

or of the Manager without a prior written demand that the defect be cured; that any "no other insurance" clause therein shall not apply with respect to insurance held individually by the Unit Owners.

19. Payment of Common Expenses.

(a) Each Unit Owner shall pay the Management Committee his allocated portion, of the Common Expenses deemed necessary by the Management Committee to manage and operate the Project, upon the terms, at the time, and in the manner herein provided without any deduction on account of any set-off or claim which the Owner may have against the Management Committee or Association. During the first year the fee shall be \$100.00 per month; unless arranged by management committee to adjust for actual costs. Each installment shall be due on or before the first day of each month. If the Unit Owner shall fail to pay any installment within five (5) days of the time when the same becomes due, the Owner shall pay a ten dollar (\$10.00) late fee and shall pay interest on the installment at the rate of eighteen percent (18%) per annum from the date when such installment shall become due to the date of the payment thereof, together with all costs and expenses, including attorney's fees, incurred in any act, action, or proceedings brought to collect such unpaid common expenses whether suit is filed or not.

(b) The Common Expenses above referred to for each year, or portions of the year, are hereby defined and shall be deemed to be such aggregate sum as the Management Committee from time to time shall determine, in its judgment, is to be paid by all the Owners of the Project then in existence to enable the Management Committee to pay all estimated expenses and outlays of the Management Committee to the close of such year, growing out of or in connection with the maintenance and operation of such land, buildings and improvements; which sum may include, among other things, the cost of management, special assessments, fire, casualty, flood, fidelity, public liability and other insurance or bond premiums, common lighting, landscaping, and the care of the grounds, repairs, and renovations to Common areas and Facilities, (other than services which are separately billed or metered to the individual Units by the utility or party furnishing such service), legal and accounting fees, management fees, expenses and liabilities incurred by the Management Committee under or by reason of this Declaration, the payment of any deficit remaining from the previous period, the creation of a reasonable contingency or other necessary reserve, surplus or working capitol fund, as well as all other costs and expenses relating to the Project. The Management Committee may, from time to time, up to the close of the year for which such cash requirements have been so filed or determined, increase or diminish the amount previously fixed or determined for such year. It may include in the cash requirements for any year, any liabilities or items of expense which accrued or became payable in the previous year, or which might have been included in the cash requirements for a previous year, but were not included therein; and also any sums which the Management Committee may deem necessary or prudent to provide a reserve against liabilities or expenses then accrued or thereafter to accrue although not payable in that year. A working capitol fund equal to at least two (2) months' estimated common area charge for each Unit shall be established by the Management Committee.

(c) The portion payable with respect to each Unit in and for each year or for a portion of a year shall be a sum equal to the aggregate amount of such Common Expenses for such year, or portion of year, determined as aforesaid, multiplied by the percentage of undivided interest

in the Common Areas and Facilities appurtenant to such Unit. Such assessments, together with any additional sums accruing under this Declaration, shall be payable monthly in advance, or in such payments and installments as shall be required by the Management Committee.

(d) The Management Committee shall have discretionary powers to prescribe the manner of maintaining and operating the Project and to determine the cash requirements of the Association to be paid as aforesaid by the Owners under this Declaration. Every such reasonable determination by the Management Committee within the bounds of the Act and this Declaration shall be final and conclusive as to the Owners, and any expenditures made by the Management Committee, within the bounds of the Act and this Declaration shall as against the Owner be deemed necessary and properly made for such purpose.

(e) If an Owner shall at any time let or sublet his Unit and shall default for a period of one month in the payment of any assessments, (including related collection costs, late fees and reasonable attorney fees if incurred) the Management Committee may, at its option, so long as such default shall continue, demand and receive from any tenant or subtenant of the Owner occupying the Unit the rent due or becoming due and payment of such rent to the Management Committee shall be sufficient payment and discharge of such tenant or subtenant and the Owner to the extent of the amount so paid. Said amount shall be applied in the following order: First to the costs of collection and attorney fees; Second, to late fees and interest; and lastly to the assessment.

(f) Each monthly assessment and each special assessment shall be separate, distinct and personal obligations of the Owner(s) of the Unit against which the same is assessed at the time the assessment is made and shall be collectible as such. Suit to recover a money judgment for unpaid common expenses may be maintained without foreclosing or waiving the lien securing the same; the amount of any assessment, whether regular or special, assessed to a Unit plus interest at eighteen percent (18%) per annum plus late fees, and costs, including reasonable attorney's fees, shall become a lien upon such Unit upon recordation of a notice of assessment as provided by the Act. The said lien may be foreclosed for nonpayment of common expenses shall have priority over all other liens and encumbrances, recorded or unrecorded, except only:

(1) Tax and special assessment liens on the Unit in favor of any assessment unit, and special district; and

(2) Encumbrances on the interest of the Unit Owner recorded prior to the date such notice is recorded which by law would be a lien prior to subsequently recorded encumbrances.

(g) A certificate executed and acknowledged by the Manager or Management Committee stating the unpaid common expenses then outstanding with respect to a Unit shall be conclusive upon the Management Committee and the Owners as to the amount of such indebtedness on the date of the certificate, in favor of all persons who rely thereon in good faith, and such certificate shall be furnished to any Owner or encumbrances or prospective Owner or encumbrance of a Unit upon request at a reasonable fee not to exceed Twenty Dollars (\$20.00). Unless the request for a certificate of indebtedness shall be compiled within fifteen (15) business days, all unpaid common expenses which became due prior to the date of making of such request shall be

subordinate to the lien or interest held by or obtained by the person making the request. Any encumbrance holding a lien on a Unit may pay any unpaid Common Expenses payable with respect to such Unit and upon such payment such encumbrance shall have a lien on such Unit for the amounts paid of the same rank as the lien of his encumbrance.

Subject to the provisions of this subparagraph, a purchaser of a Unit shall be jointly and severally liable with the seller for all unpaid assessments against the Unit up to the time of the grant or conveyance, without prejudice to the purchaser's right to recover from the seller the amount paid by the purchaser for such assessments.

(h) Upon payment of delinquent assessments concerning which a notice of assessment has been recorded or other satisfaction thereof, the Management Committee shall cause to be recorded in the same manner as the notice of assessment a further notice stating the satisfaction and release of the lien thereof. Such lien for nonpayment of assessment may be enforced by sale of the Unit by the Management Committee or by a bank or trust company or title insurance company authorized by the Management Committee, such sale to be conducted in accordance with the provisions of the law applicable to the exercise of powers of sale or foreclosure in deeds of trust or mortgages or in any manner permitted by law. In any foreclosure or sale, the Unit Owner shall be required to pay the costs and expenses of such proceedings, including reasonable attorney's fees.

(i) In the event of foreclosure, the Unit Owner shall be required to pay a reasonable rental for the Unit and the plaintiff in the foreclosure action shall be entitled to the appointment of a receiver to collect the rental without regard to the value of the mortgage security. The Management Committee or Manager shall have the power to bid in the Unit at foreclosure or other sale and to hold, lease, mortgage and convey the Unit.

20. Eminent Domain. In the event that eminent domain proceedings are commenced against the Project or any portion thereof, the provisions of Section 57-8-32.5, Utah Code Annotated (1953, as amended) from time to time, shall apply.

21. Maintenance.

(a) Each owner of a Unit at his own expense shall keep the interior of such Unit and its equipment and appurtenances in good order, condition and repair and in a clean and sanitary condition, and shall do all redecorating and painting which may at any time be necessary to maintain the good appearance of such Unit. Except to the extent that the Association is protected by insurance against such injury, the unit Owner shall repair all injury or damages to the Unit or building or buildings caused by the act, negligence or carelessness of the Unit Owner or that of any tenant or subtenant, or any member of the Unit Owner's family or of the family of any tenant or subtenant and all such repairs, redecorating and painting shall be of a quality and kind equal to the original work as determined and approved in writing by the Management Committee. In addition to decorating and keeping the interior of the Unit in good repair, the Unit Owner shall be responsible for the maintenance or replacement of any plumbing, fixtures, refrigerators, air conditioning and heating equipment, dishwashers, disposals, ranges, etc., that may be in or connected with the Unit, and the maintenance of limited common patio except the fences surrounding such areas. Without the written permission of the Management Committee first had and obtained, a Unit Owner shall

not make or permit to be made any structural alteration, in or to the Unit, garages or parking stalls, or in or to the exterior of the buildings, and shall not paint, decorate or plant any portion of the exterior of the Unit or of the building in which the Unit is located including any Limited Common area.

(b) In the event an Owner shall fail to maintain the Unit, Lot and the improvements situated thereon in a manner satisfactory to the Board of Directors, the Association, after approval by two-thirds (2/3) vote of the Board of Directors, shall have the right, through its agents and employees, to enter upon said parcel and to repair, maintain and restore the exterior of the buildings and any other improvements erected thereon. The cost of such exterior maintenance shall be added to and become part of the assessment to which such Unit and/or Lot is subject.

(c) Except as hereinafter provided, the Management Committee shall provide for such maintenance and operation of the Common Areas and Facilities and of the Limited Common Areas and Facilities as may be reasonably necessary to keep them clean, functional, attractive and generally in good condition and repair. The Management Committee shall have no obligation regarding maintenance or care of Units.

22. Right of Entry. The Management Committee and its duly authorized agents shall have the right to enter any and all of the Units and the Limited Common Areas appurtenant thereto in case of an emergency originating in or threatening such Unit or any other party of the Project, whether or not the Unit Owner or occupant thereof is present at the time. The Committee and its duly authorized agents shall also have the right to enter into any and all of said Units and Limited Common Areas at all reasonable times as required for the purpose of making necessary repairs upon the Common Areas and Facilities of the Project or for the purpose of performing emergency installations, alterations or repairs to the mechanical or electrical devices or installations located therein or thereon; provided, however, such emergency installations, alterations or repairs are necessary to prevent damage or threatened damage to other Units in the Project; and provided further, that the Unit Owner or occupant affected by such entry shall first be notified thereof if available and if time permits. Any damage done to a Unit by the exercise of the foregoing Rights of Entry shall (to the extent not covered by insurance, if any) be deemed a common expense of Association.

23. Administrative Rules and Regulations. The Management Committee shall have the power to adopt and establish by resolution, such building management and operational rules as it may deem necessary for the maintenance, operation, management and control of the Project. The Committee may, from time to time by resolution, alter, amend and repeal such rules. When a copy of any amendment or alteration or provision for repeal of any rule or rules has been furnished to the Unit Owners, such amendment, alteration or provision shall be taken to be a part of such rules. Unit Owners shall at all times obey such rules and see that they are faithfully observed by those persons over whom they have or may exercise control and supervision, it being understood that such rules shall apply and be binding upon all Unit Owners, tenants, subtenants or other occupants of the Units.

24. Obligation to Comply with Declaration, Bylaws, Articles, Rules and Regulations. Each Unit Owner, tenant, subtenant or other occupant of a Unit shall comply with the provisions of the Act, this Declaration, the Bylaws, and the rules and regulations, all agreements and

determinations lawfully made and/or entered into by the Management Committee or the Unit Owners, when acting in accordance with their authority, and failure to comply with any of the provisions thereof shall be grounds for an action by the Management Committee or other aggrieved party for injunctive relief or to recover any loss or damage resulting therefrom.

25. Indemnification of Management Committee. Each member of the Management Committee shall be indemnified and held harmless by the Association of Unit Owners against all costs, expenses and liabilities whatsoever, including, without limitation, attorney's fees, reasonably incurred by him in connection with any proceeding to which he may become involved by reason of his being or having been a member of said Committee; provided, however, the foregoing indemnification shall not apply if the loss, expense of liability involved resulted from the willful misconduct, gross negligence or other intentional act of the member.

26. Amendment. This Declaration and/or the Map may be amended only as provided herein and upon the affirmative vote or approval and consent of not less than 67 % of the Unit Owners to change the undivided interest of the Unit Owners in the Common Areas and Facilities. Any amendment so authorized shall be accomplished by recordation of an instrument executed by the Management Committee. In said instrument the Committee shall certify that the vote or consent required by this Section has occurred. Notwithstanding the forgoing, the consent of owners of units to which at least 67 percent of the votes in the owners association are allocated and the approval of eligible holders of first mortgages on units to which at least 51 percent of the votes of units subject to a mortgage appertain, shall be required to materially amend any provisions of the declaration, by-laws or equivalent documents of the Project, or to add any material provisions thereto, which establish, provide for, govern or regulate any of the following:

- (1) Voting;
- (2) Assessments, assessment liens or subordination of such liens;
- (3) Reserves for maintenance, repair and replacement of the common elements;
- (4) Insurance or fidelity Bonds;
- (5) Rights to use of the common elements;
- (6) Responsibility for maintenance and repair of the several portions of the condominium;
- (7) Expansion or contraction of the condominium regime or the addition, annexation or withdrawal of property to or from the regime;
- (8) Boundaries of any unit;
- (9) The interests in the general or limited common elements;
- (10) Convertibility of units into common elements or of common elements into units;
- (11) Leasing of units;
- (12) Imposition of any right of first refusal or similar restriction on the right of a unit owner to sell, transfer, or otherwise convey his or her unit in the condominium;
- (13) Establishment of self-management by the condominium association where professional management has been required by any of the agencies or corporations.

The consent of owners of units to which at least 67 percent of the votes in the owners association are allocated and the approval of eligible holders of first mortgages on units to which at least 51 percent of the votes of units subject to a mortgage appertain, shall be required to amend any provisions included in the declaration, by-laws or equivalent documents of the condominium which are for the express benefit of holders or insurers of first mortgages on units in the condominium. As used herein the term "eligible holder" means an insurer or guarantor of a first mortgage on a Unit in the Project and which has requested "Notice" in accordance with the provisions governing notice set forth below.

27. Consent in Lieu of Vote. In any case in which the Act or this Declaration requires the vote of a stated percentage of the Project's undivided ownership interest for authorization or approval of a transaction, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Unit Owners who collectively hold at least such stated percentage of undivided ownership interest. The following additional provisions shall govern any application of this section:

(a) All necessary consents must be obtained prior to the expiration of ninety (90) days after the first consent is given by any Owner;

(b) Any change in ownership of a Unit which occurs after consent has been obtained from the Owner having an interest therein shall not be considered or taken into account for any purpose; and

28. Severability. The invalidity of any one or more phrases, sentences, subparagraphs, paragraphs, subsections or sections hereof shall not affect the remaining portions of this instrument or any part thereof, and in the event that any portion or portions of this instrument should be invalid or should operate to render this instrument invalid, this instrument shall be construed as if such invalid phrase or phrases, sentence or sentences, subparagraph or subparagraphs, paragraph or paragraphs, subsection or subsections or section or sections had not been inserted.

29. Declarant's Rights Assignable. All of the rights of Declarant under this Declaration may be assigned or transferred either by operation of law or through a voluntary conveyance, transfer or assignment.

30. Lease of Units. With the exception of a lender in possession of a Unit following a default in a first mortgage, a foreclosure proceeding or any deed or other arrangement in lieu of foreclosure, no Unit Owner shall be permitted to lease his unit or to have their unit leased except as provided in paragraph 8(b). No Unit Owner may lease less than the entire unit except a garage may be leased to another Unit Owner. *All lease agreements shall be required to provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration and the Bylaws of the Homeowners Association attached as an exhibit, and that any failure by the lessee to comply with the terms of such documents shall be a default under the lease.* All leases shall be required to be in writing and a copy of such lease shall be delivered to the Management Committee five (5) days prior to occupancy by the tenant. The Unit Owner shall notify the Management Committee of the names of the lessee of the Unit. In the event of a lease of a Unit, only the tenant and not the Unit Owner shall have the right to the use of the Common Areas and Facilities while the

Unit is leased. In the event insurance costs covered by paragraph 18 are increased due to the percentage of rentals, then those Unit owners shall pay their portion of the increased costs of insurance charged.

31. Legal Description of a Unit. Every conveyance or contract for the sale of a Unit and every other instrument affecting title to a Unit may describe that Unit by the number shown on the Map with the appropriate reference to the Map and to this Declaration, as each shall appear in the official records of Cache County, Utah, and in substantially the following form:

Townhouses: Unit _____ in Building _____ Cobble Stone at Spring Creek, Phase I as shown in the Record of Survey Map for Cobble Stone at Spring Creek, Phase I, a P.U.D. Project appearing in the Records of the County Recorder of Cache County, Utah, recorded on [Month] [Day], [Year], Recording No.[____].

For individual homes in Cluster Development: Lot _____, Cobble Stone at Spring Creek, Phase _____ as shown in the Record of Survey Map for Cobble Stone at Spring Creek, Phase I, a P.U.D. Project appearing in the Records of the County Recorder of Cache County, Utah, recorded on [Month] [Day], [Year], Recording No.[____].

This conveyance is subject to the provisions of the aforesaid Declaration.

Such description will be construed to describe the Unit, together with the appurtenant undivided interest in the Common Areas, and to incorporate all the rights incident to Ownership of a Unit and all the limitations on such ownership as described in this Declaration.

32. Expansion of the Project.

(a) Easements. Declarant hereby reserves an easement over and upon the common elements and all lands appurtenant to the project, but only if access is otherwise not reasonable available, for the purpose of completing the improvements described in this declaration.

(b) Reservation of Option to Expand. Declarant hereby reserves the option to expand the Project to include additional Units in the Project. This option to expand may be exercised from time to time, at different times and in any order, without limitation, provided however, the option shall expire seven (7) years from the effective date of the Declaration unless sooner terminated by Declarant's recorded Waiver of such option, there being no other circumstances which will cause the option to expire prior to said seven (7) years. Such right may be exercised without first obtaining the consent or vote of Unit Owners and shall be limited only as herein specifically provided. Such Units, consistent with the quality of construction of the initial Units as provided below, may be constructed on any or all portions of the Additional Property. The total number of Units in the Project, as expended, shall not exceed 12 units per acre with out the 10% land utilization incentive for open space and units with the land utilization incentive.

(c) Supplemental Declarations and Supplemental Maps. Such expansion may be accomplished by the filing for record by Declarant in the office of the County Recorder of Cache

County, Utah, no later than seven (7) years from the date this amended Declaration is recorded, a Supplement or Supplements to this Declaration containing a legal description of the site or sites for new Units, together with supplemental Map or Maps containing the same information with respect to the new Units as was required on the Map with respect to the Phase One Units. The expansion may be accomplished in phases by successive supplements or in one supplemental expansion.

(d) Expansion of Definitions. In the event of such expansion the definitions used in this Declaration automatically shall be expanded to encompass and refer to the Project as so expanded. e.g., "Property" shall mean the real property initially submitted under the Declaration, plus any Additional Property added to the Project by a Supplemental Declaration or by Supplemental Declarations, and reference to this Declaration shall mean this Declaration as so supplemented. All conveyances of Units after such expansion shall be effective to transfer rights in the Project, as expanded by use of the form of description with additional references to the Supplemental Declaration and the Supplemental Map. The recordation in the office of the Cache County Recorder of a Supplemental Map incident to any expansion shall operate automatically to grant, transfer, and convey to then Owners of Units in the Project as it existed before such expansion the respective undivided interests in the new Common Areas added to the Project as a result of such expansion. Such recordation shall also operate to vest in any then mortgagee of any Unit in the Project as it existed, interest so acquired by the Owner of the Unit encumbering the new Common Areas added to the Project as a result of such expansion.

(e) Declaration Operative on New Units. The new Units shall be subject to all the terms and conditions of this Declaration and therein shall be subject to ownership with all the incidents pertaining thereto as specified herein, upon recording the Supplemental Map and Supplemental Declaration in the said office of the Cache County Recorder.

(f) Right of Declarant to Adjust Ownership Interest in Common Areas. Each deed of a Unit shall be deemed to irrevocably reserve to the Declarant the power to appoint to Unit Owners, from time to time, the percentages in the Common Areas set forth in Supplemental or Amended Declaration. The proportionate interest of each Unit Owner in the Common Areas after any expansion of the Project shall be an undivided interest of the Project as expanded. A power coupled with an interest is hereby granted to the Declarant, its successors and assigns, as attorney in fact to shift percentages of the Common Areas in accordance with Supplemental or Amended Declarations recorded pursuant hereto and each deed of a Unit in the Project shall be deemed a grant of such power to the Declarant. Various provisions of this Declaration and deeds and mortgages of the Units may contain clauses designed to accomplish a shifting of the Common Areas. None of said provisions shall invalidate the other, but each shall be deemed supplementary to the other toward the end that a valid shifting of the Common Areas can be accomplished. Notwithstanding anything to the contrary herein, no change in the percentage of undivided interest in the Common Areas may be effected more than seven (7) years after the effective date of the amended Declaration except pursuant to Amendment as provided in Paragraph 25.

Accordingly, upon the recordation of a Supplemental Declaration and Supplemental Map incident to any expansion, the revised schedule of undivided interests in the Common Areas contained therein shall automatically become effective for all purposes and shall fully supersede any similar schedule which was contained in any Declaration associated with any prior phase. In the

event the provisions of the separate instruments relating to the Project conflict irreconcilably, the terms of that instrument which was recorded most recently shall control.

(g) Other Provisions Concerning Expansion. If the Project is expanded as hereinbefore contained, then it is further provided that:

(1) All or any part of the Additional Land may be added to the Project without any limitations whatsoever save and except that all additional Units created must be restricted to multi family residential housing limited to one family per dwelling unit.

(2) Portions of the Additional Land may be added to the Project at different times without any limitations.

(3) Declarant shall have the right without further compensation or conveyance or documentation to access existing drainage, sewer, utility and roads or build roads and access ways to the Additional Property through the easement areas as shown on the Map. The Association of Unit Owners shall not allow anything to be built upon or interfere with said easement areas.

(4) No assurances are made concerning:

(a) The locations of any improvements that may be made on any portion of the Additional Land that may be added to the Project.

(b) Type, kind or nature of improvements which may be created on any portion of the Additional Land, except that the common facilities other than community center building and recreational areas will be comparable to the Phase One and Phase Two facilities on a per Unit basis and will be of a similar quality of materials and construction to Phase One and Phase Two and will be substantially completed prior to annexation.

(c) Whether any Units created on any portion of the Additional Land will be substantially identical to those within the Initial Project except that Units will be of a similar quality of materials and construction as the Units in Phase One.

(d) Type size, or maximum number of Limited Common Areas which may be created within any portion of the Additional Land added to the Project.

(5) Notwithstanding anything to the contrary which may be contained herein, this Declaration is not intended, and shall not be construed so as to impose upon Declarant any obligation respecting, or to restrict Declarant in any way with regard to: (i) the submission of any portion of the Additional Land to the provisions of the act as land under this Declaration; (ii) the creation, construction, or addition to the Project of any additional property; (iii) the carrying out in any particular way or within any particular time of any development which may be undertaken except as herein mentioned; or (iv) the taking of any particular action with respect to the Additional Land, the Project, or any Land.

(6) Before the additional Units may be added to the Project, the following will be required : (i) all the improvements must be substantially completed; (ii) no additional property may be added to the Project, without the prior written consent of HUD, VA or FNMA if any of them holds, insures or guarantees any mortgage in the existing project at the time the property is to be added, provided such consent will not be withheld as provided in HUD Land use Bulletin No. 6; (iii) no lien may exist on the property to be added to the Project which would adversely affect the rights of the existing Unit owners, the priority of the first mortgages on the Units in the existing Project; (iv) all taxes and other assessments on the property to be added to the Project must be paid or otherwise satisfactorily provided for.

33. Records. The Association shall make available, upon written request and within a reasonable time, to the unit owners, lenders and the holders and insurers of the first mortgage on any unit current copies of the Declaration, by-laws and other rules governing the association and shall also make available prospective purchasers current copies of the same and the most recent audited financial statement, if any. The Association may charge a reasonable fee for such records and for compiling the records. Upon written request from any governmental agency which has an interest or prospective interest in a unit the Association shall and furnish within a reasonable time audited financial statements for the immediately preceding fiscal year.

34. First Lien Holder's Rights

(a) Notices of Action. A holder, insurer or guarantor of a first mortgage, upon written request to the Association, (such request to state the name and address of such holder, insurer or guarantor and the unit number), will be entitled to timely written notice of:

(1) Any proposed amendment of the condominium instruments effecting a change in (i) the boundaries of any unit or the exclusive easement rights appertaining thereto, (ii) the interests in the general or limited common elements appertaining to any unit or the liability for common expenses appertaining thereto, (iii) the number of votes in the owners association appertaining to any unit or (iv) the purposes to which any unit or the common elements are restricted;

(2) Any proposed termination of the condominium regime;

(3) Any condemnation loss or any casualty loss which affects a material portion of the condominium or which affects any unit on which there is a first mortgage held, insured or guaranteed by such eligible holder;

(4) Any delinquency in the payment of assessments or charges owed by an owner of a unit subject to the mortgage of such eligible holder, insurer or guarantor, where such delinquency has continued for a period of 60 days;

(5) Any lapse, cancellation or material modification of any insurance policy maintained by the Association pursuant to paragraph 18.

35. Amenities - Clubhouse. As part of the project the developer has agreed to build a clubhouse which will be completed by the end of phase I. Notwithstanding the developer shall be

entitled to retain the use of the club house in the nature of a sales office in the clubhouse until all the units have been sold.

36. Fire line. The fire lines (Main water lines) going into the development are for the sole use of providence City for fire protection not only in this development, but other areas of the City as well. Consequently the Association shall not attempt to utilize the fire lines for any other purpose without obtaining prior written approval from Providence City.

37. Gender. The singular, wherever used herein, shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, male or female, shall in all cases be assumed as though in each case fully expressed.

38. Construction and Invalidity. To the extent that these covenants and restrictions are in conflict with Federal, State or Local laws, regulations, rules or ordinances (collectively referred to as laws), such shall be construed, if possible to give maximum effect to the restriction without violating the applicable law. For example to the extent the American Disability Act allows accommodation animals then these restrictions shall be interpreted to allow such animals so long as the animal meets the applicable accommodation criteria. The invalidity of any provisions of this Declaration, or any portion thereof, shall not be deemed to impair or affect in any manner the validity, enforceability, or effect of the remainder of this Declaration and, in such event, all of the other provisions of this Declaration shall continue in full force and effect as if such invalid provision had never been included herein. This Declaration, notwithstanding any common law rule of construction shall be construed in favor of Declarant. If there are any ambiguities such shall not be construed against the Declarant, but resolved in a manner which would allow expansion of the Project as contemplated by the Declarant, it being understood that it is difficult to anticipate all contingencies and problems and in this regard Declarant's intent is to provide a means to expand the Project as provided herein. This first amendment is made to add provisions to this Declaration which conform to the HUD-FHA Land Use Bulletin No. 6 and to the extent that any provision is inconsistent with said Bulletin such shall to the fullest extent possible be construed consistent therewith.

39. Waivers. No provision contained in the Declaration shall be deemed to have been waived by reason of any failure to enforce it, irrespective of the number of violations which may occur.

40. Topical Headings. The topical headings contained in this Declaration are for convenience only and do not define, limit or construe the contents of the Declaration.

41. Effective Date. This Declaration (First Amended) shall take effect upon recording.

IN WITNESS WHEREOF, the Declarant has executed this Declaration this day of July, 2001.

BROOKHAVEN DEVELOPMENT, INC.,
A Utah Corporation

D. K. E. M.

David C. Harris, President

Don Christopherson, Secretary

STATE OF UTAH)
:ss
County of Cache)

On the 17th day of September 20th, personally appeared before me David C. Harris, President and Don Christopherson, Secretary who, being by me duly sworn, did say that they are the President and Secretary respectively of BROOKHAVEN DEVELOPMENT, INC., and that the said instrument was signed in behalf of said corporation by authority of its Articles of Incorporation, and the aforesaid individuals acknowledged to me that said Corporation executed the same.

Notary Public

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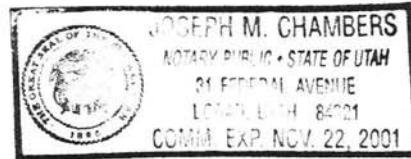


Exhibit "A"

**Legal Description
for
Cobblestone at Spring Creek, Phase 1**

A Part of the Southwest Quarter of Section 3, Township 11 North, Range 1 East of the Salt Lake Base and Meridian more particularly described as:

Commencing at the Ring and Cover Monument at the intersection of 200 West Street and 100 North Street thence N 26°05'45" W 3036.32 feet to the Northeast Corner of Lot 9, Block 34, Plat "A" of the Providence Farm Survey; thence S 00°15'32" W 668.89 feet to the point of beginning marked with a Hansen rebar RLS # 167819 and running thence S 89°54'48" W 667.09 feet to the easterly right-of-way line of Gateway Drive; thence along said street N 00°31'50" W 212.42 feet; thence leaving said street East 161.88 feet; thence North 140.00 feet; thence East 135.19 feet; thence S 00°05'12" E 79.99 feet; thence East 595.99 feet; thence South 266.08 feet; thence West 86.96 feet; thence South 56.26 feet; thence West 37.59 feet; thence North 72.70 feet; thence West 84.62 feet; thence South 21.69 feet; thence S 89°39'22" W 14.93 feet to the point of beginning, containing 5.58 acres.

A Part of the Southwest Quarter of Section 3, Township 11 North, Range 1 East of the Salt Lake Base and Meridian more particularly described as:

Commencing at the Ring and Cover Monument at the intersection of 200 West Street and 100 North Street thence N 26°05'45" W 3036.32 feet to the Northeast Corner of Lot 9, Block 34, Plat "A" of the Providence Farm Survey; thence S 00°15'32" W 668.89 feet to a rebar marked rebar RLS # 167819; thence S 89°54'48" W 634.09 feet to the easterly right-of-way line of Gateway Drive; thence along said Street N 00°31'50" W 212.37 feet to the point of beginning; and running thence East 144.86 feet; thence North 121.66 feet; thence East 119.21 feet; thence N 00°05'12" W 18.34 feet; thence West 265.34 feet to the easterly right-of-way line of Gateway Drive; thence along said street S 00°31'50" E 140.00 feet to the point of beginning, containing 0.51 acres.

Exhibit "B"
(Additional Lands - partial list not all inclusive)

Ent 769987 Bk 1039 Pg 228

Exhibit "C"
(Convertible Lands)

Convertible Land "A"

A Part of the Southwest Quarter of Section 3, Township 11 North, Range 1 East of the Salt Lake Base and Meridian more particularly described as:

Commencing at the Ring and Cover Monument at the intersection of 200 West Street and 100 North Street thence N 26°05'45" W 3036.32 feet to the Northeast Corner of Lot 9, Block 34, Plat "A" of the Providence Farm Survey; thence South 531.30 feet; thence West 607.41 feet to the point of beginning and running thence S 00°05'12" E 11.00 feet; N 89°54'48" E 21.00 feet; thence S 00°05'12" E 3.50 feet; thence N 89°54'48" E 21.00 feet; thence N 00°05'12" W 14.50 feet; thence S 89°54'49" W 42.00 feet to the point of beginning.

Convertible Land "B"

A Part of the Southwest Quarter of Section 3, Township 11 North, Range 1 East of the Salt Lake Base and Meridian more particularly described as:

Commencing at the Ring and Cover Monument at the intersection of 200 West Street and 100 North Street thence N 26°05'45" W 3036.32 feet to the Northeast Corner of Lot 9, Block 34, Plat "A" of the Providence Farm Survey; thence South 531.13 feet; thence West 475.41 feet to the point of beginning and running thence S 89°54'48" W 30.00 feet; thence S 00°05'12" E 14.50 feet; thence N 89°54'48" E 11.00 feet; thence S 00°05'12" E 1.00 feet; thence N 89°54'48" E 4.50 feet; thence N 00°05'12" W 3.00 feet; thence N 89°54'48" E 14.50 feet; thence N 00°05'12" W 12.50 feet to the point of beginning.

Convertible Land "C"

A Part of the Southwest Quarter of Section 3, Township 11 North, Range 1 East of the Salt Lake Base and Meridian more particularly described as:

Commencing at the Ring and Cover Monument at the intersection of 200 West Street and 100 North Street thence N 26°05'45" W 3036.32 feet to the Northeast Corner of Lot 9, Block 34, Plat "A" of the Providence Farm Survey; thence South 531.07 feet; thence West 455.41 feet to the point of beginning and running thence S 00°05'12" E 11.00 feet; thence N 89°54'48" E 21.00 feet; thence S 00°05'12" E 3.50 feet; thence N 89°54'48" E 21.00 feet; thence N 00°05'12" W 14.50 feet; thence S 89°54'49" W 42.00 feet.

Convertible Land "D"

A Part of the Southwest Quarter of Section 3, Township 11 North, Range 1 East of the Salt Lake Base and Meridian more particularly described as:

Commencing at the Ring and Cover Monument at the intersection of 200 West Street and 100 North Street thence N 26°05'45" W 3036.32 feet to the Northeast Corner of Lot 9, Block 34, Plat "A" of the Providence Farm Survey; thence South 397.47 feet; thence West 366.91 feet to the point of beginning and running thence South 60.00 feet; thence East 30.00 feet; thence North 60.00 feet; thence West 30.00 feet to the point of beginning.

Convertible Land "E"

A Part of the Southwest Quarter of Section 3, Township 11 North, Range 1 East of the Salt Lake Base and Meridian more particularly described as:

Commencing at the Ring and Cover Monument at the intersection of 200 West Street and 100 North Street thence N 26°05'45" W 3036.32 feet to the Northeast Corner of Lot 9, Block 34, Plat "A" of the Providence Farm Survey; thence South 317.48 feet; thence West 510.20 feet to the point of beginning and running thence East 65.00 feet; thence South 140.00 feet; thence West 65.00 feet; thence North 140.00 feet to the point of beginning.