

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
UNIVERSITY PARK  
FILINGS NUMBER FOUR AND FIVE

THIS DECLARATION, made the First day of November,  
A.D., 1977 by Otero Investment, Inc.

W I T N E S S E T H :

WHEREAS, Otero Investment, Inc., is the owner of certain real property  
in the County of Pueblo, State of Colorado, which is more particularly  
described as

University Park Subdivision Filing Number Four and Five

Pueblo, Pueblo County, Colorado; and

WHEREAS, Otero Investment, Inc., desires to protect and enhance the  
value, desirability and attractiveness of said property for all parties  
having or acquiring any right, title or interest in the above described  
property; and to this end, will convey the real property described above  
subject to the covenants, restrictions and easements, hereinafter set  
forth, each and all of which is and are for the benefit of said property  
and each owner thereof: and

NOW THEREFORE, Otero Investment, Inc., hereby declares that the real  
property described above is and shall be held, transferred, sold, conveyed  
and occupied subject to the following covenants, conditions, restrictions,  
and easements, hereinafter sometimes referred to collectively as "covenants  
and restrictions," all of which are for the purpose of enhancing and  
protecting the value, desirability and attractiveness of said property.  
These covenants and restrictions shall run with said real property and  
shall be binding on all persons having or acquiring any right, title or  
interest in said property or any part thereof, and shall unure to the  
benefit of each owner thereof.

ARTICLE I  
DEFINITIONS

SECTION 1. The following terms when used in this Declaration or any Supplement or Amendment thereto shall have the following meanings unless prohibited by the context:

(a) "Properties" shall mean and refer to the real property described above.

(b) "Lot" shall mean and refer to any plot of land shown upon the recorded subdivision map of the properties.

(c) "Owner" shall mean and refer to the recorded owner, whether one or more persons or entities, of the fee entered in any lot which is a part of the properties, except an owner who holds title or interest in any said lot merely as security for the performance of an obligation.

(d) "Declarant" shall mean and refer to Otero Investment, Inc.

(e) "Architectural Control Committee" shall mean the committee of three or more persons appointed by the Declarant or the lot owners to review and approve the plans for all improvements constructed on the properties.

ARTICLE II  
ARCHITECTURAL CONTROL COMMITTEE

SECTION 1. Appointed Duties. The Declarant shall appoint a minimum of three persons to serve as the initial Architectural Control Committee to serve at the pleasure of the declarant. At any time after five years from the date of the Declaration, the then recorded owners of a 75% majority of the lots in the Subdivision shall have the power, through a duly recorded instrument, to change the membership of the committee or to amend these covenants and restrictions. It shall be the duty of the Architectural Control Committee and it shall have the power by the exercise of its best judgement to determine that all structures, improvements, construction, decorating, and

landscaping on the properties conform to and harmonize with the existing surroundings and structures. For convenience, the Architectural Control Committee shall hereinafter sometimes be referred to in this Article II as the "Committee."

SECTION 2. Review by Committee. No structure, whether residence, accessory building, tennis court, swimming pool, flag poles, fences, walls, house numbers, mail boxes, exterior lighting, or other improvements, shall be constructed or maintained upon any lot and no alterations or repainting to the exterior of a structure shall be made and no landscaping performed unless complete plans, specifications, and lot plans therefore, showing the exterior design, height, building materials and color scheme thereof, the location of the structure plotted horizontally and vertically, the location and size of driveways, the general plan of landscaping, fencing, walls and windbreaks, and the grading plan shall have been submitted to and approved in writing by the Committee, and a copy of such plans, specifications and lot plans as finally approved, deposited with the Committee.

SECTION 3. Procedure. The Committee shall approve or disapprove all plans and requests within thirty (30) days after requests have been submitted. In the event the Committee fails to take action within thirty (30) days after requests have been submitted, approval will not be required, and this Article will be deemed to have been fully complied with. A majority vote of the members of the Committee is required for approval or disapproval of proposed improvements. The Committee shall maintain written records of all applications submitted to it and of all action taken. In approving or disapproving the plans submitted to it, the Committee shall take into consideration the design, style and construction of the proposed building or alteration, its location on the lot, the harmony of its design, architecture and location with the terrain and surrounding neighborhood and shall determine whether such proposed building is

consistent with the general terrain, the architecture of other buildings located upon the properties subject to this Declaration and whether or not the construction or alteration of said building will adversely effect or decrease the value of other lots and/or dwellings because of its design, location, height or type of material used in construction. The Committee may make reasonable requirements of the lot owner, including the submission of additional plans, to insure conformance of such building when erected with these restrictions and covenants and the plans submitted and approved. The Committee may require such changes as may be necessary to conform to the general purposes as herein expressed.

The Committee shall have authority to grant variances from the provisions of this declaration in cases of irregularly shaped lots, unusual terrain, or other conditions wherein the strict enforcement of these restrictions would result in unusual hardship. The Committee shall be the sole and exclusive judge of whether or not said hardship exists.

Whenever the Committee disapproves of any proposed plans or specifications, it shall state in writing its reason for such disapproval in general terms so that the objections can be met by alterations acceptable to the committee.

All plans submitted to the Committee shall be left on file with the Committee.

It is the intent of these declarations that the Committee shall exercise broad discretionary powers hereunder and its decisions shall be final and conclusive except for an arbitrary abuse of its discretion or an excess of its authority.

The Committee shall resolve all questions of interpretation. They shall be interpreted in accordance with their general purpose and intent as herein expressed.

SECTION 4. Liability of Committee. The Architectural Control Committee shall not be liable in damages to any person submitting requests for approval

or to any lot owner by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove with regard to such requests.

### ARTICLE III

#### EXTERIOR MAINTENANCE

SECTION 1. The owner of each lot shall maintain the structures on the grounds and landscaping thereof in a neat and attractive manner. Upon the owner's failure to do so, the Architectural Control Committee may, at its option, after giving the owner thirty (30) days written notice, have the grass, weeds, trees, shrub and other vegetation cut or trimmed when, and as often as, the same is necessary in its judgement, and have dead trees, shrubs and other plants removed from any lot to maintain the beauty of the properties.

SECTION 2. Upon the owner's failure to maintain the exterior of any structure in good repair and appearance the Architectural Control Committee may, at its option, after giving the owner three (3) months written notice make repairs to and improve the appearance of such structure in a reasonable and workmanlike manner.

SECTION 3. Cost. The cost of such maintenance referred to in Section 1 and 2 above shall be paid by the owner of the property upon which such maintenance is performed.

SECTION 4. Access at Reasonable Hours. For the purpose solely of performing the maintenance referred to in Sections 1 and 2 of this Article, the Declarant, through its duly authorized agents or employees shall have the right, after reasonable notice to the owner, to enter upon any lot or exterior of any structure situate thereon at reasonable hours on any day except Sunday, and such entry shall not be deemed a trespass.

## ARTICLE IV

## USE RESTRICTIONS, COVENANTS AND EASEMENTS

The following restrictions, covenants, and easements are imposed uniformly upon the properties and the use thereof as a common scheme for the benefit of each lot and may be enforced by the Declarant or any lot owner.

SECTION 1. Land Use, Building Type and Occupancy. All lots, unless otherwise designated on the recorded plat, shall be used for residential purposes only. With respect to those lots to be used for residential purposes, no building shall be erected, altered, placed or permitted to remain on any lot other than one detached single family dwelling not to exceed 30 feet or two stories in height. No building shall be permitted on any lot unless such building has been duly constructed thereon and the removal of dwellings or structures from other locations to any lot shall not be permitted. A private garage for not less than two cars shall be provided with each single family dwelling and in accordance with the set-back requirements herein contained.

SECTION 2. Lot Size and Subdivision. No further subdivision or resubdivision of any lot or combination of lots as shown on the recorded plat shall be permitted except upon prior written approval of the Architectural Control Committee.

SECTION 3. Building Size. No dwelling shall be permitted on any lot in which the finished living area of the main structure, exclusive of open porches and garages shall be less than the following:

- (a) 900 total square feet in a single level dwelling
- (b) 950 total square feet in the upper two levels of a split-level dwelling or 1200 total square feet if 3 levels are finished
- (c) 800 total square feet in the upper level of a bi-level or two story dwelling.

SECTION 4. Building Location. No building shall be located on any lot in which the City zoning ordinances would be violated.

SECTION 5. Building Construction. All buildings erected on the properties shall be designed and constructed in accordance with the following standards, unless changes are approved by the Architectural Control Committee:

(a) All roofing materials, wood shake or otherwise, shall be earthtone colors only.

(b) Gutters and downspouts, painted to blend with earthtone colors of the dwelling, are required.

(c) No package chimneys are allowed. Chimney facings shall be stone or earthtone brick varieties as noted below.

(d) Only earthtone colors shall be used on exterior siding or garage doors.

(e) Garage doors shall be wood or wood composition.

(f) All exterior walls shall be constructed of wood products, stone, stucco or the following types of brick: sand brick, clinker brick and brick without a sheen appearance, brick of a color that blends with natural surroundings.

(g) All detached single family dwellings shall have at least a two car sized garage. Additional carports or detached garages are permissible at the rear of the dwelling with prior approval of the Architectural Control Committee.

(h) All front exposed concrete of 16 inches or more on all buildings must be stuccoed.

SECTION 6. Fences or Walls. Fences or walls shall be located in accordance with current Pueblo City Ordinances but in no case exceed 6 feet in height. All fences shall be constructed of natural colored wood or of a color or material of the house. The only exception being the back fence on a lot backing the parks or greenways, which may have earthtone, chain link fence, with cedar or other comparable material to be used as posts and cross bars. All walls shall be constructed of stone, stucco or brick of a variety allowed for the construction of exterior walls of dwellings.

SECTION 7. Landscaping.

(a) No hedge, fence, tree or shrub planting which obstructs sight lines shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and the line connecting them at points 30 feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. The same planting limitations shall apply on any lot within 10 feet from the intersection of a street property line with the edge of a driveway or alley pavement.

(b) All front and side yards must have sod installed by the builder with a minimum of 2500 square feet. The following varieties of trees will not be permitted: Chinese Elm, Siberian Elm, Box Elder, Seed Ash, Thorny Locusts, female Cottonwood, and Poplar.

SECTION 8. Easements. Easements for the installation and maintenance of utilities and drainage facilities are reserved in accordance with the recorded plat.

SECTION 9. Trash. No garbage, refuse, rubbish or cuttings shall be deposited on any street, road or lot unless placed in a suitable container. The burning of trash in outside incinerators, barbeque pits, or the like, is prohibited, it being intended that all refuse, trash, garbage and the like shall be hauled from the properties. Garbage cans are to be inside garages, behind decorative fencing, or otherwise hidden from view to the street.

SECTION 10. Storage of Building Materials. No building material of any kind or character shall be placed upon any lot except in connection with construction or maintenance approved by the Architectural Control Committee. As soon as building material are placed on any lot in such connection, construction shall be promptly commenced and diligently prosecuted.



SECTION 11. Commercial Enterprises, Nuisances. No manufacturing or commercial enterprises shall be conducted or maintained upon, in front of or in connection with any lot or lots. No noxious or offensive activity shall be carried on upon any lot, street or road, nor shall anything be done thereon which may be or may become an annoyance or a nuisance to the neighborhood.

SECTION 12. Commercial Vehicles, Campers, Trailers. No commercial type vehicles and no trucks shall be stored or parked on any lot except in a closed garage, nor parked on any street or road except while engaged in transport to or from a dwelling or lot. For the purposes of this restriction, a truck having 3/4 ton manufacturer's rated capacity, commonly known as a pick-up truck, shall not be deemed to be a commercial vehicle or a truck. Campers, boats, trailers, house trailers, mobile homes, buses, and the like shall be kept in garages or stored completely out of sight from the street or other lots in the neighborhood.

SECTION 13. Animals. No person shall be allowed to keep, breed or raise chickens, turkeys, cattle, horses, sheep, goats, swine, rabbits, or other domestic farm or barnyard animal or fowl on any lot or other portions of the properties, or erect thereon any buildings designed to house the same. This restriction shall not be construed to prohibit any person from keeping dogs, cats or other household pets on any lot, provided they are not kept, bred or raised for any commercial purpose and so long as the number thereof is limited and the care given such animals is accomplished in such a way as not to constitute a source of annoyance to any adjoining property owner.

SECTION 14. Temporary Residences. No structure of temporary character, trailer, basement, tent, shack, barn or other outbuildings shall be used on any lot at any time as a residence, either temporarily or permanently, and no used structure of any sort shall be moved onto any lot.

SECTION 15. Signs. No sign of any kind shall be displayed to the

public view on any lot except one professional sign of not more than five square feet advertising the property for sale or rent, or signs used by a builder, developer or subdivider to advertise the property during construction, development and sale period.

SECTION 16. Permanent, Free Standing Clotheslines, Aerials, Antennas, Carports, Patio covers and other Similar Structures. Outside aerials, or antennas whether on building or free standing, carports, and patio covers or similar structures shall not be allowed unless approved by the Architectural Control Committee. All such approved structures shall be located out of view of the street.

SECTION 17. Service Areas. Drying yards, service yards, wood piles or storage areas shall be so located as not to be visible from a street or road. Any exterior lights installed on any lot shall either be indirect or of such controlled focus and intensity so as not to disturb the residents of the neighboring properties. Ornamental post lights must be approved by the Architectural Control Committee.

SECTION 18. Motor Vehicles. All unused motor vehicles of any kind shall not be stored or parked on any street or alley, or on any lot except in a closed garage. "Unused vehicle" shall be defined as any motor vehicle which has not been driven within a 15 day period.

SECTION 19. Repainting and Maintenance of house, garage, fence or other structure shall be in accordance with the original scheme established for the subdivision by the Architectural Control Committee.

SECTION 20. Garage doors are to be kept closed at all times except when not in immediate use for ingress or egress of motor vehicles, equipment and the like.

SECTION 21. Conflict with Zoning. In the event the terms and conditions of this declaration conflict with the applicable zoning laws of the city

or county, then the higher standards shall control.

SECTION 22. Special Preservation Easement. No building, fences, sheds, or structures of any nature will be permitted within this easement. No jeeps, motorcycles, trail bikes, bicycles or vehicles of any kind will be permitted in the Special Preservation Easement, which is specifically limited to foot transportation.

#### ARTICLE V

##### GENERAL PROVISIONS

SECTION 1. Duration. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the owner of any lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns for a term of twenty (20) years from the date this Declaration is recorded, after which time, said covenants shall be automatically extended for successive periods of ten (10) years.

SECTION 2. Amendments. These covenants and restrictions of this Declaration may be amended during the first twenty (20) years from the date of the Declaration, by an instrument signed by not less than sixty-seven (67) percent of the lot owners. Said instrument must be properly recorded in Pueblo County, Colorado.

SECTION 3. Enforcement. Any owner shall have the right to enforce these covenants and restrictions by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages. Failure of any owner to enforce any covenant or restriction therein contained shall in no event be deemed a waiver to the right to do so thereafter.


SECTION 4. Severability. Invalidation of any one of these covenants or

restriction by judgement or court order shall in no way affect any other provision which shall remain in full force and effect.

OTERO INVESTMENT, INC., a Colorado Corporation

By: *Charles C. Rhodes*  
 Charles C. Rhodes, Executive Vice President

Attest: *Charles Stephens*  
 Charles Stephens, Secretary

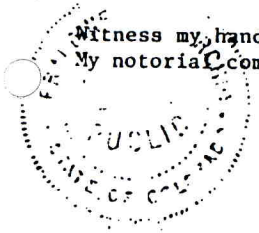


State of Colorado

County of Pueblo

The foregoing instrument was acknowledged before me this first day of November, 1977, by: OTERO INVESTMENT, INC., a Colorado Corporation BY: Charles C. Rhodes, Executive Vice President, and Charles Stephens, Secretary.

Witness my hand and official seal.  
My notarial commission expires May 10, 1979



*Geraldine M. Pischke*