

AFTER RECORDING, PLEASE RETURN TO:

Steven L. Ingleby, Esq.  
CALLISTER, DUNCAN & NEBEKER  
800 Kennecott Bldg.  
Salt Lake City, Utah 84133

4400

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19 AUGUST 92 10:50 AM  
KATIE L. DIXON  
RECORDER, SALT LAKE COUNTY, UTAH  
FIRST AMERICAN TITLE  
REC BY: REBECCA GRAY, DEPUTY

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**DECLARATION OF ROADWAYS AND UTILITIES  
COVENANTS, CONDITIONS AND RESTRICTIONS, AND  
RESERVATION OF EASEMENTS**

THIS DECLARATION OF ROADWAYS AND UTILITIES COVENANTS, CONDITIONS AND RESTRICTIONS, AND RESERVATION OF EASEMENTS (this "Declaration") dated this 12 day of August, 1992, is executed by THE ASSOCIATION OF HOMEOWNERS FOR MILLCREEK CONDOMINIUMS, a Utah nonprofit corporation, of Salt Lake City, Utah, and ESPRIT HOMES OWNERS' ASSOCIATION, a Utah nonprofit corporation, of Salt Lake City, Utah.

**RECITALS:**

A. By recording the Millcreek Declaration (as hereinafter defined) in the office of the County Recorder of Salt Lake County, Utah, and the Millcreek Map (as hereinafter defined), that certain real property located in Salt Lake County, Utah and more particularly described in Exhibit "A" attached hereto and incorporated herein by reference was submitted to the provisions of the Utah Condominium Ownership Act, Utah Code Annotated §57-8-1 through §57-8-36, thereby creating the Millcreek Project (as hereinafter defined).

B. By recording the Esprit Homes Declaration (as hereinafter defined) in the office of the County Recorder of Salt Lake County, Utah, and the Esprit Homes Plat (as hereinafter defined), the Esprit Homes Project (as hereinafter defined) was created on that certain real property located in Salt Lake County, Utah and more particularly described in Exhibit "B" attached hereto and incorporated herein by reference.

C. Pursuant to the provisions of Section 15 of the Millcreek Declaration, the Millcreek Association (as hereinafter defined) may, having obtained the prior approval of at least 75% of the Percentage of Undivided Ownership Interest in the Common Areas (as defined in the Millcreek Declaration) of the Millcreek Project, grant and convey for the use and benefit of the Esprit Homes Association (as hereinafter defined) and each of the Esprit Homes Owners, (as hereinafter defined) and their Permittees (as hereinafter defined), (1) a non-exclusive easement over and across the portion of the Roadways (as hereinafter defined) located within the Millcreek Project for ingress, egress and related purposes, and (2) a non-exclusive easement over and across the portion of the Roadways and the Common Utilities Area (as hereinafter defined) located within the Millcreek Project for the installation, use, operation, maintenance, repair, replacement, relocation and removal of the Common Utility Facilities (as hereinafter defined).

D. Pursuant to the provisions of the Esprit Homes Declaration, the Esprit Homes Association may, having obtained the prior approval of 100% of the Total Votes of the Lots (as defined in the Esprit Homes Declaration), grant and convey for the use and benefit of the Millcreek Association and each of and the Millcreek Owners (as hereinafter defined) and their Permittees, (1) a non-exclusive easement over and across the portion of the Roadways located within the Esprit Homes Project for ingress, egress and related purposes, and (2) a non-exclusive easement over and across the portion of the Roadways and the Common Utilities Area located within the Esprit Homes Project for the installation, use, operation, maintenance, repair, replacement, relocation and removal of the Common Utility Facilities.

E. The Millcreek Association and the Esprit Homes Association desire to set forth in this Declaration the terms of their agreement respecting the maintenance, repair and replacement of the Roadways and the Common Utility Facilities.

NOW, THEREFORE, for the foregoing purposes and in consideration of the reciprocal benefits to be derived from the easements, covenants, restrictions, and requirements set forth below, the parties hereto and each of them hereby consent, acknowledge, and agree to all of the following terms and provisions.

1. Definitions. As used in this Declaration each of the following terms shall have the indicated meaning:

1.1 Common Utility Facilities shall mean and refer to all common drainage facilities, sanitary sewer systems and water system to the extent such facilities serve both the Millcreek Project and the Esprit Homes Project, including, without limitation, the master water meter, the main water and sewer distribution lines, the common storm drainage lines and retention pipes, and all related improvements that service both the Millcreek Project and the Esprit Homes Project. The Common Utility Facilities shall specifically not include the water and sewer line laterals and any other water, sewer and storm drainage lines that do not service in common the Millcreek Project and the Esprit Homes Project.

1.2 Common Utility Area shall mean and refer to (a) all of the Common Area (as defined in the Millcreek Declaration) of the Millcreek Project as described on the Millcreek Map and (b) all of that certain real property located within the Esprit Homes Project that is made subject to and burdened by an easement for the laying, installation, operation, servicing, and maintenance of the Common Utility Facilities, as said easements are described on the Esprit Homes Plat. The Common Utility Area shall specifically include, without limitation, the following real property located

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within the Millcreek Project, which is made subject to an easement for the laying, installation, operation, servicing, and maintenance of the Common Utility Facilities:

**Lot 40--East Easement:**

Beginning at a point that is South 1765.612 feet and West 1872.346 feet from the North Quarter Corner of Section 33, Township 1 South, Range 1 East, Salt Lake Base and Meridian; thence South 67.04 feet; thence East 17.69 feet; thence North 67.04 feet; thence West 17.69 feet to the point of beginning.

1.3 Esprit Homes Association shall mean and refer to the Esprit Homes Homeowners' Association, a Utah nonprofit corporation.

1.4 Esprit Homes Plat shall mean and refer to that certain subdivision plat of the Esprit Homes Project, affecting a portion of the Roadways and recorded concurrently with this Declaration in the office of the County Recorder of Salt Lake County, Utah.

1.5 Esprit Homes Declaration shall mean and refer to that certain Declaration of Covenants, Conditions and Restrictions and Reservation of Easements For Esprit Homes Of Millcreek, a Utah Planned Unit Development recorded concurrently with this Declaration in the office of the County Recorder of Salt Lake County, Utah.

1.6 Esprit Homes Project shall mean and refer to each of the Lots (as defined in the Esprit Homes Declaration) and the Common Area comprising the Esprit Homes Of Millcreek, a Utah planned unit development, as more particularly described in the Esprit Homes Plat and defined in the Esprit Homes Declaration.

1.7 Esprit Homes Owners shall mean and refer to each of the owners of one or more of the Lots in the Esprit Homes Project.

1.8 Esprit Homes Permittees shall mean and refer to all of the tenants of the Esprit Homes Owners pursuant to written lease agreements, and the respective agents, contractors, visitors, invitees, subtenants, licensees, successors and assigns of the Esprit Homes Owners and their tenants.

1.9 Maintenance Assessments shall mean and refer to the assessments made against Esprit Homes Association and Millcreek Association by the Millcreek - Esprit Homes Association for their respective portion of the total costs incurred by and on behalf of Esprit Homes Association and Millcreek Association to maintain, improve, repair, replace, manage and operate the Roadways and the Common Utilities Facilities, and shall include an adequate reserve fund for resurfacing of the Roadways and replacing the Common Utility Facilities.

1.10 Millcreek Association shall mean and refer to the Millcreek Homeowners Association.

1.11 Millcreek Declaration shall mean and refer to that certain Declaration of Covenants, Conditions and Restrictions recorded in the office of the County Recorder of Salt Lake County, Utah on May 24, 1985, as Entry No. 4090275, in Book 8657, at Page 804, et seq.

1.12 Millcreek - Esprit Homes Association shall mean and refer to Millcreek - Esprit Homeowners' Association, a Utah nonprofit corporation. The Millcreek - Esprit Homes Association is responsible for maintaining, repairing and replacing the Roadways and the Common Utility Facilities.

1.13 Millcreek Owners shall mean and refer to each of the owners of one or more of the Condominium Units (as defined in the Millcreek Declaration) in the Millcreek Project.

1.14 Millcreek Permittees shall mean and refer to all of the tenants of the Millcreek Owners pursuant to written lease agreements, and the respective agents, contractors, visitors, invitees, subtenants, licensees, successors and assigns of the Millcreek Owners and their tenants.

1.15 Millcreek Map shall mean and refer to that certain Record of Survey Map (the "Millcreek Map"), recorded in the office of the County Recorder of Salt Lake County, Utah as Entry No. 4090276, in Book 85-5 of Plats.

1.16 Millcreek Project shall mean and refer to all of the Units (as defined in the Millcreek Declaration) and the Common Areas (as defined in the Millcreek Declaration) comprising the Millcreek Condominiums, as more particularly described in the Millcreek Declaration and the Millcreek Map.

1.17 Roadways shall mean and refer to Solitaire Drive, Vineyard Court, Revella Way, Foxboro Drive and Europa Drive, common roadways located within the Millcreek Project and the Esprit Homes Project as more particularly described in Exhibit "C" attached hereto and incorporated herein by this reference.

1.18 Operating Expenses shall mean and refer to all of the following: (a) All costs and expenses which are incurred by the Millcreek - Esprit Homes Association for and on behalf of Esprit Homes Association and

Millcreek Association during the period in question or which are reasonably allocable to said period in connection with the operation, maintenance, repair or replacement of the Roadways and the Common Utility Facilities, including, without limitation, charges for the costs of repairing or replacing the Common Utility Facilities, cleaning, sweeping, and servicing the Roadways, the costs of removing ice and snow from the Roadways, the costs of resurfacing and restriping the Roadways, the costs of replacing damaged or worn-out Roadways and Common Utility Facilities, the costs of traffic regulation and control along the Roadways, the costs of the personnel (other than managerial personnel) necessary to perform any of the foregoing, and depreciation allowance on any machinery and equipment used in connection with the aforesaid matters; and (b) common water charges as measured by the master water meter that services both the Millcreek Project and the Esprit Homes Project. All of the aforesaid costs, expenses, and sums and the allocation thereof to the period in question shall be determined in accordance with such reasonable and usual accounting procedures and business practices as are agreed to by the Millcreek - Esprit Homes Association and as provided herein.

**2. Easements for Utilities and Roadways.** Millcreek Association and Esprit Homes Association hereby create a nonexclusive, perpetual right-of-way and cross-easement, together with the right to construct, operate, repair, replace and maintain the Roadways and the Common Utility Facilities, upon, under, across and through the Roadways and the Common Utility Area for the benefit of the Millcreek Association, the Millcreek Owners, the Millcreek Permittees, the Esprit Homes Association, the Esprit Homes Owners and the Esprit Homes Permittees. Said easement is to be used in common by the Millcreek Association, the Millcreek Owners, the Millcreek Permittees, the Esprit Homes Association, the Esprit Homes Owners and the Esprit Homes Permittees for the benefit of the Millcreek Project and the Esprit Homes Project, subject to all of the terms, covenants, conditions and restrictions hereinafter set forth. It is specifically understood and agreed between the parties that the cross-easement and right-of-way hereby created is intended to be used as a private roadway and utility easement for the use and benefit of Millcreek Association, the Millcreek Owners, the Millcreek Permittees, the Esprit Homes Association, the Esprit Homes Owners and the Esprit Homes Permittees.

**3. Liability Insurance Covering Roadways & Common Utility Area.** Millcreek Association and Esprit Homes Association shall each at all times maintain or cause to be maintained continuously in force public liability and property damage insurance providing coverage against personal injury, death, and property damage occurring on or about, or by reason of activities within, the portion of the Roadways and the Common Utility Area located within their respective projects. Such insurance shall be carried with a responsible company or companies licensed in the State of Utah and the limits thereof shall be such as to afford at least the coverage provided by a "combined single limit" of not less than \$1,000,000.00 for bodily injury, death, and property damage. The insurance policies shall name the Millcreek - Esprit Homes Association as an additional insured and loss payee. The Millcreek Association and the Esprit Homes Association shall each, upon the written request of the Millcreek - Esprit Homes Association, furnish to the Millcreek - Esprit Homes Association written evidence that the liability insurance required by this paragraph is in force. Such policies shall give the Millcreek - Esprit Homes Association not less than thirty (30) days prior written notice of any material changes or cancellation of such insurance policies. The Millcreek - Esprit Homes Association, the Millcreek Association and the Esprit Homes Association hereby each waive any and all right of recovery against the other waiving parties or against the officers, employees, agents and representatives of the other waiving parties, on account of loss or damage occasioned to such waiving party or its property or the property of others under its control to the extent that such loss or damage is insured against under any policy of insurance which any of the waiving parties may have in force at the time of such loss or damage. In the event that either the Millcreek Association or the Esprit Homes Association fail to obtain the policies of insurance required to be obtained by this paragraph, the Millcreek - Esprit Homes Association shall have the right to obtain a policy of insurance satisfying the requirements of this paragraph and to include the cost thereof in the Operating Expenses and the Maintenance Assessments.

**4. Operation and Maintenance.** The Millcreek - Esprit Homes Association, for and on behalf of Esprit Homes Association and Millcreek Association, shall have the power and duty to operate, maintain and replace the Roadways and the Common Utility Facilities in good repair and condition, including, without limitation, the management, maintenance and replacement of the storm drainage system located within the Common Utility Area, and the cleaning, striping, snow removal and periodic resurfacing of the Roadways. Esprit Homes Association and Millcreek Association hereby authorize the Millcreek - Esprit Homes Association to act for and on behalf of Esprit Homes Association and Millcreek Association to incur Operating Expenses, assess Maintenance Assessments, enter into contracts relating to the maintenance and operation of the Roadways, the Common Utility Facilities, and take such further actions as may be reasonably necessary to perform its duties under this Declaration. All goods and services procured by the Millcreek - Esprit Homes Association in performing its duties under this Declaration shall be paid for with funds received from the Maintenance Assessments. All costs incurred for management, maintenance and repair of the Common Utility Facilities and the Roadways.

**5. Maintenance Assessments.** In order to provide for payment of the Operating Expenses, Esprit Homes Association and Millcreek Association each covenant and agree to pay all Maintenance Assessments made by the Millcreek - Esprit Homes Association. The Millcreek - Esprit Homes Association shall base annual Maintenance Assessments upon budgeted estimates of the Operating Expenses expected to be incurred during the coming calendar year and amounts required to establish an adequate reserve for periodic resurfacing and replacement of the Roadways and for periodic replacement of the Common Utility Facilities. All of the Operating Expenses other than common water expenses shall be apportioned between Esprit Homes Association and Millcreek Association based upon the number of condominium units in the Millcreek Project and the number of lots in the Esprit Homes Project. Since water use by the Common Area and each of the lots in the Esprit Homes Project will be measured by individual submeters, the determination of the proportionate share of the common water expense allocable to the Esprit Homes Association shall be determined on the basis of the aggregate amount of water used by the Common Area and each of the lots in the

Esprit Homes Project as measured by said individual submeters compared to the total amount of water used for the Millcreek Project and the Esprit Homes Project as measured by the master water meter for both projects. The proportionate share of the common water expense allocable to the Millcreek Association shall be determined by subtracting the amount of the proportionate share of the common water expense allocable to the Esprit Homes Project as determined in the manner described above from the total common water expense incurred by the Millcreek - Esprit Homes Association. The Millcreek - Esprit Homes Association shall prepare and furnish to Millcreek Association and Esprit Homes Association an operating budget for the coming calendar year at least thirty days prior to the beginning of each year. Each annual Maintenance Assessment shall be payable in twelve equal monthly installments, one such installment due on the first day of each calendar month during the calendar year to which the assessment relates; provided that the Maintenance Assessment for the first calendar year shall be based upon such portion of the first calendar year and shall be payable in such installments and at such times as the Millcreek - Esprit Homes Association, in its discretion, may determine. Millcreek Association and Esprit Homes Association shall each pay monthly, on or before the first day of each month their respective Maintenance Assessment. Any amount required to be paid by this paragraph 5 which is not timely paid shall accrue interest from and after the due date of the amount in question at the rate of 18% per annum.

6. Composition of Millcreek - Esprit Homes Association. The Millcreek - Esprit Homes Association shall be governed by a Board of Trustees composed of five (5) members. The Esprit Phase of the Millcreek Association shall select one (1) member of the Millcreek - Esprit Homes Association Board of Trustees who shall be an owner of a condominium unit in the Esprit Phase of the Millcreek Project. The Polo Club Phase of the Millcreek Association shall select one (1) member of the Millcreek - Esprit Homes Association Board of Trustees who shall be an owner of a condominium unit in the Polo Club Phase of the Millcreek Project. The Esprit Homes Association shall select one (1) member of the Millcreek - Esprit Homes Association Board of Trustees who shall be an owner of a lot in the Esprit Homes Project. The fourth and fifth members of the Millcreek - Esprit Homes Association Board of Trustees shall be selected by the other three members of the Millcreek - Esprit Homes Association Board of Trustees and may be (but need not be) owners in either the Esprit Phase or the Polo Club Phase of the Millcreek Project, or the Esprit Homes Project. The initial Millcreek - Esprit Homes Association Board of Trustees shall be selected as follows: The Parcel Management Committee of the Esprit Phase of the Millcreek Association shall select one member of the Millcreek - Esprit Homes Association Board of Trustees for a term of two years; The Parcel Management Committee of the Polo Club Phase of the Millcreek Association shall select one member of the Millcreek - Esprit Homes Association Board of Trustees for a term of two years; The Board of Trustees of the Esprit Homes Association shall select one member of the Millcreek - Esprit Homes Association Board of Trustees for a term of two years. The remaining fourth and fifth members of the Millcreek - Esprit Homes Association Board of Trustees shall be selected for a term of one year by the other members of the Board of Trustees. Thereafter, each member of the Millcreek - Esprit Homes Association Board of Trustees shall serve for a term of two (2) years. New members of the Millcreek - Esprit Homes Association Board of Trustees shall be selected prior to the second Tuesday in March of each calendar year. In the event the members of the Millcreek - Esprit Homes Association Board of Trustees are unable to select the fourth or fifth member of the Millcreek - Esprit Homes Association Board of Trustees, such member(s) of the Millcreek - Esprit Homes Association Board of Trustees shall be selected by an arbitrator selected as provided in paragraph 12 below.

7. Covenants to Run with Land. This Declaration and all of the covenants, provisions, and requirements hereof are intended to be and shall constitute covenants running with the land, and shall be binding upon and shall inure to the benefit of the parties to this Declaration and any other party which has, acquires, or comes to have any interest in or which occupies or comes to occupy a lot in the Esprit Homes Project or a condominium unit in the Millcreek Project, and their respective grantees, transferees, heirs, devisees, personal representatives, successors, and assigns. This Declaration and all of the covenants, provisions, and requirements hereof shall be binding upon the Millcreek Project and the Esprit Homes Project and all interests in each such project shall be subject to this Declaration and all of such covenants, provisions, and requirements. By acquiring, in any way coming to have any interest in, or occupying a lot in the Esprit Homes Project or a condominium unit in the Millcreek Project, the party so acquiring, coming to have such interest, or occupying such lot or unit, consents to, and agrees to be bound by, this Declaration and all of the covenants, provisions and requirements hereof.

8. Amendment. Any provision contained in this Declaration may be amended by, but only by, a Declaration filed for record with the County Recorder of Salt Lake County, Utah which is executed by each of the parties to this Declaration.

9. Dedication of Roadways. In the event the Roadways are dedicated for public use to the appropriate governmental entity, the right-of-way and cross-assessments dealt with in paragraph 2 above and the maintenance and other obligations created by this Declaration shall, upon such dedication, automatically terminate with respect to the Roadways; provided, however, that any monetary obligation that has then accrued shall survive such dedication until such obligation is fully satisfied.

10. Partial Invalidity. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof, and if any provision of this Declaration or the application thereof to any party to this Declaration, or circumstances should to any extent be invalid, the remainder of this Declaration or the application of such provision to any party to this Declaration, or circumstances other than those as to which a holding of invalidity is reached shall not be affected thereby (unless necessarily conditioned or dependent upon the provisions or circumstances as to which a holding of invalidity is reached), and each provision of this Declaration shall be valid and enforceable to the fullest extent permitted by law.

11. Effective Dates and Duration. This Declaration and all of the provisions hereof (except any provisions hereof which by their terms may cease to be effective at an earlier time) shall remain effective until this Declaration is terminated and extinguished by a Declaration filed with the County Recorder of Salt Lake County, Utah, and executed by all of the parties hereto.

12. Arbitration.

12.1 Any controversy or claim between or among the parties to this Declaration, including but not limited to those arising out of or relating to this Declaration or any agreements or instruments relating hereto or delivered in connection herewith, and including but not limited to a claim based on or arising from an alleged tort, shall at the request of Millcreek Association or Esprit Homes Association be determined by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The arbitration proceedings shall be conducted in Salt Lake City, Utah. The arbitrator(s) shall have the qualifications set forth in subparagraph 12.3 hereto. All statutes or limitations which would otherwise be applicable in a judicial action brought by Millcreek Association or Esprit Homes Association shall apply to any arbitration or reference proceeding hereunder.

12.2 In any judicial action or proceeding arising out of or relating to this Declaration or any agreements or instruments relating hereto or delivered in connection herewith, including but not limited to a claim based on or arising from an alleged tort, if the controversy or claim is not submitted to arbitration as provided and limited in subparagraph 12.1 hereto, all decisions of fact and law shall be determined by a reference in accordance with Rule 53 of the Federal Rules of Civil Procedure or Rule 53 of the Utah Rules of Civil Procedure or other comparable, applicable reference procedure. Millcreek Association and Esprit Homes Association shall designate to the court the referee(s) selected under the auspices of the American Arbitration Association in the same manner as arbitrators are selected in Association-sponsored arbitration proceedings. The referee(s) shall have the qualifications set forth in subparagraph 12.3 hereto.

12.3 The arbitrator(s) or referee(s) shall be selected in accordance with the rules of the American Arbitration Association from panels maintained by the Association. A single arbitrator or referee shall be knowledgeable in the subject matter of the dispute. Where three arbitrators or referees conduct an arbitration or reference proceeding, the claim shall be decided by a majority vote of the three arbitrators or referees, at least one of whom must be knowledgeable in the subject matter of the dispute and at least one of whom must be a practicing attorney. The arbitrator(s) or referee(s) shall award recovery of all costs and fees (including reasonable attorneys' fees, administrative fees, arbitrators' fees, and court costs). The arbitrator(s) or referee(s) also may grant provisional or ancillary remedies such as, for example, injunctive relief, attachment, or the appointment of a receiver, either during the pendency of the arbitration or reference proceeding or as part of the arbitration or reference award.

12.4 Judgment upon an arbitration or reference award may be entered in any court having jurisdiction, subject to the following limitation: the arbitration or reference award is binding upon Millcreek Association and Esprit Homes Association only if the amount does not exceed One Million Dollars (\$1,000,000.00); if the award exceeds that limit, either Millcreek Association or Esprit Homes Association may commence legal action for a court trial de novo. Such legal action must be filed within thirty (30) days following the date of the arbitration or reference award; if such legal action is not filed within that time period, the amount of the arbitration or reference award shall be binding. The computation of the total amount of an arbitration or reference award shall include amounts awarded for arbitration fees, attorneys' fees, interest, and all other related costs.

12.5 Notwithstanding the applicability of other law to any other provision of this Agreement, the Federal Arbitration Act, 9 U.S.C. § 1 21 ~~ggg~~, shall apply to the construction and interpretation of this arbitration paragraph.

13. Captions; Governing Law. The captions which precede the paragraphs of this Declaration are for convenience only and shall in no way affect the manner in which any provision hereof is construed. Whenever the context or circumstance so requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, and any gender shall include both other genders. This Declaration shall be governed by and construed in accordance with the laws of the State of Utah.

DATED the day and year first above written.

**"ESPRIT HOMES ASSOCIATION"**

ESPRIT HOMES OWNERS' ASSOCIATION,  
a Utah nonprofit corporation

By: Michael W. Samsom  
Its: President

ATTEST:

[Signature]  
Secretary

**"MILLCREEK ASSOCIATION"**

THE ASSOCIATION OF HOMEOWNERS FOR MILLCREEK  
CONDOMINIUMS, a Utah nonprofit corporation

By: [Signature]  
Its: President

ATTEST:

[Signature]  
Secretary

STATE OF UTAH

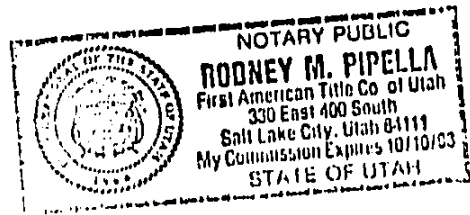
COUNTY OF SALT LAKE ss.

The foregoing instrument was acknowledged before me this 12 day of August, 1992, by Michael W. Samsom  
and Mark M. Mays, the President and Secretary, respectively of the ESPRIT HOMES OWNERS' ASSOCIATION.

[Signature]  
NOTARY PUBLIC

My Commission Expires:  
10-10-93

Residing At:  
SLC, UT



BR6504PC0183

STATE OF UTAH             )  
  ) : ss.  
COUNTY OF Salt Lake )

The foregoing instrument was acknowledged before me this 12<sup>th</sup> day of August 1992, by KIM D. LYNN and ROBERT L. SUFG the President and Secretary, respectively of THE ASSOCIATION OF HOMEOWNERS FOR MILLCREEK CONDOMINIUMS.

[Signature]  
NOTARY PUBLIC

My Commission Expires:  
10-10-93

Residing At:  
SLC, UT

9:0001001/01/01/01/01/01/01/01/01

NOTARY PUBLIC  
**RODNEY M. PIPELLA**  
First American Title Co of Utah  
330 East 400 South  
Salt Lake City, Utah 84111  
My Commission Expires 10/10/93  
STATE OF UTAH

BR 6504 P60184

EXHIBIT "A"

DESCRIPTION OF PROPERTY IN MILLCREEK PROJECT

Parcel 1:

A parcel of land located in the Northwest one-quarter (1/4) of Section 33, Township 1 South Range 1 East, Salt Lake Base and Meridian, being more particularly described as follows:

BEGINNING at a point South 2363.71 feet; West 1670.20 feet and North 30°00'00" East 313.38 feet from the North one-quarter (1/4) corner of Section 33, Township 1 South, Range 1 East, Salt Lake Base and Meridian; thence North 60°00'00" West 83.55 feet; thence South 30°00'00" West 6.00 feet; thence North 60°00'00" West 12.00 feet; thence North 30°00'00" East 6.00 feet; thence North 60°00'00" West 33.72 feet; thence West 114.55 feet; thence South 88.00 feet; thence West 111.50 feet; thence North 263.30 feet; thence North 89°50'00" West 83.11 feet thence South 181.96 feet; thence West 124.00 feet; thence North 244.36 feet; thence South 89°50'00" East 867.32 feet to the Westerly right of way line of Highland Drive; thence along said Westerly right of way line South 24°47'27" East 116.65 feet; thence leaving said Westerly right of way line West 257.99 feet; thence South 30°00'00" West 225.34 feet to the point of beginning in Salt Lake County, Utah.

Containing 4.05 acres more or less.

Parcel 2:

BEGINNING at a point that is 2231.96 feet South and 2417.51 feet West from the North quarter corner of Section 33, Township 1 South, Range 1 East, Salt Lake Base and Meridian; thence West 478.28 feet; to the East right-of-way line of 1300 East, said right-of-way line being 40.00 feet east of and parallel to the centerline of 1300 East street; thence North 00°10'43" East 247.98 feet along said right-of-way line to the Southwest corner of Mill Creek Village Condominiums as recorded in the office of the Salt Lake County Recorder; thence North 89°48'00" East 317.90 feet along the South line of said Mill Creek Village Condominiums to the Southeast corner of said condominium, and to the centerline of the Big Cottonwood Lower Canal; thence North 36°12'30" West 30.36 feet, along the centerline of said canal and the easterly boundary line of said Mill Creek Village Condominium; thence North 72°28'00" East 142.95 feet; thence South 17°32'00" East 22.00 feet; to a point on a 15.00 foot radius curve (bearing to the center of curve bears South 17°32'00" East) thence 23.42 feet along the arc of said curve (chord bearing bears South 27°43'50" West); thence South 17°00'00" East 44.48 feet; to a point on a 15.00 foot radius curve (bearing to the center of curve bears North 73°00'00" East) thence 17.00 feet along the arc of said curve (chord bearing bears South 51°00'00" East); thence North 05°00'00" East 18.00 feet; thence South 85°00'00" East 27.00 feet; thence South 05°00'00" West 18.00 feet; thence South 85°00'00" East 76.52 feet; thence East 13.52 feet; thence South 99.35 feet; thence North 85°00'00" West 107.40 feet; thence South 30°00'00" West 66.75 feet; thence South 60°00'00" East 60.57 feet; thence South 30°00'00" West 41.64 feet to the point of beginning. Contains area of 133593.333 sq. ft. or 3.05668 acres. Basis of bearing is the centerline of 1300 East from the 3900 South monument to the 3300 South monument, which is North 00°18'43" East.

000000179-1



EXHIBIT "B"

DESCRIPTION OF PROPERTY IN ESPRIT HOMES PROJECT

BEGINNING at a point that is South 2334.94 feet and West 1665.86 feet from the North quarter corner of Section 33, Township 1 South, Range 1 East, Salt Lake Base and Meridian; thence North 30°00'00" East 254.380 feet; thence North 60°00'00" West 75.00 feet to a point of a 15.00 foot radius curve to the right (bearing to the center of curve bears South 30°00'00" West), thence southwesterly 23.562 feet along the arc of said curve; thence North 71°43'56" West 30.64 feet; thence West 81.95 feet; thence South 71°14'33" West 40.427 feet; thence West 99.32 feet; thence North 8.955 feet; thence West 51.738 feet; thence North 00°26'04" West 112.87 feet; thence North 89°58'58" East 70.69 feet; thence North 141.78 feet; thence North 89°50'00" West 17.686 feet; thence North 62.04 feet; thence North 89°50'00" West 264.073 feet; thence South 84°57'00" West 110.875 feet; thence South 72°28'00" West 400.800 feet; thence South 35°48'00" East 79.903 feet to the North line of the Millcreek Condominiums, Phase 2, a recorded condominium project, Entry No. 4638446, Book 88-6, Page 56, as found in the office of the Salt Lake County Recorder's Office; thence along the North and East line of said Millcreek Condominium, Phase 2, the following three courses and distances; thence North 72°28'00" East 132.24 feet; thence South 17°32'00" East 22.00 feet; thence North 75°18'33" East 2.00 feet; thence South 17°00'00" East 54.76 feet; thence South 85°00'00" East 117.357 feet; thence South 118.243 feet along said Millcreek Condominiums, Phase 2; thence along said line the following 6 courses and distances; thence North 85°00'00" West 101.40 feet; thence South 30°00'00" West 66.745 feet; thence South 60°00'00" East 60.57 feet; thence South 30°00'00" West 41.835 feet; thence South 89°02'01" East 34.61 feet; thence South 35°48'00" East 132.88 feet; thence East 153.625 feet; thence North 00°18'19" East 5.26 feet; thence East 485.85 feet along the North line of the Highland Cove Condominiums, a recorded condominium project; Entry No. 3661595, Book 82-3, Page 25, as found in the Salt Lake County Recorder's Office, to the point of beginning.

EXHIBIT "C"

DESCRIPTION OF ROADWAYS EASEMENTS IN ESPRIT HOMES PROJECT

Europa Drive:

The following is street center line description and is inclusive of 17.00 feet each side for the first call and inclusive of 11.00 feet each side of the following description:

Beginning at a point on the East right-of-way line of Highland Drive, said point begin South 2026.545 feet and West 2692.652 feet from the North quarter corner of Section 33, Township 1 South, Range 1 East, Salt Lake Base and Meridian; thence South 89°41'17" East 98.855 feet (inclusive of 17.0 feet each side); thence South 30°00'00" East 33.456 feet (inclusive of 11.00 feet each side to end of description) to a point on a 85.205 foot radius curve to the left (bearing to the center of curve bears North 60°00'00" East thru a central angle of 60°01'48"), thence southeasterly 99.749 feet along the arc of said curve; thence North 89°58'12" East 41.00 feet to a point of a 279.612 foot radius curve to the right (bearing to the center of curve bears South 00°01'48" East--thru a central angle of 30°01'48"), thence Southeasterly 146.550 feet along the arc of said curve; thence South 60°00'00" East 128.659 feet to the terminus point and the West line of the New Esprit Homes of Millcreek Subdivision.

Solitaire Drive:

The following is street center line description and is inclusive of 11.00 feet each side of the following description:

Beginning at a point on the center line of Europa Drive, said point begin South 2106.36 feet and West 2614.510 feet from the North Quarter Corner of Section 33, Township 1 South, Range 1 East, Salt Lake Base and Meridian; thence North 08°00'00" East 50.427 feet to a point of a 41.00 foot radius curve to the right (bearing to the center of curve bears South 82°00'00" East--thru a central angle of 42°00'00"), thence Northeasterly 30.054 feet along the arc of said curve; thence North 50°00'00" East 151.106 feet; thence North 72°28'00" East 25.759 feet; thence South 72°28'00" West 129.25 feet to the terminus point.

Foxboro Drive and Vineyard Ct.:

The following is street center line description and is inclusive of 17.00 feet each side of the following description:

Beginning at a point on the west line of Highland Drive, said point begin South 1820.511 feet and West 1159.708 feet from the North quarter corner of Section 33, Township 1 South, Range 1 East, Salt Lake Base and Meridian; thence West 243.788 feet; thence South 30°00'00" West 292.29 feet; thence North 80°00'00" West 75.00 feet; thence South 30°00'00" West 37.02 feet to the terminus point and the North line of the New Esprit Homes of Millcreek Subdivision.

Esprit Homes at Millcreek -- Street Description:

Beginning at a point on the East line of Vineyard Court, said point begin South 1624.112 feet and West 2082.631 feet from the North quarter corner of Section 33, Township 1 South, Range 1 East, Salt Lake Base and Meridian; thence South 30°00'00" West 97.362 feet to a point on a 129.862 foot radius curve to the right (bearing to the center of curve bears North 60°00'00" West--thru a central angle of 30°00'00"), thence Southwesterly 136.117 feet along the arc of said curve; thence West 232.845 feet to a point of a 15.00 foot radius curve to the left (bearing to the center of curve bears South--thru a central angle of 43°20'59"), thence Southwesterly 11.349 feet along the arc of said curve to a point of a 40.00 foot radius curve (bearing to the center of curve bears North 43°20'59" West--thru a central angle of 207°31'23"), thence Northwesterly 144.88 feet to a point of a 15.00 foot radius curve to the left (bearing to the center of curve bears North 15°49'36" West--thru a central angle of 74°10'24"), thence Northeasterly 19.419 feet along the arc of said curve; thence North 269.994 feet to a point of a 15.00 foot radius curve to the left (bearing to the center of curve bears West--thru a central angle of 89°50'00"), thence Northwesterly 23.518 feet along the arc of said curve; thence North 89°50'00" West 101.921 feet to a point of a 145.563 foot radius curve to the left (bearing to the center of curve bears South 00°10'00" West--thru a central angle of 17°42'00"), thence Southwesterly 44.868 feet along the arc of said curve; thence South 72°28'00" West 54.917 feet to a point of a 15.00 foot radius curve to the left (bearing to the center of curve bears South 17°32'00" East--thru a central angle of 72°28'00"), thence Southwesterly 18.972 feet along the arc of said curve; thence South 315.01 feet to a point of a 15.00 foot radius curve to the left (bearing to the center of curve bears East--thru a central angle of 66°56'40"), thence Southeasterly 14.908 feet along the arc of said curve to a point of a 40.00 foot radius curve to the

right (bearing to the center of curve bears South 33°03'20" West--thru a central angle of  
 238°44'00"), thence Southwesterly 166.669 feet along the arc of said curve to a point of a 15.00  
 foot radius curve to the left (bearing to the center of curve bears North 88°12'41" West--thru a  
 central angle of 61°47'20"), thence Northwesterly 16.176 feet along the arc of said curve; thence  
 North 60°00'00" West 75.589 feet; thence North 30°00'00" East 22.00 feet; thence South  
 60°00'00" East 16.014 feet; thence South 64°04'46" East 56.223 feet to a point of a 15.00 foot  
 radius non-tangent curve to the left (bearing to the center of curve bears North 30°00'00" East--thru  
 a central angle of 120°00'00"), thence Northeasterly 31.416 feet along the arc of said curve; thence  
 North 296.387 feet along the arc of said curve to a point of a 15.00 foot radius curve to the left  
 (bearing to the center of curve bears West--thru a central angle of 104°41'27"), thence  
 Northwesterly 27.408 feet along the arc of said curve; thence South 75°18'33" West 126.138 feet;  
 thence North 17°32'00" West 22.00 feet; thence North 75°18'33" East 82.853 feet; thence North  
 72°28'00" East 157.463 feet to a point of a 175.563 foot radius curve to the right (bearing to the  
 center of curve bears South 17°32'00" East--thru a central angle of 17°42'00"), thence  
 Northeasterly 54.236 feet along the arc of said curve; thence South 89°50'00" East 131.834 feet to  
 a point of a 40.00 foot radius curve to the right (bearing to the center of curve bears South  
 00°03'45" West--thru a central angle of 148°52'55"), thence Southeasterly 102.543 feet along the  
 arc of said curve to a point of a 15.00 foot radius curve to the left (bearing to the center of curve  
 bears South 33°03'20" East--thru a central angle of 56°58'40"), thence Southwesterly 14.908 feet  
 along the arc of said curve; thence South 261.719 feet to a point of a 15.00 foot radius curve to the  
 left (bearing to the center of curve bears East--thru a central angle of 90°00'00"), thence  
 Southeasterly 23.562 feet along the arc of said curve; thence East 225.400 feet to a point of a  
 99.982 foot radius curve to the left (bearing to the center of curve bears North--thru a central angle  
 of 60°00'00"), thence Northeasterly 104.701 feet; thence North 30°00'00" East 91.132 feet;  
 thence South 71°43'56" East 30.64 feet to the point of beginning.

MADE 1043774-1

BK6504PE0188

**CONSENT TO DECLARATION OF ROADWAYS AND UTILITIES, COVENANTS,  
CONDITIONS AND RESTRICTIONS, AND RESERVATION OF EASEMENTS**

Zions First National Bank, N.A. is the present Trustee and Beneficiary of a Deed of Trust that encumbers the real property of Esprit Homes Owners' Association as the same is described in the foregoing Agreement. The Deed of Trust is identified as follows:

Dated: August 12, 1992  
Recorded: August 13, 1992  
Entry No: 5310967  
Securing Note in the amount of: \$764,000.00

Zions First National Bank, N.A. hereby consents to the creation of the easements, covenants, conditions, and restrictions described in the foregoing Agreement and hereby agrees and acknowledges that the foreclosure of the Deed of Trust described herein shall not effect the use of the easement property by the parties entitled thereto nor shall such a foreclosure effect the validity nor the enforceability of the terms and provisions of the Agreement.

Dated this 12<sup>th</sup> day of August, 1992.

Zions First National Bank, N.A.

By: *[Signature]*

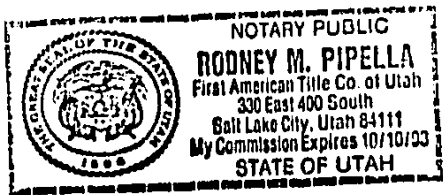
Its: *[Signature]*

FOUR COPY-  
CO. RECORDER

BK6504PG0189

STATE OF UTAH )  
 ) :ss.  
County of Salt Lake )

On the 12<sup>th</sup> day of August, 1992, personally appeared before me Paul Williams, who being by me duly sworn, did say that he the said Paul Williams is the Vice President of Zions First National Bank, N.A., and that said instrument was signed in behalf of said corporation by authority of a resolution of its Board of Directors, and said Paul Williams, duly acknowledged to me that said corporation executed the same.



*RMP*  
Notary Public

Residing in: Salt Lake City,  
Utah

My commission expires: 10-10-93

FOUR CITY-  
CO. RECORDER

BR6504PC0190