

DECLARATION OF DESIGN COVENANTS,

CONDITIONS AND RESTRICTIONS

FOR

PALISADE PARK



70411517

After Recording Return To:

Fortis Law Partners LLC
1900 Wazee Street, Suite 300
Denver, Colorado 80202
Attn: Michelle Z. McDonald, Esq.

**DECLARATION OF DESIGN COVENANTS, CONDITIONS AND
RESTRICTIONS FOR PALISADE PARK**

THIS DECLARATION OF DESIGN COVENANTS, CONDITIONS AND RESTRICTIONS FOR PALISADE PARK (this "Design Declaration") is made to be effective as of the 3rd day of June, 2014 by KEVAMRA, LLC, a Colorado limited liability company ("Declarant").

Recitals

- A. Declarant owns the real property located in the City and County of Broomfield, Colorado, more particularly depicted on **Exhibit "A"** attached hereto (the "Property").
- B. Declarant deems it necessary and desirable to subject the Property to the covenants, conditions, restrictions, reservations, easements, charges, liens and servitudes set forth in this Design Declaration.
- C. Pursuant to the Service Plan for Palisade Park Metropolitan District No. 2 (the "District") approved by the City and County of Broomfield on 9-12-06 (the "Service Plan"), the District is authorized to exercise its powers to provide covenant enforcement and design review services within the District's boundaries as defined in Section 32-1-1004(8), C.R.S.
- D. The District has duly adopted or anticipates adopting a resolution acknowledging the District's powers to provide the covenant enforcement and design review services provided herein.

Declaration

In consideration of the foregoing, Declarant hereby declares, and the Existing Owners hereby acknowledge and agree by signing where indicated below, as follows:

**ARTICLE I
DECLARATION**

1.01 Declaration. The Property shall be held, conveyed, hypothecated, encumbered, leased, rented, used, improved and occupied subject to the limitations, covenants, conditions, restrictions, reservations, easements, charges, liens, servitudes and other provisions of this Design Declaration, all of which are for the purposes of enhancing, maintaining and protecting the value and attractiveness of the Property.

1.02 **Covenants Running with the Land.** The covenants, conditions, restrictions, reservations, easements, charges, liens, servitudes and other provisions of this Design Declaration are covenants running with the land, or equitable servitudes, as the case may be. The obligations, burdens and benefits created by this Design Declaration shall inure to the benefit of Declarant, and shall bind the Owners (as defined below), the Associations (as defined below), all other parties having any right, title or interest in the Property, or any portions thereof, and their respective successors, assigns, heirs, devisees, executors, administrators and personal representatives.

ARTICLE II DEFINITIONS

2.01 **Basic Definitions.** As used in this Design Declaration, the following terms have the meanings given to them in this Section 2.01.

(a) **"Affiliate"** means any Person that, directly or indirectly, is in control of, is controlled by or is under common control with a Person for whom an affiliate is being determined. For purposes hereof, control of a Person means the power, direct or indirect, to (i) vote 20% or more of the ordinary voting power of such Person, or (ii) direct or cause the direction of the management and policies of such Person whether by contract or otherwise, and either alone or in conjunction with others.

(b) **"Applicable Law"** means any law, rule, regulation, order, decree or other requirement having the force of law and, where applicable, any interpretation thereof by any authority having jurisdiction with respect thereto or charged with the administration thereof. Applicable Law expressly includes all zoning, building, permitting, licensing and land use controls that is or may be applicable to the Property from time to time.

(c) **"Approval Request"** has the meaning given to that term in Section 3.03(b) below.

(d) **"Associations"** means the one or more associations of Occupants of the buildings that may be constructed on the Property from time to time.

(e) **"Board" or "Board of Directors"** means the board of directors of the District.

(f) **"City"** means the City and County of Broomfield.

(g) **"Committee"** has the meaning given to that term in Section 3.01(a) below.

(h) **"Declarant"** has the meaning given to that term in the introductory paragraph above, and includes any successor or assignee designated by written notice or assignment executed by the then Declarant and the successor or assignee and recorded.

(i) **"Design Declaration"** has the meaning given to that term in the introductory paragraph above, and includes all amendment, modifications and supplements thereto.

(j) **"Design Documents"** means this Design Declaration, the Design Guidelines and the Submission Requirements and Procedures, all as amended from time to time.

(k) **"Design Guidelines"** means the guidelines promulgated by the District, as such guidelines are amended and revised from time to time, for the design, construction, maintenance, alteration, repair and replacement of Improvements, Landscaping, Signs and Grading on the Property. The Design Guidelines shall expressly exclude the Multi-Family Design Guidelines which apply only to Multi-Family Projects.

(l) **"District"** shall mean the Palisade Park Metropolitan District No. 2. The Project will be located within the boundaries of the District.

(m) **"Grading"** means any excavation, earth movement, filling, rough grading, stockpiling, paving, drainage modification or other alteration of the natural ground surface or its elevation.

(n) **"Improvement"** means any building, structure or other permanently attached or imbedded improvement, including Grading, lighting, walls, Landscaping, driveways, storage, sidewalks, plazas, antennae, Signs, satellite dishes, heating and cooling equipment and other utility systems.

(o) **"Landscaping"** means irrigation and drainage, vegetation installation and removal, art, furniture and other landscaping activities.

(p) **"Majority Approval"** means the approval of the Owners owning collectively 51% or more of the total Sites within the Project. By way of example only, if the Project contains 10 Sites and one Owner owns 6 Sites, then the Majority Approval shall be achieved upon the approval of such Owner.

(q) **"Multi-Family Accessory Uses"** means up-scale amenities normally used in connection with first class multifamily developments, such as, volleyball courts, sporting areas, dog washes, bike repair areas, outdoor seating with fire pits, one satellite dish per building, dog parks, car wash areas and other similar amenities designed to be cohesively incorporated into the Multi-Family Project and adequately screened from adjacent properties and roadways.

(r) **"Multi-Family Design Guidelines"** means, collectively, the design guidelines identified in the Palisade Park PUD Amendment No. 3 recorded November 15, 2013 at Reception No. 2013015973 in the office of the Clerk and Recorder of the City and the Broomfield I-25 Sub-Area Plan Design Guidelines dated September 1999, as may be amended from time to time.

(s) **"Multi-Family Project"** means that portion of the Property that is owned, operated and used for new multi-family projects with Multi-Family Accessory Uses.

(t) **"Mortgagee"** means any Person named as a mortgagee or beneficiary in a mortgage, deed of trust or other instrument encumbering a Site, or interest therein, as security for the payment of a debt or other obligation, and any successor to the interest of such Person.

(u) **"Notice of Compliance"** has the meaning set forth in Section 3.07 below.

(v) **"Notice of Non-Compliance"** has the meaning set forth in Sections 3.03(e) and 3.07 below, as applicable.

(w) **"Occupant"** shall mean a person which has purchased, leased, rented or has otherwise legally acquired the right to occupy and use any portion of a building or Site, whether or not such right is exercised.

(x) **"Owner"** means the record holder of legal fee simple title to a Site, a portion thereof or an interest therein. The term "Owner" includes Declarant, any general improvement district, metropolitan district or similar public district and any Association to the extent that Declarant, any special districts or any Association is the record holder of legal fee simple title to a Site, a portion thereof, an interest therein, or are responsible for the maintenance thereof.

(y) **"Palisade Park"** means the Declarant's name for the Project.

(z) **"Period of Declarant Control"** shall mean the period of time commencing on the date of recording of this Design Declaration and expiring on the date that all Sites have been conveyed to an Owner other than the Declarant or the District.

(aa) **"Person"** means any natural person, corporation (including any non-profit corporation), partnership, limited liability company, association, trust, trustee, governmental or quasi-governmental entity or any other entity capable of owning real property under the laws of the State of Colorado.

(bb) **"Plans and Specifications"** means the plans and specifications for any and all proposed development, construction, design, installation, alteration, replacement or demolition of Improvements, Landscaping, Signs or Grading on the Property.

(cc) **"Project"** means Declarant's development of the Property for commercial, industrial, multi-family, mixed and/or hospitality uses. The Project shall not include single family residential homes.

(dd) **"Property"** has the meaning given to that term in Recital A above.

(ee) **"Sign"** means an object or device or any part thereof which is used to advertise, identify, display, direct or attract the attention of a pedestrian or motorist to an object, place, person, institution, organization, business, product, service, event or location by any means including words, letters, figures, designs, logos, colors, illumination or projected images.

(ff) **"Site"** means each subdivided lot, designated tracts for open space, and designated common areas located within the Property.

(gg) **"Submission Requirements and Procedures"** means any regulations or procedures adopted from time to time by the Committee for the regulation and management of the Design Guidelines.

2.02 Usage. Unless the context of this Design Declaration clearly requires otherwise:

- (a) terms defined in the singular may be used in the plural, and terms defined in the plural may be used in the singular;
- (b) references to any Person include such Person's successors and assigns but, if applicable, only if such successors and assigns are permitted by this Design Declaration;
- (c) references to one gender include all genders;
- (d) "including" is not limited;
- (e) "or" has the inclusive meaning represented by the phrase "and/or";
- (f) the words "hereof," "herein," "hereby," "hereunder" and similar terms in this Design Declaration refer to this Design Declaration as a whole and not to any particular provision of this Design Declaration;
- (g) Article, Section, clause, paragraph and Exhibit references are to this Design Declaration unless otherwise specified;
- (h) reference to any breach or default shall not include any immaterial breach or default, taking into account all facts and circumstances; and
- (i) reference to any agreement (including this Design Declaration), document or instrument means such agreement, document or instrument as amended or modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof.

**ARTICLE III
DESIGN APPROVAL**

3.01 Architectural Control Committee.

(a) The Declarant hereby assigns to the District the right to administer, regulate and enforce the covenants and restrictions contained in this Design Covenant. In furtherance of such assignment, the District shall promulgate Design Guidelines to govern the construction, operation and maintenance of improvements upon the Property, including administration related thereto. As part of the Design Guidelines, the District may also create one or more Committees to carry out the foregoing delegation of duties on behalf of the District. The "Committee" will be called the Palisade Park Architectural Control Committee and is sometimes referred to herein as the "ACC" and shall initially consist of five (5) or more Persons appointed by the Declarant in accordance with the Design Documents.

3.02 Purposes and Powers.

(a) The Committee's purpose is to regulate the design, construction, maintenance, alteration and demolition of all Improvements, Landscaping, Signs and Grading on the Property.

(b) Without limiting the foregoing, the Committee may:

(i) create, adopt, amend, repeal and replace the Design Guidelines from time to time as it deems appropriate;

(ii) create, adopt, amend, repeal and replace rules and regulations from time to time with respect to the content, submission, review and approval of Plans and Specifications as it deems appropriate;

(iii) create, adopt, amend, repeal and replace rules and regulations from time to time governing all development, construction, installation, use, maintenance, repair, replacement, alteration and demolition of Improvements, Signs, Grading and Landscaping as it deems appropriate;

(iv) intentionally omitted;

(v) enforce the Design Guidelines and the Multi-Family Design Guidelines by an action at law or in equity, including without limitation, injunctive relief, in accordance Article VII;

(vi) levy Assessments and collect same pursuant to Article V herein;

(vii) adopt and amend budgets for revenues and expenditures for use in the calculation of Annual Assessments for the costs of administration of the affairs of the Committee and the performance of its purposes and powers hereunder.

(viii) impose a reasonable charge for late payment of Assessments and, after notice and hearing, levy reasonable fines provided for or allowed in this Design Declaration, and any rules and regulations of the Committee which may be collectible as a Default Assessment as set forth in Article V.

(ix) keep and maintain full and accurate books and records showing all of the receipts, expenses, or disbursements of the Committee;

(x) impose a reasonable charge for the preparation and recording of any statements of liens and statements of unpaid Assessments;

(xi) procure and maintain adequate liability insurance;

(xii) cause all directors, officers, employees, or agents of the Committee having fiscal responsibilities to be bonded or insured, as it may deem appropriate and in such amounts as it may deem appropriate;

(xiii) exercise for the Committee all powers, duties, rights, and obligations in this Design Declaration;

(xiv) exercise self-help or taking action to abate any violation of this Design Declaration or the rules and regulations adopted by the Committee;

(xv) exercise self-help in any emergency situation specifically including, but not limited to, the towing of vehicles that are in violation of any adopted rules and regulations; and

(xvi) take any and all other actions it deems necessary or advisable to fulfill its purposes as described above.

3.03 Design Approval and Control.

(a) To the fullest extent permitted by Applicable Law, no Person may:

(i) perform any Grading;

(ii) construct any Improvement;

(iii) subject to Section 3.03(c) below, make any physical or cosmetic alteration or modification to existing Improvements;

(iv) install or alter on any Improvement, any exterior Sign or any monument Sign that is visible from outside such Improvement;

(v) install or alter any Landscaping; or

(vi) demolish or change the exterior appearance of any Site or Improvement located thereon within the Property, without the prior written consent of the Committee.

(b) Prior to taking any action described in Section 3.03(a) above, an Owner shall submit to the Committee all materials specified in the Submission Requirements and Procedures, including Plans and Specifications as described in Section 3.04 below, for the Committee's review and approval (an "Approval Request"). Within 60 days after receiving an Approval Request, the Committee shall, in writing, approve, approve with conditions or deny such Approval Request in accordance with the provisions of the Design Documents. If the decision is not to approve a proposed land use change or proposed Improvement, Sign, Grading or Landscaping, the reasons therefore shall be stated. All such approvals or denials shall be binding upon all Persons. The Committee's failure to approve, approve with conditions or deny an Approval Request within the 60-day period described above shall be deemed an approval of such Approval Request.

(c) Notwithstanding anything to the contrary contained herein, Improvements, Signs, alterations, modifications, installations, furniture and fixtures that:

(i) are completely within an Improvement, and

(ii) do not alter the exterior appearance of such Improvement and are not visible from the outside of the Improvement,

(iii) may be undertaken without Committee consent, but are subject to all other covenants, conditions and restrictions contained in the Design Documents.

(d) Each Owner shall comply with the Design Documents and all Applicable Law.

(e) The Committee or its designated representative may monitor any approved project to the extent required to ensure that the construction or work on such project complies with any and all approved Plans and Specifications and construction procedures. The Committee or any of its designated representatives may enter upon the Property or any Site at any reasonable time or times to inspect the progress, work status or completion of any project. In addition to the remedies described in Article VII below, the Committee may withdraw approval of any project and require all activity of such project to be stopped if deviations from the approved Plans and Specifications or approved construction practices are not corrected within 7 days after serving on the Owner written notification to the Owner specifying such deviation ("Notice of Non-Compliance").

(f) Intentionally Omitted.

(g) Notwithstanding any provision to the contrary contained in this Design Declaration, Declarant and its Affiliates shall be exempt from the limitations and prohibitions contained in this Design Declaration.

(h) The Committee may, in its sole and absolute discretion, grant to any Owner an exception from compliance with any or all of the provisions of this Design Declaration.

3.04 Plans and Specifications. Prior to undertaking any action contemplated by Section 3.03(a) above, an Owner shall deliver Plans and Specifications to the Committee in accordance with the Design Documents as provided in Section 3.03(b) above. The Plans and Specifications shall describe the proposed construction, alteration, installation or demolition of Improvements, Landscaping, Signs or Grading in reasonable detail, and shall be prepared in accordance with any applicable provisions of Design Documents.

3.05 Review Fees. The Committee may establish reasonable processing and review fees for considering any Approval Requests submitted to it, which fees shall be paid at the time the Approval Request is submitted. The amount of any such review fees shall be set forth in the Design Documents.

3.06 Lapse of Approval. Any approval issued by the Committee shall lapse and become void (i) one year after such approval is granted if Owner fails to commence the approved work within such one year period or (ii) three years after such approval is granted if Owner fails to complete the approved work within such three year period, unless extended by the Committee in writing and unless the terms and conditions of the Design Documents adopted by the Committee or the terms and conditions of any consents, approvals or permits issued by the Committee specifically provide otherwise. In addition, an approval issued by the Committee for a project will lapse and become void if any building permit or approval issued by the City or by a governmental or quasi-governmental entity for the same project lapses or is revoked or suspended.

3.07 Estoppels. The Committee shall, upon the reasonable request of any interested party, furnish, after the Committee's inspection of the requesting parties' expenses, a certificate with respect to the approval ("Notice of Compliance") or disapproval ("Notice of Non-Compliance") of any Improvements. Any person without actual notice to the contrary, shall be entitled to rely on such certificates with respect to all matters set forth therein.

3.08 Liability. The Declarant, District, Committee or any of their respective Affiliates, officers, directors, employees or agents shall not be responsible or liable for any defects, errors or omissions in any Plans or Specifications submitted, revised or approved under this Article III, or for any defects, errors or omissions in construction pursuant to such Plans and Specifications. A consent or approval issued by the Committee means only that the Committee believes that the construction, alteration, installation or other work for which the consent or approval was requested complies with the Design Guidelines adopted by the Committee or, if applicable, the Multi-Family Design Guidelines. No such consent or approval shall be interpreted to mean that the construction, alteration, installation, demolition or other work covered thereby (a) complies with Applicable Law, (b) is free from defects, errors or omissions, (c) lies within the boundaries of the Site, (d) deemed approval of the Improvement from the standpoint of safety, structural or otherwise, or (e) constitute approval of any governmental or quasi-governmental entity, agency or department, including, without limitation, the City. No consent, approval or permit issued by the Committee shall relieve Owners or other Persons of their obligations to comply with Applicable Law.

3.09 District Property Exempt. Any property, real or personal, owned by the District shall be exempt from the provisions of this Design Declaration.

ARTICLE IV DEVELOPMENT AND USE RESTRICTIONS

4.01 Completion of Work.

(a) Owner shall obtain, prior to commencement of construction or installation of any Improvements, Grading, Landscaping or Signs, all permits, licenses, certificates, consents and any other approvals necessary or required pursuant to any law, ordinance, resolution, order, rule or regulation of any governmental authority having jurisdiction in order for Owner to construct, operate and maintain the same. No Owner shall unduly delay or discontinue the construction, alteration, installation or demolition of any Improvement, Grading, Landscaping, or Signs once it is commenced.

(b) Upon the substantial completion of any Improvement or Landscaping, as applicable, the Owner shall deliver to the Committee a written certificate from a duly licensed architect or engineer responsible for the construction, alteration, installation or demolition, in a form reasonably satisfactory to the Committee, certifying that the Improvement or Landscaping, as applicable, has been substantially completed in accordance with the approved Plans and Specifications and Design Documents. Until receipt of such certificate, the Committee shall not be deemed to have received Notice of Compliance of such Improvement. Within thirty (30) days following the Committee's receipt of the written certificate, the Committee shall inspect the completion of any such Improvement or Landscaping, and if the Committee finds that the completed Improvement or Landscaping is in substantial conformity with the approved Plans and

Specifications, it shall issue to the Owner, a Certificate of Compliance. Otherwise, it shall issue to the Owner, a Certificate of Non-Compliance pursuant to Section 4.02.

4.02 Post Completion. The Committee or its staff or other duly authorized representative, shall have the right to, following reasonable prior written notice to Owner, inspect any Improvement after completion as evidenced by the issuance by the Committee of a Certificate of Compliance.

(a) If, as a result of an inspection or otherwise, the Committee feel that any Improvement (a) has been done without obtaining the approval of the Committee or (b) is not in substantial compliance with the approved Plans and Specifications, the Committee shall notify the Owner by giving such Owner a Notice of Non-Compliance. The Notice of Non-Compliance shall specify the particulars of the non-compliance and shall require the Owner to take such action as may be necessary to remedy the non-compliance.

(b) The non-compliance shall be corrected, remedied or removed within a period of not more than sixty (60) days from the date the Notice of Non-Compliance was delivered to the Owner pursuant to Section 9.09 or, within a period of time identified by the Committee in the Notice.

(c) If the Committee gives any notice of noncompliance, the Owner may appeal to the Board of Directors by giving written notice of such appeal to the Board within twenty (20) days after receipt of the notice of noncompliance by the Owner. The Board of Directors or a tribunal appointed by the Board shall hear the matter within twenty (20) days from the date the notice of appeal has been received by the Board, and the Board shall decide whether or not there has been such noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the same.

(d) The Declarant and each Owner and Occupant shall be entitled to file complaints in writing with the Committee alleging a violation of the Design Guidelines or, if applicable, the Multi-Family Design Guidelines. The Committee shall designate one (1) of its members or an agent who shall be readily available to investigate any complaints so filed. If such member or agent shall conclude that a breach or violation has occurred, the alleged violator shall be promptly notified in writing of the complaint; and, upon receipt of the written notice of the complaint, the alleged violator shall have ten (10) Business Days within which to begin in good faith to cure the violation or within which to file an appeal to the Board. If the alleged violator does not begin in good faith to cure the violation within such 10-Business Day time period, the Committee shall have the remedies set forth in Article VII.

4.03 Use Restrictions.

(a) Sites shall be used only for business, Multi-Family Projects (including Multi-Family Accessory Uses), professional or commercial purposes (and not for residential single family homes) to the extent permitted under and in compliance with Applicable Law and the Design Documents.

(b) No Owner will cause or permit any Improvement, Landscaping or Sign on its Site to deteriorate or become unsightly or incompatible with the general character of Palisade

Park as a first-class business and industrial park, whether as a result of lack of regular and reasonable upkeep, maintenance and repair, or for any other reason whatsoever.

(c) No noxious or offensive trades, services, or activities shall be conducted on any Site, nor shall anything be done thereon which may be or become an annoyance or nuisance to the Owners or Occupants by reason of unsightliness or excessive emission of fumes, odors, glare, vibration, no sound which is unreasonably loud or annoying, noise, or light emittance which is unreasonably bright or causes unreasonable glare and no highly reflective materials (such as gold reflective glass) shall be permitted on the exterior of any Improvement.

(d) Except for delivery vehicles used by an Owner or Occupant in connection with such Owner or Occupant's business, no recreation vehicle, camper, campers not on a truck, boat, mobile home, horse trailer or other trailer, tractor, motor home or truck (other than a pickup truck) shall be stored or shall be parked anywhere within the Property or on any public or private road or street in such a manner as to be visible from any portion of the Property for longer than seventy-two (72) hours in the same place or general area, except for designated parking areas, or for such other period as may be approved in writing by the Committee.

(e) No activities shall be conducted on any Site which are or might be unsafe or hazardous to any person or other Site or Improvement. Without limiting the generality of the foregoing, no firearms shall be discharged upon any Site and except for Multi-Family Accessory Uses on any Multi-Family Project no open fires shall be lighted or permitted on any Site, and no explosives or fireworks shall be set off on any Site. The production, use, generation, release, emission, storage, disposal and/or distribution of Hazardous Materials on the Property shall comply with all Applicable Law relating thereto, provided that the Committee shall be entitled to prohibit any such activity from occurring on the Property if any such Hazardous Materials, or the use thereof, is in the determination of the Committee, unreasonably dangerous or offensive. In addition, all storage facilities for such Hazardous Materials shall meet the aesthetic requirements of the Committee. The Committee shall be given written notice by the Owner of the applicable Site prior to the production, use, generation, release or storage of Hazardous Materials on such Site. For the purposes thereof, the term "release" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment (including the abandonment or discarding of barrels, containers and other closing containers containing any Hazardous Material) of any Hazardous Materials. The Committee may impose such rules and regulations as it deems appropriate with respect to the use, release and disposal of such Hazardous Materials. The foregoing provisions shall not apply to the use, generation, release or storage of insubstantial quantities of Hazardous Materials customarily used in compliance with applicable law in similar commercial facilities, such as janitorial supplies and photocopying supplies.

(f) If any Improvement, Landscaping or Sign is damaged or destroyed, then, subject to the approvals required from the Committee, such Improvement, Landscaping or Sign shall be immediately repaired or rebuilt or shall be demolished. If any such Improvement or Landscaping is demolished, the Owner of the Site on which such Improvement or Landscaping was located shall promptly landscape the portion of the Site on which such Improvement or Landscaping was located in accordance with Plans and Specifications approved by the Committee.

(g) No tent, shack, temporary structure or temporary building shall be placed upon any Site within the Property except with the prior written consent of the Committee obtained in each instance.

(h) 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 (including telecommunication facilities) 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, or other antennae of any type shall be erected or maintained in the Property without the prior written approval of the Committee; provided, however, no such consent shall be required for a Multi-Family Project if such uses are permitted under the Multi-Family Design Guidelines.

(i) To the fullest extent permitted by Applicable Law, no sign, poster, billboard, advertising device or display of any kind, whether permanent or temporary, shall be erected or maintained anywhere within the Property so as to be evident to public view, except (i) signs as may be approved in writing by the Committee and (ii) signs advertising a Site for sale or for lease may be placed on Sites; provided, however, that standards relating to dimensions, color, style and location of such sign shall be in accordance with Applicable Law, the Design Guidelines, the Multi-Family Design Guidelines, or as otherwise determined from time to time by the Committee.

(j) Except for retail stores whose business involves the sale of building materials, as approved by the Committee, no building materials shall be stored on any Site except temporarily during continuous construction of an Improvement thereon.

(k) No fences shall be constructed along or adjacent to the boundary or lot line of any Site without the prior approval of the Committee, unless in conformance with Applicable Law, Design Guidelines previously approved by the Committee, the Multi-Family Design Guidelines, or as may be provided in any rules and regulations adopted by the Committee. Privacy fences, security fences, and fences for screening purposes must also be approved by the Committee.

(l) No vegetation or other Improvements shall be planted, constructed or maintained upon any Site in the Property in such location or of such height as to unreasonably obstruct the view from any Site in the vicinity thereof or so as to unreasonably obstruct the operation of any previously existing solar energy installation. In the event of a dispute between Owners as to the obstruction of a view from a Site or of operation of a solar energy installation, such dispute shall be resolved at a hearing, after notice, by the Committee, whose decision shall be final. Any such obstruction shall, upon request of the Committee be removed or otherwise altered to the satisfaction of the Committee, by the Owner of the Site upon which said obstruction is located. Each Owner shall be responsible for periodic trimming and pruning of all hedges, shrubs and trees located on its Site so as to not unreasonably obstruct the view of adjacent Owners.

(m) No exterior lighting shall be permitted anywhere within the Property without the prior approval of the Committee.

(n) No Owner, other than Declarant or any of the Districts, of any unimproved land located within the Property shall have the right to subdivide or rezone its Site without the prior written approval of the Committee.

(o) No portion of the Property shall be used for the operation of a timesharing, fraction-sharing or similar program, where the right to exclusive use of Improvements rotates among participants in the program on a fixed or floating time schedule over a period of years, or any similar ownership or use programs, schemes or clubs.

4.04 Design Guidelines. The Committee shall prepare, maintain and amend as necessary Design Guidelines for the development of the Property. The Design Guidelines shall address criteria including, but not limited to: building and site layout, building, parking and drive setbacks, building size height at scale, exterior architectural treatments, building and site functional requirements, landscape and irrigation treatments, site furnishings and lighting. The Committee may adopt Design Guidelines that exceed those included in approved zoning documents in order to ensure compatibility of land uses and preservation of the Project's aesthetics.

4.05 Maintenance. Each Owner shall keep its Site, all Improvements, Landscaping and Signs in a clean, neat, safe and attractive condition and in good repair, at such Owner's sole cost and expense, which maintenance shall be in accordance with all Applicable Law, Submission Requirements and Procedures and in the Design Documents. No lumber, grass, shrub or tree clippings, plant waste, compost, metals, bulk materials, scrap, refuse, trash or unused items of any kind shall be kept, stored or allowed to accumulate on its Site, except within an enclosed Improvement or appropriately screened from view in a manner approved by the Committee.

ARTICLE V FEES AND CHARGES

5.1 Enforcement Fees. All expenses related to the enforcement of this Declaration and the Design Guidelines must be paid by the District with revenue derived from the District. The District shall have the right to charge Fees and Fines for costs of enforcement of the Design Documents and the costs incurred to correct, remedy or otherwise remedy Violations, in amounts which may be established by the Committee from time to time, and such Fees and Fines shall be collected by the District to help defray the expenses of the Committee's operation. The District or any private management company hired by the District shall provide the Committee with staff for the recording of committee meeting minutes and assistance with other administrative needs.

5.2 Review Fees. The Committee will require payment of a fee to accompany each request for review, approval or inspection of any proposed improvement or any request for a waiver or variance. A schedule of fees set by the Committee shall be provided at least annually to the District, and shall be subject to review and approval by the District.

5.3 Personal Obligation for Assessments. Except as otherwise provided in Section 5.8 below, all Owners covenant and agree, and shall be personally obligated to pay to the Committee Fees and Fines to meet and/or defray the ordinary expenses incurred by the Committee in connection with the conduct of its duties and functions and for liability and such other insurance as may be reasonably determined as necessary by the Committee, and (b) Default Assessments

consisting of other charges, costs, interest, fees, and other costs relating to the defaults, acts, errors or omissions of an Owner, or its tenants, guests, invitees, as provided in this Design Declaration. The terms "Annual Assessment" and "Default Assessment" are sometimes collectively referred to herein as an "Assessment," "Assessments" or "Fees and Fines."

5.4 Failure to Pay Assessments, or Fees and Fines.

The Annual Assessments, and Default Assessments, and/or Fees and Fines, together with interest, costs, and reasonable attorneys' fees, shall be a charge and continuing lien upon the Site against which each such Assessment is made until paid. Each such Assessment, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the Owner of such Site at the time when the Assessment fell due. Assessments, Fees and Fines shall be collected on a periodic basis as the Board of Directors of the Committee may determine from time to time, as may be determined from time to time by the Committee in the Design Documents. If any Assessment, Fees or Fines, is not paid by the due date, then such Assessment shall become delinquent and the Committee may, in its reasonable discretion, take any or all of the following actions:

- (a) Assess an interest charge from the date of delinquency at the rate of eighteen percent per annum;
- (b) Assess a monthly late charge;
- (c) Bring an action at law against any Owner personally obligated to pay the delinquent installments;
- (d) File a lien in accordance with statutory authorization; and

Further, the Committee may bring an action at law or in equity, or both, against any Owner personally obligated to pay such overdue Assessments, Fees and Fines, charges, costs or fees, and may also proceed to foreclose its lien against such Owner's Site in the manner of a mortgage upon such property. An action at law or in equity by the Committee against an Owner to recover a money judgment for unpaid Assessments, charges, costs or fees, may be commenced and pursued by the Committee without foreclosing or in any way waiving the Association's lien therefor. In the event that any such Assessment, charge, cost or fee, is not fully paid when due and the Committee shall commence such an action (or shall counterclaim or cross claim for such relief in any action) against an Owner personally obligated to pay the same, or may proceed to foreclose its lien against the particular Site, then all unpaid Assessments, Fees and Fines, charges and fees, any and all late charges and accrued interest under this Section 5.4, the Committee's costs, expenses and reasonable attorneys' fees incurred in collection efforts, and the Committee's costs of suit, expenses and reasonable attorneys' and other professional fees incurred for any such action and/or foreclosure proceedings, and any other costs which may be authorized by a court of competent jurisdiction shall be taxed by the court as a part of the costs of any such action or foreclosure proceeding and shall be recoverable by the Committee from any Owner personally obligated to pay the same and from the proceeds of the foreclosure sale of such Owner's Site.

5.5 Commencement of Assessments. Assessments shall commence for each Site on the first day of the month following the sale of a Site to a third party who is not the District or an

Affiliate of the Declarant and shall be prorated according to the number of months remaining in the calendar year.

5.6 Priority of Assessment Lien. A lien under this Article V is prior to all other liens and encumbrances on a Site, except:

(a) Liens or encumbrances recorded before the recordation of this Design Declaration;

(b) First Lienor as used herein means the holder of a promissory note secured by a deed of trust or mortgage encumbering a Site or any portion thereof which has priority over all other deeds of trust or mortgages encumbering such Site, or portion thereof; and

(c) Liens for real estate taxes and other governmental assessments or charges against the Site.

5.7 Statement of Unpaid Assessments. The Committee shall, upon the receipt of an Owner or First Lienor, but no more than twice during any calendar year, furnish to the requesting party, a written statement in recordable form stating the amount of Assessments for which an Owner is liable and whether such Assessments have been paid in full.

5.8 Exemptions from Annual Assessments. The following portions of the Property shall be exempt from all Assessments, Fees and Fines, charges and liens created herein: (a) all properties dedicated and accepted by applicable governmental entities and devoted to public uses, whether such governmental entity's interest is represented by a fee ownership, by an easement, or in any other form of property ownership, (b) any real property owned by the District within the Property, (c) all utility lines and easement, and (d) all common areas and open space.

ARTICLE VI WITHDRAWAL OF PROPERTY; ANNEXATION; DEVELOPMENT

6.1 Withdrawal of Property by Declarant. Except as otherwise expressly provided below, Declarant shall have and hereby reserves the unilateral right, but not the obligation, to withdraw from the Property, all or any portion of real property subjected hereby to this Design Declaration if such Property is owned by Declarant by an Amended Declaration, in accordance with the terms and conditions of this Article VI. Notwithstanding the foregoing, Declarant shall not have the right during its ownership thereof to withdraw that portion of the Property identified on Exhibit B attached hereto and incorporated herein as Lots 2 and 3 of the Palisade Park Filing No. 1 Replat A Final Plat recorded at Reception #2014004557 in the offices of the Clerk and Recorder of the City. Such withdrawal of the real property from the Property separately described may be accomplished by the execution, acknowledgement and recordation of an instrument entitled "Notice of Withdrawal." The Notice of Withdrawal:

(a) Shall be executed and acknowledged by Declarant;

(b) Shall contain an adequate legal description of the withdrawn property;

(c) Shall contain a reference to this Design Declaration, which reference shall state the date thereof, the date of recordation thereof and the book and page of the records in the offices of the Clerk and Recorder of the City; and

(d) Shall contain a statement and declaration that the withdrawn property is withdrawn from the Property and shall not be thereafter subject to this Design Declaration.

The withdrawal shall be effective upon recording of the Notice of Withdrawal and, upon recording of the Notice of Withdrawal, the withdrawn property described therein shall no longer be part of the Property or subject to this Design Declaration.

6.2 Annexation of Property by Declarant. At any time after the date this Design Declaration is recorded until the expiration of the Period of Declarant Control, Declarant may, but shall not be required, to unilaterally add all or any portion of real property to the Project and make it subject to this Design Declaration by an Amended Declaration. Such annexation of real property to the Project may be accomplished by the execution, acknowledgement and recordation of an instrument entitled "Notice of Annexation." The Notice of Annexation:

(a) Shall be executed and acknowledged by Declarant;

(b) Shall contain an adequate legal description of the annexed property;

(c) Shall contain a reference to this Design Declaration, which reference shall state the date thereof, the date of recordation thereof and the book and page of the records in the offices of the Clerk and Recorder of the City; and

(d) Shall contain a statement and declaration that the annexed property is annexed to the Project and shall thereafter be subject to this Design Declaration.

The annexation shall be effective upon recording of the Notice of Annexation and, upon recording of the Notice of Annexation, the annexed property described therein shall become a part of the Property and subject to this Design Declaration.

6.3 Additional Development. At all times during the Period of Declarant Control, the Declarant may, without the consent of any existing Owner or security interest holder, elect to do any of the following:

(a) Subject portions of the Property owned by Declarant to additional or different covenants, conditions, terms and restrictions, as Declarant may determine;

(b) Enlarge, reduce and identify new common areas or open spaces in the Project, construct Improvements in common areas and open spaces, subdivide or combine Property owned by Declarant or construct Improvements on the Property owned by Declarant;

(c) Establish, from time to time, by dedication or otherwise, public street and utility and other easements for purposes including but not limited to public access, access paths, walkways, drainage, recreation areas, parking areas, and to create other reservations, exceptions and exclusions it deems necessary or prudent;

- (d) Construct underground utility lines, pipes, wires, ducts and conduits, storm drains, detention ponds, and other facilities for the purpose of furnishing services to the Project;
- (e) Market, sell, develop and construct the Project in phases, the timing of which shall occur at any time in the sole and absolute discretion of the Declarant. No assurances are made by the Declarant as to whether the Declarant will develop all areas of Property and the exercise of Declarant to develop some portions of the Property will not obligate Declarant to develop other portions of the Property;
- (f) Amend this Design Declaration to exercise any of Declarant's rights herein;
- (g) Amend or change the permitted use of any portion of the Project that is owned by Declarant; and
- (h) Make amendments to this Design Declaration to meet or comply with any requirements of Applicable Law.

The rights created and reserved under this Article VI for the benefit of Declarant may be transferred to any Person by an instrument describing the rights transferred and recorded in the City. Such instrument shall be executed by the transferor, Declarant and the transferee. No Owner may adopt any rule or take any action that will interfere with or diminish the rights reserved to Declarant herein without the prior written consent of Declarant, in Declarant's sole and absolute discretion.

ARTICLE VII ENFORCEMENT AND FEES

7.01 Enforcement of Restrictions.

Each provision of this Declaration shall be enforceable by the District. The District's remedies for any violation hereof shall include all rights and remedies available at law or in equity, including without limitation the remedies of specific performance and/or injunctive relief, as well as the right to charge fees and/or assert a statutory lien with respect to costs and/or assessments imposed against the owner of any non-conforming portion of the Property. In the event of any violation or threatened violation of this Declaration by any owner, tenant, or occupant of any portion of the Property, the District shall have the right to enjoin such violation or threatened violation in a court of competent jurisdiction. Failure to enforce any provisions of this Declaration shall not operate as a waiver of any such provision, the right to enforce such provision thereafter, or of any other provision of this Declaration.

(a) If an Owner violates any term or condition set forth in this Design Declaration or in the other Design Documents (other than a failure to pay when due, any assessment), the Committee shall have the following rights and remedies:

(i) The Committee may, by written notice to the Owner, revoke any approval previously granted to the Owner by the Committee, in which event the Owner shall, upon receipt of such notice, immediately cease any construction, alteration, installation or demolition covered by the approval so revoked.

(ii) Violation or breach of any covenant contained herein or in any other document promulgated pursuant hereto shall give the Committee the right, after notice of such violation or breach has been given to the Owner of any Site as to which a breach or violation exists (or without notice of the Committee, in its reasonable discretion, determines that such violation or breach has resulted in an emergency situation), to enter upon said Site and summarily abate and remove, at the expense of the Owner or Occupant thereof, any structure, thing or condition that may be or exist hereon contrary to the intent and meaning of the provisions hereof or any documents promulgated pursuant hereto, or to do anything that should have been done by an Owner hereunder or under any other document promulgated pursuant hereto. The Owner of the Site on which such work is performed by the Committee shall be liable for the cost of any such work, and shall promptly reimburse the Committee for the cost thereof within ten (10) days after the date of written notice of the amount thereof. Such reimbursable amount shall be collectible by the Committee as a Default Assessment as set forth in Article V.

(iii) The Committee may sue the Owner to restrain and enjoin such violation of this Design Declaration.

(iv) The Committee shall have all other rights and remedies available to it under this Design Declaration, at law or in equity. All rights and remedies shall be cumulative and the exercise of one right or remedy shall not preclude the exercise of any other right or remedy.

ARTICLE VIII TERM AND AMENDMENTS

8.01 Term. Except as provided in Section 8.02 below, the covenants, conditions, restrictions, reservations, easements, charges and servitudes set forth in this Design Declaration shall run with and bind the Property and every part thereof, for a term of 50 years from the date this Design Declaration is recorded, after which time the Design Declaration shall be automatically extended for successive periods of 10 years, unless Declarant terminates this Design Declaration pursuant to an instrument recorded within one year prior to the termination of the initial 50 year term, or within 1 year prior to the termination of any successive ten year period.

8.02 Amendment. Until the first Site has been conveyed by Declarant to an Owner (other than the Declarant or the District) by deed recorded in the real property records of the City, any of the provisions, covenants, conditions, restrictions and equitable servitudes contained in this Design Declaration may be amended in writing by Declarant. Thereafter, if Declarant determines that any amendments are necessary in order to make non-material changes, such as for the correction of a technical, clerical or typographical error or clarification of a statement or for any changes to the Property, then Declarant shall have the right and power to make such changes without obtaining the approval of any Owner. Subject to the foregoing, the terms and conditions contained in Section 6.3, and in addition to the rights of the Committee set forth in Section 3.02(b) above, this Design Declaration may be amended at any time (provided no amendment or change may be made to the Multi-Family Design Guidelines) or terminated at any time by an instrument signed by Declarant and at least a Majority of the Owners. Such amendment shall be evidenced in writing by an instrument making appropriate reference hereto and shall be recorded in the official records of the office of the Clerk and Recorder for the City.

8.03 Validity of Amendments. Any action to challenge the validity of an amendment to this Design Declaration must be brought within six (6) months after the amendment is recorded in the real property records of the City.

ARTICLE IX MISCELLANEOUS

9.01 Interpretation of the Design Declaration. Except for judicial construction, the Committee shall have the exclusive right to construe and interpret the provisions of this Design Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Committee's construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all Persons and property benefited or bound by the covenants and the provisions hereof.

9.02 Severability. Any determination by any court of competent jurisdiction that any provision of this Design Declaration is invalid or unenforceable shall not affect the validity and enforceability of any other provision hereof.

9.03 Reference to Design Declaration and Deeds. Deeds to and instruments affecting any Site or any other part of the Property may contain the provisions set forth herein by reference to this Design Declaration, but regardless of whether any such reference is made in any deed or instrument, each and all of the covenants, conditions, restrictions, reservations, easements, charges, liens and servitudes set forth herein shall be binding upon the grantee-owner or other Person claiming through any deed or other instrument and his heirs, executors, administrators, successors and assigns.

9.04 Successors and Assigns of Declarant. Any reference in this Design Declaration to Declarant shall include any successors or assignees of Declarant's rights and powers hereunder on the condition that Declarant's rights and powers may only be assigned by a written recorded instrument expressly assigning such rights and powers.

9.05 Captions and Titles. All captions and titles of headings of Articles and Sections in this Design Declaration are for the purpose of reference and convenience and are not to be deemed to limit, modify or otherwise affect any of the provisions hereof or to be used in determining the intent or context thereof.

9.06 Exhibits. All exhibits attached to this Design Declaration are a part of, and are incorporated into, this Design Declaration.

9.07 Governing Law. This Design Declaration shall be governed by and construed in accordance with Colorado law.

9.08 Attorneys' Fees. In the event of any dispute under or with respect to this Design Declaration, the substantially prevailing party shall be entitled to recover from the non-substantially prevailing party all of its costs and expenses in connection therewith, including the fees and disbursements of any attorneys, accountants, engineers, appraisers or other professionals engaged by the prevailing party, whether incurred before or at trial, on appeal, in bankruptcy or in post judgment collection.

9.09 **Notices.** All notice to be given shall be in writing, shall be deemed to have been given upon (a) three (3) days after being deposited in the United States certified mail, postage prepaid, return receipt requested or (b) one (1) day after being deposited with Federal Express or another reliable overnight courier service, properly addressed for Owners to the name and address of the Owner, as shown by the current real property tax roll of the Assessor's office, of the City, Colorado and if to the Committee, all notices, including Approval Requests and demands intended to be served on the Committee shall be sent to the following address or such other address as the Committee may designate from time to time by notice to the Owners:

Palisade Park Architectural Control Committee
1437 Larimer Street
Denver, CO 80202
Attention: Chairman

9.10 **Waivers.** No action or failure to act by the Committee with respect to one Improvement, Sign, Grading or Landscaping shall constitute a waiver or estoppel with respect to any other future Improvement, Sign, Grading or Landscaping. The approval by the Committee of any of the foregoing shall not be deemed a waiver of any right or an estoppel to withhold approval or consent from any similar Improvement or any similar proposals, plans or specifications or other materials submitted with respect to any other Improvement. No term or condition of these Covenants shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections or other provisions of the Colorado Governmental Immunity Act, Section 24-10-101, *et seq.*, C.R.S.

9.11 **Rule Against Perpetuities.** If any of the covenants, conditions, restrictions or other provisions of this Design Declaration shall be unlawful, void, or voidable for violating the rules against perpetuities, then such provisions shall continue only until 21 years after the death of the last survivor of the now living descendants of Barack H. Obama, the current President of the United States and George W. Bush, the former President of the United States.

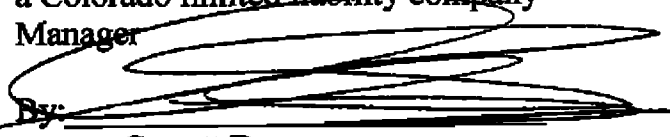
9.12 **No Representations or Warranties.** No representations or warranties of any kind, express or implied, shall be deemed to have been given or made by Declarant or its agents or employees in connection with any portion of the Project, its physical conditions, zoning, compliance with applicable laws, fitness for intended use, or in connection with the subdivision, sale, operation, maintenance, cost of maintenance, taxes or regulation thereof, unless and except as shall be specifically set forth in writing.

Declarant has caused its name to be signed by the signature of a duly authorized official as of the day and year first written above.

DECLARANT:

KEVAMRA, LLC,
a Colorado limited liability company

By: JPB Holdings, LLC,

its: a Colorado limited liability company
Manager
By: 
Garrett Baum
Its: Manager

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

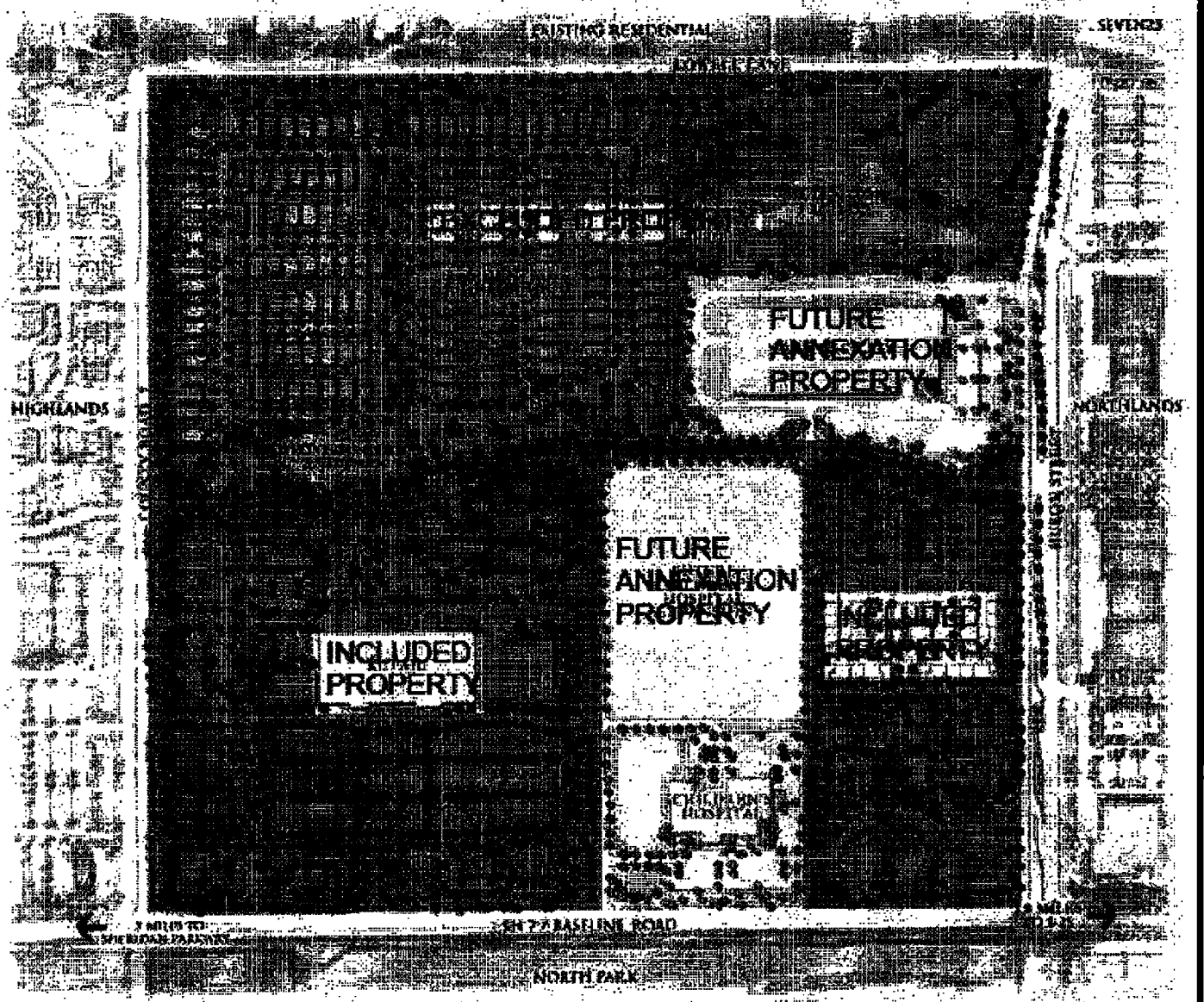
The foregoing Design Covenant was acknowledged before me this 3 day of June, 2014, by Garrett Baum, in his capacity as Manager of JPB Holdings, LLC, a Colorado limited liability company, the Manager of Kevamra, LLC, a Colorado limited liability company.

Witness my hand and official seal.
My Commission expires: 8-29-17


Notary Public

THOMAS J. BLAKE
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 19874017358
MY COMMISSION EXPIRES AUG. 29, 2017

EXHIBIT A (Property)



PALISADE PARK

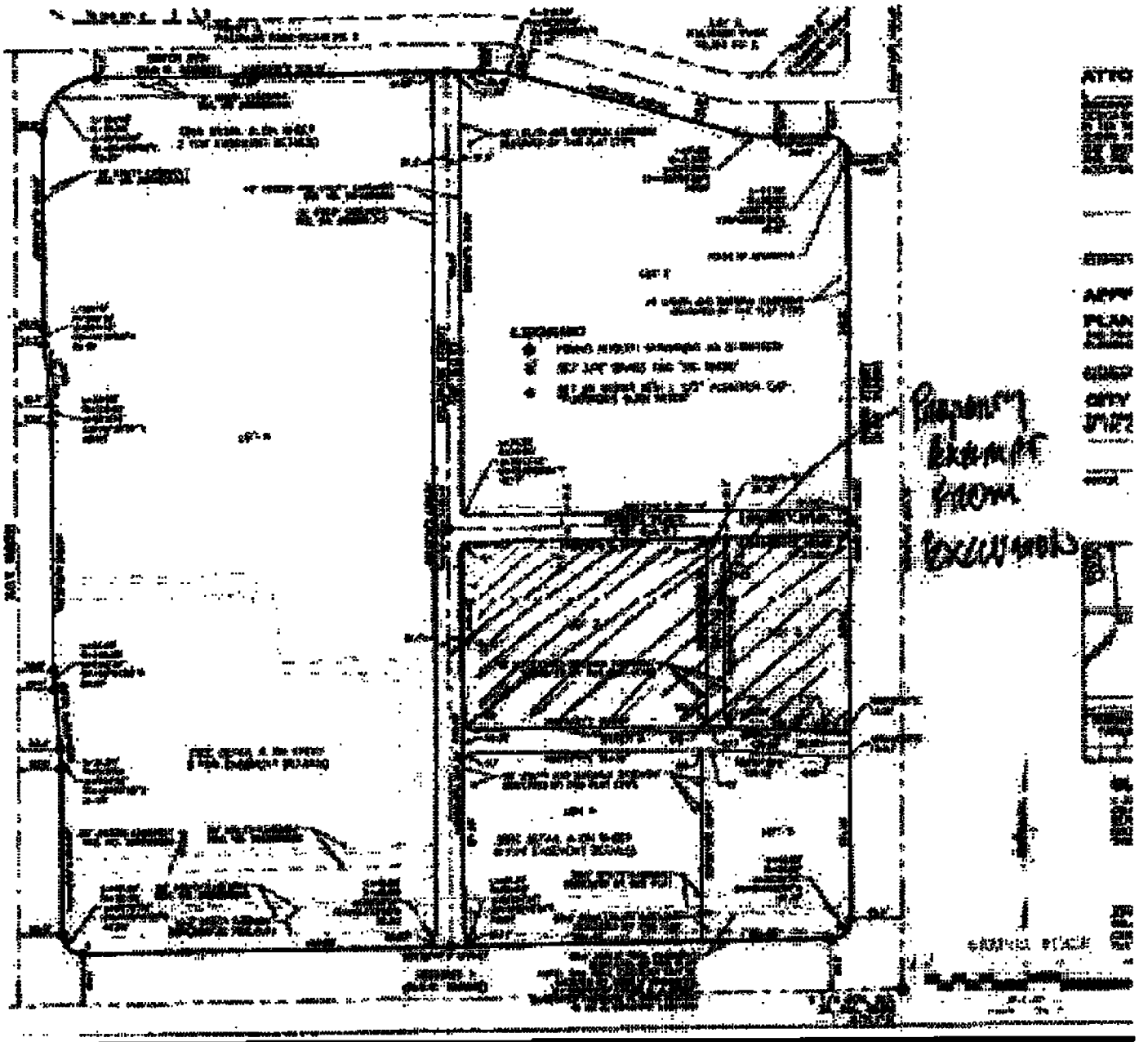
**PALISADE PARK
ILLUSTRATIVE SITE PLAN**



Graphic Representation
Not to Scale
© 2014 Palisade Park
All Rights Reserved

EXHIBIT B

Restricted Withdraw Areas



LENDER CONSENT

AND

SUBORDINATION

Vectra Bank Colorado, National Association ("Lender"), hereby consents to the foregoing Design Covenant and the terms and conditions contained therein and agrees that the terms and conditions of that certain loan from Lender to Declarant in the amount of \$3,000,000.00 encumbering the Property pursuant to that certain Deed of Trust dated April 13, 2006 and recorded at Reception 2006004682 in the real property records of the City and County of Broomfield is hereby and shall continue to be subordinate to the Design Covenant and the terms and conditions contained in this Design Covenant.

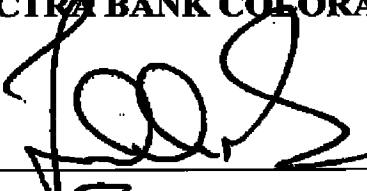
Dated: June 2, 2014.

VECTRA BANK COLORADO, NATIONAL ASSOCIATION

By: _____

Name: _____

Its: _____



FREDERICK K TRASK

Senior Vice President