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AFTER RECORDING PLEASE MAIL COPIES TO:

**CANYON CREEK SUBDIVISION LLC
c/o SYMPHONY DEVELOPMENT CORP.
Attn: Mike Flood
526 North 400 West
North Salt Lake, UT 84054**

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RICHARD T. MAUGHAN, DAVIS CNTY RECORDER
2003 JUN 24 11:08 AM FEE 100.00 DEP MT
REC'D FOR BONNEVILLE TITLE COMPANY, INC

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*Canyon Creek Ests
1 thru 12
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11-505-0001 thru 0013*

CANYON CREEK ESTATES SUBDIVISION
Layton, Utah
A Residential Subdivision Development

**DECLARATION OF COVENANTS, CONDITIONS, AGREEMENTS &
RESTRICTIONS AND HOMEOWNERS ASSOCIATION BY-LAWS**

CANYON CREEK SUBDIVISION LLC
a Utah limited liability partnership
DEVELOPER

**DECLARATION OF COVENANTS, CONDITIONS, AGREEMENTS AND RESTRICTIONS
AFFECTING THE REAL PROPERTY KNOWN AS**

Canyon Creek Estates Subdivision

THIS DECLARATION is made this 19 day of JUNE, 2003, by Symphony Development Corp. & Scenic Development, Members of Canyon Creek Subdivision LLC, hereinafter referred to as "Declarant".

WITNESSTH

WHEREAS, the Declarant, a Utah Limited Liability Corporation and record owner of real property more particularly described as follows:

All of Lots 1 through 12, inclusive, and common areas, as Canyon Creek Estates Subdivision, situated in the City of Layton, in the County of Davis, in the State of Utah, according to the official plat thereof recorded as Entry No. 1754446, in Book 3046, Page 751, in the office of the Davis County Recorder; hereinafter referred to as "Property".

11-505-0001 thru -0013

WHEREAS, it is the desire and intention of the Declarant to subdivide and sell the Property described above and to subject the Property to mutually beneficial restrictions under a general plan of improvement for the benefit of all the Property in the subdivision and the future owners of said Property;

WHEREAS, the Homeowners Association of Canyon Creek Estates (also known as Canyon Creek Estates Homeowners Association), hereinafter referred to as the "Association", has been or will be incorporated as a Utah non-profit corporation to act as a homeowners' association with the powers of managing, maintaining the property, administering and enforcing the covenants, conditions and restrictions, and assessing and collecting for, on a monthly basis, a prorated share of the cost for maintaining and repairing any and all common areas on the Property as described herein, and administering and performing such other acts as are provided for or set forth in this Declaration of Covenants, Conditions, Agreements and Restrictions for Canyon Creek Estates (this "Declaration") or which generally benefit its members or the Property.

THEREFORE, to further the general purposes herein expressed, Declarant, for itself, its successors and assigns, hereby declares that all of the Property shall at all times, be owned, held, used and occupied subject to the provisions of this Declaration and to the covenants, conditions and restrictions herein contained.

The following additional words, phrases or terms used in this Declaration shall have the following meanings:

- **"Board"** or **"Association Board"** shall mean the Board of Directors of the Association.
- **"Lots"** shall mean any area of real property within Canyon Creek designated as an individual lot.
- **"Member"** shall mean any person holding a membership in the Association.
- **"Owner"** (when so capitalized) shall mean the record holder of legal title to the fee simple interest in any lot. If there is more than one record holder of legal title to a lot, each record holder shall be an "Owner."

NOW, THEREFORE, Declarant hereby declares, for the purpose of protecting the value and desirability of the Property, that all of the Lots shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which shall run with the Lots, and be binding on all parties having any right, title or interest in the Lots or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE I – ASSOCIATION

- 1.1 FORMATION OF ASSOCIATION:** The Association shall be a Utah non-profit corporation charged with the duties and invested with the powers prescribed by law and set forth in its articles of incorporation, its bylaws, and this Declaration. Neither the articles nor bylaws of the Association shall, for any reason be amended, changed or otherwise interpreted so as to be inconsistent with this Declaration.
- 1.2 BOARD OF DIRECTORS AND OFFICERS:** The Board and such Officers shall conduct the affairs of the Association as the board may elect or appoint in accordance with the articles and bylaws of the Association as the same may be amended from time to time. The initial Board shall be composed of three (3) directors. The Board shall appoint a president, and other officers, who shall be known as the Management Committee, who shall, subject to the direction of the Board, be responsible for the day-to-day operation of the Association; the Board may also appoint various committees to assist with these duties.
- 1.3 PERSONAL LIABILITY.** Neither Canyon Creek Subdivision LLC or its members, nor any director of the Board or committee member of the Association shall be personally liable to any Owner, Member, or to any other person, including the Association, for any damage, loss, claim or prejudice suffered or claimed on account of any act, omission to act, or performed intentionally and with malice.

ARTICLE II – ASSOCIATION MEMBERSHIP AND VOTING

- 2.1 MEMBERS:** Every Owner of a Lot shall be a Member of the Association and, all such persons shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership to an Owner's lot and any such transfer shall automatically transfer the membership appurtenant to said Lot to the new Owner thereof.
- 2.2 VOTING:** Each Member shall be entitled to one vote for each Lot owned in accordance with the provisions hereof. When more than one Member owns any lot, the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any lot. The Association shall have no votes as to Lots owned by it.
- 2.3 NO CUMULATIVE VOTING.** In any election of the members of the Board, the Owner or Owners of a given Lot shall collectively have one vote for each Director position to be elected. The candidate receiving the highest number of votes for a given Director position shall be deemed elected. Cumulative voting shall not be allowed in the election of members of the Board or for any other purposes.

ARTICLE III – RIGHTS AND POWERS OF ASSOCIATION

- 3.1 ASSOCIATION'S RIGHTS:** In addition to the rights and powers of the Association set forth in this Declaration, the Association shall have such rights and powers as are set forth in its articles and bylaws.
- 3.2 RIGHTS OF ENFORCEMENT:** The Association, as the agent and representative of the members, shall have the right to enforce the covenants set forth in this Declaration. The Association, the Declarant or any Owner shall have the right to enforce by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations now or hereafter imposed by the provisions of the Declaration. In addition, the Association and the Declarant shall have the right to enforce at law or in equity, all liens and charges now or hereafter imposed by the provisions of this Declaration. If the Association, Declarant or any Owner prevails in any proceeding at the Association, the Declarant or such Owner, as applicable, is entitled to judgment against the breaching Owner or Member for all costs and reasonable attorney's fees associated with the action. Failure by the Association or the Declarant to enforce any covenants or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. Neither the Declarant, the Architectural Control Committee (individually or collectively), nor any director

of the Board or committee member of the Association shall be personally liable to any Owner, Member, or to any other person, including the Association, for any damage, loss, claim or prejudice suffered or claimed on account of any act, omission to act, or performed intentionally and with malice.

3.3 IMPROPER MAINTENANCE AND LIENS: In the event any portion of any lot is so maintained as to present a public or private nuisance, or as to substantially detract from the appearance or quality of surrounding Lots or in the event any portion of a Lot is being used in a manner which violates this Declaration, or in the event any Owner is failing to perform any of its obligations under this Declaration or the architectural guidelines and standards of the Design Review Committee, the Board may give notice thereof to the offending Owner that unless corrective action is taken within fourteen days, the Board may cause such action to be taken at said Owner's costs. If at the expiration of said fourteen-day period of time the required corrective action has not been taken the Board shall be authorized and empowered to cause such action to be taken, and the cost thereof shall be assessed against such Owner.

If the assessed cost is not paid by such Owner within thirty days, the amount of the cost plus interest, collection costs and reasonable attorney's fees, constitutes a lien upon the Owner's lot and upon the recording of notice of the lien by the Board, it is a lien upon the Owner's lot in priority position to all other liens and encumbrances, recorded or unrecorded, except (1) tax and special assessment liens on the Owner's lot in favor of any assessing unit or special improvement district, and (2) encumbrances on the Owner's Lot recorded prior to the date such notice is recorded.

The Board in cases of extreme hardship may release any such lien if it received other security for the payment of the delinquent costs, which it deems sufficient to protect the interests of the Association.

In the event the Homeowners Association does not maintain the common facilities and improvements as proposed and indicated at the time of subdivision, the City may, at its option, do or contract to have done the required maintenance, maintain liability insurance and pay general property taxes, and recover the costs incident thereto by means of a lien against the involved properties of the members of the Homeowners Association.

3.4 BY-LAWS: These provisions allow for the establishment of by-laws which enable a duly elected Board with a majority vote (of legal lot owners of the Property) to assess monies to the legal lot owners of the Property for the installation, maintenance and upkeep of improvements for the common good of the property owners herein. The Board may amend said by-laws from time to time with majority vote of said lot owners. The Board shall be comprised of a minimum of three and a maximum of seven legal lot owners of the Property. The Declarant shall be exempt from any lot fees approved and assessed by the Board.

3.5 OWNERSHIP, TAXATION & MAINTAINENCE OF COMMON AREA & PRIVATE ROADS:

- a. **Ownership:** At the time of initial recording of these covenants, conditions, agreements & restrictions, the Declarant owns the common areas and private roads as delineated on the plat of record. Declarant will in due time deed said common areas to other Owner or Owners, which may include the Association.
- b. **Taxation:** Taxes for common areas and private roads within Canyon Creek Estates Subdivision shall be assessed equally to each property owner. Prorations shall be observed if ownership changes at any time during the tax year.
- c. **Maintenance:** All responsibilities for the maintenance of and/or costs associated with the maintenance of common amenities associated with or found within the common areas and private roads shall be paid for by Association through the means of collection prescribed herein.

ARTICLE IV - ARCHITECTURAL CONTROL COMMITTEE

- 4.1 COMMITTEE MEMBERSHIP:** The initial Architectural Control Committee shall consist of the following four members: Bruce Robinson, Robert Miller, and, Michael Flood, all of Symphony Development Corp; and, Kim Rindlesbacher, of Scenic Development. Action by this committee shall be ratified by at least two members. In the event of death or resignation of any member of the committee, the remaining members of the committee shall have full authority to select a successor.
- 4.2 COMMITTEE DUTIES:** The Committee shall have all authority to interpret these covenants. Prior to the commencement of construction, the new owner or builder must submit two sets of plans to include all front, side and rear elevations detailing all exterior materials to be used, floor plans (including scale & dimensions of the structure to be erected), material specifications, and site plan before the review process can commence. A landscaping plan may be required as part of this initial review if the Committee deems it necessary. The Committee will respond with an approval or disapproval as required in these covenants in writing within fourteen (14) calendar days. In the event the Committee or its designated representative fails to approve or disapprove within fourteen (14) calendar days after plans and specifications have been submitted to it, approval will not be required but all related covenants must be fully complied with. Liability for non-compliance with said restrictions and covenants should not be borne by Committee as a result of misrepresentations by applicant or oversights by Committee.

ARTICLE V - RESIDENTIAL AREA COVENANTS

- 5.1 DWELLING—SIZE, QUALITY, EXTERIOR MATERIALS:** The following minimum finished square foot living area requirements shall apply. Living areas shall be calculated exclusive of garages, open porches, and basements. The "ground floor," as herein referred, shall be defined as the first floor with a floor elevation extending above the top back of curb at the driveway approach side of the lot.

a. **Dwelling Size:**

One Story Dwellings (Rambler): The required minimum above ground floor finished space shall be 1900 square feet or more with a minimum of 2-car garage required.

Two Story Dwellings: The required minimum above ground floor finished space shall be 2200 square feet or more with a minimum of 2-car garage required.

Multi-Level Dwellings: The required minimum above ground floor finished space shall be 2400 square feet or more with a minimum of 2-car garage required.

THE ARCHITECTURAL CONTROL COMMITTEE RESERVES THE RIGHT TO GRANT EXCEPTIONS TO THE ABOVE RESTRICTIONS IN ORDER TO PLACE AN APPROPRIATE HOME ON A SPECIFIC LOT DUE TO SLOPE RESTRICTIONS, LOT IRREGULARITY OR FOR ANY OTHER REASON THEY DEEM APPROPRIATE.

- b. **Dwelling Quality:** All construction shall be comprised of new materials, with exception to the use of used brick with prior written approval of the Architectural Control Committee. All improvements on a Lot shall be made, constructed and maintained, and all activities on a Lot shall be undertaken, in conformity with all laws and ordinances of the city of Layton, Davis County, and the State of Utah which may apply, including without limiting the generality of the foregoing, all zoning and land use ordinances.

- c. **Dwelling Exterior Materials:** The dwelling's front exterior shall have 2 or more large full front facing panels (subject to the discretion of the Architectural Control Committee) of brick or rock and the side exterior walls shall have at least a wainscot of brick or rock (to a natural break point down the sides), with the remainder in stucco or comparable product as approved by the

Architectural Control Committee. A "large full front facing panel" is defined as an architectural wall feature at least 8' in height and consists of at least 100 square feet on brick or rock (return walls or quoins can be included in the calculation of the "large full front facing panel" if they are at least 8' in height.) Cedar lapboard or other types of wood siding may be allowed by written approval from the Architectural Control Committee. Any of these exterior material requirements may be waived at the discretion of the Architectural Control Committee where the historic style will not permit its use. Vinyl or Aluminum siding shall be not allowed except for the soffit, fascia and/or rain gutter areas.

Each dwelling must have at least a 30-year architectural (laminate) asphalt type shingle. The Architectural Control Committee must approve any other variation from this specification.

If the Architectural Control Committee permits detached structures, they are to be constructed of identical exterior materials of the primary structure unless otherwise approved by the Architectural Control Committee. All property owners are required to check with the governing municipality for building code requirements and zoning restrictions.

ALL DWELLING SIZES, FLOOR PLANS AND EXTERIOR MATERIALS MUST BE SUBMITTED TO THE ARCHITECTURAL CONTROL COMMITTEE IN WRITING, AS OUTLINED IN ARTICLE 4.2 OF THESE COVENANTS, AND APPROVALS MUST BE OBTAINED IN WRITING PRIOR TO THE BEGINNING OF CONSTRUCTION ON THE HOME. IF SAID APPROVALS ARE NOT OBTAINED AND CONSTRUCTION BEGINS, OWNER SHALL BE SUBJECT TO A \$1000.00 FINE, AT THE ARCHITECTURAL CONTROL COMMITTEES DISCRETION, PAYABLE TO THE ARCHITECTURAL CONTROL COMMITTEE.

- 5.2 FENCES, WALLS, AND HEDGES:** All fences or walls should be kept to a minimum to encourage the use of the common areas and aesthetics. The use of hedges are encouraged but are required to be in conformance with the guidelines found in this section as well as any and all landscape requirements found herein. Any fence or wall constructed on any lot shall be approved by the Architectural Control Committee and be constructed in conformity to the following guidelines:
- a. **Material:** All allowed fences or walls shall be of brick, stone, wrought iron, rough-sawn cedar, or vinyl. No fence or walls shall be constructed of chain link, wire mesh, slump block (painted or unpainted) or concrete block unless approved in writing by the Architectural Control Committee.
 - b. **Height:** Any fence, wall (except rock retaining walls), hedge, or other similar structure (including without limitation, any "topping" on such structures) shall not be erected in a front yard to a height in excess of three (3) feet, nor shall any such structure be erected in any side or rear yard to a height in excess of six (6) feet. Where a retaining wall protects a cut below the natural grade and is located on the line separating Lots, a fence, wall or hedge or similar structure six (6) feet in height may top such retaining wall.
 - c. **Location:** Unless approved by the Architectural Control Committee, no fence, wall or hedge more than three (3) feet in height as outlined above, shall be erected, placed, altered, or permitted to remain on any lot closer than four (4) feet back on the residential structure on said lots. Where said hedge, fence or wall is located along the boundary line between two adjoining lots, it shall be erected no more than four (4) feet back on the residential structure that is furthest from the street. Fences bordering the common areas shall be of the same construction and style as determined by the Architectural Control Committee. Fences along corner property boundaries shall not be

permitted to be up against the sidewalk. Said fences shall be at least 1 foot from the sidewalk and shall be located on the owner's property.

5.3 DRAINAGE: Generally, the side and rear property lines are deemed drainage easements, and no lot shall be graded and no structure or other obstacle shall be erected, placed, or permitted to remain thereon in such a way as to interfere with the established drainage pattern over the lot to and from adjoining land. In the event it becomes necessary to change the established drainage over a lot, adequate provision shall be made for proper drainage. Any fence, wall or structure erected along the side or rear property line of any lot shall contain "weep holes" or shall be otherwise constructed so as to not prevent the flow of surface water from adjoining land where such flow is in accord with the established drainage. The owner of the lot shall continuously maintain the sloped areas of each lot and all improvements in them, except for those improvements for which a public authority, utility company or the Association is responsible.

5.4 SPECIAL PROVISIONS, CONDITIONS & DISCLOSURES: These provisions, conditions and disclosures are a compilation of issues addressed by municipalities, professional civil and soils engineers, geologists and the Declarant prior to the final approval and recordation of the plat of record.

a. Layton City Community Development Department – Memo dated 6/7/2002
RE: "Requirements to build in Canyon Creek"

The Community Development Department outlined specific requirements for each home or structure built in Canyon Creek Subdivision. This letter is attached hereto as Exhibit A.

b. AMEC Earth & Environmental, Inc (formerly AGRA Engineering Global Solutions) – Letter dated 10/11/1999; Supplement Letter No. 1 dated 12/13/1999; Supplement Letter No. 2 dated 2/7/2000; & Supplement Letter No. 3 dated 5/10/2001
RE: "Review of Debris-Flow Hazard Assessments"

An independent review and recommendation of debris-flow hazard assessments conducted on Canyon Creek Subdivision. These letters are attached hereto as Exhibits B, C, D, and E.

It must be noted that said letters refer to lot numbers that were designated on an earlier version of the plat in which 16 lots were platted. The final plat approved by Layton City and recorded with Davis County has only 12 lots. Lot numbers referred to in the letters and reports have changed, but the requirements have not. See Reliance Affidavit referenced below.

c. Reliance Affidavit – Canyon Creek Subdivision L.L.C. – Affidavit dated 6/10/2003

An affidavit clarifying conceptual design and plat changes (i.e. reduction in number of lots, and renumbering of the approved lots) to the original plat used in the AMEC & AGRA reports referenced above. This affidavit is attached hereto as Exhibit F.

d. Canyon Creek Estates Subdivision Recorded Plat
RE: "Plat Notes"

Owner must review these notes found on the recorded plat in conjunction with building a home on any lot within the subdivision.

5.5 USE REQUIREMENTS & RESTRICTIONS: The use of the Lots and common areas in the tract are subject to the following use requirements and restrictions:

a. Land Use. Each lot shall be used for private residence purposes only, and no pre-existing structure of any kind shall be moved from any other location and placed upon said lot, nor shall any incomplete building be permitted to remain incomplete for a period in excess of one year from the

date the building was started, unless approved by the Architectural Control Committee. No Lot shall be subdivided or partitioned.

- b. **Nuisance.** No Owner or resident, or their family members, guests or invitees shall create or maintain a nuisance, or if a nuisance is created, it shall be promptly abated. A nuisance means any condition, activity or behavior which bothers, disturbs or annoys other residents, or interferes with their quiet and peaceful enjoyment of the neighborhood, or the creation or maintenance of any noxious or offensive condition including but not limited to the assembly and disassembly of motor vehicles and other mechanical devices which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Property.
- c. **Temporary Structures.** No Owner or resident shall place upon any part of the Property any temporary structures including but not limited to tents, trailers, or sheds, without the prior written consent of the Committee, although the Developer may install and use temporary structures in the development of the Property and marketing of the Lots or Units.

No structures of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time as a residence, either temporarily or permanently.

- d. **Out Buildings.** It is understood that out buildings such as swimming pool and dressing facilities may be constructed on any lot as long as they are in conformity with the requirements of this Declaration and are approved by the Architectural Control Committee.
- e. **Energy Conservation Equipment.** No solar energy collector panels, other energy conservation equipment or attendant hardware shall be constructed or installed on the Property without the prior written consent of the Committee.
- f. **Commercial or Business Use.** No commercial trade or business may be conducted in or from any Lot unless: 1) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the residence; 2) the business activity conforms to all zoning requirements for the Property, and the necessary and required permits and licenses are obtained; 3) the business activity does not involve persons coming onto the Property who do not reside in the Property or door-to-door solicitation of residents of the Property; and 4) the business activity is consistent with the residential character of the Property and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Property, as may be determined in the sole discretion of the Committee. The terms "trade or business" shall have their ordinary and generally accepted meanings, which shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether such activity is engaged in full or part-time, such activity is intended to or does generate a profit, or a license is required therefore. The leasing of a Dwelling Unit shall not be considered a trade or business within the meaning of this subsection.
- g. **Storage and Parking of Vehicles.** Motor Vehicles in the Property shall be subject to the parking rules and regulations adopted by the Management Committee from time to time. No automobiles, trailers, boats, racks, snowmobiles, motor homes, recreational vehicles or any other type of vehicles shall be stored on driveways for more than 45 days. Such vehicles that are properly licensed and in running condition may be stored on side of the lot if properly screened from view. The Architectural Control Committee must approve the acceptability of the screening structure. Unlicensed vehicles or vehicles that are not in running condition must be stored in garages or at locations off the

Property. No motor vehicle or trailer, including but not limited to any car, automobile, truck, van, or any other transportation device of any kind may be parked or stationed in such a manner so as to block access to any Lot, Building or parking space, or to create an obstacle or potentially dangerous situation. No resident shall repair or restore any vehicle of any kind in, on or about any of the common areas or Public Rights of Way, except for emergency repairs, and then only to the extent necessary to enable movement thereof to a proper repair facility. No garage may be altered in such a manner that the number of motor vehicles that may reasonably be parked therein after the alteration is less than the number of motor vehicles that could have been reasonably parked in the garage as originally designed and constructed.

- h. **Aerials, Antennas, and Satellite Systems.** No television, ham radio, citizen band or radio antenna or other similar electronic receiving or sending device shall be permitted upon the rooftop or side of any home or elsewhere if exposed to the view from any other lot, unless approved by the Management Committee. New digital satellite style "mini-dishes" are excluded from this provision, and do not require Management Committee approval. In no case will any such receiving or sending antenna or other device be allowed to interfere with the peace and quiet enjoyment of any neighboring lot owner's premises or home entertainment facilities or equipment.
- i. **Signs.** No sign of any kind shall be displayed to the public view on any lot except one sign of not more than five square feet advertising the property for sale; or signs (of any size) used by a builder to advertise the property during the construction and sales period unless otherwise authorized by the Architectural Control Committee in writing.
- j. **Pets.** No more than two (2) domestic pets (i.e. dogs, cats) are allowed per Lot unless the Management Committee grants a variance in writing. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on or about the property. Residents with pet(s) shall abide by the pet rules and regulations adopted by the Committee from time to time. No pet may be allowed to create a nuisance. The following activities are deemed to be a nuisance: (1) Pets outside a Dwelling Unit and not in a fenced yard or in a cage or on a leash and under the control of the pet owner or his designee at all times; and (2) Pets in violation of the rules and regulations. Pets, which constitute a nuisance, in the sole opinion of the Management Committee, must be removed from the Property.

No dog will be allowed to roam unattended in Canyon Creek Estates. Dogs shall be kept in the house, a dog run or kennel. All dog runs or kennels shall be screened off and out of the direct view from any street, and should be in the rear yard of the home. At other times, dogs shall be on a leash and under the direct control and supervision of the owner.

- k. **Laws.** Nothing shall be done or kept in, on or about any Lot or common area, or any part thereof, which would be a violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body.
- l. **Damage or Waste.** No damage to, or waste of, the common area shall be committed by any Owner or any invitee of any Owner, and each Owner shall indemnify and hold the Association and the other Owners harmless against all loss resulting from any such damage or waste caused by that Owner or an invitee; provided, however, that any invitee of the Declarant shall not under any circumstances be deemed to be an invitee or any other Owner.
- m. **Common Area Structural Alterations.** No structural alteration to the common area or facilities is allowed without the prior written consent of the Association Board.

- n. **Repair of Buildings & Improvements.** No building(s) or improvement(s) upon any lot shall be permitted to fall into disrepair, and each such improvement shall at all times be kept in good condition and repair and adequately painted or otherwise finished by the Owner thereof.
- o. **Mail Boxes.** The mailbox location is regulated by the US Postmaster and is restricted by the same. Some restrictions may also be placed by the city as to location due to the fact that there is not a sidewalk found on some sides of the road. The Owner is solely responsible to obtain instructions for proper mailbox location and restrictions from said entities.
- p. **Refuse & Disposal.** No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste shall not be kept except in the sanitary containers provided by the City of Layton. If the City of Layton does not provide garbage collection, the Association shall be responsible to enter into a contract for garbage collection and bear the sole cost of said services. All containers or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.
- q. **Snow Plowing.** The recorded plat delineates a private road beginning approximately at the West edge of Lots #12 and #1. At the time of recordation, the road inside of the subdivision was private. In relation to this, if the City of Layton does not provide snow plowing, the Association shall be responsible to enter into a contract for this service and bear the sole cost of said services.
- r. **Excavations & Completing Improvements.** No excavation shall be made on any lot except in connection with the erection, alteration, or repair of a dwelling or other improvement thereon. When excavation or the erection, alteration, or repair of a structure or other improvements has once begun, the work must be executed diligently and completed within a reasonable time.

5.6 OFF-SITE IMPROVEMENTS: Before taking title or possession of any Lot, the Purchaser shall inspect the completed offsite improvements. Except for deficiencies or defects specified by the Purchaser to the developer before ownership is taken, purchaser hereby releases the developer from further obligations or responsibility as to the installation of the off-site improvements.

If the off-site improvements are not complete at the time ownership is taken, the Developer will, upon completion of the uncompleted off-site improvements, give written notice of completion to purchaser and, unless Purchaser notifies the Developer of any deficiencies within seven (7) days after the date of receipt of the notice of completion the off-site improvements shall be deemed acceptable to the Purchaser and the Developer will be released from any further obligations or responsibilities as to the installation of the previously incomplete off-site improvements.

CONDITIONS OF ACCEPTANCE: Upon transfer of title from Developer to Purchaser, Purchaser shall assume full responsibility for accepting property 'AS IS' and to make property inspection of the following prior to closing: 1) Sewer; 2) Culinary Water – house use; 3) Culinary Water – fire line; 4) Gas; 5) Electric; 6) Telephone; 7) Curb & Gutter; 8) Sidewalks (only some lots have sidewalk); 9) Asphalt roads; 10) Rough Grading; 11) others as applicable

All property owners understand that the Declarant does not own or exercise any control over water rights and easements associated with neighboring Holmes Creek, existing irrigation structures and piping installed on some properties. All property owners further understand that the Declarant is powerless in seeking to have said rights assigned.

5.7 LANDSCAPING: Initial landscape requirements are as follows: The owner is to landscape all front and side yards (to the rear of the home) in a manner accepted and approved by the Architectural Control Committee. The owner shall begin landscaping within 3 months of builder's receipt of a

Certificate of Occupancy from Layton City (weather permitting), or in the event that weather doesn't permit commencement of landscaping to begin the owner shall begin by May 1st. In either case, all of the landscaping requirements referenced herein shall be completed within 6 months of commencement. Initial landscaping of the common areas shall be exempt from these time restrictions.

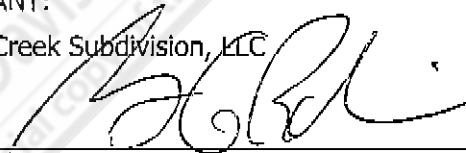
Any trees planted within public rights-of-way shall comply with Layton City's Ordinances and Approved Tree Species List (if applicable &/or required). Each owner must plant a minimum of two 2" caliper trees in the front yard or park strip found on the above referenced Layton City Approved Tree Species List within the prescribed time allotted to complete the initial landscaping requirements. The Architectural Control Committee shall have authority to specify and limit the type and placement and/or removal of trees and other foliage. All trees, lawns, shrubs or other plantings shall be properly nurtured and maintained or replaced at the Owner's expense upon request of the Architectural Control Committee.

ARTICLE VII - GENERAL PROVISIONS

- 7.1 ENFORCEMENT:** Any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by any Owner to enforce any covenants or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.
- 7.2 SEVERABILITY:** Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provision, which shall remain in full force and effect.
- 7.3 AMENDMENT:** Exceptions to the strict interpretation of these guidelines that would cause undo hardship serving no public purpose may be appealed to the Architectural Control Committee. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of forty (40) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended or terminated by a vote of at least seventy-five percent (75%) of the total votes of all Owners, which vote shall be taken at a duly called meeting. Any amendment approved shall be written, signed, and recorded against the Lots.

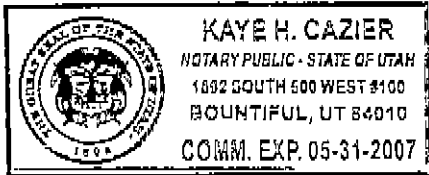
IN WITNESS WHEREOF, the undersigned, being the Declarant herein, have hereunto set their hand this day of 19 JUNE, 2003.

DECLARANT:
Canyon Creek Subdivision, LLC

By: , BRUCE G. ROBINSON
CEO of Symphony Development Corp., a Member of Canyon Creek Subdivision, LLC.

On the 19 day of June, 2003, personally appeared before me Bruce G. Robinson who being by me duly sworn did say that he is the CEO OF SYMPHONY DEVELOPMENT CORP., which corporation is known to me to be a MEMBER of CANYON CREEK SUBDIVISION, LLC, that he signed the foregoing instrument by proper authority, both in its capacity as a corporation, and in its capacity as member of said Limited Liability Company and the said BRUCE G. ROBINSON, duly acknowledged to me that said corporation and Limited Liability Company executed the same.

Signed: Kaye H. Cazier
NOTARY PUBLIC
Residing at Kaysville, UT
My commission expires 5-31-2007



Provided by Davis County Government - Notary Public for Real Estate Division
This is not an official copy of this document. For an official copy, please contact Davis County Government.

BY-LAWS OF THE CANYON CREEK ESTATES HOMEOWNERS ASSOCIATION**ARTICLE I - OFFICES**

- 1.1** The initial principal offices of the Corporation in the State of Utah shall be located at 526 North 400 West, North Salt Lake, UT 84054.

ARTICLE II - MEETINGS

- 2.1 ANNUAL MEETINGS.** The annual meeting of the members shall be held during the month of January of each year beginning with the year 2004, for the purpose of electing Directors and for the transaction of such other business as may come before the meeting. In the event that such annual meeting is omitted by oversight or otherwise during the month provided for, the Directors shall cause a meeting in lieu thereof to be held as soon thereafter as may be convenient, and any business transacted or elections held at such meeting shall be as valid as if transacted during the month in which the annual meeting was to be called. If the election of Directors shall not be held during the month designated herein for the holding of the annual meeting of members or at any adjournment of any meeting so called, such subsequent meetings shall be called in the same manner as is provided for the calling of the annual meeting of the members. Such meeting may also be called without the required advance notice if the quorum of members calling such meeting shall obtain from the members of the foundation, written waiver of notice of such meetings, and such waiver shall be attached to the minutes of the annual members' meeting so called, in the corporate minute book.
- 2.2 SPECIAL MEETINGS.** Special meetings of the Members may be called at any time by the President or by a majority of a quorum of the Board of Directors, or upon written request of the Members representing at least fifty percent (50%) of the total membership.
- 2.3 NOTICE OF MEETINGS.** Notice of all Members' meetings, annual or special, shall be given by personal delivery mail or telegram and shall be given not less than fifteen (15) days nor more than sixty (60) days before the time of the meeting and shall set forth the place, date, and hour of the meeting, and the nature of the business to be undertaken. Notices shall be given by, or at the direction of, the secretary or person authorized to call the meeting, and shall be transmitted to each Member. Notices shall be addressed to the Member's address last appearing on the books of the Foundation or supplied by the Member. Mailed notices shall be deemed received seventy-two (72) hours after they are mailed by standard mail; notice by telegram shall be deemed received twenty-four (24) hours after they are sent. Notices to Members may also be personally delivered and shall be deemed received upon delivery to any occupant of the Member's residence.
- 2.4 QUORUM.** The presence at any meeting in person or by proxy of fifty percent (50%) of the Members constitutes a quorum. If any meeting cannot be held because a quorum is not present, a majority of those present, either in person or by proxy, may adjourn the meeting for a period of not more than three (3) business days to acquire the proxy or presence of a quorum of Members. If the required quorum cannot be obtained, another meeting may be called subject to the notice requirement and the required quorum at the subsequently noticed meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting. Any meeting of the Members at which a quorum is present may be adjourned for any reasons to a time not less than forty-eight (48) hours nor more than thirty (30) days from the time of such meeting by Members representing a majority of the votes present either in person or by proxy. If after the adjournment a new date is fixed for the adjourned meeting, notice of the time and place of the adjourned meeting shall be given to Members in the manner prescribed for regular meetings.
- 2.5 PROXIES.** At all meetings of Members each Member may be present in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy is revocable and automatically terminates eleven (11) months from the date of its execution unless otherwise provided in the proxy, and in all cases, such proxy shall terminate three (3) years from its date.

2.6 ORDER OF BUSINESS. The order of business of all meetings of the Members shall be as follows:

- e. Call to Order, Roll Call;
- f. Proof of Notice of Meeting or Waiver of Notice;
- g. Reading and Approval of Minutes of Preceding Meeting;
- h. Review Follow-Up from Prior Meetings;
- i. Reports of Board of Directors and Officers;
- j. Election of Members of the Board of Directors (if any are to be elected);
- k. Unfinished Business; and
- l. General Business

2.7 WAIVER OF NOTICE. Whenever any notice is required to be given by these Bylaws, or by the Certificate of Incorporation of this Corporation, or by any of the Corporation laws of the State of Utah, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated herein, shall be deemed equivalent thereto.

ARTICLE III - BOARD OF DIRECTORS

3.1 GENERAL POWERS. Its Board of Directors shall manage the business and the affairs of the Corporation.

3.2 ELECTION OF BOARD OF DIRECTORS. The Board of Directors shall be chosen by ballot at the annual meeting of members or at any meeting held in place thereof, as provided by law.

3.3 BOARD OF DIRECTORS AND OFFICERS. The Board of Directors and Officers shall conduct the affairs of the Association as the board may elect or appoint in accordance with these articles and bylaws of the Association and in accordance with the recorded CC&R's, as the same may be amended from time to time. The initial Board shall be composed of three (3) directors. The number of Directors shall be not less than three (3), or more than five (5) Directors. Each Director shall hold office until the next annual meeting of members or until his successor shall have been duly elected and qualified.

3.4 POWERS OF DIRECTORS. The Board of Directors shall have the responsibility for the entire management of the business of this Corporation in the management and control of the property, business and affairs of the Corporation, the Board of Directors is vested with all of the powers possessed by the Corporation itself insofar as this delegation of authority is not inconsistent with the laws of the State of Utah and with the Certificate of Incorporation or with these Bylaws.

3.5 MEETING OF DIRECTORS. Regular meetings of the Board of Directors may be determined by vote, and if so determined, no notice thereof need be given. Meetings of the Board of Directors may be held by telephone. Special meetings of the Board of Directors may be held at any time or any place within or without the State of Utah whenever called by the President, Vice-President, Treasurer, Secretary and Assistant Secretary or two (2) Directors, notice thereof being given to each Director by the Secretary or an Assistant Secretary or by the officer calling the meeting, or by delivering the same to him personally or telegraphing the same to him at his residence or business address not later than forty-eight (48) hours prior to the date on which the meeting is to be held. In case of emergency, the chairman of the Board of Directors or the resident may prescribe a shorter notice to be given personally or by telegraphing each Director at his residence or business address. Such special meeting shall be held at such time and place as the notice thereof or waiver shall specify. The Board of Directors shall appoint the officers of the Corporation after its election by the members, and a meeting may be held without notice for this purpose immediately after the annual meeting of members and at the same place. In this, the Board shall appoint a president, and other officers, who shall be known as the Management Committee, who shall, subject to the direction of the Board, be responsible for the day-to-day operation of the Association; the Board may also appoint various committees to assist with these duties.

3.6 QUORUM OF DIRECTORS. A majority of the members of the Board of Directors as constituted for the time being shall constitute a quorum for the transaction of business, but a lesser number not less than two (2) may adjourn any meeting and the meeting may be held as adjourned without further notice. When a quorum is present at any meeting, the majority of the members present thereat shall decide any question brought before such meeting except as otherwise provided by law or by these Bylaws.

- 3.7 VACANCIES.** Any vacancy occurring in the Board of Directors may be filled by an affirmative vote of the majority of the remaining Directors though not less than a quorum of the Board of Directors, unless otherwise provided by law or by the Certificate of Incorporation. A Director elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office.
- 3.8 COMPENSATION.** By resolution of the Board of Directors, Directors may be paid their expenses, if any, of attendance at each meeting of the Board of Directors. No such payment shall preclude any Director from serving the Corporation in any other capacity and receiving compensation therefore.
- 3.9 PRESUMPTION OF ASSENT.** A Director of the Corporation who is present at a meeting of the Board of Directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his dissent shall be entered in the minutes of the meeting or unless he shall file his written dissent of such action with the person acting as Secretary of the meeting, or the adjournment thereof, or shall forward such dissent by registered mail to the Secretary of the Corporation immediately after the adjournment of the meeting. Such right to dissent shall not apply to a Director who voted in favor of such action.
- 3.10 FORMAL ACTION BY DIRECTORS.** Unless otherwise provided by law, any action required to be taken at a meeting of the Board of Directors or any other action which may be taken at a meeting of the Board of Directors may be taken without a meeting if a consent in writing, setting forth the action so taken shall be signed by all the Directors entitled to vote with respect to the subject matter thereof.
- 3.11 PERSONAL LIABILITY.** Neither Canyon Creek Subdivision, LLC or its members, nor any director of the Board or committee member of the Association shall be personally liable to any Owner, Member, or to any other person, including the Association, for any damage, loss, claim or prejudice suffered or claimed on account of any act, omission to act, or performed intentionally and with malice.

ARTICLE IV - OFFICERS

- 4.1 OFFICERS OF THE CORPORATION.** The officers of this Corporation shall be a President, a Vice-President or Vice-Presidents, as the case may be, a Secretary, and an Assistant Secretary, if so required, and a Treasurer. The Board of Directors who, when present, shall preside at all meetings of the Officers. The Officers of the Corporation shall have other such powers as the Board of Directors may, from time to time, prescribe.
- 4.2 ELIGIBILITY OF OFFICERS.** The President and chairman of the Board of Directors need not be members but shall be Directors of the Corporation. The Vice-President or Vice-Presidents, Secretary and/or Assistant Secretary, Treasurer, and such other officers as may be elected or appointed, need not be members or Directors of the Corporation. Any person may hold more than one office provided the duties thereof can be consistently performed by the same person; provided, however, that no person shall, at any time, hold the three (3) offices of President, Vice-President and Secretary-Treasurer.
- 4.3 ADDITIONAL OFFICERS AND AGENTS.** The Board of Directors at its discretion, may appoint a General Manager, one or more Assistant Treasurers and one or more Assistant Secretaries and such other officers or agents as may be deemed advisable and prescribe the duties thereof.
- 4.4 ELECTION AND TERM OF OFFICE.** The officers of the Corporation to be appointed by the Board of Directors shall be appointed annually by the Board of Directors at the first meeting of the Board of Directors held after each annual meeting of the members. If the appointment of officers shall not be held at such meeting, such appointment shall be held as soon thereafter as may be convenient. Each officer shall hold the office until his successor shall have been duly appointed and shall have qualified or until his death or until he resigns or is removed in the manner hereafter provided.
- 4.5 PRESIDENT.** The President shall be the chief executive officer of the Corporation and, when present, shall preside at all Association meetings of the members unless a member of the Board of Directors is present. The President shall also sign all bonds, deeds, mortgages, extension agreements, modification of mortgage agreements, leases and contracts of the Corporation. He shall perform all the duties commonly incident to his office and shall perform such other duties, as the Board of Directors shall designate from time to time.

- 4.6 VICE PRESIDENT OR VICE PRESIDENT(S).** Except as specifically limited by vote of the Board of Directors, any Vice-President shall perform the duties and have the powers of the President during the absence or disability of the President and shall have the power to sign all bonds, deeds and contracts of the Corporation. He shall perform such other duties and have such other powers, as the Board of Directors shall, from time to time, designate.
- 4.7 SECRETARY OR ASSISTANT SECRETARY.** The Secretary shall keep accurate minutes of all meetings of the members of the Board of Directors and shall perform such other duties and have such other powers, as the Board of Directors shall, from time to time, so designate.
- 4.8 TREASURER.** The Treasurer, subject to the order of the Board of Directors, shall have the care and custody of the money, funds, valuable papers, and documents of the Corporation (other than his own bond, if any, which shall be in the custody of the President), and shall have and exercise, under the supervision of the Board of Directors, all the powers and duties commonly incident to his office and shall give bond in such form and with such sureties as shall be required by the Board of Directors. He shall deposit all funds of the Corporation in such bank or banks, trust company or trust companies, or with such firm or firms doing a banking business as the Directors shall, from time to time, so designate. The Treasurer may endorse for deposit or collection all checks and notes payable to Corporation or to its order, and may accept drafts on behalf of the Corporation. He shall keep accurate books of account of the Corporation's transactions which shall be the property of the Corporation and, together with all property in his possession, shall be subject at all times to the inspection and control of the Board of Directors.
- Such officer(s) shall sign all checks, drafts, notes or other obligations for the payment of money or agent(s) as the Board of Directors shall, by general or special resolution, direct. The Board of Directors may also in its discretion, require by general or special resolution, that checks, drafts, notes and other obligations for the payment of money shall be countersigned or registered as a condition to their validity by such officer(s) or agent(s) as shall be directed in such resolution.
- 4.9 RESIGNATIONS AND REMOVALS.** Any Director or officer of the Corporation may resign at any time by giving written notice to the Corporation, to the Board of Directors, or to the Chairman of the Board, or to the President or Secretary of the Corporation. Any such resignation shall take effect at the time specified therein or, if the time is not specified therein, upon its acceptance by the Board of Directors.
- 4.10 VACANCIES.** If the office of any Director or Officer or other agent becomes vacant by reason of death, resignation, removal, and disqualification or otherwise, the Directors may, by vote of a majority of a quorum, choose a successor or successors who shall hold office for the unexpired term. The Association members may fill vacancies in the Board of Directors, at a meeting called for this purpose, by vote of a simple majority of the members present and those represented by proxy. Vacancies resulting from an increase in the number of Directors may be filled in the same manner.
- 4.11 SALARIES.** The Board of Directors shall fix the salaries of the officers from time to time, and no officer shall be prevented from receiving such salary by reason of the fact that he is also a Director of the Corporation.
- 4.12 MANAGEMENT COMMITTEE.** The Board of Directors, as previously outlined, shall appoint the officers of the Corporation after its election by the members. These officers shall be known as the Management Committee, and shall, subject to the direction of the Board, be responsible for the day-to-day operation of the Association; the Board may also appoint various committees to assist with these duties.

ARTICLE V - CONTRACTS, LOANS, CHECKS AND DEPOSITS

- 5.1 CONTRACTS.** The Board of Directors may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name and on behalf of the Corporation, and such authority may be general or confined to specific instances.
- 5.2 LOANS.** No loans shall be contracted on behalf of the Corporation and no evidence of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Directors. Such authority may be general or confined to specific instances.

- 5.3 **CHECKS, DRAFTS, ETC.** Checks, drafts or other orders for payment of money, notes or other evidences of indebtedness issued in the name of the Corporation shall be signed by such officer or officers, agent or agents of the Corporation, and in such manner as shall, from time to time, be determined by a resolution of the Board of Directors.
- 5.4 **DEPOSITS.** Funds of the Corporation not otherwise employed shall be deposited from time to time to the credit of the Corporation in such banks, trust companies or other depositories as the Board of Directors may, in its sole discretion, select.
- 5.5 **CONFLICTS.** Nothing contained in this Article shall, in any way conflict, or in any way otherwise, hamper the duties and obligations as set forth for the Treasurer of the Corporation.

ARTICLE VI - WAIVER OF NOTICE

- 6.1 Unless otherwise provided by law, whenever any notice is required to be given to any member, or Director of the Corporation under the provisions of these Bylaws or under the Certificate of Incorporation, a waiver of notice thereof in writing, signed by the person(s) entitled to such notice, whether before or after stated therein, shall be deemed equivalent to the giving of such notice.


ARTICLE VII - MISCELLANEOUS

- 7.1 The Board of Directors shall have the power to fix, and from time to time, change the fiscal year of the Corporation. Unless otherwise fixed by the Board of Directors, the calendar year shall be the fiscal year.
- 7.2 The Board of Directors shall, at all times, keep themselves informed and take such steps and necessary actions as a reasonable, prudent man would do to serve the best interest of the Corporation.

ARTICLE VIII - AMENDMENTS

- 8.1 The Bylaws of the Corporation, regardless of whether made by the members or by the Board of Directors, may be amended, added to or replaced by a vote of not less than a majority of the members. Each member shall have one vote.

The foregoing Bylaws were adopted by Canyon Creek Estates Homeowners Association, Inc., at a meeting of the Incorporators of said Corporation held on the 19 day of JUNE, 2003.


Secretary MICHAEL C. FLOOD

**Layton City
Community Development Department**

Memo

1881821 33318 91290

To: Symphony Homes
From: Chelse Maughan
Date: June 7, 2002
Re: Requirements to build in Canyon Creek

General Requirements:

1. A letter of indemnification from the subdivision developer and Kay Achter must be submitted for the file. A letter of indemnification from the property owner (usually Symphony Homes) to the City must accompany the building permit application and must be tied to the title report.
2. Individual soil reports will be required for all lots and must accompany the building permit application. Soils reports should address the footing/foundation design, retaining, and slope stability if appropriate.
3. All homes must be designed to seismic zone 3.
4. All homes must have fire sprinklers.
5. Finish and existing grades and contours should be on the site plan and building elevation.
6. A geotechnical engineer must be on site for the excavation of all lots. A letter must be provided for each lot after the footing excavation and before the framing inspection, stating that no abnormal conditions were noticed. (According to City maps, a fault line stops at the cul-de-sac in Tanglewood and starts again at the northeast corner of this site. It should be noted that all lots might not be buildable if there are hazards discovered during excavation.)

Requirements Specific to lots 1-5:

Canyon Creek Estates CC&R's

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1. Homes should be north of Holmes Creek and not allowed to have doors or windows on the south or east side below a height of three feet above existing grade.
2. Receipt of written and stamped documentation from the subdivision geologist hydrologist, or engineer stating that all finished elevations as shown on the plat had been met and any stream channel modification had been done per their recommendations. This letter shall be submitted before the four-way inspection.
3. Receipt of a letter from the contractors stating that all building requirements recommended in the Keaton December 1999 report had been followed. The letter must be supplied before the framing inspection.

Requirement Specific to lots 6 and 7:

1. No irrigation of excavation of any kind will be allowed beyond the developable area. (Memo from Doug Smith dated 2/8/00)



Canyon Creek Estates CC&R's

EXHIBIT B

(Page 1 of 9)

AGRA Earth &
Environmental, Inc.
4137 South 500 West
Salt Lake City, Utah 84123
Tel: (801) 266-0720
Fax: (801) 266-0727

October 11, 1999
Job No. 9-817-002607

Magic Valley Construction, L.L.C.
438 North Highway 89
Layton, Utah 84041

Attention: Mr. Kay Achter

Gentlemen.

Re: Review of Debris-Flow Hazard Assessments
Proposed Canyon Creek Estates
Layton, Utah

1. INTRODUCTION

This report contains the results of our independent review of debris-flow hazard assessments conducted by other consultants at the proposed Canyon Creek Estates. The site is located in the east part of the Layton City at the mouth of Adams Canyon. Adams Canyon is drained by North Fork Holmes Creek. A layout of the proposed subdivision is presented on Figure 1, Canyon Creek Estates Lot Layout. A "Creek Access Easement" is located north of North Fork Holmes Creek on the south sides of Lots 6, 7, 8, and 9, as shown on Figure 1.

The purpose of our consulting service is to provide an independent opinion regarding the debris-flow hazard at the proposed Canyon Creek Estates site. The scope of our service consisted of reviewing reports by other consultants, review memoranda by the Utah Geological Survey, participating in a meeting at Layton City Community Development Department, and preparing this report. A meeting was held at the Layton City office from 10:00 to 11:30 on October 1, 1999.

The reports and memorandums reviewed as part of this service consisted of the following:

- Consulting report by George C. Toland Consulting Geotechnical Engineers dated October 21, 1998.
- Review of the Toland report by Richard E. Giraud, Utah Geological Survey, dated December 30, 1998.
- Consulting report by LGS & Associates dated April 1999.

- Review of the LGS report by Richard E. Giraud, Utah Geological Survey, dated May 21, 1999
- Response to the May 21, 1999, review by LGS & Associates dated June 1999.

2. SUMMARY OF DEBRIS-FLOW HAZARD ASSESSMENTS

The Toland report did not address debris-flow hazards, but boulders were described on the south and west parts of the site. The December 30, 1999, Utah Geological Survey review recommended that debris-flow hazards be evaluated.

The LGS report described weathered and partially buried boulders near the present channel of North Fork Holmes Creek. The LGS report also described additional smaller boulders within 100 feet of the channel. The LGS report speculated that the boulders were deposited during the Bonneville Flood. Trenches 1 through 6, excavated by LGS in a west-to-east orientation on Lots 5 through 9, exposed debris-flow deposits 2 to 3 feet thick. The LGS report described bedrock exposures in the channel of Adams Canyon and a general "debris-free nature" of the canyon drainage. Dark gray organic staining in the debris-flow deposit exposed in Trenches 1 through 6 was interpreted by LGS to indicate a range fire in late Holocene time that denuded the slopes of Adams Canyon and caused the debris flow.

The LGS report concluded that debris-flow hazards at the site were low to very low because (1) sediment had been transported from the canyon, (2) the drainage channel was generally free of debris, (3) the channel between the mouth of the canyon and the development had capacity to contain sediment, (4) waterfalls in the lower part of Adams Canyon will act as check dams to future debris flows, and (5) no debris flow occurred on the Adams Canyon fan during the El Niño year of 1983. The LGS report referred to Keaton et al. (1991) to indicate that the sedimentation events that occurred in Davis County in 1983 had recurrence intervals of 500 to 3,700 years.

The May 21, 1999, Utah Geological Survey review noted that young debris-flow deposits on the upper part of the Adams Canyon fan indicated a significant hazard to the Canyon Creek Estates site. The Utah Geological Survey review noted that the "low to very low" debris-flow hazard concluded by the LGS report was not quantified in terms of debris-flow volume or frequency. The Utah Geological Survey review noted that waterfalls do not act as check dams to debris flows and that the canyon drainage is not free of debris. The Utah Geological Survey review referenced Lowe (1988) to indicate that an historical debris-flow occurred in Adams Canyon, but did not reach the alluvial fan at the canyon mouth. The Utah Geological Survey review suggested that debris-flow depths and volumes could be estimated from thickness and extent of individual debris-flow deposition events in the area of the proposed subdivision. The Utah Geological Survey review recommended that debris-flow hazards at the Canyon Creek Estates site be re-evaluated to define areas of sediment deposition; estimate frequency of events, event volumes, travel paths, and flow depths; and recommend risk-reduction measures. The Utah Geological Survey review also recommended disclosure to future home buyers the reports and reviews regarding hazards at the site.

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Canyon Creek Estates CC&R's
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The LGS response noted that the Adams Canyon watershed was in the Wasatch National Forest and suggested that any future fires would be promptly suppressed. The LGS response concluded that the debris-flow deposit exposed in Trenches 1 through 6 was unquestionably of late Holocene age and that the trenches extended through most of the Holocene deposits with only one debris-flow event on the Adams Canyon fan. The LGS response maintained that the waterfalls would act as effective check dams and disputed the presence of an historical debris flow in Adams Canyon. The LGS response used generalized geometry to estimate a 15,000- yd³ volume of the debris-flow deposit encountered in Trenches 1 through 6 and inferred that the debris came from the 1 000-foot long channel below the lower waterfall.

3. DISCUSSION

The report by Keaton et al. (1991) was prepared in September 1988 to satisfy the requirements of a U.S. Geological Survey grant to the Utah Geological Survey that supported Keaton's dissertation research. The report was published as a contract report by the Utah Geological Survey in 1991 and given a contract report number. However, it is a 1988 report that was superceded by Keaton's dissertation at Texas A&M University which was published in November 1988.

The LGS report refers to the Keaton et al. (1991) report to indicate that the 1983 sedimentation events in Davis County had a recurrence interval of 500 to 3,700 years. The basis for this statement was developed at the Rudd Creek fan in Farmington. The absence of an historical debris-flow event on the Adams Canyon fan could be expressed in equivalent, but limited, recurrence-interval terms, (i.e., the recurrence interval is longer than the approximately 150-year historical record), but additional details of the alluvial-fan stratigraphy would be required to provide a suitable basis for determining recurrence intervals.

A late Holocene age for the debris-flow deposits estimated by LGS appears to be reasonable for the deposits exposed in Trenches 1 through 6. However, this age is incompatible with the LGS speculation that the boulders were deposited by the Bonneville flood, a late Pleistocene event that has been dated at approximately 15,000 years before present (Currey and Oviatt, 1985).

The Los Angeles County Flood Control District uses check dams to mitigate debris-flow hazards in some canyons. These check dams have different designs, but they resemble waterfalls when viewed from the downstream direction. The upstream sides of the check dams are, in fact, debris basins with low gradients. The check dams have freeboard to provide storage volume. The check dams usually are placed in series with the upstream edge of the debris basin from one check dam being positioned a short distance downstream from the next higher check dam. The waterfalls in Adams Canyon have not been observed as part of the current consulting service, but it is doubtful that they will act as check dams for future debris flows.

The LGS response to the Utah Geological Survey review comments included an estimate of 15,000 yd³ for the volume of the debris-flow deposits on the site and an inference that the debris came from a 1000-ft-long channel section below the lower waterfall in Adams Canyon. The estimated volume is speculative based on the debris-flow deposit encountered in Trenches 1

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through 6 and projection of the subsurface conditions across the Adams Canyon fan. Insufficient subsurface investigation has been conducted to provide an adequate basis for estimating a debris-flow deposit volume. However, a thickness of 2 to 3 feet does appear to be justified for use as a design depth for Lots 6, 7, 8, and 9. It is our opinion that it is unlikely that a significant debris flow on the Adams Canyon fan came from a 1000-ft-long channel section below the lower waterfall.

Keaton (1988) developed a probabilistic model for sedimentation hazards on alluvial fans in Davis County. He relied on the geomorphology and stratigraphy of alluvial fans to develop relationships between sedimentation-event volumes and frequencies. The best information was derived from examination of the Rudd Creek fan and the Ricks Creek (Ford Canyon) fan. The relationships developed from examination of Rudd Creek fan and Ricks Creek fan were projected to other fans in Davis County on the basis of alluvial-fan and drainage-basin areas. He used different statistical methods to develop probabilistic relationships of sedimentation-event volume and exceedance probability. An estimated sedimentation-event volume of 933 m³ (1220 yd³) was developed for Adams Canyon for an exceedance probability of 10 percent in an exposure time of 100 years.

Evanstad and Rasely (1995) predicted sediment production from northern Wasatch Front canyons caused by significant storms following fires. They used an expert opinion method developed by the Pacific Southwest Interagency Committee (U.S. Department of Agriculture, Forest Service, Soil Conservation Service, Bureau of Land Management) to rank ten different parameters that affect sediment yield. The precipitation event that they considered in their modeling was continuous rainfall for at least one hour delivering at least 0.1 inch of water depth. This precipitation scenario is on the order of a 25-year or longer event. However, the predicted sediment yield volume does not translate readily to a frequency or recurrence interval because the probability of fire in the Wasatch Front canyons has not been quantified. Evanstad and Rasely (1995) predicted the effects of a low-intensity burn and a high-intensity burn in the canyons along the northern Wasatch Front. For Adams Canyon, they predicted a high-intensity burn would produce 3762.7 yd³ of sediment. A debris-flow event of 3762.7 yd³ would inundate an area of 40,637 ft² (0.933 ac) with a flow depth of 2.5 ft. This predicted volume is approximately 3 times the volume of the 10 percent, 100-year sediment event predicted by Keaton (1988) for the Adams Canyon fan, and appears to be a reasonable volume to use for design of debris-flow mitigation facilities at Canyon Creek Estates.

The distance from the apex of the Adams Canyon fan to the access road between Lots 5 and 6 (see Figure 1) is approximately 740 ft as measured on the 1982 Davis County orthophotograph of Sec. 24, T. 4 N., R. 1 W. The typical width of the channel on the 1982 orthophotograph appears to be 20 to 30 ft. A width of 20 ft would require a channel 6.9 ft deep along the 740-ft length to equal the volume of the sediment following a high-intensity burn. Similarly, a channel 30 ft wide would require a channel 4.6 ft deep to equal the same volume. The gradient of the channel is approximately 10 to 12 percent. A channel this steep will not act as an effective debris storage area, but recommendations are presented below for enhancing debris storage in this channel section.

During the meeting at the Layton City offices on October 1, 1999, a comment was made that the access road between Lots 5 and 6 provides access to the property to the south of the Canyon

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Creek Estates property. This access road was damaged by the flood of 1983, and was rebuilt with a 54-inch diameter culvert. This culvert probably will pass substantial clear-water discharge in North Fork Holmes Creek, but it is likely to become plugged during a debris flow of 3762.7 yd³.

Also during the meeting at the Layton City offices, a comment was made that the Utah Department of Transportation has plans to widen US Highway 89 on the west side of the proposed Canyon Creek Estates. Flood control structures built in the 1930s are located along North Fork Holmes Creek adjacent to the existing US Highway 89 north-bound lanes. These structures will be removed as part of the highway widening project.

4. CONCLUSIONS AND RECOMMENDATIONS

Based on the information summarized above, it is our opinion that a debris-flow hazard does exist at the proposed Canyon Creek Estates site. It is also our opinion that reduction of the debris-flow hazard should be a public and community flood control issue, rather than a single subdivision issue. The part of Canyon Creek Estates primarily affected by the debris-flow hazard is Lots 6, 7, 8, and 9, shown on Figure 1. It should be noted that the absence of an historical sedimentation event on the Adams Canyon fan indicates that debris flow hazards are less frequent than the 100-year event. Therefore, regulation of the debris flow hazard goes beyond the traditional 100-year flood event.

The results of existing debris-flow hazard evaluations by LGS indicate that one pre-historic debris flow deposit exists on the site, but the base of the post-Lake Bonneville deposits has not been exposed at the site. Therefore, it is not known if the debris-flow deposit exposed in Trenches 1 through 6 is the only one at the Canyon Creek Estates site.

An apparent lack of agreement exists between LGS and the Utah Geological Survey regarding available sediment in Adams Canyon channels. Therefore, we recommend that the post-high-intensity burn sediment volume be used for design purposes at the Canyon Creek Estates site. This volume of 3762.7 yd³ is 3 times larger than Keaton's (1988) 10 percent, 100-year predicted volume for sedimentation on the Adams Canyon fan.

A "Creek Access Easement" is located on the south side of Lots 6, 7, 8, and 9, as shown on Figure 1. This easement should be part of the titles describing these lots. A continuous berm should be constructed near the northern limit of the Creek Access Easement, shown by a heavy dashed line on Figure 1. This continuous berm should extend upstream to a point near the apex of the Adams Canyon alluvial fan, but potential impacts to the property on the south side of North Fork Holmes Creek should be considered. This berm should be approximately 3 feet high. It may be convenient to construct the berm with soil excavated from basements of houses within the Canyon Creek Estates subdivision. Boulders should be placed on the south side of the berm for additional erosion protection.

The channel of North Fork Holmes Creek should be improved from the apex of the Adams Canyon alluvial fan to the access road between Lots 5 and 6. The improvements should consist of clearing

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vegetation and straightening, widening, deepening, and stepping the channel. A channel 20 ft wide should be approximately 6.9 ft deep, whereas a channel 30 ft wide should be approximately 4.6 ft deep. The bottom of the channel should be stair-stepped. The tread of the stair-stepped channel should slope to the west at approximately 3 percent for distances of 50 ft. The riser of the stair-stepped channel should be approximately 3-1/2 ft high and protected from erosion by boulders, much like a rock retaining wall. The low-flow channel for North Fork Holmes Creek can be allowed to flow across the treads and risers, or a low-flow channel can be created as part of the channel improvements.

It should be recognized that channel modifications require permits from the Utah Division of Water Rights. It should also be recognized that the access road embankment with the 54-in. diameter culvert in the North Fork Holmes Creek will act as a dam during significant debris-flow discharge and may be overtopped by debris and post-debris-flow water discharge in the creek. Lot 5 could be affected by this overtopping. Sediment deposited in the improved channel of North Fork Holmes Creek should be removed as part of a maintenance program so that the channel continues to have adequate capacity to store sediment. No channel improvements are warranted downstream of the culvert in the access road because of the Utah Department of Transportation plans to widen US Highway 89. We recommend that Layton City coordinate with the Utah Department of Transportation to be certain that the US Highway 89 drainage design is compatible with the Canyon Creek Estates plans for North Fork Holmes Creek.

Homes constructed on Lots 6, 7, 8, and 9 should be required to have no windows or doors on the south or east walls below a height of 4 ft above existing site grade. Furthermore, as a minimum, basement walls should be constructed of cast-in-place reinforced concrete designed in accordance with the provisions of the current Uniform Building Code for Seismic Zone 3. The concrete walls should extend at least 4 ft above existing site grade on the south and east walls of the houses on Lots 6, 7, 8, and 9.

The titles to Lots 6, 7, 8, and 9 should reference the geotechnical and geologic evaluations and recommendations so as to disclose the debris-flow hazard to future home buyers.

Magic Valley Construction, L.L.C.
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October 11 1999
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Canyon Creek Estates CC&R's
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We trust that this report is satisfactory for your present needs. If you have questions or require additional information, please do not hesitate to contact us.

Sincerely,
AGRA Earth & Environmental, Inc.



Jeffrey R. Keaton, Ph.D., State of Utah No. 7294
Professional Engineer

Reviewed by:



Jennifer M. Helm
Project Geologist

Encl. Figure 1

Addressee (3)

c: Mr. Doug Smith (2)
Layton City
Community Development Department
437 North Wasatch Drive
Layton, Utah 84041

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Canyon Creek Estates CC&R's

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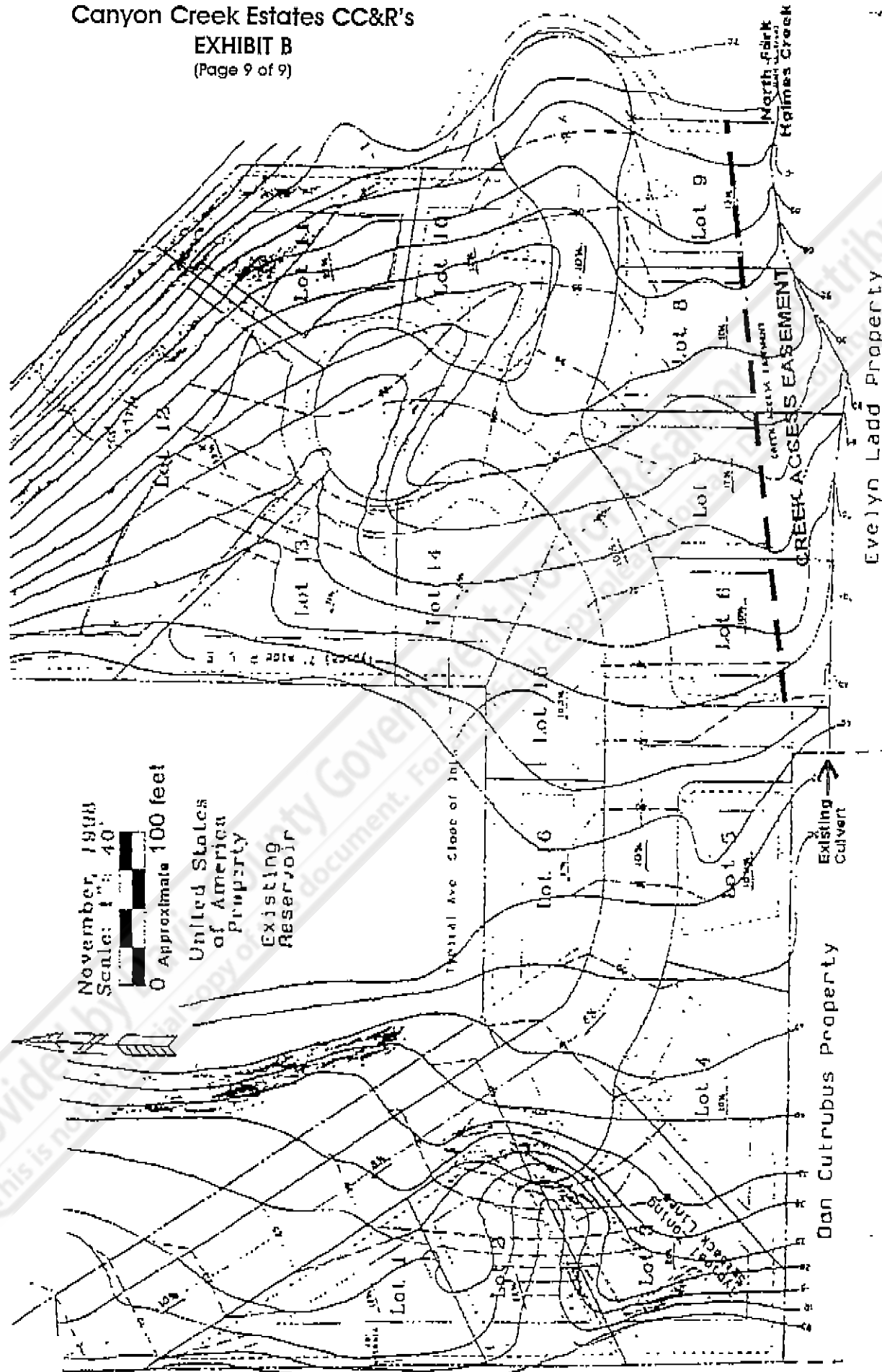
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Canyon Creek Estates CC&R's

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November, 1988
Scale: 1" = 40'

0 Approximate 100 feet

United States
of America
Property
Existing
Reservoir

FIGURE 1. CANYON CREEK ESTATES LOT LAYOUT

Canyon Creek Estates CC&R's

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AGRA Earth &
Environmental, Inc.
4137 South 500 West
Salt Lake City, Utah 84123
Tel: (801) 266-0720
Fax: (801) 266-0727

December 13, 1999
Job No. 9-817-002607

Magic Valley Construction Co., L.L.C.
438 North Highway 89
Layton, Utah 84041

Attention: Mr. Kay Achter

Gentlemen:

Re: Supplement No. 1
Review of Debris-Flow Hazard Assessments
Proposed Canyon Creek Estates
Layton, Utah

1. INTRODUCTION

This report is Supplement No. 1 to AGRA Earth & Environmental Inc.'s (AGRA) report dated October 11, 1999¹, regarding our independent review of debris-flow hazard assessments conducted by other consultants at the proposed Canyon Creek Estates. The purpose of this supplement is to respond to a letter from Magic Valley Construction Co. dated December 6, 1999. The proposed Canyon Creek Estates site is located in the east part of the Layton City at the mouth of Adams Canyon. Adams Canyon is drained by North Fork Holmes Creek. A layout of the proposed subdivision was presented in our October 11, 1999 report as Figure 1, Canyon Creek Estates Lot Layout.

The Magic Valley Construction Co. letter transmitted drawings prepared by Balling Engineering that show topographic contours and channel cross sections along the North Fork of Holmes Creek and the location of the 100-year flood boundary. The letter noted that the channel area is smallest in the vicinity of Lot 8. It also noted that channel modifications recommended in our October 11, 1999, report (widening, straightening, and stepping) would be difficult, if not impossible, to achieve because of land ownership, environmental, and cost issues. The letter requested consideration of proportioning the height of the berm recommended in our October 11, 1999 report on the basis of it being three feet high in the vicinity of Lot 8 and lower in Lots 6, 7, and 9 where the existing channel is deeper. The letter also requests consideration of similar proportioning the

¹ "Review of Debris-Flow Hazard Assessments, Proposed Canyon Creek Estates, Layton, Utah" Job No. 9-817-002607.

height of the windowless basement walls for houses in Lots 6, 7, 8, and 9. The Magic Valley Construction Co. letter also proposes clearing timber, brush, and debris from the channel of the North Fork of Holmes Creek without channel geometry modification. It also proposes disclosing the geologic evaluation on appropriate real estate documents.

2. DISCUSSION

Figure 1 in our October 11, 1999, report identified a "creek access easement" with a dashed line in Lots 6, 7, 8, and 9. The Magic Valley Construction Co. letter indicates that this line actually represents the centerline of a Holmes Creek Irrigation Co. pipeline and that the creek-access easement required by Davis County is 30 feet from the creek centerline. The berm recommended in our October 11 report was to be located near the dashed line on Figure 1 in Lots 6, 7, 8, and 9, and extend to a point near the apex of the alluvial fan east of Lot 9.

A brief discussion of the debris-flow hazard at the Canyon Creek Estates project site occurred in the Utah Geological Survey office on October 18, 1999. Scott Carter from Layton City, Gary Christenson from Utah Geological Survey, and Jeff Keaton from AGRA were attending a seismic safety meeting. At the conclusion of the seismic safety meeting, Rich Giraud from Utah Geological Survey came into the room and showed some photographs of the channel conditions upstream of the water falls referred to in consultant's reports and our report dated October 11, 1999. The photographs shown by Rich Giraud indicated that a substantial amount of sediment, including debris-flow deposits, has accumulated in the channel.

A regional sedimentation evaluation conducted by Evanstad and Rasely (1995) was referred to in our October 11, 1999, report as the basis for our recommended design debris-flow volume. Evanstad and Rasely estimated the potential sediment volume for Adams Canyon following a high-intensity burn of the watershed to be 3763 yd³. The Evanstad and Rasely procedure estimates sediment derived from slopes only, and does not consider the volume of sediment available in channels. In preparing our October 11, 1999, report, we understood that the channels in Adams Canyon had a relatively small amount of existing sediment. Therefore, the recommended design debris-flow volume of 3763 yd³ could be exceeded following a high-intensity burn of the entire drainage basin. It is our opinion that the 3763-yd³ volume is still appropriate as a design basis for a 100-year-type event because of the relatively low probability of a high-intensity burn across 100 percent of the drainage basin. Nonetheless, the debris-flow-hazard potential should be disclosed to people considering buying lots in the Canyon Creek Estates subdivision and noted on the titles to Lots 6, 7, 8, and 9.

The 100-year flood boundaries shown on the Balling Engineering maps were not checked by AGRA. A note on the sheet that contains Lot 7 indicates three discharge values apparently representing the 100-year clearwater flood. The FEMA value is 80 cubic feet per second (cfs), the Corps of Engineers value is 450 cfs, and the Davis County value is 200 cfs. An assumed

Magic Valley Construction, L.L.C.
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roughness coefficient is shown as 0.150. The flood boundary plotted on the maps is for the 450-cfs discharge value.

It is our opinion that a roughness coefficient of 0.150 is unrealistically high, even for a channel with abundant brush. However, the flow depth calculated by Balling Engineering using a roughness coefficient of 0.150 would be greater than the depth calculated using a more realistic value. Consequently, the projected flood boundary probably is conservative, especially considering that the largest 100-year discharge value was selected.

3. CONCLUSIONS AND RECOMMENDATIONS

The maps prepared by Balling Engineering are helpful in evaluating the flood and debris-flow hazard at the Canyon Creek Estates site. The height of the berm recommended in our October 11, 1999, report may be proportioned to produce a uniform gradient that approximates the channel gradient. We recommend that the berm be located near the Holmes Creek Irrigation Co. pipeline and that it be extended to a point near the apex of the alluvial fan east of Lot 9. The lowest point controlling the height of the berm probably will be east of Lot 9, not in the vicinity of Lot 8 as indicated in the Magic Valley Construction Co. letter. Based on the channel and flood information developed by Balling Engineering, it is our opinion that a maximum height of two feet above the existing ground surface will provide an acceptable level of additional protection.

Homes constructed on Lots 6, 7, 8, and 9 should be placed north of the Holmes Creek Irrigation Co. pipeline and required to have no windows or doors on the south or east walls below a height of three feet above existing site grade. Furthermore, as a minimum, basement walls should be constructed of cast-in-place reinforced concrete designed in accordance with the provisions of the current Uniform Building Code for Seismic Zone 3. The concrete walls should extend at least three feet above existing site grade on the south and east walls of the houses on Lots 6, 7, 8, and 9.

We understand the problems with the channel modifications recommended in our October 11, 1999 report. We understand that removal of timber, brush, and debris from the channel is planned. It is our opinion that adequate channel capacity to protect the Canyon Creek Estates Subdivision will exist with the recommended berm along the Holmes Creek Irrigation Co. pipeline without the previously recommend channel geometry modifications.

The titles to Lots 6, 7, 8, and 9 should reference the geotechnical and geologic evaluations and recommendations so as to disclose the debris-flow hazard to future homebuyers.

4. REFERENCE

Evanstad, N.C., and Rasely, R.C., 1995, G.I.S. application in the northern Wasatch Front pre-fire hazard risk assessment, Davis and Weber Counties, Utah, in Lund, W.R., ed., Environmental and

Magic Valley Construction, L.L.C.
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Engineering Geology of the Wasatch Front Region, Utah: Utah Geological Association Publication
24, p. 169-184.

We trust that this Supplement No. 1 report is satisfactory for your present needs. Please bind it with
our report dated October 11, 1999. If you have questions or require additional information, please
do not hesitate to contact us.

Sincerely,
AGRA Earth & Environmental, Inc.



Jeffrey R. Keaton, Ph.D., State of Utah No. 7294
Professional Engineer

Reviewed by:



Jennifer M. Helm
Project Geologist

JRK/JHM:sn

Addressee (3)

c: Mr. Doug Smith (2)
Layton City
Community Development Department
437 North Wasatch Drive
Layton, Utah 84041

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Canyon Creek Estates CC&R's

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AGRA Earth &
Environmental, Inc.
4137 South 500 West
Salt Lake City, Utah 84128
Tel (801) 266-0720
Fax (801) 266-0727

February 7, 2000
Job No. 9-817-002607

Magic Valley Construction Co., L.L.C
438 North Highway 89
Layton, Utah 84041

Attention: Mr. Lynn Rindlisbacher

Re: Supplement No. 2
Review of Debris-Flow Hazard Assessments
Proposed Canyon Creek Estates
Layton, Utah

Gentlemen:

1. INTRODUCTION

This report is Supplement No. 2 to AGRA Earth & Environmental Inc.'s (AGRA) report dated October 11, 1999¹, regarding our independent review of debris-flow hazard assessments conducted by other consultants at the proposed Canyon Creek Estates. AGRA's Supplement No. 1 was issued on December 13, 1999². The purpose of this supplement is to respond to a letter from the Utah Geological Survey dated December 21, 1999, written by Mr. Richard Giraud. The proposed Canyon Creek Estates site is located in the east part of the Layton City at the mouth of Adams Canyon. Adams Canyon is drained by North Fork Holmes Creek. A layout of the proposed subdivision was presented in our October 11 report as Figure 1, Canyon Creek Estates Lot Layout.

The Utah Geological Survey letter expresses concern that future homebuyers will be exposed to considerable risk from debris-flow hazards if AGRA's recommended design is implemented because our design debris-flow volume is too small. The Utah Geological Survey letter states that debris flows are particularly dangerous to life and property because they move fast, destroy and bury objects in their paths, and often strike without warning. The letter notes some historical facts about debris-flow damage and volumes in Davis County. The letter then criticizes AGRA's use of the Soil Conservation Service post-fire estimate of sediment yield from Adams Canyon as the basis

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- ¹ "Review of Debris-Flow Hazard Assessments, Proposed Canyon Creek Estates, Layton, Utah"
- ² "Supplement No. 1, Review of Debris-Flow Hazard Assessments, Proposed Canyon Creek Estates, Layton, Utah"

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Job No. 9-817-002607
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Page 2

Canyon Creek Estates CC&R's
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for a design debris-flow volume because it is an annual sediment yield from burned slopes that does not include the volume of sediment stored in the canyon channels.

The Utah Geological Survey letter states that Adams Canyon has not had a debris flow during historical time, and that a large sediment discharge would exceed AGRA's design volume and impact the proposed development. The letter recommends basing a design debris-flow volume on a comparison of the estimated volumes of debris-flow deposits in the alluvial fan at the mouth of the canyon and the sediment debris stored in the mountain channels. Layton City is then urged to require a thorough debris-flow hazard assessment for the proposed Canyon Creek Estates subdivision. The letter notes that AGRA's recommended design debris-flow volume is small compared to the volumes of historical debris flows that have occurred in Davis County.

2. DISCUSSION

AGRA's design philosophy was to provide an estimated volume for a 100-year-type event. Consequently, the annual risk would be approximately 0.01 for a sediment-discharge event that is larger than the recommended design debris-flow volume. This level of risk is considered acceptable on a national scale for flood hazards. It is AGRA's opinion that this also is an acceptable level of risk for flood-like hazards associated with debris flows. AGRA used the Soil Conservation Service procedure for post-fire sediment yield to develop a design debris-flow volume ignoring the potential for either (1) storage of sediment in the channels to reduce the volume of sediment delivered to the fan or (2) incorporation of sediment from the channel to increase the volume of sediment delivered to the fan.

AGRA agrees that channelized debris flows travel fast and have the potential to kill people and damage property. Unchannelized debris flows, however, tend to spread laterally and become thinner and slow rapidly. A future debris flow in Adams Canyon will be channelized until it emerges from the canyon mouth at a point some distance east of the proposed subdivision. AGRA's recommended design measures include a berm north of the channel on the fan to provide some containment for a debris-flow event. It is AGRA's opinion that the existing channel volume and the volume south of the proposed berm will provide adequate containment for the recommended design debris-flow volume.

As an aside, the Utah Geological Survey's letter references six people killed in Farmington Canyon in a 1923 debris flow. These people were killed in the canyon where the debris flow was channelized. No other human deaths or injuries have occurred from historical debris flows in Davis County since it was inhabited in 1847, more than 150 years ago.

A "probable maximum debris-flow event" (in a sense similar to a probable maximum flood) would be expected to overwhelm the channel and the recommended berm. It must be recognized that a clear-water (sediment-free) flood in Adams Canyon that was considerably less probable than the 100-year event (for example, the 500- or 1000-year event) also would overwhelm the channel.

Such a flood probably would cause considerable damage well downstream of the point where sediment likely would stop from a "probable maximum debris flow". Yet, the hazard from such a clear-water flood does not seem to be considered equally important by the Utah Geological Survey, and certainly it is not regulated on a national scale.

It is AGRA's opinion that a more thorough evaluation of debris-flow deposit volume in the Adams Canyon alluvial fan and sediment in the mountain channels would be of value only for estimating the volume of a sediment-discharge event that is much less likely to occur than the 100-year event. AGRA agrees that historical debris-flow event volumes from canyons in Davis County typically are larger than the recommended design debris-flow volume for Adams Canyon. However, such debris flows also are much less likely than the 100-year debris-flow event.

3. CONCLUSIONS AND RECOMMENDATIONS

It is AGRA's conclusion that the proposed Canyon Creek Estates subdivision will be adequately protected from the 100-year debris flow in Adams Canyon by the design provisions described in our October 11, 1999, report and modified in our December 13, 1999, Supplement No. 1. It is further AGRA's opinion that a debris flow with a volume larger than the design event could occur in Adams Canyon, but that the annual risk of such a larger volume will be less than 0.01. It is for this reason that AGRA recommends that the titles to Lots 6, 7, 8, and 9 should reference the geotechnical and geologic evaluations and recommendations so as to disclose the debris-flow hazard to future homebuyers. Furthermore, AGRA recommends that future homebuyers in the Canyon Creek Estates subdivision be advised that financial compensation from flood-like damage caused by "mudflows" is available through the National Flood Insurance Program administered by the Federal Emergency Management Agency as long as Layton City complies with national flood control requirements.

As recommended in Supplement No. 1, homes constructed on Lots 6, 7, 8, and 9 should be placed north of the Holmes Creek Irrigation Co. pipeline and required to have no windows or doors on the south or east walls below a height of three feet above existing site grade. Furthermore, as a minimum, basement walls should be constructed of cast-in-place reinforced concrete designed in accordance with the provisions of the current Uniform Building Code for Seismic Zone 3. The concrete walls should extend at least three feet above existing site grade on the south and east walls of the houses on Lots 6, 7, 8, and 9.

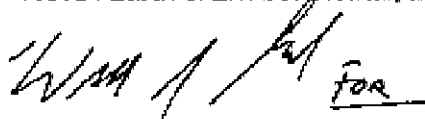
AGRA recommends that Magic Valley Construction Co. resist any request or requirement from Layton City to provide flood control protection for flood or debris-flow events that are less likely than the 100-year event because the 100-year flood event is the level of risk deemed acceptable on a national scale. Actually, it is AGRA's opinion that flood control provided at the mouth of Adams Canyon will benefit downstream property owners and should be a Davis County public works project rather than a private investment.

Magic Valley Construction L.L.C
Job No 9-817-002607
Supplement No. 2, February 7, 2000
Page 4

Canyon Creek Estates CC&R's
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(Page 4 of 4)

We trust that this Supplement No. 2 report is satisfactory for your present needs. Please bind it with our report dated October 11, 1999, and Supplement No. 1 dated December 13, 1999. If you have questions or require additional information, please do not hesitate to contact us.

Sincerely,
AGRA Earth & Environmental, Inc.



Jeffrey R. Keaton, Ph.D., State of Utah 7294
Professional Engineer No.

Reviewed by:



Jennifer Helm
Project Geologist

Addressee (4)

c. Mr. Doug Smith (2)
Layton City
Community Development Department
437 North Wasatch Drive
Layton, Utah 84041

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Canyon Creek Estates CC&R's

EXHIBIT E

(Page 1 of 3)



May 10, 2001
Job No. 9-817-002607A

Scenic Development, Inc.
12569 South 2700 West, Suite 102
Riverton, Utah 84065

Attention: Mr. Kim Rindlisbacher

RE: Supplement No. 3
Review of Debris-Flow Hazard Assessments
Proposed Canyon Creek Estates
Layton, Utah

Gentlemen:

INTRODUCTION

This report is Supplement No. 3 to AMEC Earth & Environmental, Inc's (AMEC) report dated October 11, 1999¹, regarding our independent review of debris-flow hazard assessments conducted by other consultants at the proposed Canyon Creek Estates. AMEC's Supplement No. 1 was issued on December 13, 1999², and Supplement No. 2 was issued on February 7, 2000³. The purpose of this Supplement No. 3 is to clarify recommendations regarding protection of residential development against debris-flow hazards. The proposed Canyon Creek Estates site is located in the east part of Layton City at the mouth of Adams Canyon. Adams Canyon is drained by North Fork Holmes Creek. A layout of the proposed subdivision was presented in our report dated October 11, 1999 as Figure 1, Canyon Creek Estates Lot Layout.

A brief meeting was held at the office of Symphony Homes in Salt Lake City on March 27, 2001. Mr. Bruce Robinson of Symphony Homes, Mr. Kim Rindlisbacher of Scenic Development, and Mr. Jeff Keaton of AMEC were in attendance. Mr. Robinson and Mr. Rindlisbacher described the

¹ "Report, Review of Debris-Flow Hazard Assessments, Proposed Canyon Creek Estates, Layton, Utah," Job No. 9-817-002607.

² "Supplement No. 1, Review of Debris-Flow Hazard Assessments, Proposed Canyon Creek Estates, Layton, Utah," Job No. 9-817-002607.

³ "Supplement No. 2, Review of Debris-Flow Hazard Assessments, Proposed Canyon Creek Estates, Layton, Utah," Job No. 9-817-002607

AMEC Earth & Environmental, Inc.
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Scenic Development, Inc.
Job No. 9-817-002607A
Supplement No. 3
May 10, 2001

Canyon Creek Estates CC&R's

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consequences on design of homes at Canyon Creek Estates where debris-flow protection was specified by Layton City. Layton City's debris-flow protection requirements were based on AMEC's earlier reports. The concerns of Symphony Homes and Scenic Development were related to (1) protection for unoccupiable space, (2) windows on the south or east sides of the homes, (3) doors on the south or east sides of the homes, (4) location of the debris-flow protection berm, and (5) foundation requirements.

DISCUSSION

AMEC's recommendations regarding mitigation of debris-flow hazards at Canyon Creek Estates were aimed at protecting occupied space in the homes for health and safety reasons. AMEC believes that it is unnecessary to provide protection for unoccupiable space, such as garages or storage sheds. It appears that Symphony Homes is planning to put garages on the east sides of the homes because of the ground surface slope toward the west.

AMEC's recommendation regarding prohibiting windows and doors on the south or east sides of the homes below three feet from the ground surface was to reduce the risk that debris-flow slurry would enter the basements. Symphony Homes would like to have the alternative of putting steel grates over windows to keep debris-flow slurry from entering basements, while allowing light to enter. Symphony Homes also would like to be able to have a basement door on the west end of the south side of the homes, and would protect the door from westward-flowing debris with a three-foot high wall. The wall would have an "L" configuration, with the short end connected to the basement wall and the long end oriented toward the west. This would allow access and egress from the basement while deflecting debris-flow material.

AMEC's recommendation regarding the location of a debris-flow protection berm was intended to be a southern limit. In other words, the berm should not be placed farther south than the location that was specified so that the capacity of the Holmes Creek channel would not be reduced. Symphony Homes would like to place the berm farther north and actually have it adjacent to the foundation of the homes.

AMEC's recommendation regarding extending the reinforced concrete foundation to three feet above the ground was intended to provide structural resistance to the forces of future debris flows. Symphony Homes would like to have the alternative of having structural brick masonry in lieu of extending the concrete above the conventional foundation level. A structural brick exterior would be used in place of brick veneer on a wood-frame structure.

CONCLUSIONS AND RECOMMENDATIONS

Based on the discussions described above, it is AMEC's opinion that the alternatives being considered by Symphony Homes for construction of homes at Canyon Creek Estates will satisfy AMEC's recommendations for debris-flow protection. Since AMEC's recommendations were to protect health and safety, they need not apply to unoccupiable space, such as garages and storage

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EXHIBIT E

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sheds. Therefore, conventional design requirements can be applied to the garages, with the exception that the recommended berm should extend across the entire lot.

AMEC's recommendations regarding windows and doors on the south or east sides of the homes were intended to reduce the risk that debris-flow slurry would enter basements. It is AMEC's opinion that steel grates with openings less than about three-quarters inch, such as conventional industrial walkway grates placed over windows below three feet above the existing ground level, would provide the intended protection. Other safety concerns, such as emergency egress in case of fire, must be incorporated into any design of window grates. Similarly, it is AMEC's opinion that a three-foot-high, "L"-shaped wall protecting a door on the south side of a house at Canyon Creek Estates would be acceptable. Such a wall should be connected to the basement wall of the house on the east side of the door and extend to a point at least two feet to the west of the west side of the door.


It was AMEC's intention that the recommended debris-flow protection berm could be placed as far north as desired, provided that it was between the house and Holmes Creek and not farther south than the existing Holmes Creek Irrigation Co. pipeline. Therefore, a berm adjacent to the basement wall would comply with AMEC's original recommendation regarding the berm.

AMEC's recommendation that the concrete foundation be extended to a height of three feet above existing grade was to provide a structural component to resist the forces of any debris-flow slurry. It is AMEC's opinion that structural brick masonry will be an acceptable alternative to reinforced concrete for this purpose.

We trust that this Supplement No. 3 report is satisfactory for your present needs. Please bind it with our report dated October 11, 1999, Supplement No. 1 dated December 13, 1999, and Supplement No. 2 dated February 7, 2000. If you have questions or require additional information, please do not hesitate to contact us.

Sincerely,

AMEC Earth & Environmental, Inc.


 Jeffrey R. Keaton, Ph.D.
 Professional Engineer No. 7294
 State of Utah

JRK:ka

Addressee (4)
 cc. Layton City (2)



RELIANCE AFFIDAVIT (Exhibit F)

To Whom It May Concern:

On the 10th day of June, 2003, I, **Robert C. Miller, President of Symphony Development Corp (a member of Canyon Creek Subdivision L.L.C.)**, do issue a statement of clarification relating to the conceptual design and plat changes to the original plat used in the following AMEC & AGRA reports:

1. AMEC Earth & Environmental, Inc (formerly AGRA Engineering Global Solutions) – Letter dated 10/11/1999;
2. AMEC Earth & Environmental, Inc (formerly AGRA Engineering Global Solutions) – Supplement Letter No. 1 dated 12/13/1999
3. AMEC Earth & Environmental, Inc (formerly AGRA Engineering Global Solutions) – Supplement Letter No. 2 dated 2/7/00
4. AMEC Earth & Environmental, Inc (formerly AGRA Engineering Global Solutions) – Supplement Letter No. 3 dated 5/10/2001

I verify that in the process of final reviews and approvals of Canyon Creek Estates Subdivision, in Layton, Utah, the conceptual design was changed to reduce the number of lots from 16 to 12, and that the lots were numbered differently from those referenced within the aforementioned AMEC letters and supplements. This affidavit is certification that in any of these letters and supplements where lot numbers are referenced, the following lot numbering can be relied upon for the purposes stated within said documents.

Old Lot #	Current Status & Lot #
1	Removed from subdivision
2	Removed from subdivision
3	Removed from subdivision
4	Removed from subdivision
5	Lot #1 of the recorded plat
6	Lot #2 of the recorded plat
7	Lot #3 of the recorded plat
8	Lot #4 of the recorded plat
9	Lot #5 of the recorded plat
10	Lot #6 of the recorded plat
11	Lot #7 of the recorded plat
12	Lot #8 of the recorded plat
13	Lot #9 of the recorded plat
14	Lot #10 of the recorded plat
15	Lot #11 of the recorded plat
16	Lot #12 of the recorded plat

Signed:  Date: 6/17/03

Print Name: **BRUCE G. ROBINSON, C.E.O. of Symphony Development Corp.
(a member of Canyon Creek Subdivision, L.L.C.)**

Witness (Signed):  Date: 6/17/03

Print Name: **MICHAEL C. FLOOD, Development Manager of Symphony Development Corp.**