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SECOND AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR ENGLISH GARDENS NUMBER 4

THIS SECOND AMENDED AND RESTATED DECLARATION is made this _____ day of August, 2006, by PHILLIPS CONSTRUCTION CO., INC., a Colorado corporation, hereinafter referred to as Declarant.

W I T N E S S E T H :

WHEREAS, Declarant is the owner of certain property in the City of Montrose, County of Montrose, and State of Colorado, described as:

ENGLISH GARDENS 4 SUBDIVISION, a part of English Gardens Addition No. 4 to the City of Montrose, situated in the E½NW¼SW¼NE¼, Section 35, Township 49, Range 9 West, N.M.P.M., County of Montrose,

EXCEPT OUTLOT A

As shown on the map attached hereto as Exhibit A.

WHEREAS, Declarant will convey the above described real property subject to certain protective covenants, conditions, restrictions, reservations, liens and charges as hereinafter set forth;

WHEREAS, Declarant has heretofore filed the Declaration of Covenants Conditions, and Restrictions for English Gardens Number 4 with the Montrose County Clerk and Recorder on October 26, 2004, at Reception No. 727876 (the "Original Declaration") and filed the First Amended Declaration of Covenants Conditions, and Restrictions for English Gardens Number 4 with the Montrose County Clerk and Recorder on October 21, 2005, at Reception No. 745674 (the "First Amended Declaration");

WHEREAS Declarant owns more than 67% of the Lots within the Subdivision, as those terms are defined below; and

WHEREAS Declarant wishes to amend and restate in their entirety the Original Declarations and First Amended Declaration:

NOW THEREFORE, Declarant hereby (i) rescinds the Original Declaration and First Amended Declarations and (ii), declares that all of the property above described shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, contained in these Second Amended and Restated Declaration of Covenants Conditions, and Restrictions for English Gardens Number 4, all of which are for the purpose of enhancing and protecting the value, desirability and

attractiveness of the property. These easements, covenants, restrictions, and conditions shall run with the land and shall be binding upon all parties having or acquiring any right, title or interest in the property or any part thereof, and shall inure to the benefit of each owner thereof.

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ARTICLE I
DEFINITIONS

For the purpose of this Second Amended and Restated Declaration of Protective Covenants, certain words or phrases shall be defined as follows:

Section 1. "Association" shall mean ENGLISH GARDENS NUMBER 4 HOMEOWNERS' ASSOCIATION, its successors or assigns. Such Association shall be organized as a nonprofit corporation in accordance with the laws of the State of Colorado.

Section 2. "Declarant" shall mean Phillips Construction Co., Inc., or such other person, corporation or entity designated by a recorded document as the successor Declarant.

Section 3. "Subdivision" shall mean English Gardens Number 4, being all of real property set forth on the recorded plat thereof.

Section 4. "Lot" shall mean the individually numbered parcels as set forth on the plat of the Subdivision.

"Architectural Control Committee" shall mean and refer to the committee appointed by the Declarant or by the Board of Directors of the Association as more fully provided in Article IV hereof.

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"Outbuilding" shall mean any structure having a roof supported by columns or walls, not meant for residential occupancy and not attached to the residence.

Section 5. "Person" shall mean a natural person, corporation, partnership, association, trust, fiduciary, or any other entity recognized at law. .

Section 6. "Owner" shall mean any Person holding title to any Lot.

Section 7 "Nuisance" shall mean an act, object, or practice that interferes with another's rights or interests by being offensive, annoying, dangerous, obstructive, or unhealthful.

Section 8. "Building" shall mean a structure having a roof supported by columns or walls to provide shelter, support, or enclosure for protection of persons or property.

Section 9. "Planned Community" shall mean a common interest community, as defined in the Colorado Common Ownership Interest Act, other than a cooperative or condominium.

ARTICLE II
PLANNED COMMUNITY

Section 1. Name. The common interest community created by this Declaration shall be known as ENGLISH GARDENS NUMBER 4, and shall be a planned community.

Section 2. Location. The Planned Community created hereby is situated entirely within Montrose County, Colorado.

Section 3. Description of Boundaries. A legal description of the real estate included in the Planned Community, together with the boundaries of each Lot created by the Declaration, including the Lot's identifying number, is shown on the plat attached hereto as Exhibit A.

Section 4. Maximum Number of Lots. The maximum number of Lots that the Declarant reserves the right to create within the Planned Community is ninety-two (92).

Section 5. Common Area. All real estate subject to this Declaration that is or must become Common Area is shown on the plat attached hereto as Exhibit A.

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Section 6. Easements. All easements appurtenant to, or included in, the Planned Community are shown on the plat attached hereto as Exhibit A.

ARTICLE III
LOT USE

Each Lot within English Gardens Number 4 shall be used exclusively for one single family dwelling and no business or commercial activities of any nature shall be conducted on any Lot, except as provided in Article X. No such Lot may be divided or re-subdivided into a smaller Lot or portion of a Lot, except that lines between Lots may be vacated upon written agreement of all Lot owners in order to create larger Lot.

ARTICLE IV
ARCHITECTURAL CONTROL AND BUILDING CONSTRUCTION

The construction of any building shall be in accordance with the Montrose County, Colorado building code then in effect.

The following exterior architectural standards shall apply within the Subdivision:

Section 1 Architectural Control Committee.

The Architectural Control Committee shall then consist of three persons appointed by the Board of Directors of the Association. Except during the period of Declarant Control, all Committee members must be Owners within the Association and their individual length of term of service shall be set at time of appointment by the Board of Directors of the Association. A majority of the Committee may from time to time appoint a representative to act for it.

Section 2 Review by Committee

No structure or any attachment to any existing structure, building, walls, canopies, awnings, roofs, antennas, exterior lighting facilities, athletic facility, or other similar improvements or attachments shall be constructed, erected, placed, or installed upon any Lot, and no alteration of the appearance (except for color) of the exterior of a residence shall be made unless copies of plans and specifications are first submitted for to the Committee for review and approval. Said plans and specifications shall show exterior design, height, materials, and location of the structure or addition to the structure, as well as any other materials and information as required by the Committee. Such construction, attachment, improvement or alterations shall conform in all respects to these Declarations and all

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design guidelines and rules and regulation of the Association. In addition, the Committee shall exercise reasonable judgment to the end that all construction, attachments, improvements and alterations to residences, other structures and property shall conform to and harmonize with the existing surroundings, residences and structures. In review of plans, specifications, materials, etc., the committee may require payment of fees incurred by the Committee for actual expenses incurred during the review process. Such amount, if any, may be levied against the common expense assessment against the Lot for which the request was made and as such shall be subject to the Association's lien for assessments and subject to all other rights of the Association for the collection thereof. The foregoing prohibitions shall not prevent the repair and maintenance of any structure, property, or Lot so long as the repair or maintenance restores such items to their original condition.

Section 3 Procedures

The Committee shall approve or disapprove all requests for architectural control approval within sixty (60) days following receipt of copies of all plans, specifications, and other materials required by the Committee therewith. Complete submission shall be deemed to have occurred upon Committee's receipt of the above named items by certified mail. In the event the committee fails to approve or disapprove any request within sixty (60) days of complete submission of said request or if the Committee has ceased to exist approval shall not be required and this Article shall have been deemed to have been fully complied with.

Section 4. Liability

The Committee and any members or representatives thereof shall not be liable to any Person submitting request for approval or to any owner by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove in regard to any matter within its jurisdiction hereunder.

Section 5. Variance

The Committee may grant reasonable variances or adjustments from any conditions or restrictions imposed by this article in order to overcome practical difficulties and prevent unnecessary hardship arising by reason of the application of this article. Such variances or adjustments shall be granted only when the granting thereof shall not be materially injurious or detrimental to other property or improvements in the subdivision and shall not mitigate against the general purpose and intent of this article.

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Section 6 Waiver

The approval or consent of the Committee to any application shall not be deemed to constitute a waiver of any right to withhold or deny approval or consent by the Committee as to any application or any other matters subsequently or additionally submitted for approval or consent hereunder.

Section 7. Construction

All buildings shall be stick built on the Lot to specifications and design similar to those in the immediate area. Metal roofs shall not be permitted, including those on deck or patio covers.

All buildings shall have a minimum heated living square footage of 1500 square feet and at minimum a 2-car attached garage. Roof pitch shall be at minimum 4/12 . With the exception of multi-story buildings, exteriors shall be finished with brick at least half way up from top of the foundation to cover at least two thirds of the building exterior. Multi-story buildings shall be finished with brick at least half way up from the top of the foundation , to span across the full face of the building.

Section 8 Buildings

There shall not be more than one outbuilding per Lot. No outbuilding, shall exceed 140 square feet, nor shall it have a peak roof height greater than ten (10) feet as measured from its base , nor shall it be placed farther than twenty (20) feet from the rear of the residence to the nearest portion of the outbuilding. No outbuilding shall be placed on any side of any Lot proximate to any street., and if placed on the side of the Lot,, shall be screened, fenced from street view, or painted to match the exterior of the residence. Any outbuilding situated on Lots 5 through 9, inclusive, shall be placed only on the side of the residence.

No building construction that alters the original footprint, foundation line, roof line or roof peak height of any building is permitted nor is the addition of deck and patio covers and the screening or glassing-in of allowed without the approval of the Architectural Control Committee.

Section 9 Final Grade

The final rough grade of each Lot is initially established at time of completion of construction by the developer. Each owner shall be responsible if during landscaping, subsequent construction or reconstruction the overall grade design is interrupted or changed, with said

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change resulting in poor drainage or damage to Owner's Lot or property or to any other neighboring Lot or property.

Section 10 Non-Conformity

Any building, outbuilding or other structure or improvement existing on the date of these Declarations that does not conform to the above may continue provided that event of repair or reconstruction due to fire, flood, or any other casualty, such building, outbuilding or other structure or improvement shall thereafter comply with these Declarations,

Section 11. Design Guidelines,

The Architectural Control Committee shall have the authority to adopt and enforce such Design Guidelines as it deems necessary to enforce and administer the provisions of these Declarations.

ARTICLE V

PARKING, NUISANCES, AND MISCELLANEOUS ACTIVITIES

Section 1. Parking

Vehicles shall be parked in garages or on driveways whenever possible. On-street parking of guests' vehicles is permitted so long as safety and traffic flow are not impeded. No recreational equipment, boats, campers, travel trailers, utility trailers, livestock trailers, or other such devices, nor inoperable vehicles, shall be parked, stored or maintained on the streets of the Subdivision, except for temporary guest parking or parking for seasonal preparation of recreational equipment. , either of which shall not exceed fourteen (14) days in duration. This temporary parking provision is intended as a convenience and perceived abuse thereof shall constitute a violation of this article. Utility trailers, and inoperable vehicles parked on a Lot shall be screened from street view. Other than guest parking, no livestock trailers shall be allowed.

Section 2 Nuisances

No nuisance shall be permitted on any Lot or within any residence or outbuilding thereon, nor any use, activity, or practice, which is the source of annoyance or embarrassment or which disturbs or interferes with the peaceful enjoyment or possession and proper use of the property or any portion thereof by any other resident. As used herein, the term 'nuisance' shall not include any activities of the Declarant or its designees which are reasonably necessary to the development of and construction on the property. Declarant shall also retain the right to store, park or hold any property, items, equipment

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or materials as it deems necessary until such time as all construction and development in the Subdivision is completed.

Section 3 Hazardous Activities

No activities shall be conducted on any Lot, within any residence or outbuilding, or any portion of the Subdivision whether developed or undeveloped that are or might be unsafe to any person or property.

Section 4 Lights, Sounds, and Odors

No light shall be emitted from any Lot which is unusually bright or causes unreasonable glare when viewed from the street, or any adjacent property or Lot. No sound shall be emitted from any Lot that is unreasonably loud or annoying and no odor shall be permitted from any Lot that is noxious or offensive to others.

Section 5 Garbage and Refuse Disposal

No garbage, trash, refuse, rubbish, or cuttings shall be deposited or allowed to accumulate on any Lot , street, or in any common area unless placed in a suitable container designed for trash pickup. All trash containers shall be removed from the street on the same day as trash pickup. Composting of grass clippings, leaves, and other similar yard waste shall be allowed so long as properly contained or covered and no nuisance or odors are created.

Section 6 Damage to Common Elements

In the event of damage or destruction to any improvements installed in the common elements of the subdivision, e.g. bike paths, drainage easements and lines, or storm water detention area, the Association may levy a reconstruction assessment sufficient to cover any deficiency occasioned by insufficient insurance coverage. If damage was caused by individual Owner, his / her family or guests, said levy may attach directly to the Owner and may become a lien against his / her Lot pursuant to Article IX of these Covenants.

Section 7 Miscellaneous

No activity such as, but not limited to, maintenance, repair, rebuilding, dismantling, repainting, welding, or servicing of any vehicle or equipment such as boats, motor vehicles (including snowmobiles and motorcycles), recreational vehicles or trailers may be performed or conducted on or within the Subdivision or any Lot unless done within a 24 hour time period OR within a completely

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enclosed structure which screens the sight and sound of the activity from the street and any adjoining property The foregoing shall not be deemed to prevent washing and polishing of any of the above named items, together with those activities normally associated with such washing and polishing.

ARTICLE V
LANDSCAPING

Weeds shall be cut, sprayed or otherwise controlled so as to maintain a neat and orderly appearance. No trash, rubbish or debris shall be permitted to accumulate on any Lot except during any period of construction or reconstruction.. Landscaping shall be substantially complete no later than one (1) year from date of closing, and shall be maintained thereafter in a healthy, live and growing condition. Dry landscaping and xeriscape shall be permitted. Any fencing shall be constructed of new materials consisting of chain link, plastic, vinyl, or wood any of which shall have been specifically designed for such purpose. Slatted chain link fence shall not be allowed.

ARTICLE VII
HOUSEHOLD PETS

No animals, livestock, reptiles, poultry or insects of any kind shall be raised, bred, kept or boarded in or on any Lot, provided however that the Owners of each Lot may keep no more than two dogs and two cats. Other animals which are bona fide household pets, such as fish, hamsters, or birds shall be acceptable so long as such pets are kept in a manner that does not create a nuisance to any other person or Owner. An Owner's right to keep any pet shall be coupled with the responsibility to insure that the pet does not constitute an annoyance, nuisance, or danger to others and to pay any costs or damage to the Association for any damage caused by such Owner's pet(s). Dog runs and kennels shall be located no farther than 10 feet from the home and shall be screened from street and adjacent Lot view whenever possible.

ARTICLE VIII
ASSOCIATION

Section 1. Membership.

Every Owner shall be a Member of the Association. No Owner shall have more than one (1) membership. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Ownership of such Lot shall be the sole qualification for membership.

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Section 2. Voting Rights.

Members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership in this Article. When more than one Person holds such interest in any Lot, all such Persons shall be members, but the vote for such Lot shall be exercised as thy among themselves determine, and in no event shall more than one (1) vote be cast with respect to any Lot.

Section 3. Allocated Interests.

Each Lot shall be allocated 1/92 of the common expenses and 1/92 of the votes of the Association.

Section 4. Declarant Control

For a period ending on the earlier of (i) sixty days after conveyance of seventy-five percent of the Lots within the Subdivision, or (ii) two years after the last conveyance of a Lot by the Declarant in the ordinary course of business (the "Declarant Control Period"), the Declarant shall have a right to elect the Board of Directors of the Association and to appoint the Architectural Control Committee.

Section 5. Transfer of Records.

Within sixty (60) days after Declarant Control Period, , the Declarant shall deliver to the Association all property of the Owners and of the Association held by or controlled by the Declarant, including the following:

i. The original or a certified copy of this recorded Declaration;

ii. An accounting for Association funds and financial statements from the date the Association received funds and ending on the date the period of Declarant control ended;

iii. The Association funds or control thereof;

iv. A copy of any plans and specifications used in the construction of the Common Areas, if any;

v. All insurance policies in force;

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vi. All certificates of occupancy, if any;

vii. Any other permits issued by governmental bodies applicable to the common interest community and which are currently in force or which were issued within one year prior to the date on which Owners other than the Declarant took control of the Association;

viii. Written warranties of any contractors, subcontractors, suppliers, and manufacturers that are still effective;

ix. A roster of Owners and mortgagees and their addresses and telephone numbers, if known, as shown in the Declarant's records;

x. Employment contracts in which the Association is a contracting party; and

xi. Any service contract in which the Association is a contracting party or in which the Association or the Owners have any obligation to pay a fee to the person(s) performing the service.

Section 6. Budget.

The Association shall annually adopt a budget for assessments. Within thirty (30) days after adoption of any proposed budget for the Association, the board of directors shall mail, by ordinary first class mail, or otherwise deliver a summary of the budget to all Owners and shall set a date for a meeting of the Owners to consider ratification of the budget not less than fourteen (14) nor more than sixty (60) days after mailing or other delivery of the summary. Unless at that meeting a majority of all Owners or any larger percentage specified in the Declaration reject the budget, the budget is ratified, whether or not a quorum is present. In the event that the proposed budget is rejected, the periodic budget last ratified by the Owners must be continued until such time as the Owners ratify a subsequent budget proposed by the board of directors.

Section 7. Notice.

Notice of matters affecting the Planned Community may be given to the Owners by the Association or other Owners by ordinary first class mail or by personal delivery.

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ARTICLE IX
LIEN FOR ASSESSMENTS

Section 1. Assessments.

The Association may make periodic assessments against the Lots within the Subdivision for the reasonable costs and expenses of the association, including, but not limited to, the costs of insurance deemed appropriate by the Association and the costs of maintenance and repair of the common area within the Subdivision. Any such assessment shall be made not less frequently than annually and shall be effected by the mailing of a detailed invoice to the Owner of each such Lot at his or her current mailing address as contained within the Association books and records. Such invoices shall be due and payable upon receipt and, if not paid within 45 days of the mailing date thereof, shall thereafter become delinquent.

Section 2. Delinquent Assessments.

In the event that the assessment duly made by the Association against any lot should become delinquent, the Association may elect to claim a lien upon such lot and improvements as security for its payment. Such lien shall be superior to all other liens against such lots, EXCEPT FOR any lien of Montrose County, Colorado for property taxes due and/or any purchase money, mortgage or deed of trust. To claim and give record notice of such lien, the Association shall first cause to be sent to the owner of such lot by certified mail and, not sooner than 15 days after the date of such mailing, shall then cause to be recorded in the Montrose County, Colorado recorder's office, a Notice of Lien. The Notice of Lien shall be signed by the duly elected president or vice-president, of the Association and shall, at a minimum, state: The legal description of the Lot, the name and address of the Owner of such Lot, the amount of the lien, the purpose or basis of the lien, the effective date of the assessment and shall refer to these recorded covenants and to the authority granted by this article. Upon the recording of such Notice of Lien, such lien may be foreclosed as if it were a real estate mortgage. The Association may also elect to pursue such legal remedies as may be available to it under this article and/or under the Colorado Revised Statutes and Rules of Procedures then in effect.

Section 3 Procedures and Penalties for Non-Compliance

In the event of non-compliance with or violation of any covenant, provision, rule or decision as set forth by these articles or by any committee duly appointed and constituted by or on behalf of the Association, the Board of

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Directors shall send written notice of the violation to the lot Owner.. Said owner shall then have thirty (30) days to correct the violation. If the violation is not corrected within that time the Board of Directors may immediately elect to assess a penalty not to exceed Twenty Five Dollars ($25.00) per day for every day following the date of written notice that the violation remains uncorrected. Said penalty assessment shall become due and payable immediately upon notice of penalty assessment by the Board of Directors. In the event of failure or refusal to pay said penalty assessment, the Association may elect to collect upon such delinquent assessment in accordance with the provisions of paragraph 2 above. The Association may also elect to pursue such legal and equitable remedies as may be available to it under this article and/or under the Colorado Revised Statutes and Rules of Procedures then in effect.

ARTICLE X
SALES OFFICE OR MODELS

The Declarant reserves the right to maintain and construct a sales office or model upon one (1) Lot. Such Lot shall be any unsold Lot, title to which remains in the name of the Declarant.

ARTICLE XI
GENERAL PROVISIONS

Section1. Effect and Duration.

The conditions, restrictions, stipulations, agreements and covenants herein contained shall inure to the benefit of and be binding upon each Lot within the Subdivision and each Owner thereof, his successors and assigns, and shall continue in full force and effect for 20 years after the date of recording of this instrument in Montrose County, Colorado, at which time they shall be automatically extended for 5 successive terms of 10 years, each, unless amended in the manner hereafter provided.

Section 2. Amendment.

The conditions, restrictions and covenants herein contained shall not be waived, abandoned, terminated or amended except by an instrument setting forth the written, notarized consent of the record owners of sixty-

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seven percent (67%) of the Lots within the Subdivision, which instrument shall be duly recorded in Montrose County, Colorado.

Section 3. Assignment.

All of the rights of the Declarant herein reserved, including the right to enforce any and all of the covenants herein, shall be freely assignable by the Declarant, and any assignee shall succeed to all of the rights of the assignor.

Section 4. Enforcement.

If any person shall violate any of the provisions of this instrument, it shall be lawful for any Owner of a Lot in the Subdivision to institute proceedings at law or in equity to enforce the provisions of this instrument, and to recover damages, actual and punitive, together with reasonable attorneys' fees for such violation.

Section 5. Severability.

The invalidation of any one or more of the sections of this instrument by any court shall in no way effect the other sections of the instrument, which shall remain in full force and effect.

Section 6. Headings.

The article and section headings herein are for convenient reference only and in no way define, limit or describe the scope of this Declaration or the intent of any provision herein.

IN WITNESS WHEREOF, the parties hereto have signed the foregoing Declaration the day and year first above written.

DECLARANT:

PHILLIPS CONSTRUCTION CO., INC.

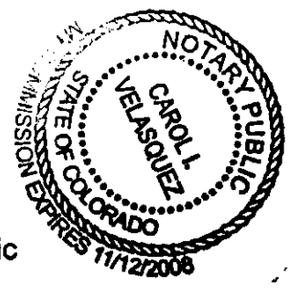
Larry A. Phillips, President

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STATE OF COLORADO)
) ss.
County of Montrose)

The above and foregoing Second Amended and Restated Declaration of Protective Covenants was acknowledged before me this 16 day of August, 2006, Larry A. Phillips, as President of Phillips Construction Co., Inc., Declarant.

Witness my hand and official seal.

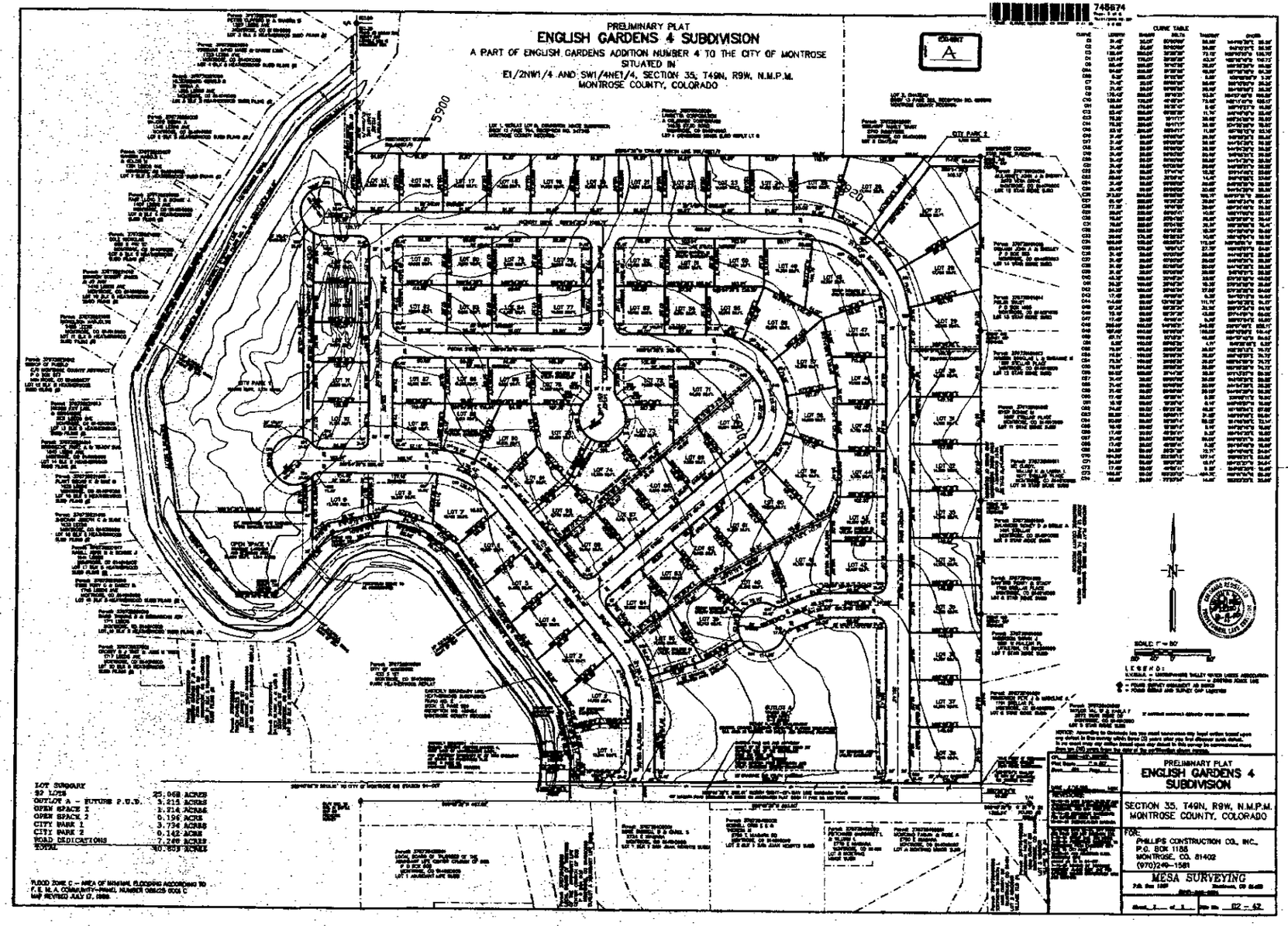


(SEAL) Notary Public

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PRELIMINARY PLAT

ENGLISH GARDENS 4 SUBDIVISION

A PART OF ENGLISH GARDENS ADDITION NUMBER 4 TO THE CITY OF MONTROSE
SITUATED IN
E1/2NW1/4 AND SW1/4NE1/4, SECTION 35, T49N, R9W, N.M.P.M.
MONTROSE COUNTY, COLORADO

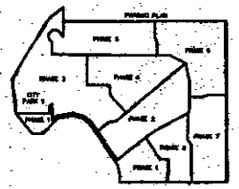
EXHIBIT A

745674

PLAT CONDITIONS

1. Drainage Easements
The drainage easement(s) shown hereon shall be owned and maintained by the owners of the lots encumbered by the easement in a manner that preserves the grade as originally established and so as to not impede the free flow of water in any way, including but not limited to the construction of fencing and other improvements, or the planting or encroachment of trees and shrubs and other impeding vegetation. The City is not responsible or liable in any manner for the maintenance, repair, or operation of any ditch/ran, ditches or improvements as located within said easements. Upon failure to properly maintain the drainage easement(s) shown hereon, or in the need to abate a nuisance or public hazard, the City may cause the maintenance or repair to be performed and assess the costs thereof to said owners, and may certify such charges as a delinquent charge to the County Treasurer to be collected similarly to taxes or in any lawful manner.
2. Privately Owned Open Spaces
OPEN SPACE 1 AND OPEN SPACE 2 shall be owned and maintained by a homeowners association, or until such time as a homeowners association is lawfully formed for such purposes, by the owners of all lots as platted hereon, jointly and severally. The City is not responsible or liable in any manner for the maintenance, repair, or operation of such properties and/or improvements, nor shall the City be responsible for future dedications of such properties. Upon failure to properly maintain such properties and/or improvements shown hereon, or in the need to abate a nuisance or public hazard, the City may cause the maintenance or repair to be performed, and assess the costs thereof to each owner(s), or the City may certify such charges as a delinquent charge to the County Treasurer to be collected similarly to taxes or in any lawful manner.
No residential structures will be allowed within OPEN SPACE 1 and OPEN SPACE 2.
3. Money in Lieu of School Land Dedication
All residential lots hereon shall be required to make payment of money in lieu of school land dedication, at the time of issuance of building permit or certificate of occupancy rendition to improvements upon said lot. The payment of money in lieu of school land dedication is subject to Section 4-2-7(C)(7) of the Municipal Code. Payments shall be made to the City, to be later disbursed to the RE-1J School District, .
4. Recreation Paths
The City will provide for maintenance of the paved recreation path located on the recreation path easement(s) as it deems appropriate in accordance with City budgets and regulations and has a right of access to do so. No improvements may be located on the recreation path easement(s) which would restrict the City's access. The individual lot owners are jointly and severally liable for the proper maintenance of the portion of their lot within the recreation path easement(s) outside of the paved path in accordance with applicable City ordinances. Such maintenance may be performed by an owners association. In the event that such maintenance is not properly performed or in order to abate any nuisance thereon, the City may cause the maintenance to be done, assess the costs thereof against the lots in this subdivision or certify such amounts as a delinquent charge to the County Treasurer to be collected similarly as taxes against the lots in this subdivision, or collect such costs from the owners in any lawful manner.
5. The zoning of this property is R-2 and R-3, as defined and described by the City of Montrose Municipal Code at the time of approval and recordation of this plat, and is subject to change.
6. No lot shall be permitted to have direct ingress or egress to Niagara Road.
7. Nighttime lighting in City Park I shall be restricted to security lighting only.
8. All improvements to Niagara Road shall be completed to meet City of Montrose specifications for public improvements prior to final plat approval of any phase in excess of 50% of the build out of the subdivision.
The drainage facility within OPEN SPACE 1 shall be constructed in Phase 1.
CITY PARK 1 shall be included in Phase 3. CITY PARK 1 will be developed by the City of Montrose at a time to be determined by the City. The pedestrian bridge abutting OPEN SPACE 1 and the eight foot (8') concrete connection path within CITY PARK 1 will be designed and constructed by the developer/owner of ENGLISH GARDENS 4 SUBDIVISION prior to approval of any final plat for Phase 3.

PHASING PLAN



PRELIMINARY PLAT NOTES AND CERTIFICATES FOR REVIEW PURPOSES ONLY
CERTIFICATE OF DEDICATION AND OWNERSHIP

KNOW ALL MEN BY THESE PRESENTS that the undersigned being the owners of certain lands in the City of Montrose, County of Montrose and State of Colorado as will:
A tract of land situated in the E1/2NW1/4 and in the SW1/4NE1/4 of Section 35, Township 49 north, Range 9 West, N.M.P.M., English Gardens Addition Number 4 to the City of Montrose, Montrose County, Colorado, and being more particularly described as follows: Commencing at the East 1/4 corner of said Section 35; thence S89°49'39"W, along the south line of NE1/4 of said Section 35, a distance of 1325.74 ft.; thence N00°39'24"W, 40.09 ft. to the southeast corner of Blue Ridge Subdivision, a point on the north right-of-way line of Niagara Road, and the true point of beginning; thence S89°29'34"W, 1274.76 ft. to the northwest corner of Blue Ridge Subdivision, said point also being on the north line of said SW1/4NE1/4; thence S89°54'39"W, 1330.46 ft. to the northwest corner of said SW1/4NE1/4; thence N00°01'09"W along the east line of said E1/2NW1/4, a distance of 62.09 ft. to a point on the southerly boundary line of Northmoor Subdivision Filing Number 2; thence the following courses along said easterly boundary line: S60°59'37"W, 144.8 ft.; S53°01'37"W, 280.97 ft.; S09°50'39"E, 380.55 ft.; S06°40'28"E, 287.77 ft.; S28°00'49"E, 309.36 ft.; S69°39'59"E, 89.48 ft.; N14°29'19"E, 172.38 ft.; N76°16'59"E, 122.39 ft.; S72°54'51"E, 85.53 ft.; S53°34'25"E, 90.38 ft.; S39°30'49"E, 400.04 ft.; S37°04'30"E, 92.59 ft.; S07°28'59"E, 80.41 ft. to a point on the north right-of-way line of Niagara Road; thence N89°49'39"E along said north right-of-way line, 862.81 ft. to the true point of beginning, containing 40.606 acres.

Have by these presents laid out, platted and subdivided the same into lots, as shown on this plat, under the name and style of
ENGLISH GARDENS 4 SUBDIVISION
and do hereby dedicate, grant and convey to the City of Montrose, Colorado, for the use of the public, RIVER DRIVE, ASH LANE, BALSAM COURT, MICKORY DRIVE, PEORA STREET, TEAK AVENUE, CITY PARK 1, CITY PARK 2 and the recreation paths, as hereon shown.
The easements, except for those drainage and irrigation easements(s) held by Uncompahgre Valley Water Users Association (U.V.W.U.A.) as so noted, shown on this plat are dedicated, granted and conveyed to the City of Montrose, Colorado for public utility purposes, including but not limited to sewer, electrical, telephone, gas and CATV lines, together with perpetual right of ingress and egress for location, maintenance and replacement of such lines.
The recreation path easement(s) as/are hereby dedicated, granted and conveyed to the City of Montrose for the use of the public for pedestrian, non-motorized vehicular and other recreation uses as authorized by the City. The dedication of easements on lands platted shall not include those easements exclusively utilized for drainage and/or irrigation improvements.
The 20' WIDE EMERGENCY VEHICLE ACCESS EASEMENT, within CITY PARK 1, is hereby dedicated, granted and conveyed to the City of Montrose, Colorado for public ingress and egress of emergency vehicles.

Executed this ____ day of _____, _____

OWNER:

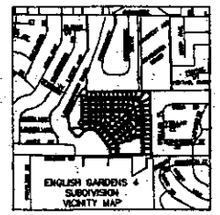
_____
Larry A. Phillips, President,
Phillips Construction Co., Inc., a Colorado Corporation

STATE OF COLORADO)
) ss.
COUNTY OF MONTROSE)
The above Certificate of Dedication and Ownership was acknowledged

before me this ____ day of _____, _____
by Larry A. Phillips, President,
Phillips Construction Co., Inc., a Colorado Corporation.
Witness my hand and official seal. My commission expires _____

_____
Notary Public

_____
Address



SURVEYOR'S CERTIFICATE

I, William D. Wiley, a Registered Land Surveyor in the State of Colorado, do hereby certify that there are no meets, gladines, irrigation ditches or other easements in evidence or known to me to exist on or across said property except as shown on this plat. I certify that I have made the survey represented by this plat and that this plat accurately represents said survey, and conforms to all applicable requirements of the City Subdivision Regulations and applicable law. I further certify that all monuments shown hereon actually exist and their positions are as shown.

_____
William D. Wiley
Colorado Registered Land Surveyor #32180
Date _____

ATTORNEY'S CERTIFICATE

I, _____, an Attorney at Law, duly licensed to practice in Colorado, do hereby certify that I have examined the title of all land herein platted and described in the above Certificate of Dedication and Ownership, and that title to such land is in the owner(s) and dedicator(s); and that the title to all dedicated property therein described, is free and clear of all liens and encumbrances.
EXCEPT:
Any and all liens, burdens, obligations, easements and rights of way arising from or created by membership in, applications to, or contracts with the Uncompahgre Valley Water Users' Association, Incident to the Uncompahgre Reclamation Project.
Any tax, assessments, fees or charges by reason of the inclusion of the subject property in the Montrose Soil Conservation District, Bostwick Park Water Conservancy District, Tri-County Water Conservancy District and the Montrose Metropolitan Recreational District.
Terms, conditions and agreements as contained in easement between Mrs. Pearl Russell and Colorado Ute Electric Association Inc., a Colorado Corporation recorded February 6, 1962 in Book 349 at Page 420.
30 foot easement as shown in the Recreation Plat, said easement being over the westerly portion of subject property.

_____
Attorney at Law
Registration No. _____
Date _____

CERTIFICATION PURSUANT TO C.R.S. 38-30.1-109

I, William D. Wiley, a Registered Land Surveyor in the State of Colorado, do hereby certify that it is may examine all the information required by C.R.S. 38-33.1-109.

_____
William D. Wiley
Colorado Registered Land Surveyor #32180
Date: _____

ENGINEER'S CERTIFICATE

I, G. Peter Barner, a Registered Engineer in the State of Colorado, do hereby certify that the sanitary sewer system, water distribution system, storm water system, streets, curbs and other improvements are properly engineered, designed and constructed, and in compliance with all applicable City specifications and regulations.

_____
G. Peter Barner
Colorado Professional Engineer #34448
Date _____

CERTIFICATE OF COMPLETED IMPROVEMENTS

I, _____, City Engineer, certify that all improvements and utilities required by the current Subdivision Regulations of the City of Montrose, have been constructed, inspected and approved in this Subdivision in accordance with applicable City Regulations and Specifications except as follows:

_____ _____
City Engineer PE
Date _____

CERTIFICATE OF RECEIPT OF SECURITY

I, _____, City Clerk of the City of Montrose, Colorado, hereby certify that security, in an amount and with conditions as required by the City's Subdivision Regulations, has been received from the Subdivider(s) providing for and securing to the City the actual construction and installation of the following improvements and utilities:

_____
City Clerk
Date _____

APPROVAL OF CITY MANAGER

Approved this ____ day of _____, _____
by _____, Manager of the City of Montrose.

_____
City Manager

APPROVAL OF PLANNING COMMISSION

Approved this ____ day of _____, _____
by the City Planning Commission of the City of Montrose.

_____
Chairperson

APPROVAL OF CITY COUNCIL

Approved this ____ day of _____, _____
by _____, Mayor of the City of Montrose.

_____
Mayor

APPROVAL OF CITY ATTORNEY

Approved this ____ day of _____, _____
by _____, Attorney of the City of Montrose.

_____
City Attorney

RECORDER'S CERTIFICATE

This plat was filed for record in the office of the Clerk and Recorder of Montrose County
at the time of ____ on the ____ day of _____, 20____
Reception No. _____
_____ by _____
Clerk & Recorder Deputy
Montrose County, Colorado

PRELIMINARY PLAT APPROVAL

APPROVAL OF CITY ENGINEER on ____ day of _____, _____
_____
CITY ENGINEER
APPROVAL OF PLANNING COMMISSION on ____ day of _____, _____
_____
CHAIRMAN
APPROVAL OF CITY COUNCIL on ____ day of _____, _____
_____
MAYOR
APPROVAL OF CITY ATTORNEY on ____ day of _____, _____
_____
CITY ATTORNEY

NOTICE: According to Colorado law you must commence any legal action based upon any defect in this survey within three (3) years after you first discover such defect. In no event may any action based upon any defect in this survey be commenced more than ten (10) years from the date of the certification shown hereon.

PRELIMINARY PLAT
ENGLISH GARDENS 4 SUBDIVISION
SECTION 35, T49N, R9W, N.M.P.M.
MONTROSE COUNTY, COLORADO

FOR:
PHILLIPS CONSTRUCTION CO., INC.
P.O. BOX 1165
MONTROSE, CO. 81402
(970)249-1581

MESA SURVEYING
P.O. Box 4897 Montrose, CO 81402
970-240-3844

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