

**RESOLUTION OF THE BOARD OF DIRECTORS OF
JOHNSTOWN NORTH METROPOLITAN DISTRICT NO. 1**

A RESOLUTION APPROVING THE DISTRICT'S PROVISION OF COVENANT ENFORCEMENT AND DESIGN REVIEW SERVICES FOR THE IRON HORSE DEVELOPMENT

WHEREAS, Johnstown North Metropolitan District No. 1 (the "District") , together with Johnstown North Metropolitan Districts Nos. 2 and 3 (collectively, the "Districts"), was formed pursuant to Colorado Revised Statutes §32-1-101 *et seq.*, as amended, by order of the District Court for Larimer County, Colorado, and after approval of the eligible electors of the District at a regular election held on November 7, 2006, for the purpose of assisting in the financing and development of an area known as Iron Horse; and

WHEREAS, on September 18, 2006, the Town Trustees of the Town of Johnstown, approved the Consolidated Service Plan for Johnstown North Metropolitan Districts Nos. 1 - 3 (the "Service Plan") for the purpose of providing certain parameters for the financing and development of the Service Area; and

WHEREAS, pursuant to the District's Service Plan, the District has the power to provide covenant enforcement and design review services within the Districts if the Districts and the governing body of a master association or similar body contract for such services, or if the declaration, rules and regulations, or any similar document containing the covenants to be enforced for the area within the Districts name the Districts as the enforcement or design review entity; and

WHEREAS, Iron Horse is subject to that certain Master Declaration of Covenants, Conditions, and Restrictions for Iron Horse (the "Original Declaration"), recorded on November 6, 2005, in the Larimer County Clerk and Recorder's Office at Reception No. 2006-0084183 and amended to include a corrected legal description recorded on November 20, 2006, in the Larimer County Clerk and Recorder's Office at Reception No. 2006-0087616; and

WHEREAS, Iron Horse, LLC, the Declarant of the Original Declaration, has executed or will be executing and recording an Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Iron Horse ("Declaration"), which Declaration replaces, in its entirety, the Original Declaration; and

WHEREAS, the Declaration names the District as the enforcer of the Declaration and the provider of design review services; and

WHEREAS, the District is willing to accept and provide such covenant enforcement and design review services.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF JOHNSTOWN NORTH METROPOLITAN DISTRICT NO. 1 AS FOLLOWS:

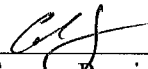
1. The Board of Directors hereby agrees to provide, on behalf of the District, such covenant enforcement and design review services to the Iron Horse development as set forth in the Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Iron Horse attached hereto as Exhibit A and incorporated herein by reference.

2. The District's covenant enforcement and design review services shall commence upon the recording of the Amended and Restated Declaration of Covenants, Conditions, and Restrictions in the Larimer County Clerk and Recorder's Office.

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ADOPTED AND APPROVED THIS 16th DAY OF FEBRUARY, 2012.

**JOHNSTOWN NORTH METROPOLITAN
DISTRICT NO. 1**



Cole Evans, President

ATTEST:



Jay Hardy, Secretary

EXHIBIT A

**AMENDED AND RESTATED MASTER DECLARATION OF COVENANTS,
CONDITIONS, AND RESTRICTIONS FOR IRON HORSE**

AMENDED AND RESTATED
MASTER DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS

FOR

IRON HORSE

ICENOGLE SEAVER POGUE, P.C.
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Denver, Colorado 80237

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**AMENDED AND RESTATED MASTER DECLARATION
OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR IRON HORSE**

This AMENDED AND RESTATED MASTER DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR IRON HORSE (the "Declaration") is made and entered into as of the 16th day of March, 2012, by **IRON HORSE, LLC**, a Colorado limited liability company ("Declarant"), upon the following terms and conditions:

RECITALS

A. Declarant is the owner of certain real property located in Larimer County, Colorado, within the Town of Johnstown, Colorado, as more particularly described in **Exhibit A** (the "Property").

B. On November 6, 2006, Declarant recorded that certain Master Declaration of Covenants, Conditions, and Restrictions for Iron Horse in the Larimer County Clerk and Recorder's Office at Reception 2006-0084183 ("Original Declaration") against the Property to create a system of covenants, conditions, and restrictions to protect and enhance the quality, value, aesthetics, desirability, and attractiveness of the Property to be developed, which shall be known as Iron Horse.

C. Thereafter, Declarant caused the Iron Horse Owners Association, Inc. (the "Association") to be organized for the purpose of enforcing and administering the Original Declaration.

D. Pursuant to Section 13.02 of the Original Declaration, the Declarant may unilaterally amend the Declaration for any purpose during the Period of Declarant Control, which Period of Declarant Control has not yet been extinguished.

E. Declarant is unilaterally amending and restating the Original Declaration to cause Johnstown North Metropolitan District No. 1 (the "District") to be the enforcer and administrator of the Declaration as set forth herein. The Association shall have no further obligations or duties under this Declaration.

F. Pursuant to Section 32-1-1004(8), C.R.S., the board of a metropolitan district has the power to furnish covenant enforcement and design review services within the district, subject to the provisions provided therein.

G. Iron Horse is located within the District and the Board of Directors for the District agreed, via Resolution dated February 16, 2012, to accept covenant enforcement and design review services as provided in this Declaration.

H. Iron Horse is a nonresidential community that is being developed for commercial use only; and therefore, Iron Horse is not subject to any of the provisions of the Colorado Common Interest Ownership Act set forth in Article 33.3, Title 38 of the Colorado Revised Statutes.

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

ARTICLE I
General

Section 1.01 Property. This Declaration shall not have a material adverse affect on the use and operation of the business conducted on the Lots within the Property or impair the collateral of any mortgagee or Owner of such Lot or materially increase the monetary obligation of any Lot. The Property shall be developed and used as a commercial development known as "Iron Horse" for the purposes contemplated and permitted by this Declaration.

Section 1.02 Purpose of Declaration. Declarant desires to further a common and general plan for development of the Property and to protect and enhance the quality, value and desirability of all such Property. Declarant further hereby states that the District shall maintain, care for and manage the Lots and Common Areas from time to time, and perform certain functions for the benefit of the Owners as further described herein. The District may also be delegated certain responsibilities and rights under Supplemental Declarations as hereafter provided. This Declaration shall also define certain duties, powers, and rights of the Owners.

Section 1.03 Declaration. Declarant for itself, its successors and assigns, and for and on behalf of all existing Owners, hereby declares that the Property and any Future Parcel(s) which is annexed to this Declaration in the manner provided for herein shall, from the date it so becomes annexed be owned, held, transferred, conveyed, sold, leased, rented, encumbered, used, occupied, maintained, altered and improved subject to the covenants, conditions, restrictions, limitations, reservations and other provisions set forth herein for the Term. All of such provisions are deemed to be part of the Property, and shall be deemed to run with the land. This Declaration shall bind and inure to the benefit of all Property and all persons who now have or may hereafter acquire any interest in any such property.

ARTICLE II
Definitions

The following words when used in this Declaration, unless inconsistent with the context of this Declaration, shall have the following meanings:

Section 2.01 Annexed Property. "**Annexed Property**" shall mean any Future Parcel(s) or portion thereof, which is annexed to this Declaration by means of a Supplemental Declaration.

Section 2.02 Board of Directors. "**Board of Directors**" or "**Board**" shall mean and refer to the Board of Directors of Johnstown North Metropolitan District No. 1.

Section 2.03 Building Site. "**Building Site**" shall mean that portion of a Lot which is designated by Declarant on the Plat or other site plan for the Lot which has been approved by the Design Review Committee, as suitable for location of a building thereon, as the same may be modified or amended in accordance with the provisions hereof.

Section 2.04 Common Area. "**Common Area(s)**" shall mean all land, improvements, and other properties not within the boundaries of a Lot which are or have been designated on a Plat or other recorded document as such, and are set aside for use by any Owner or Occupant for the purposes indicated. All Common Areas will be maintained by the District, pursuant to the provisions hereof. Common Areas shall include all common drainage or storm water collection facilities and other ditches which are located on, traverse or otherwise benefit any portion of the Property, whether located within or

off of the Property, all open space, Parking Areas not included within a Lot, if any, incidental and interior roadways, perimeter sidewalks and walkways, curbs, parking islands and landscaped areas, easements, facilities and structures to be used by any Owner, Occupant or Guest, and all other areas outside the boundaries of a Lot unless the same are expressly identified as something other than Common Areas. Declarant shall have the right to designate which lands, improvements and other properties are Common Areas in an instrument duly recorded in the Clerk and Recorder's Office of Larimer County, Colorado. The District shall have the right to transfer all or any part of its maintenance responsibilities with respect to any Common Area to any quasi-public authority established for such purpose. Common Areas may also be dedicated to the Town, Larimer County, Colorado, a public or any quasi-public authority for use by the general public.

Section 2.05 Common Area Easements. "**Common Area Easements**" shall mean and include reciprocal nonexclusive or limited use easements granted pursuant to Article IV of this Declaration, any supplement hereto, or other recorded document executed by Declarant, over the Common Areas and Limited Common Areas, or any such areas which have already been so identified or created.

Section 2.06 Completed Structures. "**Completed Structures**" shall mean and include any building or other structure for which a certificate of occupancy has been issued by the Town.

Section 2.07 Declarant. "**Declarant**" shall mean Iron Horse LLC, a Colorado limited liability limited company and its grantees, successors or assigns. The term "Declarant" as used herein includes Declarant's assignees and its successors, and specifically any entity that results from reorganization or restructuring of the existing entity or the conversion thereof to another form of entity. For purposes of determining what Lots or Future Parcels are owned by Declarant, "Declarant" shall automatically be deemed to include "Affiliates" which means any and all partnerships, ventures, limited liability companies or other entities in which the Declarant owns, either directly or indirectly, a controlling interest.

Section 2.08 Declaration. "**Declaration**" shall mean this Amended and Restated Master Declaration of Covenants, Conditions, and Restrictions for Iron Horse.

Section 2.09 Dedicated Easements. "**Dedicated Easements**" shall mean the utility and/or drainage easements granted through the Property to the appropriate governmental entity or public utility for providing utility service or drainage facilities to the Property.

Section 2.10 Default Rate. "**Default Rate**" shall mean eighteen percent (18%) per annum, or such lesser amount as may be the legal maximum rate that may be imposed according to Colorado law.

Section 2.11 Design Review Committee. "**Design Review Committee**" shall mean that certain committee created pursuant to the terms of this Declaration for the purpose of reviewing all proposed plans for initial development, modification or revision of any Improvements on a Lot.

Section 2.12 Development. "**Development**" shall mean the Iron Horse development subject to this Declaration, consisting of the property described in Exhibit A attached hereto.

Section 2.13 Development Plan. "**Development Plan**" shall mean a development plan that has been approved by the Town and is recorded with the Larimer County Clerk and Recorder, as to any portion of the Property.

Section 2.14 District. "**District**" shall mean the Johnstown North Metropolitan District No. 1.

Section 2.15 District Properties. “**District Properties**” shall mean all real and personal property including any improvements, Common Areas, and Limited Common Areas, now or hereafter owned by the District, or with respect to which the District holds an easement for the use, care or maintenance thereof held for the common use and enjoyment of certain of the Owners, or certain Owners, as the case may be, and for other purposes as may be permitted hereunder.

Section 2.16 Drainage Easements. “**Drainage Easements**” shall mean the reciprocal, easements granted pursuant to Article IV of this Declaration, or which may be created and identified as such in a Supplemental Declaration or other recorded document executed by Declarant and the then Owner of a Lot.

Section 2.17 Future Parcels. “**Future Parcels**” shall mean and refer to any real property adjacent to the Property or in its vicinity which the Declarant identifies as annexable to this Declaration, in any recorded document executed by it which refers to this Declaration, as hereafter provided. Future Parcels need not be owned by Declarant so long as the Owner thereof consents to the potential annexation of such real estate to this Declaration. The Future Parcels are more particularly described on Exhibit C.

Section 2.18 Governing Documents. “**Governing Documents**” shall refer to this Declaration, any Supplemental Declaration, any Rules and Regulations promulgated by the Declarant or the District, and the Design Guidelines, as each may be supplemented and amended from time to time.

Section 2.19 Guest. “**Guest**” shall mean and include any Person who by express or implied invitation from an Owner or Occupant has the right to enter on and use all or any portion of the Property.

Section 2.20 Improvements. “**Improvements**” shall mean and include, as the context requires but not be limited to, buildings, ditch improvements, drainage, retention and detention ponds or facilities, storm sewer and other collection facilities, streets, sidewalks, parking areas, fences, walls, signs, landscaping, and structures of any kind.

Section 2.21 Landscape Buffer Area. “**Landscape Buffer Area**” shall mean and refer to an area of land comprising a portion of the Lot Common Area as described and referenced in the Town of Johnstown Landscape Standards and Specifications – Adopted July 19, 2004, and as more particularly depicted on any and all approved plats for Iron Horse.

Section 2.22 Limited Common Areas. “**Limited Common Areas**” are any areas that would otherwise be included within the term **Common Areas** but are designated for the use by Owners, Occupants and Guests of more than one but fewer than all Lots. Such Areas shall be so identified on the Plat in which they are included and may also be specially dealt with in the Supplemental Declaration annexing the same to the terms of this Declaration, or other document recorded by Declarant. Any areas identified on a Plat (or other recorded document) as Common Areas or owned by the District shall be deemed to be Common Areas unless expressly identified as Limited Common Areas. Limited Common Areas shall be deemed included within the definition of Common Areas and shall be a subcategory thereof.

Section 2.23 Lot. “**Lot**” shall mean any lot, tract, or other designated parcel shown on any subdivision or resubdivision plat that includes all or any part of the Property or, with respect to those parts of the Property that are not platted, any Parcel or tract. Each part of any Lot which is resubdivided pursuant to an exemption or resubdivision process, or is transferred as a result of a “non regulated land transfer,” shall be included in the definition of Lot following each such division. Reference to a “Lot” in this Declaration shall be construed as meaning and referring to a Parcel if the particular plot of real

property so referred to has not been subjected to a final plat, as the context so requires. In no event, however, shall any provision of this Declaration be construed as conferring rights on an Owner to construct Improvements or perform other work on any Lot or Parcel without such Owner's compliance with all applicable zoning, platting, subdivision, and other building requirements of the Town.

Section 2.24 Lot Common Area. "**Lot Common Area**" shall mean all portions of a Lot other than the portion thereof occupied by any building constructed thereon (or identified as a Building Site if no Completed Structure exists), including, without limitation, all open and landscaped areas, parking areas, sidewalks, curbs, parking islands. Lot Common Area is not deemed to be included within the definition of Common Areas nor represent a subcategory thereof.

Section 2.25 Maintenance Standard. "**Maintenance Standard**" shall mean the standard of maintenance generally prevailing throughout Iron Horse as established by the Governing Documents. Such standards may include both objective and subjective elements. The Maintenance Standard may evolve and change as development progresses and as the needs and desires within the Properties change. Any determination or interpretation regarding the Maintenance Standard, including, without limitation, whether the Maintenance Standard has been met in a particular situation, shall be made by the Board.

Section 2.26 Maintenance Provider. "**Maintenance Provider**" shall mean the District, or other person or entity which is obligated (or has been allowed to conditionally assume such obligation as hereafter provided), to maintain any Common Areas or other District Properties, pursuant to the terms of this Declaration.

Section 2.27 Occupant. "**Occupant**" shall mean and refer to any Person from time to time entitled to the use and occupancy of any portion of the Property under any lease, license or concession agreement or other similar agreement.

Section 2.28 Owner. "**Owner**" shall mean and refer to any Person from time to time entitled to the use and occupancy of any portion of the Property as record owner of fee simple title. In addition, unless expressly set forth to the contrary, and specifically from and after the date a Completed Structure exists on any Lot owned by Declarant, the Declarant shall be deemed to be an Owner as to such Lot.

Section 2.29 Parcel. "**Parcel**" shall mean any unplatted portion of the Property designated by Declarant in a recorded document, including a deed of conveyance from Declarant (and legally described) as a separate and distinct parcel from other land for purposes of sale, use or otherwise.

Section 2.30 Parking Area. "**Parking Area**" shall mean any portion of a Lot or Common Area which the Owner thereof, or District, as the case may be, from to time designates or otherwise sets aside for use of vehicular parking. The District shall have the right at all times to perform and control the upkeep, maintenance and repair of all Parking Areas (unless provided to the contrary in the Supplemental Declaration annexing the Lot on which the same are located or other recorded document executed by Declarant). It is understood that a reciprocal, nonexclusive perpetual easement shall exist over some Parking Areas for the use and benefit of all Lots, or if such Parking Areas are identified as Limited Lot Common Areas, those Lots identified as benefiting therefrom.

Section 2.31 Period of Declarant Control. "**Period of Declarant Control**" shall mean that period of time during which the Declarant is entitled to enforce, amend, revise and/or supplement this Declaration, promulgate rules and regulations subject to this Declaration. The Period of Declarant Control will continue to run from the date of the recording of this Declaration and will end with the first to occur of the following: (i) 40 years from the date of recordation hereof; or (ii) the date which is 15

years after the first to occur of the following: (a) the date all Future Parcels have been annexed to this Declaration; or (b) neither Declarant nor any of its Affiliates own any portion of any property which is encumbered by this Declaration or any supplement thereto.

Section 2.32 Permittee. “**Permittee**” shall mean and include all Occupants and their respective officers, directors, employees, agents, contractors, customers, visitors, invitees, licensees, subtenants and concessionaires.

Section 2.33 Person. “**Person**” shall mean and include individual natural persons, partnerships, firms, associations, corporations, trusts, limited liability companies, or any other form of business or government entity. The term Person shall not be construed as meaning or including the District.

Section 2.34 Property. “**Property**” shall mean and refer to the real property described on Exhibit A and any Future Parcel(s), or portion thereof, which has been annexed hereto by a Supplemental Declaration or otherwise in the manner provided in Article XIV. At such time as any Annexed Property becomes subject to this Declaration the term Property shall automatically be construed to mean and include all of the real property at that time which is covered by the terms of this Declaration.

Section 2.35 Service Plan. “**Service Plan**” shall mean and refer to that certain “Consolidated Service Plan for Johnstown North Metropolitan Districts Nos. 1 – 3”, as approved by the Town, and as may be amended from time to time.

Section 2.36 Site Plan. “**Site Plan**” shall mean any drawing with respect to all or any portion of the Property depicting thereon certain improvements contemplated or permitted by a Development Plan to be constructed on the Property.

Section 2.37 Supplemental Declaration. “**Supplemental Declaration**” shall mean a declaration recorded by Declarant, with respect to any Future Parcel, or portion thereof, which annexes such parcel to the terms of this Declaration. A Supplemental Declaration may establish additional covenants, conditions and restrictions applicable to such portion of real property, may contain exceptions, deletions or modifications from the covenants, conditions and restrictions contained in the Governing Documents applicable to such portion of real property, and may create Common Areas or Limited Common Areas. Any recorded document which establishes or creates Common Areas or Limited Common Areas shall be deemed to be a Supplemental Declaration for the purposes of this Declaration, whether or not it is labeled or identified as such.

Section 2.38 Town. “**Town**” shall mean the Town of Johnstown, Colorado.

Section 2.39 Utility Easements. “**Utility Easements**” shall mean the reciprocal, nonexclusive easements granted pursuant to Article IV of this Declaration or which may be created and identified as such in a Supplemental Declaration or other recorded document executed by Declarant and the then Owner of a Lot.

ARTICLE III
Parties

Section 3.01 Declarant.

A. Period of Declarant Control. Declarant shall have the right to maintain its position as Declarant hereunder and shall have the right to exercise any and all rights, duties and powers granted herein to the District at any time during the Period of Declarant Control. Such right, duty or power shall be automatic, without any need for formal action being taken to evidence the same. Accordingly, all reference herein to the District shall, to the extent appropriate be construed to mean and refer equally to Declarant during the Period of Declarant Control. Notwithstanding anything set forth herein to the contrary, Declarant hereby reserves the right during the Period of Declarant Control to place and operate such temporary and permanent structures, signage and advertising devices on the Property as it deems necessary or appropriate for the purpose of conducting sales activities. Further, Declarant shall have all rights of an Owner hereunder.

B. Cessation of Declarant Control. At the end of the Period of Declarant Control, (“Cessation of Control Date”), Declarant may file a statement with the District and record said statement setting forth and confirming the Cessation of Control Date. Following the Cessation of Control Date, Declarant shall be deemed to have relinquished its position as Declarant, and its duties hereunder, and the provisions hereof relating or referring to the Declarant shall cease to be of any further force and effect. Following the Cessation of Control Date, all references herein (or in any Supplemental Declaration) to Declarant shall mean and refer to the District, acting by and through the Board. If at any time during the Period of Declarant Control, Declarant relinquishes its rights in writing (or deemed to have relinquished its rights) then the Declarant’s rights shall be exercised by the District. Nothing in this Section 3.01(B) shall be deemed to limit Declarant’s right to assign the rights, duties, powers, and reservations of Declarant or to limit Declarant’s right to assign the rights, duties, powers, and reservations of Declarant as set forth in this Section 3.01(C) prior to the Cessation of Control Date.

C. Assignment. Any and all of the rights, powers, and reservations of the Declarant contained herein may be assigned (in whole or in part) by the Declarant to the District or to any Person which has succeeded to Declarant’s interest in the Property, or any portion thereof. Such assignment and assumption shall be evidenced by a recorded document executed by both Declarant and assignee. Upon such Person evidencing its consent in writing to accept such assignment, said assignee shall, to the extent of such assignment, assume the Declarant’s duties hereunder, have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by the Declarant herein. Upon such assignment, and to the extent thereof, the Declarant shall be relieved from all liabilities, obligations, and duties hereunder after the date of such assignment.

Section 3.02 Owner.

A. At such time as any Person becomes an owner of any portion of the Property, such Person shall automatically become an “Owner” in and shall be conclusively presumed to have taken title subject to and assumed all of the obligations, duties, and burdens set forth in this Declaration, to be entitled to all the rights and benefits of this Declaration, to have joined in any restrictions of use in this Declaration, and to have automatically granted and conveyed all easements described in this Declaration to all other Owners, their successors and assigns, immediately upon acceptance of delivery of a deed granting and conveying any portion of the Property to such Owner.

B. Each Owner, now or hereafter, of any portion of the Property shall be personally liable for the performance of all covenants, obligations and undertakings herein (unless specifically

excluded therefrom as provided herein), which accrue during the period of such ownership, but such accrual of liability shall terminate upon conveyance by such Owner of its ownership interest in such land provided that:

1. The transferring Owner shall not be in default in the performance of any provision of this Declaration, and all amounts which may be due and owing under this Declaration shall have been paid by that Owner as required under this Declaration; and

2. The transferring Owner shall have given notice to the District of the sale, transfer, conveyance or assignment, and shall have delivered with such notice a written assumption statement executed by the transferee stating:

- (a) the name and notice address of the transferee;
- (b) the legal description of the Lot(s) transferred; and
- (c) the transferee's acknowledgment that it is bound by this Declaration and agreeing to perform all obligations imposed under this Declaration with respect to the Lots(s) acquired.

C. Nothing contained herein to the contrary shall affect the existence, priority, validity or enforceability of any lien placed upon the transferred Lots(s) prior to receipt of the notice and statement.

ARTICLE IV **Easements**

Section 4.01 Reciprocal Easement for Ingress, Egress, Interior Travel, Parking and Drainage.

A. Each Owner hereby grants and conveys to each other Owner for such other Owner's respective use, and for the use of the respective Permittees in the regular and ordinary course of said other Owner's business, in common with all others entitled to use the same, perpetual, non-exclusive easements over the Lot Common Area of its respective Lot which is designated and/or improved as a pedestrian walkway or path, driveway, entryway, parking lot, or other area suitable for vehicular or pedestrian movement and over the Common Area which is so improved or designated, for the following:

1. For ingress and egress from all Lots by way of those certain access points and interior vehicular travel lanes as shown on a Site Plan or on any individual site plan for a Lot that may be approved by the Town at the time a building permit is issued for improvements to be constructed on said Lot;

2. For the entrance of motor vehicles, bicycles, and pedestrians onto the Parking Areas and across Parking Areas, and for pedestrian access over and across all Lot Common Areas on and over those portions thereof designated and improved as pedestrian paths, trails or sidewalks;

3. For the passage of vehicles on and through such respective portions of such Lot or other Common Area as are, or are to be, set aside, maintained and authorized as Parking Area to enable or facilitate access to and from one Lot to another Lot;

4. For the parking of motor vehicles on the portion of the Lot Common Area designated as Parking Area, if any; and

5. For such other things as are authorized or required to be done on said Lot or other Common Areas pursuant to this Declaration.

B. The easements set forth above are Common Area Easements and, unless expressly provided to the contrary, are for the benefit of and are appurtenant to all portions of the Property.

Section 4.02 Reciprocal Easements for Utilities.

A. Declarant or the Owners have established, or will establish, for the benefit of the Property, certain Dedicated Easements for providing utility service to the Property, which will or have been dedicated to the appropriate entity or appear on Plats and are identified thereon as easements dedicated for use by such entities for utilities, or which may be created by separate written document (the "Dedicated Easements").

B. Each Owner hereby grants and conveys to each other Owner a nonexclusive perpetual Utility Easement in, to, over, and under the Lot Common Area on its respective Lot, and the Declarant hereby so grants and conveys Utility Easements in, to, over and under the Common Areas, for the installation, maintenance, repair, and replacement of utilities (including but not limited to, storm sewers and drains, drainage pipes, water and gas mains, telephone lines, cable facilities, electrical power lines, other pipes, ducts, conduits and facilities for utilities), to permit each Owner to connect to the Dedicated Easements, and for Declarant to locate such other utilities as are required for operation of the Common Areas.

C. Declarant reserves for itself, its successors, assignees and designees, the right to place, locate, or relocate Dedicated Easements, Utility Easements, and any and all utility and other service lines under the surface of the Property as are reasonably necessary for the operation of the development of the Property. Declarant shall exercise such reserved right in a manner determined by Declarant in its reasonable judgment as minimizing the adverse impact of utilization of such right upon the operations of all owners.

Section 4.03 Reciprocal Easements for Drainage.

A. Declarant or the Owners have established, or may in the future establish, for the benefit of the Property, certain Drainage Easements for the purpose of constructing and maintaining storm drainage conveyance and detention facilities, including, but not limited to, inlet, outlet, and overflow structures, pipes, channels, swales, detention ponds and erosion control facilities ("Drainage Facility") thereon. Certain Drainage Easements may have already been recorded or appear on Plats and are identified thereon as easements dedicated for such use.

B. Each Owner hereby grants and conveys to each other Owner for such other Owner's respective use in the regular and ordinary course of said other Owner's business, in common with all others entitled to use the same, a perpetual, non-exclusive Drainage Easement over the Lot Common Area on its respective Lot.

C. Declarant hereby reserves for itself, its successors, assignees and designees, Drainage Easements in, to, and over the Common Areas, for the installation, maintenance, repair and replacement of a Drainage Facility.

Section 4.04 Encroachments. If construction, reconstruction or repair activities which have been approved by the DRC, or if shifting, settlement or other movements of any portion of DRC-approved Improvements, or if construction, reconstruction or repair activities by the Declarant during the Period of Declarant Control, results either in the Common Areas encroaching on a Lot or in a Lot encroaching on the Common Areas or on another Lot, and unless otherwise directed by the DRC, a valid easement not to exceed twelve (12) inches in width shall then and there exist to permit the encroachment and reasonable and necessary maintenance activities related thereto.

Section 4.05 Easements to Serve Additional Property. The Declarant and its duly authorized agents, representatives and employees, as well as its successors, assigns, licensees and mortgagees, shall have and hereby reserve an easement over the Common Areas for the purposes of enjoyment, use, access and development of any Future Parcels subject to annexation under Article XIV of this Declaration, whether or not such property is made subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Areas for construction of roads and for connecting and installing utilities on the additional property. Declarant agrees that it and its successors, assignees or designees, shall be responsible for any damage caused to the Common Areas as a result of vehicular traffic and construction activities connected with the development of the additional property.

Section 4.06 Right of Entry. The District shall have the right, but not the obligation, to enter upon any Lot for emergency, security and safety reason, and to inspect for the purpose of ensuring compliance with the Governing Documents. Except in an emergency situation, entry into any portion of the Completed Structure not generally open to the public shall only be during reasonable hours and after notice to the Owner or Occupant. This right of entry shall include the right of the District to enter upon a Lot to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner or Occupant fails or refuses to cure the condition within a reasonable time after requested by the Board. The easement granted hereunder shall not create an obligation or duty on the part of the Declarant or the District to provide for the safety or security within the Property.

Section 4.07 Easement over Common Areas. Declarant hereby reserves for itself, its successors, assignees and designees, a perpetual non-exclusive easement over the Common Areas and Limited Common Areas for ingress, egress, access, use and enjoyment and for such other purposes as Declarant, in its sole discretion determines appropriate, together with the right to grant additional easements to such Persons and for such purposes as Declarant deems appropriate in its sole discretion.

ARTICLE V **Maintenance**

Section 5.01 Maintenance by the District.

A. The District shall cause to be maintained and kept in a first class manner, good condition and state of repair all District Properties, including Landscape Buffer Areas, and any other property which the District has agreed to maintain. Any or all of the obligations set forth herein may be delegated by the District to a Maintenance Provider. However, the District shall remain ultimately responsible for performance of such work. Maintenance shall include, but not be limited to, the following:

1. Maintaining all paved surfaces of the Parking Areas, if any, including any drive through lanes and all improvements associated therewith, in a smooth and evenly covered condition, which maintenance work shall include, without limitation, cleaning, snow removal, sweeping,

restriping, repairing and resurfacing (using surfacing material of a quality equal or superior to the original surfacing material);

2. Removing all paper, debris, filth, refuse, ice and/or snow, and of sweeping of all areas utilized for the Common Area Easements to the extent necessary to keep said areas in a clean and orderly condition;

3. Placing, keeping in repair and replacing any appropriate traffic pattern directional signs, markers, striping, and lines, repairing, maintaining and replacing all improvements within any Parking Area;

4. Maintaining any common signage and monumentation for the Property;

5. Operating, keeping in repair and replacing, when necessary, such Parking Area lighting facilities as may be reasonably required;

6. Mowing, fertilizing, grooming, irrigating, replacing, repairing automatic sprinkler systems or water lines in the Common Areas, and otherwise maintaining and replacing the landscaping upon the Common Areas; and

7. Operating and maintaining any drainage facilities including detention ponds, including any repair and or replacement of said facilities;

8. Cleaning, maintaining and repairing all sidewalks (including those situated on the perimeter or outside the boundaries of the Common Areas);

Section 5.02 Maintenance of Lot Common Area by Owner.

A. Notwithstanding any provision in this Article V to the contrary, and except as may otherwise be provided in a Supplemental Declaration, the Owner of a Lot shall, at its sole cost and expense, perform all maintenance, repair and replacement of all Lot Common Areas on its Lot (excluding Landscape Buffer Areas which the District has assumed the responsibility to maintain). The maintenance of the Lot Common Area, and all Improvements and Completed Structures on a Lot, shall be performed in strict compliance with the Maintenance Standard. Such responsibility shall include, but is not limited to, the following:

1. Maintaining, repairing and replacing all buildings and improvements;

2. Removing all litter, trash, refuse and waste from the Owner's Lot on a regular basis;

3. Complying with all government health and police requirements;

4. Repairing of exterior damage to improvements and signage;

5. Repainting or staining of improvements and signage, as appropriate;

6. Maintaining landscaping around all buildings and improvements, including mowing, fertilizing and watering;

7. Keeping exterior lighting and maintenance facilities in proper working order;
8. Repairing and replacing roof as necessary to maintain a neat, uniform appearance over the surface of the roof;
9. Keeping parking areas, curbs, gutters and roads in a good repair and free of potholes, excessive cracks and weeds; and
10. Removing snow and ice from sidewalks and roads.

B. Failure of an Owner to properly care for and maintain its Lot in violation of the provisions hereof, and in compliance with the Maintenance Standard, shall permit the District to enter the Lot, after 72 hours notice to Owner and Owner's failure to respond and take corrective action as required by such notice, to cure the violation or cause compliance with this provision. Owner shall reimburse the District for the costs and expense of the District in so doing; provided, however, there shall be no entry into the interior of a Completed Structure not generally accessible to the general public without the consent of the Owner thereof unless a clear emergency exists.

ARTICLE VI

Rights and Obligations of the District

Section 6.01 Rights and Duties of the District. The District or the District's Board members shall give and may exercise any right or privilege given to it expressly in this Declaration, the Governing Documents, the District's Service Plan, or under Colorado law. The District shall have and may exercise every other right, privilege, power and/or authority necessary or desirable to fulfill its obligations under this Declaration including, without limitation, the right:

A. To Serve on the Design Review Committee. The District Board members shall have the power to be members of the Design Review Committee and to carry out all the duties and responsibilities of said committee in accordance with Article VII of this Declaration.

B. To Employ Independent Contractors. The District shall have the power to hire and terminate agents and independent contractors as necessary to assist the District in performing its duties authorized by this Declaration and enforcing the terms and conditions of this Declaration. The Board shall not be liable for any omission or improper exercise by any agent or independent contractor of any duty, power or function so delegated by written instrument executed by or on behalf of the District.

C. To Provide Covenant Enforcement Powers and Design Review Services. The District shall have the power to enforce all covenants described herein and to provide design review services, including the adoption and amendment of the Design Guidelines.

D. To Make Rules and Regulations. The District shall have the power to adopt, amend and enforce rules and regulations applicable within Iron Horse and to implement the provisions of this Declaration including, but not limited to, rules and regulations to protect and preserve property and property rights. The rules and regulations shall be reasonable and shall be uniformly applied, except such rules may differentiate between reasonable categories of Lots. The District may provide for enforcement of any such rules and regulations through reasonable and uniformly applied fines and penalties or otherwise. Each Owner, lessee, guest and member of the general public shall be obligated to and shall comply with and abide by such rules and regulations and pay such fines or penalties upon failure to

comply with or abide by such rules and regulations and such unpaid fines. ALL OWNERS AND OCCUPANTS OF LOTS ARE GIVEN NOTICE THAT USE OF THEIR LOTS IS LIMITED BY THE RULES AS THEY MAY BE AMENDED, EXPANDED AND OTHERWISE MODIFIED HEREUNDER. EACH OWNER, BY ACCEPTANCE OF A DEED OR ENTERING INTO A RECORDED CONTRACT OF SALE, ACKNOWLEDGES AND AGREES THAT THE USE AND ENJOYMENT AND MARKETABILITY OF ITS PROPERTY MAY BE AFFECTED BY THIS PROVISION AND THAT THE RULES MAY CHANGE FROM TIME TO TIME.

E. To Levy Ad Valorem Taxes and Impose Fees, Rates, Penalties, and Charges. The District may levy and collect ad valorem taxes on and against the Property and, from time to time, impose fees, rates, penalties and charges against the Property, as deemed necessary by the Board, in the Board's sole discretion, to defray the costs of the District to carry out its obligations under this Declaration and any other Governing Document. Until paid, all such ad valorem taxes, fees, rates, penalties, and charges shall constitute a statutory perpetual lien on and against the Property served, and any such lien may be foreclosed in the same manner as provided by the laws of the State of Colorado for the foreclosure of mechanic's liens.

Section 6.02 Function. The District, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Areas and all improvements thereon (including, without limitation, furnishings and equipment related thereto and common landscaped areas), and shall keep it in good, clean, attractive, and sanitary condition, order, and repair, pursuant to the terms and conditions hereof and consistent with the Maintenance Standard. The District shall also be the primary entity responsible for enforcement of this Declaration, including the architectural control provisions of Article VII of this Declaration, and such rules regulating use of the Property as the District may adopt pursuant to this Declaration. The District shall perform its functions in accordance with the Governing Documents and Colorado law.

Section 6.03 Personal Property and Real Property for Common Use. The District may acquire, hold, and dispose of tangible and intangible personal property and real property subject to such restrictions as are set forth in the Governing Documents and under Colorado law. The Declarant may convey to the District public improvements or unimproved real estate located within the Properties, personal property and leasehold or other property interests; provided, the Declarant shall not convey any real estate to the District as Common Area which the Declarant knows to contain hazardous substances which would require remediation or create environmental liability for the property owner under state or federal law. The District may accept, and thereafter maintain, any property conveyed or dedicated to it by the Declarant in accordance with Colorado law.

Section 6.04 Security. The District may, but shall not be obligated to, maintain or support certain activities within the Property designed to make the Property safer or more secure than they otherwise might be. HOWEVER, NEITHER THE DISTRICT, THE DECLARANT, NOR ANY OFFICER, DIRECTOR OR PARTNER OF THE FOREGOING SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE PROPERTY, AND NEITHER THE DISTRICT, THE DECLARANT NOR ANY OFFICER, DIRECTOR OR PARTNER OF THE FOREGOING SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN, OR FOR ANY OTHER REASON.

All Owners and Occupants of any lot and all tenants, occupants, guests and invitees of any owner, acknowledge that the District and its Board of Directors, Declarant, any successor Declarant, and DRC, do not represent or warrant that any fire protection system, burglar alarm system or other security system designed by or installed according to guidelines established by the Declarant or the DRC

may not be compromised or circumvented; nor that any fire protection or burglar alarm systems or other security systems will in all cases provide the detection or protection for which the system is designed or intended. All Owners and Occupants of any lot and all tenants, occupants, guests and invitees of any owner assume all risks for loss of damage to persons, to lots, to Completed Structures and their contents and further acknowledge that the District, its Board of Directors, the DRC, Declarant or any Successor Declarant, have made no representations or warranties, nor has any Owner, Occupant or any tenant, guest or invitee of any Owner relied upon any representations of warranties, expressed or implied, including any warranty of merchantability or fitness for any particular purpose, relative to any fire and/or burglar alarm systems or other security systems recommended or installed or any security measures undertaken within the Property.

ARTICLE VII

Design Review Committee and Approval of Plan

Section 7.01 Design Review Committee and Design Guidelines. There is hereby established the Iron Horse Design Review Committee (the "DRC"), which will be responsible for the establishment and administration of the Iron Horse Design Guidelines ("Design Guidelines") to facilitate the purpose and intent of this Declaration. This Article shall not apply to the construction activities of the Declarant.

Section 7.02 Purpose and General Authority. The DRC will review, and, as appropriate, approve or disapprove proposed Lot Improvements submitted by Owners in accordance with this Declaration and enforce any design criteria, standards and guidelines set forth in the Design Guidelines, as may be amended by the DRC from time to time.

Section 7.03 Design Guidelines. The Declarant has promulgated initial Design Guidelines, attached hereto as Exhibit B, which regulate the construction, installation, alteration or removal of certain Improvements that may or may not be allowed within the Development. The Design Guidelines will be binding on all Owners and other persons governed by this Declaration. The Design Guidelines may be amended at the direction of the Board as permitted by the requirements of the Town. The Design Guidelines are intended to provide guidance to Owners regarding matters of particular concern to the DRC in considering applications hereunder. The DRC is authorized to adopt different Design Guidelines to apply to different portions of the Property within Iron Horse at the discretion of the DRC. Each Owner acknowledges that the Design Guidelines in effect on the date of submission of his plans and specifications shall control in the event that such Design Guidelines vary from prior versions.

Section 7.04 DRC Members and Organization. The Board may appoint members of the Board to the DRC ("Members") and shall serve such terms as shall be established by the Board.

A. The Declarant shall appoint a DRC Coordinator from among the Members. The DRC Coordinator will take charge of and conduct all meetings and will provide reasonable notice to each Member of the DRC prior to any meeting.

B. In order to formally conduct business, a majority of Members of the DRC must attend any meeting called for by the DRC Coordinator, and any action taken by the DRC shall require the affirmative vote of a majority of the Members.

C. The DRC may avail itself of other technical and professional advice and consultants, including but not limited to architects, engineers, planners, surveyors, and attorneys, as it deems appropriate. The DRC may delegate its plan review responsibilities, except final review and approval, to one or more of its members or to consultants retained by the DRC.

Section 7.05 DRC Approval. No Improvement shall be constructed, erected, installed or maintained on any Lot, nor shall any Improvement be altered, enlarged, demolished or removed in a manner that alters the exterior appearance (including paint color) of the Improvement or of the Lot on which it is situated, unless the plans and specifications therefore have been approved by the DRC. In no event shall an Owner have the right to construct any Improvements on any Common Area appurtenant to its Lot without the DRC's prior written approval and otherwise complying with the terms and provisions hereof.

A. The DRC will have the right to charge a fee for each application submitted to it for review in an amount which may be established by the DRC. Such fees will be collected by the DRC and remitted to the District to help defray the expenses of the DRC's operation. The DRC may retain the services of a third party consultant to assist the DRC in reviewing a particular application as provided in Section 7.04(C). In such event, the DRC may charge the applicant for the professional fees incurred in retaining such consultant.

B. Until receipt by the DRC of all required or requested Plans and Specifications and other information, the DRC may postpone review of any material submitted for approval. Any modification or change to an approved set of Plans and Specifications must again be submitted to the DRC for its inspection and approval. Approval in writing of all Plans and Specifications and amendments thereto must be obtained from the DRC prior to the issuance of any building permits.

C. Approval by the DRC may be conditioned upon compliance with stated changes or conditions and shall be based on, among other things, conformity and harmony of exterior design, colors, and materials with neighboring structures; visual and environmental impact; ecological compatibility; relation of the proposed Improvements to the natural topography; relation of grade and finished ground elevation of the structure to that of neighboring structures and natural features of the Property; conformity of the plans and specifications to regulatory documents adopted by the Town; and conformity of the Site Plan and the Plans and Specifications to the purpose, general plan, and intent of this Declaration.

D. Approval of proposals, plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar proposals, plans and specifications, drawings or other matters subsequently or additionally submitted for approval. The Design Guidelines are not the exclusive basis for decisions of the DRC, and compliance with the Design Guidelines does not guarantee approval of any application. The DRC is empowered in its discretion to grant variances from the requirements of the Design Guidelines when such requirements are not necessary or appropriate in specific situations and may permit compliance with different or alternative requirements. Upon written request of any Owner, the DRC may waive any of the requirements for obtaining approval of Plans and Specifications upon good cause shown. Any waiver issued by the DRC pursuant to this Section must be in writing and also must be approved by the Town.

E. Any disapproval shall set forth the reason or reasons for such disapproval. If the DRC disapproves any part of the Plans and Specifications submitted (or approves the same subject to conditions), the Owner shall revise its Plans and Specifications to incorporate such changes and shall deliver the required number of complete sets of revised Plans and Specifications (reflecting responses to all items) to the DRC. The Owner may, within ten (10) days after the DRC's disapproval, make a written request for a hearing before the DRC to reconsider the Plans and Specifications. The DRC shall notify the Owner in writing of its decision within ten (10) days after the hearing. The decision of the DRC shall be final and binding upon the Owner.

F. After the plans and specifications therefor have been approved, all Improvements shall be constructed, installed, maintained, altered, enlarged, demolished or removed strictly in accordance with the approved plans and specifications. An Owner shall secure the approval of the DRC to any change or revision in approved Plans and Specifications in the manner provided in this Article for approval of Plans and Specifications.

G. Upon commencing the construction, installation, alteration, enlargement, demolition or removal of an Improvement, all of the work related thereto shall be carried on with reasonable diligence and dispatched in accordance with the construction schedule, if any, approved by the DRC. Following completion of the Improvements, at its discretion the DRC may schedule a walk through with the Owner (or its representative) to confirm compliance with the Plans as approved. Any discrepancies, omissions or incomplete work noted on such walk through shall be promptly and immediately remedied. Failure to immediately remedy such identified items shall constitute a default by the Owner hereunder. Such default may result in the Town not releasing a certificate of occupancy and/or other related permits regarding said matters of default. All work related to any Improvements must first be approved by the Town, in addition to the approval requirements set forth herein.

H. If construction under approved Plans and Specifications does not commence within 12 months of such approval, such approval shall be deemed withdrawn, and it shall be necessary for the Owner to re-submit the plans and specifications for reconsideration prior to commencement of any construction.

Section 7.06 Limitation of Liability. The approval by the DRC of any plans and specifications and any requirement by the DRC that the plans and specifications be modified shall not constitute a warranty or representation by the DRC or the Declarant of the adequacy, technical sufficiency, code compliance or safety of the Improvements described in such plans, as the same may be modified; and the Declarant and the DRC shall have no liability whatsoever for the failure of the plans and specifications or the Improvements to comply with applicable building codes, laws and ordinances or to comply with sound engineering, architectural and construction practices. Neither the Declarant nor the DRC nor any committee or panelist of any of the foregoing shall be held liable for any injury, damage or loss arising out of the manner or quality of approved construction or modification to any Lot. Neither the Declarant nor the DRC shall bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, the adequacy of soils or drainage or compliance with building codes and other governmental requirements. In addition, in no event shall the Declarant or the DRC have any liability whatsoever to any person for any costs or damages (consequential or otherwise) that may be incurred or suffered on account of the DRC's approval, disapproval or conditional approval of any plans and specifications. The standards and procedures established pursuant to this Article are intended to provide a mechanism for maintaining and enhancing the overall aesthetics of the Development only, and shall not create any duty to any person.

Section 7.07 Enforcement. Declarant or the DRC, or the representatives of each, shall have the right, during reasonable hours and after 72 hours notice to the Owner, to enter upon any Lot to inspect for the purpose of ascertaining whether any Improvement is in violation of this Article. Any Improvement placed or made in violation of this Article shall be deemed to be nonconforming. Upon written request from the DRC, the Owner shall, at his own cost and expense, remove such Improvement and restore the Lot to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to remove and restore as required, any authorized agent of Declarant or the DRC shall have the right to enter the Lot, remove the violation and restore the Lot to substantially the same condition as previously existed. Entry for such purposes and in compliance with this Subsection shall not constitute a trespass. In addition to the foregoing, the District and any Declarant shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Article

and the decisions of the DRC. All costs of enforcement, together with attorney's fees and interest at the lesser rate of 18% per annum or the maximum rate then allowed by law, may be assessed against the Owner.

Section 7.08 No Waiver of Future Approvals. The DRC's approval of any Plans and Specifications for any work done or proposed, or in connection with any other matter requiring the approval and consent of such DRC, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar Plans or Specifications or other matters subsequently or additionally submitted for approval.

Section 7.09 Variances. The Committee may authorize variances from compliance with the Design Guidelines and any required procedures when extraordinary circumstances such as topography, natural obstructions, hardship or aesthetic or environmental considerations so require, or when architectural merit warrants such variance. No Owner shall have any right to obtain a variance. Such variances shall not, however, (i) be effective unless in writing; (ii) be contrary to the restrictions set forth in this Declaration; or (iii) estop the DRC from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not constitute hardships.

Section 7.10 Contractor Performance. Neither the District, the DRC nor the Declarant or any affiliate of Declarant, are a co-venturer, partner, agent, employer, stockholder or affiliate of any kind of or with any contractor engaged to construct, in whole or in part, any Completed Structure, nor is any such contractor an agent of Declarant or an affiliate of Declarant. Therefore, the District, DRC, the Declarant and affiliates of Declarant shall not be responsible for, or guarantors of, performance by any such contractor of all or any of its obligations to any Owner pursuant to any contracts for the sale or construction of a Completed Structure or otherwise. Neither the District, the DRC, or the Declarant nor any affiliates of Declarant has made, or have made, any warranty or representation with respect to performance by any such contractor under any contract or otherwise. Owner acknowledges and agrees that Owner has not, in entering into any contract with a contractor, relied upon any representations or recommendations, oral or written, of the District, the DRC, the Declarant or any affiliate of Declarant or any salesperson with regard to the structural integrity or soundness of approved construction or modifications, for ensuring the effectiveness of any drainage plans, nor for ensuring compliance with building codes and other governmental requirements. Neither the District, the DRC, nor the Declarant or any affiliate of Declarant, shall be held liable for any injury, damages or loss arising out of the manner or quality of approved construction on or modifications to any Lot, nor for any defect in any structure constructed from approved Plans and Specifications.

ARTICLE VIII Operation and Use Restrictions

Section 8.01 Uses. During the term of this Declaration, the Property shall only be used for purposes consistent with the most recently approved general development plan for the Property, which includes, without limitation, light industrial use and offices, or other similar or consistent uses as may be approved by the DRC, from time to time. No portion of the Property is to be used for any residential purposes which would fall under the coverage of the Colorado Common Interest Ownership Act ("CIOA"). Notwithstanding anything set forth herein to the contrary, the DRC may, with the written consent of Declarant and so long as Declarant owns any Future Parcels, authorize any other use of the Future Parcels which is not otherwise precluded by law. Further, if Declarant places any additional restrictions on use in a Supplemental Declaration or in a deed or lease from Declarant to an Owner, such

restriction which is more restrictive in use shall supercede any restriction contained herein. Any such deed restriction may be amended or modified by a written agreement of the Declarant and the Owner of said Site. Declarant shall have the right to designate the use and operation of the Common Areas. Notwithstanding the foregoing, no use, effect or operation will be made, conducted or permitted on or with respect to all or any part of the Property which use, effect or operation is obnoxious to the development, including the following:

- (a) any public or private nuisance;
- (b) any noise or sound that is objectionable due to intermittence, beat, frequency, shrillness or loudness;
- (c) any noxious or offensive odor;
- (d) any noxious, toxic, caustic or corrosive fuel or gas, except reasonable amounts thereof contained in safe and lawful containers as necessary for, or incidental to, activities permitted hereunder;
- (e) any dust, dirt or ash in excessive quantities;
- (f) any uses other than specifically enumerated above or consistent, in the opinion of the DRC therewith;
- (g) any dumping, disposal, incineration or reduction of garbage or refuse;
- (h) any removal or extraction of minerals, oil, gas or other subsurface substances, or any drilling or other work related to such removal or extraction, other than as necessary and normal excavation in connection with construction of improvements and other than slant or other methods of drilling designed to leave the surface of the Parcels undisturbed;
- (i) Except as provided elsewhere herein and subject to compliance with the applicable provisions hereof, the prohibitions set forth in subparagraphs above shall not apply to any incidental consequences of work of construction, improvement or maintenance of any part of the Property.

Section 8.02 No Further Subdivision. No Owner may further subdivide any Lot unless such Owner complies with all applicable laws, rules, regulations and orders of all governmental authorities with jurisdiction and unless such Owner obtains the prior approval of the District. In applying for such approval, the Owner must provide copies of all maps, plats and other documentation required to be submitted to any governmental authority to obtain such approval. Such approval shall be granted or denied based upon a determination by the District as to the effect on the interests of the other Owners of such subdivision. The foregoing shall in no event preclude Declarant from further subdividing any Lot or Parcel which it owns or creating any easements or other partial interests without the approval of the District so long as the subdivision or conveyance is in accordance with this Declaration, However, a Lot, including improvements, may be transferred or sold to more than one person to be held as tenants-in-common or joint tenants without the approval of the District. Further such approval is not required for the granting of any mortgage, deed of trust or lease on a Lot or for the transfer of title by way of a deed in lieu of foreclosure thereof.

Section 8.03 Employee Parking. Employees of an Owner or Owner's Occupant shall be permitted to park vehicles only on those parts of Parking Areas which are designated by the District for employee parking, regardless of the fact that such areas are within a privately owned Lot. Each Owner shall make all reasonable efforts to assure that all employees comply with this requirement. Nothing herein shall prohibit the District from adopting rules and regulations regarding parking of any Permittees, including the imposition of monetary fines or penalties for excessive parking use. No Owner shall have any liability to any other Owner based on excessive use of parking facilities by a Permittee.

Section 8.04 Hazardous Substances.

A. Each Owner shall comply with all obligations imposed by applicable law, rules, regulations, or requirements of any governmental authority upon the generation and storage of Hazardous Substances, to prohibit any generation, storage, or disposal of Hazardous Substances on the Property except as permitted by law, to deliver promptly to Declarant and District true and complete copies of all notices received from any governmental authority with respect to the generation, storage or disposal of Hazardous Substances, and to promptly notify Declarant of any spills or accidents involving a Hazardous Substance. "Hazardous Substances" shall mean (i) "hazardous substances" as defined in the Comprehensive Environmental Response, Compensation and Liability Act, as amended, (ii) "PCBs" as defined in 40 C.F.R. 761, *et seq.*, or analogous regulations promulgated under the Toxic Substances Control Act, as amended, (iii) "asbestos" as defined in 29 C.F.R. 1910.1001, *et seq.*, or analogous regulations promulgated under the Occupational Safety and Health Act of 1970, as amended, (iv) oil and petroleum based products, (v) radioactive material or waste, (vi) biological and other medical products and waste material, (vii) "hazardous wastes" as defined in Resource Conservation and Recovery Act, as amended and all regulations promulgated thereunder and (viii) hazardous air pollutants as defined in the Clean Air Act, 42 U.S.C. §7401 *et seq.* and all regulations promulgated thereunder; as such acts may be amended from time to time, and as such terms may be expanded by additional legislation of a general nature.

B. Each Owner shall be responsible for, and shall promptly commence and complete, the remediation and clean up of any Hazardous Substances which it has caused to be generated, stored, spilled, or otherwise placed on any portion of the Property. Each Owner shall immediately notify the District in writing of any act or omission by an Owner or its agent or subcontractor which may result in any remediation or clean up of Hazardous Substances as provided in the foregoing sentence. Further, each Owner shall provide the District with copies of all reports, analysis and writings of any kind or nature relating to the foregoing.

Section 8.05 General Restrictions Applicable to Property. All Property shall be held, used and enjoyed subject to the limitations and restrictions set forth herein, and subject to the exemptions of Declarant set forth in this Declaration. Nothing shall be done or kept on the Property which will increase the rate of insurance on any Common Area or other District Property, without the written approval of the Board, nor shall anything be done or kept on or at the Property which would result in the cancellation of insurance on any Common Area or other District Property or which would be in violation of any law. The strict application of the limitations and restrictions in any specific case may be modified or waived in whole or in part by the DRC if such strict application would be unreasonable or unduly harsh under the circumstances. Any such modification or waiver must be in writing or be contained in written guidelines or rules promulgated by the DRC or the District.

Section 8.06 Restrictions on Unsightly Articles. Unsightly articles shall not be permitted to remain on any Lot or other portion of the Property if visible from adjoining property or public or private roadways. This general statement is not limited by the specific references in the following sentence.

Trailers, mobile homes, recreation vehicles, graders, trucks (other than pickups), boats, tractors, buses, garden and maintenance equipment, and all other equipment, shall be kept at all times in an enclosed structure or otherwise fully screened from view, except when in use, and the same shall not be kept on the Property for a period of time longer than 48 hours without the consent of the DRC. Further, repair or maintenance work, other than minor emergency repairs, on all equipment and vehicles shall be done in an enclosed garage or other structure. Refuse, garbage and trash shall at all times be kept in covered containers within an enclosed structure or appropriately screened from view.

Section 8.07 Landscaping, Weed and Pest Control. Lot(s) shall be suitably landscaped with living ground covers, grass, shrubs and trees as soon as reasonably possible following construction of Improvements, in accordance with plans submitted to and approved by the DRC as set forth above. All ground covers, grass, shrubs and trees shall be kept and maintained in an attractive healthy, live and growing condition. All dead or diseased plant material shall be promptly removed and replaced with suitable replacement landscaping. The Design Guidelines may include a list of plant species restricted from use on the Property. All weed and other pest control activities shall be conducting in accordance with the Maintenance Standard. Chemicals shall not be applied outdoors without the approval of the DRC or notice to neighboring Owners. No overspray, runoff or other discharge of chemicals to adjacent properties or Common Areas is permitted. Each Owner shall be responsible for appropriate pest control in accordance with the Design Guidelines.

Section 8.08 Lighting. Lots shall be lit in accordance with the Design Guidelines and approval of the DRC. Lighting shall be designed, installed, and operated to provide safe and adequate views without creating a nuisance or hazard to adjacent properties or Common Areas. Lighting for walkways generally shall be directed to the ground and shall be subject to the criteria and standards set forth in the in Design Guidelines.

Section 8.09 No Temporary Structures. Except for construction trailers used during active construction of Improvements on any Lot, no tent, shack, temporary structure or temporary building shall be placed upon any property within the Property except with the prior written consent of the DRC obtained in each instance. Location and placement of such construction trailers or structures shall be submitted to the DRC at such time as plans for any Improvements are submitted. Subject to reasonable standards uniformly enforced, no construction activities shall be considered to constitute a nuisance or a violation of this Declaration by reason of noise, dust, presence of vehicle or construction machinery, posting or signs as required by law or otherwise permitted by the Design Guidelines, or similar activities, so long as such construction is: (i) pursued to completion with reasonable diligence; (ii) in compliance with all applicable, federal, state and local laws and ordinances and any associated rules and regulations; and (iii) conforms to a Best Management Practices for construction in the area. In the event of any dispute, a temporary waiver of the applicable provision may be granted by the DRC for a reasonable limited period for such construction. All streets, driveways and other access ways shall be swept daily and kept clean and free of all dirt and debris. No construction activities shall be carried on in such a way as to create a health hazard or unreasonably interfere with the use by any Owner of its Lot.

Section 8.10 Fencing. Per approved DRC Plans, Owner or Declarant may construct certain entryways, fences, pillars or walls on any Lot and the Common Areas. No Owner shall modify, repair, replace, paint or otherwise obstruct any such entryways, fence, fence pillars or walls without DRC Approval. No fence or other barrier which would in any way prevent or obstruct the use of the Common Area Easements (including, without limitation, those that would interfere with the passage of vehicles across Lot or other Common Areas, for the purposes herein permitted), shall be erected or permitted by Owner within or across Lot or other Common Areas, except such barricades as are reasonably necessary

in connection with the construction, reconstruction or repair and maintenance of improvements. In no event may any fence or other barrier be constructed placed or permitted within or across any Lot Common Area which would in any way impede or obstruct storm drainage flows within the designated storm drainage conveyance and detention facilities.

Section 8.11 Restrictions on Antennae, Pipes and Utility Lines. Pipes for water, gas, sewer, drainage or other purposes and wires, poles, antennae and other facilities for the transmission or reception of audio or visual signals or electricity, and utility meters or other utility facilities shall be kept and maintained, to the extent reasonably possible, underground or within an enclosed structure. No exterior radio antenna, television antenna, satellite dish, aerial or other reception receiver device or other antennae of any type shall be erected or maintained on the Property without the prior written approval of the DRC. Notwithstanding the foregoing, neither the restrictions nor requirements of this Section shall apply to those antenna (which may include some satellite dishes and other devices) that are specifically covered by the Telecommunications Act of 1996, as amended, revised or replaced, from time to time. As to antennas which are specifically covered by any such Act, the District or DRC shall have the right to adopt rules and regulations governing the types of antennas that are permissible hereunder, to the extent such rules and regulations are permitted by said Act, which rules shall establish reasonable, non-discriminatory restrictions relating to appearance, safety, location and maintenance of same.

Section 8.12 Restrictions on Signs and Advertising Devices. No sign, poster, billboard, advertising device or display of any kind shall be erected or maintained anywhere within the Property so as to be evident to public view except signs as may be approved in writing by the DRC. The Design Guidelines may contain provisions relating to such signage. A sign advertising a Lot for sale or for lease may be placed on such Lot for sale or for lease, provided, however, that standards relating to dimensions, color, style and location of such sign must be approved by the DRC. Declarant may adopt additional standards relating to such signage which will also be applicable, and the provisions set forth below regarding approval by the DRC will be applicable. No flashing or moving signs shall be permitted on any Lot if the same would be visible from the outside of a structure.

Section 8.13 Maintenance of Drainage. There shall be no interference with the established drainage pattern over any portion of the Property except as approved in writing by the DRC. Approval shall not be granted unless a provision is made for adequate alternate drainage. The “established drainage pattern” shall mean the drainage pattern which exists at the time the overall grading of any portion of the Property is completed and shall include any established drainage pattern shown on any plans approved by the DRC and the Town. The established drainage pattern may include the drainage pattern from Common Areas or District Properties over any Lot, from any Lot over the Common Areas, District Properties, or from any Lot over another Lot.

Section 8.14 Restrictions on Water and Sewage Disposal Systems. No cesspool, septic tank or other sewage disposal system shall be installed on the Property without the prior written approval of the DRC. No individual water supply system shall be installed or maintained on the Property without the prior written approval of the DRC. Any sewage disposal or water supply system shall also be designed, located, constructed and equipped in accordance with all applicable recommendations, laws, rules and regulations of any governmental authority having jurisdiction thereover.

Section 8.15 Non-Potable Water System. Declarant or the District, if authorized under the District’s Service Plan, may, in the future, develop a non-potable water irrigation system to provide water for landscaping irrigation purposes upon the Property. If such a system is developed and installed, each Owner shall be obligated to purchase such non-potable irrigation water from Declarant, the District, or such other entity that may develop the same so long as the rate charged by such entity is comparable to,

but in no event greater than, the rate which would be charged by the Town for the purchase of potable water for landscaping irrigation purposes. The cost of creating and equipping such system may be amortized into the rates charged to the Owners, subject to the foregoing qualification.

Section 8.16 Paint. Paint on all Completed Structures shall be applied and maintained according to the Maintenance Standard. The painting or repainting of any Completed Structure or Improvement shall be subject to the prior approval of the DRC.

Section 8.17 Utilities. Each Owner shall be responsible for the maintenance and repair of the utility lines and facilities which are solely for the purpose of serving such Owner's Lot, except as expressly provided in any Supplemental Declaration.

Section 8.18 Prohibited Uses. See the Design Guidelines for a list of allowable and prohibited uses. The DRC shall make the final determination on any use permitted on the Property regardless of whether such use is otherwise permitted by applicable Town zoning and land use regulations.

Section 8.19 Compliance with Laws. Nothing shall be done or kept on any portion of the Property in violation of any law, ordinance, rule or regulation of any governmental authority having jurisdiction.

Section 8.20 Restoration in the Event of Damage or Destruction. In the event of damage or destruction of any Improvement on any Lot, the Owner thereof shall cause the damaged or destroyed Improvement to be restored or replaced to its original condition or such other condition as may be approved in writing by the DRC, or the Owner shall cause the damaged or destroyed Improvement to be demolished and the Lot to be suitably landscaped, subject to the approval of the DRC, so as to present a pleasing and attractive appearance.

Section 8.21 Taxes. Each Owner shall pay, or cause to be paid, prior to delinquency, all taxes and assessments upon its Lot, and the Improvements and personalty located on such Lot, provided that if the taxes or assessments, or any part thereof, may be paid in installments, the Owner may pay each such installment as and when the same becomes due and payable, and in any event, prior to the delinquency thereof.

Section 8.22 Exemption of Declarant. Declarant intends to conform voluntarily to relevant provisions and restrictions of this Declaration during the Period of Declarant Control; however, neither Declarant, nor any of Declarant's activities shall be under the direct jurisdiction of the DRC except with respect to Declarant's construction activities on Lots which are not related to the construction and development of the Common Areas. Without in any way limiting the generality of the preceding sentence, this Declaration shall not limit the right of Declarant to conduct reasonable and responsible activities related to construction and development of the Common Areas. Declarant may: (i) excavate and grade; (ii) construct and alter drainage patterns and facilities; (iii) construct any and all other types of Improvements; (iv) maintain construction, sales and leasing offices and similar facilities; and (v) post signs incidental to construction, sales and lease, anywhere on the Common Area. However, no such activities shall be carried on in such a way as to create a health or environmental hazard or unreasonably interfere with the use and enjoyment by any Owner.

Section 8.23 Construction Activities. All Owners are hereby placed on notice that Declarant, any affiliate of Declarant, and/or their agents, contractors, subcontractors, licensees and other designees, successors or assignees, may be, from time to time, conducting excavation, construction and other development activities within or in proximity to the Property. By the acceptance of a deed or other

conveyance or mortgage, leasehold, license, easement or other interest, and by using any portion of the Property, each Owner automatically acknowledges, stipulates and agrees (a) that none of the aforesaid activities shall be deemed nuisances or noxious or offensive activities, under any applicable covenants or at law generally, (b) not to enter upon, or allow any person under their control or direction to enter upon (regardless of whether such entry is trespass or otherwise) any property within or in proximity to any portion of the Property where such activities are being conducted (even if not being actively conducted at the time of entry, such as at night or otherwise during non-working hours), (c) Declarant, any affiliate of Declarant, and all of their agents, contractors, subcontractors, licensees and other designees, successors and assignees, shall not be liable but, rather, shall be held harmless, for any and all losses and damages (compensatory, consequential, punitive or otherwise), injuries or deaths arising from or relating to the activities described herein, and (d) any purchase or use of any portion of the Property has been and will be made with full knowledge of the foregoing.

ARTICLE IX

Insurance

Section 9.01 District Insurance. The District shall obtain such insurance as deemed necessary by the Board, in the Board's sole discretion, and as may be required by law.

Section 9.02 Liability Insurance; Indemnification for Liabilities. Each Owner, with respect to its Lot and also with respect to the operations thereon, shall, at all times during the term of this Declaration, obtain and maintain in full force and effect general liability insurance against claims and liabilities arising in connection with the ownership, existence, use or management of the Lot and the Improvements thereon, and covering public liability for bodily injury and property damage, and, if the Owner owns or operates motor vehicles, public liability for bodily injury and property damage arising as a result of the ownership and operation of such vehicles. Such liability insurance, for other than motor vehicle liability shall: (a) have limits of not less than One Million Dollars (\$1,000,000) per person and One Million Dollars (\$1,000,000) per occurrence; (b) insure the Owner, its officers, directors, partners, members and board members as named; (c) include the District, Declarant, and Maintenance Provider, if any, as additional insured, but only for claims and liabilities arising in connection with their exercise of their rights and duties hereunder insofar as they relate to the Lot; and (d) cover claims of one or more insured parties against other insured properties and parties. Declarant or the District may from time to time increase the limits set forth in this subparagraph by written notice to all parties so that adequate and commercially reasonable limits are always carried by each Owner.

Section 9.03 Casualty Insurance. Each Owner shall at all times during the term of this Declaration, obtain and keep in full force and effect property insurance on all insurable Improvements on its Lot (including all improvements on Lot Common Areas) and personal property owned by the Owner or that may be owned by such Owner in the future, for broad form covered causes of loss, including casualty, fire, and extended coverage with respect to all insurable Improvements and personal property owned by the Owner, including, if available, and if deemed appropriate, coverage for flood, earthquake and war risk. Such insurance shall be for the full insurable replacement cost of the insured property, less reasonable deductibles, at the time the insurance is purchased and at each renewal date, exclusive of land, excavation, foundation and other items normally excluded from property policies.

Section 9.04 Policy Requirements. All Owner policies of insurance hereunder shall:

(a) be primary insurance which does not call upon any other insurance affected or procured pursuant hereto for defense, contribution or payment;

(b) provide that the insurer waives its right of subrogation under the policy against the Declarant, the District, other Owners, and any other Person claiming by, through or under an Owner;

(c) provide that no act or omission of any Person which is an additional insured, unless acting outside the scope of his authority, will void the policy or be a condition to recovery thereunder;

(d) be non-accessible and contain language to the effect that payment thereunder shall be made by the issuer, notwithstanding any act or negligence of the insured; and

(e) contain agreements by the issuer that such policies shall not be canceled without at least 30 days prior written notice to the other Parties.

Section 9.05 Evidence of Insurance. Within fifteen (15) days following the request by the Declarant or the District, the requested Owner shall provide to the Declarant or the District evidence of its compliance with the requirements of insurance hereunder, which evidence shall include a current and valid certificate of insurance or original policy of insurance, and if either of the same are expressly contingent upon payment of premiums, then the requested Owner shall provide proof of such payment. In no event shall the Declarant or the District have any liability or responsibility if it fails to make such request and confirm an Owner's compliance with its obligations hereunder.

Section 9.06 Changes in Policy Types or Amounts of Coverage. In addition to the change in limits, which Declarant or the District shall have the right to modify itself from time to time, as provided above, the types of coverage required hereunder may be changed from time to time by Declarant or the District in the same manner, so long as such requirements remain commercially reasonable and consistent with insurance required for similarly placed Owners in comparable projects in Colorado.

Section 9.07 Damage or Destruction.

A. Common Areas. In the event of damage to or destruction of any part of the improvements to the Common Areas or other property insured by the District, the District shall repair or replace the same from the insurance proceeds available unless the Declarant and the District decide within sixty (60) days after the loss not to repair or reconstruct. If it is determined in the manner described above that the damage or destruction to the Common Areas shall not be repaired or reconstructed and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the District in a neat and attractive landscaped condition consistent with the Maintenance Standard.

B. Destruction of Building. In the event that any building constructed on a Lot has burned and is thereafter abandoned for at least thirty (30) days, the owner of the Lot shall cause the burned building to be removed and the Lot cleared, the expense of such removal and clearing to be paid by the Owner. In the event the Owner does not comply with this provision, then the District may, after ten (10) days written notice to the Owner, cause such burned building to be removed and the Lot cleared and charge the cost thereof to the Owner. In such event, the District shall not be liable in trespass or for damages, expenses, costs or otherwise to the Owner for such removal and clearing. The District shall have no obligation to procure insurance to protect against fire or other casualty to any of the structures and each Owner is encouraged to procure and maintain such insurance coverage as is deemed prudent or desirable by such Owner.

ARTICLE X
Enforcement

Section 10.01 Enforcement of Covenants.

A. These conditions, covenants, reservations, and restrictions may be enforced as provided herein by the District acting by and through the Board, or by the Declarant acting for itself, and as trustee on behalf of all Owners. Each Owner by acquiring an interest in the Property shall appoint irrevocably the District as its attorney-in-fact for such purposes; provided, however, that if an Owner notifies the District or Declarant of a claimed violation of these conditions, covenants, restrictions, and reservations and the District and/or Declarant fails to act within thirty (30) days after receipt of such notification, then, and in that event only, an Owner may separately, at his own cost and expense, enforce the conditions, covenants, restrictions, and reservations herein contained. The Declarant shall have the right to take any action authorized and reserved under this Article to the District if the District requests the Declarant to so act. In such event the Declarant shall be entitled to all the same protections as would otherwise accrue and inure to the benefit of the District.

B. Violation of any condition, covenant, restriction, or reservation herein contained or contained in the Governing Documents shall give to the District the right to enter upon the portion of the Property wherein said violation or breach exists and to summarily abate and remove at the expense of the violating Owner ("Defaulting Owner") any structure, thing, or condition that may be or exists thereon contrary to the intent and meaning of the provisions of the Governing Documents, or to prosecute a proceeding at law or in equity against the Defaulting Owner, Occupants, or other Persons who have violated or are attempting to violate any of the conditions, covenants, restrictions, and reservations contained in the Governing Documents to enjoin or prevent them from doing so, to cause said violation to be remedied, or to recover damages for said violation.

C. Each Owner, by acquiring title to any portion of the Property, hereby agrees to indemnify, defend and hold the Declarant and its affiliates, assignees, and successors, the District and its Board of Directors, affiliates, assignees, successors, and any other Owner owning or occupying any portion of the Property, and harmless from and against any loss, cost, damage or expense which all or any of them may incur as a result of indemnitor's breach or violation of any condition, covenant, restriction or reservation herein contained. Such indemnity shall include all costs and expenses, including reasonable attorney's fee incurred by the Declarant and its affiliates, assignees, and successors, the District and its Board of Directors, affiliates, assignees, successors, and any other Owner as a result of the actions or inactions of the Defaulting Owner.

D. Every violation of this Declaration or any part thereof is hereby declared to be and to constitute a nuisance, and every public or private remedy allowed therefor by law or equity against a Defaulting Owner, Occupant or other Person shall be applicable against every such violation and may be exercised by the District.

E. Within 10 days of billing therefor, the Defaulting Owner shall reimburse the District (Declarant, or other Owner enforcing this Declaration) for any sum reasonably expended to enforce this Declaration and for fees, interest at the maximum rate permitted by Colorado law, costs and legal expenses.

F. Each and every day that a violation of this Declaration or the Design Guidelines occurs shall constitute a separate and distinct violation and shall be subject to such fines and other penalties as the DRC and the Board may establish and amend from time to time.

Section 10.02 Enforcement of Monetary Obligations.

A. Any ad valorem tax, fee, rate, penalty or charge due to the District in accordance with the provisions of this Declaration, including amounts due for reimbursement for the cost of enforcing this Declaration, shall be paid within the time limits set forth herein. Any amount not so paid shall accrue interest at the Default Rate from the date such amount should have been paid.

B. Pursuant to Section 32-1-1001(1)(j), C.R.S., until paid to the District, all such fees, rates, penalties or charges due to the District shall constitute a perpetual lien on and against the property served, and any such lien may be foreclosed in the same manner as provided by the laws of the State of Colorado for the foreclosure of mechanic's liens. In any foreclosure, the non-prevailing Party shall be required to pay the reasonable costs, expenses, attorney and expert witness fees of the prevailing Party. Any additional amounts owing under this Declaration which are unpaid and established in accordance with the provisions of this Article may be added as a claim in the foreclosure proceeding by an amendment of the complaint in foreclosure.

Section 10.03 Remedies. This Declaration may be enforced against any Person violating or attempting or threatening to violate any provision of the same, which enforcement may occur by self-help, or by legal proceeding to restrain or enjoin any such violation or to compel specific performance of any obligation hereunder, or to recover damages for any breach or default hereof, or any other remedy available at law or in equity, or by any combination of any of the foregoing, all remedies in connection herewith, being cumulative and non-exclusive, except as otherwise provided by law. In addition, in the event of a violation of any of the provisions of this Declaration, the District may invoke one or more of the following remedies: (i) impose a fine upon the Defaulting Owner in a per diem amount determined by the Board for each day that the violation continues after written notice thereof is provided to the Defaulting Owner and the same has not been cured (commencing with the 10th day following such notice); (ii) cause the violation to be cured and charge the cost thereof to the Owner; and (iii) obtain injunctive relief against the continuance of such violation. Without in any manner limiting the District's right to take any action deemed necessary in an emergency, any enforcement by self-help shall be limited to violations of this Declaration which are minor in nature, and shall not be available for any major violations. Examples of minor violations would include matters such as a failure to store trash and garbage in adequate containers; any obnoxious odor; dust, dirt, or ash in excessive quantities; or dumping of garbage or refuse. Examples of major violations would include matters such as breach of the provisions relating to Hazardous Substances, the construction, expansion or modification of any Improvement without the DRC's approval or the use of a Lot or Parcel for purposes in violation of the provisions hereof. Suit to recover a money judgment for such unpaid amounts may be maintainable without foreclosing or waiving the lien securing same. Any liability hereunder of a Owner prior to transfer of all or any portion of said Owner's Lot shall remain a liability of the affected property, notwithstanding such transfer.

Section 10.04 Attorneys' Fees and Expenses. In the event the District, Declarant, or any Owner shall institute any action or proceeding against a Defaulting Owner relating to the provisions of this Declaration hereunder, or to collect any amounts owing hereunder, then in and in such event the unprevailing party, in such action or proceeding, agrees to reimburse the prevailing party therein for the reasonable expenses of legal fees, expert witness fees and disbursements incurred therein by the successful litigant, including such costs and expenses incurred in connection with any such action or proceeding, and any appeals therefrom.

ARTICLE XI
Dispute Resolution

Section 11.01 Disputes between Owners. Matters of dispute or disagreement between Owners or Occupants with respect to interpretation or application of the provisions of the Governing Documents shall be determined by the Board. This determination (absent arbitrary and capricious conduct or gross negligence) shall be final and binding upon all Owners and Occupants.

Section 11.02 Dispute Resolution.

A. Right to Correct. Prior to any Owner commencing any proceeding to which Declarant is a party, including but not limited to an alleged defect of any improvement, Declarant shall have the right to be heard by the Owners, or the particular Owner, and to access, inspect, correct the condition of, or redesign any portion of any improvement as to which a defect is alleged or otherwise correct the alleged dispute.

B. Alternative Method for Resolving Disputes. Declarant, its officers, directors, employees and agents; any contractor, its officers, directors, employees and agents; and any person not otherwise subject to this Declaration who agrees to submit to this Section 11.02 (each such entity being referred to as a "Bound Party") agree to encourage the amicable resolution of disputes, without the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees to submit those claims, grievances or disputes described in Section 11.02(C) (collectively, the "Claims") to the mandatory procedures set forth in Section 11.02(D).

C. Claims. Unless specifically exempted below, all Claims between any of the Bound Parties regardless of how the same might have arisen or on what it might be based including, but not limited to Claims (i) arising out of or relating to the interpretation, application or enforcement of the Governing Documents or the rights, obligations and duties of any Bound Party under the Governing Documents; (ii) relating to the design or construction of improvements; or (iii) based upon any statements, representations, promises, warranties, or other communications made by or on behalf of any Bound Party shall be subject to the provisions of this Section 11.02. Notwithstanding the above, unless all parties thereto otherwise agree, the following shall be considered Claims and shall be subject to the provisions of this Section 11.02:

(1) any suit by Declarant to obtain a temporary restraining order or injunction (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the District's ability to act under and enforce the provisions of Article VII or Article VIII;

(2) any suit between or among Owners, which does not include Declarant, a contractor, or the District as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents; and

(3) any suit in which any indispensable party is not a Bound Party.

D. Mandatory Procedures.

1. Notice. Any Bound Party having a Claim ("Claimant) against any other Bound Party (Respondent) (the Claimant and Respondent referred to herein being individually, as a

“Party,” or, collectively, as the “Parties”) shall notify each Respondent in writing (the “Notice”), stating plainly and concisely:

- (a) The nature of the Claim, including the Persons involved and Respondent’s role in the Claim;
- (b) The legal basis of the Claim (i.e., the specific authority out of which the Claim arises);
- (c) The proposed remedy; and
- (d) The fact that Claimant will meet with Respondent to discuss in good faith ways to resolve the Claim.

2. Negotiation and Mediation.

(a) The Parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the Parties in negotiation.

(b) If the Parties do not resolve the Claim within 30 days after the date of the Notice (or within such other period as may be agreed upon by the Parties) (“Termination of Negotiations”), Claimant shall have two days to submit the Claim to mediation under the auspices of the American Arbitration Association (“AAA”) in accordance with the AAA’s Commercial or Construction Industry Mediation Rules, as appropriate.

(c) If Claimant does not submit the Claim to mediation within such time, or does not appear for mediation, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to any Person other than the Claimant.

(d) Any settlement of the Claim through mediation shall be documented in writing by the mediator and signed by the Parties. If the Parties do not settle the Claim within 30 days after submission of the matter to the mediation, or within such other time as determined by the mediator or agreed to by the Parties, the mediator shall issue a notice of termination of the mediation proceedings (“Termination of Mediation”). The Termination of Mediation Notice shall set forth that the Parties are at an impasse and the date that mediation was terminated.

(e) Each Party shall bear its own costs of the mediation, including attorneys’ fees, and each Party shall share equally all charges rendered by the mediator. If the Parties agree to a resolution of any Claim through negotiation or mediation in accordance with this Section and any Party thereafter fails to abide by the terms of such agreement, then any other Party may file suit or initiate Arbitration proceedings to enforce such agreement without the need to again comply with the procedures set forth in this Section. In such event, the Party taking action to enforce the agreement shall be entitled to recover from the non-complying Party (or if more than one noncomplying Party, from all such Parties pro rata) all costs incurred in enforcing such agreement including, without limitation, attorneys’ fees and court costs.

3. Binding Arbitration.

(a) Upon Termination of Mediation, Claimant shall thereafter be entitled to initiate final, binding Arbitration of the Claim under the auspices of the AAA in accordance with the AAA's Commercial or Construction Industry Arbitration Rules, as appropriate. Such Claims shall not be decided by or in a court of law. Any judgment upon the award rendered by the Arbitrator may be entered in and enforced by any court having jurisdiction over such Claim.

(b) Each Party shall bear its own costs and expenses and an equal share of the Arbitrator's and administrative fees of Arbitration. Notwithstanding the foregoing, if a Party unsuccessfully contests the validity or scope of Arbitration in a court of law, the non-contesting Party shall be awarded reasonable attorneys' fees and expenses incurred in defending such contest. All decisions respecting the arbitration of any Claim shall be decided by the Arbitrator(s).

(c) The award of the Arbitrator(s) shall be accompanied by detailed written findings of fact and conclusions of law. Except as may be required by law or for confirmation of an award, neither a Party nor an Arbitrator may disclose the existence, content, or results of any Arbitration hereunder without the prior written consent of both Parties.

Section 11.03 Applicability to the District. No part of this Article XI shall apply to any claims made against or by the District or its Board of Directors, officers, employees, servants, agents, or authorized volunteers. Any claims made against the District or its Board of Directors, officers, employees, servants, agents, or authorized volunteers shall be subject to the limitations of the Colorado Governmental Immunity Act, as further provided in Section 14.14 of this Declaration.

ARTICLE XII
Duration, Amendment and Termination

Section 12.01 Duration.

Unless otherwise terminated as provided herein, this Declaration shall have perpetual duration. To the extent Colorado law limits the period during which covenants may run with the land, then to the extent consistent with such law, this Declaration shall automatically extend at the expiration of such period for successive periods of 20 years unless the Owners terminate this Declaration as provided below. Notwithstanding the foregoing, if any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until 21 years after the death of the last survivor of the now living descendants of George Herbert Walker Bush, 39th President of the United States of America.

Section 12.02 Amendment.

Until termination of the Period of Declarant Control, the Declarant may, but shall not be required to, unilaterally amend this Declaration for any purpose.

Except as otherwise specifically provided herein, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of 51% of the total Owners and with the Declarant's written consent. After termination of the Period of Declarant Control, this Declaration may be amended only upon the affirmative vote or written consent, or any combination

thereof, of 51 % of the total Owners. For purposes of this Section 12.02 and Section 12.03 below, if more than one Owner holds fee title in a Property, that Property is entitled to one vote.

Section 12.03 Termination. Until the termination of the Period of Declarant Control, this Declaration shall not be terminated without the affirmative vote or written consent of ninety percent (90%) of the Owners at a meeting of the Owners called for that purpose.

ARTICLE XIII **Annexation, Withdrawal and Modification**

Section 13.01 Annexation. Declarant hereby reserves unto itself, for a period commencing with the date of recordation hereof and continuing for the entirety of the Period of Declarant Control, the right to annex into the Property governed by this Declaration and entitled to the rights, duties and benefits and subject to all of the burdens, duties, restrictions and obligations arising out of this Declaration all or any part of the Future Parcels, by one or more annexations, just as if such annexed portion or portions of the Future Parcels was originally included within the Property currently subject hereto. Such annexation, or multiple annexations, shall each be evidenced by a Supplemental Declaration adding such Parcel, recorded in the real property records of the Clerk and Recorder of the County where the Property is located. Upon each such annexation, wherever herein the word "Property" is used, it shall mean and refer to the real property described in this Declaration and the legal description of all of such portion of the remainder of the Future Parcel as is annexed. Upon such annexation, wherever the word "Parcel" or "Lot" is used herein, it shall also mean and refer to the Lots and/or Parcels included within the Annexed Property which may, at the option of Declarant, be treated as one or more separate additional Parcels or Lots. In addition to the foregoing right, Declarant reserves the right during said Period of Declarant Control, to amend the description of the Future Parcels described herein, to add or delete property therefrom. At such time as Declarant acquires an interest in any one or more parcels which it deems appropriate for possible annexation hereto or identifies the same, Declarant may record a notice of amended description which notice shall specifically reference this Declaration and the provisions of this Article and shall set forth the legal description(s) of any Future Parcel(s) which from and after the date of recordation of such notice shall be deemed to be part of the real property which may be annexed hereto in the manner provided herein.

Section 13.02 Withdrawal of Property. The Declarant reserves the right to amend this Declaration unilaterally at any time so long as it holds an unexpired option to expand the Property pursuant to Section 13.01 for the purpose of removing certain portions of the Property; provided such withdrawal does not reduce the total number of square feet then subject to the Declaration by more than ten percent (10%). Such amendment shall not require the consent of any Person other than the Owner of the withdrawn property.

Section 13.03 Site Plan Modification/Expansion. Nothing in this Declaration shall preclude the Declarant from modifying any Site Plan, subject to the approval of the required governmental authorities, including but not limited to the purpose of expanding the square footage of Improvements permitted to be constructed on the Lots owned by Declarant, provided that such modification does not have a material and adverse impact on any Lot not owned by Declarant, and does not violate any then-existing zoning, land use, or parking requirements of the Town or County in which the Property is located or any other governmental entity having jurisdiction.

ARTICLE XIV
Miscellaneous

Section 14.01 Notices. All notices, demands, statements and requests required or permitted to be given under this Declaration must be in writing and shall be deemed to have been properly given or served, in any event, upon actual receipt, or whether received or not, five days following depositing same in the United States mail, addressed to a Owner, first-class postage prepaid, and registered or certified mail, return receipt requested, at the address set forth below, or at such other address as may be designated in accordance herewith. At such time as a Owner may transfer its Lot or portion thereof to a new Owner, the transferee shall send notice to the District of the name and address to which notice to that new Owner, when such is required herein, shall be sent. Notice to Declarant, District, and DRC, shall be addressed as follows, until each Owner is notified of a change in writing:

If to Declarant:	IRON HORSE, LLC 2725 Rocky Mountain Ave., #200 Loveland, Colorado 80538 Attention: Manager
If to the District:	JOHNSTOWN NORTH METROPOLITAN DISTRICT NO. 1 2725 Rocky Mountain Ave., #200 Loveland, Colorado 80538 Attention: District Manager
If to the DRC:	JOHNSTOWN NORTH METROPOLITAN DISTRICT NO. 1 2725 Rocky Mountain Ave., #200 Loveland, Colorado 80538 Attention: Secretary

Section 14.02 Condemnation. Any award, whether the same be obtained by agreement prior to or during the time of any court action, or by judgment, verdict, or order resulting from or entered after any such court action, which results from a taking or damaging by condemnation of the Property, or any portion thereof, or of any rights or interests in the Property or any portion thereof, will be paid to the Owner owning such land so taken. Any other Owner which might have an easement or other property interest in land so taken shall release or waive such property interest with respect to such award. If any portion of the total award is made for a taking of any portion of any Owner's Lot which at the time of such taking was a Lot Common Area, then the portion of such award for the Lot Common Area (which will include the reciprocal easement interests of other parties) will be used to the extent necessary to:

- (a) Replace Lot Common Area improvements, other than Parking Areas, so taken;
- (b) Replace the Parking Area, so taken, on such Owner's Lot, to the extent required to bring the Parking Area to the minimum parking ratios required by governmental regulation, including the construction of a parking structure if it is possible to construct such a structure on such Owner's Lot and if the portion of such award is sufficient to construct such a structure without any other contribution from the Owner of the Lot. No such construction will be commenced until the DRC has approved the plans therefore in the manner provided herein.
- (c) Any portion of such award not necessary for items (a) and (b) above shall be the sole and separate property of the Owner of such Lot.

Section 14.03 Mechanics' Lien. Wherever under the terms of this Declaration any Owner is permitted to perform any work upon the Lot of another Owner, it is expressly understood and agreed that such Owner will not permit any mechanics', materialmen's, or other similar liens to stand against the Lot on which such labor or material has been furnished in connection with any work performed by any such Owner. Should any liens be filed and recorded against any Lot or any action commenced affecting title as a result of such work, the Owner causing such work to be performed shall cause any such lien to be removed of record within 10 days after notice of the existence of such lien. The Owner may bond and contest the validity of any such lien, but on final determination of the validity and the amount of such lien, the Owner will immediately pay any judgment rendered, with all proper costs and charges, and will have the lien released at such Owner's expense.

Section 14.04 Registration with the District. No Person transferring title to a Lot shall be relieved of its obligations as an Owner hereunder until and unless:

(a) The transferring Owner has given written notice to the District of the transfer, including the name(s) and mailing address(es) of the grantee(s), and has delivered copies of the current Declaration and District rules to the grantee(s); and

(b) all monetary obligations to the District have been satisfied.

Each and every Occupant and Owner shall have an affirmative duty and obligation to originally provide, and thereafter revise and update in writing to the District, within fifteen (15) days after a material change has occurred, various items of information to the District such as the full name, business address, mailing address and telephone numbers of each Owner and Occupant and such other information as may be reasonably requested from time to time by the District. In the event any Owner and/or Occupant fails, neglects or refuses to so provide, revise and update such information, then the District may, but is not required to, use whatever means it deems reasonable and appropriate to obtain such information and the offending Owner and/or Occupant shall become automatically jointly and severally liable to promptly reimburse the District for all reasonable costs and expenses incurred.

Section 14.05 Binding Effect. This Declaration and all covenants, conditions, restrictions, and other provisions hereof shall run with, and be appurtenant to the land affected, and all such terms shall inure to the benefit of and be binding upon the undersigned Owner and its respective successors and assigns who become owners of any portion of the Property.

Section 14.06 Singular and Plural. Whenever required by the context of this Declaration, the singular shall include the plural, and vice versa, and the masculine shall include the feminine and neuter genders, and vice versa.

Section 14.07 Negation of Partnership. None of the terms or provisions of this Declaration shall be deemed to create a partnership between or among the Owners, the District and/or Declarant and their respective businesses or otherwise, nor shall it cause them to be considered joint venturers or members of any joint enterprise. This Declaration is not intended, nor shall it be construed to create any third-Owner beneficiary rights to any person who is not an Owner hereto, unless expressly provided otherwise.

Section 14.08 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 14.09 Captions. The captions preceding the text of each paragraph and subparagraph hereof are included only for convenience of reference and shall be disregarded in the construction and interpretation of this Declaration.

Section 14.10 No Merger. It is the intent of the Parties that the easements granted and declared by this Declaration shall be perpetual in duration. If any owner shall become the fee owner of any servient tenement burdened by any such easement, whether by operation or law or otherwise, the easement shall continue in full force and effect, despite any partial or complete merger of estates.

Section 14.11 Governing Law. This Declaration shall be construed and interpreted in accordance with the laws of the State of Colorado applicable to conducts made in and to be performed wholly within Colorado.

Section 14.12 Waivers. No delay or omission by an Owner in exercising any right or power accruing upon any default, non-compliance, or failure of performance of any of the provisions of the Declaration shall constitute or give rise to a waiver of such event or any such subsequent or similar event. No express waiver of any default shall affect any other default or pertain to any other period of time, except as specified in such express waiver. The consent or approval by any Owner to or of any act or request by any other Owner shall not be deemed to waive or render unnecessary the consent or approval to any subsequent or similar acts or requests.

Section 14.13 Limitations on Liability. The District, its Board, the DRC, the Declarant, and any member, agent or employee of the same shall not be liable to any Owner for any action or inaction if the action or inaction was under good faith without malice.

Section 14.14 Governmental Immunity. By accepting covenant enforcement and design review services, the District does not waive, in whole or in part, of any right, privilege, or protection afforded the District or its Board of Directors, officers, employees, servants, agents, or authorized volunteers under the Colorado Governmental Immunity Act, Section 24-10-101, *et seq.*, C.R.S

Section 14.15 Declarant's Right of Assignment. Declarant reserves the right to assign any or all of its rights, obligations or interest as Declarant by recording an assignment or deed of record executed by both Declarant and the transferee or assignee in the Office of the Clerk and Recorder in which the property is located. Upon such recording, Declarant's rights and obligations under this Declaration shall cease and terminate to the extent provided in such document.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK.]

IN WITNESS WHEREOF, Declarant has caused this Declaration to be executed effective as of the day and year first-above written.

DECLARANT:

IRON HORSE, LLC,
a Colorado Limited Liability Company

By: McWhinney Real Estate Services, Inc.,
a Colorado Corporation, Manager

By: _____
Douglas L. Hill, Chief Operating Officer

STATE OF COLORADO)
) ss.
COUNTY OF LARIMER)

The foregoing was acknowledged before me this _____ day of _____, 2012, by Douglas L. Hill, as Chief Operating Officer of McWhinney Real Estate Services, Inc., a Colorado Corporation, Manager of Iron Hose, LLC, a Colorado Limited Liability Company.

Witness my hand and official seal.

Notary Public

My commission expires: _____

EXHIBIT A

DESCRIPTION OF PROPERTY



**NORTHERN
ENGINEERING**

ADDRESS: 200 S. College Ave. Suite 100 Fort Collins, CO 80524	PHONE: 970.221.4158 FAX: 970.221.4159	WEBSITE: www.northernengineering.com
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A tract of land being a portion of that tract of land described at Reception No. 2001118317, being located in the North Half of Section 13, Township 5 North, Range 68 West of the 6th Principal Meridian, County of Larimer, State of Colorado, being more particularly described as follows:

Considering the North line of the Northwest Quarter of said Section 13 as bearing South 89°20'36" East (length of said line being 2756.04 feet), and with all bearings contained herein relative thereto:...

Commencing at the North Quarter Corner of said Section 13, thence along the East line of the Northwest Quarter of said Section 13, South 00°27'45" West, 954.82 feet to the **POINT OF BEGINNING**; thence continuing along said East line, South 00°27'45" West, 305.90 feet to a point on the Northerly right-of-way line of the Union Pacific Railroad; thence along said Northerly right-of-way line, North 68°08'05" West, 305.90 feet; thence departing said Northerly right-of-way line, North 56°09'50" East, 344.75 feet to the Point of Beginning.

The above described ' Parcels contains a 43,560 square feet or 1.000 acres more or less and is subject to all easements and rights-of-way now on record or existing.

July 7, 2006

R.O.H

730-045.00

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**NORTHERN
ENGINEERING**

ADDRESS: 200 S. College Ave., Suite 100 Fort Collins, CO 80524	PHONE: 970.221.4158 FAX: 970.221.4159	WEBSITE: www.northernengineering.com
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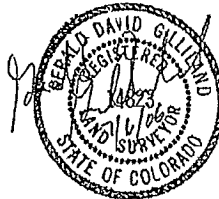
A tract of land being a portion of that tract of land described at Reception No. 2001118317, being located in the North Half of Section 13, Township 5 North, Range 68 West of the 6th Principal Meridian, County of Larimer, State of Colorado, being more particularly described as follows:

Considering the North line of the Northwest Quarter of said Section 13 as bearing South 89°20'36" East (length of said line being 2756.04 feet), and with all bearings contained herein relative thereto:

Commencing at the Northwest Corner of said Section 13; thence along the West line of said Northwest Quarter, South 00°15'14" West, 351.44 feet to a point on the Southerly right-of-way line of the Union Pacific Railroad; thence along said Southerly right-of-way line, South 68°08'05" East 64.54 feet to a point on the proposed East right-of-way line of County Road 3, said point also being the **POINT OF BEGINNING**; thence continuing along said Southerly right-of-way line, South 68°08'05" East, 3,632.26 feet; thence departing said right-of-way line, South 00°27'09" West, 416.45 feet to a point on the Westerly right-of-way line of the Great Western Railroad; thence along the Westerly and Northerly right-of-way lines of the Great Western Railroad beginning with a non-tangent curve concave to the East, with a central angle of 04°25'04", a radius of 1,432.69 feet, an arc length of 110.47 feet, and a chord which bears South 25°55'48" West, 110.44 feet; thence along a non-tangent reverse curve concave to the West, with a central angle of 75°19'27", a radius of 457.26 feet, an arc length of 601.14 feet and a chord which bears South 37°14'41" West, 558.78 feet to a point on the South line of the Northeast Quarter of said Section 13; thence, North 00°27'45" East, 142.76 feet; thence, North 89°35'17" West, 305.12 feet to a point on the East line of the Northwest Quarter of said Section 13; thence along said East line, South 00°27'45" West, 112.76 feet to a point on the North right-of-way line of the Great Western Railroad as described at Book 146, Page 261; thence along said North right-of-way line being parallel to, and 30 feet North of, and measured at right angles to the South line of said Northwest Quarter of Section 13, North 89°29'44" West, 2686.44 feet to a point on the proposed East right-of-way line of County Road 3; thence departing said North right-of-way line and along said proposed East right-of-way line, North 00°15'14" East, 2257.50 feet to the Point of Beginning.

The above described Parcels contains a 5,302,485 square feet or 121.728 acres more or less and is subject to all easements and rights-of-way now on record or existing.

July 7, 2006
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**NORTHERN
ENGINEERING**

ADDRESS: 200 S. College Ave. Suite 100 Fort Collins, CO 80524	PHONE: 970.221.4158	WEBSITE: www.northernengineering.com
	FAX: 970.221.4150	

Tracts of land being a portion of that tract of land described at Reception No. 2001118317, being located in the Northwest Quarter of Section 13, Township 5 North, Range 68 West of the 6th Principal Meridian, County of Larimer, State of Colorado, being more particularly described as follows:

Considering the North line of the Northwest Quarter of said Section 13 as bearing South 89°20'36" East (length of said line being 2756.04 feet), and with all bearings contained herein relative thereto:

Area No. 1 (Northwest)

Commencing at the Northwest Corner of said Section 13, thence along the West line of said Northwest Quarter, South 00°15'14" West, 50.51 feet; thence departing said West line, South 89°44'46" East, 80.60 feet to a point on the Southerly right-of-way line of U.S. Highway No. 34, said point also being the POINT OF BEGINNING; thence along said Southerly right-of-way line of U.S. Highway No. 34, South 88°20'32" East, 411.32 feet; thence departing said Southerly right-of-way line and along the Westerly line of that tract of land described at Book 722, Page 367, South 12°35'28" West, 305.53 feet to a point on the Northerly right-of-way line of the Union Pacific Railroad; thence along said Northerly right-of-way line, North 68°08'05" West, 394.23 feet to a point on the proposed East right-of-way line of County Road No.3; thence departing said Northerly line and along said proposed East right-of-way line, North 00°15'14" East, 143.24 feet to a point on the Southerly right-of-way line of U.S. Highway No. 34 as described at Book 1577, Page 776; thence along said Southerly right-of-way line, North 45°56'32" East, 28.79 feet to the Point of Beginning.
Contains 94,601 square feet or 2.172 acres more or less,

also:

Area No. 2 (Northeast)

Commencing at the North Quarter Corner of said Section 13, thence along the East line of the Northwest Quarter of said Section 13, South 00°27'45" West, 447.65 feet to the POINT OF BEGINNING; thence continuing along said East line, South 00°27'45" West, 813.06 feet to a point on the Northerly right-of-way line of the Union Pacific Railroad; thence along said Northerly right-of-way line, North 68°08'05" West, 2,248.30 feet; thence departing said Northerly right-of-way line and along the Easterly line of that tract of land described at Book 722, Page 367, North 12°35'28" East, 394.31 feet to a point on the Southerly right-of-way line of U.S. Highway No. 34; thence along said Southerly right-of-way line, South 88°20'32" East, 1,881.82 feet to a point on the Westerly line of that tract of land described at Book 619, Page 554; thence along said Westerly and Southerly lines of said tract of land, South 08°00'55" West, 342.13 feet; thence, South 84°47'00" East, 174.56 feet to the Point of Beginning.
Contains 1,555,060 square feet or 35.699 acres more or less,



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ADDRESS: 200 S. College Ave. Suite 100 Fort Collins, CO 80524	PHONE: 970.221.4158 FAX: 970.221.4159	WEBSITE: www.northernengineering.com
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The above described Parcels contains a 1,649,661 square feet or 37.871 acres more or less and is subject to all easements and rights-of-way now on record or existing.

August 7, 2006

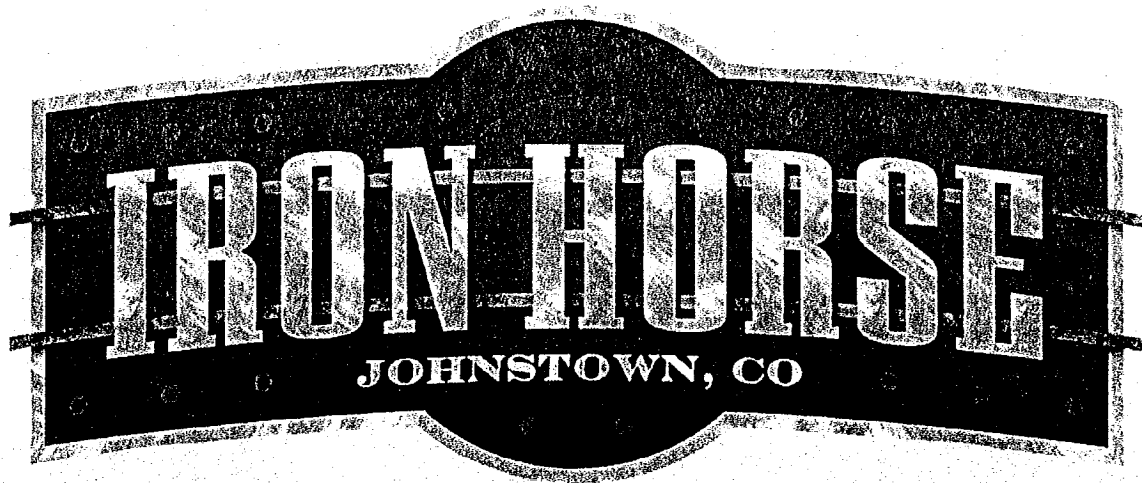
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EXHIBIT B
DESIGN GUIDELINES



IRON HORSE
DESIGN GUIDELINES

TOWN OF JOHNSTOWN
COLORADO

OCTOBER 29, 2006



McWHINNEY

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1.0 GENERAL PROVISIONS

1.1 TITLE

This document, The Iron Horse Design Guidelines, shall be referenced to herein as "Design Guidelines". The Iron Horse Annexation and Development Agreement shall be referenced herein as "Annexation and Development Agreement". The Iron Horse Outline Development Plan which encompasses the entire property included in the Outline Development Plan shall be referenced herein as "ODP".

1.2 EFFECTIVE DATE

The Design Guidelines shall become effective upon the Final Approval as defined in the Iron Horse Annexation and Development Agreement (the "Annexation and Development Agreement") between the Town of Johnstown, Colorado ("the Town") and Iron Horse, LLC ("Developer").

1.3 AUTHORITY

The Design Guidelines are approved by Resolution of the Town, pursuant to its powers as a statutory town of the State of Colorado. The provisions of the Town's fire, building, plumbing and similar technical codes shall apply to development projects within the development, both in their current form or as amended.

1.4 RELATIONSHIP TO OTHER DOCUMENTS

The Design Guidelines establish the guiding principles for review and processing for all development within the ODP. There are other documents that were used as reference for the Design Guidelines or may be referred to for information not found within the

Design Guidelines. The version currently in effect when the Design Guidelines were adopted shall apply.

- A. Iron Horse Annexation Agreement – May 15, 2006.
- B. Town of Johnstown Zoning Code (which includes the Town Sign Code).
- C. Town of Johnstown Comprehensive Plan – April 1, 2001.
- D. Johnstown/Milliken Parks, Trails, Recreation and Open Space Plan – May 2003.
- E. Town of Johnstown Landscape Standards and Specifications – Adopted July 19, 2004.
- F. Johnstown Criteria and Construction Regulations – April 2004.
- G. Johnstown Transportation Plan.
- H. Johnstown Public Improvement Design Standards.

The provisions of the Iron Horse Design Guidelines shall supersede any conflicting provision of the Johnstown Municipal Code and may only be modified to protect the health, safety and welfare of the general public by the Town Board following at least thirty (30) days written notice to record owner(s) of any real property affected by the modification.

1.5 PURPOSE AND INTENT

The purpose and intent of these standards and guidelines will: (1) Provide a cohesive and integrated approach towards the overall site design, architecture, signage and landscaping for the entire project. It is the intent of the developer to provide continuity and harmony throughout Iron Horse rather than widely varying approaches to site design architecture, signage and landscaping. (2) Provide and offer standards and guidelines that architects, engineers, developers and tenants will use in designing each prospective tract of land within the development. (3) Provide the Town of Johnstown with quality and design assurances of what and how the future development will ultimately look like.

1.6 THE VISION

With its strategic location, Iron Horse will provide uses that will complement the influx of regional growth in the area. Iron Horse will complement the growth of adjacent property by providing places of employment, the offering of goods and services and offering other supporting uses that will complement growth in general.

1.7 SITE DESCRIPTION

Iron Horse is an approximately 164 acre master planned commercial/retail/industrial park located at the Southeast corner of U.S. Highway 34 and Larimer County Road 3. The property is bounded by U.S. Hwy. 34, Larimer County Road 3 and the Burlington Northern Railroad. The Union Pacific Railroad also bisects the property. With close proximity to U.S. Hwy. 34, Interstate 25 and the presence of two railroads, Iron Horse is well suited for commercial, office and industrial uses.

1.8 PROPOSED LAND USE

The ODP illustrates the different areas and uses for proposed development (see Exhibit 1-1). The areas include more than one use and all such uses shall follow the Design Guidelines. In the broad sense, uses will be commercial, retail, light and heavy industrial, business and office uses. Section 1.9 comprises a list of permitted allowable uses as well as non-permitted uses within the ODP. Some uses are use by right, others are conditional and some are special review. See Exhibit 1-2 for the Concept and Illustrative Master Plan for design elements that relate to the Guidelines.

1.9 ALLOWABLE USES

The Development shall have the entire area zoned as Planned Unit Development Mixed Use ("PUD-MU").

(1) Commercial Areas: Principle uses permitted by right:

- a. Retail stores:
 1. Food store, supermarket;
 2. Food store, convenience;
 3. Department/Retail stores;
 4. Home improvement stores;
 5. Delicatessen;
 6. Bakery goods store;
 7. Liquor store;
 8. Hardware store;
 9. Drugstore;
 10. Pawn Shop;
 11. Retail Establishments.
- b. Customer service establishments:
 1. Barber and beauty shops;
 2. Restaurant and bar;
 3. Shoe repair shop;
 4. Laundromat and coin-operated dry cleaning establishment;
 5. Fine art studio.
- c. Business and professional offices;
- d. Banks and savings and loans;
- e. Medical and dental clinics;

- f. Public administrative offices and service buildings;
- g. Public utility offices and installations;
- h. Public library;
- i. Commercial lodging;
- j. Theater;
- k. Minor repair, rental and servicing establishments, excluding vehicle repair;
- l. Minor motor vehicle repair and maintenance, such as oil change and tune up establishments;
- m. General administrative offices;
- n. Public Transportation Services and/or terminal;
- o. Hospitals:
 - 1. Short/Long-term care facilities;
 - 2. Hospitals/Urgent Care;
 - 3. Assisted Living/Nursing Home;
- p. Animal Services:
 - 1. Small animal boarding (kennels) and training;
 - 2. Veterinary office and small animal clinic (indoor and outdoor use);
- q. Business or professional offices (including medical/dental/clinics);
- r. Funeral home and mortuaries;
- s. Financial institutions (Credit unions, banks, mortgages offices);
- t. Business Service (Print/Sign Shops, Courier);
- u. Recreation or Amusement Facilities:
 - 1. Health/fitness Clubs;
 - 2. Entertainment Facility (billiard, game room);
 - 3. Commercial Outdoor recreation facility (playing field, swimming pool, skating rink);
- v. Eating and Drinking Establishments:
 - 1. Restaurant (indoor and outdoor seating);
 - 2. Bar, Tavern;
 - 3. Fast Food with or without drive thru;
 - 4. Private club or lodge;
- w. School/Institutions
 - 1. Places of worship or assembly;
 - 2. Private business, trade or vocation schools;
 - 3. Post-secondary colleges and universities;
 - 4. Schools of special instruction;
 - 5. Cultural assembly hall or exhibit facilities;
- x. Agricultural uses (temporary per annexation agreement):
 - 1. Crop production;
 - 2. Grazing and ranching;
- y. Feed Store and associated retail sales;

- z. Retail Nursery;
- aa. Visitor Accommodations:
 - 1. Hotel/motel;
 - 2. Hotel with conference center;
 - 3. Visitor Center.
- l. Automobile and other vehicle body repair shops;
- m. Special trades contractor specializing in one (1) or more trades of which the following are examples: plumbing and heating, painting and decorating, electrical work, glazing, insulation, carpentry and masonry;
- n. Railroad based on-loading and off-loading areas and associated storage components.

(2) Industrial: Principle uses permitted by right:

- a. Wholesale operations which include retail sales;
- b. Business and professional offices;
- c. Building materials and service;
- d. Landscape equipment, hardscape materials and sales; provided that large piles of materials are adequately screened from High Plains Blvd. and U.S. 34 rights-of-ways;
- e. Lumber yard, distribution and sales;
- f. Passenger transportation terminals, not including trucking terminals;
- g. Manufacturing, assembly, processing and fabrication plants;
- h. Transportation terminals, including trucking;
- i. General warehousing, showroom and distribution (including mini-storage);
- j. Testing and research laboratories;
- k. Printing and publishing houses and related activities;

(3) Non-Permitted uses:

- a. Meat Packing Plants;
- b. Motor vehicle sales; RV Trailer Sales;
- c. Rental and heavy equipment sales and rental;
- d. Asphalt and concrete batch plants;
- e. Petroleum storage in commercial area except accessory to an approved use.

(4) Permitted accessory uses:

- a. Office, storage, power supply and other such uses normally auxiliary to the principle industrial use;
- b. Parking and service areas;
- c. Accessory signs;
- d. Residential quarters for guards or caretakers;
- e. Any other structure or use clearly incidental to and commonly associated with the operation of a principle use permitted by right;

- f. Garages for storage of vehicles used in conjunction with the operation of a business;
- g. Off-street parking and loading areas;
- h. Signs;
- b. All fuel, raw materials and products stored outdoors shall be enclosed by a solid fence or wall adequate to conceal such fuel, raw materials and products from adjacent residential and commercial districts. (Ord. 526, 1996).

(5) Conditional uses.

The following uses shall be permitted in the property upon approval of a conditional use grant as provided in Article VII:

- a. Residential;
- b. Commercial parking facilities;
- c. Storage of gasoline or any other flammable liquid as defined as those having a flash point below seventy-three degrees Fahrenheit (73°F) and having a boiling point below one hundred degrees Fahrenheit (100°F) where such storage is in excess of fifty thousand (50,000) gallons
- d. Motor vehicle repair and maintenance;
- e. Drop forges or foundries;
- f. Non-accessory signs.

(6) Limitation on external effects of uses.

- a. No use or activity shall be permitted to produce hazardous conditions or noxious influences, such as noise, vibration, heat, glare, radiation, fumes, smoke or other pollutant to a degree detrimental to existing or prospective adjacent uses or to existing or prospective adjacent residential and commercial districts.

1.10 DESIGN REVIEW COMMITTEE

The property comprising Iron Horse was annexed to the Town in 2006 subject to the terms and conditions of the Iron Horse Annexation Agreement dated May 15, 2006. As part of that Annexation Agreement Johnstown and the Property Owners agreed to develop and agree to performance standards for the purpose of addressing design considerations including architectural, site planning, and landscaping, streetscape and sign elements for land uses within Iron Horse. Iron Horse Design Guidelines are the performance standards as contemplated in the Iron Horse Annexation Agreement.

The following outlines the successive processes for submittals and approvals for development projects. Projects must first be submitted to the Iron Horse Design Review Committee (DRC) before submitting to the Johnstown Review Committee (JRC). After approval is gained by both the DRC and the JRC, the project may be submitted for building permit application.

1.10.1 Iron Horse Design Review Committee (“DRC”)

The purpose of the DRC is to ensure proposed developments meet the standards as established in the Design Guidelines in order to maintain a consistency of planning and design for the entire project. The Design Guidelines legally apply to all land that is part of the ODP, regardless of ownership, and are in addition to the zoning and land use regulations of local government. The

Design Guidelines and supporting documents are administered and enforced by the DRC. The DRC is a private, developer related entity which shall consist of one of the following:

A. The following three to five members: one Engineer with a minimum of ten years experience in land planning or development, one Landscape Architect/Planner with a minimum of ten years experience in land planning or development, one Architect with a minimum of ten years experience and two ODP development property owners;

B. An Architecture or Planning firm with adequate experience in areas of industrial, retail and commercial planning and design.

1.10.2 DRC Approval Process

A. Any proposal to construct, modify or demolish improvements within the ODP must have plan approval from the DRC/JRC prior to commencement, and following approval must also receive administrative approval, in accordance with these design guidelines, from the Town of Johnstown Town Planner. The DRC 's review and approval process also applies to signage, changes in property use, and maintenance activities that take place on, or with respect to, property that is part of the ODP. After the DRC approves a plan submittal, an applicant may proceed with a project, but only in strict compliance with the terms and conditions of approval. The DRC may perform periodic site inspections, both during development and on an ongoing basis thereafter to ensure compliance.

B. The DRC meets as needed, and projects are placed on a formal meeting agenda only after applications have been submitted at least two weeks prior to a meeting. Formal presentations to the DRC are mandatory for most development projects; however, most details are reviewed through informal meetings with the DRC representatives. This process is designed to expedite the

preparation and approval of the plans for any specific site where development is contemplated. There are three phases in the development approval process. These include:

1. Pre-design Conference
2. Design Development (includes plans and elevations)
3. Final submittal

C. Approval is contingent upon the submittal of materials and payment of any designated fees or expenses, and favorable review. A "Notice of Committee Action" letter from the DRC will be sent to each applicant within a maximum of thirty days after the date of the submittal. This notice will state whether approval or disapproval has been granted and outline any conditions associated with the ruling.

D. Review fees may be required for all DRC submittals and shall be paid for the phase scheduled for review on or before said review. If the DRC requires that the applicant attend additional meetings with a DRC member or consultants due to incomplete, inadequate or improper submittals, then the applicant shall be responsible for paying the full costs of such services. No written confirmation of a DRC action will be issued until all appropriate fees have been paid.

1.10.3 Johnstown Review Committee (JRC)

The Town's Design Review Committee will be composed of the following persons: Town Administrator, Town Planner, Town Attorney and the Town Engineer. The Design Review Committee may seek the assistance of any other Town employee or consultant whose expertise is necessary to review the application. All Town subdivision and re-subdivision requirements, building codes, permits and fees, as adopted by the Town, do apply. It is also understood that the JRC duties may be delegated to an

architecture or planning firm with adequate experience in areas of industrial, retail and commercial planning and design.

1.10.4 JRC Approval Process

All individual development projects in the ODP shall be reviewed and approved by the Town pursuant to this approval process. This approval process shall supersede and replace all other Final Development Plan approval processes for land use developments set forth in the Town of Johnstown's Zoning Code, Comprehensive Plan and any other applicable Municipal Ordinance provisions except subdivision civil/public improvement processes.

A. Pre-Application

The applicant shall schedule a pre-application conference with the Town Planner prior to submittal of any project proposal. The intent of this initial meeting shall be as follows:

1. To informally discuss the overall context and development objectives for the proposed project.
2. To review how the project has interpreted the guidelines and criteria for development of the project as set forth in the Design Guidelines.
3. To review a sketch plan and architectural design concepts prepared by the applicant illustrating overall site development and major site development components. The sketch plan is intended to be a very preliminary sketch of the development concept and not a formal site plan.

B. Final Development Plan Submittal and Process

All development projects shall be submitted in compliance with the current Town Community Development Application Form. Accompanying the application shall be all required fees as well as a certification from the DRC stating that the development as proposed in the application meets all the applicable standards and guidelines of the Design Guidelines. The application shall be reviewed for completeness within seven (7) working days of filing. If the Town determines that the application is complete, the application shall then be reviewed by the JRC. If the Town determines that the application is incomplete, the Town shall specify in writing the specific ways in which the application is insufficient or incomplete.

The JRC shall review the application for conformance with all of the applicable terms and conditions of the Design Guidelines. Said review shall be completed within 45 calendar days of Town determination of completeness of the application. Said 45 day period may be extended in writing by the applicant. Review of the application by the JRC is administrative in nature for the purpose of determining that the proposed development as set forth in the application complies with the terms and conditions of the Design Guidelines.

The JRC has the right to grant variances to the Design Guidelines based upon the applicant's ability to demonstrate innovative approaches to design solutions, or future market conditions which the DRC feels is advantageous to, and in conformity with the intent of the Guidelines. In no event shall the JRC grant a variance to the permitted uses in a development parcel.

C. JRC Approval

The JRC shall approve the application if it complies with the applicable terms and conditions of the Design Guidelines. The JRC may approve the application with conditions. Said conditions shall be specifically related to compliance with

standards and guidelines in the Design Guidelines. In the event the JRC determines that the proposed development in the application does not comply with the Design Guidelines, the JRC shall specify in writing the specific reasons in which the application does not meet the applicable criteria.

D. JRC Appeals

The decision of the JRC may be appealed by the applicant to the Johnstown Town Board. The appeal shall be in writing, shall be made within thirty (30) days of the date of the transmittal of the JRC's decision. The Johnstown Town Board shall hear the appeal within thirty (30) days of the filing of the appeal by the applicant. The decision of the Johnstown Town Board on the appeal shall be final.

1.10.5 Additional Criteria & Updates

In addition to the criteria herein, the DRC and JRC may promulgate additional criteria that are not inconsistent with the criteria set forth herein. From time to time, any of these additional criteria may be amended by action of the DRC and JRC. Changes in land use or changes greater than the 20 percent dimensional criteria, that shall become a permanent part of the design guideline document, shall constitute a major change and shall be brought back to the Planning Commission and Town Board for review and approval.

1.10.6 Variances

The DRC may authorize variance from these criteria when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental objectives or considerations may warrant, insofar as they are not superseded by applicable Town of Johnstown zoning regulations. Such variances must be approved by the DRC and JRC. A variation of up to 20 percent in dimensional standard is allowed if it

improves the project design or an unreasonable hardship can be demonstrated.

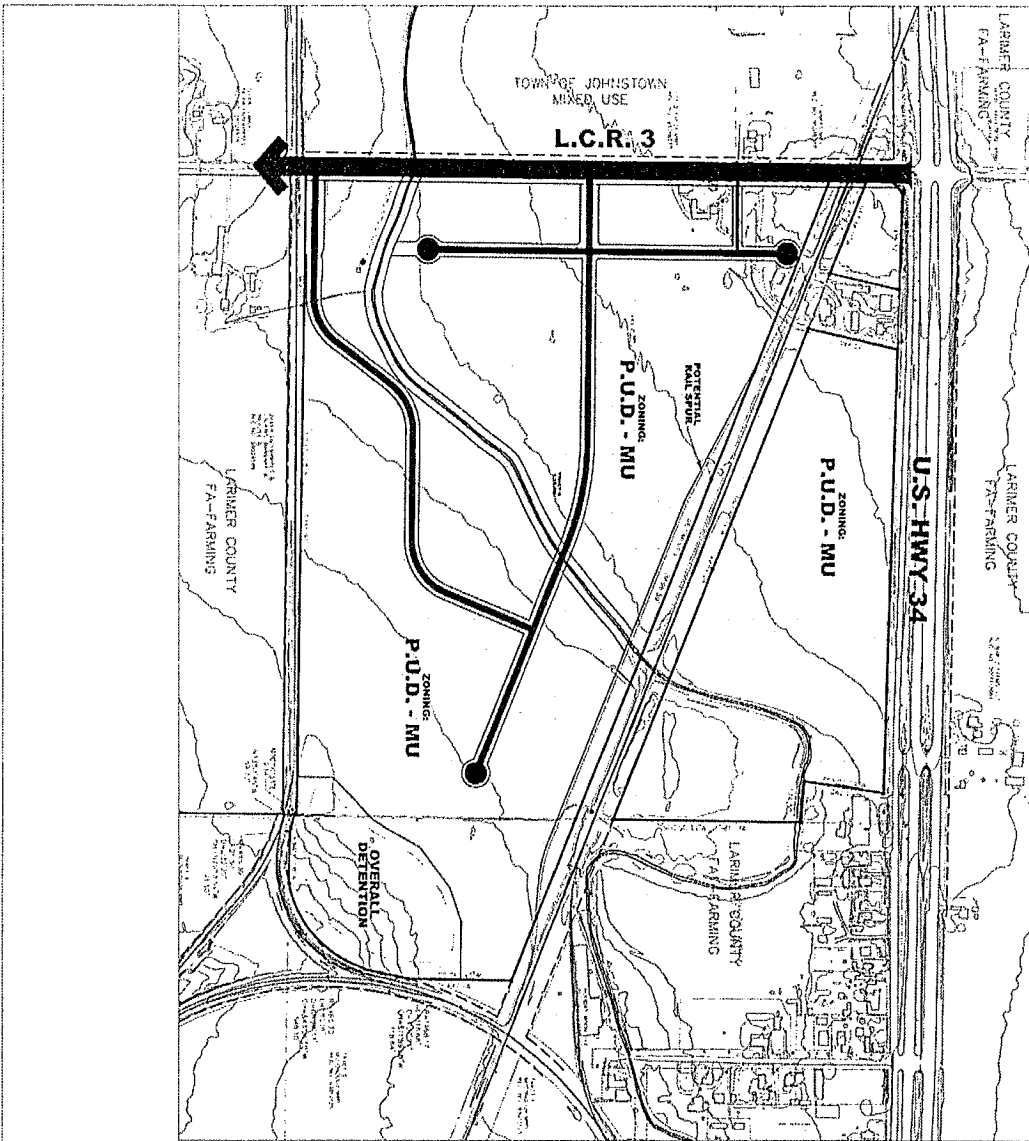
1.10.7 Final Plan Amendments

Amendments to final plans must be approved by the DRC and JRC.

1.10.8 Overall Design Elements

One primary entrance sign is located along US 34 to create a gateway and emphasize entrances for people coming west from I-25 and people driving east along US 34. One secondary entrance along High Plains Boulevard will benefit more local traffic and address the minor roadway entrances to the development. Landmark and high-visibility intersections also help develop the character of the area. These intersections shall contain showy landscaping, decorative walls, and overall just exhibit an increased decorative character than other minor intersections. By creating a hierarchy of intersections, people will be able to use the decorative elements as a way finding device.

EXHIBT 1-1



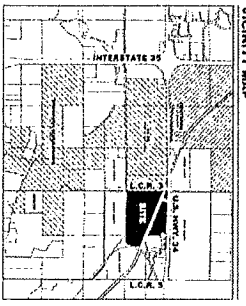
IRON HORSE
OVERALL DEVELOPMENT PLAN
 A NORTH HALF OF SECTION 13, T5N, R6W
 OF SIXTH PRINCIPAL MERIDIAN,
 COUNTY OF LARIMER, STATE OF COLORADO.

NOTES

1. The project is located in a residential area...
2. The project is located in a residential area...
3. The project is located in a residential area...
4. The project is located in a residential area...
5. The project is located in a residential area...
6. The project is located in a residential area...
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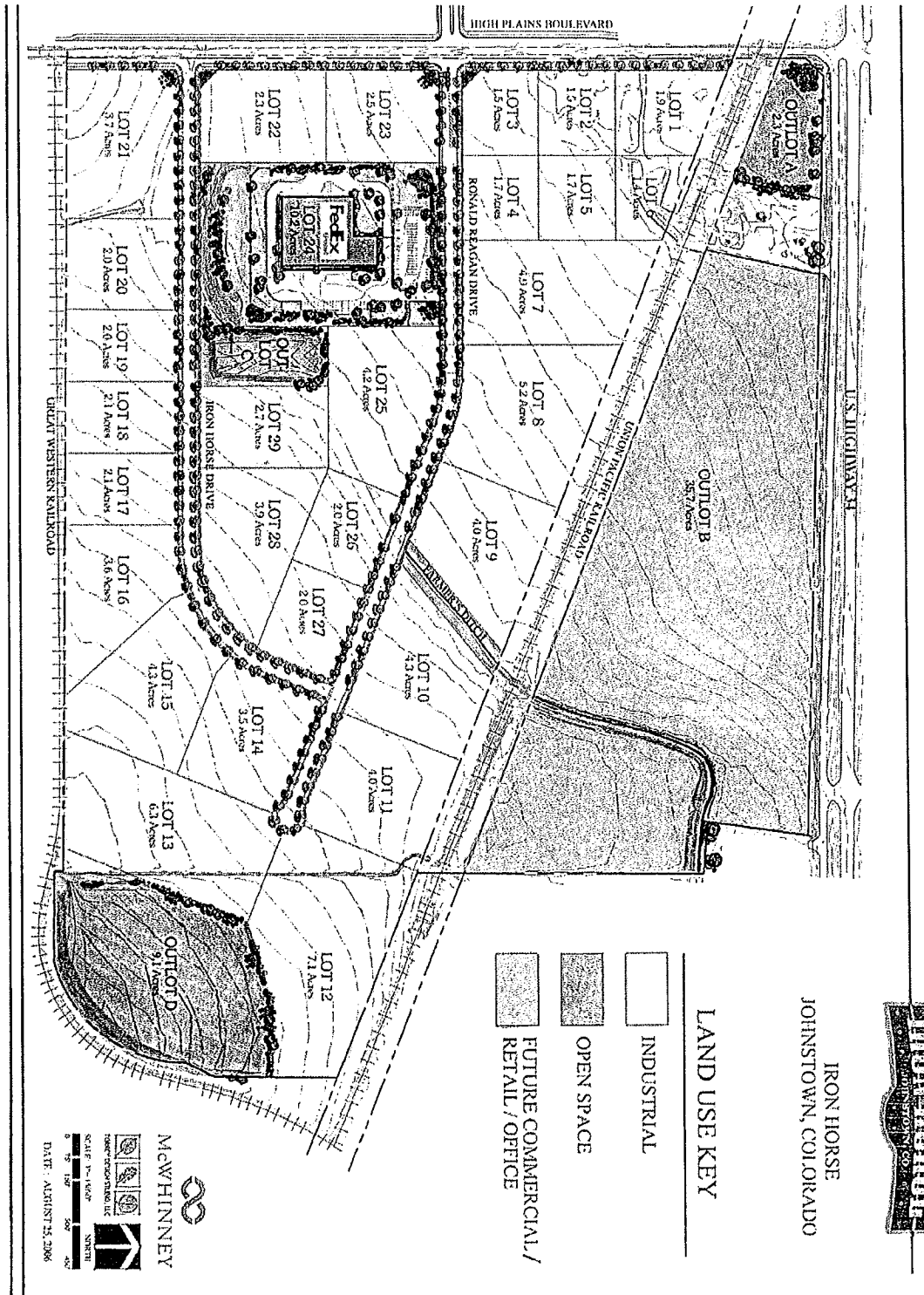
LEGAL DESCRIPTION
 (SEE SHEET 2 OF 2)

OWNER/APPLICANT: [Name]
ENGINEER/SURVEYOR: [Name]



IRON HORSE
OVERALL DEVELOPMENT PLAN
 JOHNSTOWN, COLORADO
 PREPARED BY: [Name]
 DATE: [Date]

EXHIBIT 1-2



2.0 DESIGN STANDARDS

2.1 DESIGN PRINCIPLES AND GOALS

The goal of the architectural standards is to provide design standards that promote high quality design through the Iron Horse Development. It is the desire to provide flexibility for architectural design and optimize site and building functions, while achieving and maintaining a sense of design integrity through the development. The design of each parcel will be assessed for its suitability and intent toward the long-term vision and commitment to the community.

Design principles, materials and landscaping will be selected to achieve the following goals:

- A. Create a timeless design that has enduring forms and qualities.
- B. Provide a high level of craftsmanship in the construction of new developments.
- C. Encourage new ideas and creative design.
- D. Design with the long view. Look ahead during design. Avoid getting caught up in the urgency of the here and now. Maintain a long-term commitment to the future of the community.
- E. Design and build with durability in mind. Establish a maintenance framework that ensures a continuing high level of quality in the future.

2.2 ARCHITECTURAL CHARACTER

The architectural character is intended to reflect a sense of high quality and timeless design. The language will be one that fits with the land and surrounding community. The materials will reflect the quality and the forms will reflect the timeless design. These standards are intended to promote the design of an urban environment that is built to human scale to encourage attractive street

fronts and other connecting walkways, while also accommodating vehicular movement.

2.2.1 Building Materials

Exterior materials shall be chosen for their suitability, durability, and visual continuity.

Building materials shall be selected to provide a variety of textures per building facade, create visual balance to avoid an excessive variety of materials that would result in a cluttered appearance.

Building materials shall provide greater visual and textural interest at building entrances and architectural embellishments and areas that are highly visible to the public.

Building materials shall concentrate on absorption rather than reflection of light.

2.2.2 Preferred Materials

- A. Brick.
- B. Textural concrete block, painted or integral color.
- C. Precast panels with painted and/or cast-in textures only.
- D. Site-cast concrete panels, with painted and/or cast-in textures only.
- E. Wood and wood composite materials, only comprising of a maximum of 60% of the entire façade of a structure.
- F. Natural stone and synthetic stone products.
- G. Metal, as an accent material, only comprising of a maximum of 20% of the total façade of a structure.
- H. Stucco.
- I. Non reflective glazing, comprising of a maximum of 60% of the entire façade of a structure.
- J. Smooth face concrete block, used in combination with other textural materials as accent material, only comprising of a maximum of 50% of the

- entire façade of a structure. Color of façade shall compliment building design.
- K. Other similar high quality materials and/or synthetic materials as approved by the DRC/JRC.

2.2.3 Prohibited Materials and Treatments

Prohibited Materials -- Unless approved by the DRC/JRC.

- A. Unadorned metal wall panels (when directly visible from the public right-of-way.)
- B. Full ceramic tile walls.
- C. Mirrored wall treatments.
- D. Single color walls without mass breaks.
- E. The use of reflective glazing, with over 60% reflectivity, is prohibited.
- F. Exposed neon or color tubing (except in entertainment uses and cohesively planned related facilities).
- G. Corrugated metal panels consisting of more than 25% of the façade.

2.2.4 Building Colors

Color palette should consider earth tones, indigenous to the region resulting in a cohesive, unified theme throughout the development.

Monochromatic color schemes are discouraged.

Non-reflective accent colors to be compatible with base colors and used sparingly. Color shades shall be used to facilitate blending and unifying the development.

The color shades of building materials shall complement or draw in part from the range of color shades that already exist on the block or in the adjacent development.

2.2.5 General Color Families

- A. Grays, warm & cool
- B. Greens/blues
- C. Reds/browns
- D. Other similar color families

2.2.6 Accent Colors

- A. Compatible to predominant building colors
- B. Accent colors can be incorporated into shutters, window mullions, building trim, signs, light fixtures, awnings, etc.
- C. Bright/vivid colors shall be used sparingly (10% or less of a façade).

2.2.7 Variation in Massing – Retail/Commercial/Office

Massing of retail establishments should be compatible and complement each other. Large un-interrupted horizontal and vertical masses seen from U.S. Hwy. 34, Iron Horse Drive and Ronald Reagan Drive should be broken up with projections or recessions to minimize the overall mass of structures.

Horizontal masses of structures shall not exceed 100 feet in length without two (2) of the following for walls 28' or less and three (3) of the following for walls greater than 28':

- A. Changes in color where one color is at least 60% of the mass.
- B. Changes in texture or material where one texture or material is at least 60% or more of the wall.
- C. One change in horizontal plane of at least a minimum of 1 foot.
- D. A colonnade, pergola, trellis, or similar feature equivalent to 30% of the vertical plane (height), offset at least 2 feet from the main building mass is provided.

Horizontal masses that exceed 100 feet in length shall provide three (3) of the following:

- A. 25% of the horizontal plane offset at least 2'-0" from the main building mass.
- B. 25% of the parapet offset from the main building by at least 2'-0".
- C. A colonnade, pergola, trellis, or similar feature equivalent to 20% of the vertical plane (height), offset at least 2'-0" from the main building mass is provided.
- D. Windows constitute 25% of the horizontal length of the elevation.

2.2.8 Variation in Massing - Industrial

Single, large, dominant building masses are unavoidable, given the functions of industrial uses, but are to be differentiated at primary building features like entrances, corners, or building midpoints.

Horizontal masses that front onto High Plains Boulevard shall not exceed 100'-0" in length without two (2) of the following:

- A. Changes in color where one color is at least 80% of the mass.
- B. Changes in texture or material where one texture or material is at least 80% or more of the wall.
- C. One change in horizontal plan of at least a minimum of 16".

In addition, Horizontal masses that exceed 300'-0" in length shall provide three (3) of the following for all lots that front onto High Plains Boulevard:

- A. 25% of the horizontal plane offset at least 2'-0" from the main building mass.
- B. 25% of the parapet offset from the main building by at least 2'-0".
- C. A colonnade, pergola, trellis, or similar feature equivalent to 20% of the vertical plane (height), offset at least 2'-0" from the main building mass is provided.
- D. Windows constitute 25% of the horizontal length of the elevation.

2.2.9 Facades – Retail/Commercial/Office

New structures should complement each other by the consistent application of similar materials within neighboring and adjoining development parcels. Continuity and harmony should be achieved with facades rather than each structure having a radical, distinctive look and feel. Similar applications shall include: colors, building materials, texture, roof forms, pergolas, awnings, window seals and ledges, light fixtures, signage etc. These items can be added to add visual interest to the facades of structures.

Side or rear facades of the building shall include materials and design characteristics consistent with the main design theme on the front. The use of simplified detailing and substitute materials on the side and rear facade to continue the design theme of the main façade is allowed. Use of less decorative or lesser quality materials for side or rear facade may be approved by the DRC/JRC.

Loading docks, service areas and trash containers shall not face High Plains Boulevard or U.S. Hwy. 34, nor in any case be closer than 50'-0" from the public right-of-way. Loading docks may be permitted that face the public right-of-way if berming and landscaping and or walls are provided to adequately screen the visual presence of the loading docks and trucks.

Screen walls attached to the building shall be of the same materials as the building and where possible be incorporated into the design of the building.

2.2.10 Facades - Industrial

In order to add architectural interest and variety and avoid the effect of a single, long, uninterrupted wall, the following supplemental standards shall apply to industrial uses:

Building facades may include real or false windows or similar modulations of the wall to establish the human scale of the building, and to maintain design consistency with the main façade (including those that face walkways or public streets).

Side or rear facades of the building shall include materials and design characteristics consistent with the main design theme on the front. The use of simplified detailing and substitute materials on the side and rear facade to continue the design theme of the main façade is allowed. Use of less decorative materials for side or rear facade may be approved by the DRC/JRC.

Loading docks shall not face public streets, nor in any case be closer than 50'-0" from the public right-of-way. Loading docks may be permitted that face the public right-of-way if berming and landscaping and or walls are provided to adequately screen the visual presence of the loading docks.

Screen walls attached to the building shall be of the same materials as the building.

2.2.11 Roof and Top Treatment Retail/Industrial/ Commercial/Office

Continuous flat parapets are allowed, subject to the requirements of Variations in Massing above in Section 2.2.7.

Rooftop mechanical units, dishes, and other miscellaneous equipment shall be screened or be an integral part of the building design.

Screening material shall be the same or compatible material texture and color as the building architecture.

Mechanical and equipment screens within 15'-0" of the building perimeter are to be integrated with the building parapet. Mechanical and equipment screens more than 15'-0" from the building perimeter may be of alternate materials, and are not required to be integrated with the building parapet.

Roof materials, when directly visible, shall be approved by the DRC/JRC.

2.2.12 Building Entrances Retail/Industrial/ Commercial/Office

Primary building entrances shall be clearly defined and provide limited shelter from the weather. Building materials shall be selected to provide greater visual and textural interest at primary building entrances and shall be easily identifiable to both vehicles and the pedestrian.

Building addresses shall be clearly visible from the public right-of-way, as well as the entrance of each door.

Architectural articulation shall be evident at primary entrances. Textural and massing changes are required for visual interest as well as promoting the "human scale."

Landscape features shall be provided at building entrances, such as a formal arrangement of trees, shrubs, or groundcover; and hardscaping complimentary to the building and landscape design.

Each principal building on a site shall have clearly defined, easily located primary entrances featuring at least three (3) of the following:

- A. Canopy, arcade or portico
- B. Overhang or recess
- C. Peaked or different roof form from the overall structure
- D. Architectural detail such as tile work, columns, stone, moldings.
- E. Pedestrian entrances are recommended to be provided with a recess or projection at least 5'-0" from the adjacent building façade.
- F. Primary building entrances shall have at least two colors.
- G. Primary building entrances shall have at least two materials, including windows.
- H. Primary building entrances shall have windows immediately adjacent to the "front" door.
- I. Solid, opaque doors at the primary entrance are prohibited.

Sloped roofs, integral planters, wing walls, exposed trusses, and exposed columns are allowed at all entrances but not required.

The Variation of Massing (See Section 2.2.7) requirements are encouraged at building entrances, rather than between building entrances.

3.0 SITE PLANNING CRITERIA

3.1 BOUNDARIES/RIGHTS-OF-WAY/EASEMENTS

A. Building permit site plans shall acknowledge existing boundaries, rights-of-way and easements. Buildings and/or structures shall in no case extend into public rights-of-way or easements, or beyond its related property boundary.

B. Elements which are allowed within an easement may include: trees, shrubbery, landscaping, retaining walls or other landscape features, berms, fences or

screening walls, driveways, sidewalks, permitted signs, eaves that do not project more than 2½ feet into the easement, site furnishings, utility lines, wires and associated structures, such as power and light poles, provided that there are no conflicts with utilities located within easements. Development application plans shall demonstrate that there are no conflicts between utilities and proposed landscape elements, signs, fences and retaining and/or screening walls.

C. Where trees are placed in an easement, the tree shall be offset a minimum of five (5) feet from water and sanitary sewer main lines, five (5) feet from primary electrical lines (or in compliance with the utility provider's guidelines), and four (4) feet from gas lines. Landscaping shall not be permitted where it may significantly impact the maintenance, repair or replacement of public utilities. Offsets may be reduced to 2' in special circumstances and must be approved by the Town DRC/JRC. Offsets are not required from private utility service lines.

D. Elements allowed within a public right-of-way include: all of the elements allowed within an easement, except the following items: fences or screening walls and retaining walls (unless approved in street construction plans), eaves of buildings, signs, required buffer yards, and site furnishings unless otherwise approved by the DRC/JRC.

3.2 SETBACKS

The building and parking setbacks have been designed to respect the existing rural character while keeping in mind the future urban character of this area and to make setbacks consistent.

Building Setbacks:

U.S. Hwy. 34	80'
High Plains Boulevard	30'
Public Internal Streets	20'
Rear Yards	10'
Side Yards	10'

Parking Setbacks:

U.S. Hwy. 34	30'
High Plains Boulevard	30'
Public Internal Streets	15'
Rear Yards	5'
Side Yards	5'

“Setbacks” refer to the required unoccupied open space between the furthestmost projections of a structure or the back of curb and the property line of the lot on which the structure is located, including features as listed below in Section A. Required setbacks shall be unobstructed from the ground to the sky except as specified in this section.

A. Features Allowed Within Setbacks. The following structures and features may be located within required setbacks, subject to the adopted building code of the Town of Johnstown:

1. Trees, shrubs or other landscape features.
2. Fences or retaining walls. All retaining walls will have a maximum height of 6 feet. If retention of an earthen slope exceeds 6 feet, retaining walls must be terraced. Any retaining or sound wall over 6 feet must be approved by the DRC/JRC. Fences may be a maximum height of 8 feet.

3. Driveways and sidewalks.
4. Monument, entry or directional signage.
5. Bay windows, architectural design embellishments that do not extend more than 3 feet into the setback limits.
6. Eaves that do not project more than 3 feet into the required setback.
7. Chimneys, flues and ventilating ducts that do not project more than 2½ feet into a required setback and when placed so as not to obstruct light and ventilation.
8. Utility lines, wires and associated structures, such as power and lights poles.
9. Balconies and outside stairs of any height are permitted to extend outward from a structure 6 feet into a front or rear setback, and 3 feet into a side setback.
10. Dumpsters, trash containers and enclosures.
11. Patio covers, awnings and shade structures.
12. Uncovered porches, decks, flatwork, and concrete slabs, provided that such items are not more than 30 inches in height are permitted anywhere in the setback.
13. Covered porches, decks, terraces and patios, if such items are between 30 inches and 8 feet are permitted to extend from structure 6 feet into a front or rear setback and 3 feet into a side setback.

Table 3-1

Minimum Open Space, Building Height, Floor Area Ratios, Lot Coverings

Land use	Minimum % Open Space Required	Maximum Height
Light & Heavy commercial	15%	45 feet
Civic/Public Institutional	15%	85 feet
Office	15%	85 feet
Light and Heavy Industrial	15%	50 feet
Warehouse, Storage	15%	40 feet
Hotel, Motel	15%	120 feet
Other	15%	45 feet
Notes:		
*Parking Structures are not included with the maximum lot coverage by structures		
**where parking structures are proposed, as accessory to non-residential uses, the combined floor area shall not exceed 3.0.		
All structures shall be approved by the DRC/JRC.		

3.3 BUILDING HEIGHT

Maximum building heights are listed in Table 3-1.

3.4 OPEN SPACE REQUIREMENTS

A. Open Space shall be defined as each individual tract or building site within the ODP not covered by building or parking. Open Space shall be designated to: protect view corridors, provide ample buffering and setbacks, provide for separation between uses, reduce heat and glare, create connections between uses and to create an aesthetically pleasing development.

B. The minimum open space requirement for each site is indicated in Table 3-1. A minimum of 70% of the area defined as open space shall be vegetated and landscaped areas. The remaining 30% shall be inorganic materials such as rock or wood mulch.

C. With approval from the DRC/JRC, the open space requirement for an individual lot may be reduced by 5% (for example, reduce requirements from 15% to 10%) where a lot abuts public or private open space tract, given that a minimum of one-third of the lot's total perimeter length is immediately adjacent to the open space. The open space area, which the lot abuts, must also have an average width of 30' (minimum of 20') along the lots edge in order for the reduction to be applied.

3.5 ALLOWABLE OPEN SPACE ELEMENTS

Open space elements that may be included for the purpose of calculating open space in non-residential areas include:

- A. Pedestrian plazas and entry courts, patios, outdoor gathering spaces (unenclosed amphitheaters).
- B. Pedestrian/transit facilities where they represent a bus stop area (smaller than 500 square feet).
- C. Sidewalks, seating areas, fountains, pools, and information/exhibit kiosks.
- D. Passive and active recreation areas.

- E. Natural Areas.
- F. Detention areas, drainages, river and/or river channel, wetland water quality areas, ponds and irrigation ditches.
- G. Turf and landscaped areas and buffers.
- H. Other similar uses as approved by the DRC/JRC.

**3.6 LAND USE
COMPATIBILITY**

The purpose of this section is to ensure that the physical and operational characteristics of proposed buildings and uses are compatible when considered within the context of the surrounding area.

3.6.1 Compatibility of Building Materials

Building materials shall either be complementary or draw in part from the materials already being used in the commercial center. If dissimilar materials are being proposed, other characteristics such as scale and proportions, form, architectural detailing, color and texture shall be utilized to ensure that enough similarity exists for the building to be compatible, despite the differences in materials. Refer to Section 2.2.1 for preferred building materials, colors, and textures.

3.6.2 Industrial Performance Standards

The proposed land uses and activities shall be conducted so that any excessive glare, heat, vibration, emissions (smoke, odor, and particle) and hazardous materials created by the use of the property will be imperceptible without instruments at any point along the property line.

3.6.3 Air Quality

Developments within this ODP shall conform to all applicable local, state and federal air quality regulations and standards, including, but not limited to those regulating odor, dust, fumes or gases which are noxious, toxic or corrosive, and suspended solid or liquid particles.

4.0 NONRESIDENTIAL BUILDING SITING AND ORIENTATION

4.1 GOAL

Buildings should be sited to maximize the character of existing land forms and site features. The relationships between buildings should be carefully considered; pedestrian connections are accessible, convenient and safe; site drainage is facilitated, and views from adjacent roadways are not dominated by parking.

4.2 CRITERIA

Locate buildings in order to facilitate drainage away from foundations. Buildings should also be located to minimize grading and follow the existing topographic features and landforms. It should be noted that the change in topography for the Property is significant and landform modifications will be necessary.

To avoid possible conflicts and take advantage of mutual benefits such as shared parking, access points, drive and easements, relate the locations of site uses and buildings with existing uses and buildings on adjacent parcels.

Locate building entryways so they are easily identifiable from individual parcel entries.

When warranted, secondary-building entrances shall be easily accessible and

convenient to parking and delivery areas that serve buildings, yet are not dominant.

Buildings should be oriented to face roadways or address roadways through orientation that opens to the roadway by visitor entry drives.

In siting, orienting, and developing new buildings and facilities, protect and enhance existing views and provide view corridors.

In orienting buildings for views, give consideration to each building's relationship to other nearby buildings and development parcels.

5.0 LANDSCAPING/SITE FURNISHINGS

All uses within the ODP will follow the Town of Johnstown Landscape Standards and Specifications that were adopted July 19, 2004. Development applications shall include detailed landscape plans per these Guidelines. The Developer may elect, at their sole discretion, to adopt any new or amended standards that the Town may adopt in the future.

Landscaping is intended to unify the building and its site along with adjacent development areas. In order to establish a consistent streetscape and open space image, emphasis is on landscaping the ODP as a single entity, not on a small-scale with individual landscaped areas.

Landscaping, site furnishings (when used) and irrigation must be completed in the next available planting season, or as soon as weather conditions permit. Public rights-of-ways, common open space and private lots to be landscaped shall be completed prior to occupancy unless otherwise approved by the DRC/JRC and as shown on Final Landscape Drawings and Phasing Plans. The Town will require escrow to cover the cost and the installation of landscaping and irrigation at the time of a temporary and or final

certificate of occupancy until the landscaping is installed.

See Figures 5-1 thru 5-3 for examples of site furnishings. The examples shown are for reference only and to establish a common baseline for what is to ultimately be used in the ODP. The DRC/JRC shall make the final determination on the site furnishings.

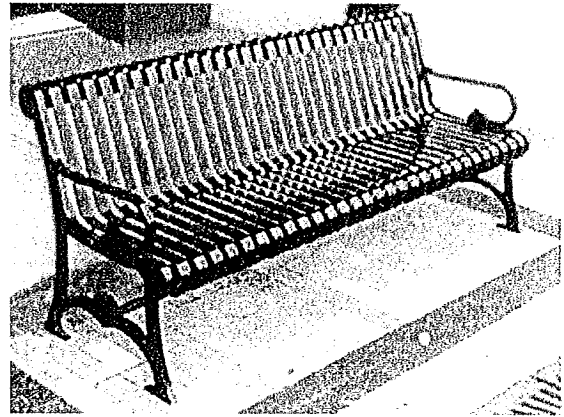


Figure 5-1 - Bench

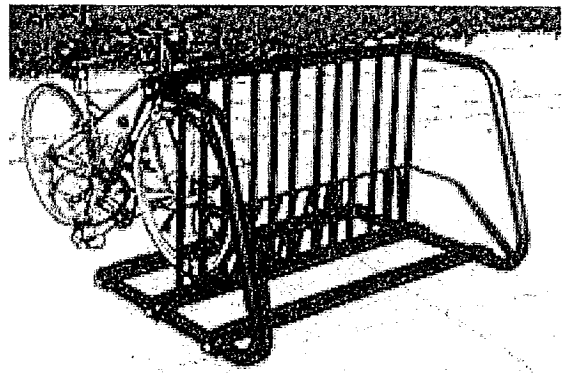


Figure 5-2 – Bike Rack

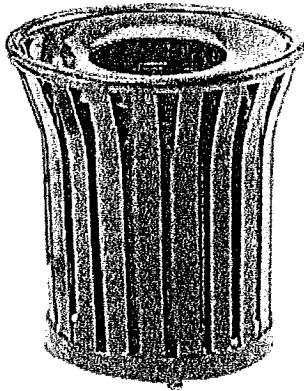


Figure 5-3 – Trash Receptacle

6.0 DRAINAGE

Regional detention is highly encouraged. Site drainage must be compatible with adjacent property drainage and in accordance with the Utility/Grading/Drainage Plan approved prior to, or at the time of the first Preliminary Plat. Excess run-off from the site shall be minimized with sites graded to provide positive drainage away from buildings and to drainage easements/systems and/or to street drainage systems. Storm drain detention requirements shall be accommodated within individual development sites and/or possibly within regional detention areas. See final landscape plans for ownership and maintenance of all common open space areas.

7.0 UTILITIES, MECHANICAL EQUIPMENT, AND COMMUNICATION DEVICES

Visual and sound impacts of utilities, mechanical equipment, data transmission dishes, towers, microwaves, and other services and equipment shall be minimized within the Development. Radio transmitter

towers and other similar equipment must be approved by the Town.

7.1 TEMPORARY OVERHEAD POWER AND TELEPHONE LINES

Onsite overhead utility lines are permitted during construction, but shall be removed prior to certificate of occupancy (including temporary occupancy) unless otherwise approved by the DRC/JRC.

7.2 COMMUNICATION DEVICES AND MECHANICAL EQUIPMENT

Wherever possible, mount data transmission and receiving telecommunication devices at ground level, to the rear of structures, and screen them from view from adjacent roadways, pedestrian paths, and building sites.

In screening such devices and equipment, use subdued colors that blend with the surroundings and/or nearby buildings.

Coordinate locations, screening, and landscape decisions with involved utility and service providers in order to allow adequate conditions for servicing these devices and equipment.

If transmission and receiving devices or mechanical equipment are roof-mounted, locate them below an involved building's highest architectural element, so they are not generally visible from the site, adjacent buildings, and public view.

Communication Devices visible from adjacent sites and buildings shall be painted in a color compatible to the primary structure. If equipment cannot be painted it shall be screened using architectural screen walls or landscaping.

7.3 TRANSFORMERS, GAS METERS

Electrical transformers and other utility boxes and equipment should be screened from public view with the use of landscaping, berming or screened enclosures. Screening shall be subject to approval from the pertinent Utility Provider.

Coordinate locations, screening, and landscape decisions with involved utility companies in order to allow adequate conditions for service access. Conduits, meter sockets, and vents shall be painted to match building surfaces and screens. While the meter socket may be painted, the meter itself cannot be painted.

8.0 SERVICE AREAS

8.1 POLICY

The visual impacts of service, delivery, trash, and outdoor equipment or storage areas shall be minimized, particularly relative to views from public roadways and along view corridors. Thoughtful placement and design of screening for these facilities is a priority for all sites.

8.2 CRITERIA

No areas for outdoor storage, trash collection or compaction, loading or other such uses shall be located within (50) fifty feet of the R.O.W. of High Plains Boulevard and US Hwy. 34 and ten (10) feet of any public street, public sidewalk or adjacent use.

Loading docks, truck parking, outdoor storage (including outdoor storage of recreational vehicles, boats, and truck storage), utility meters, HVAC and other mechanical equipment, trash collection, trash compaction and other service functions should be located and screened so that the visual and acoustic impacts of these functions are contained and minimized from

adjacent properties, public streets, public sidewalks and trails.

- A. Loading docks, trash containers, and service areas shall be screened or located out of view from adjacent streets, properties, pedestrian pathways, and open space corridors.
- B. Screen facilities with architectural elements, berming and/or landscaping.
- C. Screening for loading docks and service areas should be a minimum height of six feet (6'), or as tall as the object which is being screened, and incorporate materials and finishes similar or compatible with those of the primary structures. All trash enclosures shall be constructed with a non-combustible material unless approved by the DRC/JRC. (See Figure 8-2)
- D. Locate loading, service, and delivery areas so they do not encroach into any setbacks and so that they serve as an extension of the building.
- E. Locate parking areas for outdoor equipment, trucks, research trailers, service vehicles, etc. away from public parking lots and major pedestrian circulation routes. Unless out of view, screen these areas architecturally and/or with landscaping. Materials, supplies, trucks, or equipment being stored on a site should be concealed inside a closed building or behind a visual screen such as walls or berming. (See Figure 8-1)
- F. Clearly identify all service entrances to discourage the use of main entrances for deliveries.

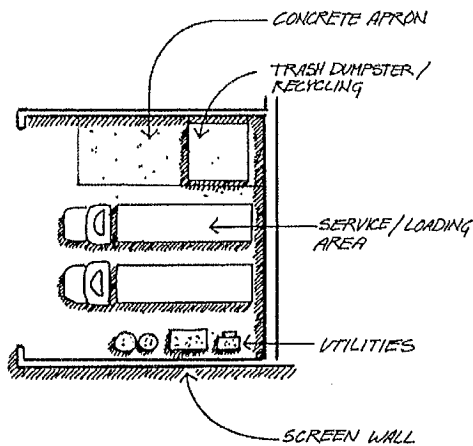


Figure 8-1 - Service Areas

9.0 OUTDOOR STORAGE

Restrict outdoor storage to defined areas clearly identified on the building permit plans. Such areas should be screened from views from adjacent properties, public roadways and public pedestrian pathways by using adequate year round buffer and screening techniques.

10.0 CART STORAGE, VENDING MACHINES, ETC.

Cart corrals, cart storage, vending machines, newspaper racks, video and book return boxes, and telephones shall either be placed inside structures or shall be screened and designed to complement the building façade.

11.0 SECURITY FENCES/WALLS

11.1 POLICY

Fences and/or wall materials should be compatible with other architectural and landscape elements located in the development as approved by the DRC/JRC and shown on the Final Landscape Plans. (See Figures 11-2 and 11-2)

11.2 CRITERIA

- A. Where fencing is used in highly visible areas such as the entry way, the use of a fence constructed of specialty wood, concrete, or iron is required. Specific fence designs will be selected for use along common open space and specific roadways within the ODP to ensure consistent treatment. The fence will be selected to provide a high degree of visual quality, low maintenance, security, and to present a consistent image. Where fencing is desired, the specialty fencing types should be used in high visibility areas along private or public open space areas and High Plains Boulevard.
- B. Fences shall be a maximum of eight (8) feet tall.
- C. Fences adjacent to public streets must be set back a minimum of 10' from any public right of way, unless approved otherwise by the DRC/JRC.
- D. In areas visible to the public, fencing should be buffered with landscaping to ensure an attractive development. Buffering should be accomplished with a mixture of evergreen trees, shrubs, ornamental or deciduous canopy trees, and berms. It shall be the intent of fence buffer designs to obscure the fence from vision within 3 years after planting (See Figure 11-1 for example of buffering).
- E. Vinyl coated chain link fences may be used for security if berming and landscaping can reduce its visibility from public rights of ways (See Figure 11-1). Vinyl coated chain link fence is permitted and not required to be screened when not directly in view from public rights of ways. Barbed and/or razor wire at the top of such fence must be approved by the DRC/JRC on a case by case basis.

- F. Vinyl coated chain link fencing shall not be permitted within 40' of any public R.O.W. Other fencing material such as steel, iron, aluminum, stone or masonry shall be used within that area. The DRC/JRC may require steel, aluminum, stone or masonry in instances with high visibility or other special circumstances within 40' from the Public R.O.W.
- G. All chain link fences shall be black vinyl coated to minimize glare and to further enhance the image of the ODP.

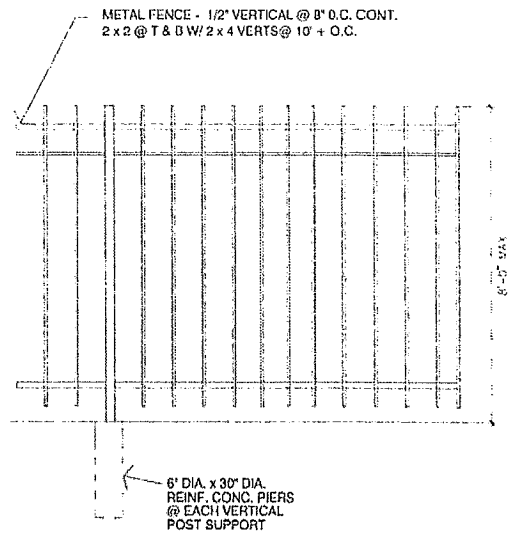


Figure 11-3 Industrial Uses

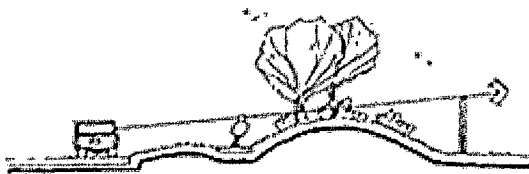


Figure 11-1

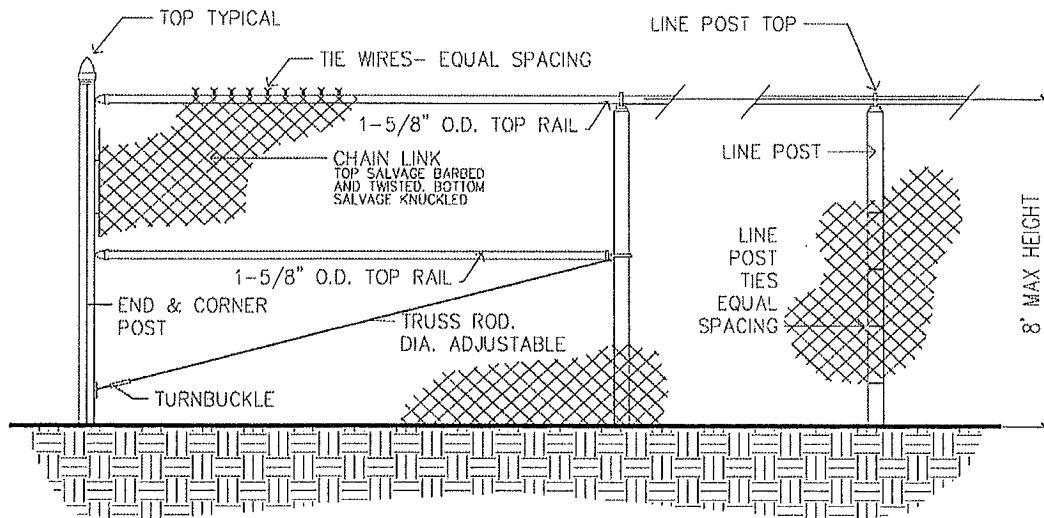


Figure 11-2 Industrial Uses

12.0 SIGNAGE

12.1 POLICY

Effective signs function not as a separate entity, but as an integral part of the environment. Signage shall be incorporated into the overall landscaping of the site.

12.2 PROJECT SIGNAGE

The following figures are depictions of project signage for Iron Horse. One primary entrance sign shall be located along US 34 to create a gateway and emphasize entrances for people coming west from 1-25 and people driving east along US 34. One secondary entrance along High Plains Boulevard may be used to benefit more local traffic and address the minor roadway entrances to the development. Landmark and high-visibility intersections also help develop the character of the area. These intersections shall contain showy landscaping, decorative walls, and overall just exhibit an increased decorative character than other minor intersections. By

creating a hierarchy of intersections, people will be able to use the decorative elements as a way finding device. Tenant signage will also be used internally to aid in locating the desired address and/or tenant of a particular lot. See Figures 12-1 thru 12-2.

All signage and signage programs must be approved by the DRC/JRC. See Iron Horse Filing One FDP for overall, secondary and individual lot and tenant signage.

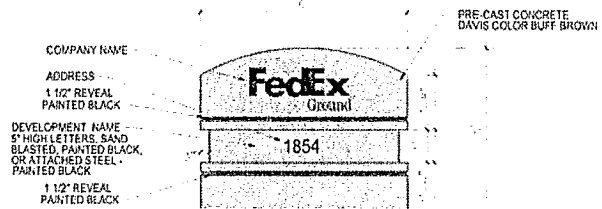


Figure 12-2 Secondary Identification Signage

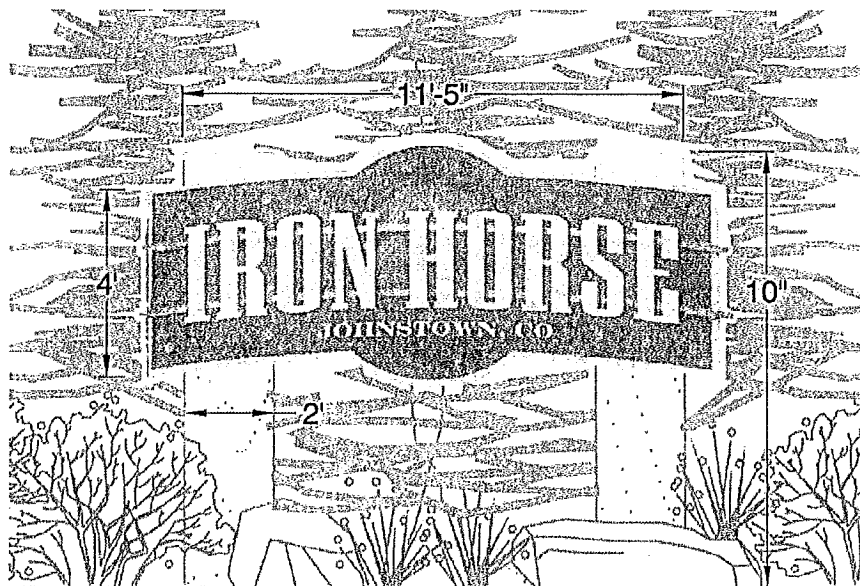


Figure 12-1 – Primary Project Identification Signage

13.0 LIGHTING

13.1 POLICY

The intent of this Section is to minimize lighting levels while not presenting a public safety or welfare issue. The developer should work with the DRC/JRC governing the amount of light required to meet safety guidelines, and minimize the overall glare associated with fugitive lighting.

It should be recognized that many areas that will be lighted cannot have any reduction of lighting levels for safety reasons such as, but not limited to, arterial roadways, some collector roadways, parking lots, loading bays and docks, entrances and other public and private facilities.

Up-lighting shall be approved by the DRC/JRC on a case by case basis.

Site lighting shall meet the functional needs of the proposed land use without adversely affecting adjacent properties or the community.

Halide light fixtures shall be used. The use of Sodium Vapor or other bright and glaring fixtures shall be prohibited.

All parking and area lighting fixtures must be – LITHONIA AS2 250M SR4W 277 SPA LPI DBL / SSS 25 4G DM19AS DBL. See Figure 13-2. Lighting fixtures may vary but must first be approved by the DRC/JRC. The DRC has full cut-sheet specifications on the approved Lithonia light fixture.

13.2 CRITERIA

Exterior building floodlights shall be shielded so that all of the light falls upon either the surface of the structure, the area to be directly illuminated or the ground.

Lighting systems shall be designed which do not produce direct, incident, or reflected

light that interferes with the safe movement of motor vehicles on public streets, including:

Any light fixture not designed for street illumination that produces light that could interfere with the operation of a motor vehicle.

Any light that may be confused with or construed as a traffic control device shall not be permitted. Animated, flashing, or changing intensity lights shall not be permitted.

Full wall wash lighting is prohibited.

Exterior building mounted and site and fixtures shall be full cut-off style with flat lenses only.

Luminaries located within a distance of 2.5 times its mounting height from the property boundary shall have shielding such that no light from that luminary extends more than twenty five feet (25') outside of the ODP property boundary. This requirement does not apply to public streets, parking lots/driveways for buildings on separate lots which share access and/or parking.

Design lighting to emphasize building entrances.

Integrate lighting that highlights approaches to buildings, building facades, architectural features and landscaping.

Design lighting with controls for consistent photocell or timed on-off functions.

13.3 LIGHT POLES/HEIGHT

Parking lot and streetlights shall have a dark, anodized aluminum finish or a material with similar quality and durability as approved by the DRC/JRC.

Light pole heights shall be provided as follows:

- A. Within small parcels, 5 acres in size or less (gross site area), light fixtures shall have a maximum total height of 30 feet (including concrete bases) unless otherwise approved by the DRC/JRC.
- B. Within large parcels it is often more cost effective and energy efficient to increase the light pole heights. Light fixtures for parking areas on sites larger than 5 acres in size (gross site area), parking in campus settings, or parking for industrial land uses, will be allowed a maximum total light fixture height of 40 feet (including concrete bases).
- C. Pedestrian light fixtures shall not exceed 14 feet in height. Small ornamental embellishments may extend up to 16 feet.
- D. Exceptions to light fixture heights may be permitted where it can be demonstrated that light poles will complement those on adjacent sites, or slight adjustments could significantly reduce the number of required fixtures.

13.4 LIGHTING LEVELS

The following table provides lighting criteria for outdoor facilities used at night. (See Table 13-1)

It is understood that in special instances a higher level of foot candles may be required for individual tenants. Areas such as outdoor retail show areas, loading/unloading areas, loading docks, high security and entry areas and areas may be approved by the DRC/JRC.

Table 13-1

Light Levels at Initial Installation*

Minimum horizontal illuminance	Maximum Uniformity Ratio (max. to min.)		Maximum average illuminance	Minimum vertical illuminance
Commercial parking areas	0.5	10:1	2 foot-candles	0.2 foot-candles
Industrial, office parking areas	0.2	10:1	1 foot-candles	0.1 foot-candles
Parking areas – schools	0.1	20:1	0.5 foot-candles	NA
Notes: * Lighting criteria is adapted from the IESNA, 8 th Edition, Lighting Handbook. ** Excludes recreational trails and paths that are not typically used at night.				



Figure 13-2

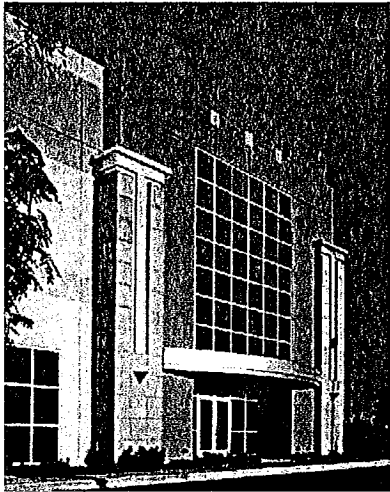


Figure 2-1 Industrial Uses

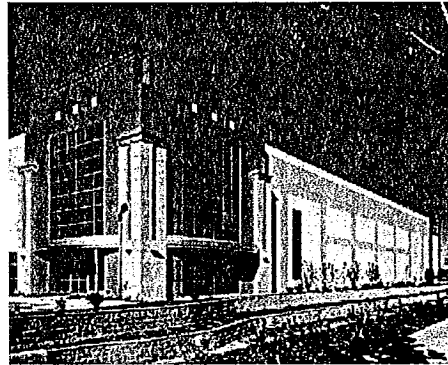


Figure 2-2 Industrial Uses



Figure 2-3 Industrial Uses

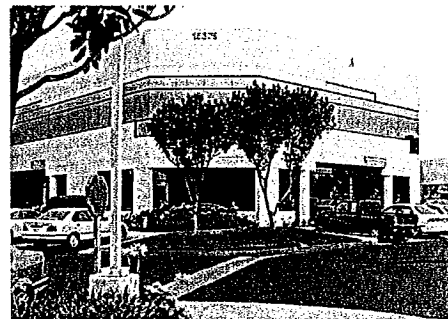


Figure 2-4 Industrial Uses



Figure 2-5 Industrial Uses

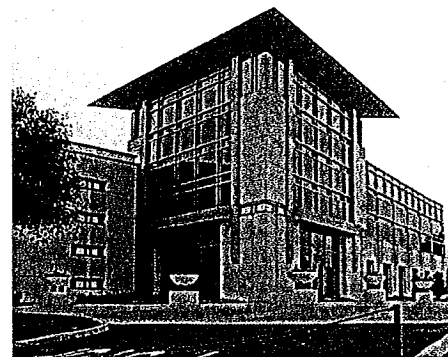


Figure 2-6 Industrial Uses

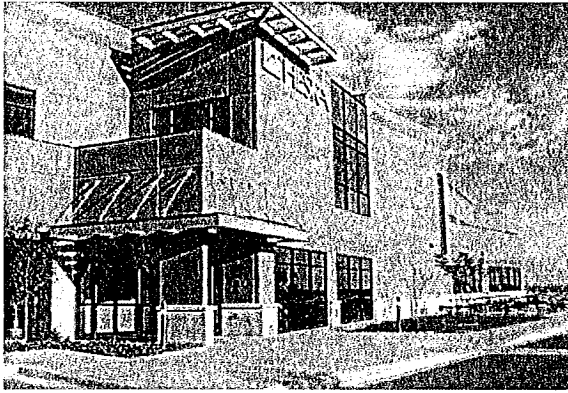


Figure 2-7 Industrial Uses

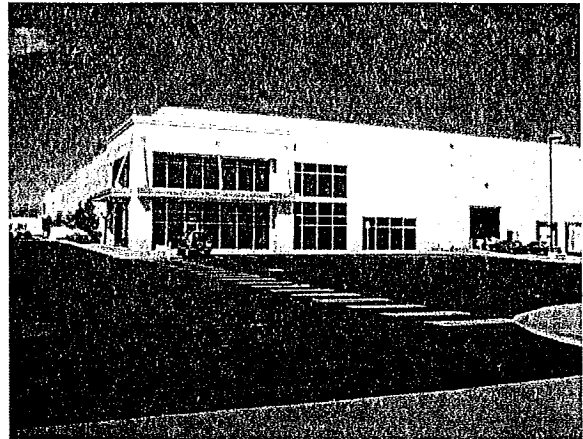


Figure 2-8 Industrial Uses

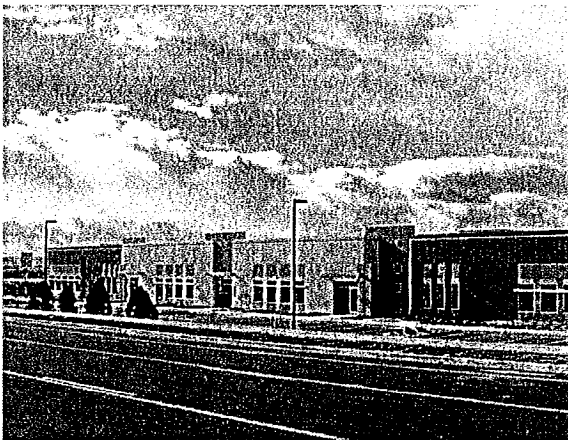


Figure 2-9 Industrial Uses

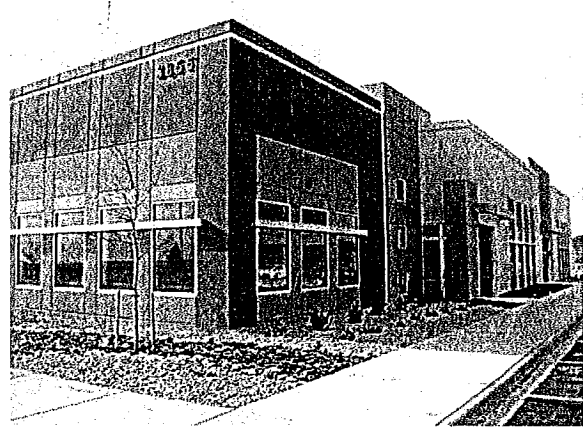


Figure 2-10 Industrial Uses

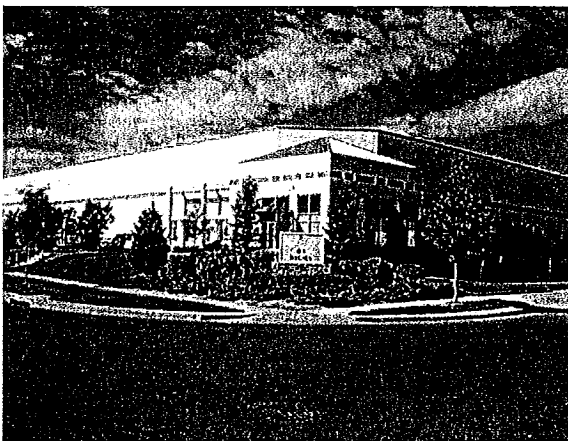


Figure 2-11 Industrial Uses

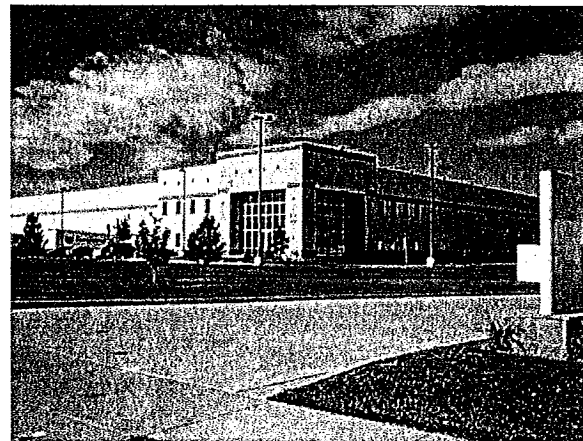


Figure 2-12 Industrial Uses

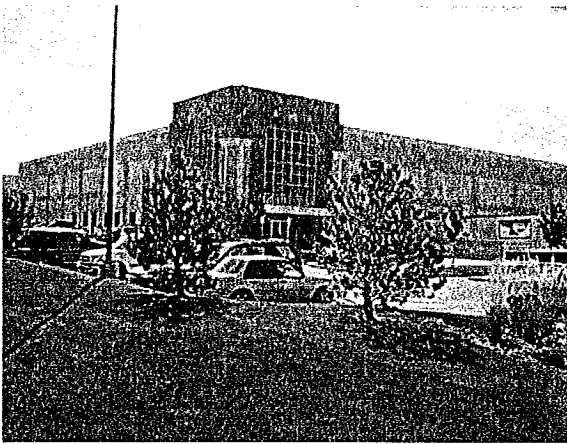


Figure 2-13 Industrial Uses

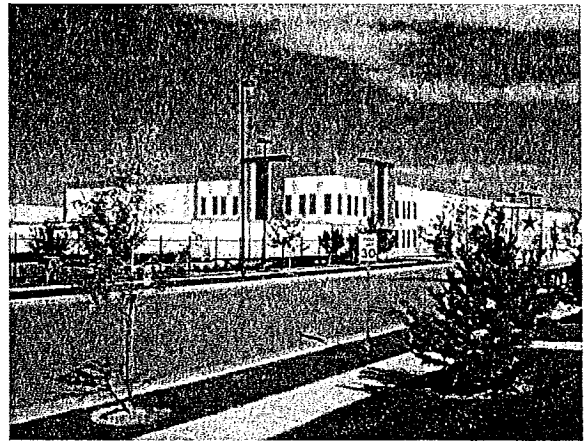


Figure 2-14 Industrial Uses

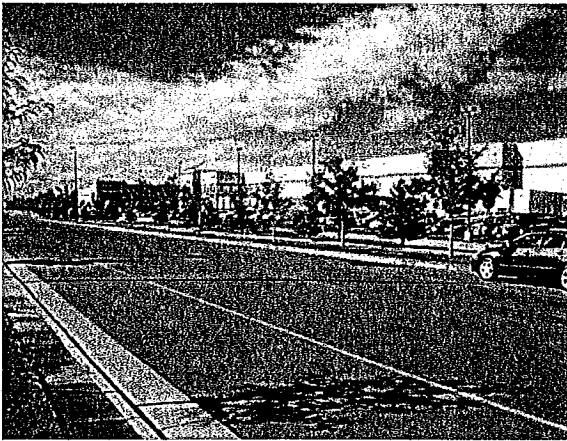


Figure 2-15 Industrial Uses



Figure 2-16 Industrial Uses

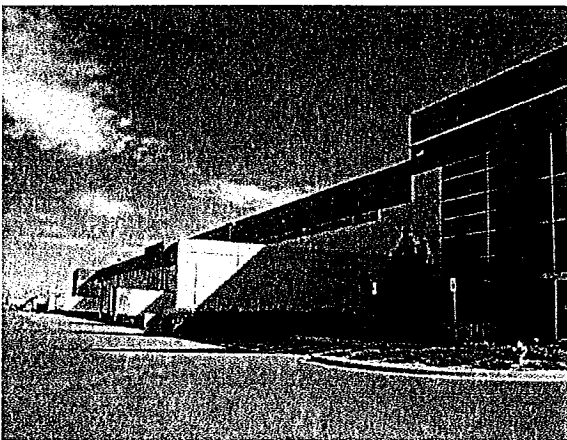


Figure 8-2 Industrial Uses



EXHIBIT C

FUTURE PARCELS

All property located within three (3) miles of the property originally subjected to the Declaration.