

WHEN RECORDED, RETURN TO:

W. Scott Kjar, Esq.
585 W. 500 S., #110
Bountiful, UT 84010

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RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
6/3/2010 2:42:00 PM
FEE \$89.00 Pgs: 10
DEP eCASH REC'D FOR FIRST AMERICAN TITLE

01-389-1301 thru 01-389-1330;
01-390-1401 thru 01-390-1418; and
01-391-1601 thru 01-391-1614.

**FIRST AMENDMENT
TO
DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS,
RESTRICTIONS, AND RESERVATION OR GRANT OF EASEMENTS FOR
EAGLEPOINTE ESTATES PHASES 13, 14, & 16**

This First Amendment to Declaration of Protective Covenants, Conditions, Restrictions, and Reservation or Grant of Easements for Eaglepointe Estates Phase 13, 14, and 16 (this "First Amendment") is hereby executed as of the 31st day of March, 2010 by **EAGLEPOINTE DEVELOPMENT, L.C.**, a Utah limited liability company ("Declarant"); in contemplation of the following facts and circumstances:

RECITALS

A. Declarant is the developer of that certain subdivision ("Project") located in Davis County, Utah, commonly known as "Eaglepointe Estates Phases 13, 14, and 16" and more particularly described as follows:

All of Lots 1301 through and including 1330 of EAGLEPOINTE ESTATES PHASE 13 according to the official plat thereof on file and of record in the Office of the Davis County Recorder.

All of Lots 1401 through and including 1418 of EAGLEPOINTE ESTATES PHASE 14 according to the official plat thereof on file and of record in the Office of the Davis County Recorder.

All of Lots 1601 through and including 1614 of EAGLEPOINTE ESTATES PHASE 16 according to the official plat thereof on file and of record in the Office of the Davis County Recorder.

B. On May 30, 2007, Declarant recorded with the Office of the Davis County Recorder, a Declaration of Protective Covenants, Conditions, Restrictions, and Reservation or Grant of

Easements for Eaglepointe Estates Phase 13, 14, & 16, as Entry No. 2274783 at Book 4293, Page 279 (as amended, the "Declaration"), covering the Project.

C. Pursuant to Section 7.2 of the Declaration, any amendment to the Declaration requires the affirmative vote of at least seventy-five percent (75%) of the votes at a duly called election.

D. As of the date of the recordation of this First Amendment, Declarant has obtained the affirmative vote of at least 75% of the Owners and Mortgage Holders as required by the Declaration.

E. The Declarant, on behalf of the Committee and pursuant to the amendment provisions of the Declaration, have caused this First Amendment to be prepared. The certification of the Committee is attached hereto as Exhibit "A" and incorporated herein by this reference.

NOW, THEREFORE, Declarant hereby amends the Declaration as follows:

1. Defined Terms and Status of Recitals. Capitalized terms used and not otherwise defined in this First Amendment shall have the meaning or meanings given to them in the Declaration. The Recitals set forth above shall constitute a portion of the terms of this First Amendment.

2. Amendment to Section 5.4.1. Section 5.4.1 of the Declaration is hereby deleted in its entirety and replaced with the following language:

5.4.1 Materials: Quality. All structures constructed within the Subdivision shall be of new materials and shall be of good quality workmanship and materials. Eighty percent (80%) of all exterior construction shall be of new brick, stone, or stucco, except that used brick may be used with prior written approval of the Committee. Only those exterior materials which will blend harmoniously with the natural environment, with special emphasis on earth toned colors, shall be permitted. The foregoing notwithstanding, cementitious fiber board aka Hardi Plank may be used on up to 60% of all exterior construction provided that at least 20% of the exterior construction also includes new brick, stone, or stucco. Log structures are prohibited. Each structure shall have a brick or stone wainscot with a minimum height of four feet (4') except for doorways, windows, pop-outs, or bay windows with no foundation support. All roof materials and colors must be approved by the Committee. The typical roof pitch shall be at least 5/12. **The Committee may grant a variance of the pitch only upon written request.** A minimum width of six (6) inches shall be required on the fascia. **The Committee may grant a variance on the width of the fascia only upon written request.** All stacks and chimneys from fireplaces in which combustible materials other than natural gas, are burned shall be fitted with spark arresters. All Owners shall strictly comply with all state laws and city ordinances pertaining to fire hazard control.

3. Amendment to Section 5.4.2. Section 5.4.2 of the Declaration is hereby deleted in its entirety and replaced with the following language:

5.4.2. Minimum Size and Length of Dwelling. No dwelling shall be permitted on any Lot wherein the stacking is more than two and one-half (2 1/2) stories in height, and the ground floor

area of the main structure, exclusive of garages and open porches, is less than the following Minimum Dwelling Sizes:

5.4.2.1. Minimum Dwelling Sizes for Lots 1301 through and including 1314, Lots 1401 and 1402, and Lots 1413 through and including 1418 shall be as follows:

(i) For a Single Story dwelling, 1,800 square feet, not including basement area;

(ii) For a Two Story dwelling, 1,400 square feet on the main floor with the aggregate footage of the upper two (2) floors (including the main floor level) of the structure totaling a minimum of 2,700 square feet;

(iii) For a Multi-Level dwelling, 2,700 total square feet, in the aggregate, for the upper main living levels (not including the basement areas) and the length of which is (parallel to the public road upon which the dwelling faces) no less than sixty (60) feet (including the garage). Notwithstanding the foregoing, any Multi-Level dwelling which has an aggregate area of at least 2,800 square feet (counting only the main living levels above the basement level), shall not be subject to the sixty (60) foot minimum length restriction.

5.4.2.2. Minimum Dwelling Sizes for Lots 1315 through and including 1330 shall be as follows:

(i) For a Single Story dwelling, 2,000 square feet, not including basement area;

(ii) For a Two Story dwelling, 1,400 square feet on the main floor with the aggregate footage of the upper two (2) floors (including the main floor level) of the structure totaling a minimum of 2,700 square feet;

(iii) For a Multi-Level dwelling, 2,700 total square feet, in the aggregate, for the upper main living levels (not including the basement areas) and the length of which is (parallel to the public road upon which the dwelling faces) no less than sixty (60) feet (including the garage). Notwithstanding the foregoing, any Multi-Level dwelling which has an aggregate area of at least 2,800 square feet (counting only the main living levels above the basement level), shall not be subject to the sixty (60) foot minimum length restriction.

5.4.2.3. Minimum Dwelling Sizes for Lots 1403 through and including 1412, and Lots 1601 through and including 1614 shall be as follows:

(i) For a Single Story dwelling, 2,200 square feet, not including basement area;

(ii) For a Two Story dwelling, 1,400 square feet on the main floor with the aggregate footage of the upper two (2) floors (including the main floor level) of

the structure totaling a minimum of 2,700 square feet;

(iii) For a Multi-Level dwelling, 2,700 total square feet, in the aggregate, for the upper main living levels (not including the basement areas) and the length of which is (parallel to the public road upon which the dwelling faces) no less than sixty (60) feet (including the garage). Notwithstanding the foregoing, any Multi-Level dwelling which has an aggregate area of at least 2,800 square feet (counting only the main living levels above the basement level), shall not be subject to the sixty (60) foot minimum length restriction.

4. Amendment to Section 6.2. Section 6.2 of the Declaration is hereby deleted in its entirety and replaced with the following language:

6.2 Kern River Gas and Questar Gas Pipelines. Kern River Gas Transmission company has an existing easement within the Subdivision for a natural gas pipeline and related facilities and improvements, both above and below ground, as recorded in Book 1577, Pages 53 and 54 of the Official Records of Davis County Records Office. No improvements may be constructed and no excavation or change in surface grade may occur within the easement area which could damage or interfere with the easement or the pipeline. In some cases, the presence of the pipeline may preclude the construction of a residence on lots burdened by the Kern River facilities constructed after the date of this amendment. In addition, Kern River is required to comply with all applicable federal laws and regulations relating to natural gas pipelines. Kern River intends to amend and expand the pipeline within the Subdivision and to obtain, through the power of eminent domain or by purchase, additional easements and/or fee title to additional properties for the expansion. In recognition of the laws and regulations relating to natural gas pipelines and of the power of Kern River to acquire real properties and interests therein by condemnation, the undersigned agree and declare that Kern River is and shall be exempt from the duties, obligations, and requirements set forth in this Declaration, including without limitation Sections 2, 3, 4 and 5, provided, however, should Kern River elect to construct a structure on any property it acquires in the Subdivision, other than an underground pipeline, that prior to construction, Kern River shall obtain the prior written approval of the Committee, which approval shall not be unreasonably withheld or delayed, provided however that the Committee shall not impose any requirements in addition to those used for the construction of the existing above-ground facility located on Parcel A of Eaglepointe Estates Phase 12. In addition, Kern River shall maintain any property it owns within the Subdivision in a clean and neat manner, in accordance with federal pipeline safety regulations.

Questar has an existing natural gas pipeline easement as recorded in Book 331, Page 303, and in Book 127, Page 273, of the Official Records of the Davis County Recorder. No structure, planting or other materials shall be placed or permitted to remain which may damage or interfere with the easement or the pipelines contained therein.

Declaration Remains in Effect. This First Amendment shall be considered supplemental to the Declaration. Except as expressly amended by the foregoing, the Declaration shall remain in full force and effect and shall not be canceled, suspended or otherwise abrogated by the recording of this First Amendment.

IN WITNESS WHEREOF, this First Amendment is hereby executed this ____ day of March, 2010.

Declarant:

EAGLEPOINTE DEVELOPMENT, L.C.,
a Utah limited liability company

By: Its Manager

Excel Investment Corporation,
a Utah limited liability company

By: 

W. Scott Kjar, its Vice President

OWNER LOT #'s 1301, 1302, 1303, 1305,
1306, 1307, 1308, 1309, 1310, 1311, 1312,
1313, 1315, 1316, 1317, 1318, 1319, 1320,
1321, 1322, 1323, 1327, 1328, 1329, 1330,
1401, 1402, 1403, 1404, 1406, 1407, 1408,
1409, 1411, 1412, 1413, 1414, 1415, 1416,
1417, 1418, 1601, 1602, 1603, 1604, 1606,
1608, 1609, 1610, 1611, 1612, 1613, and 1614

OWNER LOT # _____

OWNER LOT # _____

OWNER LOT # _____

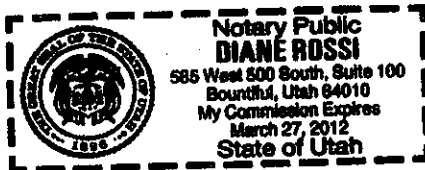
OWNER LOT # _____

OWNER LOT # _____

OWNER LOT # _____

STATE OF UTAH)
 :SS.
COUNTY OF DAVIS)

The foregoing instrument was acknowledged before me this 31st day of March, 2010, by W. SCOTT KJAR, who is the Vice President of EXCEL INVESTMENT CORPORATION, the Manager of EAGLEPOINTE DEVELOPMENT, L.C, a Utah limited liability company, which company executed this instrument.



Diane Rossi
NOTARY PUBLIC

STATE OF _____)
 :SS.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of March, 2010, by _____.

NOTARY PUBLIC

STATE OF _____)
:ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of March, 2010,
by _____.

NOTARY PUBLIC

STATE OF _____)
:ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of March, 2010,
by _____.

NOTARY PUBLIC

STATE OF _____)
:ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of March, 2010,
by _____.

NOTARY PUBLIC

EXHIBIT "A"

CERTIFICATE OF AMENDMENT

The undersigned member of the Design Review Committee does hereby certify that the First Amendment to Declaration of Protective Covenants, Conditions, Restrictions, and Reservation or Grant of Easements for Eaglepointe Estates Phases 13, 14, & 16 ("Phases 13, 14, & 16 CC&R's"), to which this Certificate is attached as an Exhibit, has been duly authorized and approved by Owners (as that term is defined in Phases 13, 14, & 16 CC&R's) and the holders of first mortgages and deeds of trust covering lots in Phases 13, 14, & 16, having at least seventy-five (75%) of the total votes of the Owners and the holders of first mortgages and deeds of trust in favor of the adoption of said amendment being duly adopted at an election satisfying the requirements of Section 7.2 of the Phases 13, 14, & 16 CC&R's.

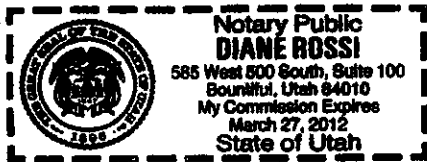
This Certificate is executed this 31st day of March, 2010.

Eaglepointe Phases 13, 14, & 16 Design Review
Committee

By: Wilford W. Cannon
Its: Member

STATE OF Utah)
) :ss.
COUNTY OF Davis)

The foregoing instrument was acknowledged before me this 31st day of March, 2010, by Wilford W. Cannon a member of the Eaglepointe Phases 13, 14, & 16 Design Review Committee.



Diane Rossi
NOTARY PUBLIC

EXHIBIT "B"

CONSENT OF MORTGAGE HOLDERS

The undersigned first place mortgage or deed of trust holders hereby consent to the recordation of the First Amendment to Declaration of Protective Covenants, Conditions, Restrictions, and Reservation or Grant of Easements for Eaglepointe Estates Phases 13, 14, & 16 ("Phases 13, 14, & 16 CC&R's"), to which this Consent is attached as an Exhibit. This Consent shall be valid only if executed by the holders of at least 75% of the first place mortgages or deeds of trust.

Dated this 31st day of March 2010.

B & PACE INVESTMENT, L.L.C.,
a Utah limited liability company



By:
W. Earl Pace, its Manager

Mortgage Holder Lot #'s: 1301, 1302, 1303, 1305, 1306, 1307, 1308, 1309, 1310, 1311, 1312, 1313, 1314, 1315, 1316, 1317, 1318, 1319, 1320, 1321, 1322, 1323, 1327, 1328, 1329, 1330, 1401, 1402, 1403, 1404, 1406, 1407, 1408, 1409, 1411, 1412, 1413, 1415, 1416, 1417, 1418, 1601, 1602, 1603, 1604, 1606, 1608, 1609, 1610, 1611, 1612, 1613, and 1614

STATE OF Utah)
)
) :ss.
COUNTY OF Davis)

The foregoing instrument was acknowledged before me this 31st day of March, 2010, by W. EARL PACE, the Manager of B & E Pace Investment, L.L.C., a Utah limited liability company.





NOTARY PUBLIC