governing Board may reverse, alter, amend, adjust, change, or otherwise modify any decisions of the ACC at any time, so long as any one or more Owners are not unduly prejudiced thereby.

Section 2.7 Prosecution of Work After Approval. After approval of any proposed Improvement, the proposed Improvement shall be accomplished as promptly and diligently as possible and in complete conformity with all conditions and requirements of the approval. Failure to complete the proposed Improvement within one (1) year after the date of approval of the application or to complete the Improvement in complete conformance with the conditions and requirements of the approval, shall constitute noncompliance with the requirement that approval for Improvements be obtained from the ACC; provided, however, the ACC, in its discretion, may grant extensions of time for completion of any proposed Improvements.

Section 2.8 Notice of Completion. Upon the completion of any Improvement, the applicant for approval of the same shall give a written "Notice of Completion" to the ACC. Until the date of receipt of such Notice of Completion, the ACC shall not be deemed to have notice of completion of any Improvement on which approval has been sought and granted as provided in this Article.

Section 2.9 Inspection of Work. The ACC or its duly authorized representative shall have the right to inspect any Improvement prior to or after completion in order to determine whether the proposed Improvement is being completed or has been completed in compliance with the approval granted pursuant to this Article; provided, however, that the right of inspection shall terminate sixty (60) days after the ACC shall have received a Notice of Completion from the applicant.

Section 2.10 Notice of Noncompliance. If, as a result of inspections or otherwise, the ACC finds that any Improvement has been done without obtaining the approval of the ACC, or was not done in substantial compliance with the approval that was granted, or was not completed within one

(1) year after the date of approval, subject to any extensions of time granted pursuant to Section 2.7 hereof, the ACC shall notify the applicant in writing of the noncompliance; which notice of noncompliance shall be given, in any event, within sixty (60) days after the ACC receives a Notice of Completion from the applicant. The notice of noncompliance shall specify the particulars of the noncompliance.

Section 2.11 Correction of Noncompliance. If the ACC determines that a noncompliance exists, the Person responsible for such noncompliance shall remedy or remove the same (and return the subject real estate and/or Improvements or structure to its original condition) within a period of not more than forty-five (45) days from the date of receipt of the notice of noncompliance. If such Person does not comply with the ruling within such period, the ACC may, at its option, record a notice of noncompliance against the Lot on which the noncompliance exists, may remove the non-complying Improvement or may otherwise remedy the noncompliance, and the Person responsible for such noncompliance shall reimburse the ACC, upon demand, for all costs and expenses incurred with respect thereto.

Section 2.12 Cooperation and Delegation. The Governing Board shall have the right and authority at any time, from time to time, to enter into agreements and otherwise cooperate with, and/or delegate to, any other architectural review committees, or one or more other boards or committees, in order to increase consistency or coordination, reduce costs, or as may otherwise be deemed appropriate or beneficial by the Governing Board in its discretion. The costs and expenses for all such matters, if any, shall be shared or apportioned between such other boards or committees and the Metropolitan District, as the Governing Board may determine in its discretion from time to time. Additionally, the Governing Board shall have the right and authority at any time, from time to time, to enter into agreements and otherwise cooperate with, and/or delegate to, other architectural review committees, or one or more other boards or committees, to collect fees, charges, or other amounts which may be due to such entity and to permit any such entity to collect fees, charges, or other amounts which may be due to the Metropolitan District; in any such instance, the Governing Board shall provide for remittance to such entity of any amounts collected by the Governing Board or to the Metropolitan District of any amounts collected by such entity.

Section 2.13 Access Easement. Each Lot is subject to an easement in favor of the ACC and the Metropolitan District, including their agents, representatives, employees and contractors thereof: for performing any of the actions contemplated in this Declaration, including without limitation Sections 2.9 and 2.11 hereof; and/or for and incidental to investigation and/or enforcement of any term or provision of any of the Project Documents. If damage is inflicted, or a strong likelihood exists that it will be inflicted, on any of the Property, including without limitation any Lot, the Owner responsible for the damage or expense to avoid damage, or the Metropolitan District if it is responsible, is liable for the cost of prompt repair and remediation. Further, the rights and easements

granted in this Section may be exercised only during reasonable hours after reasonable notice to the Owner(s) or occupant(s) of any affected Lot; except that no such notice shall be required in connection with any exterior, non- intrusive matter; and except that in emergency situations entry upon a Lot may be made at any time provided that the Owner(s) or occupant(s) of each affected Lot shall be notified of emergency entry as early as is reasonably possible. The interior of any residence located on a Lot shall not be subject to the easements provided for in this Section.

Section 2.14 No Liability. The Metropolitan District, the Governing Board, the ACC, and the members thereof, as well as any representative of the Metropolitan District, the Governing Board and the ACC appointed to act on its behalf, shall not be liable in equity or damages to any Person submitting requests for approval or to any Person by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove, in regard to any matter within its jurisdiction hereunder. In reviewing any matter, the Metropolitan District, the Governing Board, and the ACC shall not be responsible for the safety, whether structural or otherwise, of the Improvements submitted for review, nor the conformance with applicable building codes or other governmental laws or regulations, nor compliance with any other standards or regulations, and any approval of an Improvement by the Metropolitan District, the Governing Board, or the ACC shall not be deemed an approval of any such matters. No Owner or other Person shall be a third-party beneficiary of any obligation imposed upon, rights accorded to, action taken by, or approval granted by the Metropolitan District, the Governing Board, or the ACC.

Section 2.15 Variance. The ACC, in its sole discretion, may grant reasonable variances or adjustments from any conditions and restrictions imposed by this Declaration, in order to overcome practical difficulties or prevent unnecessary hardships arising by reason of the application of any such conditions and restrictions. Such variances or adjustments shall be granted only in case the granting thereof shall not be materially detrimental or injurious to the other real estate and Improvements in the neighborhood and shall not militate against the general intent and purpose hereof.

Section 2.16 Waivers; No Precedent. The approval or consent of the ACC, or any representative thereof, to any application for approval shall not be deemed to constitute a waiver of any right to withhold or deny approval or consent by the ACC or any representative thereof, as to any application or other matters whatsoever as to which approval or consent may subsequently or additionally be required. Nor shall any such approval or consent be deemed to constitute a precedent as to any other matter.

ARTICLE 3. RESTRICTIONS

Section 3.1 Restrictions Imposed. The Property is subject to all requirements, covenants, restrictions and other matters stated on the recorded plats of the Property, or

any portion thereof, as well as all other applicable documents. In addition, the Declarant declares that all of the Property shall be held and shall henceforth be sold, conveyed, used, improved, occupied, owned, resided upon and hypothecated, subject to the following provisions, conditions, limitations, restrictions, agreements and covenants, as well as those contained elsewhere in this Declaration. In addition, no unlawful use shall be permitted or made of the Property or any portion thereof. All laws, ordinances and regulations of all governmental bodies having jurisdiction over the Property, or any portion thereof, shall be observed.

Section 3.2 Residential Use; Professional or Home Occupation. Lots shall be used for residential use only, including uses which are customarily incidental thereto, and shall not be used at any time for business, commercial or professional purposes. Notwithstanding the foregoing, however, Owners may conduct business activities within their homes provided that all of the following conditions are satisfied:

3.2.1 the business conducted is clearly secondary to the residential use of the home and is conducted entirely within the home;

3.2.2 the existence or operation of the business is not detectable from outside of the home by sight, sound, smell or otherwise, or by the existence of one or more signs indicating that a business is being operated;

3.2.3 the business does not result in an undue volume of traffic or parking within the Property;

3.2.4 the business conforms to all zoning requirements and is lawful in nature; and

3.2.5 the business conforms to this Declaration and the Guidelines, as well as any rules and regulations that may be imposed by the Metropolitan District, the Governing Board or the ACC from time to time.

Section 3.3 Household Pets. No animals, livestock, birds, poultry, reptiles or insects of any kind shall be raised, bred, kept or boarded in the Property; provided, however, that the Owners and residents of each Lot may keep a reasonable number of bona fide household pets (including dogs, cats or other domestic animals), so long as such pets are not kept for any commercial purpose and are not kept in such number or in such manner as to create a nuisance to any resident of the Property. All household pets shall be controlled by their Owner and shall not be allowed off the Owner's Lot except when properly leashed and accompanied by the Owner or his or her representative, who shall be responsible for collecting and properly disposing of any animal waste. The ACC shall have, and is hereby given, the right and authority to determine in its sole discretion that dogs, cats or other

household pets are being kept for commercial purposes or are being kept in such number or in such manner as to be unreasonable or to create a nuisance; or that an Owner or resident is in violation of the leash laws of the applicable jurisdiction or other applicable governmental laws, ordinances, or other provisions related to household pets; or that an Owner or resident is otherwise in violation of the provisions of this Section. In any such case, the ACC may take such action(s) as it may deem appropriate. An Owner's right to keep household pets shall be coupled with the responsibility to pay for any damage caused by such pets, as well as any costs incurred as a result of such pets.

Section 3.4 Temporary Structures; Unsightly Conditions. Except as hereinafter provided, no structure of a temporary character, including, but not limited to, a tent, shack, storage shed, or outbuilding, shall be placed or erected; provided, however, that during the actual construction, alteration, repair or remodeling of a structure or other Improvements, necessary temporary structures for storage of materials may be erected and maintained by the Person doing such work. The work of constructing, altering or remodeling any structure or other Improvements shall be prosecuted diligently from the commencement thereof until the completion thereof. Further, no unsightly conditions, structures, facilities, equipment or objects shall be so located on the Property as to be visible from a street or any other portion of the Property. Notwithstanding any provisions herein contained to the contrary, it shall be expressly permissible for Declarant, its agents, employees, and contractors, or a builder with the express written approval of the Declarant, to maintain during the period of construction and sale of any Lots, upon such portion of the Property as Declarant may choose, such facilities as in its sole opinion may be reasonably required, convenient or incidental to the construction and sale or rental of Lots, including, without limitation, a business office, storage area, construction yard, signs, model homes, sales office, construction office, parking areas, and lighting.

Section 3.5 Miscellaneous Requirements and Improvements.

3.5.1 Basketball Hoops. ACC approval is required. Basketball units must be maintained in a neat and clean appearance. Basketball backboards must be placed in such a manner that they do not block sidewalks and pedestrian walkways and are not placed in the streets.

3.5.2 Signs and Advertising. Except as may otherwise be set forth in the rules and regulations or Guidelines, or as otherwise required by law, no advertising or signs of any character shall be erected, placed, permitted, or maintained other than a name plate of the occupant and a street number, and except for a "For Sale," "Open House," "For Rent," or security sign(s) of not more than a total of six (6) square feet, and such other signs, for such length(s) of time, which have the prior written approval of the ACC or are expressly permitted by applicable law; provided, however, that any and all such advertising or signs shall be subject to any and all specifications and/or rules and

regulations adopted by the ACC or the Governing Board, from time to time. Notwithstanding the foregoing, any signs, advertising, or billboards may be used by the Declarant or by a builder (with the Declarant's prior written consent) without regard to any specifications or any rules and regulations of the ACC, and without the prior written approval of the ACC.

3.5.3 Dog Runs. No chain-linked (or other) dog runs, shall be so located as to be visible from a street or from the ground level of any Lot. Dog runs shall not be located within five (5) feet from any property line, and shall be screened by approved materials so that the dog therein is not visible from neighboring Lots. "Invisible" electric fences shall generally be permitted along property lines.

3.5.4 Wood Piles and Storage Areas. Except as may otherwise be set forth in the rules and regulations or Guidelines, or as otherwise required by law, no wood piles or storage areas shall be so located as to be visible from a street or from the ground level of any Lot.

3.5.5 HVAC. No types of refrigerating, cooling or heating apparatus shall be permitted on a roof. Further, no such apparatus shall be permitted elsewhere except when appropriately screened from view of adjacent property owners and approved by the ACC. Such apparatus should be installed in a way that any noise heard from adjacent properties is minimized. Without limiting the foregoing, conventional air conditioning units located on the ground of a Lot are permissible when approved by the ACC in accordance with the preceding sentence.

3.5.6 Antenna. Except as may otherwise be permitted by the ACC, no exterior radio antenna, television antenna, or other antenna, satellite dish, or audio or visual reception device of any type shall be placed, erected or maintained, except inside a residence or otherwise concealed from view; provided, however, that any such devices may be erected or installed by the Declarant (or by any builder with the express written consent of the Declarant) in connection with the sale or rental of Lots, or otherwise in connection with development of or construction on the Property; and provided further, however, that the requirements of this subsection shall be subject to the Telecommunications Act of 1996 and applicable regulations, as amended from time to time.

3.5.7 Fences. Other than fences which may be constructed, installed or located by the Declarant (or by a builder with the express written approval of the Declarant) in its development or construction of Improvements in the Property, no fences shall be permitted except with the prior written approval of the ACC. No screening or fencing shall exceed six (6) feet in height. Any fences constructed on a Lot shall be maintained by the Owners of such Lot.

3.5.8 Sheds and Accessory Structures. Sheds and accessory structures shall be permitted if: the shed or accessory structure is in accordance with the Guidelines and any rules and regulations or similar provisions; and the shed has the prior, written approval of the ACC.

Section 3.6 Vehicular Parking, Storage and Repairs.

3.6.1 Except as otherwise provided in subsection 3.6.2 hereof and/or in rules and regulations which may be adopted by the Governing Board or the ACC from time to time, vehicles shall be parked only in the garages and driveways, if any, serving the Lots, or in appropriate spaces or areas which may be designated by the Governing Board or the ACC from time to time, except that any vehicle may be otherwise parked as a temporary expedient for loading, delivery, or emergency. Vehicles shall be subject to such reasonable rules and regulations as the Governing Board or the ACC may adopt from time to time. The Declarant (or a builder with the express written approval of the Declarant) may designate certain parking areas for visitors or guests, and the Governing Board or the ACC may adopt reasonable rules and regulations, from time to time, governing traffic or parking areas.

3.6.2 Except as may otherwise be set forth in the rules and regulations or Guidelines, or as otherwise required by law, commercial vehicles, vehicles with commercial writing on their exteriors, vehicles primarily used or designed for commercial purposes, tractors, mobile homes, recreational vehicles, trailers (either with or without wheels), campers, camper trailers, boats and other watercraft, recreational vehicles, golf carts, boats and boat trailers, junk cars, cars that are not capable of moving on their own power, and buses shall be parked only in enclosed garages or specific areas, if any, which may be designated by the Governing Board from time to time. This restriction, however, shall not restrict trucks or commercial vehicles which are necessary for construction or for the maintenance of any portion of the Property or any Improvements located thereon, nor shall such restriction prohibit vehicles that may be otherwise parked as a temporary expedient for loading, delivery or emergency. Stored vehicles and vehicles which are inoperable or do not have current operating licenses shall not be permitted in the Property except within enclosed garages. For purposes of this Section, a vehicle shall be considered "stored" if, for example, it is up on blocks or covered with a tarpaulin and remains on blocks or so covered for seventy-two (72) consecutive hours without the prior approval of the Governing Board. This provision is intended to be broadly interpreted to cover almost any type of vehicle or structure not intended for every-day use. However, trailers, campers, motor homes, pickups, coaches, tents, or boats which can be and are stored completely within a garage, and are not used for living purposes will not be in violation of these restrictions. The fact that a vehicle of the above description may be licensed by the State of Colorado or any other state as a passenger vehicle shall in no way exempt it from this provision or the general intent of this provision.

3.6.3 In the event the Governing Board determines that a vehicle is parked or stored in violation of subsections 3.6.1 or 3.6.2 hereof, the Governing Board may elect to impose fines or use other available sanctions.

3.6.4 No activity such as, but not limited to, maintenance, repair, rebuilding, dismantling, repainting or servicing of any kind of vehicles, trailers or boats, may be performed or conducted in the Property unless it is done within completely enclosed structure(s) which screen the sight and sound of the activity from the street and from adjoining real estate and Improvements. The foregoing restriction shall not be deemed to prevent washing and polishing of any motor vehicle, boat, trailer, motor-driven cycle, or other vehicle on a Lot, together with those activities normally incidental and necessary to such washing and polishing.

Section 3.7 Nuisances. No nuisance shall be permitted which is visible within or otherwise affects any portion of the Property, nor any use, activity or practice which interferes with the peaceful enjoyment or possession and proper use of any Lot, or any portion thereof, by its residents. As used herein, the term "nuisance" shall include each violation of any of the Project Documents, but shall not include any activities of the Declarant, the Developer, or a builder with the express written consent of the Declarant. No noxious or offensive activity shall be carried on, nor shall anything be done or placed on any Lot which is or may become a nuisance or cause embarrassment, disturbance or annoyance to others.

Section 3.8 No Hazardous Activities; No Hazardous Materials or Chemicals. No activities shall be conducted which are or might be unsafe or hazardous to any Person, real estate or Improvements. Without limiting the generality of the foregoing, no firearms shall be discharged and no open fires shall be lighted or permitted except in a contained barbecue unit while attended and in use for cooking purposes or within a fireplace. Further, no hazardous materials or chemicals shall at any time be located, kept or stored except such as may be contained in household products normally kept at homes for use of the residents thereof and in such limited quantities so as to not constitute a hazard or danger to Person, real estate or Improvements.

Section 3.9 No Annoying Light, Sounds or Odors. No light shall be emitted which is unreasonably bright or causes unreasonable glare; no sound shall be emitted which is unreasonably loud or annoying; and no odor shall be permitted which is noxious or offensive to others. Further, no annoying light, sound or odor shall be permitted which may be seen, heard or smelled from any Lot. In addition to the foregoing, no electromagnetic, light or any physical emission which might interfere with aircraft, navigation, communications or navigational aids shall be permitted.

Section 3.10 Restrictions on Trash and Materials. No refuse, garbage, trash, lumber, grass, shrubs or tree clippings, plant waste, metal, bulk materials, scrap or debris of any

kind shall be kept, stored, or allowed to accumulate except inside the residence on any Lot nor shall such items be deposited on a street, unless placed in a suitable, tightly-covered container that is suitably located solely for the purpose of garbage pickup. Further, no trash or materials shall be permitted to accumulate in such a manner as to be visible from any Lot. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. No garbage or trash cans or receptacles shall be maintained in an exposed or unsightly manner.

Section 3.11 Lots to be Maintained. Subject to Section 3.4 hereof, each Lot shall at all times be kept in a clean and slightly condition by the Owner(s) thereof.

Section 3.12 Leases. The term "lease," as used herein, shall include any agreement for the leasing or rental of a Lot, or any portion thereof, and shall specifically include, without limitation, month-to-month rentals, short-term rental, long-term rentals, and subleases. Any Owner shall have the right to lease his Lot under the following conditions:

3.12.1 All leases shall be in writing; and

3.12.2 All leases shall provide that the terms of the lease and lessee's occupancy of the leased premises shall be for no less than thirty (30) days and be subject in all respects to the terms of this Declaration and the Project Documents; and that any failure by the lessee to comply with any of the terms of this Declaration and the Project Documents, in any respect, shall be a default under the lease.

3.12.3 No Lot may be used for short term lodging, home share arrangements, home exchange arrangements, vacation rental, or any similar temporary lodging or living quarter arrangement.

Section 3.13 Completion of Landscaping. Within the time frames as hereinafter provided, the Owner (other than the Declarant, or a builder with the express written approval of the Declarant) of each Lot shall install landscaping on all of the Lot, and shall thereafter maintain such landscaping in a neat and attractive condition, including periodic and horticulturally correct pruning, removal of weeds, and replacement of landscaping. The Owner of each Lot (other than Declarant, or a builder with the express written approval of the Declarant) shall install landscaping on such Lot within one hundred eighty (180) days after acquisition of such Lot by such Owner if said acquisition occurs between April 1 and October 1; if said acquisition does not occur between such dates, then such landscaping shall be installed by such Owner by the following October 1. Landscaping plans and other required documents shall be in accordance with the Guidelines, and shall be submitted to the ACC for review and approval prior to the installation of landscaping, except where installed by the Declarant, the Developer, or a builder with the express written approval of the Declarant.

3.13.1 Landscaping Plans. Prior to the commencement of landscaping, the ACC must approve landscaping plans. Landscaping plans must depict fences, decks, sod, seeded areas, retaining walls, rock, sprinkler system, sizes and species of nursery materials, and include a drainage and grading plan that coincides with the builder's, and shows any Improvements or alterations thereto.

Section 3.14 Maintenance of and Non-Interference with Grade and Drainage; Irrigation Recommendations Around Foundations and Slabs.

3.14.1 Each Owner shall maintain the grading upon his Lot (including grading around the building foundation) at the slope and pitch fixed by the final grading thereof, including landscaping and maintenance of the slopes, so as to maintain the established drainage per the established drainage improvement plans as approved by the City. Each Owner agrees that he will not in any way change or interfere with the established drainage pattern over his Lot. For purposes of this Section, "established drainage" is defined as the drainage which exists at the time final grading of a Lot by the Declarant, the Developer or a builder is completed.

3.14.2 The Owner of a Lot should not plant flower beds (especially annuals), vegetable gardens and other landscaping which requires regular watering, within five (5) feet of the foundation of the dwelling unit or any slab on the Lot. If evergreen shrubbery is located within five (5) feet of any foundation wall or slab, then the Owner of the Lot should water such shrubbery by "controlled hand-watering," and should avoid excessive watering. Further, piping and heads for sprinkler systems should not be installed within five (5) feet of foundation walls and slabs.

ARTICLE 4. RESERVATION OF DEVELOPMENT RIGHTS

Section 4.1 Declarant and Builder Exemption. Notwithstanding anything to the contrary contained in any of the Project Documents, the Declarant (and any builder designated in writing by Declarant) shall be exempt from the Project Documents, including without limitation the requirement to obtain design approval from the ACC and any covenants or restrictions. Notwithstanding the foregoing, neither the Declarant nor any builder shall be exempt from the requirement to obtain approval from all governmental entities with jurisdiction over the Property.

Section 4.2 General Provisions. Declarant, for a period of twenty (20) years from and after the recording of this Declaration in the real estate records of Adams County, Colorado, will have the following development rights (collectively, the "Development Rights") with respect to all of the Property:

4.2.1 Period of Declarant Control. Declarant shall have the right to maintain its position as Declarant hereunder and shall have the right to exercise any and all rights, duties and powers granted herein to the Metropolitan District at any time during the

Period of Declarant Control. Such right, duty or power shall be automatic, without any need for formal action being taken to evidence the same. Accordingly, all reference herein to the Metropolitan District shall, to the extent appropriate be construed to mean and refer equally to Declarant during the Period of Declarant Control. Notwithstanding anything set forth herein to the contrary, Declarant shall have all rights of an Owner hereunder.

4.2.2 Completion of Improvements. The right to complete or make Improvements as indicated on any Plat filed with respect to the Property.

4.2.3 Annexation. The right at any time, from time to time, to annex to the Property additional real estate and Improvements, including without limitation any real estate and Improvements which may previously have been withdrawn from the Property. By each such annexation, if any, the Declarant shall be deemed to have amended the term "Property" to include such annexed real estate and Improvements. Each such annexation, if any, shall be accomplished by recording of a Supplemental Declaration adding such Parcel, recorded in the real property records of the Clerk and Recorder of the County where the Property is located. Such Supplemental Declaration will expressly and unequivocally provide that the real estate and Improvements described therein shall be subject to this Declaration and all terms and provisions hereof. Any such annexation may include provisions which, as to the real estate and Improvements described therein, adds to or changes the rights, responsibilities and other requirements of this Declaration.

4.2.4 Create Lots. The right to create Lots on the Property.

4.2.5 Subdivide Lots. The right to subdivide Lots on any part of the Property, and the right to relocate boundaries between Lots.

4.2.6 Common Areas. The right to create additional common areas, to convert Lots into common areas, or to convert common areas into Lots, on all or any portion of the Property.

4.2.7 Withdrawal. The right to withdraw the Property, or any portion thereof, from this Declaration so long as the Declarant owns the portion of the Property to be withdrawn. By each such withdrawal, if any, the Declarant shall be deemed to have amended the term "Property" to exclude such withdrawn real estate and Improvements. The right to withdraw any portion(s) of the Property includes the right to withdraw one or more Lots, or other portion(s) of the Property, at different times and from time to time. Each withdrawal, if any, may be affected by the Declarant recording a withdrawal document in the office of the Clerk and Recorder of the county in which such withdrawn real estate and Improvements are located. A withdrawal as contained in this paragraph constitutes a divestiture, withdrawal, and de-annexation of the withdrawn real estate and Improvements from this Declaration so that, from and after the date of recording a

withdrawal document, the real estate and Improvements so withdrawn shall not be part of the Property. If real estate is withdrawn from the Property (“Withdrawn Property”):

(a) The owner(s) of the Withdrawn Property shall have whatever easements are necessary or desirable, if any, for access, utility service, repair, maintenance and emergencies over and across the common areas within the Property.

(b) The owner(s) within the Property shall have whatever easements are necessary or desirable, if any, for access, utility service, repair, maintenance and emergencies over and across the common areas within the Withdrawn Property.

(c) Declarant shall prepare and record in the real property records of county where the applicable real estate is located whatever documents are necessary to evidence such easements. Such recorded easement(s) shall specify that the owners of the Withdrawn Property and the owners of the Property shall be obligated to pay a proportionate share of the cost of the operation and maintenance of any easements utilized by either one of them on the other’s property upon such reasonable basis as the Declarant shall establish in the easement(s). Preparation and recordation by Declarant of an easement pursuant to this Section shall conclusively determine the existence, location and extent of the reciprocal easements that are necessary or desirable as contemplated by this Section.

4.2.8 Merger. The right to merge or consolidate the Property with another community of the same form of ownership.

4.2.9 Sales and Construction Activities. The right, for Declarant and any builder (but only with the express written consent of the Declarant), and their employees, agents, and contractors to perform, from time to time, and to maintain upon portions of the Lots, such activities and materials as Declarant or such builder deems necessary or incidental to the construction and sale of Lots and development and construction of Improvements. The foregoing includes, without limitation, locating, maintaining and relocating management offices, construction trailers, construction offices, signs, model units and sales offices, in such numbers, of such sizes, and at such locations as it determines in its discretion from time to time. Further, nothing contained in any of the Project Documents shall limit the rights of Declarant or a builder, with Declarant’s express written approval:

(a) to excavate, cut, fill or grade any real estate (with the consent of the Owner thereof) or to construct, alter, demolish or replace any Improvements;

(b) to use any Improvements on any real estate (with the consent of the Owner thereof) as a construction, management, model home, sales or leasing office in

connection with the development, construction or sale of any real estate and/or Improvements; and/or for any other activity.

(c) to seek or obtain any approvals under any of the Project Documents.

4.2.10 Master Association. The right to make the Property subject to a master association.

4.2.11 Dedications. The right to establish, from time to time, by dedication or otherwise, public streets, utility and other easements for purposes including, but not limited to, public access, access, paths, walkways, drainage, recreation areas, parking areas, ducts, shafts, flues, conduit installation areas, and to create other reservations, exceptions and exclusions.

4.2.12 Use Agreements. The right to enter into, establish, execute, amend, and otherwise deal with contracts and agreements for the use, lease, repair, maintenance or regulations of parking and/or recreational facilities and/or common area, which may or may not be a part of the Property.

4.2.13 Site Plan Modification/Expansion. Nothing in this Declaration shall preclude the Declarant from modifying any Site Plan, subject to the approval of the required governmental authorities, including but not limited to the purpose of expanding the square footage of Improvements permitted to be constructed on the Lots owned by Declarant, provided that such modification does not have a material and adverse impact on any Lot not owned by Declarant, and does not violate any then- existing zoning, land use, or other requirements of the City or County in which the Property is located or any other governmental entity having jurisdiction.

Section 4.3 Supplemental Provisions Regarding Development Rights. Without limiting the generality of the foregoing, certain of these Development Rights are explained more fully in this Article below. Further, Declarant reserves the right to amend this Declaration and any Plat in connection with the exercise of any Development Rights, and Declarant also reserves the additional rights retained for the benefit of Declarant in this Article and in other provisions of this Declaration.

Section 4.4 Utility Easements. Declarant hereby reserves for itself and its successors and assigns a general easement upon, across, over, in, and under the Property for ingress and egress and for installation, replacement, repair and maintenance of all utilities, including, but not limited to, water, sewer, gas, telephone, and electrical, cable and other communications systems. By virtue of this easement, it shall be expressly permissible and proper for the companies providing such services to install and maintain necessary equipment, wires, circuits, and conduits under and over the Property. No water, sewer,

gas, telephone, electrical, communications or other utility or service lines, systems or facilities may be installed or relocated on the surface of the Property, unless approved by the ACC. These items may be temporarily installed above ground during construction, if approved by the ACC, subject to the requirements, if any, of any governmental authority having jurisdiction over the Property.

Section 4.5 Drainage Easements. Declarant reserves for itself and its successors and assigns an easement to enter on any portion of the Property for the purpose of modifying the grade of any drainage channels on the Property to improve the drainage of water. Every Lot shall be burdened with easements for natural drainage of storm water runoff from the other portions of the Property; provided, no Person shall alter the natural drainage on any Lot so as to materially increase the drainage of water onto adjacent portions of the Property without the consent of the ACC and the Owner of the affected property.

Section 4.6 General Provision. Any Person using these general easements provided under Sections 4.5 and 4.6 above shall use its best efforts to install and maintain the easements for utilities or drainage without disturbing the uses of the Owners and the Declarant; shall prosecute its installation and maintenance activities as promptly as reasonably possible; and in the case of utility work, shall restore the surface to its original condition as soon as possible after completion of its work, and shall comply with all requirements of the Guidelines and the ACC. Should any Person furnishing a service covered by these general easements request a specific easement by separate recordable document, Declarant shall have, and is hereby given the right and authority, with the prior approval of the ACC, to grant such easement upon, across, over, or under any part or all of the Property without conflicting with the terms of this Declaration. This general easement shall in no way affect, void, extinguish, or modify any other recorded easement affecting the Property.

Section 4.7 Reservation for Construction. Declarant hereby reserves for itself and its successors and assigns a perpetual easement and right-of-way over, upon and across the Property for construction, utilities, drainage, and ingress and egress. The location of these easements and rights-of-way may be made certain by Declarant, with the prior approval of the ACC, by instruments recorded in the real estate records of Adams County, Colorado. Declarant further reserves the right to establish from time to time, by dedication or otherwise, utility and other easements, reservations, exceptions and exclusions necessary or convenient for the development, use and operation of any other property of Declarant, as long as such action is approved by the ACC and does not hamper the enjoyment of the Property by the Owners.

Section 4.8 Rights Incidental to the Construction Easement. Declarant expressly reserves the right to perform construction work and to store materials in secure areas, in Lots owned by it and in the common areas and the future right to control such work and repairs, and the right of access thereto, until its completion. All work may be performed

by Declarant without the consent or approval of any Owner or mortgagee. Declarant reserves an easement through the common areas as may be reasonably necessary for the purpose of discharging Declarant's obligations and exercising Declarant's Development Rights reserved in this Declaration. Such easement includes the right to construct underground utility lines, pipes, wires, ducts, conduits, and other facilities across the land not designated as reserved for future development in this Declaration or on any Plat for the purpose of furnishing utility and other services to the property so reserved for future development. Declarant's reserved construction easement includes the right to grant easements to public utility companies and to convey Improvements within those easements anywhere in the common areas.

Section 4.9 Maintenance Easement. A blanket easement is hereby reserved to Declarant for the benefit of the Declarant, Declarant's Affiliates, successors and specific assigns, and granted to the Metropolitan District and any member of the Governing Board or ACC, and their respective officers, agents, employees, contractors and assigns, upon, across, over, in and under the Property and a right to make such use of the Property as may be necessary or appropriate to make repairs or to perform the duties, obligations, functions and maintenance which the Metropolitan District, the Governing Board, or the ACC are obligated or permitted to perform pursuant to the Project Documents, including the right to enter upon any Lot for the purpose of performing maintenance and repair thereon, as required by this Declaration, together with the right of access, ingress and egress necessary for such installation, maintenance, operation, repair, replacement and upkeep.

Section 4.10 Operations and Maintenance Services and Costs. The Declarant hereby authorizes the Metropolitan District to provide certain operations and maintenance services to the Property in lieu of a homeowners' association (as may be authorized or limited by law and the Service Plan for the Metropolitan District), which services may include, operation and maintenance of any District open space, common areas, greenbelts, landscaped medians, monuments, entry features, fencing, landscape buffers and setbacks, ponds, lakes, trails, paths and walkways, non-potable irrigation water facilities and improvements, detention ponds and drainage facilities, covenant enforcement and architectural/design review services, and operations and maintenance services for public facilities and improvements not otherwise dedicated to the City in accordance with Approved Development Plans. Each Lot Owner may be charged an annual fee, for operation and maintenance services provided by the Metropolitan District as described herein. The annual fee shall be subject to adjustment at the discretion of and as determined by the Governing Board of the Metropolitan District based upon the Metropolitan District's annual budget, and amendments thereto from time to time. The Governing Board of the Metropolitan District shall not be liable for any omission or improper exercise by any Agent or independent contractor of any duty, power or function so delegated by written instrument executed by or on behalf of the Governing Board of the Metropolitan District.

Section 4.11 Recorded Easements. In addition to all easements and rights-of-way of record at or before the recording of this Declaration, the Property, and all portions thereof, shall be subject to the easements as shown on any recorded Plat of the Property, or any portion thereof, and the easements established in this Declaration

Section 4.12 Emergency Easement. A general easement is hereby granted to all police, sheriff, fire protection, ambulance and all other similar emergency agencies or Persons to enter upon all streets and upon the Property in the proper performance of their duties.

Section 4.13 Easements Deemed Appurtenant. Any and all conveyances made by Declarant to any Owner shall be conclusively deemed to incorporate these reservations of rights and easements, whether or not set forth in such grants. The easements and rights created herein for an Owner shall be deemed appurtenant to the Lot owned by such Owner. All conveyances and instruments affecting title to a Lot shall be deemed to grant and reserve the easements and rights of way as provided herein, as though set forth in said document in full, even though no specific reference to such easements or rights of way appear.

Section 4.14 Order of Exercise of Development Rights. The fact that Declarant may exercise one or more of Declarant's Development Rights on one portion of the Property will not operate to require Declarant to exercise a Development Right with respect to any other portion of the Property. The Declarant may exercise its Development Rights on all or any portion of the Property in whatever order of development the Declarant, in its sole discretion, determines.

Section 4.15 Rights Transferable. Any Development Rights created or reserved under this Article or elsewhere in this Declaration for the benefit of the Declarant may be transferred to any Person by an instrument describing the rights transferred and recorded in the real estate records of Weld County, Colorado. Such instrument shall be executed by the transferor Declarant and the transferee.

ARTICLE 5. RELEASE, WAIVER AND CERTAIN DISCLOSURES

Section 5.1 Minor Violations of Setback Restrictions. If upon the erection of any structure, it is disclosed by survey that a minor violation or infringement of setback lines has occurred, such violation or infringement shall be deemed waived by the Owners of each Lot immediately adjoining the structure which is in violation of the setback, and such waiver shall be binding upon all other Owners. However, nothing contained in this Section shall prevent the prosecution of a suit for any other violation of the Covenants or the Guidelines, if any. A "minor violation," for the purpose of this Section, is a violation of not more than one (1) foot beyond the required setback lines or lot lines. This provision shall apply only to the original structures and shall not be applicable to any

alterations or repairs to, or replacements of, any of such structures. The release and waiver set forth in Section 5.6 (Waiver) shall apply to this Section.

Section 5.2 Limitation on Liability. The Declarant, the Metropolitan District, the Governing Board, the ACC, and their directors, officers, shareholders, partners, members, agents and employees, shall not be liable to any Person for any action or for any failure to act arising out of this Declaration or the Project Documents, unless the action or failure to act was not in good faith and was done or withheld with malice. The release and waiver set forth in Section 5.6 (Waiver) shall apply to this Section.

Section 5.3 No Representations, Guaranties or Warranties. No representations, guaranties or warranties of any kind, express or implied, shall be deemed to have been given or made by the Declarant, the Metropolitan District, the Governing Board, the ACC or by any of their officers, directors, shareholders, members, partners, agents or employees, in connection with any portion of the Property, or any Improvement, its physical condition, structural integrity, freedom from defects, zoning, compliance with applicable laws, fitness for intended use, or view, or in connection with the subdivision, sale, operation, maintenance, cost of maintenance, taxes or regulation thereof, unless and except as specifically set forth in writing. The release and waiver set forth in Section 5.6 (Waiver) shall apply to this Section.

Section 5.4 Disclaimer Regarding Safety.

THE DECLARANT, THE DEVELOPER, THE METROPOLITAN DISTRICT, THE GOVERNING BOARD, THE ACC, AND THEIR OFFICERS, DIRECTORS, SHAREHOLDERS, MEMBERS, PARTNERS, AGENTS AND EMPLOYEES, HEREBY DISCLAIM ANY OBLIGATION REGARDING THE SECURITY OF ANY PERSONS OR PROPERTY WITHIN THE PROPERTY. BY ACCEPTING A DEED TO A LOT WITHIN THE PROPERTY, EACH OWNER ACKNOWLEDGES THAT THE DECLARANT, THE DEVELOPER, THE METROPOLITAN DISTRICT, THE GOVERNING BOARD, THE ACC, AND THEIR OFFICERS, DIRECTORS, SHAREHOLDERS, MEMBERS, PARTNERS, AGENTS AND EMPLOYEES, ARE OBLIGATED TO DO ONLY THOSE ACTS SPECIFICALLY ENUMERATED HEREIN OR IN THE COVENANTS AND GUIDELINES, IF ANY, AND ARE NOT OBLIGATED TO DO ANY OTHER ACTS WITH RESPECT TO THE SAFETY OR PROTECTION OF PERSONS OR PROPERTY WITHIN THE PROPERTY. THE RELEASE AND WAIVER SET FORTH IN SECTION 5.6 (WAIVER) SHALL APPLY TO THIS SECTION.

Section 5.5 Development Within and Surrounding the Property. Each Owner acknowledges that development within and surrounding the Property may continue for an indefinite period, and that plans for the density, type and location of Improvements, developments or land uses may change over time. Such development may entail changes to or alterations in the access to the Property, view of or from the Property or the Lots,

surrounding land uses, open space or facilities, traffic volumes or patterns, privacy or other off-site aspects or amenities. Development also may entail noise, odors, unsightliness, dust and other inconveniences or disruptions. By accepting a deed to a Lot, each Owner accepts title to such Lot subject to the foregoing, and waives and releases any claim against the Declarant, the Developer, the Metropolitan District, the Governing Board, the ACC, and their respective officers, directors, members, partners, agents and employees, heirs, personal representatives, successors and assigns, arising out of or associated with any of the foregoing. The release and waiver set forth in Section 5.6 (Waiver) shall apply to this Section.

Section 5.6 Waiver. By acceptance of a deed to a Lot, each Owner hereby releases, waives, and discharges the Declarant, the Developer, the Metropolitan District, the Governing Board, the ACC, and their respective officers, directors, members, partners, agents and employees, heirs, personal representatives, successors and assigns, from all losses, claims, liabilities, costs, expenses, and damages, arising directly or indirectly from any hazards, disclosures or risks set forth in this Declaration, and any Guidelines, rules and regulations, and other documents now or hereafter adopted by or for the Metropolitan District, including without limitation, those contained in Sections 5.1 through 5.5 of this Declaration.

Section 5.7 Colorado Governmental Immunity Act. Notwithstanding anything to the contrary, the parties hereto understand and agree that liability for claims for injuries to persons, real estate or Improvements arising out of the negligence of the Metropolitan District, its boards, officials, and employees, is controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, et seq. C.R.S. and §24-30-1501, et seq. C.R.S. Any provision of this Declaration, whether or not incorporated herein by reference, shall be controlled, limited and otherwise modified so as to limit any liability of the Metropolitan District to the above-cited laws.

ARTICLE 6. GENERAL PROVISIONS

Section 6.1 Rules and Regulations. Rules and regulations concerning and governing the Property may be adopted, enacted, modified, amended, repealed, and re-enacted from time to time by the Governing Board and the ACC. Any such rules and regulations may be included in Guidelines promulgated by the ACC as set forth in Section 2.4 herein. Such rules and regulations are incorporated into this Declaration. The rules and regulations may state procedural requirements, interpretations, clarifications and applications of this Declaration and law, including without limitation, blanket requirements, blanket interpretations, and blanket applications. The Governing Board and the ACC have the authority to adopt or vary one or more rules and regulations that are different for different types of Lots, if any. Any rules and regulations that are adopted shall be in accordance with, and shall not be inconsistent with or contrary to, this Declaration.

Section 6.2 Enforcement.

6.2.1 Enforcement of the covenants, conditions, restrictions, easements, reservations, and other provisions contained in this Declaration, as amended, may be by any proceeding at law or in equity against any Person(s) violating or attempting to violate any such provision. The Metropolitan District, the Governing Board, the ACC, and any aggrieved Owner shall have the right to institute, maintain and prosecute any such proceedings. No remedy shall be exclusive of other remedies that may be available. In any action instituted or maintained under this Declaration or any other Project Documents, the prevailing party shall recover its costs and attorney fees incurred in asserting or defending the claim, as well as any and all other sums. Failure by the Metropolitan District, the Governing Board, the ACC, or any Owner (including without limitation the Declarant) to enforce any covenant, restriction or other provision shall in no event be deemed a waiver of the right to do so thereafter.

6.2.2 Without limiting the generality of the foregoing, the Metropolitan District, the Governing Board, and/or the ACC shall have the right to send demand letters and notices, to levy and collect fines, to negotiate, settle and to take any and all other actions with respect to any violation(s) or alleged violation(s) of any of the Project Documents.

6.2.3 The decision of the Metropolitan District, the Governing Board or the ACC to pursue enforcement action in any particular case shall be left to their discretion, subject to the duty to exercise judgment and be reasonable, and further restricted in that the Metropolitan District, the Governing Board or the ACC shall not be arbitrary or capricious in taking enforcement action. A decision of the Metropolitan District, the Governing Board or the ACC not to pursue enforcement action shall not be construed as a waiver of their right to enforce such provisions at a later time under other circumstances or preclude them from enforcing any other covenant, restriction or rule. Without limiting the generality of the foregoing, the Metropolitan District, the Governing Board or the ACC may determine that, under the circumstances of a particular case:

(a) the Metropolitan District's, the Governing Board's or the ACC's legal position is not strong enough to justify taking any or further action;

(b) the covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with applicable law; or

(c) that it is not in the Metropolitan District's, the Governing Board's or the ACC's best interest, based upon hardship, expense, limited effect on other Owners or other reasonable criteria, to pursue enforcement action.

Section 6.3 Duration, Amendment and Supplement.

6.3.1 Each and every provision of this Declaration shall run with and bind the Property perpetually from the date of recording of this Declaration. Subject to subsection 6.3.2 of this Section, this Declaration may be amended and/or supplemented by the affirmative vote or agreement of the Owners of sixty-seven percent (67%) of the Lots. Notwithstanding the foregoing, the Metropolitan District shall not be required to comply with or enforce any such Owner adopted amendments or supplements to this Declaration until such time as the Metropolitan District receives a recorded copy of such amendment and/or supplement in compliance with Section 6.5 of this Declaration (Notices).

6.3.2 Notwithstanding anything to the contrary, until twenty (20) years after conveyance of all the Property to the first Owners thereof other than the Declarant, no amendment or supplement of this Declaration shall be effective without the prior written approval of the Declarant.

6.3.3 Notwithstanding anything to the contrary, this Declaration may be amended in whole or in part, at any time from time to time, by the Declarant without the consent or approval of any other Owner, the Metropolitan District, or any other Person, in order to comply with the requirements, standards, or guidelines of any recognized secondary mortgage markets, the department of housing and urban development, the federal housing administration, the veterans administration, the federal home loan mortgage corporation, the government national mortgage association, or the federal national mortgage association.

6.3.4 Notwithstanding anything to the contrary, this Declaration may be amended in whole or in part, at any time from time to time, by the Declarant without the consent or approval of any other Owner, the Metropolitan District, or any other Person, in order to correct any clerical, typographical or technical errors in this Declaration or to clarify any provision of this Declaration.

6.3.5 Notwithstanding anything to the contrary, this Declaration may be amended in whole or in part, at any time from time to time, by the Declarant without the consent or approval of any other Owner, the Metropolitan District, or any other Person, in order to comply with the requirements of any applicable law in the event any provision contained herein does not so comply.

6.3.6 Subsections 6.3.2, 6.3.3, 6.3.4 and 6.3.5 of this Section shall not be amended or deleted without the prior written approval of the Declarant.

Section 6.4 Severability. All provisions of this Declaration are severable. Invalidation of any provision of this Declaration by judgment, court order or otherwise, shall in no way affect or limit any other provisions which shall remain in full force and effect.

Section 6.5 Notices. Any notice permitted or required in this Declaration shall be deemed to have been given and received upon the earlier to occur of (a) personal delivery upon the Person to whom such notice is to be given; or (b) two (2) days after deposit in the United States mail, registered or certified mail, postage prepaid, return receipt requested, addressed to the Owner at the address for such Owner's Lot.

Section 6.6 Headings. The Article, Section and subsection headings in this Declaration are inserted for convenience of reference only, do not constitute a part of this Declaration, and in no way define, describe or limit the scope or intent of this Declaration or any of the provisions hereof.

Section 6.7 Gender. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular and the use of any gender shall be applicable to all genders.

Section 6.8 Runs with the Land; Binding Upon Successors. The benefits, burdens, and all other provisions contained in this Declaration shall be covenants running with and binding upon the Property and all Improvements which are now or hereafter become a part of the Property and any Future Parcel(s). The benefits, burdens, and all other provisions contained in this Declaration shall be binding upon, and inure to the benefit of the Metropolitan District, the Declarant, the Developer, and all Owners, and upon and to their respective heirs, personal representatives, successors and assigns.

ARTICLE 7. NEW OWNER FEE

Section 7.1 New Owner Fee. The District shall require the first Owner (other than the Declarant or a Builder) of any Lot who purchases that Lot from the Declarant or a Builder, to make a non-refundable contribution to the District in an amount equal to One Thousand and no/100 Dollars (\$1,000.00). Said contribution shall be collected and transferred to the District at the time of closing of the sale by Declarant or a Builder of each Lot and shall be for the use and benefit of the District, including, without limitation, to meet expenditures or to purchase equipment, property or services.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein has hereunto set its hand this 11TH day of SEPTEMBER, 2020.

DECLARANT:

MELODY HOMES, INC.
a Delaware corporation

By: 

SHELLY L. OSCHMAN
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20184018213
MY COMMISSION EXPIRES APR 22, 2022

T. Muller

Its: Asst VP

STATE OF COLORADO)
) ss.
COUNTY OF Douglas)

The foregoing instrument was acknowledged before me this 11th day of September, 2020 by R. Muller as Asst VP of MELODY HOMES, INC., a Delaware corporation.

Witness my hand and official seal.

My commission expires: 04/22/2022

[Signature]
Notary Public

CONSENT OF THE TIMBERLEAF METROPOLITAN DISTRICT

The undersigned, Timberleaf Metropolitan District, hereby consents to the aforesaid Declaration of Covenants, Conditions, Restrictions and Easements for Timberleaf Subdivision.

IN WITNESS WHEREOF, the undersigned has hereunto set its hand this 4th day of September, 2020.

**SHELLY L. OSCHMAN
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20184018213
MY COMMISSION EXPIRES APR 22, 2022**

TIMBERLEAF METROPOLITAN DISTRICT

By: [Signature]
Name: Jim Whatton
Title: President

STATE OF COLORADO)
) ss.
COUNTY OF Douglas)

The foregoing instrument was acknowledged before me this 11th day of September, 2020 by Jim Whatton as President of Timberleaf Metropolitan District.

Witness my hand and official seal.

My commission expires: 04/22/2022

[Signature]
Notary Public

EXHIBIT A
TO
DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND
EASEMENTS FOR TIMBERLEAF

Timberleaf Filing No. 1, located in the northeast one-quarter of Section 28, Township 1 South, Range 67 West of the 6th P.M., City of Thornton, County of Adams, State of Colorado.

EXHIBIT B

**POLICIES AND PROCEDURES GOVERNING THE ENFORCEMENT OF THE
DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND
EASEMENTS FOR TIMBERLEAF SUBDIVISION**

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE TIMBERLEAF
METROPOLITAN DISTRICT ADOPTING THE POLICIES AND PROCEDURES
GOVERNING THE ENFORCEMENT OF THE COVENANTS AND RESTRICTIONS
OF TIMBERLEAF SUBDIVISION**

WHEREAS, the Timberleaf Metropolitan District (the “**District**”) is a quasi-municipal corporation and political subdivision of the State of Colorado located in the City of Thornton (the “**City**”), Adams County, Colorado; and

WHEREAS, the District operates pursuant to its Service Plan approved by the City on August, 28, 2007, as the same may be amended and/or modified from time to time (the “**Service Plan**”); and

WHEREAS, pursuant to Section 32-1-1001(1)(m), C.R.S., the District has the power “to adopt, amend and enforce bylaws and rules and regulations not in conflict with the constitution and laws of this state for carrying on the business, objects, and affairs of the board and of the special district;” and

WHEREAS, pursuant to Section 32-1-1001(1)(j)(I), C.R.S., the District has the power “to fix and from time to time to increase or decrease fees, rates, tolls, penalties or charges for services, programs, or facilities furnished by the special district;” and

WHEREAS, Melody Homes, Inc., (the “**Developer**”) has caused to be recorded the Declaration of Covenants, Conditions, Restrictions and Easements for Timberleaf Subdivision, to be recorded in the real property records of Adams County, Colorado (insert information once recorded: recorded on September 15, 2020, at Reception No. 202000091800 of the Adams County, Colorado, real property records), as the same may be amended and/or modified from time to time (the “**Covenants**”) applicable to the real property within the District (the “**Property**”); and

WHEREAS, pursuant to Section 32-1-1004(8), C.R.S., the District may provide covenant enforcement within the District if the declaration, rules and regulations, or any similar document containing the covenants to be enforced for the area within the District name the District as the enforcement and design review entity; and

WHEREAS, the Covenants provide that it is the intention of the Developer to empower the District to provide covenant enforcement services to the Property; and

WHEREAS, pursuant to the Covenants, the District may promulgate, adopt, enact, modify, amend, and repeal rules and regulations concerning and governing the Property and the enforcement of the Covenants; and

WHEREAS, pursuant to the Covenants, the District has the right to send demand letters and notices, to levy and collect fines, to negotiate, to settle, and to take any other actions with respect to any violation(s) or alleged violation(s) of the Covenants; and

WHEREAS, the District desires to provide for the orderly and efficient enforcement of the Covenants by adopting rules and regulations.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE
TIMBERLEAF METROPOLITAN DISTRICT:

1. The Board of Directors of the District hereby adopt the Policies and Procedures Governing the Enforcement of the Covenants and Restrictions of Timberleaf Subdivision as described in Exhibit A, attached hereto and incorporated herein by this reference (“**Policies and Procedures**”).

2. The Board of Directors declares that the Policies and Procedures are effective as of the date of recordation of the Covenants.

3. Judicial invalidation of any of the provisions of this Resolution or of any paragraph, sentence, clause, phrase or word herein, or the application thereof in any given circumstances, shall not affect the validity of the remainder of this Resolution, unless such invalidation would act to destroy the intent or essence of this Resolution.

[SIGNATURE PAGE FOLLOWS]

APPROVED AND ADOPTED this 4th day of September, 2020.

**TIMBERLEAF METROPOLITAN
DISTRICT**

By: 

Chair

Attest:


Secretary or Assistant Secretary

EXHIBIT A

**POLICIES AND PROCEDURES GOVERNING THE ENFORCEMENT OF THE
DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND
EASEMENTS FOR TIMBERLEAF SUBDIVISION**

Preamble

The Board of Directors of the Timberleaf Metropolitan District (the “**District**”), has adopted the following Policies and Procedures Governing the Enforcement of the Covenants and Restrictions of Timberleaf Subdivision (“**Policies and Procedures**”) pursuant to Sections 32-1-1001(1)(j)(I), 32-1-1001(1)(m), and Section 32-1-1004(8), C.R.S. These Policies and Procedures provide for the orderly and efficient enforcement of the Declaration of Covenants, Conditions, Restrictions and Easements for Timberleaf Subdivision, to be recorded in the real property records of Adams County, Colorado (insert information once recorded: recorded on September 5, 2020, at Reception No. 2020000091800 of the Adams County, Colorado, real property records), as the same may be amended and/or modified from time to time (the “**Covenants**”).

Pursuant to the Covenants, it is the intention of Melody Homes, Inc. (the “**Developer**”) to empower the District to provide covenant enforcement services to the residents of the District.

The District, pursuant to the provisions of its Service Plan, which was approved by the City of Thornton, Colorado, on August, 28, 2007, as it has been and may be amended from time to time, and pursuant to the Covenants, may enforce the Covenants through any proceeding in law or in equity against any Person(s) violating or attempting to violate any provision therein. Possible remedies include all of those available at law or in equity. In addition, the District has the right to send demand letters and notices, to levy and collect fines, to negotiate, to settle, and to take any other actions, with respect to any violation(s) or alleged violation(s) of the Covenants.

Unless otherwise specified, all references to the “District” made herein shall refer to the Timberleaf Metropolitan District and its Board of Directors. The District has retained a management company (the “**District Manager**”) to assist it in managing its affairs, including the assessment and collection of penalties for violations of the Covenants under these Policies and Procedures.

ARTICLE 1. SCOPE OF POLICIES AND PROCEDURES

1.1 Scope. These Policies and Procedures shall apply to the enforcement of the Covenants, including the Rules and Regulations and Design Review Guidelines adopted pursuant thereto, as well as any reimbursable costs incurred by the District for enforcing the Covenants and for correction of noncompliance with the Covenants, including but not limited to, abatement of unsightly conditions, towing and storage of improperly parked vehicles, removal of trash, and removal of non-complying landscaping or improvements.

ARTICLE 2. VIOLATIONS OF THE COVENANTS

2.1 Violations. Any Person violating any provisions of the Covenants shall be liable to the District for any expense, loss, or damage occasioned by reason of such violation and shall also be liable to the District for the penalties set forth in Article 2.3 below.

2.2 Notice of Violation. A Notice of Violation shall be sent upon a determination, following investigation, by the District Manager that a violation is likely to exist. Such Notice of Violation shall set forth the specifics of the alleged violation and the time period within which the alleged violation must be corrected, pursuant to the following classification guidelines:

a. Class I Violation: a violation that, in the sole discretion of the District, can be corrected immediately and/or does not require submission to, and approval by, the District of any plans and specifications. Class I Violations include, but are not limited to, parking violations, trash violations and other violations of the Covenants concerning annoying lights, sounds or odors. Class I Violations can in most cases be corrected within seven (7) days of notification. If the violation is not corrected within seven (7) days of notification, the District may take any appropriate action necessary to remedy the violation, including but not limited to, abatement of unsightly conditions, towing and storage of improperly parked vehicles, and removal of trash, etc.

b. Class II Violation: a violation that, in the sole discretion of the District, cannot be corrected immediately and/or require plans and specifications to be submitted to, and approval by, the District prior to any corrective action. Class II Violations include, but are not limited to, violations of the Covenants related to landscaping and construction of, or modification to, improvements. Class II Violations can in most cases be corrected within thirty (30) days of notification. If the violation is not corrected within thirty (30) days of notification, the District may take any appropriate action necessary to remedy the violation, including but not limited to, removing the non-complying landscaping or improvement.

2.3 Penalties. Penalties for violations of the Covenants shall be assessed as follows. Any penalties that have not been paid by the applicable due date shall be considered delinquent (the "**Delinquent Account**").

- a. First Offense – Notice of Violation, no penalty
- b. Second Offense – Fee of up to \$100.00
- c. Third Offense – Up to \$250.00
- d. Continuing Violation – Up to \$500 each day violation continues (each day constitutes a separate violation).

ARTICLE 3. INTEREST

3.1 Interest. Interest charges shall accrue and shall be charged on all amounts not paid by the applicable due date, including delinquent penalties and any amounts expended by the District to cure a violation of the Covenants or amounts expended by the District to repair damages caused as a result of a violation of the Covenants. Interest charges shall accrue and shall be charged at the maximum statutory rate of eighteen percent (18%) per annum.

ARTICLE 4.
LIEN FILING POLICIES AND PROCEDURES

4.1 Perpetual Lien. Pursuant to Section 32-1-1001(1)(j)(I), C.R.S., all Fees and Charges, until paid, shall constitute a perpetual lien on and against the Property to be served by the District. Except for the for the lien against the Property created by the imposition of property taxes by the District and other taxing jurisdictions pursuant to Section 32-1-1202, C.R.S., all liens for unpaid Fees and Charges shall to the fullest extent permitted by law, have priority over all other liens of record affecting the Property and shall run with the Property and remain in effect until paid in full. All liens contemplated herein may be foreclosed as authorized by law at such time as the District in its sole discretion may determine. Notwithstanding the foregoing, the lien policies and procedures set forth herein shall be implemented in order to ensure an orderly and fair execution of the lien filing and collections process.

4.2 District Manager's Procedures. The District Manager shall be responsible for collecting Fees and Charges imposed by the District against the Property. In the event payment of Fees and Charges is delinquent, the District Manager shall perform the procedures listed below. Any Fees and Charges which have not been paid by the applicable due date are considered delinquent:

a. Fifteen (15) Business days Past Due. A delinquent payment "Reminder Letter" shall be sent to the address of the last known owner of the Property according to the District Manager's records. In the event the above mailing is returned as undeliverable, the District Manager shall send a second copy of the Reminder Letter to: (i) the Property; and (ii) the address of the last known owner of the Property as found in the real property records of the Adams County Assessor's office (collectively the "**Property Address**"). Said Reminder Letter shall request prompt payment of amounts due.

b. On the Fifteenth (15) Business day of the Month Following the Scheduled Due Date for Payment. A "Warning Letter" shall be sent to the Property Address requesting prompt payment and warning of further legal action should the Property owner fail to pay the total amount owing. Along with the Warning Letter, a summary of these Policies and Procedures, and a copy of the most recent account ledger reflecting the total amount due and owing to the District according to the records of the District Manager shall also be sent.

c. First (1) Business day of the Month Following the Postmark Date of the Warning Letter. Once the total amount owing on the Property, inclusive of Interest and Costs of Collections as defined below, has exceeded One Hundred Twenty Dollars (\$120.00) and the District Manager has performed its duties outlined in these Policies and Procedures, the District Manager shall refer the Delinquent Account to the District's General Counsel (the "**General Counsel**"). However, if the amount owing on the Delinquent Account is less than One Hundred Twenty Dollars (\$120.00), the District Manager shall continue to monitor the Delinquent Account until the amount owing on such account is One Hundred Twenty Dollars (\$120.00) or greater, at which point the Delinquent Account shall be referred to General Counsel. At the time of such referral, the District Manager shall provide General Counsel with copies of all notices and letters sent and a copy of the most recent ledger for the Delinquent Account.

4.3 General Counsel Procedures. Upon referral of a Delinquent Account from the District Manager, General Counsel shall perform the following:

a. Upon Referral of the Delinquent Account from the District Manager. A "Demand Letter" shall be sent to the Property Address, notifying the Property owner that his/her Property has been referred to General Counsel for further collections enforcement, including the filing of a lien against the Property. Along with the Demand Letter, a copy of the most recent account ledger reflecting the total amount due and owing the District according to the records of the District Manager shall also be sent.

b. No Earlier Than Thirty (30) Business days from the Date of the Demand Letter. A Notice of Intent to File Lien Statement, along with a copy of the lien to be filed, shall be sent to the Property Address of the Delinquent Account notifying the Property owner that a lien will be filed within thirty (30) days of the Notice of Intent to File Lien Statement postmark date.

c. No Earlier Than Ten (10) Business days from the Postmark Date of the Notice of Intent to File Lien Statement. A lien for the total amount owing as of the date of the lien shall be recorded against the Property with the County Clerk and Recorder's Office; all Fees and Charges, Interest, and Costs of Collection (as defined below) will continue to accrue on the Delinquent Account and will run with the Property until the total amount due and owing the District is paid in full.

ARTICLE 5. COSTS OF COLLECTIONS

"Costs of Collections" are generated by the District Manager and General Counsel's collection efforts. They consist of the following fixed rates and hourly fees and costs:

5.1 Action Fees. The following fixed rate fees shall be charged to a Delinquent Account once the corresponding action has been taken by either the District Manager or General Counsel:

a. Reminder Letter Fee. No charge for the Reminder Letter. This action is performed by the District Manager.

b. Warning Letter Fee. Fifteen Dollars (\$15.00) per Warning Letter sent. This action is performed by the District Manager.

c. Demand Letter Fee. Fifty Dollars (\$50.00) per Demand Letter sent. This action is performed by General Counsel.

d. Notice of Intent to File Lien Fee. One Hundred Fifty Dollars (\$150.00) per Notice of Intent to File Lien Statement sent. This action is performed by General Counsel.

e. Lien Recording Fee. One Hundred Fifty Dollars (\$150.00) per each lien recorded on the Property. This action is performed by General Counsel.

f. Lien Release Fee. One Hundred Fifty Dollars (\$150.00) per each lien recorded on the Property. This action is performed by General Counsel.

5.2 Attorney Hourly Fees and Costs. After a lien has been filed, all hourly fees and costs generated by General Counsel to collect unpaid Fees and Charges shall also be assessed to the Delinquent Account.

5.3 Recovery of Costs of Collections. In accordance with Section 29-1-1102(8), C.R.S., nothing in these Policies and Procedures shall be construed to prohibit the District from recovering all the Costs of Collections whether or not outlined above.

ARTICLE 6. WAIVER OF INTEREST AND COSTS OF COLLECTIONS

6.1 Waiver of Interest. The District Manager and General Counsel shall each have authority and discretion to waive or reduce portions of the Delinquent Account attributable to Interest. Such action shall be permitted if either the District Manager or General Counsel, in its discretion, determines that such waiver or reduction will facilitate the payment of the penalties due. Notwithstanding, if the cumulative amount due and owing the District on the Delinquent Account exceeds One Thousand Dollars (\$1,000.00), neither the District Manager nor General Counsel shall have any authority to waive or reduce any portion of the Interest. In such case, the person or entity owing in excess of One Thousand Dollars (\$1,000.00) shall first submit a request for a waiver or reduction, in writing, to the District, and the District shall make the determination in its sole discretion.

6.2 Waiver of Delinquent Penalties and Costs of Collections. Neither the District Manager nor General Counsel shall have the authority to waive any portion of delinquent penalties or Costs of Collections. Should the Property owner desire a waiver of such costs, she/he shall submit a written request to the District, and the District shall make the determination in its sole discretion.

6.3 No Waiver of Future Interest. Any waiver or reduction of Interest or other costs granted pursuant to Sections 6.1 and 6.2 hereof shall not be construed as a waiver or reduction of future Interest, or as the promise to waive or reduce future Interest. Nor shall any such waiver or reduction be deemed to bind, limit, or direct the future decision making power of the District, District Manager, or General Counsel, whether related to the Property in question or other properties within the District.

ARTICLE 7. OPPORTUNITY TO BE HEARD

7.1 Opportunity to be Heard. Individuals who receive any notice or demand pursuant to these Policies and Procedures may request a hearing in accordance with the procedures set forth herein, or in the alternative, may elect to follow the Alternative Dispute Resolution procedures set forth in the Covenants.

7.2 Hearing Process. The hearing and appeal procedures established by this Article shall apply to all complaints concerning the interpretation, application, or enforcement of the Covenants, as each now exists or may hereafter be amended.

a. Complaint. Complaints concerning the interpretation, application, or enforcement of the Covenants must be presented in writing to the District Manager, or such representative as he or she may designate. Upon receipt of a complaint, the District Manager or designated representative, after a full and complete review of the allegations contained in the complaint, shall take such action and/or make such determination as may be warranted and shall notify the complainant of the action or determination by mail within fifteen (15) business days after receipt of the complaint. Decisions of the District Manager which impact the District financially will not be binding upon the District unless approved by the Board of Directors of the District at a special or regular meeting of the District.

b. Hearing. In the event the decision of the District Manager or his representative is unsatisfactory to the complainant, the complainant may submit to the District a written request for formal hearing before a hearing officer ("**Hearing Officer**"), which may be a member of the Board of Directors or such other Person as may be appointed by the Board of Directors. Such request for a formal hearing must be submitted within twenty (20) business days from the date written notice of the decision of the District Manager or designated representative was mailed.

Upon receipt of the request, if it be timely and if any and all other prerequisites prescribed by these Policies and Procedures have been met, the Hearing Officer shall conduct a hearing at the District's convenience but in any event not later than fifteen (15) business days after the submission of the request for formal hearing. The formal hearing shall be conducted in accordance with and subject to all pertinent provisions of these Policies and Procedures. Decisions of the Hearing Officer which impact the District financially will not be binding upon the District unless approved by the Board of Directors at a special or regular meeting of the District.

c. Rules. At the hearing, the Hearing Officer shall preside and the hearing shall be recorded. The complainant and representatives of the District shall be permitted to appear in person, and the complainant may be represented by any Person (including legal counsel) of his or her choice.

The complainant or his or her representative and the District representatives shall have the right to present evidence and arguments; the right to confront and cross-examine any Person; and the right to oppose any testimony or statement that may be relied upon in support of or in opposition to the matter complained of. The Hearing Officer may receive and consider any evidence which has probative value commonly accepted by reasonable and prudent Persons in the conduct of their affairs.

The Hearing Officer shall determine whether clear and convincing grounds exist to alter, amend, defer, or cancel the interpretation, application, and/or enforcement of the Policies and Procedures that are the subject of the complaint. The Hearing Officer's decision shall be based upon evidence presented at the hearing. The burden of showing that the required grounds exist to alter, amend, defer, or cancel the action shall be upon the complainant.

d. Findings. Subsequent to the formal hearing, the Hearing Officer shall make written findings and an order disposing of the matter and shall mail a copy thereto to the complainant not later than fifteen (15) business days after the date of the formal hearing.

e. Appeals. In the event the complainant disagrees with the findings and order of the Hearing Officer, the complainant may, within fifteen (15) business days from the date such findings and order were mailed, file with the District a written request for an appeal thereof to the Board of Directors. The request for an appeal shall set forth with specificity the facts or exhibits presented at the formal hearing upon which the complainant relied and shall contain a brief statement of the complainant's reasons for the appeal. The District shall compile a written record of the appeal consisting of (1) a transcript of the recorded proceedings at the formal hearing, (2) all exhibits or other physical evidence offered and reviewed at the formal hearing, and (3) a copy of the written findings and order. The District shall consider the complainant's written request and the written record on appeal at its next regularly scheduled meeting held not earlier than ten (10) days after the filing of the complainant's request for appeal. The District's consideration of the appeal shall be limited exclusively to a review of the record on appeal and the complainant's written request for appeal. No further evidence shall be presented by any Person or party to the appeal, and there shall be no right to a hearing de novo before the Board of Directors.

f. District Board of Directors Findings. The Board of Directors shall make written findings and an order concerning the disposition of the appeal presented to it and shall cause notice of the decision to be mailed to the complainant within thirty (30) days after the Board of Directors' meeting at which the appeal was considered. The Board of Directors will not reverse the decision of the Hearing Officer unless it appears that such decision was contrary to the manifest weight of the evidence made available at the formal hearing.

g. Notices. A complainant shall be given notice of any hearing before the District Manager, the hearing officer, or before the Board of Directors, by certified mail at last seven (7) business days prior to the date of the hearing, unless the complainant requests or agrees to a hearing in less time. When a complainant is represented by an attorney, notice of any action, finding, determination, decision, or order affecting the complainant shall also be served upon the attorney.

h. Costs. All costs of the formal hearing and appeal processes shall be paid by the complainant, including, but not limited to, certified mailing, transcription of the recorded proceedings, and General Counsel fees.

ARTICLE 8. PAYMENT PLANS

8.1 Payment Plans. Neither the District Manager nor General Counsel shall have the authority to enter into or establish payment plans for the repayment of a Delinquent Account. Should the Property owner desire to enter into a payment plan with the District, such owner shall first submit a written request to the District and the District shall make the determination in its sole discretion.

ARTICLE 9. RATIFICATION OF PAST ACTIONS

9.1 Ratification of Past Actions. All waivers and payment plans heretofore undertaken by the District Manager or General Counsel that would otherwise have been

authorized by these Policies and Procedures are hereby affirmed, ratified, and made effective as of the date said actions occurred.

ARTICLE 10.
ADDITIONAL ACTIONS

10.1 Additional Actions. The District directs and authorizes its officers, staff and consultants to take such additional actions and execute such additional documents as are necessary to give full effect to the intention of these Policies and Procedures.

ARTICLE 11.
COLORADO AND FEDERAL FAIR DEBT COLLECTIONS ACTS

11.1 Acts Not Applicable. Protective covenant enforcement as described herein is not a consumer transaction and, therefore, is not subject to the Colorado Fair Debt Collection Practices Act or the Federal Fair Debt Collections Practices Act.

ARTICLE 12.
SEVERABILITY

12.1 Severability. If any term or provision of these Policies and Procedures is found to be invalid or unenforceable by a court of competent jurisdiction or by operation of any applicable law, such invalid or unenforceable term or provision shall not affect the validity of these Policies and Procedures as a whole but shall be severed herefrom, leaving the remaining terms or provisions in full force and effect.

ARTICLE 13.
SAVINGS PROVISION

13.1 Savings Provision. The failure to comply with the procedures set forth herein shall not affect the status of the Fees and Charges as a perpetual lien subject to foreclosure in accordance with law. Failure by the District Manager, General Counsel, or other authorized representative to take any action in accordance with the requirements as specifically provided herein shall not invalidate subsequent efforts to collect the Fees and Charges.

[SIGNATURE PAGE TO RESOLUTION NO. 2019-05-__]


APPROVED AND ADOPTED this 4th day of September, 2020.

TIMBERLEAF METROPOLITAN
DISTRICT

By: 

Chair

Attest:


Secretary or Assistant Secretary

RESOLUTION
OF THE
BOARD OF DIRECTORS
OF THE
TIMBERLEAF METROPOLITAN DISTRICT
IMPOSING OPERATIONS FEES UPON PROPERTY WITHIN THE DISTRICT

WHEREAS, the Timberleaf Metropolitan District, City of Thornton, Adams County, Colorado (the "**District**") is a quasi-municipal corporation and political subdivision of the State of Colorado and was duly organized pursuant to §§ 32-1-101, *et seq.*, C.R.S., as amended;

WHEREAS, the Board of Directors of the District (the "**Board**") is the governing body of the District;

WHEREAS, Melody Homes, Inc., a Delaware corporation, shall cause to be recorded the Declaration of Covenants, Conditions, Restrictions and Easements for Timberleaf Subdivision in the real property records of Adams County, Colorado (insert information once recorded: recorded on September 15, 2020, at Reception No. 2020000091800 of the Adams County, Colorado, real property records), as the same may be amended and/or modified from time to time (the "**Covenants**") applicable to the Property, as defined below;

WHEREAS, the Covenants provide that the District shall enforce each of the provisions provided therein;

WHEREAS, the District provides and maintains numerous services and facilities on behalf of the residents and taxpayers of the District, including, but not limited to, enforcement of the Covenants (the "**Operations Services**");

WHEREAS, pursuant to § 32-1-1001(1)(j), C.R.S., as amended, the Board is empowered to fix and, from time to time, to increase or decrease fees, rates, tolls, penalties or charges for services, programs or facilities furnished by the District;

WHEREAS, pursuant to § 32-1-1001(1)(j)(I), C.R.S., as amended, until paid, all such fees, rates, tolls, penalties or charges shall constitute a perpetual lien on and against the property served and any such lien may be foreclosed in the same manner as provided by the laws of Colorado for the foreclosure of mechanics' liens;

WHEREAS, the Operations Services to be provided by the District will benefit the District, and the property owners, residents and taxpayers of the District;

WHEREAS, the establishment of a monthly operations fee upon each lot within the District intended to contain a residential structure to provide a source of funding to pay for the costs associated with Operations Services of the District (the "**Operations Fee**"), which costs are generally attributable to the property subject to such Operations Fee, is necessary to provide for the common good and for the prosperity and general welfare of the District and its residents and taxpayers, and for the orderly and uniform administration of the District's affairs;

WHEREAS, the District has determined that the Operations Fee, as set forth herein, is reasonably related to the overall costs of providing the Operations Services, and that imposition thereof is necessary and appropriate.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE TIMBERLEAF METROPOLITAN DISTRICT AS FOLLOWS:

1. OPERATIONS FEE. The District, through its Board, hereby imposes a monthly Operations Fee upon each Developed Lot, as defined herein, in the amount of Ninety-Five Dollars (\$95.00) per month. For purposes of this Resolution, a “**Developed Lot**” means a lot located within the boundaries of the District designated and approved by plat for a residential structure, which a residential structure has been constructed and a certificate of occupancy has been issued as of 1st day of the month in which the Operations Fee is due and imposed.

The Operations Fee is effective as of the Effective Date, defined below, with the initial monthly fee to be collected in a quarterly payment due on January 30, 2021; thereafter, each monthly fee to be collected in quarterly payments due on the 30th day of January, April, July and October. For example, Operations Fees imposed for April, May and June of each year shall be due on or before April 30th; July, August and September of each year shall be due on or before July 30th; and so on. The District may impose such penalties for non-compliance herewith as may be permitted by applicable law. Without limiting the foregoing, any Operations Fee that is not paid in full within five (5) days after the scheduled due date shall be assessed a late charge of Fifteen Dollars (\$15.00), pursuant to § 29-1-1102(3), C.R.S. Interest will also accrue on any outstanding Operations Fees, exclusive of assessed late fees and interest, at a rate of eighteen percent (18%) per annum, pursuant to § 29-1-1102(7), C.R.S. Nothing herein shall prevent any party from prepaying the Operations Fee at any time with the consent of the District or pursuant to separate contract.

2. MODIFICATION AND FUTURE EVENTS. The Operations Fee is based upon projected budgetary requirements of the District using various assumptions. Actual costs may differ from the projections and the District may, in its sole discretion, determine to modify, increase or decrease the Operations Fee imposed hereunder based upon actual circumstances.

3. NOTIFICATION AND COLLECTION. The Operations Fee is applicable to the property located within the District as the same is shown in Exhibit A (the “**Property**”), attached hereto and set forth herein. The appropriate officers, agents and/or employees of the District are hereby authorized to establish a system for collection of amounts due under this Resolution and collection of amounts due hereunder.

4. STATUS OF LIEN AND FORECLOSURE. As of the date of this Resolution and pursuant to § 32-1-1001(1)(j)(I), C.R.S., as may be amended, the Operations Fee established herein shall, until paid, constitute a perpetual lien against the Property so charged. In the event of non-payment of the Operations Fee, the District may foreclose on the lien related to such Operations Fee in the same manner as provided by the laws of the State of Colorado for the foreclosure of mechanics’ liens, which lien amount may include interest and any costs of

collection of the Operations Fee, including, without limitation, reasonable attorney's fees and costs.

5. SEVERABILITY. If any portion of this Resolution is declared by any court of competent jurisdiction to be void or unenforceable, such decision shall not affect the validity of any remaining portion of this Resolution, which shall remain in full force and effect. In addition, in lieu of such void or unenforceable provision, there shall automatically be added as part of this Resolution a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.

6. INQUIRIES REGARDING FEES. Any inquiries regarding the imposition and the collection of the Operations Fee may be directed to the District's Manager at: Centennial Consulting Group, 2619 Canton Court, Suite A, Fort Collins, Colorado, 80525, 970-484-0101, Timberleaf@cegcolorado.com.

7. RECORDING. This Resolution, or any amendments thereto, shall be recorded in the official records of the Clerk and Recorder in and for Adams County, State of Colorado; however, any failure to record this Resolution, or any amendments thereto, in the official records of the Clerk and Recorder in and for the County of Adams, State of Colorado, shall in no way affect the validity of this Resolution or the District's ability to enforce the terms and provisions contained herein.

8. EFFECTIVE DATE. The terms and conditions of this Resolution shall be effective as of January 1, 2021 (the "**Effective Date**").

ADOPTED AND APPROVED this 4th day of September, 2020.

TIMBERLEAF METROPOLITAN DISTRICT


Name: James W. [unclear]
Title: President

ATTEST:



Name: RON MULLENBACH
Title: ASST VP

EXHIBIT A

The Property

Timberleaf Filing No. 1, located in the northeast one-quarter of Section 28, Township 1 South, Range 67 West of the 6th P.M., City of Thornton, County of Adams, State of Colorado.

EXHIBIT C

**RESOLUTION ACCEPTING ENGINEER'S REPORT AND CERTIFICATION
#01 AND REQUESTING REQUISITION OF FUNDS**

TIMBERLEAF METROPOLITAN DISTRICT

A RESOLUTION ACCEPTING ENGINEER'S REPORT AND CERTIFICATION #01 AND REQUESTING REQUISITION OF FUNDS

A. The Timberleaf Metropolitan District (the “**District**”) is a quasi-municipal corporation and political subdivision of the State of Colorado duly organized and existing pursuant to Article 1 of Title 32, C.R.S.

B. The District is located within the City of Thornton, Colorado (the “**City**”) and operates in accordance with the City approved Service Plan for Timberleaf Metropolitan District (the “**Service Plan**”).

C. The District was organized to provide certain public improvements, and appurtenances thereto within and without its boundaries including the planning, designing, acquisition, construction, installation, relocation, redevelopment and financing of streets, water, sanitary and storm sewer, safety, park and recreation, transportation, and landscaping improvements and facilities, in accordance with its Service Plan.

D. At a TABOR election of the qualified electors of the District duly called and held on November 6, 2007 in accordance with law and pursuant to due notice, a majority of those qualified to vote and voting at such election voted in favor of the District incurring indebtedness to fund the public improvements as permitted in the Service Plan.

E. Melody Homes, Inc. (“**Melody**”) is a property owner and developer of real property located within the District.

F. On May 14, 2020, the District and Melody entered into the Infrastructure Acquisition and Funding Agreement (the “**Agreement**”) for the purpose of providing payment to Melody for its costs incurred in the planning, design, engineering, acquisition, construction, installation and completion of certain public improvements as further described in the Agreement (“**Public Improvements**”).

G. The Agreement authorizes payment of costs for planning, designing, engineering, acquiring, constructing, installing and completing Public Improvements.

H. Melody has caused the planning, designing, engineering, acquiring, constructing, installing and completing of certain Public Improvements.

I. In accordance with Section 3.b. of the Agreement, before any payment may be made, Melody shall provide a schedule of such costs and the District shall have such costs reviewed or audited by an independent public accountant, professional engineer,

appraiser or valuation consultant, selected and by the District, substantiating the amount of such costs.

J. The District engaged engaged Ranger Engineering, LLC ("**Ranger**"), an independent professional engineer, to verify and certify costs incurred by Melody in planning, designing, engineering, acquiring, constructing, installing and completing Public Improvements.

K. Ranger prepared the February 9, 2021 Engineer's Report and Certification #01 which certifies that Melody incurred \$4,903,233.88 (the "**Verified Costs**") in eligible costs related to Public Improvements and is attached hereto as Exhibit A and incorporated herein by this reference (the "**Report**").

L. The Board of Directors of the District (the "**Board**") desires to accept the Report on behalf of the District and provide payment to Melody.

M. The District issued its General Obligation Limited Tax Bonds, Series 2020A (the "**Senior Bonds**"), with the net proceeds being deposited into the "**Senior Project Fund**" held under the Indenture of Trust (the "**Senior Indenture**") with UMB Bank, n.a. as trustee (the "**Trustee**").

N. In addition, the District issued its Subordinate General Obligation Limited Tax Bonds, Series 2020B (the "**Subordinate Bonds**"), with the net proceeds being deposited into the "**Subordinate Project Fund**" (the Senior Project Fund and Subordinate Project Fund may be referred to herein collectively as the "**Project Funds**"), held under the Subordinate Indenture of Trust (the "**Subordinate Indenture**," the Senior Indenture and Subordinate Indenture may be referred to herein collectively as the "**Indentures**"), with the Trustee.

O. The Board has determined that the best interests of the District, its residents, users and/or property owners would be served by the District's accepting and funding of certain Public Improvements, and in that regard should approve requisition of funds from the Project Funds for such purpose.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Timberleaf Metropolitan District as follows:

1. **Recitals**. The Recitals to this Resolution are adopted as the findings of the Board and incorporated herein by reference.

2. **Description of Public Improvements.** Melody has represented that it has caused the construction of certain Public Improvements, at its sole cost and expense, consisting of:

Water, Sanitation, Storm Water, Street and Parks and Recreation
Public Improvements installed for the benefit of
the Timberleaf Subdivision,
City of Thornton, Adams County, Colorado
as described on the Report.

in the amount of \$4,903,233.88 as more particularly described on the Report.

3. **Acceptance of the Report.** The Board hereby accepts the Report on behalf of the District and, in reliance upon the Report, finds that Melody incurred the Verified Costs, totaling \$4,903,233.88 in actual costs in planning, designing, engineering, acquiring, constructing, installing and completing Public Improvements.

4. **Financing of Improvements.** The District will pay for these actual costs from (i) the Project Funds, (ii) proceeds from any future issuance of general obligation or private placement bonds, when issued, or (iii) from any sources legally available to the District which are not otherwise pledged to satisfy debt or which are not otherwise necessary for the operations and maintenance of the District.

5. **Approval of Requisition(s) from Project Funds.** Requisition(s) of funds available in the Project Funds, in the amount of \$4,903,233.88, for payment of the Verified Costs is hereby approved. The District requests that the "**District Representative**" (as defined in the Indentures) prepare and sign the requisition(s) and submit to the Trustee for payment to Melody.

6. **Severability.** If any part, section, subsection, sentence, clause or phrase of this Resolution is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining provisions.

7. **Ratification and Related Authorization.** All acts, order, resolutions, ordinances or parts thereof, of the District, in conflict with this Resolution are hereby repealed, except that this repealer shall not be construed so as to revive any act, order, resolution or ordinance, or part thereof, heretofore repealed. The District's directors, officers and agents are hereby authorized and directed to execute and deliver such other subsequent filings, documents and certificates, and to take such other action as may be necessary or appropriate in order to effectuate the purposes of this Resolution.

8. **Effective Date.** This Resolution shall take effect and be enforced immediately upon its approval by the Board.

ADOPTED this 18th day of February, 2021.

TIMBERLEAF METROPOLITAN
DISTRICT

By 
Kim Herman (Jul 14, 2021 12:10 MDT)

President

ATTEST:

Danahy Howe

Secretary or Assistant Secretary

EXHIBIT A

Engineer's Report and Cost Certification



ENGINEER'S REPORT and CERTIFICATION #01
TIMBERLEAF METROPOLITAN DISTRICT

PREPARED FOR:

Timberleaf Metropolitan District
c/o Collins Cockrel & Cole P.C.
390 Union Blvd, Suite 400
Denver, CO 80228

PREPARED BY:

Ranger Engineering, LLC
2590 Cody Ct.
Lakewood, CO 80215

DATE PREPARED:

February 9, 2021

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ENGINEER’S REPORT

Introduction

Ranger Engineering, LLC (“Ranger”), was retained by Timberleaf Metropolitan District (“District”) as an Independent Consulting Engineer to certify costs associated with constructed Public Improvements for the District.

The District is located within the City of Thornton, Colorado (“City”). The service area of the District boundaries includes approximately 146.3 acres. This certification considers construction costs within and without the District boundaries.

The attached Engineer’s Certification states that the Independent Consulting Engineer finds and determines that the constructed value of the Public Improvements considered in this Engineer’s Report, from approximately October 2019 to July 2020, are valued at **\$4,903,233.88**. Costs certified to date are identified below in Table I.

Table I – Cost Certified to Date				
Cert No.	Date	Costs Paid This Period	District Eligible Costs this Period	Total Eligible Costs to Date
01	10/16/2020	\$7,173,697.62	\$4,903,233.88	\$4,903,233.88
Totals		\$7,173,697.62	\$4,903,233.88	

Table II summarizes the cost breakdown of the construction and soft and indirect costs. Tables III and IV provide category breakdowns of construction and soft & indirect costs reviewed for this certification. Table V provides a detailed breakdown of the eligible hard costs per the Service Plan categories. Table VI provides a detailed breakdown of the eligible soft & indirect costs per the Service Plan categories.

Public Improvements as Authorized by the Service Plan

Ranger reviewed the Service Plan for Timberleaf Metropolitan District (“Service Plan”) approved August 28, 2007, prepared by McGeedy Sisneros, P.C. (now McGeedy Becher P.C.).

Section I.B. of the Service Plan states:

There are currently no other governmental entities, including the City, located in the immediate vicinity of the District that consider it desirable, feasible or practical to undertake the planning, design, acquisition, construction, installation, relocation, redevelopment, and financing of the Public Improvements needed for the Project. Formation of the District is therefore necessary in order for the Public Improvements required for the Project to be provided in the most economic manner possible.

Section V.A. of the Service Plan further states:

The District shall have the power and authority to provide the Public Improvements and related operation and maintenance services within and without the boundaries of the District as such power and authority is described in the Special District Act, and other applicable statutes, common law and the Constitution, subject to the limitations set forth herein.

Section V.A.14 of the Service Plan states that the District shall not issue Debt in excess of Fifteen Million Dollars (\$15,000,000).

The District boundary is described in Section III of the Service Plan as well as in Exhibits A, B, and C. Ranger has determined that the constructed improvements and associated construction costs (“Public Improvements”) under consideration in this report and certification for reimbursement by the District are indeed authorized by the Service Plan.

Scope of Certification

Based on Ranger’s experience with metropolitan districts and review of the Service Plan, the Public Improvements were broken into the cost categories of Streets, Sanitation, Water, Parks and Recreation, and Storm improvements. Only costs related to District Capital improvements have been considered for reimbursement. Various soft costs were identified as Operations costs, but these costs are not eligible for reimbursement under the scope of this report. For a detailed breakdown of district eligible costs, refer to Tables III - VI.

General Methodology

Ranger employed a phased approach toward the preparation of this Engineer’s Report and Certification of Public Costs (“Engineer’s Certification”).

Phase I – Authorization to Proceed and Document Gathering

Ranger engaged with the District in May 2020 to proceed with the Engineer’s Certification. Ranger received initial documentation in September 2020 and coordinated with D-R Horton (“Developer”) to verify supporting documentation to certify the costs related to construction improvements.

Phase II – Site Visit

Ranger performed a site visit to document completion of the Public Improvements. The intent of the site visit was to verify general completion of pay application quantities in accordance with the approved construction drawings and does not guarantee quality or acceptance of Public Improvements. It is assumed that the City or another third party provided QA/QC and acceptance of the improvements. CTL Thompson Inc. were contracted to perform materials testing onsite. JR Engineering is the Engineer of Record.

Phase III – Review of Documentation

Documentation was requested at the beginning of work. Requested documentation include the following:

- Executed Contracts and Bid Tabs
- Approved Construction Drawings
- Acceptable Proof of Payment (Cancelled checks and bank statements or lien waivers)
- Invoices and/or Pay Applications
- Approved changes or amendments to contract documents
- Copies of any agreements that will impact District funding

See Appendix A for a complete listing of documents reviewed, as deemed necessary, by Ranger.

Phase IV – Verification of Construction Quantities

Construction quantity take-offs were performed from available plats, construction drawings and site plans. These quantity take-offs were used in conjunction with Phase V below to certify reasonableness of construction costs.

Phase V – Verification of Construction Unit Costs and Indirect Costs

Construction Unit Costs and Indirect Costs were reviewed for market reasonableness. Ranger took into consideration the type of construction and the timeframe during which the construction occurred. Ranger reviewed the Contractors agreements and schedule of values as well as detailed construction pay applications. Ranger reviewed the contractor unit costs against current industry costs to verify reasonableness of costs.

Phase VI – Verification of Payment for Public Costs

The Developer provided payments for hard and soft & indirect costs to cover the construction of Public Improvements. The Developer provided copies of cancelled checks or copies of their Paymode registry which is a direct deposit payment. Additionally, a notarized affidavit of payment requesting confirmation of total project payment amounts was requested. This affidavit references a draft copy of this report, but the costs reviewed and referenced are accurate for the totals. Only costs with an approved form of proof of payment have been certified in this report.

Phase VII – Determination of Costs Eligible for Reimbursement

Ranger concluded the Engineer's Certification by determining which improvements were eligible for District reimbursement and what percent of the costs for those improvements were reimbursable. An overall district eligible percentage for the current phase of work was identified as 49.6%. The percentage was identified by comparing public (Tracts and Right of Way) versus private (Lots) areas per the approved construction plans and plats.

Public Improvement for this certification includes Water, Sanitation, Storm Water, Streets and Parks and Recreation improvements. The tables in this report identify eligible Capital costs directly paid by the Developer comprising of both construction and soft & indirect costs.

ENGINEER'S CERTIFICATION

Collin D. Koranda, P.E. / Ranger Engineering, LLC (the "Independent Consulting Engineer"), states as follows:

1. The Independent Consulting Engineer is an engineer duly qualified and licensed in the State of Colorado with experience in the design, construction and certification of Public Improvements **of similar type and function as those described in the above Engineer's Report.**

2. The Independent Consulting Engineer has performed a site visit and reviewed applicable construction and legal documents related to the Public Improvements under consideration to state the **conclusions set forth in this Engineer's Certification.**

3. The Independent Consulting Engineer finds and determines that the constructed value of Capital costs related to the Public Improvements considered in the attached Engineer's Report dated February 9, 2021 including soft & indirect, District funded, and hard costs, are valued at **\$4,903,233.88.** In the opinion of the Independent Consulting Engineer, the above stated estimated value for the Public Improvements is reasonable and consistent with costs of similar improvements constructed for similar purposes during the same timeframe in similar locales.

Sincerely,

Ranger Engineering, LLC

A handwritten signature in blue ink, appearing to read "Collin D. Koranda".

Collin D. Koranda, P. E.

APPENDIX A

Documents Reviewed

Construction Documents

- Timberleaf Filing No. 1 Construction Plans. Prepared by JR Engineering. Released 10/25/19.
- Timberleaf Filing No. 1 Amendment No. 1. Prepared by JR Engineering. Recorded 11/21/19.

Contractor Purchase Orders

- Scott Contracting – Timberleaf F1. Pay Applications 1 – 6. Dated 1/15/2020 – 6/30/2020.
- Split Rail Fence – P1-P4 Fence & Columns. Invoice 23497. Dated 5/29/2020.

District Documents

- Service Plan for Timberleaf Metropolitan District. Approved August 28, 2007, prepared by McGeady Sisneros, P.C. (now McGeady Becher P.C.).



Timberleaf Metropolitan District
Summary of Costs
Table II

Type of Costs	Total Costs Paid	Costs This Period	Total District Eligible Costs	Eligible Costs This Period	Percent District This
Direct Construction Costs	\$ 5,416,128.62	\$ 5,416,128.62	\$ 4,285,655.47	\$ 4,285,655.47	79.1%
Soft & Indirect Costs	\$ 1,757,569.00	\$ 1,757,569.00	\$ 617,578.41	\$ 617,578.41	35.1%
Totals	\$ 7,173,697.62	\$ 7,173,697.62	\$ 4,903,233.88	\$ 4,903,233.88	68.4%



**Timberleaf Metropolitan District
Construction Costs Summary By Category
Table III**

Category	Total Eligible Cost by Category		Category Percentage
Water	\$	819,253.81	19.1%
Sanitation	\$	1,302,585.33	30.4%
Storm Water	\$	1,779,778.94	41.5%
Streets	\$	289,585.14	6.8%
Parks and Recreation	\$	94,452.24	2.2%
	\$	4,285,655.47	100.0%

Category	Eligible Cost by Category This Period		Category Percentage
Water	\$	819,253.81	19.1%
Sanitation	\$	1,302,585.33	30.4%
Storm Water	\$	1,779,778.94	41.5%
Streets	\$	289,585.14	6.8%
Parks and Recreation	\$	94,452.24	2.2%
	\$	4,285,655.47	100.0%



**Timberleaf Metropolitan District
Soft & Indirect Costs Summary By Category
Table IV**

Category	Total Eligible Soft Costs	Category Percentage
Water	\$ 32,289.29	5.2%
Sanitation	\$ -	0.0%
Storm Water	\$ -	0.0%
Streets	\$ 585,289.12	94.8%
Parks and Recreation	\$ -	0.0%
	\$ 617,578.41	100.0%

Category	Eligible Soft Costs This Period	Category Percentage
Water	\$ 32,289.29	5.2%
Sanitation	\$ -	0.0%
Storm Water	\$ -	0.0%
Streets	\$ 585,289.12	94.8%
Parks and Recreation	\$ -	0.0%
	\$ 617,578.41	100.0%



Work Description	Quantity	Unit	Cost	Value	Retainage										
					1 1/15/2020	2 2/29/2020	3 3/31/2020	4 4/30/2020	5 5/31/2020	6 6/30/2020					
PL-2															
Mobilization	1	EA	\$ 20,800.00	\$ 20,800.00											
Clear & Grub	46.4	AC	\$ 654.00	\$ 30,345.60	100%	\$ 2,080.00	18,720.00	Multiple	50%	\$ 9,288.17	18,720.00	\$ 18,720.00			
Strip Topsoil - Strip/Piece	18743	CY	\$ 5.80	\$ 108,709.40	100%	\$ 3,034.56	27,311.04	Multiple	50%	\$ 13,550.72	27,311.04	\$ 27,311.04			
Sediment Basin Cut only	14175	CY	\$ 2.80	\$ 39,690.00	100%	\$ 10,870.34	97,838.46	Multiple	50%	\$ 48,543.81	97,838.46	\$ 97,838.46			
Cut/Fill	73607	CY	\$ 2.00	\$ 147,214.00	100%	\$ 3,989.00	35,721.00	Storm Water	100%	\$ 35,721.00	35,721.00	\$ 35,721.00			
Import from Site w/ Scraper	64978	CY	\$ 2.40	\$ 154,507.20	100%	\$ 14,721.40	132,482.60	Multiple	50%	\$ 65,737.51	132,482.60	\$ 132,482.60			
Sub-Ex	448786	CY	\$ 2.00	\$ 899,572.00	100%	\$ 15,450.72	884,946.48	Streets	50%	\$ 68,994.67	884,946.48	\$ 884,946.48			
Sub Ex (US to pile)	448786	CY	\$ 2.00	\$ 899,572.00	100%	\$ 9,123.17	821,085.75	Multiple	50%	\$ 407,892.29	821,085.75	\$ 821,085.75			
SC - Maintenance Trail	46	SY	\$ 12.80	\$ 593.28	0%	\$ 8,955.72	80,961.48	Multiple	50%	\$ 40,170.08	80,961.48	\$ 80,961.48			
SC - Maintenance Trail	46	SY	\$ 12.80	\$ 593.28	0%	\$ 96.79	871.11	Paved and Recreation	100%	\$ 871.11	871.11	\$ 871.11			
Mobilization (except earthwork)	5651.31		\$ 3.45	\$ 19,397.95	5%	\$ 967.90	871.11	Multiple	50%	\$ 432.21	871.11	\$ 871.11			

EXHIBIT C
2022 BUDGET DOCUMENTS

TIMBERLEAF METROPOLITAN DISTRICT
2022
BUDGET MESSAGE

Attached please find a copy of the adopted 2022 budget for the Timberleaf Metropolitan District.

The Timberleaf Metropolitan District has adopted budgets for three funds, a General Fund to provide for operating and maintenance expenditures; a Capital Projects Fund to provide for the regional improvements that are to be built for the benefit of the District; and a Debt Service Fund to account for the repayment of principal and interest on the outstanding general obligation bonds.

The district's accountants have utilized the modified accrual basis of accounting and the budget has been adopted after proper postings, publications and public hearing.

The primary sources of revenue for the district in 2022 will be property taxes, developer advances and assessments. The district intends to impose a mill levy of 65.664 mills on all property within the district for 2022, of which 10.000 mills will be dedicated to the General Fund and the balance of 55.664 mills will be allocated to the Debt Service Fund.

Timberleaf Metropolitan District
Adopted Budget
General Fund
For the Year ended December 31, 2022

	Actual <u>2020</u>	Adopted Budget <u>2021</u>	Actual <u>7/31/2021</u>	Estimate <u>2021</u>	Adopted Budget <u>2022</u>
Beginning fund balance	\$ -	\$ -	\$ 2,238	\$ 2,238	\$ -
Revenues:					
Property taxes	1,872	693	693	693	28,256
Specific ownership taxes	135	35	13	25	1,413
Operations fee	-	17,100	-	-	20,520
Working capital	-	-	-	-	36,000
Developer advances	<u>46,631</u>	<u>37,872</u>	<u>19,821</u>	<u>36,928</u>	<u>30,000</u>
Total revenues	<u>48,638</u>	<u>55,700</u>	<u>20,527</u>	<u>37,646</u>	<u>116,189</u>
Total funds available	<u>48,638</u>	<u>55,700</u>	<u>22,765</u>	<u>39,884</u>	<u>116,189</u>
Expenditures:					
Accounting / audit	6,229	2,500	4,018	11,000	12,000
Election	-	-	-	-	2,500
Engineering	-	-	5,674	5,674	-
Insurance/ SDA Dues	2,460	2,500	2,679	2,700	2,800
Legal	37,083	20,000	3,203	12,500	15,000
Landscape contract/maintenance	-	-	-	-	20,000
Landscape repairs/maintenance	-	-	-	-	1,000
Water	-	-	-	-	30,000
Snow removal	-	-	-	-	3,500
Fence maintenance	-	-	-	-	1,000
Amenity maintenance	-	-	-	-	500
Social events	-	-	-	-	1,500
Management	628	7,200	4,606	8,000	14,000
Miscellaneous	-	2,000	10	-	2,000
Treasurer's Fees	-	10	10	10	3,924
Contingency	-	21,490	-	-	3,173
Emergency Reserve	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>3,292</u>
Total expenditures	<u>46,400</u>	<u>55,700</u>	<u>20,200</u>	<u>39,884</u>	<u>116,189</u>
Ending fund balance	<u>\$ 2,238</u>	<u>\$ -</u>	<u>\$ 2,565</u>	<u>\$ -</u>	<u>\$ -</u>
Assessed valuation		<u>\$ 69,300</u>			<u>\$ 2,825,610</u>
Mill Levy		<u>10.000</u>			<u>10.000</u>

Timberleaf Metropolitan District
Adopted Budget
Capital Projects Fund
For the Year ended December 31, 2022

	Actual <u>2020</u>	Adopted Budget <u>2021</u>	Actual <u>7/31/2021</u>	Estimate <u>2021</u>	Adopted Budget <u>2022</u>
Beginning fund balance	\$ -	\$ 5,570,928	\$ 5,571,070	\$5,571,070	\$ 669,337
Revenues:					
Bond Proceeds Series 2020 A	6,920,000	-	-	-	-
Bond Proceeds Series 2020 B	777,000	-	-	-	-
Interest income	<u>843</u>	<u>1,000</u>	<u>754</u>	<u>1,500</u>	<u>1,000</u>
Total revenues	<u>7,697,843</u>	<u>1,000</u>	<u>754</u>	<u>1,500</u>	<u>1,000</u>
Total funds available	<u>7,697,843</u>	<u>5,571,928</u>	<u>5,571,824</u>	<u>5,572,570</u>	<u>670,337</u>
Expenditures:					
Capital expenditures	-	5,571,928	4,903,233	4,903,233	670,337
Issuance Costs	343,073	-	-	-	-
Transfer to Debt Service	<u>1,783,700</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
Total expenditures	<u>2,126,773</u>	<u>5,571,928</u>	<u>4,903,233</u>	<u>4,903,233</u>	<u>670,337</u>
Ending fund balance	<u>\$5,571,070</u>	<u>\$ -</u>	<u>\$ 668,591</u>	<u>\$ 669,337</u>	<u>\$ -</u>

Timberleaf Metropolitan District
Adopted Budget
Debt Service Fund
For the Year ended December 31, 2022

	Actual <u>2020</u>	Adopted Budget <u>2021</u>	Actual <u>7/31/2021</u>	Estimate <u>2021</u>	Adopted Budget <u>2022</u>
Beginning fund balance	\$ -	\$ 1,582,689	\$ 1,582,807	\$1,582,807	\$ 1,185,257
Revenues:					
Property taxes	-	3,858	3,854	3,858	157,285
Specific ownership taxes	-	309	73	150	12,583
Transfer from Capital Projects Fund	1,783,700	-	-	-	-
Interest income	<u>268</u>	<u>2</u>	<u>246</u>	<u>400</u>	<u>2</u>
Total revenues	<u>1,783,968</u>	<u>4,169</u>	<u>4,173</u>	<u>4,408</u>	<u>169,870</u>
Total funds available	<u>1,783,968</u>	<u>1,586,858</u>	<u>1,586,980</u>	<u>1,587,215</u>	<u>1,355,127</u>
Expenditures:					
Bond interest expense	201,161	397,900	198,948	397,900	397,900
Treasurer's fees	-	58	58	58	2,359
Trustee / paying agent fees	<u>-</u>	<u>4,000</u>	<u>-</u>	<u>4,000</u>	<u>4,000</u>
Total expenditures	<u>201,161</u>	<u>401,958</u>	<u>199,006</u>	<u>401,958</u>	<u>404,259</u>
Ending fund balance	<u>\$1,582,807</u>	<u>\$ 1,184,900</u>	<u>\$ 1,387,974</u>	<u>\$1,185,257</u>	<u>\$ 950,868</u>
Assessed valuation		<u>\$ 69,300</u>			<u>\$ 2,825,610</u>
Mill Levy		<u>55.664</u>			<u>55.664</u>
Total Mill Levy		<u>65.664</u>			<u>65.664</u>