

**AMENDED AND RESTATED  
DECLARATION  
OF  
CONDITIONS, COVENANTS, RESTRICTIONS, EASEMENTS AND CHARGES  
AFFECTING THE REAL PROPERTY KNOWN AS  
  
GRAND WEST ESTATES**

This Amended and Restated Declaration of Conditions, Covenants, Restrictions, Easements and Charges Affecting the Real Property Known as Grand West Estates (the "Amended Declaration") is made and executed as of the 5<sup>th</sup> day of November 1999 by Grand West Properties, Inc., a Colorado corporation ("Declarant"), the Grand West Estates Owners Association, a Colorado nonprofit corporation (the "Association") and the undersigned owners of at least two-thirds of the Lots in Grand West Estates (the "Owners").

**RECITALS**

A. On December 17, 1990, Declarant executed the Declaration of Covenants, Conditions and Restrictions of Grand West Estates, Lake County, Colorado (the "Original Covenants"). The Original Covenants were recorded on January 3, 1991 in Book 495 at Page 225 of the records of the Clerk and Recorder of Lake County, Colorado.

B. Pursuant to paragraph 18 of the Original Covenants, it is provided that the Original Covenants may be amended by a vote of two-thirds (2/3) of the owners of Lots that are subject to the Original Covenants.

C. Declarant, the Association and the undersigned Owners comprising the ownership of at least two-thirds of the Lots that are subject to the Original Covenants desire to amend and restate the Original Covenants, and for that purpose the owners of at least two-thirds of the Lots have executed this Amended Declaration.

D. At the time of the execution and recordation of the Original Covenants, the Colorado Common Interest Ownership Act, Colorado Revised Statutes 38-33.3-101 through 38-33.3-319 (as the same may be amended from time to time (the "Act") had not been adopted in the State of Colorado. Pursuant to the provisions of § 38-33.3-118 of the Colorado Revised Statutes, the Declarant, the Association and the Owners desire to subject Grand West Estates, this Amended Declaration and the Association to the provisions of the Act.

E. Declarant, the Association and the Owners deem it necessary and desirable to subject the Property to the covenants, conditions, restriction, reservations, easements, assessments, charges and liens set forth below, which shall burden and benefit Declarant, all other parties having any right,

title or interest in the Property, or any portion thereof, and their respective successors, assigns, heirs, devisees and personal representatives.

F. Pursuant to the Original Covenants, Declarant formed the Association as a Colorado nonprofit corporation to (i) manage, operate and maintain the common elements of Grand West Estates; (ii) administer and enforce the covenants, conditions, restrictions, reservations and easements created thereby; and (iii) levy, collect and enforce the assessments, charges and liens imposed pursuant hereto. It is the desire of the Declarant, the Association and the Owners that the Association continue as the Association under this Amended Declaration.

NOW, THEREFORE, Declarant, the Association and the undersigned Owners declare that the Property is a planned community (as that term is defined in the Act) and shall be held, transferred, sold, conveyed and occupied subject to the conditions, covenants, restrictions, easements, charges and liens hereinafter set forth.

**Article I**  
Scope and Application of Amended Declaration

Section 101. This Amended Declaration shall be fully applicable to Tract A, Lots 1-24, inclusive, in Grand West Estates Filing No. 1 and to Lots 1-8, inclusive, in Grand West Tract B Filing No. 1, (Amended). This Amended Declaration shall not be applicable in any respect to Lot 18 of Tract B and shall have limited applicability to Lots 9-17, inclusive, of Tract B as set forth in Sections 102 and 103 below.

Section 102. Owners of Tract B lots 9-17 share ownership interest in and rights to the use of Tract A, subject to the provisions of Section 210 herein and the Fee Agreement referenced in Section 210.f. Owners of Tract B lots 9-17 shall not otherwise be members of the Association, but shall have specific voting rights applicable only to the uses, further development, access to, and maintenance of Tract A when such issues are also to be voted upon by residential Lot Owners. Such voting rights shall be limited to one vote per lot as further specified in Section 402.b. herein. Owners of Tract B lots 9-17 shall not be subject to payment of assessments under this Amended Declaration, but shall be responsible for the payment of fees pursuant to the Fee Agreement. Specific sections of this Amended Declaration applicable to Tract B lots 9-17 are: Section 210, 234, 235.d., 402.b., and 714.

Section 103. Except as set forth in Section 102 above, this Amended Declaration shall not otherwise be applicable to lots 9-17, inclusive, in Tract B. If, however, the Declarant or any successor in interest to the Declarant creates any additional single family residential lots in Tract B, such single family Lots will be fully subject to this Amended Declaration in the same manner as all other single family residential Lots subject to this Amended Declaration.

## Article II

### Covenants to Preserve the Residential Character and Quality of Portions of Grand West Estates

Section 201. Single Family Residential Use of Lots. All Lots in Grand West Estates shall be used exclusively for private single family residential purposes. No dwelling erected or maintained on a Lot within Grand West Estates shall be used or occupied for any purpose other than for a single-family dwelling. No business or commercial use or activity shall be carried on or within any Lot; provided that this prohibition on commercial activity it not intended to prohibit a home office in the dwelling unit. To the extent that a home office is permitted on a Lot by the laws, rules and regulations of Lake County, it is permissible to have such home office in a dwelling so long as the use is fully in compliance with any applicable laws, rules and regulations permitting such use. If there is a violation of such laws, rules and regulations, such violation will also be deemed a violation of this Amended Declaration.

Section 202. Single Family Residential Construction on Lots. No Structure shall be erected on a Lot within Grand West Estates except single-family dwellings and those accessory Buildings and Structures which have been approved by the Architectural Integrity Committee ("AIC"). No more than one dwelling may be erected on any Lot. No Structure other than a dwelling, no accessory Building, other than a guest house or servants' quarters, no trailer, tent, camper or other similar or dissimilar temporary quarters may be used for permanent living purposes. All accessory Buildings and Structures must be compatible and in harmony with the dwelling on the Lot, which compatibility and harmony shall include compatibility of building materials, color, design and appearance. No duplexes, triplexes, fourplexes or other multi-family residential structures shall be permitted to be constructed on the Lots.

#### Section 203. Prohibited Temporary Structures.

a. Temporary living or camping quarters shall not be permitted on any Lot at any time except as authorized by provision c. of this section. Mobile homes and modular homes shall not be permitted on the Lots.

b. The AIC may permit construction trailers or other similar temporary structures for a reasonable period of time during construction of permitted improvements. Such permission of the AIC will be subject to conditions imposed by the AIC, will expire upon completion of construction, and may be revoked if the AIC determines that its conditions are not being complied with.

c. Lot owners may bring tents, trailers and recreational vehicles on the Lots for temporary human habitation for reasonable periods of time not to exceed two weeks at a time. Such tents, trailers and recreational vehicles may not be used for permanent residency.

d. Section 204. New Construction. All construction shall be new except for the limited use of used materials such as antique items. Mobile homes, modular homes and other similar types of buildings that are constructed elsewhere and moved onto a Lot are prohibited. Small, less than 100 square feet, prefabricated structures including but not limited to sheds are allowed subject to approval by the AIC.

Section 205. Building Materials. No building materials or construction equipment shall be stored on any Lot except temporarily during continuous construction of a Structure or its alteration or improvement, unless enclosed within a building so as not to be visible from another Lot or from any street located in Grand West Estates.

Section 206. No Construction Occupancy. A Structure shall not be occupied in the course of original construction until a Temporary or Final Certificate of Occupancy has been issued by Lake County.

Section 207. Completion of Construction. All work of construction shall be prosecuted diligently and continuously from the time of commencement until fully completed. The exterior of all buildings or other Structures must be completed within sixteen (16) months after the commencement of construction except where such completion is impossible or would result in hardship due to fires, national emergency or natural calamities or other acts of God. If not so completed, or if construction shall cease for a period of one hundred fifty (150) days without written permission of the AIC, the unfinished Structure or unfinished portion thereof shall be deemed a nuisance and must be removed by the Owner.

Section 208. Not Used.

Section 209. Construction Debris. When construction commences on a Lot, the Owner of the Lot shall be responsible to ensure that a trash container is provided, properly used and maintained for construction debris. During the progress of construction, the Owner of a Lot shall use his best efforts to ensure that the Lot is kept free of debris and trash, all of which shall be deposited in the trash container or neatly stacked for reuse as firewood. The Owner of the Lot shall use his best efforts to ensure that no construction materials, debris or trash shall be allowed on the property of others and any materials, trash or debris blown off the Lot shall be promptly cleaned up by the Owner.

Section 210. Tract A; Easements.

a. Tract A shall be preserved and maintained for the exclusive and common use of the Owners of the Property, as well as the guests and tenants of the Owners. Tract A consists of approximately 154 acres in the valley of the East Fork of the Arkansas River. This area contains significant wetlands and other wildlife habitat. No buildings, Structures or improvements shall be

constructed, erected or maintained on Tract A, except that the Association may build and maintain trails, fences, bridges and gates as are necessary or advisable to secure Tract A and to provide for appropriate owner access and use of Tract A. The Association shall also be permitted to erect and maintain structures to facilitate the common use and maintenance of Tract A, including picnic areas, toilet facilities and a storage facility for common area maintenance equipment. Tract A is intended to be used for recreational purposes, including picnics, fishing, horseback riding, bicycling, nature photography and hiking. Overnight camping, hunting and shooting in Tract A are prohibited. No motorized vehicles are permitted in Tract A except as and where specifically designated by the Association. Emergency vehicles are hereby granted a license to enter into Tract A during bonafide emergency situations, which license will terminate when the emergency situation terminates. Maintenance vehicles may be authorized to enter into Tract A by the Association as necessary to maintain Tract A. The Board of Directors of the Association may establish reasonable rules and regulations concerning the use of Tract A, as long as such rules and regulations are consistent with this Declaration. Wildlife in Tract A shall not be disturbed or harassed; provided, however, that the Association shall be permitted to engage in wildlife management practices to maintain an environment in Tract A that is healthy, desirable and balanced for both humans and wildlife.

b. The Association shall have the right to deny the use of Tract A to Owners, or the guests and tenants of Owners, who abuse the privilege of the use of Tract A and shall also have the right to deny the use of Tract A to those persons using Tract A pursuant to the Fee Agreement who abuse the privilege of the use of Tract A.

c. The right and privilege of an Owner to use Tract A shall be appurtenant to the ownership of each Lot, and shall pass with the title to the Lot even if no specific reference is made to such rights and privileges. Any lien or encumbrance on a Lot shall include the appurtenant rights and privileges of the Owner of the Lot even if no specific reference is made to such rights and privileges in the document creating the lien or encumbrance. Upon any foreclosure of a lien or encumbrance on a Lot, the title acquired through such foreclosure shall include all appurtenant rights and privileges associated with the Lot to use Tract A. The rights and privileges of the Owners to the use of Tract A shall not be severable from the title and ownership of a Lot. Under no circumstances will any Owner have the right to grant rights to the use of Tract A to any person who is not a guest or tenant of the Owner. The rights and privileges of Owners of Tract B Lots 9-17 are further subject to the conditions of the Fee Agreement (Exhibit A hereto).

d. Those easements affecting the Property at the time of the recordation of the Plat are as reflected on the Plat. In addition to the easements shown on the Plat and described in this Amended Declaration, the Property is subject to any easements described in any approved Development Plan for the Property.

e. Tract A is not dedicated for public purposes and is intended solely for the use of the Owners, the guests and tenants of the Owners and for emergency services, including fire, police, sheriff and ambulance.

f. The Association and the Declarant have agreed to enter into an Amended and Restated Agreement for Establishment of Tract B Fees, a copy of which is attached to this Amended Declaration as Exhibit A (the "Fee Agreement"), such document to be recorded in the records of the Clerk and Recorder of Lake County, Colorado subsequent to the recordation of this Amended Declaration. Pursuant to the Fee Agreement, the owners of lots 9-17, inclusive, in Tract B, and the guests and tenants of such owners are permitted to use Tract A in return for which the owners of such lots in Tract B are required to pay fees to the Association. The Association, the Declarant and the Owners each hereby ratify, confirm and approve such agreement. The Fee Agreement is not intended to be applicable to Tract B Lots 1-8, inclusive, since such Lots are fully subject to this Amended Declaration. It shall, however, be applicable to lots 9-17, inclusive, Tract B. As set forth elsewhere in this Declaration, if the Declarant creates any additional single family residential lots in Tract B, such single family lots so created will be fully subject to this Declaration, including the obligation to pay annual, special and site assessments. If such additional single family residential lots are created from lots 9-17, inclusive, by replat or change of use, then the single family residential lots will then pay assessments pursuant to this Amended Declaration rather than fees pursuant to the Fee Agreement. The Fee Agreement is not intended to create any rights in the public in general to use Tract A, and the Fee Agreement may not be expanded in scope to grant the use of Tract A to those other than the owners of Lots and lots 9-17, inclusive, in Tract B, and the guests, tenants and invitees of such owners, without an amendment to this Amended Declaration to expand the permitted users of Tract A.

g. No Owner (or the respective ownership interests in lots 9-17 in Tract B, as applicable), will have the right to grant an easement across the Lot of such Owner (or lots 9-17 in Tract B) to provide access to the streets in Grand West Estates for the benefit of any property that is not a Lot or lots 9-17 in Tract B, unless the Board of Directors of the Association has approved the granting of such easement, which approval may be subject to such terms and conditions as the Board of Directors of the Association deems appropriate.

Section 211. Underground Utilities. All utilities, including, electrical, telephone and cable television service, except lighting standards and customary service devices for access, control, or use of utilities, shall be installed underground.

Section 212. Setbacks. Buildings must be set back a minimum of thirty feet from any lot line or road right-of-way. Building setbacks must also comply with the requirements of Lake County, Colorado for front, rear and side Lot lines as of the date of commencement of construction as contained in the Development Plan or the zoning regulations of the County. If there is any conflict between the provisions of this Section and County Regulations the greater setback requirements will apply. Any variances from setback requirements shall require the approval of the County and the AIC.

Section 213. Compliance with Building Codes. All construction must conform to the building codes, zoning codes and subdivision regulations of the County and to the Development Plan, which regulations may vary from the provisions of this Amended Declaration; provided,

however, if this Amended Declaration is more restrictive than such governmental codes and regulations, then the more restrictive provisions of this Amended Declaration shall control. Any violation of the Development Plan or of any building codes, zoning codes and subdivision regulations of the County or any laws affecting the Property by any governmental authority having jurisdiction over the Property shall be deemed a violation of this Amended Declaration.

Section 214. Minimum Floor Area and Maximum Height. Any residence erected upon the Lots shall contain a minimum of 800 square feet of floor space, exclusive of basement, garage, porches and decks. The maximum height of any Structure shall be 35 feet as measured from the lowest grade elevation of the foundation to the highest point on the roof structure. Chimneys and flues may extend above the roof line only to the extent required by County Building and Fire Safety Codes and are subject to review and approval by the AIC.

Section 215. Architectural Design Guidelines. Architectural design guidelines are established to achieve an appropriate balance or harmony between the constructed environment and natural environment so as to preserve and enhance both the aesthetic and economic values of properties within Grand West Estates. While the standards for architectural style are flexible, compatibility with the informal natural environment is required. The AIC shall have the responsibility to recommend additions or modifications to architectural and building standards and guidelines, not otherwise in violation of or contrary to an express provision of this Amended Declaration, contained in the published Grand West Estates Architectural Guidelines, to the Association for ratification by an affirmative vote of Owners taken in accordance with the By-laws of the Association following an opportunity for review and comment, from time to time.

Section 216. Fences. The height, location and material of all fences, corrals, animal pens, dog runs and other similar items must be approved by the AIC. Chain link or similar wire or wire mesh fencing shall not be allowed as the primary fencing material on Lots. Chain link fencing may be permitted for animal containment subject to prior approval of the AIC. Barbed wire fences are prohibited. It is generally the intent of this Amended Declaration that fencing is not encouraged and, as such will be limited to accomplish specific purposes including but not limited to privacy in the vicinity of the residence, animal containment, to feature landscaping and define driveway routes. In no event will perimeter fencing of a Lot be permitted. Each 50 feet of fencing must include a 20 foot break between fencing runs. The AIC shall have the responsibility to recommend guidelines concerning fencing.

Section 217. Landscaping, Trees and Vegetation. Areas of Lots affected by construction activities or other activities that disturb the preexisting natural landscape shall be appropriately landscaped concurrently with the construction of the residence, and such landscaping shall be completed no later than twelve months after substantial completion of the residence. All landscaping shall be native landscaping able to survive without irrigation. It is the intent of this Amended Declaration to limit the removal of trees from the Property except as is reasonably necessary to permit construction, to remove dead trees and to prevent the spread of diseases, insects, wildfire and other adverse conditions. Any clearing as opposed to thinning of trees, other than for permitted



construction, shall be subject to the prior approval of the Board of Directors of the Association. It shall be the responsibility of the Lot Owner to furnish adequate justification for any such clearing and to submit plans for reforestation. The Board of Directors of the Association shall have the authority to adopt and amend rules and regulations to implement the provisions of this paragraph.

Section 218. Aerials, Solar Devices and Antennas. No aerial, solar device, satellite dish or antenna for reception or transmission of radio or television or other electronic signals shall be maintained on the roof of any Structure on a Lot nor shall they be maintained at any location on a Lot so as to be visible from another Lot or any street in Grand West Estates. The maximum height of such devices shall not exceed the maximum height for Structures permitted on the Lot. Satellite dishes of not more than 24" in diameter may be mounted on a Structure without being screened from view, provided that such devices shall not be mounted on the roof of a Structure and shall not exceed the height of the Structure.

Section 219. Maintenance of Lots. Each Owner of a Lot shall maintain the Lot of such Owner and all Structures on the Lot in good condition and shall cause them to be repaired as the effects of damage or deterioration become apparent. Exterior building surfaces and trim shall be refinished periodically and before the surfacing becomes weather-beaten or worn off. Periodic exterior maintenance also includes repair and maintenance of gutters, down spouts, roofs, paving, landscape material, fences, signage, mail boxes and outdoor lighting. All landscaping shall be maintained as necessary to avoid becoming unsightly or a nuisance.

Section 220. Destroyed or Damaged Structure. Any Structure that is destroyed in whole or in part by fire, windstorm or for any other cause or act of God must be restored or rebuilt; all debris must be removed and the Lot promptly restored to a sightly condition. Rebuilding or restoration shall be completed with reasonable promptness and in any event within twelve (12) months. If the removal of the debris and such rebuilding or restoration is not timely completed, then the damaged Structure shall be deemed a nuisance and shall be removed by the Owner of the Lot.

Section 221. No Unsightly Condition. Each Owner shall prevent the development of any unclean, unsightly or unkept conditions of buildings or grounds on the Lot of such Owner that decreases the beauty of Grand West Estates.

Section 222. LP Gas Tanks. LP gas tanks need not be screened if painted a neutral brown or green tone approved by the AIC.

Section 223. Maintenance Equipment. All maintenance equipment, including yard and garden equipment, kept on a Lot shall be stored in an enclosed Structure or otherwise fully screened so as not to be visible from Tract A, another Lot, or any street in Grand West Estates.

Section 224. Clothes Lines. All outdoor clothes poles, clothes lines and other facilities for drying or airing of clothing or household goods located on Lots shall be placed or fully screened so as not to be visible from Tract A, another Lot, or any street in Grand West Estates.



Section 225. Garbage and Trash. No ashes, trash, rubbish, garbage, scrap material, or other refuse, or receptacles or containers therefore, shall be stored, accumulated or deposited outside or so as to be visible from Tract A, another Lot or any street in Grand West Estates. No part of the Property shall be used as a dumping ground for rubbish, trash, garbage or other waste. All parts of the Property shall be kept in a sanitary and clean condition and all equipment for the storage or disposal of waste shall be constructed in a manner to prevent noxious odors and shall be kept in a sanitary condition. No burning of trash or garbage or other waste shall be permitted on any of the Property. The burning of slash from the pruning or removal of trees or brush, as allowed by Section 217, is allowed with the prior written permission of Lake County. Such slash, whether accumulated for burning or recycling, shall be neatly stacked and shall not remain on the lot for more than nine months. Trash containers shall be kept either in the garage of a residence or be kept within a fully screened area so as not to be visible from Tract A, another Lot, or any street in Grand West Estates. The Board of Directors of the Association shall have the right to enact rules and regulations requiring that all trash be deposited in a central dumpster or that other measures be taken to avoid animal scavenging.

Section 226. No Offensive Activity. No noxious or offensive activity shall be carried on upon any Lot nor anything done thereon tending to cause embarrassment, discomfort, annoyance or nuisance to Grand West Estates. No offensive or hazardous activities shall be permitted on any Lot or in any Structure. No annoying lights (flashing or exceedingly bright), sound or odors shall be permitted to emanate from any Lot. Specifically, the sounds from video and audio equipment should not be heard beyond the boundaries of the Lot.

Section 227. No Mining or Drilling. No Mining or Drilling for minerals, oil or natural gas shall be permitted on any Lot and no derrick, mining machinery or structure designed for use in mining, boring or drilling shall be permitted upon or above the surface of any Lot.

Section 228. Not Used

Section 229. Animals. No animal of any kind shall be permitted which in the opinion of Board of Directors of the Association makes an unreasonable amount of noise or odor or is a nuisance. No animals shall be kept, bred or maintained on a Lot within Grand West Estates for any commercial purposes. Animals shall not be permitted to roam in Grand West Estates and shall only be permitted off the Lot of the Owner of the animal if under the direct control of the Owner and/or on a leash or other similar restraining device. Up to two large animals, including horses, donkeys, mules, cattle, goats, sheep and llama are permitted on each Lot, subject to the approval of the Board of Directors of the Association, which approval will be granted only if the Board of Directors of the Association is satisfied that adequate facilities exist or will be constructed to provide for the proper care and confinement of such animals. In addition to the two large animals permitted to be kept on a Lot pursuant to this section, each Lot owner may keep dogs, cats, and other small domestic pets, provided they are not kept, bred or maintained for any commercial purposes, and further provided that no more than three (3) domestic pets may be kept on any Lot. The Owners of the Lot on which

animals are kept shall be responsible for the care of such animals. No other animals shall be kept on the Lots. Animals otherwise permitted within Grand West Estates are permitted in Tract A if under the direct control of the Owner of such animals and/or on a leash or other similar restraining device and subject to such rules and regulations governing the use of Tract A as may be from time to time promulgated by the Association in accordance with Section 210.a. of this Amended Declaration.

Section 230. Vehicle Parking. Not more than a total of one of the following: boat, trailer (with or without its designed payload), camper (off supporting vehicle), recreational vehicle, motor home, motorcycle, snowmobile or the like shall be parked within any Lot, except in a completely enclosed Structure approved by the AIC, or in a fully screened manner so as not to be visible from another Lot, Tract A, or the streets of Grand West Estates. Parking on streets in Grand West Estates is prohibited.

Section 231. Junk Vehicles. No stripped down, wrecked, unlicensed, inoperable or junk motor vehicle or sizeable part thereof, shall be permitted to be parked on any street or on any Lot except in a completely enclosed structure.

Section 232. Vehicle Maintenance. No maintenance, servicing, repair, dismantling or repainting of any type of vehicle, boat, machine or device which requires more than twelve (12) hours to complete may be carried on any Lot except within a completely enclosed Structure which screens the sight and sound of the activity from Tract A, another Lot, or from any street in Grand West Estates.

Section 233. Signs. The only signs permitted on any Lot or Structure shall be:

- a. One sign of customary size for offering of the signed Lot for sale or for rent;
- b. One or more signs (total of all signs not to exceed eight square feet) for identification of the occupant and the address of any dwelling. Within this allotment each Lot on which a dwelling has been constructed shall have erected at or near the driveway entrance to the Lot a sign containing its street address in order to facilitate emergency responses.
- c. Project identity and entrance signs erected by the Association;
- d. Such signs as are erected by the Association as may be necessary to advise of rules and regulations or to caution or warn of danger; and
- e. Such signs as may be required by law.
- f. Signs of customary size (not to exceed two square feet total) warning of security devices.

All signs require the approval of the AIC. No banners, streamers, flags, lights or other devices calculated to attract attention in aid of sale or rental shall be permitted. All signs must be constructed and lettered in a neat and attractive manner.

Section 234. Limitations on Further Subdivision. The Property has been subdivided into 24 Lots in Grand West Estates Filing No. 1 and 18 Lots in Grand West Tract B Filing No. 1 (Amended). No further subdivision of single family residential Lots 1-24 of Grand West Estates Filing No. 1 or of Lots 1-8 of Grand West Tract B Filing No. 1 (Amended) is permitted. Lots 9-18 of Tract B Filing No. 1 (Amended) are subject to the conditions of the Grand West Tract B Planned Unit Development Permit (Second Amendment) as filed on October 31, 1996 in Book 523 at Page 35 of Lake County, Colorado records. Said permit allows the further platting of Tract B Lots 9-15 as required for condominium development on such lots. Any change in the use of Tract B Lots 9-18 to single family use would require further amendment of the Planned Unit Development Permit with attendant public notice and hearings. This paragraph shall not preclude the Declarant from applying for such a change in use. However, no more than eight additional Single Family Residential lots, of a size not less than two acres each, may be created and annexed to this Amended Declaration through any platting or change in use of Lots 9-18.

Section 235. Wells and Septic Systems.

- a. Water will be supplied to each single family residence through an individual or multiple-family well permit. In the case of a multiple lot well permit, each lot owner and/or the Declarant must consent to all terms of the well permit. Water usage on each lot shall be limited to in-house use only and outside watering of a maximum of two animals per lot. Each well permit, when applied for, must reference that it is subject to and controlled by the terms and conditions of District Court Water Division No. 2, Case No. 90CW18. Each well must contain a totalizing flow meter, and each lot owner, when requested, shall report his annual water use to the Declarant, the Association or such other official as requested by October 31st of each year. Each homeowner shall pay, through the Association, his pro rata share of all costs associated with the implementation of the water augmentation plan decreed in Case No. 90CW18. A copy of each well permit, when granted by the Division of Water Resources, shall be filed with the District Court Water Division No. 2, 305 Judicial Building, 320 West 10th Street, Pueblo, Colorado 81003.
- b. The sewage disposal system for each single family residence shall be of a septic leach field design and approved under the guidelines of all State and County rules and regulations, and shall be of a non-evaprotransporative type, whose construction shall be below the root zone of ordinary plants.

- c. With respect to the water and sanitation provisions of this Amended Declaration, those provisions shall be enforceable by the State of Colorado Division of Water Resources, the Declarant, the Association or any other Person claiming injury from usage of the water resources underlying each lot owner's property. Said enforcement can be by separate and individual action to enforce the covenants in the Lake County District Court. Any such party commencing an action to enforce these covenants shall be entitled to all costs and reasonable attorneys' fees incurred in the enforcement of the covenants should such enforcement be ordered by the Court with respect to any lot owner's activities under the water augmentation plan of the District Court Water Division No. 2, Case No. 90CW18.
- d. If any campground and recreational vehicle facility is constructed or maintained in Tract B, water usage shall be limited to recreational vehicle/campsite use, bathhouses, laundry facilities, and indoor use in any commercial buildings for administering the campground and providing ancillary services to patrons of the campground and recreational vehicle park, including restrooms, laundry and shower facilities. The campground recreational vehicle park shall be limited to 120 day water usage. Any bathhouse, laundry facility, restrooms, showers, and commercial activities at the park shall be allowed water usage for 365 days per year.
- e. When required, the separation of wells shall be subject to approval by the State Water Engineer. It is the intent of this Amended Declaration that potential interferences between wells and between wells and septic systems on adjacent Lots be minimized by requiring, as a part of the AIC permitting process, that a variance be approved as described in Section 303 of this Amended Declaration, for separations of less than 200 feet.

Section 236. No Outside Privy. Not outside privy shall be erected, used or maintained except that such facility may be temporarily established for the benefit of workmen during the initial construction of a residence. The Association may erect and maintain outdoor toilets in Tract A. All sewage disposal systems shall be subject to approval of the appropriate governmental authorities.

**Article III**  
Architectural Control

Section 301. Establishment of Architectural Integrity Committee (AIC). The AIC (previously known as ACC) has previously been established pursuant to the Original Covenants. This Declaration confirms the continuance and establishment of the AIC consisting of three (3) regular members, each of whom shall be appointed by the Board of Directors of the Association. All members of the AIC shall be Owners of residential lots. Two alternate members of the AIC shall be appointed by the Board of Directors of the Association to serve on the AIC in the event of the documented temporary unavailability of regular AIC member. The members of the AIC shall serve at the pleasure of the Association, and such members may be removed and replaced at any time. Any vacancies in the AIC shall be filled by appointment made by the Board of Directors of the Association. The purpose of the AIC shall be to serve as the AIC under this Amended Declaration, and the AIC shall have all powers as are expressly granted to the AIC by this Amended Declaration and such other powers as are reasonably implied from this Amended Declaration.

Section 302. Architectural Integrity. No Structure shall be commenced, erected, placed, moved onto a Lot, permitted to remain on any Lot or altered in any way so as to change materially its exterior appearance, except in accordance with site plans, landscape plans, structure plans and elevations, specifications and other information submitted to the AIC and approved by the AIC not more than one (1) year before start of the construction, alteration or installation. Matters which require the approval of the AIC include but are not limited to standards specified in this Amended Declaration and items specified in the "Grand West Estates Architectural Design Guidelines". In addition to obtaining the approval of the AIC, it will normally be required that a building permit be obtained from the appropriate governmental agency of the County. The approval of the AIC does not alleviate the requirement to obtain a building permit, where required, and the issuance of a building permit does not alleviate the requirement of the Owner to obtain the approval of the AIC. The Board of Directors of the Association shall have the authority to adopt and amend rules and regulations to govern the procedures for submittal, review, approval and denial of such matters requiring AIC approval provided that such rules and regulations may not amend any specific provisions of this Amended Declaration.

- a. In granting or withholding approval the AIC shall heed the standards specified in this Amended Declaration and shall also consider the conformance of the proposed structure to architectural and building standards and guidelines published by the Association. The AIC shall specifically consider among other things: the adequacy of the materials for their intended use; the harmonization of the external appearance with the surrounding uses; and/or the degree, if any, to which the proposed Structure will cause obstruction of views and/or intrusions of sound, light or other effect on neighboring Lots beyond those reasonably to be expected from considerate neighbors.

- b. All site plans, landscape plans, structure plans and elevations, specifications, samples and other materials to be submitted to the AIC shall be submitted in triplicate. The site plan shall show in scale, at a scale not less than 1/20 inch equals one foot, the location of all buildings, drives, walks, fences and any other Structures. Structure plans, at a scale not less than 1/8 inch equals one foot, shall show plan views and all exterior elevations, and shall indicate and locate on each elevation the type and location of exterior lights, the materials and colors to be used, and designate each exterior color to be used by means of actual color samples. Landscaping plans shall show and/or describe the location and type of new landscaping elements to be utilized by the Owner.
  
- c. A written statement of the approval or disapproval or other action by the majority of the AIC, signed by a duly designated member of the AIC, shall establish the action of the AIC and shall protect any Person relying on the statement. If the AIC does not execute such a statement within thirty (30) days after delivery of all the required materials to the AIC's principal office, the material so delivered shall stand approved for the purpose of this Amended Declaration; but such approval shall not be deemed to permit any matter that is in violation of or contrary to an express provision of this Amended Declaration. Additionally, once items are approved by the AIC, approval may not be rescinded by the AIC or Association, as long as approved items are not in violation of or contrary to an express provision of this Amended Declaration and the approved items, as executed, conform with representations made within the submitted materials. The AIC shall be entitled to retain one copy of all approved plans as part of the AIC's files and records.
  
- d. The AIC may recommend additions or modifications to architectural and building standards and guidelines contained in the published Grand West Estates Architectural Guidelines, not otherwise in violation of or contrary to an express provision of this Amended Declaration, to the Association from time to time. Changes to published guidelines shall be adopted by an affirmative vote of Owners taken in accordance with the By-laws of the Association following an opportunity for review and comment.
  
- e. In discharging its rights and obligations hereunder, the AIC makes no representations or warranties to the Owner or any other Person concerning the construction of the Structures on the Lot or the suitability of the soil on the Lot, and the AIC shall have no liability or responsibility for defective design, construction, expansive soil or other similar matters.



- f. The AIC shall have the responsibility to approve, disapprove or require additional information for, submittals made to it and shall determine that approved activities are conducted according to the approved plans and specifications. The AIC may recommend enforcement for activities that have not conformed to approved plans or specifications or have been undertaken without appropriate approvals, but shall not be responsible to pursue that enforcement.

Section 303. Variances. The Board of Directors of the Association shall have authority to grant a variance from the terms of this Amended Declaration or from any of the rules, regulations, architectural guidelines or construction guidelines adopted by the Association when there are exceptional and extraordinary circumstances that would make literal enforcement of a specific term of this Amended Declaration or any of the rules, regulations, architectural guidelines or construction guidelines adopted by the Association unduly harsh. Following an application for a variance:

- a. The Board of Directors of the Association shall call a meeting of Owners of those Lots in Grand West Estates that the Board of Directors of the Association determines, in the sole and absolute discretion of the Board of Directors of the Association, will be affected by the variance, if granted. The meeting will be held at The Association's principal office or at such other place designated by the Board of Directors of the Association. Notice of the meeting shall be given to the applicable Owners at least ten (10) days in advance, at which meeting the Owners shall have opportunity to appear and express their views. The opinions and views of the Owners who attend the meeting shall be advisory only and shall not be binding upon The Board of Directors of the Association.
- b. Whether or not anyone appears at the meeting in support of or in opposition to the application for variance, The Board of Directors of the Association shall within one (1) week after the meeting either grant or deny the variance.
- c. A variance granted hereunder, if permanent, shall run with the Lot for which granted, but otherwise shall expire pursuant to the term of the variance.
- d. If a variance is denied another application for a variance for the same Lot for substantially the same variance may not be made for a period of one (1) year.
- e. A variance shall not be granted unless the full Board of Directors of the Association shall find (by a majority vote) that all of the following conditions exist:
  - i. The variance will not authorize the operation of a use other than private, single-family residential use on a Lot as permitted hereunder;



- ii. The variance will not substantially or permanently injure the use of other property in Grand West Estates;
  - iii. The variance will not alter the essential character of Grand West Estates;
  - iv. The variance will not weaken the general purposes of this Amended Declaration;
  - v. The variance will be in harmony with the spirit and purpose of this Amended Declaration;
  - vi. The circumstances leading the applicant to seek a variance are unique to the Lot or its Owner and are not applicable generally to Lots in Grand West Estates or their Owners.
  - vii. The variance does not alter the minimum size or maximum height requirements described in Section 214 of this Amended Declaration.
  - viii. Notification of the approval or denial of a variance shall be mailed to Owners within seven days of the decision. Approved variances shall become effective 30 days after granting of the variance. A reasonable fee may be assessed to the Petitioner of the variance to cover expenses incurred by the Association that are related to the variance.
- f. If any Owner of a residential Lot in Grand West Estates desires to challenge the granting or denial of a variance, such Owner shall file an action in the Lake County District Court to challenge the granting or denial of such variance within thirty days after the granting or denial of the variance, which time limit is jurisdictional to the right of the court to hear such matter. The standard of proof in challenging the granting or denial of the variance shall be the same as applicable to the challenge of a decision of a governmental body under Rule 106 of the Colorado Rules of Civil Procedure, i.e., was the decision of the Board of Directors of the Association arbitrary or capricious.

Section 304. Officers and Agents Excused from Liability. Neither the Association nor the AIC nor the officers and directors, members and agents of the Association and the AIC shall be liable to any Person for any decision, act or omission made by the AIC or the Association in performing its duties under this Amended Declaration unless it is established by clear and convincing evidence that there was fraudulent or wilfully wrongful action taken, in which event the person who has acted with fraud or in a wilfully wrongful manner may be personally liable for any damage caused by such conduct.

Section 305. The Association Can Remedy Violations. The Board of Directors of the Association may give notice to the Owner of the Lot where a violation of this Amended Declaration occurs, which notice shall state the nature of the violation and the intent of the Association to invoke this Section unless within a period stated in the notice (not less thirty (30) calendar days), the violation is cured and terminated, appropriate measures to cure and terminate are begun and are thereafter continuously prosecuted with diligence, or a plan and timetable to cure and terminate the violation is accepted by the Board of Directors of the Association. Costs incurred by the Association to cause compliance to be attained if the violation is not cured and terminated as required by the notice, shall be paid by the Lot Owner and if not paid within thirty (30) days after such Owner has been sent notice of the amount due, such amount, plus interest at the rate of eighteen per cent (18%) per annum and Costs of Collection, shall be a lien on the ownership interest in the Lot (including improvements thereon) and shall in all respects be the personal obligation of the Owner. The Board of Directors of the Association may bring an action at law for recovery of the costs so incurred by it, plus interest and Costs of Collection against the Owner, and may bring an action to foreclose the lien against the Lot and improvements subject to the lien and there shall be added to the amount of such obligation the Costs of Collection, and the judgment in any such action shall include interest as above provided and the Costs of Collection. The costs and expenses incurred by the Association pursuant to this Section will be assessed as a Site Assessment in accordance with Section 508.c. The foregoing specified rights and remedies shall not limit the right of any Lot Owner to enforce this Amended Declaration pursuant to this Amended Declaration or as otherwise may be provided by law or equity; provided, however, that only the Association shall have the right to proceed under this Section.

**Article IV**  
Association Membership  
and Voting Rights in the Association

Section 401. Formation. The Association has been formed as a Colorado non-profit corporation.

Section 402. Membership; Voting.

- a. General Membership of Owners. The Members of the Association shall be the Owners of the Lots. Membership by the Owners shall be appurtenant to and may not be separated from ownership of any Lot. Ownership of such Lot shall be the sole qualification for membership by an Owner. Each Owner of a Lot shall have one vote for each Lot owned. Any Owner that is an entity shall designate a person to act in its behalf to exercise all rights of a Member or Owner, including without limitation, the right to serve as a member of the Board of Directors of the Association or the AIC. The vote of each Owner of a Lot may not be split, and the Persons comprising the "Owner" of a Lot must agree between or among them how their one vote is to be cast on all

voting matters. If they are unable to agree on how the vote is to be cast on a given matter, then such Owner will be deemed to have abstained from voting on such matter. If there are multiple owners of a Lot then only one of the Persons constituting the ownership shall be eligible to serve on the Board of Directors of the Association. This restriction shall not, however, preclude another Owner of the same Lot from serving as a member of the AIC and/or any other committees formed by the Association. Owners that are entities shall designate one of their members to be eligible for election to the Board and one or more members to be eligible for appointment to the AIC or other committees formed by the Association.

- b. Limited Voting Rights of Lots 9-17, inclusive, Tract B. There shall be one vote on Association matters which pertain to Tract A allocated to each of lots 9-17, inclusive, of Tract B. The votes may either be exercised and cast (i) by the owners of each of such lots collectively agreeing upon how their one vote is to be cast or (ii) by such owners granting a proxy to the association that may be formed by such owners to govern and control such lots. The one vote allocated to each of such lots may not in any event be split. As set forth elsewhere in this Amended Declaration, the owners of such lots will make payments to the Association pursuant to the Fee Agreement, and neither such lots nor the owners of such lots will be subject to assessment under this Amended Declaration unless converted to a single family residential lot. Any replatting that increases the number of such lots will not increase the number of votes allocated to such lots.

Section 403. Nonliability of Association and Others. The Directors of the Association, the officers and committees of the Association, the members of the AIC and the Declarant, including without limitation, the officers, directors, employees, agents, and representatives of the Declarant, but not including its independent contractors or managing agents, shall not be liable in damages or otherwise to any Person whatsoever for any act or omission done as an officer, director, agent or representative on behalf of the Association, except for willful misconduct done in bad faith or gross negligence and shall be indemnified from all such liability.

Section 404. Management of Association; By-Laws; Rules and Regulations. The affairs of the Association shall be managed by its Board of Directors who shall be elected in accordance with the Articles and By-Laws of the Association, the provisions of which, as amended from time to time, shall be deemed a part of this Amended Declaration. The Board of Directors of the Association shall have the authority to adopt and amend its By-Laws, but such By-Laws may not be in conflict with this Amended Declaration. In the event of a conflict among the documents pertaining to the Board of Directors of the Association, the following priority shall apply: (i) the Declaration, (ii) the Association Articles of Incorporation and then (iii) the By-Laws. The Board of Directors of the Association shall also have the authority to adopt and amend rules and regulations pertaining to the

use of the Common Areas and as otherwise set forth in this Amended Declaration to implement the provisions of this Amended Declaration (the "Rules and Regulations").

**Article V**  
Assessments by the Association

Section 501. Creation of the Obligation for Assessments. Each Owner, for each Lot owned by acceptance of a deed therefor, or interest therein, whether or not it shall be so expressed in such deed or instrument creating the interest in the Lot, shall be deemed to covenant and agree to pay to the Association, in the manner, amounts and times prescribed herein, all assessments, charges, fees, fines, and other sums which are described in this Amended Declaration, which shall be both a personal obligation of the Owner and a lien against his Lot as provided herein. Each Owner (and such Owner's successors, assigns, heirs, devisees and personal representatives) shall be jointly and severally liable to the Association for the payment of all assessments, charges, fees and other sums attributable to them and/or their Lot. The personal obligation for delinquent assessments and sums shall not pass to an Owner's successors in title or interest unless expressly assumed by them. No Owner may waive or otherwise escape personal liability for the payment of the assessments, charges, fees and other sums provided for herein by nonuse of the Common Area or the facilities contained therein, by abandonment or leasing of his Lot, or by asserting any claims against the Association, the AIC, the Declarant or any other Person. The rights of the Association as to the amounts assessed under the Original Covenants prior to the recordation of this Amended Declaration shall be deemed carried forward as amounts due and owing under this Amended Declaration.

Section 502. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the Owners, including allocation to reserves, and for the improvement and maintenance of the Common Area and for the acquisition and maintenance of commonly owned equipment, as more specifically provided herein.

Section 503. Annual Assessments. The annual assessment shall specifically include, but shall not be limited to the following common expenses:

- a. expenses of management;
- b. taxes and special assessments for the Common Area;
- c. premiums for all insurance which the Association maintains as required or permitted under this Amended Declaration;
- d. common lighting, water and other common utility and sewer service charges;
- e. maintenance which is the responsibility of the Association as provided in this Amended Declaration;
- f. wages for Association employees;
- g. legal and accounting fees;
- h. any deficit remaining from a previous assessment year;
- i. a working capital fund;
- j. the creation of reasonable contingency reserves, surpluses and sinking funds;

- k. any other costs, expenses and fees which may be incurred or may reasonably be expected to be incurred by the Association for the benefit of the Owners under or by reason of this Amended Declaration;
- l. the acquisition, maintenance and repair or replacement of commonly owned equipment.

The Board of Directors of the Association shall also have authority, to the extent it deems proper, to provide any other services requested by particular Owners, but only on a contract basis under which those Owners pay the cost thereof.

Section 504. Fixing Assessments. For the calendar year 1999, the annual assessment shall be \$300.00 per Lot. Each year thereafter the Association's Board of Directors shall fix the annual assessment at an amount deemed sufficient to meet the needs of the Association.

Section 505. Special Assessments. In addition to the annual assessment authorized above, the Board of Directors of the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of an emergency situation or of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto. Such special assessment shall not exceed the annual assessment unless approved by a majority of voting Owners.

Section 506. Procedure for Special Assessments. Any special assessment under Section 505 shall be made pursuant to the procedures for special assessments set forth in the Bylaws of the Association.

Section 507. Rate of Assessment. Annual and special assessments shall be fixed at a uniform rate for all Lots sufficient to meet the expected needs of the Association.

Section 508. Assessment Procedure.

a. Annual Assessments. No later than ninety (90) days before the beginning of each annual assessment period, the Board of Directors of the Association shall prepare a proposed budget for the Association for the purpose of setting the total annual assessment based upon the cash requirements needed by it to provide for the administration and performance of its duties during the following assessment year. At least sixty days prior to the commencement of the assessment year, the Board shall mail, by ordinary first class mail, or otherwise deliver a summary of the budget to all Lot Owners and shall set a date for a meeting of the Lot Owners to consider ratification of the budget not less than fourteen nor more than sixty days after mailing or other delivery of the summary. Unless at that meeting a majority of the Owners entitled to vote reject the budget, the budget shall be deemed ratified, whether or not a quorum is present. In the event that the proposed budget is rejected, the periodic budget last ratified by the Owners must be continued until such time as the Owners ratify a subsequent budget proposed by the Board. The annual assessment shall be

payable either in one annual installment or as the Board of Directors of the Association directs. The Board of Directors of the Association shall cause to be prepared, delivered or mailed to each Owner, at least thirty (30) days in advance of each annual assessment period, a payment statement setting forth the annual assessment and date due, as applicable.

b. Annual Assessments, Special Assessments and Other Sums. Assessments and other sums imposed under this Section shall be due and payable on the date and in the manner specified by the Board in written notice to each Owner, but such date shall not be less than thirty (30) days after such notice is sent.

c. Site Assessments Due to Acts of Owner. If the Association incurs any expense or liability as a result of the willful, negligent or wrongful act of an Owner, his family, tenants or guests, or any breach by any of such parties of any of the provisions of this Amended Declaration, the Association's By-Laws or the Association's Rules and Regulations, and the same is not paid for by insurance, the cost thereof shall be deemed to be a site assessment against such Owner and his Lot and shall be enforceable as provided herein. The imposition of a site assessment shall be by a vote of the Board of Directors of the Association, and such matter shall not be subject to a vote of the Members of the Association.

d. Notice. Failure of the Board of Directors of the Association to give timely notice of any assessment as provided herein shall not affect the liability of the Owner of his Lot for such assessment, but if notice is not given, the date when payments shall be due shall be deferred to a date thirty (30) days after such notice given.

Section 509. Certificate of Payment. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance. For calendar year 1999, the charge for issuing the certificate shall be \$25.00. The rate for future years shall be as established from time to time by the Board of Directors of the Association.

#### Section 510. Effect of Nonpayment of Assessments-Remedies of the Association.

a. General. Any assessments which are not paid when due shall be delinquent. If any assessment is not paid when due, the Board of Directors of the Association may impose a late charge/administrative fee for each delinquent assessment. The amount of the late charge shall be the greater of (i) ten percent (10%) of the amount of the delinquent assessment or (ii) fifty dollars (\$50.00). Any assessment not paid or postmarked within thirty (30) days after the due date thereof shall also bear interest from the due date at the rate of eighteen percent (18%) per annum, and the Board of Directors of the Association may bring an action at law against the Owner personally obligated to pay the same, and/or foreclose the lien against such Owner's Lot, and/or may suspend the delinquent Owner's right to vote and the right to use the Common Area. If a judgment is

obtained, such judgment shall include interest and late charges on the assessment as above provided and the Costs of Collection.

b. Lien. Any unpaid assessment, charge, fee or other sums assessed against an Owner or his Lot, including without limitation with interest thereon at the rate of eighteen percent (18%) per annum, late charges and Costs of Collection, shall be a charge on the interest of the Owner in that Lot and shall be a continuing lien, in favor of the Association, upon the Lot against which each such assessment, charge, fee or other sum is made. All payments on account shall be first applied to interest, late charges, Costs of Collection, and then to the assessment payment first due. The Board may, but shall not be required to, record a statement of lien with respect to the Lot. The Board may proceed to foreclose the lien in the manner as provided for in the Act. Foreclosure or attempted foreclosure by the Association of its lien shall not be deemed to estop or otherwise preclude the Association from suing the Owner personally liable therefor or from thereafter again foreclosing or attempting to foreclose its lien for any subsequent assessments, charges, fees or other sums, which are not fully paid when due.

c. Authority. Each Owner, by his acceptance of a deed to a Lot, hereby expressly vests in the Association or its agents, the right and power to bring all actions against such Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage lien on real property, and such Owner hereby expressly grants to the Association a power of sale in connection with said lien. The lien provided for in this section shall be in favor of the Association and shall be for the benefit of all other Lot Owners. The Association, acting on behalf of the Lot Owners shall have the power to bid at foreclosure sale and to acquire and hold, lease, mortgage and convey the same, if acquired by the Association at the foreclosure sale or by deed in lieu of foreclosure.

Section 511. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any bona fide First Mortgage of record provided, however, that the assessment lien shall have priority over a First Mortgage in an amount equal to the common expense assessments based on the budget adopted by the Association pursuant to this Amended Declaration which would have become due, in the absence of any acceleration, during the six months immediately preceding the institution of the action to enforce the assessment lien, but in no event shall the priority of the assessment lien exceed one hundred fifty percent (150%) of the average monthly assessment during the immediately preceding assessment year multiplied by six. Sale or transfer of any Lot shall not affect the lien for said assessment charges except that transfer of title of any Lot pursuant to foreclosure of any such First Mortgage or any proceeding in lieu thereof, including deed in lieu of foreclosure, shall extinguish the lien of assessment charges which became due prior to any such transfer, or foreclosure, or any proceeding in lieu thereof, including deed in lieu of foreclosure, subject to the limited priority granted to the assessment liens as described in this Section. No such transfer, foreclosure, or any proceeding in lieu thereof, including deed in lieu of foreclosure shall relieve any Lot from liability for any assessment charges thereafter becoming due, nor for the lien thereof.



Section 512. Notice to Mortgagees and Inspection of Books. Upon written request, a First Mortgagee shall be entitled to written notification from the Association of any default in the performance by the Owner of any obligation under this Amended Declaration and/or the By-Laws of the Association, which is not cured within sixty (60) days, after the Board of Directors has actual knowledge thereof, and the First Mortgagee may, at its option but without any obligation, cure such default. The Association shall grant to each First Mortgagee the right to examine the books and records of the Association at any reasonable time.

Section 513. Homestead. The lien of the Association assessments shall be superior to any homestead or other exemption as is now or may hereafter be provided by Colorado or Federal law. The acceptance of a deed to a Lot subject to this Amended Declaration shall constitute a waiver of the homestead exemption as against said assessment lien.

Section 514. Exempt Property. The following Property subject to this Amended Declaration shall be exempt from the assessments created herein: (a) all Property dedicated to and accepted by local public authority; (b) the Common Area; and (c) Tract B. The exemption of Tract B is as to Tract B, but shall not exempt Lots 1-8 in Grand West Tract B Filing No. 1, amended. Furthermore, if the Declarant as the owner of Tract B creates any additional single family residential lots on Tract B, such single family Lots will be annexed to this Amended Declaration and will thereafter be a part of Grand West Estates and shall be subject to assessment as set forth in this Amended Declaration.

## **Article VI**

### **Maintenance Obligations of the Association**

Section 601. Association Maintenance. Except as otherwise provided in this Amended Declaration, the Association, or its duly designated agent, shall maintain the Common Area and the improvements located thereon in good order and repair and shall otherwise manage and operate the Common Area. In this regard, the Association shall have the following specific duties and obligations:

- a. maintain and manage Tract A, including any trails, bridges or other structures which constitute a portion of the Common Area.
- b. acquisition and maintenance of liability insurance for the Common Area for the benefit of the Association in a minimum combined single limits amount of \$1,000,000.00;
- c. the installation and maintenance of all signs that the Board of Directors of the Association deems advisable for the safety or well-being of the Owners or which are required by an applicable governmental authority; and

- d. for the maintenance of subdivision roads, including snow removal, until such roads are accepted for maintenance by Lake County.

## **Article VII**

### General Provisions for Effect of the Covenants

Section 701. Definitions. The following words and expressions as used in this Amended Declaration have the meaning indicated below unless the context clearly requires another meaning:

- a. Accessory Building: "Accessory Buildings" means and includes patios, corrals, sheds, stables, swimming pools, dressing rooms for swimming pools, separate guest house without kitchen, separate servants' quarters without kitchen and other buildings customarily used in connection with the single-family residence.
- b. Act: "Act" means and refers to the Colorado Common Interest Ownership Act, C.R.S. §38-33.3-101 et. seq., as amended from time to time.
- c. Architectural Integrity Committee: The Architectural Integrity Committee ("AIC") shall mean the committee established pursuant to Article III of this Amended Declaration.
- d. Association: "Association" means and refers to the Grand West Estates Owner's Association, a Colorado nonprofit corporation, the business and affairs of which are managed by its Board of Directors.
- e. Common Area: "Common Area" means and refers to all real property owned by the Association, including improvements thereto, as well as any easements owned by the Association for the common use and enjoyment of the members of the Association. As of the time of the execution of this Amended Declaration, the only Common Area is Tract A.
- f. Cost of Collection: "Costs of Collection" means all expenses and charges incurred in any litigation, arbitration or other proceedings, including court costs, deposition fees, paralegal fees and attorney's fees.
- g. County. "County" means Lake County, Colorado. If at some time in the future the property that is subject to this Amended Declaration is annexed into a city, town or other municipality, then references in this Amended Declaration to the County shall also be expanded to include such city, town or other municipality.

- h. Declarant: "Declarant" means and refers to Grand West Properties, Inc., a Colorado corporation, as well as to the successors and assigns of the Declarant, whether by assignment by the Declarant or merger of Declarant with another entity.
- i. First Mortgage: "First Mortgage" shall mean and refer to any unpaid and outstanding mortgage, deed of trust or other security instrument recorded in the records of the office of the Clerk and Recorder of the County pertaining to a Lot and having priority of record over all other recorded liens except those governmental liens made superior by statute (such as general ad valorem tax liens and special assessments), and which was recorded before the date on which the assessment lien to be enforced became delinquent.
- j. First Mortgagee: "First Mortgagee" shall mean and refer to any Person named as a mortgagee or beneficiary under any deed of trust.
- k. Lot: "Lot" means and refers to Lots 1-24, inclusive, in Grand West Estates Filing No. 1 and to Lots 1-18, inclusive in Grand West Tract B Filing No. 1 (Amended), as depicted and described on the Plats.
- l. Owner: "Owner" means and refers to the Person having fee simple legal title to a Lot. If more than one Person has such title, all such Persons are referred to collectively as "Owner" and shall exercise their rights as an Owner through such one of them as they may designate from time to time.
- m. Person. "Person" shall include natural persons, corporations, trusts, limited liability companies, partnerships (including general and limited partnerships and limited liability general or limited partnerships) and any other entity capable of holding title to real property.
- n. Plat. "Plat" means the plat of Grand West Estates Filing No. 1 and Grand West Tract B Filing No. 1, amended.
- o. Property: "Property" shall mean and refer to the real property described as Grand West Tract A, Lots 1-24, inclusive, in Grand West Estates Filing No. 1 and Lots 1-18, inclusive in Grand West Tract B Filing No. 1 (Amended).
- p. Structure: "Structure" means and refers to any thing or device, other than trees and landscaping, the placement of which upon any portion of the Property might affect its architectural appearance, including by way of illustration and not limitation, any dwelling, residence, building, garage, porch, shed, greenhouse, tree house, driveway, walk, patio, deck, swimming

pool, tennis court, fence, corral, wall, sign or outdoor lighting. Structure shall also mean an excavation or fill the volume of which exceeds five (5) cubic yards or any excavation, fill, ditch, diversion dam or other thing or device which affects or alters the natural flow of surface waters upon or across any Lot or which affects or alters the flow of any waters in any natural or artificial stream, wash or drainage channel upon or across any Lot. A thing that is not affixed onto or into the ground or that is designed to be portable and is used in that manner, is not deemed to be a structure.

- q. Tract A. "Tract A" means and refers to Grand West Tract A as shown on the document recorded January 3, 1991 at Reception Number 299999 of the records of the Clerk and Recorder of Lake County, Colorado.
- r. Tract B. "Tract B" means and refers to Grand West Tract B as shown on the document recorded January 3, 1991 at Reception Number 300000 of the records of the Clerk and Recorder of Lake County, Colorado, but does not include Lots 1-8, inclusive, in Grand West Tract B Filing No. 1, amended.

Section 702. Captions. Captions, titles and headings in this Amended Declaration are for convenience only and do not expand or limit the meaning of the Section and shall not be taken into account in construing the Section.

Section 703. Covenants Run with the Land. This Amended Declaration shall run with the land and shall inure to the benefit of and be binding on the Property and each Lot and upon each Person hereafter acquiring ownership or any right, title and interest in any Lot in Grand West Estates.

Section 704. This Amended Declaration May Not be Waived. Except as this Amended Declaration may be amended or terminated in the manner hereinafter set forth, the provisions of this Amended Declaration may not be waived, modified or terminated and a failure to enforce shall not constitute a waiver or impair the effectiveness or enforceability of this Amended Declaration. Every Person bound by this Amended Declaration is deemed to recognize and agree that it is not the intent of this Amended Declaration to require constant, harsh or literal enforcement as a requisite of its continuing vitality and that leniency or neglect in enforcement shall not in any way invalidate this Amended Declaration or any part hereof nor operate as an impediment to their subsequent enforcement, and each such Person agrees not to defend against enforcement of this Amended Declaration on the grounds of waiver, laches or estoppel.

Section 705. Right to Enforce the Covenants. This Amended Declaration is for the benefit of the Owners, jointly and severally, the Association and the Declarant, and may be enforced by an action for damages, suit for injunction, mandatory and prohibitive, and other relief, and by any other appropriate legal remedy, instituted by one or more Owners, Declarant, the Association or any combination of them. All Costs of Collection incurred by Declarant, an Owner, or the Association

in connection with any successful enforcement proceeding initiated by Declarant, an Owner, or the Association, or any combination of them, shall be paid by the party determined to have violated this Amended Declaration. Whenever a right is given to the Declarant, the Association or the AIC to do certain things in this Amended Declaration, it shall be the right, but not the obligation, of the Declarant, the Association or the AIC to do such things unless the Act or this Amended Declaration make it the duty and obligation to do such things.

Section 706. Duration of Restrictions. This Amended Declaration shall remain in force until twenty years after the date of the recordation of this Amended Declaration, and shall be automatically renewed for successive periods of ten (10) years, unless before the expiration of the initial twenty (20) years or before the end of any ten-year extension, there is filed for record an instrument stating that extension is not desired, signed and acknowledged by the Owners of at least two-thirds (2/3) of the Lots in Grand West Estates, in which event this Amended Declaration shall terminate as of the end of the initial twenty year term or ten year extension, as applicable; provided that any termination of this Amended Declaration shall be conditioned upon the Owners making satisfactory arrangements for the maintenance of the Common Area.

Section 707. Amendment.

a. Amendment by Owners. From time to time any section of this Amended Declaration may be amended or new sections may be added to this Amended Declaration by an instrument signed and acknowledged by the Owners of two-thirds (2/3) of the Lots in Grand West Estates and filed for record. Any amendment of this Amended Declaration that will impose new requirements on lots 9-17, inclusive, of Tract B will also require a two-thirds (2/3) vote by the owners of such lots. In addition, any material amendments to the Fee Agreement will require a majority vote of the owners of lots 9-17, inclusive.

b. Required Consent of Declarant to Amendment. Notwithstanding any other provision in this Declaration to the contrary, any proposed amendment or repeal of provisions Recitals, Article I, and Sections 210, 234, 235 and 714 of this Amended Declaration or the Fee Agreement shall not be effective unless Declarant has given its written consent to such amendment or repeal, which consent may be evidenced by the execution by Declarant of any certificate of amendment or repeal. The foregoing requirement for consent of Declarant to such amendment or repeal shall terminate at such time as Declarant no longer owns a Lot or any part of Tract B.

Section 708. Severability. If any section or sections of this Amended Declaration shall be held invalid or become unenforceable, the other sections of this Amended Declaration shall in no way be affected or impaired but shall remain in full force and effect.

Section 709. Action in Writing. Notices, approval, consents, extensions, applications and other action provided for or contemplated by this Amended Declaration shall be in writing and shall be signed on behalf of the party who originates the notice, approval, consent, applications or other

action. Permission, consent or approval of Declarant, the Association or the AIC under this Amended Declaration is not effective unless in writing.

Section 710. Notices. Any notice, document or other communication shall be sufficiently served if delivered by first class mail or personal delivery (i) to the dwelling or building situated on the Lot owned by that Owner or (ii) to the address furnished by the Owner to Declarant, the Association or the AIC, but if the Owner has not furnished a current address, then to the most recent address of which Declarant, the Association or the AIC has a record.

Section 711. Interpretation of Covenants. This Amended Declaration is intended to be interpreted in a manner that will provide for the preservation of the values and amenities of Grand West Estates. If it is necessary to interpret the meaning of any word, paragraph, term or provision of this Amended Declaration, the determination of the Board of Directors of the Association shall be final and conclusive. In interpreting and implementing the architectural and building standards set forth in this Amended Declaration, it is acknowledged that the AIC or the Board of Directors of the Association may be required to exercise their discretion concerning the architectural and building standards and control within Grand West Estates. The fact that the discretion has been exercised with respect to one Lot in Grand West Estates is not a guarantee that the discretion will be exercised in the same manner with respect to other Lots in Grand West Estates. It shall be presumed that the Board of Directors of the Association and the AIC have at all times exercised their discretion in a reasonable manner. Certain of the matters concerning architectural and building standards as are set forth in this Amended Declaration are intended as guidelines, and the fact that an Owner believes that the Owner has complied with the guidelines shall not guarantee that the Board of Directors of the Association or AIC will approve such matter. The determination of the Board of Directors of the Association and/or the AIC as to whether the architectural and building standards set forth in this Amended Declaration have been met shall be final and conclusive. If any Person brings an action or proceeding challenging any action or interpretation of the Board of Directors of the Association or AIC under this Amended Declaration, then it shall be the burden of the Person challenging the actions or interpretation of the Board of Directors of the Association and/or the AIC to establish beyond a reasonable doubt that the Board of Directors of the Association or the AIC has acted in a manner that is arbitrary and capricious.

Section 712. Colorado Common Interest Ownership Act. Declarant, the Association and the Owners intend that this Amended Declaration will be in compliance with the provisions of the Act. If any provision of this Amended Declaration is found to be in violation or is otherwise not in compliance with the Act, then reference shall be made to the Act to determine the rights of the parties as to such provision of this Amended Declaration that violates or is not in compliance with the Act, and the other provisions of this Amended Declaration that are in compliance with the Act shall continue in full force and effect.

Section 713. Gender and Number. Whenever the context permits, Owner or Owners shall be deemed to refer equally to persons of both sexes and to entities, singular to include plural and plural to include singular.



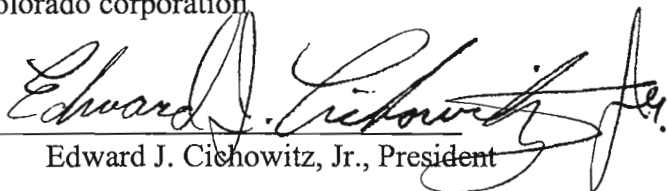
Section 714. Tract B. Any use of Tract B that would require industrial zoning under the zoning laws applicable to Tract B is prohibited . Likewise, no portion of Tract B can be used as a recreation vehicle or tent campground. The owners of Tract B Lots 9-18 shall not be required to submit any development or building plans to the Architectural Committee established pursuant to this Declaration except if the use of any lot(s) is single family residential. Declarant has established an open space buffer zone fifty feet (50') in width on the western boundary line of Tract B adjoining Wood Rose Way as depicted on the recorded plat of Grand West Tract B Filing No. 1 (Amended).

Section 715. Amended Declaration Supersedes Original Covenants. Upon the execution of this Amended Declaration by the Declarant, the Association and the Owners of two-thirds (2/3) of the Lots and the recordation of the duly executed Amended Declaration, this Amended Declaration shall supersede in its entirety the Original Covenants.

IN WITNESS WHEREOF, the Declarant, the Association and the Owners have executed this Amended Declaration as of the day and year first above written.

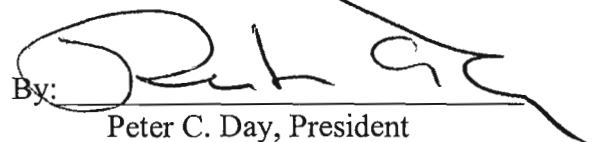
Declarant:

Grand West Properties, Inc.,  
a Colorado corporation

By:   
Edward J. Cichowitz, Jr., President

Association:

Grand West Estates Owners Association,  
a Colorado non profit corporation

By:   
Peter C. Day, President



STATE OF COLORADO )  
 ) ss.  
COUNTY OF LAKE )

The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of November, 1999 by Edward J. Cichowitz, Jr. as President of Grand West Properties, Inc., a Colorado corporation.

My commission expires: 9-14-2001



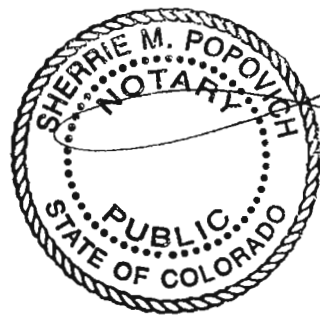
Witness my hand and official seal.

*[Handwritten signature]*  
Notary Public

STATE OF COLORADO )  
 ) ss.  
COUNTY OF LAKE )

The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of November, 1999 by Peter C. Day as President of Grand West Estates Owners Association, a Colorado non profit corporation.

My commission expires: 9-14-2001



Witness my hand and official seal.

*[Handwritten signature]*  
Notary Public

My Commission Expires 09/14/2001



**EXHIBIT A  
TO  
AMENDED AND RESTATED  
DECLARATION  
OF  
CONDITIONS, COVENANTS, RESTRICTIONS, EASEMENTS AND CHARGES  
AFFECTING THE REAL PROPERTY KNOWN AS  
GRAND WEST ESTATES**

**FEE AGREEMENT**

**AMENDED AND RESTATED  
AGREEMENT FOR ESTABLISHMENT OF TRACT B FEES**

This Agreement is made and entered into this 5th day of November 1999, by and between the Grand West Estates Owners Association (the "Association") and Grand West Properties, Inc. (the "Corporation").

The Association is the owner of Grand West Tract A as reflected in the document recorded in the records of the Clerk and Recorder of Lake County, Colorado on January 3, 1991 in Book 495 at Page 250 of the records of the Clerk and Recorder of Lake County, Colorado as Reception No. 300005 in ("Tract A").

The Corporation as Declarant executed a Declaration of Covenants, Conditions and Restrictions for Grand West Estates, Lake County, Colorado dated December 17, 1990 and recorded January 3, 1991 in Book 495 at Page 225 of the records of the Clerk and Recorder of Lake County, Colorado (the "Declaration"). The Declarant, the Association and Owners have executed an Amended and Restated Declaration of Covenants, Conditions and Restrictions for Grand West Estates, Lake County, Colorado dated November 5, 1999 and recorded (November 5, 1999) in Book 546 at Page 542 of the records of the Clerk and Recorder of Lake County, Colorado (the "Amended Declaration").

Pursuant to the provisions of Section 102 of the Amended Declaration, the owners of Lots 9-17 of Tract B are not subject to assessments by the Association, but the Association has the authority to charge the owners of Lots 9-17 of Tract B a fee for the use of Grand West Tract A.

Section 210.f. of the Amended Declaration provides that if any portion of Tract B is subdivided as single family residential lots, then such lots will be treated as Residential Lots, as that term is defined in the Amended Declaration, in which event such single family residential Lots in Tract B will be subject to assessment as are the other Residential Lots within the Grand West Estates Subdivision.

The purpose of this Agreement is to establish the use fees to be charged to the owner of Tract B for those portions of Tract B that are not subdivided into single family Residential Lots.

NOW, THEREFORE, for valuable consideration given and received, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, do hereby agree as follows:

1. The following fee structure is established between the Association and the owner or owners of Tract B:
  - a. In the event that vacation lodging facilities are erected on Tract B, the owner(s) of such lodging shall pay to the Association the sum of \$50.00 per year for each bedroom within such lodging facilities.
  - b. In the event that an apartment, duplex or other multi-family structure is built upon Tract B, then the owner(s) of such multi-family structure shall pay to the Association a fee of \$50.00 per year for each bedroom located in such structure.
  - c. In the event that a residential condominium is constructed on Tract B, then the owner(s) of such condominium unit shall pay to the Association \$50.00 per year for each bedroom located in the condominium unit.
  - d. The owner or owners of Tract B shall not be required to pay any fees to the Association with respect to any building or other structure located on Tract B that is used for any purpose other than (i) Residential Lots or (ii) the uses specifically set forth in paragraph 1. For example the owner of an office or retail store would not be subject to either assessment under the Declaration or for fees under this Agreement.
  - e. The total fees chargeable to the owner of Tract B, if Tract B has not been subdivided or collectively to the owners of Tract B, excepting residential lot owners, after it has been subdivided shall not exceed \$3,600.00 per year. In the event the owner of Tract B prior to subdivision or the owners of Tract B, excepting residential lot owners, after its subdivision shall pay any sums to construct any improvements in Tract A, which improvements, and the payment therefore by the owner or owners of Tract B, have been authorized by the Association, then such owner shall be authorized to offset the sums expended against such owners' future obligations to pay fees pursuant to this Agreement. Such owner must have the prior authorization of the Association to construct such improvements as a condition precedent to such rights of offset. Such authorization shall be in writing and shall establish the authorized expenditure and the amount and manner of such offset.
  - f. In addition to the fees set forth above the owner or owners of Tract B shall procure and maintain a policy or policies of liability insurance in an amount not less than \$500,000.00 naming the Association as additional insured and covering such owners use of Tract A.

2. Pursuant to the Declaration the annual assessment chargeable to owners of Residential Lots is \$300.00 per year. In the event that the Association establishes a different annual assessment for the owners of Residential Lots, then the fee set forth in paragraph 1 shall be increased or decreased in the same proportion as the increase or decrease in the annual assessment.
3. The fees due and owing to the Association pursuant to this Agreement shall commence at such times as the applicable structure for which the fee is to be assessed has been substantially completed and first occupied. The fees shall be payable in the same manner as the assessments chargeable to the owners of Residential Lots are payable as is set forth in the bylaws of the Association and the Declaration, as amended from time to time. If for example the Association requires that assessments on the Residential Lots be payable on the first day of the Association fiscal year in advance, then the fees chargeable hereunder shall be due and payable in the same manner. In the event that the construction of a unit for which a fee is payable pursuant to this Agreement occurs during the fiscal year, then the annual fee shall be prorated based on the date of first occupancy.

This Agreement is not intended to create a personal obligation to the Corporation for the payment of the fees set forth herein. Rather it is the intent of this agreement that the owner of Tract B, or if Tract B is subdivided, the multiple owners of Tract B, shall be responsible for the payment of the fees set forth herein.

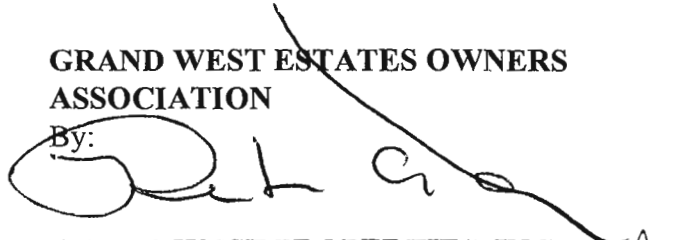
5. The term of this Agreement shall be 15 years from the date of this Agreement, at which time the fee structure shall be subject to renegotiation between the owner or owners of Tract B and the Association. The parties agree to negotiate in good faith to establish the fees upon termination of this Agreement so that the costs of maintaining Tract A are equitably shared between the Association and the owner of Tract B in a manner similar to that set forth in this Agreement.
6. In the event that the owner or the owners as applicable in Tract B fail to pay the fees set forth in this Agreement, then the Association shall have the same rights and remedies as are available to the Association in the event that an owner of a Residential Lot fails to pay his annual assessment all of which are set forth in Section 510 of the Amended Declaration. Such rights of the Association shall include the right to bring a personal action against the defaulting owner and to file a lien against the property of the delinquent owner. In the event that Tract B is subdivided, then the lien rights of the Association shall only extend to the property of the defaulting owner and shall not extend to the owners of other portions of Tract B who are not in default under the terms of this Agreement.

7. This Agreement is intended to be binding upon the parties hereto as well as their respective heirs, personal representatives, successors and assigns and this Agreement, when recorded, shall also run with and be binding upon Tract B as well as the respective owners of Tract B and their heirs, personal representatives, successors and assigns.
8. In the event of any litigation, arbitration or other proceeding arising out of a default by either party under the terms of this Agreement, the nondefaulting party shall be entitled to recover its attorneys fees and costs from the defaulting party.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement as of the day and year first above written.

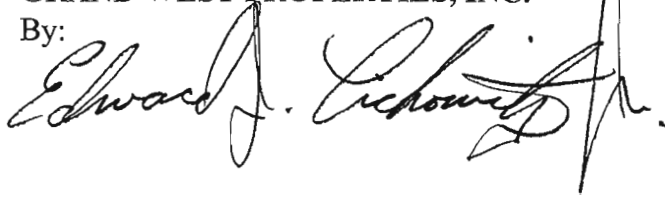
**GRAND WEST ESTATES OWNERS  
ASSOCIATION**

By:



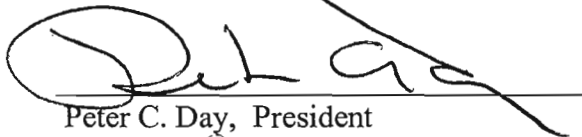
**GRAND WEST PROPERTIES, INC.**

By:



**REQUIRED CONSENT OF OWNERS OF PROPERTIES IN GRAND WEST ESTATES**

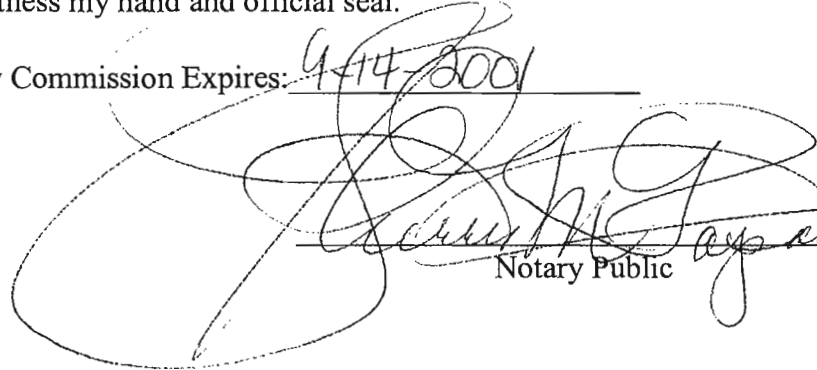
The undersigned hereby signifies that as of November 5, 1999, consents to the adoption of the Amended and Restated Declaration of Conditions, Covenants, Restrictions, Easements and Charges Affecting the Real Property known as Grand West Estates have been received from the Owners of twenty eight (28) of the forty two (42) lots in Grand West Estates. The notarized consent forms from the Owners of the following Grand West Estates lots are on file with the Grand West Estates Owners Association: Lot 1, Lot2, Lot3, Lot 6, Lot 8, Lot 9, Lot 10, Lot 11, Lot 13, Lot 14, Lot 15, Lot 17, Lot 19, Lot 20, Lot, 23, Lot B-4, Lot B-5, Lot B-6, Lot B-9, Lot B-10, Lot B-11, Lot B-12, Lot B-13, Lot B-14, Lot B-15, Lot B-16, Lot B-17, Lot B-18. As this constitutes consent by 2/3 of the Owners of lots in Grand West Estates, the undersigned, as President of the Grand West Estates Owners Association, executes the Amended and Restated Declaration of Conditions, Covenants, Restrictions, Easements and Charges Affecting the Real Property known as Grand West Estates, on behalf of the Owners and the Grand West Estates Owners Association, a Colorado nonprofit corporation.

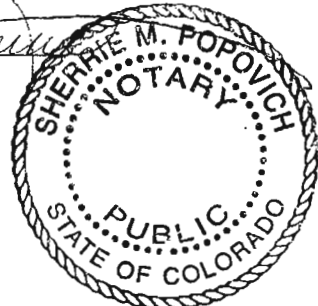
  
Peter C. Day, President

State of Colorado )  
County of Lake )

The foregoing instrument was acknowledged before me this 5th day of Nov. 1999 by Peter C. Day as President of Grand West Estates Owners Association, a Colorado nonprofit corporation  
Witness my hand and official seal.

My Commission Expires: 9-14-2001

  
Notary Public



My Commission Expires 09/14/2001