

discretion, to add trees and other landscaping to the Private Amenities, the Common Area or the public facilities from time to time. In addition, the owner of any Private Amenity which includes a golf course may, in its sole and absolute discretion, change the location, configuration, size and elevation of the trees, bunkers, fairways and greens from time to time. Any such additions or changes may diminish or obstruct any view from the Units and any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

14.4. Golf Course. By acceptance of a deed to any Unit, each Owner acknowledges and agrees that owning property adjacent to a golf course has benefits as well as detriments and that the detriments include: (a) the risk of damage to property or injury to persons and animals from golf balls which are hit onto an Owner's Unit or other portion of the Properties or arising from the design, construction, operation, maintenance and/or use of the golf course; (b) the entry by golfers onto an Owner's Unit or other portion of the Properties utilized by the Owner to retrieve golf balls and/or other acts or omissions of persons using the golf course; (c) overspray in connection with the watering of the roughs, fairways and greens on the golf course; (d) noise from golf course maintenance and operation equipment (including, without limitation, compressors, blowers, mulches, tractors, utility vehicles and pumps, all of which may be operated at all times of the day and night and/or continuously); (e) odors arising from irrigation and fertilization of the turf situated on the golf course; (f) disturbance and loss of privacy resulting from golf cart traffic and golfers; and (g) the existence of water hazards, ponds, and/or lakes on the golf course. Additionally each Owner acknowledges that pesticides and chemicals may be applied to the golf course throughout the year and that reclaimed water, treated waste water or other sources of non-potable water may be used for irrigation of the golf course. Each Owner hereby assumes such risks of owning property adjacent to a golf course and forever waives and relinquishes, and agrees not to institute any action or suit at law or in equity nor to institute or prosecute, any claim, demand or compensation against LP47, LLC d/b/a La Plata Investments, the Declarant, or any successor Declarant; the Association or its Members (in their capacity as such); the owner(s) of the Private Amenities or their successors, successors-in-title, or assigns; any Builder or contractor (in their capacities as such); any officer, director, member, manager, or partner of any of the foregoing, or any officer or director of any partner of the foregoing for or on account of any damages, loss, or injury either to person or property, or both, resulting directly or indirectly from the design, construction, operation, maintenance and/or use of the golf course. Each Owner hereby agrees to take any necessary steps to maintain adequate hazard and other insurance policies to protect such Owner and such Owner's family, guests, invitees, agents and employees against all such risks associated with the golf course.

14.5. Covenant to Share Costs. The Association may enter into a contractual arrangement or Covenant to Share Costs with the owner or operator of any Private Amenity obligating such owner or operator of the Private Amenity or the Association to contribute funds for, among other things, shared property or services and/or a higher level of Common Area maintenance.

14.6. Architectural Control. After the expiration of the Declarant Control Period, the Association, and any committee thereof, shall provide the owner of any Private Amenity at least 15 days' prior written notice of its intent to approve or permit any construction, addition, alteration, change, or installation on or to any portion of the Properties, including Common Area, which is adjacent to, or otherwise in the direct line of sight of, such Private Amenity. The notice shall include copies of the request and all other documents and information finally submitted in such regard. The Private Amenity shall have 15 days to approve or disapprove the proposal in writing delivered to the appropriate committee or the Association, stating in detail the reasons for any disapproval. The failure of the Private Amenity to respond to the notice within the 15-day period shall constitute a waiver of the Private Amenity's right to object to the matter.

14.7. Use Restrictions. Upon request of the owner of any Private Amenity, the Association shall enforce its use restrictions and rules against any Owner or occupant violating such regulations within such Private Amenity, including but not limited to the exercise of the Association's self-help rights for violation of sign and pet restrictions.

14.8. Limitations on Amendments. In recognition of the fact that the provisions of this Article are for the benefit of the Private Amenity, no amendment to this Article, and no amendment in derogation of any other provisions of this Declaration benefitting any Private Amenity, may be made without the written approval of the owner(s) of the affected Private Amenity. The foregoing shall not apply, however, to amendments made by the Declarant.

14.9. Jurisdiction and Cooperation. It is Declarant's intention that the Association and the Private Amenities shall cooperate to the maximum extent possible in the operation of the Properties and the Private Amenities. Each shall reasonably assist the other in upholding the Community-Wide Standard as it pertains to maintenance, the Design Guidelines and the Community Guidelines. The Association shall have no power to promulgate use restrictions or rules affecting activities on or use of the Private Amenities without the prior written consent of the owners of the Private Amenities affected thereby.

## ARTICLE 15: GENERAL PROVISIONS

### 15.1. Duration.

(a) Unless terminated as provided in Section 15.1(b), this Declaration shall have perpetual duration. If Colorado law hereafter limits the period during which covenants may run with the land, then to the extent consistent with such law, this Declaration shall automatically be extended at the expiration of such period for successive periods of 10 years each, unless terminated as provided herein.

(b) Unless otherwise provided by Colorado law, in which case such law shall control, this Declaration may not be terminated within 20 years of the date of recording without the consent of all Owners. Thereafter, it may be terminated only by an instrument signed by Owners of at least 80% of the total Units within the Properties and by the Declarant, if the Declarant owns any portion of the Properties, which instrument is recorded in the Public Records and which complies with the termination procedures set forth in the Act. Nothing in this Section shall be construed to permit termination of any easement created in this Declaration without the consent of the holder of such easement.

### 15.2. Amendment.

(a) By Members. Except in the event of amendments which may be executed unilaterally by the Declarant during the Development Period in the exercise of its Development Rights, or amendments executed by the Association as provided in the Act, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Voting Delegates representing 67% of the total votes in the Association (excluding any votes held by the Declarant); provided however, that during the Development Period and for so long as the Declarant owns any Unit, the written consent of the Declarant to any amendment of the Declaration shall also be required. In addition, the approval requirements set forth in Article 12 shall be met, if applicable.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

(b) Validity and Effective Date. Any amendment to the Declaration shall become effective upon recordation in the Public Records, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within one year of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration. During the Development Period, no amendment may remove, revoke, or modify any right or privilege of the Declarant without the written consent of the Declarant or the assignee of such right or privilege.

If an Owner consents to any amendment to this Declaration or the By-Laws, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

15.3. Severability. Invalidation of any provision of this Declaration, in whole or in part, or any application of a provision of this Declaration by judgment or court order shall in no way affect other provisions or applications.

15.4. Dispute Resolution. It is the intent of the Association and the Declarant to encourage the amicable resolution of disputes involving the Properties and to avoid the emotional and financial costs of litigation if at all possible. Accordingly, the Association, the Declarant and each Owner covenants and agrees that it shall attempt to resolve all claims, grievances or disputes involving the Properties, including, without limitation, claims, grievances or disputes arising out of or relating to the interpretation, application or enforcement of the Governing Documents through alternative dispute resolution methods, such as mediation and arbitration. To foster the amicable resolution of disputes, the Board may adopt alternative dispute resolution procedures.

Participation in alternative dispute resolution procedures shall be voluntary and confidential. Should either party conclude that such discussions have become unproductive or unwarranted, then the parties may proceed with litigation.

15.5. Litigation. Except as provided below, no judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of 75% of the Voting Delegates. A Voting Delegate representing Units owned by Persons other than himself or herself shall not vote in favor of bringing or prosecuting any such proceeding unless authorized to do so by a vote of Owners holding 75% of the total votes attributable to Units in the Neighborhood represented by the Voting Delegate. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration or any other Governing Document (including, without limitation, the foreclosure of liens) or to obtain a declaratory judgment regarding this Declaration or any other Governing Document; (b) the imposition and collection of assessments as provided in Article 8; (c) proceedings involving challenges to ad valorem taxation; (d) counter-claims brought by the Association in proceedings instituted against it or (e) actions brought by the Association against any contractor, vendor, or supplier of goods and services arising out of a contract for services or supplies. This Section shall not be amended unless such amendment is approved by the percentage of votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

15.6. Non-Merger. Notwithstanding the fact that Declarant is the current owner of the Properties, it is the express intention of Declarant that the easements established in the Declaration for the benefit of the Properties and Owners shall not merge into the fee simple estate of individual lots conveyed by Declarant or its successor, but that the estates of the Declarant and individual lot owners shall remain as separate and distinct estates. Any conveyance of all or a portion of the Properties shall be subject to the terms and provisions of this Declaration, regardless of whether the instrument of conveyance refers to this Declaration.

15.7. Grants. The parties hereby declare that this Declaration, and the easements created herein shall be and constitute covenants running with the fee simple estate of the Properties. The grants of easements in this Declaration are independent of any covenants and contractual agreements undertaken by the parties in this Declaration and a breach by either party of any such covenants or contractual agreements shall not cause or result in a forfeiture or reversion of the easements granted in this Declaration.

15.8. Cumulative Effect; Conflict. The provisions of this Declaration shall be cumulative with any additional covenants, restrictions, and declarations applicable to any Neighborhood, and the Association may, but shall not be required to, enforce the covenants, conditions, and provisions applicable to any Neighborhood; provided however, in the event of a conflict between or among this Declaration and such covenants or restrictions, and/or the provisions of any articles of incorporation, by-laws, rules and regulations, policies, or practices adopted or carried out pursuant thereto, this Declaration, the By-Laws, Articles, Design Guidelines, Community Guidelines and use restrictions and rules of the Association shall prevail over those of any Neighborhood. The foregoing priorities shall apply, but not be limited to, the lien for assessments created in favor of the Association. Nothing in this Section shall preclude any Supplemental Declaration or other recorded declaration, covenants and restrictions applicable to any portion of the Properties from containing additional restrictions or provisions which are more restrictive than the provisions of this Declaration, and the Association shall have the standing and authority to enforce the same.

15.9. Use of the Words "Pine Creek Village at Briargate". No Person shall use the words "Pine Creek Village at Briargate" or any derivative in any printed or promotional material without the Declarant's prior written consent. However, Owners may use the term "Pine Creek Village at Briargate" in printed or promotional matter where such term is used solely to specify that particular property is located within Pine Creek Village at Briargate. In addition, the owner of the Pine Creek at Briargate Golf Course and the Association shall be entitled to use the words "Pine Creek Village at Briargate".

15.10. Compliance. Every Owner and occupant of any Unit shall comply with the Governing Documents. Failure to comply shall be grounds for an action by the Association or by any aggrieved Owner(s) to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, in addition to those enforcement powers granted to the Association in Section 4.3.

15.11. Notice of Sale or Transfer of Title. Any Owner desiring to sell or otherwise transfer title to his or her Unit shall give the Board at least seven days' prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. The transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the Owner of the Unit, including assessment obligations, until the date upon which such notice is received by the Board, notwithstanding the transfer of title.

15.12. Exhibits. Exhibits "A" and "B" attached to this Declaration are incorporated by this reference and amendment of such exhibits shall be governed by the provisions of Section 15.2. Exhibits "C" and "D" are attached to this Declaration in accordance with the Act and may be unilaterally amended or supplemented by the Declarant in accordance with Article 7 and the Act. Exhibit "E" to this Declaration is attached for informational purposes only and may be unilaterally amended by the Declarant.

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IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration this 10<sup>th</sup> day of November, 1998.

LP47, LLC d/b/a LA PLATA INVESTMENTS, a Colorado limited liability company

By: Scott E Smith  
Scott E. Smith, Manager

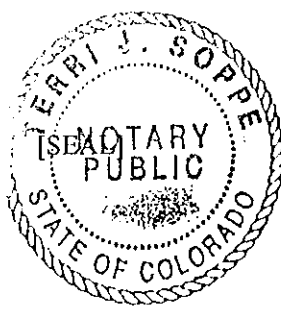
STATE OF COLORADO     )  
  ) ss  
COUNTY OF EL PASO     )

The foregoing instrument was acknowledged before me this 10<sup>th</sup> day of November, 1998, by Scott E. Smith, as Manager of LP47, LLC d/b/a La Plata Investments, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires May 24, 1999

Terry J. Soppe  
Notary Public



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EXHIBIT "A"

Land Initially Submitted

Lots 1 through 47, inclusive, Tract A, Tract B and Tract C, Pine Creek Subdivision Filing No. 3, according to the plat thereof recorded on October 9, 1998 at Reception No. 098147293 of the records of El Paso County, Colorado; and

Lots 1 through 59, inclusive (Lot 60 is intentionally ~~excluded~~), Tract A, Tract B, Tract C, Tract D, Tract E, Tract F, Tract G, Tract H, Tract I, Tract J and Tract L, Pine Creek Subdivision Filing No. 4, according to the plat thereof recorded on October 28, 1998 at Reception No. 098156462 of the records of El Paso County, Colorado; and

Lots 1 through 34, inclusive, Tract A, Tract B, Tract C and Tract D, Pine Creek Subdivision Filing No. 7, according to the plat thereof recorded on October 28, 1998 at Reception No. 098156461 of the records of El Paso County, Colorado.

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EXHIBIT "B"

Additional Property

A TRACT OF LAND BEING A PORTION OF THE WEST ONE HALF OF SECTION 26, AND THE NORTH ONE HALF OF SECTION 33, AND THE NORTH ONE HALF OF SECTION 34, AND THE NORTHWEST ONE QUARTER OF SECTION 35, AND SECTION 27, AND SECTION 28, ALL IN TOWNSHIP 12 SOUTH, RANGE 66 WEST, OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF COLORADO SPRINGS, COUNTY OF EL PASO, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 28, TOWNSHIP 12 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, BEING MONUMENTED AT THE SOUTH QUARTER CORNER BY 3-1/4" ALUMINUM CAP STAMPED "JR ENG LTD RLS 10377" AND AT THE SOUTHEAST CORNER BY A 3-1/4" ALUMINUM CAP STAMPED "JR ENG LTD RLS 10377", BEING ASSUMED TO BEAR N89°30'52"E, A DISTANCE OF 2,655.70 FEET.

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 28, THENCE S00°04'57"E, ON THE EAST LINE OF SAID SECTION 33, A DISTANCE OF 476.48 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF PROPOSED BRIARGATE PARKWAY, SAID POINT BEING THE POINT OF BEGINNING; THENCE WESTERLY AND ON SAID NORTHERLY RIGHT-OF-WAY LINE THE FOLLOWING FOUR (4) COURSES:

1. S78°24'37"W, A DISTANCE OF 1,803.36 FEET TO A POINT OF CURVE;
2. ON THE ARC OF A CURVE TO THE RIGHT, HAVING A DELTA OF 04°05'36", A RADIUS OF 1,917.50 FEET, A DISTANCE OF 136.99 FEET TO A POINT OF COMPOUND CURVE;
3. ON THE ARC OF A CURVE TO THE RIGHT, HAVING A DELTA OF 07°13'54", A RADIUS OF 1,909.08 FEET, A DISTANCE OF 240.96 FEET TO A POINT OF TANGENT;
4. S89°44'07"W, A DISTANCE OF 521.79 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF PROPOSED CHAPEL HILLS DRIVE;

THENCE NORTHERLY AND NORTHEASTERLY AND ON SAID EASTERLY RIGHT-OF-WAY LINE, THE FOLLOWING NINE (9) COURSES:

1. N00°15'56"W, A DISTANCE OF 216.78 FEET TO A POINT OF CURVE;
2. ON THE ARC OF A CURVE TO THE LEFT, HAVING A DELTA OF 24°08'26", A RADIUS OF 1,570.00 FEET, A DISTANCE OF 661.49 FEET TO A POINT OF TANGENT;

3. N24°24'22"W, A DISTANCE OF 140.16 FEET TO A POINT OF CURVE;
4. ON THE ARC OF A CURVE TO THE RIGHT, HAVING A DELTA OF 16°20'45", A RADIUS OF 436.36 FEET, A DISTANCE OF 124.49 FEET TO A POINT OF COMPOUND CURVE;
5. ON THE ARC OF A CURVE TO RIGHT, HAVING A DELTA OF 39°08'50", A RADIUS OF 659.56 FEET, A DISTANCE OF 450.64 FEET;
6. N33°20'18"E, A DISTANCE OF 110.00 FEET;
7. N33°41'36"E, A DISTANCE OF 1,138.92 FEET TO A POINT OF CURVE;
8. ON THE ARC OF A CURVE TO THE RIGHT, HAVING A DELTA OF 32°46'46", A RADIUS OF 678.00 FEET, A DISTANCE OF 387.89 FEET TO THE POINT OF TANGENT;
9. N66°28'22"E, A DISTANCE OF 13.74 FEET TO THE SOUTHWESTERLY CORNER OF CHARTER GREENS FILING NO. 2, AS RECORDED IN PLAT BOOK G-5 AT PAGE 151, RECORDS OF EL PASO COUNTY, COLORADO, SAID POINT BEING A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF CHAPEL HILLS DRIVE, AS PLATTED IN SAID FILING NO. 2;

THENCE NORTHEASTERLY AND ON SAID SOUTHERLY RIGHT-OF-WAY LINE THE FOLLOWING TWO (2) COURSES:

1. N66°28'22"E, A DISTANCE OF 776.10 FEET TO A POINT OF CURVE;
2. ON THE ARC OF A CURVE TO THE RIGHT, HAVING A DELTA OF 22°32'59", A RADIUS OF 658.00 FEET, A DISTANCE OF 258.97 FEET TO THE SOUTHEASTERLY CORNER OF SAID FILING NO. 2, SAID POINT BEING A POINT ON THE SOUTHERLY EXTENSION OF THE EASTERLY RIGHT-OF-WAY LINE OF LEXINGTON DRIVE, AS PLATTED IN SAID FILING NO. 2;

THENCE NORTHERLY AND ON SAID EASTERLY RIGHT-OF-WAY LINE THE FOLLOWING TWO (2) COURSES:

1. N00°58'39"W, A DISTANCE OF 84.00 FEET TO A POINT ON A CURVE TO THE RIGHT, WHOSE CENTER BEARS N87°18'38"E;
2. ON THE ARC OF SAID CURVE, HAVING A DELTA OF 16°43'52", A RADIUS OF 410.00 FEET, A DISTANCE OF 119.73 FEET TO THE SOUTHEASTERLY CORNER OF CHARTER GREENS FILING NO.1, AS RECORDED IN PLAT BOOK E-5 AT PAGE 220, RECORDS OF EL PASO COUNTY, COLORADO;

THENCE NORTHERLY AND ON THE EASTERLY RIGHT-OF-WAY LINE OF LEXINGTON DRIVE AS PLATTED IN SAID FILING NO.1, THE FOLLOWING TWO (2) COURSES:



1. ON THE ARC OF A CURVE TO THE RIGHT, WHOSE CENTER BEARS S75°57'30"E, HAVING A DELTA OF 25°22'39", A RADIUS OF 410.00 FEET, A DISTANCE OF 181.60 FEET TO A POINT OF TANGENT;
2. N39°25'09"E, A DISTANCE OF 19.97 FEET TO THE SOUTHEASTERLY CORNER OF KITTYHAWK VILLAGE IN CHAPEL HILLS FIRST FILING, AS RECORDED IN PLAT BOOK I-2 AT PAGE 77, RECORDS OF EL PASO COUNTY, COLORADO;

THENCE NORTHERLY AND ON THE EASTERLY RIGHT-OF-WAY LINE OF LEXINGTON DRIVE AS PLATTED IN SAID FIRST FILING, THE FOLLOWING THREE (3) COURSES;

1. N39°25'09"E, A DISTANCE OF 193.70 FEET TO A POINT OF CURVE;
2. ON THE ARC OF A CURVE TO THE LEFT, HAVING A DELTA OF 20°00'00", A RADIUS OF 443.40 FEET, A DISTANCE OF 154.78 FEET TO A POINT OF TANGENT;
3. N19°25'09"E, A DISTANCE OF 690.91 FEET;

THENCE S32°44'58"E, A DISTANCE OF 1,076.04 FEET; THENCE N84°56'11"E, A DISTANCE OF 352.88 FEET; THENCE N34°10'09"E, A DISTANCE OF 598.69 FEET; THENCE N39°38'10"W, A DISTANCE OF 611.97 FEET; THENCE N18°00'42"W, A DISTANCE OF 175.01 FEET; THENCE N55°44'10"W, A DISTANCE OF 503.72 FEET; THENCE N70°34'51"W, A DISTANCE OF 205.31 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF LEXINGTON DRIVE AS PLATTED IN SAID FIRST FILING;

THENCE NORTHERLY AND ON SAID EASTERLY RIGHT-OF-WAY LINE THE FOLLOWING FIVE (5) COURSES:

1. N19°25'09"E, A DISTANCE OF 0.58 FEET TO A POINT OF CURVE;
2. ON THE ARC OF A CURVE TO THE RIGHT, HAVING A DELTA OF 25°00'00", A RADIUS OF 205.00 FEET, A DISTANCE OF 89.45 FEET TO A POINT OF TANGENT;
3. N44°25'09"E, A DISTANCE OF 160.00 FEET TO A POINT OF CURVE;
4. ON THE ARC OF A CURVE TO THE LEFT, HAVING A DELTA OF 39°18'50", A RADIUS OF 280.00 FEET, A DISTANCE OF 192.12 FEET TO A POINT OF TANGENT;
5. N05°06'19"E, A DISTANCE OF 64.00 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF EXISTING OLD RANCH ROAD;

THENCE EASTERLY AND ON SAID SOUTHERLY RIGHT-OF-WAY, THE FOLLOWING FIVE (5) COURSES:

1. S84°53'41"E, A DISTANCE OF 745.77 FEET TO A POINT OF CURVE;

2. ON THE ARC OF A CURVE TO THE LEFT, HAVING A DELTA OF 38°44'03", A RADIUS OF 600.00 FEET, A DISTANCE OF 405.62 FEET TO A POINT OF TANGENT;
3. N56°22'16"E, A DISTANCE OF 861.14 FEET TO A POINT OF CURVE;
4. ON THE ARC OF A CURVE TO THE RIGHT, HAVING A DELTA OF 33°23'30", A RADIUS OF 490.00 FEET, A DISTANCE OF 285.57 FEET;
5. N89°45'46"E, A DISTANCE OF 293.35 FEET;

THENCE S32°23'28"E, A DISTANCE OF 146.13 FEET TO A POINT OF CURVE; THENCE ON THE ARC OF A CURVE TO THE LEFT, HAVING A DELTA OF 42°53'37", A RADIUS OF 658.00 FEET, A DISTANCE OF 492.60 FEET TO A POINT OF TANGENT; THENCE S75°17'04"E, A DISTANCE OF 847.65 FEET; THENCE S46°22'31"E, A DISTANCE OF 3,491.47 FEET; THENCE S29°23'01"E, A DISTANCE OF 1,057.30 FEET TO A POINT OF CURVE; THENCE ON THE ARC OF A CURVE TO THE LEFT, HAVING A DELTA OF 16°59'30", A RADIUS OF 661.00 FEET, A DISTANCE OF 196.03 FEET TO A POINT OF TANGENT; THENCE S46°22'31"E, A DISTANCE OF 40.00 FEET TO A POINT ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF PROPOSED UNION BOULEVARD;

THENCE SOUTHWESTERLY AND SOUTHERLY AND ON SAID RIGHT-OF-WAY LINE THE FOLLOWING FIVE (5) COURSES:

1. S43°37'29"W, A DISTANCE OF 395.14 FEET TO A POINT OF CURVE;
2. ON THE ARC OF A CURVE TO THE RIGHT, HAVING A DELTA OF 19°48'21", A RADIUS OF 2,440.01 FEET, A DISTANCE OF 843.46 FEET TO A POINT OF TANGENT;
3. S63°25'50"W, A DISTANCE OF 831.16 FEET TO A POINT OF CURVE;
4. ON THE ARC OF A CURVE TO THE LEFT, HAVING A DELTA OF 63°28'41", A RADIUS OF 760.00 FEET, A DISTANCE OF 842.00 FEET TO A POINT OF TANGENT;
5. S00°02'51"E, A DISTANCE OF 400.00 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF PROPOSED BRIARGATE PARKWAY;

THENCE WESTERLY AND ON SAID NORTHERLY RIGHT-OF-WAY LINE THE FOLLOWING SEVEN (7) COURSES:

1. S89°57'08"W, A DISTANCE OF 1,890.00 FEET TO A POINT OF CURVE;
2. ON THE ARC OF A CURVE TO THE RIGHT, HAVING A DELTA OF 32°00'00", A RADIUS OF 1,467.50 FEET, A DISTANCE OF 819.61 FEET TO A POINT OF TANGENT;
3. N58°02'52"W, A DISTANCE OF 262.89 FEET TO A POINT OF CURVE;

4. ON THE ARC OF A CURVE TO THE LEFT, HAVING A DELTA OF 20°00'00", A RADIUS OF 2,082.50 FEET, A DISTANCE OF 726.93 FEET TO A POINT OF TANGENT;
  5. N78°02'52"W, A DISTANCE OF 191.63 FEET TO A POINT OF CURVE;
  6. ON THE ARC OF A CURVE TO THE LEFT, HAVING A DELTA OF 23°32'31", A RADIUS OF 2,482.50 FEET, A DISTANCE OF 1,020.02 FEET TO A POINT OF TANGENT;
  7. S78°24'37"W, A DISTANCE OF 164.03 FEET TO THE POINT OF BEGINNING,
- CONTAINING A CALCULATED AREA OF 895.636 ACRES.

**EXCEPTING HEREFROM THE FOLLOWING DESCRIBED TRACT OF LAND:**

A TRACT OF LAND BEING A PORTION OF THE SOUTHWEST QUARTER OF SECTION 27, AND THE SOUTH ONE-HALF OF SECTION 28, ALL IN TOWNSHIP 12 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF COLORADO SPRINGS, COUNTY OF EL PASO, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BASIS OF BEARINGS:** THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 28, TOWNSHIP 12 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, BEING MONUMENTED AT THE SOUTH QUARTER CORNER BY 3-1/4" ALUMINUM CAP STAMPED "JR ENG LTD RLS 10377" AND AT THE SOUTHEAST CORNER BY A 3-1/4" ALUMINUM CAP STAMPED "JR ENG LTD RLS 10377", BEING ASSUMED TO BEAR N89°30'52"E, A DISTANCE OF 2,655.70 FEET.

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 28; THENCE N00°24'01"W ON THE EAST LINE OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 28, A DISTANCE OF 20.00 FEET TO THE NORTHEAST CORNER OF THAT TRACT OF LAND CONVEYED IN BOOK 3168 AT PAGE 277 OF THE RECORDS OF EL PASO COUNTY, COLORADO, SAID POINT BEING THE POINT OF BEGINNING; THENCE S89°30'52"W, ON THE NORTH LINE OF SAID CONVEYED TRACT, A DISTANCE OF 20.04 FEET TO THE NORTHWEST CORNER THEREOF; THENCE N58°20'03"W, A DISTANCE OF 251.50 FEET; THENCE N87°03'27"W, A DISTANCE OF 857.20 FEET; THENCE S77°48'33"W, A DISTANCE OF 81.72 FEET; THENCE N86°54'05"W, A DISTANCE OF 180.71 FEET; THENCE N82°09'01"W, A DISTANCE OF 341.10 FEET; THENCE N89°26'50"W, A DISTANCE OF 1,211.14 FEET TO A POINT ON A CURVE TO THE RIGHT, WHOSE CENTER BEARS N83°51'06"E, SAID POINT BEING A POINT ON THE EASTERLY RIGHT-OF-WAY OF PROPOSED CHAPEL HILLS DRIVE; THENCE NORTHEASTERLY AND ON SAID EASTERLY RIGHT-OF-WAY, THE FOLLOWING THREE (3) COURSES:

1. ON THE ARC OF A CURVE, HAVING A DELTA OF 37°14'05", A RADIUS OF 659.56 FEET, A DISTANCE OF 428.63 FEET;
2. N33°20'18"E, A DISTANCE OF 110.00 FEET;
3. N33°41'36"E, A DISTANCE OF 221.53 FEET;

THENCE S89°00'00"E, A DISTANCE OF 164.14 FEET; THENCE N54°15'00"E, A DISTANCE OF 452.00 FEET; THENCE N41°50'00"E, A DISTANCE OF 485.00 FEET; THENCE N44°29'59"E, A DISTANCE OF 164.01 FEET; THENCE N23°31'38"W, A DISTANCE OF 101.96 FEET TO A POINT OF CURVE; THENCE ON THE ARC OF A CURVE TO THE RIGHT, HAVING A DELTA OF 19°49'36", A RADIUS OF 232.11 FEET, A DISTANCE OF 80.32 FEET; THENCE N66°28'22"E, A DISTANCE OF 112.59 FEET; THENCE S57°00'00"E, A DISTANCE OF 497.35 FEET; THENCE S81°20'00"E, A DISTANCE OF 530.00 FEET; THENCE N59°29'54"E, A DISTANCE OF 202.87 FEET; THENCE S80°45'00"E, A DISTANCE OF 449.08 FEET; THENCE N16°00'27"E, A DISTANCE OF 148.67 FEET; THENCE N56°19'13"E, A DISTANCE OF 426.23 FEET; THENCE N70°19'13"E, A DISTANCE OF 345.00 FEET; THENCE N33°19'13"E, A DISTANCE OF 370.00 FEET; THENCE N68°19'13"E, A DISTANCE OF 112.00 FEET; THENCE S63°43'42"E, A DISTANCE OF 230.89 FEET; THENCE ON THE ARC OF A CURVE TO THE RIGHT, WHOSE CENTER BEARS S63°43'42"E, HAVING A DELTA OF 22°03'42", A RADIUS OF 370.00 FEET, A DISTANCE OF 142.47 FEET TO A POINT OF TANGENT; THENCE N48°20'00"E, A DISTANCE OF 388.51 FEET; THENCE N65°02'28"E, A DISTANCE OF 940.84 FEET; THENCE N08°40'00"W, A DISTANCE OF 150.00 FEET; THENCE N66°10'00"W, A DISTANCE OF 520.00 FEET; THENCE N36°10'00"W, A DISTANCE OF 230.00 FEET; THENCE N15°10'00"W, A DISTANCE OF 361.84 FEET; THENCE N01°50'00"E, A DISTANCE OF 138.19 FEET; THENCE N43°50'00"E, A DISTANCE OF 117.49 FEET; THENCE N63°19'13"E, A DISTANCE OF 112.63 FEET; THENCE N26°40'47"W, A DISTANCE OF 133.63 FEET; THENCE N64°32'14"E, A DISTANCE OF 196.96 FEET; THENCE S76°44'15"E, A DISTANCE OF 904.26 FEET; THENCE S45°32'41"E, A DISTANCE OF 476.26 FEET; THENCE S68°54'41"E, A DISTANCE OF 438.02 FEET; THENCE S12°25'47"E, A DISTANCE OF 485.12 FEET; THENCE S01°41'38"W, A DISTANCE OF 523.04 FEET; THENCE S54°15'00"W, A DISTANCE OF 956.20 FEET; THENCE S89°39'09"W, A DISTANCE OF 575.00 FEET; THENCE S00°20'51"E, A DISTANCE OF 580.29 FEET; THENCE S37°49'48"W, A DISTANCE OF 597.60 FEET; THENCE S79°58'34"W, A DISTANCE OF 825.01 FEET; THENCE S53°50'39"W, A DISTANCE OF 441.04 FEET; THENCE S66°00'00"W, A DISTANCE OF 263.00 FEET; THENCE S01°03'46"W, A DISTANCE OF 189.26 FEET; THENCE S20°22'10"W, A DISTANCE OF 248.67 FEET TO INTERSECT A LINE THAT IS 206.16 FEET NORTHERLY FROM AND PARALLEL WITH THE SOUTH LINE OF SAID SECTION 27; THENCE S89°35'32"W, ON SAID PARALLEL LINE, A DISTANCE OF 492.70 FEET TO A POINT ON THE EAST LINE OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 28; THENCE S00°24'01"E, ON THE EAST LINE OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 28, A DISTANCE OF 186.10 FEET TO THE NORTHEAST CORNER OF SAID TRACT OF LAND CONVEYED IN BOOK 3168 AT PAGE 277, SAID POINT BEING THE POINT OF BEGINNING,

CONTAINING A CALCULATED AREA OF 232.837 ACRES.

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TOGETHER WITH THE FOLLOWING DESCRIBED TRACTS OF LAND:

TRACT NO. 1

A TRACT OF LAND BEING A PORTION OF THE SOUTHEAST ONE QUARTER OF SECTION 28, TOWNSHIP 12 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF COLORADO SPRINGS, COUNTY OF EL PASO, STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 28, TOWNSHIP 12 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, BEING MONUMENTED AT THE SOUTH QUARTER CORNER BY A 3-1/4" ALUMINUM CAP STAMPED "JR ENG LTD RLS 10377" AND AT THE SOUTHEAST CORNER BY A 3-1/4" ALUMINUM CAP STAMPED "JR ENG LTD RLS 10377", BEING ASSUMED TO BEAR N89°30'52"E, A DISTANCE OF 2,655.70 FEET.

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 28; THENCE N33°29'25"W, A DISTANCE OF 1,295.03 FEET TO THE POINT OF BEGINNING; THENCE S37°09'30"W, A DISTANCE OF 427.58 FEET; THENCE S40°45'00"W, A DISTANCE OF 286.00 FEET; THENCE S90°00'00"W, A DISTANCE OF 320.00 FEET; THENCE N25°55'08"W, A DISTANCE OF 23.65 FEET TO A POINT ON CURVE; THENCE ON THE ARC OF A CURVE TO THE RIGHT WHOSE CENTER BEARS N25°55'01"W, HAVING A DELTA OF 38°21'37", A RADIUS OF 380.00 FEET, A DISTANCE OF 254.41 FEET TO A POINT OF TANGENT; THENCE N77°33'24"W, A DISTANCE OF 312.48 FEET TO A POINT OF CURVE; THENCE ON THE ARC OF A CURVE TO THE LEFT HAVING A DELTA OF 16°15'00", A RADIUS OF 1540.00, A DISTANCE OF 436.77 FEET; THENCE N03°48'24"W, A DISTANCE OF 60.00 FEET; THENCE N27°41'25"E, A DISTANCE OF 29.74 FEET; THENCE N71°51'00"E, A DISTANCE OF 583.56 FEET; THENCE N34°00'00"E, A DISTANCE OF 710.52 FEET; THENCE N46°26'36"E, A DISTANCE OF 50.00 FEET; THENCE S43°33'24"E, A DISTANCE OF 192.32 FEET TO A POINT OF CURVE; THENCE ON THE ARC OF A CURVE TO THE RIGHT HAVING A DELTA OF 31°40'31", A RADIUS OF 375.00 FEET, AND A DISTANCE OF 207.31 FEET; THENCE N78°07'07"E, A DISTANCE OF 163.97 FEET; THENCE S79°00'00"E, A DISTANCE OF 319.99 FEET; THENCE S38°30'00"E, A DISTANCE OF 100.02 FEET TO THE POINT OF BEGINNING,

CONTAINING A CALCULATED AREA OF 19.121 ACRES.

TRACT NO. 2

A TRACT OF LAND BEING A PORTION OF THE SOUTHWEST ONE-QUARTER OF SECTION 27, TOWNSHIP 12 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF COLORADO SPRINGS, EL PASO COUNTY, COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 28, TOWNSHIP 12 SOUTH, RANGE 66 WEST OF

THE SIXTH PRINCIPAL MERIDIAN, BEING MONUMENTED AT THE SOUTH QUARTER CORNER BY A 3-1/4" ALUMINUM CAP STAMPED "JR ENG LTD RLS 10377" AND AT THE SOUTHEAST CORNER BY A 3-1/4" ALUMINUM CAP STAMPED "JR ENG LTD RLS 10377", BEING ASSUMED TO BEAR N89°30'52"E, A DISTANCE OF 2,655.70 FEET.

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 27; THENCE S00°24'00"E, A DISTANCE OF 2,644.04 FEET TO THE WEST ONE-QUARTER CORNER OF SAID SECTION 27; THENCE S39°26'54"E, A DISTANCE OF 1,284.89 FEET TO THE POINT OF BEGINNING; THENCE N35°30'58"E, A DISTANCE OF 507.52 FEET; THENCE N80°18'35"E, A DISTANCE OF 60.05 FEET; THENCE N68°17'26"E, A DISTANCE OF 351.44 FEET; THENCE N55°34'13"E, A DISTANCE OF 441.51 FEET; THENCE S56°55'47"E, A DISTANCE OF 255.19 FEET; THENCE S11°40'00"W, A DISTANCE OF 656.47 FEET; THENCE S30°40'00"W, A DISTANCE OF 145.00 FEET; THENCE S62°40'00"W, A DISTANCE OF 170.00 FEET; THENCE S89°40'00"W, A DISTANCE OF 435.00 FEET; THENCE N75°20'00"W, A DISTANCE OF 450.00 FEET; THENCE N23°20'00"W, A DISTANCE OF 77.00 FEET TO THE POINT OF BEGINNING,

CONTAINING A CALCULATED AREA OF 17.549 ACRES.

### TRACT NO. 3

A TRACT OF LAND BEING A PORTION OF SECTION 27, TOWNSHIP 12 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF COLORADO SPRINGS, EL PASO COUNTY, COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 28, TOWNSHIP 12 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, BEING MONUMENTED AT THE SOUTH QUARTER CORNER BY 3-1/4" ALUMINUM CAP STAMPED "JR ENG LTD RLS 10377" AND AT THE SOUTHEAST CORNER BY A 3-1/4" ALUMINUM CAP STAMPED "JR ENG LTD RLS 10377", BEING ASSUMED TO BEAR N89°30'52"E, A DISTANCE OF 2,655.70 FEET.

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 27; THENCE S63°36'09"E, A DISTANCE OF 2,319.76 FEET TO THE POINT OF BEGINNING; THENCE S59°21'05"E, A DISTANCE OF 786.26 FEET; THENCE S51°10'30"E, A DISTANCE OF 402.77 FEET; THENCE S66°38'36"E, A DISTANCE OF 206.16 FEET; THENCE N89°14'51"E, A DISTANCE OF 240.95 FEET; THENCE S36°40'47"E, A DISTANCE OF 55.70 FEET; THENCE S19°19'13"W, A DISTANCE OF 450.06 FEET; THENCE S04°40'47"E, A DISTANCE OF 180.00 FEET; THENCE S21°34'13"W, A DISTANCE OF 70.00 FEET; THENCE S65°34'13"W, A DISTANCE OF 475.00 FEET; THENCE N77°10'47"W, A DISTANCE OF 170.00 FEET; THENCE N31°10'47"W, A DISTANCE OF 220.00 FEET; THENCE N58°49'13"E, A DISTANCE OF 112.43 FEET; THENCE N00°19'13"E, A DISTANCE OF 279.00 FEET; THENCE N45°55'47"W, A DISTANCE OF 937.27 FEET; THENCE N01°20'00"E, A DISTANCE OF 116.04 FEET; THENCE ON THE ARC OF A CURVE TO THE RIGHT, WHOSE CENTER BEARS N40°22'37"E. HAVING A DELTA OF

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22°56'36", A RADIUS OF 305.00 FEET, A DISTANCE OF 122.13 FEET TO THE POINT OF TANGENT; THENCE N26°40'47"W, A DISTANCE OF 163.01 FEET; THENCE N63°19'13"E, A DISTANCE OF 156.13 FEET TO THE POINT OF BEGINNING,

CONTAINING A CALCULATED AREA OF 23.784 ACRES.

RESULTING IN A NET ACREAGE OF 723.253 ACRES.

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EXHIBIT "C"

Common Areas

The initial Common Areas of Pine Creek Village at Briargate are described as follows:

Tract A, Tract B and Tract C, Pine Creek Subdivision Filing No. 3, according to the plat thereof recorded on October 9, 1998 at Reception No. 098147293 of the records of El Paso County, Colorado; and

Tract A, Tract B, Tract C, Tract D, Tract E, Tract F, Tract G, Tract H, Tract I, Tract J and Tract L, Pine Creek Subdivision Filing No. 4, according to the plat thereof recorded on October 28, 1998 at Reception No. 098156462 of the records of El Paso County, Colorado; and

Tract A, Tract B, Tract C and Tract D, Pine Creek Subdivision Filing No. 7, according to the plat thereof recorded on October 28, 1998 at Reception No. 098156461 of the records of El Paso County, Colorado.

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EXHIBIT "D"

Plat

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EXHIBIT "E"

Additional Easements

- A. The following easements affect all parcels comprising the initial Properties:
1. Avigation Easement granted to the United States Air Force Academy recorded March 25, 1986 in Book 5144 at Page 1022, records of El Paso County, Colorado.
  2. Right-of-way to Mountain View Electric Association, Inc., 20 feet in width, for communication lines over, upon and along a portion of the property as recorded July 13, 1967 in Book 2188 at Page 833 and assigned to the City of Colorado Springs by Bill of Sale recorded July 28, 1987 in Book 5400 at Page 1205, records of El Paso County, Colorado.
- B. The following easement affects Pine Creek at Briargate Subdivision Filing No. 3 and Pine Creek at Briargate Subdivision Filing No. 7:
1. Grant of Easement to ICG Access Services, Inc., being 16.5 feet in width as recorded June 20, 1994 in Book 6471 at Page 325 and rerecorded June 24, 1994 in Book 6474 at Page 1245, records of El Paso County, Colorado.
- C. The following easements affect Pine Creek at Briargate Subdivision Filing No. 4:
1. Grant of Perpetual Right-of-Way and Easement to Chapel Hills Water and Sanitation District recorded April 26, 1977 in Book 2917 at Page 135, records of El Paso County, Colorado.
  2. Grant of Easement to the City of Colorado Springs for water line purposes recorded August 3, 1995 in Book 6696 at Page 1087, records of El Paso County, Colorado.
  3. Right-of-Way Agreement between LP47, LLC and the City of Colorado Springs recorded May 28, 1997 under Reception No. 097059819, records of El Paso County, Colorado.
  4. Right-of-Way Agreement between LP47, LLC and the City of Colorado Springs recorded February 11, 1998 under Reception No. 098016915, records of El Paso County, Colorado.
  5. Right-of-Way Agreement between LP47, LLC and the City of Colorado Springs recorded April 8, 1998 under Reception No. 098045120, records of El Paso County, Colorado.
- D. The following easement affects Pine Creek at Briargate Subdivision Filing No. 4 and Pine Creek at Briargate Subdivision Filing No. 7:
1. Nonexclusive ingress, egress and utility easements set forth in instrument recorded February 4, 1997 under Reception No. 097012866, records of El Paso County, Colorado.
- E. The following easements affect Pine Creek at Briargate Subdivision Filing No. 7:
1. Grant of Right-of-Way to the City of Colorado Springs for electrical purposes recorded March 14, 1957 in Book 1621 at Page 367, records of El Paso County, Colorado.

2. Grant of Right-of-Way to the City of Colorado Springs for electrical purposes recorded July 3, 1957 in Book 1636 at Page 541, records of El Paso County, Colorado.
3. Grant of Right-of-Way to Mountain View Electric Association, Inc. recorded August 29, 1977 in Book 2955 at Page 451 and assigned to the City of Colorado Springs by Bill of Sale recorded July 28, 1987 in Book 5400 at Page 1205, records of El Paso County, Colorado.
4. Grant of Right-of-Way to the City of Colorado Springs for electrical purposes recorded December 5, 1989 in Book 5691 at Page 1473, records of El Paso County, Colorado.
5. Easement granted to US West Communications, Inc. for telecommunication purposes recorded June 20, 1994 in Book 6471 at Page 337, records of El Paso County, Colorado.
6. Right-of-Way Agreement between LP47, LLC and the City of Colorado Springs recorded April 24, 1998 under Reception No. 098052822, records of El Paso County, Colorado.