

9868362

When Recorded Return to:
Read R. Hellewell, Esq.
KIRTON & McCONKIE
60 East South Temple, Suite 1800
Salt Lake City, UT 84111-1004

9868362
10/6/2006 11:32:00 AM \$100.00
Book - 9362 Pg - 804-846
Gary W. Ott
Recorder, Salt Lake County, UT
TALON GROUP
BY: eCASH, DEPUTY - EF 43 P.

**MASTER DECLARATION
OF
EASEMENTS, COVENANTS AND RESTRICTIONS
FOR
HIGHBURY COMMONS AT LAKE PARK**

September 26, 2006

922724.01

BK 9362 PG 804

227492

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I - Definitions	1
1.1. Defined Terms	1
1.2. Articles	2
1.3. Assessments	2
1.4. Board	2
1.5. Building	2
1.6. Bylaws	2
1.7. City	2
1.8. Commercial Parcel	2
1.9. Common Expenses	2
1.10. Common Facilities	2
1.11. Company	2
1.12. Declarant	2
1.13. Declaration	2
1.14. Default Rate	3
1.15. Design Standards	3
1.16. Design Review Board	3
1.17. Easement or Easements	3
1.18. General Assessments	3
1.19. Improvements	3
1.20. Interest Rate	3
1.21. Landscaping	3
1.22. Landscape Plan	3
1.23. Maintenance Areas	3
1.24. Member or Members	4
1.25. Mortgage	4
1.26. Mortgagee	4
1.27. Neighborhood Association	4
1.28. Occupant	4
1.29. Owner	4
1.30. Parcel	4
1.31. Parcel Footage	4
1.32. Plat	4
1.33. Project	4
1.34. Property	5
1.35. Reimbursement Assessments	5
1.36. Residential Parcel	5
1.37. Rules and Regulations	5
1.38. Service Area	5
1.39. Service Area Assessment	5
1.40. Service Area Budget	5
1.41. Service Area Committee	5
1.42. Service Area Expenses	5
1.43. Site Plan	5
1.44. Supplemental Assessments	5
1.45. Taxes	5
1.46. Total Parcel Footage	6
1.47. Trustee	6
1.48. Unit	6

ARTICLE II - Submission	6
2.1. Declaration	6
2.2. Covenants to Run With Land	6
2.3. After Acquired Title	6
2.4. Site Plan.....	6
2.5. Recordation of Plat.....	7
2.6. Enforcement	7
ARTICLE III - Administration of Project	7
3.1. Development of Parcels.....	7
3.2. Construction of Improvements.....	7
3.3. Maintenance of Improvements.....	8
3.4. Parking.....	8
3.5. Landscaping.....	8
3.5.1. Landscaping Plan.....	9
3.5.2. Failure to Maintain	9
3.6. Maintenance Areas and Common Facilities.....	9
3.7. Permitted Use	10
3.8. Environmental Restriction.....	10
3.9. Compliance with Law.....	10
3.10. Storage.....	10
3.11. Nuisances.....	10
3.12. Signs	11
3.13. Utilities	11
3.14. No Subdivision of Parcel.....	11
3.15. Reservation by Declarant	12
3.16. No Third Party Beneficiary	12
ARTICLE IV - Company	12
4.1. The Company	12
4.1.1. Neighborhood Associations.....	12
4.1.2. Service Areas.....	12
4.1.2.1. Designation of Service Areas	12
4.1.2.2. Service Area Committee.....	13
4.2. Members of Company	13
4.3. Voting Rights.....	13
4.3.1. Class "A"	13
4.3.2. Class "B"	13
4.3.3. Class "C"	14
4.4. Voting.....	14
4.5. Multiple Ownership.....	14
4.6. Vote of Members.....	14
4.7. Meetings	14
4.8. Board of Trustees	15
4.9. Organization	15
4.10. No Personal Liability; Indemnification	15
ARTICLE V - Rights, Duties and Obligations	16
5.1. Management of Maintenance Areas.....	16
5.2. Rules and Regulations	16
5.3. Allocation of Taxes	16
5.4. Special Services.....	16
5.5. Special Services.....	17
5.6. Project Signs.....	17

5.7. Enforcement of Rights.....	17
5.8. Manager.....	17
5.9. Implied Rights.....	17
ARTICLE VI - Assessments	18
6.1. Payment of Assessment.....	18
6.2. Apportionment.....	18
6.3. Annual Budget.....	18
6.4. General Assessment.....	18
6.5. Service Area Assessment.....	19
6.6. Manner of Assessment.....	19
6.6.1. Notice.....	19
6.6.2. Payment.....	19
6.7. Supplemental Assessments.....	20
6.8. Reimbursement Assessment.....	20
6.9. Collection of Assessments.....	20
6.10. Notice of Unpaid Assessment.....	20
6.11. Remedies to Enforce Assessments.....	20
6.12. Lien for Assessments.....	21
6.13. Priority of Lien; Liability of Owner.....	21
6.14. Certificate of Assessment.....	21
6.15. No Avoidance.....	21
6.16. Accrual of Interest.....	22
6.17. No Offset.....	22
ARTICLE VII - Easements	22
7.1. General.....	22
7.2. Other Easements.....	22
7.3. Ingress, Egress and Parking on Maintenance Areas.....	23
7.4. Temporary Construction Easement.....	23
7.5. Public Utilities Easement.....	23
7.6. Sign Easements.....	23
7.7. Maintenance Area Easements.....	24
7.8. Access to Perform Duties.....	24
7.9. Extension of Easement.....	24
7.10. No Public Dedication.....	24
ARTICLE VIII - Architectural Control	25
8.1. Architectural Control.....	25
8.2. Design Review Board.....	25
8.3. Purpose of Design Review Board.....	25
8.4. Design Standards.....	26
8.5. Design Review Procedures.....	26
8.5.1. Review Period.....	27
8.5.2. Term of Approval.....	27
8.6. Required Vote.....	27
8.7. Variances.....	27
8.8. Final Plans.....	27
8.9. Inspection.....	28
8.10. Notice of Noncompliance.....	28
8.11. Correction of Noncompliance.....	28
8.12. No Liability.....	28
8.13. Delegation of Design Review.....	29
8.14. Exclusions.....	29

8.15. Application to Declarant.....	29
ARTICLE IX - Annexation	29
9.1. Right of Declarant	29
9.2. Manner of Annexation.....	29
9.3. Effect of Supplemental Declaration	29
ARTICLE X - Mortgagee Protection	30
10.1. Mortgagee Protection	30
10.2. Notice of Noncompliance to Mortgagee	30
10.3. Priority of Assessment Lien	30
10.4. Financial Information	30
10.5. Article Supersedes Others	30
10.6. Amendment to Article	30
10.7. Notices to Mortgagee	31
ARTICLE XI - Miscellaneous Provisions	31
11.1. Notices.....	31
11.2. Amendment	31
11.3. Amendment by Declarant.....	31
11.4. Insurance.....	32
11.4.1. Owner's Insurance.....	32
11.4.2. Company Insurance.....	32
11.5. Condemnation.....	32
11.6. Duration.....	32
11.7. No Merger	33
11.8. Assignment of Declarant's Rights and Remedies	33
11.9. Violation Creates Nuisance	33
11.10. Violation of Law.....	33
11.11. No Third-Party Beneficiary	33
11.12. Words of Conveyance	34
11.13. Liberal Interpretation.....	34
11.14. Gender and Number	34
11.15. Captions.....	34
11.16. Invalidity of Provision.....	34
11.17. Exhibits.....	34
11.18. Governing Law.....	34

Exhibits:

Exhibit "A"	Legal Description
Exhibit "B"	Depiction of Overall Project
Exhibit "C"	Site Plan
Exhibit "D"	Depiction of Maintenance Areas

**MASTER DECLARATION
OF
EASEMENTS, COVENANTS AND RESTRICTIONS
FOR
HIGHBURY COMMONS AT LAKE PARK**

THIS MASTER DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS FOR HIGHBURY COMMONS AT LAKE PARK is made and entered into the ___ day of _____, 2006, by ZIONS SECURITIES CORPORATION, a Utah corporation ("Declarant"), in contemplation of the following facts and circumstances:

A. Declarant is the fee simple owner of certain real property (the "Property"), located in Salt Lake County, State of Utah and more particularly described on Exhibit "A" which is attached hereto and incorporated herein by this reference, or is the holder of a contractual right to become the fee simple owner of such real property.

B. The Property, together with other property to be acquired by Declarant, is being commonly developed as part of a mixed-use project known as Highbury Commons at Lake Park and may from time to time be referred to herein as the "Project." The anticipated boundaries of the overall Project, once fully developed, are depicted on Exhibit "B" attached hereto. Declarant desires to adopt this Declaration to establish Maintenance Areas, easements, covenants and restrictions and to provide for the common management and operation of certain portions of the Project, to place certain use restrictions on the Property and to protect and preserve the value of the Project and the improvements which are intended to be constructed therein.

C. Declarant further intends to preserve the right to supplement this Declaration from time to time, in the discretion of Declarant, to formally include additional real property within the Project and to cause such additional property to become subject to the terms and conditions of this Declaration.

NOW, THEREFORE, Declarant does hereby declare that the Property, as defined and described herein, shall be held, sold, conveyed, transferred, leased, subleased, used and occupied subject to the easements, covenants, conditions and restrictions set forth herein and which easements, covenants, conditions and restrictions shall run with the Property and all portions thereof and shall be binding upon all parties having or acquiring any right, title or interest in and to all or any portion of the Property, and the respective heirs, successors and assigns of such parties.

**ARTICLE I
Definitions**

1.1. **Defined Terms.** Unless the context clearly indicates otherwise, certain terms used in this Declaration shall have the meanings set forth in this Article I. In this Declaration, unless the context requires otherwise, the masculine, feminine and neuter genders and the singular and the plural shall be deemed to include one another, as appropriate.

1.2. Articles shall mean the Articles of Incorporation prepared and filed for the formation of the Company in accordance with the requirements of applicable laws and regulations of the State of Utah.

1.3. Assessments shall mean General Assessments, Service Area Assessments, Supplemental Assessments and Reimbursement Assessments.

1.4. Board shall mean the governing board which shall be responsible for the management of the affairs of the Company.

1.5. Building shall mean a structure built on any portion of the Project for permanent use, including, but not limited to, buildings, parking structures, outside platforms and docks, canopies, enclosed atriums, malls or porches.

1.6. Bylaws shall mean the written procedures, if any, adopted for the regulation or management of the affairs of the Company which may from time to time be adopted by the Board.

1.7. City shall mean West Valley City, a municipal corporation of the State of Utah.

1.8. Commercial Parcel shall mean a Parcel designated on the Site Plan for commercial development.

1.9. Common Expenses shall mean any and all costs and expenses incurred by the Company in the performance and preservation of the rights, duties and obligations of the Company, including, by way of explanation but not by way of limitation, (i) the ownership, operation and/or maintenance of the Maintenance Areas and Common Facilities, (ii) the costs and expenses associated with the existence of the Company, and (iii) a reasonable contingency reserve, surplus and/or sinking fund.

1.10. Common Facilities shall mean all improvements located upon the Maintenance Areas, including, without limitation: sidewalks; landscaped parking strips or aprons between sidewalks and streets; curbing and gutters; storm and waste water collection and drainage systems; asphalt paving; sprinkler and irrigation systems; landscaping; decorative water features; parks or designated open spaces; trails; landscaped traffic islands; traffic roundabouts; directional, traffic, identification and/or Project signs used for the entire Project and not exclusively for any specific Building or Occupant; and safety, decorative or other lighting for parking and sidewalks, but excluding any exterior decorative or other lighting used to illuminate any Building or parking areas related to such Building. Common Facilities shall also include any and all equipment which shall be leased, owned or used by the Company in the ownership, operation and maintenance of the Project.

1.11. Company shall mean Highbury at Lake Park Owners Company, a Utah nonprofit corporation, organized to own the Maintenance Areas, Common Facilities, to govern the operation and maintenance of the Project and to implement the provisions of this Declaration.

1.12. Declarant shall mean Zions Securities Corporation, a Utah corporation.

1.13. Declaration shall mean this Master Declaration of Easements, Covenants and Restrictions for Highbury Commons at Lake Park.

1.14. Default Rate shall mean that rate of interest which shall be determined in accordance with the provisions of Section 6.16 and which shall be required to be paid in accordance with the provisions of this Declaration.

1.15. Design Standards shall mean any standards and procedures, whether written or unwritten, which may be adopted by the Design Review Board, whether formally or otherwise, pursuant to Section 8.4 hereof.

1.16. Design Review Board shall mean the committee established and defined in Section 8.3.

1.17. Easement or Easements shall mean any easement or, as the context shall require, all easements (i) granted pursuant to the provisions of this Declaration, (ii) set forth on the Plat, or (iii) to which the Property is subject pursuant to documents which have been or will be recorded with the Salt Lake County Recorder, State of Utah.

1.18. General Assessments shall mean the share of the Common Expenses which is to be paid by each Owner pursuant to Section 6.4 hereof.

1.19. Improvements shall mean and include all Buildings and other improvements made to or constructed upon any portion of the Property and shall include, by way of explanation and not by way of limitation, all Buildings, driveways, sidewalks, parking areas, parking structures, curb, gutters, Landscaping, retaining walls, signs, utilities, exterior lighting and exterior signs.

1.20. Interest Rate shall mean that rate of interest which shall be determined in accordance with the provisions of Section 6.16 and which shall be required to be paid in accordance with the provisions of this Declaration.

1.21. Landscaping shall mean lawn, ground cover, flowers, shrubbery, trees and the like, which may be complemented with earth berms, masonry or similar materials and the real property located thereunder, together with all sprinkling or other irrigation systems related thereto.

1.22. Landscape Plan shall mean the plan for the installation and maintenance of Landscaping of a Parcel which has been submitted to and approved by the Design Review Board.

1.23. Maintenance Areas shall mean all areas within the Project which have been, from time to time, formally designated as areas to be used in common as designated on the Plat, and which areas the Company shall be responsible to maintain in accordance with the provision of this Declaration, and may include, by way of illustration and not limitation, project signage, storm water detention facilities, community trails, urban fisheries, landscaped portions of roadways (including center islands, medians, and the center of roundabouts but not the paved portions of such roadways), community-wide parks, and other community facilities or improvements that enhance the overall value of the Project. Except where the context shall require otherwise, the term "Maintenance Areas" shall include all Common Facilities.

1.24. Member or Members shall mean those parties which shall be entitled to vote and otherwise participate in decisions made by the Company and which parties shall consist of all Owners.

1.25. Mortgage shall mean any mortgage, deed of trust or other security instrument by which a Parcel or any part of the Property is encumbered. No Mortgage executed by an Owner of a Parcel shall be construed to constitute a lien or other encumbrance upon any other Parcel or upon the Maintenance Areas or Common Facilities.

1.26. Mortgagee shall mean any person or entity named as the mortgagee or beneficiary under a Mortgage or any successor-in-interest to such person or entity.

1.27. Neighborhood Association shall mean an association established pursuant to Section 4.1.1.

1.28. Occupant shall mean any party, whether such party shall be an individual, corporation, limited liability company, joint venture, partnership or association which has purchased, leased, rented or otherwise acquired the right to occupy and use any Building or any portion thereof, whether or not such right is exercised.

1.29. Owner shall mean any party, including Declarant, whether such party shall be an individual, corporation, limited liability company, joint venture, partnership or association, which holds in fee the rights and incidents of ownership of real property in the State of Utah as to a Parcel within the Project, as evidenced in the official records of Salt Lake County, State of Utah. The term "Owner" shall not refer to any party that shall have such interest solely as security for performance of any obligation, including a Mortgage.

1.30. Parcel shall mean each portion of the Project which has either (i) been designated on the Plat as a legal lot which may be separately transferred or conveyed under the laws of the State of Utah, or (ii) been conveyed as a legal lot to an Owner as evidenced in the official records of Salt Lake County, State of Utah. Notwithstanding the foregoing, in no event shall the Maintenance Areas be deemed a Parcel. A Parcel may have other designation on the Plat such as lot or pad.

1.31. Parcel Footage for each respective Parcel shall mean the total square footage contained within that Parcel as based upon the legal description of such Parcel as set forth in the description in the official records of Salt Lake County, State of Utah.

1.32. Plat shall mean a plat of the Property or any portion of the Property which shall be prepared, submitted and approved in accordance with applicable ordinances of the City and which shall, either prior to or subsequent to the recordation of this Declaration, be recorded in the official records of Salt Lake County, State of Utah. All individual subdivision plats or maps approved by the City shall be collectively referred to as the "Plat."

1.33. Project shall mean the Property, together with the Improvements, the Maintenance Areas, the Common Facilities and the Landscaping which are now located upon or may in the future be located upon the Property and which shall collectively be commonly known as Highbury Commons at Lake Park.

1.34. Property shall mean the real property described in recital Paragraph A, less any portion thereof that shall be deeded or otherwise dedicated to the City for public use.

1.35. Reimbursement Assessments shall mean amounts required to be repaid by an Owner pursuant to Section 6.8 hereof.

1.36. Residential Parcel shall mean a Parcel designated on the Site Plan for single- or multi-family residential development or for mixed-use development. In other words, if a single Parcel contains both residential and commercial uses, such Parcel shall be considered a Residential Parcel.

1.37. Rules and Regulations shall mean standards for the occupancy and use of the Maintenance Areas and other portions of the Project and other matters related to the administration and management of the Project which may be adopted and amended from time to time in accordance with the provisions of this Declaration.

1.38. Service Area shall mean those areas of the Project so designated pursuant to Section 4.1.2.1.

1.39. Service Area Assessment shall mean an Assessment levied against Units within a Service Area pursuant to Section 6.5.

1.40. Service Area Budget. A budget prepared by the Board that reflects the estimated Service Area Expenses that the Company expects to incur for the benefit of such Service Area in a given calendar year, to be provided to the Owners of Units within a Service Area along with the Annual Budget as set forth in Section 6.3.

1.41. Service Area Committee shall mean a committee within a Service Area as contemplated by Section 4.1.2.2.

1.42. Service Area Expenses shall mean all expenses that the Company incurs or expects to incur in connection with providing benefits and services to a Service Area, including any operating reserve or reserve for repair and replacement of capital items maintained for the benefit of the Service Area. Service Area Expenses may include a reasonable administrative charge in such amount as the Board deems appropriate, provided that any such administrative charge is applied at a uniform rate per Unit among all Service Areas receiving the same service.

1.43. Site Plan shall mean and refer to the non-binding, general plan of development for the Property, as amended from time to time, and as further described in Section 2.4.

1.44. Supplemental Assessments shall mean the share of any additional assessment levied in accordance with provisions of Section 6.7 hereof which is to be paid by each Owner.

1.45. Taxes shall mean all taxes, assessments, charges and fees imposed, assessed or levied by any governmental or public authority against or upon the Property and/or Improvements.

1.46. Total Parcel Footage shall mean the sum of the Parcel Footage for all Parcels within the Project.

1.47. Trustee shall mean a member of the Board, elected in accordance with the Bylaws of the Company.

1.48. Unit shall mean a residential dwelling or any commercial, retail, office, industrial or other improved space located within any Building constructed within the Project that is designated for separate use or ownership.

ARTICLE II Submission

2.1. Declaration. Declarant hereby declares that the Property and any and all Improvements that shall at any time be located upon any portion of the Property shall be held, sold, conveyed, transferred, designed, constructed, operated, maintained, leased, subleased and occupied subject to the easements, covenants, conditions and restrictions set forth in this Declaration and which are for the purpose of establishing Maintenance Areas, mutual easements, covenants and restrictions which shall provide for the common management and operation of certain portions of the Project, to place certain use restrictions on the Property and to protect and preserve the value of the Project.

2.2. Covenants to Run With Land. This Declaration and all of the easements, covenants, conditions, restrictions and other provisions contained herein are intended to be and shall constitute covenants which shall run with the land and which shall be binding upon and shall inure to the benefit of Declarant, each respective Owner, each Occupant and any other party which has or may acquire any interest in or to any portion of the Project and each respective grantee, transferee, heir, devisee, personal representative and the successors and assigns thereof. Any party which may acquire an interest in any portion of the Project, or which may occupy any portion of the Project, shall be deemed to consent and agree to be bound by the Declaration and all of the easements, covenants, conditions, restrictions and other provisions herein contained.

2.3. After-Acquired Title. In the event that as of the date of the recordation of this Declaration, Declarant shall not be the holder of record of legal title to any portion of the Property, then all of Declarant's right, title and interest in such portion of the Property, whether such right, title and interest shall arise by reason of a contract for deed or otherwise, shall be deemed to be equitable title, and such equitable title shall be deemed to be subject to and bound by this Declaration and all of the easements, covenants, conditions and restrictions and other provisions herein contained. In the event that fee simple title to any portion of the Property shall become vested in Declarant at any time after the execution, delivery and/or recordation of this Declaration, then any such real property shall immediately and automatically, without the necessity of the execution, delivery or recordation of any other document or instrument, become subject to and bound by this Declaration and all of the easements, covenants, conditions, restrictions and other provisions herein contained.

2.4. Site Plan. The Site Plan, attached hereto as Exhibit "C", is the present design for the initial Parcels to be included within the Project. The Site Plan shall contain all information required by this Declaration to be shown on the Plat and, therefore, unless the context shall require otherwise, a reference to the Plat shall be deemed to include the Site Plan. During the period of time required to plan, develop and construct the Project, the Site Plan may be revised, modified or amended by the Declarant in response to technological, economic, environmental, planning, social, marketing, municipal, financial, governmental or other requirements. The Site Plan shall not bind Declarant. Declarant reserves the right, but shall not be obligated, to annex additional real property which is not part of the Site Plan. Until such time as a "Plat" shall be approved and recorded as required under the provisions of Section 2.5, the use of the term "Plat" in this Declaration shall refer to the Site Plan which is attached hereto as Exhibit "C" or the most recent revision, modification or amendment thereto which shall be attached to a supplement to this Declaration and recorded in the office of the County Recorder of Salt Lake County, State of Utah. A supplement to this Declaration recorded for the purpose of revising the Site Plan shall specifically state that the Site Plan attached thereto shall, for all purposes thereafter, constitute the Site Plan referred to in this Declaration. Any such supplement to this Declaration shall be signed by Declarant and need not be signed by nor consented to by any Owner, Mortgagee, or the City.

2.5. Recordation of Plat. As defined in Section 1.33, to constitute a Plat, a survey illustration of the applicable portion of the Project must be prepared, submitted and approved in accordance with applicable ordinances of the City and be recorded in the official records of Salt Lake County, State of Utah. Declarant reserves the right to cause one or more Plats to be recorded subsequent to the date of the recordation of this Declaration. Declarant specifically reserves the right to record such number of Plats as Declarant shall determine, in its discretion, to be necessary to adequately define the Project and all of the Parcels, Maintenance Areas, and other parts of the Project. Each Plat, when approved and recorded as required by this Section 2.5, shall be deemed to be a Plat and all such Plats, when taken together, shall constitute the Plat of the Project. Declarant further reserves the right to record such revisions, amendments, restatements or supplements to the Plat, whether one or more, as may be required to cause the Plat to accurately represent the Parcels, and other parts of the Project as constructed and existing as of the date of such recordation. After an Owner becomes the owner of a Parcel, no revision, amendment,

restatement or supplement to the Plat may modify conditions which exist upon an Owner's Parcel without the written consent of such Owner, which consent shall not be unreasonably withheld or delayed.

2.6. Enforcement. Unless otherwise specifically set forth herein, Declarant or any Owner shall have the right to enforce, by any proceeding at law or in equity, all easements, covenants, conditions, restrictions, liens, charges, rights and/or duties now or hereafter imposed by the provisions of this Declaration. Failure of Declarant or any Owner to enforce any easement, covenant, condition, restriction, lien, charge, right and/or duty contained herein on any one or more occasion shall not be deemed a waiver of the right to do so on any subsequent occasion.

ARTICLE III Administration of Project

3.1. Development of Parcels. Each Owner shall be responsible for the construction of all Improvements which are constructed upon its Parcel. No Owner shall be responsible to contribute to the cost of the initial construction of any Improvements located upon any other Parcel. Notwithstanding the foregoing, an Owner shall be responsible to pay its proportionate share of the repair, replacement and/or reconstruction of Improvements constructed within the Maintenance Areas for which the Company shall have responsibility in accordance with the provisions of this Declaration.

3.2. Construction of Improvements. No Improvements shall be constructed upon a Parcel, nor shall there be any alteration, repainting or refurbishing of the exterior of any existing Building or other Improvement unless and until complete plans and specifications therefor have first been submitted to and approved by the Design Review Board as set forth in Article VIII; provided, however, that the consent of the Design Review Board shall not be required for any repair, repainting or refurbishing of an existing Improvement if upon completion of such repair, repainting or refurbishing the Improvement shall be in compliance with plans and specifications previously approved by the Design Review Board for such Improvement (including blanket approvals for standard plans of single-family residences given in accordance with Section 8.3). Approval from the Design Review Board is not required for Improvements to be constructed by Declarant on Maintenance Areas. No temporary structure shall be permitted on any Parcel; provided, however, that trailers, temporary construction offices, sheds and other similar temporary structures shall be permitted for construction purposes during the actual construction of the Improvements. Once commenced, construction of all Improvements shall be diligently prosecuted to completion. The Owner of the Parcel on which Improvements are being constructed shall at all times keep streets contiguous to the Parcel reasonably free from any dirt, mud, garbage, trash or other debris which might be occasioned by construction of the Improvements.

3.3. Maintenance of Improvements. All Improvements located upon a Parcel shall be continuously maintained so as to preserve a well-kept appearance of a first-class mixed-use development. The Company shall be responsible for the maintenance of the Maintenance Areas and Common Facilities. Each Owner shall be required, at its sole cost and expense, to maintain its Parcel in a clean, safe and orderly manner and to cause all weeds, rubbish and debris to be removed from its Parcel in accordance with the provisions of Section 3.5. Each Owner shall be responsible for the exterior maintenance of any and all Buildings and any and all Improvements, including sidewalks, parking lots and driveways, located on said Owner's Parcel. If the Company reasonably determines that the level of exterior maintenance on any Improvement located on an Owner's Parcel or the maintenance of a vacant Parcel is unacceptable, the Company shall so notify the Owner in writing, and the Owner shall have thirty (30) days thereafter to correct the deficiencies specified in such notice. If, in the Company's opinion, the Owner shall fail to correct the stated deficiencies within said thirty (30) day period, the Company may order the necessary work (the "Required Maintenance") performed at the Owner's expense. The cost of the Required Maintenance shall be assessed to said Owner as a Reimbursement Assessment.

3.4. Parking. Off-street parking to accommodate the parking needs for employees, guests, visitors, business invitees and company vehicles, and which shall be in compliance with the requirements of the Design Standards and the City, shall be provided by each Owner on said Owner's Parcel. No parking of company vehicles or vehicles of employees, guests, visitors or business invitees shall be permitted upon streets located in any portion of the Project not designated for residential use. As specifically set forth in the Design Standards, all parking and driving surfaces constructed upon a Parcel must be (i) properly graded to assure adequate drainage and collection and distribution of storm water runoff, (ii) paved with concrete, asphalt or other hard surface paving material approved by the Design Review Board, (iii) marked to designate approved parking areas, with appropriate parking reserved to permit access by persons with physical impairments, (iv) adequately lighted, and (v) screened as required by the Design Review Board. Each Owner shall be responsible to maintain all parking and driving surfaces located upon such Owner's Parcel.

3.5. Landscaping. Each Owner shall be responsible to cause Landscaping to be planted, installed and maintained upon all portions of such Owner's Parcel upon which no other Improvements have been constructed, including, without limitation, those portions of an Owner's Parcel which shall be subject to Easements granted pursuant to this Declaration. Declarant shall be responsible to cause Landscaping to be initially planted upon the Maintenance Areas. After such initial planting, the Company shall be responsible for maintenance of the same, and costs and expenses incurred for such maintenance shall be a Common Expense; provided, however, that the Company shall be entitled to the actual benefit of any warranty that may be related to such initial planting. No Landscaping shall be installed upon a Parcel, nor shall there be any alteration of any Landscaping, unless and until complete plans for such Landscaping or alteration of existing Landscaping have first been submitted to and approved by the Design Review Board; provided, however, that approval from the Design Review Board for Landscaping to be installed by Declarant on Maintenance Areas is not required. No Owner shall be required to cause Landscaping to be planted or installed upon any Parcel upon which no Improvements have been constructed; provided, however, that in the event that an Owner shall utilize only a portion of its Parcel by the construction of limited Improvements (e.g., a parking lot), then that portion of the Parcel that shall be required to be landscaped as part of the construction of such limited Improvements shall be determined by the Design Review Board. In any event, each Owner shall be required to keep such Owner's Parcel free from rubbish, debris, fire hazards or any unsanitary, unsightly or offensive condition and to conduct such weed abatement, rubbish and debris removal and other maintenance as shall be required to cause said Parcel to be maintained in compliance with standards established by the Company, or, in the event the Company shall not have established such standards, then such maintenance shall, at a minimum, be in compliance with applicable ordinances of the City.

3.5.1. Landscaping Plan. All Landscaping shall be planted, installed and maintained pursuant to a Landscaping Plan which shall be submitted to and approved by the Design Review Board prior to installation; provided, however, that approval from the Design Review Board for Landscaping to be planted or installed by Declarant on any portion of the Project, except a Parcel, is not required. Once installed, each Owner shall maintain the Landscaping in accordance with the maintenance standards set forth in the approved Landscaping Plan, including the planting of replacement plants as necessary to maintain a well-kept appearance. Any changes in the Landscaping shall be approved by an amendment or revision of the existing Landscaping Plan submitted to and approved by the Design Review Board.

3.5.2. Failure to Maintain. If the Company reasonably determines that the Landscaping for a Parcel is not being maintained in accordance with the approved maintenance standards, the Company shall so notify the Owner of such Parcel in writing, and the Owner shall have thirty (30) days thereafter to correct the deficiencies specified in such notice. If, in the Company's opinion, the Owner fails to correct the stated deficiencies within said thirty (30) day period, the Company may order the

necessary work performed on the Landscaping at the Owner's expense. The cost of said action shall be assessed to said Owner as a Reimbursement Assessment.

3.6. Maintenance Areas and Common Facilities. The real property upon which Maintenance Areas are located may be owned by the Company or by parties other than the Company, which parties may include Declarant, an Owner, the City or the State of Utah. An approximate depiction of the initial Maintenance Areas is provided as Exhibit "D" attached hereto and incorporated by reference; PROVIDED, HOWEVER, that only the landscaped portion of any roadways shown thereon, including center islands or medians and the landscaped center of any roundabouts, shall constitute Maintenance Areas. Paved portions of roadways shall not constitute Maintenance Areas. Declarant expressly reserves the right to add or delete Maintenance Areas for so long as Declarant owns property that is subject to this Declaration. Maintenance Areas shall be depicted on the Plat and shall designate areas where the Company shall be responsible to maintain the Landscaping and all sprinkler and irrigation systems required to maintain such Landscaping. The Company shall manage, administer and maintain the Maintenance Areas and Common Facilities; provided, however, that nothing contained herein shall preclude the Company from entering into contracts with other parties, including a management company, to perform tasks related to the management, administration and maintenance of the Maintenance Areas and Common Facilities. All costs and expenses incurred in connection with such management, administration and maintenance of the Maintenance Areas and Common Facilities, including specifically, but without limitation, any capital improvement which is made by the Company upon or within the Maintenance Areas (except the initial capital cost) and the cost of the acquisition of any Common Facilities, shall constitute a Common Expense. Declarant shall be responsible for the payment of costs and expenses incurred in the initial construction of Improvements upon the Maintenance Areas; provided, however, that Declarant shall have the right to determine what Improvements, if any, shall be constructed upon the Maintenance Areas.

3.7. Permitted Use. The Project is intended to be developed for such mixed uses as shall be determined by Declarant in the course of development. Such uses may include single-family low- and high-density dwelling units, multifamily housing, and retail and commercial uses of all types, subject only to applicable zoning ordinances of the City which may now or which may in the future be applicable to the Property. So long as Declarant shall remain a Class "C" Member, Declarant shall, in its discretion, determine whether an intended use is an appropriate use within a mixed-use development. At such time as Declarant shall cease to be a Class "C" Member, the Board shall, in its discretion, determine whether an intended use is an appropriate use within the Project.

3.8. Environmental Restriction. Each Parcel shall be used and occupied in compliance with all environmental laws which may now or in the future be applicable to such Parcel, including, without limitation, all present and future federal, state, and local judicial decisions, orders, decrees, laws, statutes, rules, rulings, regulations, permits, certificates, codes or ordinances of any governmental authority having jurisdiction over the Property, including, without limitation, the Utah Environmental Quality Code, Title 19, Utah Code Annotated; the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), 42 U.S.C. § 9601 et seq.; the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6901 et seq.; the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2601 et seq.; the Clean Air Act, 42 U.S.C. § 7401 et seq.; the Federal Water Pollution Control Act ("Clean Water Act"), 33 U.S.C. § 1251 et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq.; the Hazardous Material Transportation Act, 49 U.S.C. § 1801 et seq.; the Atomic Energy Act, 42 U.S.C. § 2011 et seq.; any so-called "Superfund" or "Superlien" law; and the rules, rulings, regulations, decisions and publications promulgated pursuant to said laws, all as may be amended from time to time (collectively, the "Environmental Laws"). Notwithstanding any standard set forth in the Environmental Laws, in no event shall a Parcel be used for any business or other activity which will generate reportable quantities of hazardous wastes, or which will store, treat or dispose of hazardous wastes, unless the

Company shall provide express, prior written approval of such use. The terms “generate,” “store,” “treat,” “dispose of” and “hazardous wastes” shall have the same meaning as defined in RCRA or regulations promulgated thereunder, as in effect on the date on which this Declaration is recorded. The phrase “reportable quantities of hazardous wastes” shall mean any quantities of hazardous wastes which, under RCRA, must be reported by large quantity generators to the Environmental Protection Agency.

3.9. Compliance with Law. No portion of the Project may be occupied for any use which is in violation of applicable ordinances, laws and regulations of any governmental entity having jurisdiction over the use of all or any portion of the Project.

3.10. Storage. Unless specifically approved in writing by the Design Review Board, no materials, supplies or equipment (except during the construction of Improvements) shall be stored in any area of any Parcel except inside a Building, or behind a visual barrier, approved by the Design Review Board, which shall screen such areas from the view of the adjoining Parcels.

3.11. Nuisances. No Owner or Occupant shall create a nuisance in the Project. No rubbish or debris of any kind shall be placed or permitted to accumulate outside a Building upon any Parcel, and no odor shall be permitted to arise therefrom, including open burning, so as to render any Parcel or any portion thereof unsanitary, unsightly, offensive or detrimental to any Property in the vicinity thereof or to the Occupants thereof. No use or operation shall be conducted in the Project that is noxious, objectionable, unsightly or detrimental to others in any manner and due to any cause such as, but not limited to, vibration, sound, radiation, air, water, drainage or sewer pollution, dust or emission of odorous toxic or nontoxic substances. Without limiting the foregoing, the following uses shall be prohibited in the Project: (i) any public or private nuisance; (ii) any place of public entertainment or amusement, including but not limited to a bowling alley, skating rink, electronic or mechanical games arcade (except as an incidental use to a retail or commercial business, in which case such use shall be restricted to less than five percent (5%) of the floor area occupied by such business), billiard room, pool hall, discotheque, dance hall, banquet hall, night club, bar or tavern; provided that such limitation shall not be applicable to an indoor movie theater with municipal required parking located on its own parcel, (iii) massage parlor; provided that such limitation shall not be applicable to massages given as part of other services rendered in a day spa or similar facility, (iv) a “head shop,” pornographic or “adult” store of any kind, (iv) the manufacture, storage, sale or consumption of drugs, except the legal personal use or possession of drugs for medicinal purposes; (v) any gambling; or (v) any establishment whose employees’ standard uniform or dress is substantially intended to entice a customer’s patronage by an appeal to the customer’s sexual interest, such as a “Hooters” restaurant or a “Bikini Cuts” barber/style shop or any similar establishment.

3.12. Signs. All signs which may be viewed from the exterior of any Building must be reviewed and approved in advance by the Design Review Board. Any sign providing general designation of the Project which shall be installed by Declarant shall not be subject to review and approval by the Design Review Board.

3.13. Utilities. All utility lines, connections and installations must be underground and rise within the Building to be serviced by such lines. Any external transformers, motors, heating and/or air conditioning equipment or other similar apparatus must be screened so as to eliminate visibility from ground level at any location in the Project of any portion of the Project as specifically set forth in the Design Standards, if any, or as shall be approved by the Design Review Board.

3.14. No Subdivision of Parcel. No Parcel shall be further subdivided without the prior written consent of Declarant for so long as Declarant owns any portion of the Property. Declarant shall, in the exercise of its sole discretion, be permitted to grant or withhold such approval. At such time as Declarant shall cease to be an Owner of any portion of the Property, no Parcel shall be further subdivided without

the prior written consent of the Board. Notwithstanding the foregoing, an Owner of a Parcel that is to be developed into individual residential lots may present for Declarant's approval a master plan of such Owner's intended residential development and, upon receipt of Declarant's approval of such master plan, which approval may be granted or withheld in Declarant's sole discretion, said Owner may proceed to subdivide its Parcel without the further need for Declarant's review or approval. Notwithstanding anything to the contrary contained herein, Declarant shall have the right, subject to applicable laws and ordinances but without the consent being required of any Owner or any Mortgagee, to relocate or otherwise reconfigure the boundary lines of any Parcel, to eliminate Parcels designated on the Plat, to create new Parcels through the subdivision or reconfiguration of one or more existing Parcels and to otherwise design and develop the Parcels within the Project as Declarant shall determine; provided, however, that such rights shall be applicable only to Parcels which shall be owned by Declarant at the time of such adjustments, and not subject to any agreement for sale of the same. Nothing contained herein shall be construed to grant Declarant the right to alter the boundary of any Parcel not owned by Declarant without the express written consent of the Owner of such Parcel. Upon any reconfiguration of a Parcel, Declarant shall cause to be prepared and recorded an amendment to the Plat which shall set forth the boundaries of the reconfigured Parcel. No signature of any Mortgagee or any Owner, other than Declarant, shall be required on any such amendment.

3.15. Reservation by Declarant. Declarant reserves the right to erect, construct and maintain the Maintenance Areas located at any entrance to the Project or upon any portion of the Project owned by Declarant such signs, sales offices or other administrative office as may be reasonably necessary for the completion of the Project and the leasing, sale or disposition of the Parcels.

3.16. No Third-Party Beneficiary. This Declaration is being recorded for the benefit of Declarant and the Owners, and no other party shall be entitled to enforce any provision hereof. No party shall be permitted to claim that such party is an intended third-party beneficiary entitled to enforce rights, duties and/or obligations set forth herein.

ARTICLE IV Company

4.1. The Company. The administration of the Project shall be by the Company, which shall exist for the sole purpose of performing the functions and providing the services contemplated by this Declaration and the ownership of Maintenance Areas and Common Facilities. The Company shall be organized as required by the Utah Revised Nonprofit Corporation Act (the "Act") prior to or concurrently with the execution and recordation of this Declaration, and Declarant shall be responsible to pay costs and expenses incurred in such organization. The Company shall be operated as a nonprofit corporation and shall be governed by the Board and officers authorized by the Bylaws. The Board may adopt, amend and revise, from time to time, Bylaws which shall constitute written procedures for the regulation or management of the affairs of the Company; provided, however, that no provision of the Bylaws shall substantially alter or amend the rights or obligations of the Owners set forth in this Declaration.

4.1.1. Neighborhood Associations. Portions of the Project may have special requirements that require or make desirable the establishment of a separate condominium or owners association to administer additional covenants applicable to that particular area ("Neighborhood Association"). Declarant shall have the right to establish a Neighborhood Association for any Parcel within the Project. The Owner of a Parcel purchased from Declarant shall have the right to establish a Neighborhood Association for the Owner's Parcel. However, nothing in this Declaration requires the creation of a Neighborhood Association, and the jurisdiction of any Neighborhood Association shall be subordinate to that of the Company. Neighborhood Associations, if any, shall be responsible for administering the additional covenants applicable to the property within their jurisdiction and for

maintaining, in accordance with the provisions of this Declaration, any property which they own or which their respective covenants designate as being for the common benefit of their members.

4.1.2. Service Areas. Portions of the Project may be designated, either by Declarant or pursuant to the provisions set forth in this Section 4.1.2, as part of one or more "Service Areas" in which the Units receive special benefits or services (or a higher level of such benefits or services) from the Company that are not provided by the Company to all Units within the Project. A Unit may be assigned to more than one Service Area, depending on the number and types of special benefits or services it receives. A Service Area may be comprised of Units of more than one housing or commercial type and may include Units that are not contiguous.

4.1.2.1. Designation of Service Areas. Declarant may initially designate Service Areas (by name or other identifying designation) and assign Units to a particular Service Area by an amendment to this Declaration. In addition, the Board may, upon petition of at least sixty-seven percent (67%) of the Units affected by a proposed designation, designate a Service Area. Upon receipt of such petition, the Board shall investigate the terms upon which the requested benefits or services might be provided and shall notify the Owners within the proposed Service Area of such terms and the initial fees for providing the requested services, which may include a reasonable administrative charge. If Owners of at least sixty-seven percent (67%) of the Units within the proposed Service Area consent to the proposal in writing, the Board shall designate the Units as a Service Area and include the fees for such service as a line item in the Service Area Budget pursuant to Section 6.3. The Service Area Expenses associated with each Service Area shall be assessed to the Owners of Units within a Service Area as a Service Area Assessment in accordance with Section 6.5.

4.1.2.2. Service Area Committee. The Owners of Units within each Service Area may elect a "Service Area Committee" to represent and act on behalf of the Owners with respect to the services and benefits that the Association provides to the applicable Service Area. If no Service Area Committee is formed to administer a Service Area, the Board shall administer the same.

4.2. Members of Company. Each Owner shall be entitled and required to be a Member of the Company. An Owner shall become a Member of the Company immediately and automatically upon becoming an Owner and shall cease to be a Member immediately and automatically upon ceasing to be an Owner as evidenced in the official records of the County Recorder, Salt Lake County, State of Utah. The right to be a Member shall be appurtenant to the real property within the Project and shall not be transferred except upon the transfer of title to said real property and then only to the transferee of title thereto. Any transfer of title to a Parcel shall operate automatically to transfer the Owner's rights as a Member of the Company appurtenant thereto to the new Owner thereof. Any attempted separate transfer shall be void.

4.3. Voting Rights. The Company shall have three (3) classes of Members.

4.3.1. Class "A". Class "A" Members shall be all Owners of Residential Parcels, with the exception of Declarant (and any assignee of Declarant receiving Class "C" votes). Each Class "A" Member shall be entitled to vote on all issues to be voted upon by the Members of the Company. The number of votes which a Class "A" Member shall be entitled to cast during a vote of the Members shall be the number obtained by (i) dividing the Parcel Footage which shall exist on said Member's Residential Parcel as of the date of such vote by the Total Parcel Footage that shall exist on the same date (rounded to the nearest one one-hundredth); and (ii) multiplying such quotient by one hundred (100). In the event that additional property is annexed to the scheme of this Declaration, the number of votes held by each existing Class "A" Member shall decrease.

4.3.2. Class "B". Class "B" Members shall be all Owners of Commercial Parcels, with the exception of Declarant (and any assignee of Declarant receiving Class "C" votes). Each Class "B" Member shall be entitled to vote on all issues to be voted upon by the Members of the Company. The number of votes which a Class "B" Member shall be entitled to cast during a vote of the Members shall be the number obtained by (i) dividing the Parcel Footage which shall exist on said Member's Commercial Parcel as of the date of such vote by the Total Parcel Footage that shall exist on the same date (rounded to the nearest one one-hundredth); and (ii) multiplying such quotient by fifty (50). In the event that additional property is annexed to the scheme of this Declaration, the number of votes held by each existing Class "B" Member shall decrease.

4.3.3. Class "C". The Class "C" Member shall be Declarant and any successor or assignee of Declarant who takes title to one or more Parcels for the purpose of development and sale and to whom Declarant assigns in a recorded writing one or more of the Class "C" votes. Each Class "C" Member shall be entitled to three (3) times the number of votes that said Member would be entitled to cast were said Class "C" Member voting as a Class "A" Member as calculated in accordance with Section 4.3.1.

The Class "C" Membership shall terminate and any Owner then holding Class "C" Membership shall be deemed to be a holder of Class "A" (in the case of a Residential Parcel) or Class "B" (in the case of a Commercial Parcel) Membership upon the happening of the earliest to occur of the following: (i) when the total outstanding Class "A" and Class "B" votes in the Company equal the total outstanding Class "C" votes; or (ii) fifteen (15) years from the date of recording of this Declaration; or (iii) when Declarant so determines. From and after the happening of any one of the stated events, Declarant shall advise the Company in writing of the termination of Class "C" Membership within thirty (30) days of the happening of such event.

4.4. Voting. Each Member shall be entitled to vote on all matters brought before the Members for a vote thereon. No Member shall be denied the right to exercise its right to vote or participate in any meeting of the Members solely because of the failure of said Member to pay Assessments levied against such Member's Parcel. Unless otherwise specifically provided, a majority of the votes present, in person or by proxy, and entitled to vote on any matter before the Company, shall be required to approve such matter. With Class "C" Membership, the total votes which may be cast upon any vote shall exceed one hundred. Any Owner may, by written notice to the Company, transfer its voting rights to its Mortgagee or to the Occupant of such Owner's Parcel. Such transfer shall be effective until notice of revocation of such transfer signed by said Owner shall be received by the Company. No such transfer shall relieve an Owner of any obligation under this Declaration.

4.5. Multiple Ownership. The votes for each respective Parcel shall be voted together. If title to a Parcel is held by more than one party, then all such parties shall be Members of the Company and entitled to participate as a Member, but the votes allocated to such Parcel must be voted together so that all votes associated with a Parcel shall be voted as a block. No fractional votes shall be allowed. In the event of joint or multiple Owners of a Parcel, said Owners shall designate in writing one party to vote on behalf of said Owners and such designated Owner, and only such designated Owner, shall cast the votes attributable to such Parcel.

4.6. Vote of Members. The Board may cause such matters as it shall determine to be submitted to a vote of the Members either at the annual meeting of the Members or at a special meeting called for the purpose of conducting a vote of Members. In addition to such matters as the Board may submit to a vote of the Members, there shall be submitted to a vote of the Members any matters required to be voted upon by Members in accordance with the provisions of the Act, including specifically but without limitation, any amendment to the Articles.

4.7. Meetings. There shall be a meeting of the Members of the Company not less often than once each calendar year; provided, however, that a meeting of the Members may also be called by the Board or upon the written request of Members which shall be entitled to cast at least one-third (1/3) of the total votes of the Company. A meeting of the Members shall be held at such time and place within Salt Lake County, State of Utah, as shall be designated by the Board. In the event that the Board shall receive a written request for a meeting from at least one-third (1/3) of the total votes of the Company, within ten (10) days of the date of the receipt of such request, the Board shall set the date, time and location of such meeting and such meeting shall be held within thirty (30) days of the date of such request. At any meeting of Members, a majority of the votes present, in person or by proxy, and entitled to vote on any matter before the Company, shall be required to approve such matter.

4.8. Board of Trustees. As long as the Class "C" Membership is in existence, Declarant shall have the right to appoint the entire Board. The initial Board shall be comprised of seven (7) Trustees, up to two (2) of whom may be appointed (without imposing any obligation on Declarant to make such appointments) from among the Owners of Commercial Parcels and five (5) of whom may be appointed (without imposing any obligation on Declarant to make such appointments) from among the Owners of Residential Parcels. As long as the Class "C" Membership is in existence, Declarant may increase or decrease the size of the Board; provided, however, that (i) number of Trustees shall always be an odd number, (ii) the minimum number of Trustees shall be three (3) and the maximum shall be nine (9), and (iii) any decrease in the size of the Board shall not limit the rights of any Trustee to complete its term of service in accordance with the Bylaws. Upon termination of the Class "C" Membership, the Company shall appoint the Board in accordance with the Bylaws.

4.9. Organization. The Board shall be entitled to establish such organization and elect such officer(s) as it shall deem necessary to properly perform the functions of the Company; provided, however, that if no other officer or organization shall be established, the Board shall, at a minimum, upon a majority vote of the Board, appoint at least a President who shall be authorized to act for and on behalf of the Company and shall be authorized to enter into contracts and other agreements and to execute such other documents as may be required to permit the Company to perform the duties and obligations and exercise the rights and privileges of the Company as contained in this Declaration. An officer of the Company need not be a Member.

4.10. No Personal Liability; Indemnification. No Member of the Board (a "Trustee") or officer of the Company shall be personally liable to the Company or its Members for civil claims arising from acts or omissions made in the performance of duties as a trustee or officer, unless the acts or omissions are the result of the intentional misconduct of such Trustee or officer. To the full extent allowed under Utah law and in accordance with the provisions contained herein, the Company shall indemnify an individual made a party to a proceeding because such person is or was a Trustee or officer of the Company against any and all reasonable expenses, including attorneys' fees and costs, in connection with such proceeding if (i) such person's conduct was in good faith, and (ii) such person reasonably believed that said person's conduct was in, or not opposed to, the Company's best interest, and (iii) in the case of any criminal proceeding, said person had no reasonable cause to believe such person's conduct was unlawful. The Company shall not indemnify a Trustee or officer under this provision in connection with (i) a proceeding by or in the right of the Company in which the Trustee or officer was adjudged liable to the Company, or (ii) any other proceeding charging that the Trustee or officer derived an improper personal benefit, whether or not involving action in such person's official capacity, in which proceeding said person was adjudged liable on the basis that said person derived an improper personal benefit.

ARTICLE V
Rights, Duties and Obligations

5.1. Management of Maintenance Areas. The Company shall be responsible for the exclusive management, control, operation and maintenance of the Maintenance Areas, and shall keep the same in good, clean, attractive, safe and sanitary condition, order and repair. Where it deems necessary or desirable, the Company may construct, reconstruct, repair or replace any capital improvement related to or located upon the Maintenance Areas. The Company shall not be responsible for the maintenance of any Parcel. The Company may, by written contract, delegate in whole or in part, to such person or persons as it shall deem advisable, such of the Company's duties, responsibilities and functions as are properly delegable. The Company shall have the right to exercise any right or privilege given to it expressly by this Declaration or by law, and every other right or privilege or duty given to it herein or reasonably necessary to effectuate any such right, privilege or duty. All goods and services procured by the Company in performing its responsibilities shall constitute a Common Expense. Nothing contained in this Declaration shall be construed to obligate the Company to incur any expenses which cannot be reimbursed to the Company from the Owners by virtue of an Assessment.

5.2. Rules and Regulations. The Company may, in its discretion, make reasonable Rules and Regulations governing the use of the Maintenance Areas and Common Facilities, including different Rules and Regulations governing different areas within the Project, if the Company determines such an arrangement to be reasonable or desirable; provided, however, that all such Rules and Regulations shall be consistent with the rights and obligations established by this Declaration. The Company or any aggrieved Owner may initiate and prosecute, as permitted by law, appropriate legal proceedings against an offending Owner and/or Occupant to enforce compliance with such Rules and Regulations or to recover damages for noncompliance therewith. In the event that the Company or any aggrieved Owner shall initiate any such legal proceedings and prevails therein, such party shall be entitled to recover from the offending Owner costs and expenses incurred by the Company in connection with such proceedings, including court costs and reasonable attorneys' fees. Each Owner shall be responsible to insure that each Occupant of any portion of said Owner's Parcel(s) complies with such Rules and Regulations. Each lease or other agreement which shall provide for the occupancy of all or any part of the Parcel shall require the Occupant to comply with this Declaration and the Rules and Regulations.

5.3. Allocation of Taxes. Each Owner shall be responsible to pay, prior to delinquency, any and all Taxes which shall be levied against an Owner's Parcel. Declarant shall be responsible to pay, prior to delinquency, any and all Taxes which shall be levied against any portion of the Property owned by Declarant. The Company shall be responsible to pay, prior to delinquency, all Taxes levied against the Maintenance Areas and Common Facilities. All Taxes levied against the Maintenance Areas and Common Facilities shall be a Common Expense and shall be paid by all Owners as part of the Common Expenses. Any Owner, Declarant or the Company shall be entitled to protest or appeal the amount of Taxes levied and delay payment of Taxes being protested or appealed, provided that such protest or appeal is prosecuted according to applicable law and such law shall permit delay in payment of such Taxes pending resolution of such protest or appeal. In the event that Taxes are not separately levied and collected by the applicable taxing authority between the Parcels, Maintenance Areas and Common Facilities, then the Company shall make a reasonable allocation of the Taxes based upon the value of applicable portions of the Project.

5.4. Service Areas; Special Services. The Company shall have the power to provide special benefits or services to Units within a Service Area as set forth in Section 4.1.2 and to levy a Service Area Assessment for Service Area Expenses as set forth in Section 6.5.

5.5. Special Services. The Company shall have the power to provide services to an Owner or a group of Owners not otherwise provided in this Declaration. Any such service or services to an Owner or group of Owners shall be provided pursuant to an agreement in writing which shall provide (i) a detailed description of the service or services to be provided, (ii) for the payment to the Company by such Owner or Owners, of all costs and expenses incurred by the Company in providing such services, including a fair share of the overhead expenses of the Company, (iii) that the agreement shall be binding upon the successors and assigns of such Owner or Owners, and (iv) that amounts required to be paid, if not paid when due, shall be subject to a Reimbursement Assessment levied in accordance with the provisions of this Declaration.

5.6. Project Signs. Declarant may construct certain signs which shall be designed to identify the name, logo and other identification of the Project generally and not for the use or identification of any specific Owner or Occupant to the exclusion of others (the "Project Signs"). The Project Signs, if constructed, shall be constructed within the "Sign Easements" described in Section 7.6. The initial design of the Project Signs may vary from location to location, shall be determined in the sole discretion of Declarant and may, but shall not be required to, include in some instances the sign, flagpole, lighting, limited plaza areas, water features, etc. Declarant shall be responsible for payment of costs and expenses incurred in the construction and installation of any Project Signs Declarant shall elect to install. The Company shall be responsible to maintain any Project Signs installed and Improvements related to such Project Signs, and any and all costs and expenses which shall be incurred in the operation, servicing, replacement and maintenance of the Project Signs (and such related Improvements) shall be a Common Expense.

5.7. Enforcement of Rights. The Board shall be responsible to reasonably pursue performance of duties and obligations to be performed and/or collection of payments required to be made to or for the benefit of the Company or the Project generally, including, by way of illustration and not by way of limitation, payment of unpaid Assessments from Owners, enforcement of warranty obligations of parties responsible for the construction and/or maintenance of Improvements constructed for the benefit of the Company or the Project generally, and insurance claims resulting from damage to the Maintenance Areas or Common Facilities. Declarant shall cooperate in the assignment to the Company of any warranties associated with the construction of Improvements and Landscaping installed upon the Maintenance Areas or Landscape Zones.

5.8. Manager. The Company may by written contract delegate in whole or in part to a professional manager such of the Company's duties, responsibilities, functions, and powers hereunder as are properly delegable. The services of any manager retained by the Company shall be a Common Expense.

5.9. Implied Rights. The Company may exercise any right or privilege given to it expressly by this Declaration or by law, and every other right or privilege reasonably implied from the existence of any right, privilege, or duty given to it herein or reasonably necessary to effectuate any such right, privilege, or duty.

ARTICLE VI
Assessments

6.1. Payment of Assessment. Each Owner, by acceptance of a deed to any Parcel, whether or not it shall be so expressed in such deed or other conveyance, shall be deemed to and does hereby covenant and agree to pay to the Company any and all Assessments levied against its Parcel in accordance with the provisions of this Declaration. Declarant shall have the duty to pay any and all Assessments which shall be levied against any Parcel owned by Declarant. The Assessments, together with interest thereon which shall accrue at the Interest Rate or Default Rate, as set forth herein, late charges and costs of collection thereof, including court costs and reasonable attorneys' fees, shall be a charge and continuing lien upon the Parcel against which such Assessments are made from the date on which such Assessments are due. Assessments shall commence upon the date of the recording of this Declaration; provided, however, that no Assessments shall be levied for, nor shall any Common Expenses be incurred for any portion of the Project for which construction and/or installation of Improvements or Landscaping required to be completed by Declarant has not been so completed.

6.2. Apportionment. The amount of each Assessment, whether a General Assessment, a Service Area Assessment or Supplemental Assessment, to be paid by an Owner shall be computed by apportioning the total of such Assessment among and to all Owners in accordance with the provisions of this Section 6.2; provided, however, that Service Area Assessments shall be apportioned only among the Owners located within the applicable Service Area. Notwithstanding anything herein to the contrary, an Owner's obligation to pay Service Area Assessments and Supplemental Assessments shall be in addition to its obligation to pay General Assessments. Each Owner shall be responsible to pay a percentage of any Assessment, which percentage shall be determined by the Company on the basis of a formula which constitutes a reasonably fair and equitable apportionment among all Owners within the Project. By way of example and not limitation, such formula may be based on (i) the proportion which each Owner's Parcel Footage bears to the Total Parcel Footage, (ii) the proportion which the number of Units owned by an individual Owner bears to the total number of Units contained within the Project, (iii) the proportion which the assessed valuation of an Owner's Parcel, as shown on the tax records of Salt Lake County bears to the total of the assessed valuation of all Parcels subject to the payment of the applicable Assessment, or (iv) any comparably fair method of apportionment determined by the Board. The amount of a given Assessment attributable to each Owner, as determined by the Company after applying the formula devised by the Company in accordance with the standard set forth herein, shall be the amount of the applicable Assessment which such Owner shall be required to pay.

6.3. Annual Budget; Service Area Budget. General Assessments and Service Area Assessments shall be determined on the basis of a calendar year beginning January 1, and ending the following December 31 beginning on the date that this Declaration is recorded. On or before November 1st of each year, the Board shall prepare and furnish to each Owner or cause to be prepared and furnished to each Owner, an operating budget for the upcoming fiscal year the "Annual Budget." For Owners whose Units are located within a Service Area, the Board shall include with the Annual Budget the applicable Service Area Budget. The Annual Budget shall itemize for the applicable year the estimated Common Expenses, as defined in Section 1.10, anticipated receipts, if any, and any estimated deficits or surpluses from the prior operating period. The Annual Budget shall serve as notice of and as the supporting document for the General Assessment for the upcoming fiscal year and as a guideline under which the Project shall be operated during such annual period.

6.4. General Assessment. All Common Expenses shall be paid through an annual general assessment to all Owners. Each Owner's share of the total Common Expenses, as estimated by the Annual Budget, shall be a "General Assessment." Each respective share of a General Assessment shall be based upon the Annual Budget determined in accordance with Section 6.3. At the end of each calendar

year, the Board shall determine the exact amount of the Common Expenses which have been incurred, and shall charge or credit each Owner in the next assessment period for the difference between the actual Common Expenses incurred for the prior assessment period and the estimated Common Expenses upon which said General Assessment was based. Within ninety (90) days of the close of each calendar year, each Owner shall be provided a copy of the operating statement of the Company for the preceding year. Said operating statement shall provide reasonable detail of the actual income and expenses of the Company for the applicable year.

6.5. Service Area Assessment. The total Service Area Expenses budgeted for each Service Area, less any surplus in such Service Area Budget from prior years, shall be apportioned among all Units in the Service Area and levied as a Service Area Assessment in accordance with Section 6.2.

6.6. Manner of Assessment.

6.6.1. Notice. The General Assessment and Service Area Assessment (if any) for each calendar year shall be due and payable on January 1 of such year. Failure of the Board to give timely notice of any General Assessment by delivery of the Annual Budget or notice of a Service Area Assessment by delivery of a Service Area Budget, as provided herein, shall not be deemed a waiver or modification in any respect of the provisions of this Declaration or a release of any Owner from the obligation to pay such General Assessment, Service Area Assessment or any other Assessment; provided, however, that the date on which payment shall become due in such case shall be deferred to a date that is thirty (30) days after notice of such General Assessment or Service Area Assessment shall have been given to the Owners in the manner provided in this Declaration.

6.6.2. Payment. Any Owner which shall not have paid its annual General Assessment and any Service Area Assessment in full on or before January 1 of each year, or the date upon which the same shall be due in accordance with Section 6.6.1, shall be deemed to have elected to pay such General Assessment and Service Area Assessment in twelve (12) equal monthly installments. Any General Assessment or Service Area Assessment which shall not be paid on or before January 1 of the applicable year shall accrue interest at the Interest Rate on the unpaid balance thereof from the original date due until paid. The Board may, but shall not be required to do so, send out monthly statements to an Owner and each such installment shall be due and payable on the first day of each month without notice or demand. Any monthly installment of any General Assessment or Service Area Assessment which shall not have been received by the Board on or before the fifth day of any month in which it is due shall be assessed a late charge in an amount to be determined from time to time by the Board, but which shall not be in an amount in excess of five percent (5.0%) (or the maximum rate permitted by applicable law, whichever is lower) of the amount of the unpaid installment. In the event that an installment of a General Assessment or Service Area Assessment which is being paid monthly as permitted in accordance with the provisions of this section is not paid when due, then so long as the monthly payment or payments shall remain delinquent, the unpaid balance of such General Assessment or Service Area Assessment shall accrue interest at the Default Rate. Late charges and interest on any unpaid monthly installments of any General Assessment or Service Area Assessment may be charged according to procedures established by the Board, whether or not monthly statements shall be sent. The Board shall have the right to establish a fee for costs and expenses incurred in maintaining records of the installment payments of General Assessments or Service Area Assessments, which fee shall be charged only to Owners who pay such General Assessments or Service Area Assessments on an installment basis.

6.7. Supplemental Assessments. In addition to the General Assessment, the Board may, upon the vote of the majority of the Board at a meeting called for the purpose of such vote, levy, in any year, one or more Supplemental Assessments applicable to that year only for the purpose of paying, in whole or in part, (i) the cost of any reconstruction, repair or replacement of a capital improvement upon the

Maintenance Areas and Common Facilities, (ii) deficits created by non-payment of any Assessments by any Owner, and (iii) other costs and expenses required to be paid by the Owners in accordance with the provisions of this Declaration. At the time of the adoption of such Supplemental Assessment, the Board shall designate the time and the manner in which such Supplemental Assessment is to be paid by each Owner; provided, however, that the due date for payment of a Supplemental Assessment shall be at least thirty (30) days from the date that notice of the Board's approval of the Supplemental Assessment shall be given by the Board. Such Supplemental Assessment shall be apportioned to each Owner in the manner set forth in Section 6.2. Any Supplemental Assessment which shall not be paid on or before the applicable due date shall accrue interest at the Default Rate on the unpaid balance thereof from the original date due until paid.

6.8. Reimbursement Assessment. The Board may, subject to the provisions hereof, levy an Assessment against any Owner if the willful or negligent failure of such Owner to comply with this Declaration, the Articles, the Bylaws or the Rules and Regulations has resulted in the expenditure of funds by the Company to cause such compliance. Such Assessment shall be known as a Reimbursement Assessment and shall be levied only after notice is given as provided in this Section 6.8. The amount of the Reimbursement Assessment shall be due and payable to the Company thirty (30) days after notice to the Owner of the decision of the Board that the Reimbursement Assessment is owing. Interest shall accrue on any Reimbursement Assessment at the Default Rate from the date of expenditure of funds by the Company until such amounts shall be repaid.

6.9. Collection of Assessments. The Board shall, in its sole discretion, be entitled to establish such procedures for the collection of Assessments, including provisions for late charges, interest on unpaid Assessments, and such other matters as the Company shall determine, and shall have any and all rights and remedies provided at law or in equity for the collection of debts, subject only to the notice requirements provided in Section 6.10.

6.10. Notice of Unpaid Assessment. If any Assessment or any installment thereof is not paid within thirty (30) days after its due date, the Board may mail a notice of default to the applicable Owner. Such notice shall specify (i) that the applicable Assessment or installment thereof is late, (ii) the action required to cure such default, including the specific amount required to be paid, including late charges, interest and costs of collection, if any, (iii) a date not less than thirty (30) days from the date the notice is mailed by which such default must be cured, and (iv) that a failure to cure the default on or before the date specified in the notice may result in the acceleration of the balance of the Assessment for the current year and the filing and foreclosure of a lien for the Assessment. If the default in the payment of the Assessment is not cured as specified in the notice, the Board, at its option, may declare all of the unpaid balance of the Assessment to be immediately due and payable without further notice or demand to the Owner and may enforce the collection of the full Assessment and all charges and interest thereon in any manner authorized by law or in this Declaration.

6.11. Remedies to Enforce Assessments. Each Assessment, together with accrued interest, late charges or other similar charges levied, shall be a separate, distinct and personal debt and obligation of the Owner against whom such Assessment is assessed. Suit to recover a money judgment for such personal obligation shall be maintainable by the Company against such Owner without foreclosing or waiving the lien securing the same. Any and all rights and remedies shall be exercised in such manner, on one or more occasions and in such order as the Board shall elect, without waiver of any other right or remedy or lien provided in this Declaration or by law. Any failure of the Board to exercise any such right on one or more occasions shall not constitute a waiver of the right to so exercise such right in the future. In addition to the amount of the unpaid Assessment, an Owner shall be required to pay any and all costs and expenses which may be incurred by the Company in collection of such Assessment, including reasonable attorneys' fees and costs, whether or not litigation is commenced.

6.12. Lien for Assessments. All sums assessed to an Owner of any Parcel in the Project pursuant to the provisions of this Declaration, together with interest thereon at the Interest Rate or Default Rate, as applicable, late charges and costs of collection, shall be secured by a lien on such Parcel in favor of the Company. To evidence a lien for sums assessed pursuant to this Declaration, the Board shall cause to be prepared a written notice of lien setting forth (i) the name of the Owner of the applicable Parcel, (ii) the legal description of the Parcel, (iii) the amount of the Assessment, (iv) the date such Assessment was due, and (v) the amount remaining unpaid. Such notice of lien shall be signed and acknowledged by an officer of the Company, and shall be recorded in the office of the County Recorder of Salt Lake County, State of Utah. No notice of lien shall be recorded until there is a delinquency in the payment of the Assessment and after the notice required to be given pursuant to Section 6.10. Such lien may be enforced by the sale or foreclosure of the Parcel encumbered by the lien at a foreclosure sale conducted by the Board or its attorney in accordance with the provisions of Utah law applicable to the foreclosure of a mortgage or in any manner permitted by Utah law, including specifically, but without limitation, the method recognized under the laws of the State of Utah for the enforcement of a mechanics' lien which has been established in accordance with the provisions of Chapter 1, Title 38, Utah Code Annotated, as amended from time to time. In any such sale or foreclosure, the Owner shall be required to pay the costs and expenses of such proceeding, including reasonable attorneys' fees, and such costs and expenses shall be secured by the lien herein provided, whether or not the same shall be specifically set forth therein. The Owner shall also be required to pay to the Company any Assessments against the Parcel which shall become due during the period of foreclosure or sale, and all such Assessments shall be secured by the lien herein provided. The Company shall have the right and power to bid in any foreclosure or sale and, upon purchase thereof, to hold, lease, mortgage or convey the subject Parcel. In the event a proceeding for the foreclosure of the lien granted hereby shall be commenced, while such proceeding shall be in process, the Company shall be entitled to the appointment of a receiver to collect the rentals being derived from said Parcel.

6.13. Priority of Lien; Liability of Owner. The priority of lien for Assessments provided for herein over a Mortgage shall be governed by the provisions of Section 10.3. No foreclosure of a lien shall extinguish the personal liability of the Owner therefor unless the Company shall either (i) actually purchase the Parcel at the foreclosure sale conducted to foreclose such lien, or (ii) actually receive payment in full of amounts due. An Owner's personal liability for payment of Assessments shall be reduced by the amount actually paid at the foreclosure by the successful bidder that shall remain after allocation for payment of costs and expenses incurred by reason of such sale. No other sale or transfer shall relieve such Owner from liability for any Assessments which shall be due as of the date of foreclosure.

6.14. Certificate of Assessment. The Board shall, upon written request, and for a reasonable charge, furnish a certificate signed by an officer of the Company, setting forth whether the Assessments on a specific Parcel have been paid, and said certificate may be conclusively relied upon by the party requesting the same.

6.15. No Avoidance. No Owner may avoid or diminish such Owner's obligation to pay Assessments, the right of the Company to assert a lien against said Owner's Parcel to enforce payment of the same or to be relieved of such Owner's personal obligation for the payment of Assessments by reason of: (i) a waiver of the use or enjoyment or the actual non-use of any of the Maintenance Areas, Common Facilities, or any other portion of the Project; (ii) a waiver of any services provided for in this Declaration; or (iii) all or any part of said Owner's Parcel being unoccupied for all or any portion of the period for which such Assessments shall have been made.

6.16. Accrual of Interest. Interest shall accrue on amounts required to be paid in accordance with the provisions of this Declaration from the date on which such payment is due until the required amount is received by the Company. The term "Interest Rate," when used in this Declaration, shall refer to a per annum rate of interest which shall be two percent (2.0%) per annum above the "Reference Rate." The term "Default Rate," when used in this Declaration, shall refer to a per annum rate of interest which shall be six percent (6.0%) per annum above the Reference Rate. The Interest Rate and the Default Rate shall be adjusted at the same time and in the same manner as there shall occur any change in the Reference Rate. The "Reference Rate" is the rate of interest established and made public from time to time by Zions First National Bank at its Salt Lake City office (the "Bank"), and its successors and assigns, and used by the Bank as its reference point for pricing loans to substantial commercial borrowers, whether such rate shall be denominated as its reference rate, prime rate or other similar or dissimilar term. The Reference Rate shall be deemed also to refer to any subsequent reference point, however denominated, that may in the future be adopted by the Bank as the replacement for the Reference Rate which is currently being used by the Bank as its reference point. All calculations of interest hereunder shall be made as follows: (i) the Interest Rate or the Default Rate, as applicable, shall be multiplied by the amount due; (ii) the product determined in clause (i) above shall be divided by three hundred sixty-five (365); and (iii) the quotient obtained in clause (ii) above shall be multiplied by the actual number of days in the period for which the calculation is being made.

6.17. No Offset. All Assessments shall be payable in the amounts specified in the levy thereof, and no offset or reduction thereof shall be permitted for any reason, including, without limitation, any claim that the Company, the Board or any officer, employee, agent or representative thereof is not properly exercising its duties and powers under this Declaration.

ARTICLE VII Easements

7.1. In General. The Property and any portion of the Property which is sold as a separate Parcel shall be conveyed and owned subject to and together with the Easements herein recited or as shall be set forth on the Plat, whether or not such Easements are specifically set forth in the document of conveyance. In each instance the physical location of an Easement may, in some circumstances, be located in the same place and the use thereof may be shared with other Easements similarly located and in each such instance the rights and privileges associated with each such Easement shall be interpreted separately, but the use shall be deemed to be non-exclusive with any other Easement similarly located. Easements granted pursuant to this Declaration shall be utilized in the manner that shall be reasonably determined to be the least disruptive to the Parcel upon which such Easement is situated. No Easement may be amended, extinguished or otherwise modified in any manner by an amendment to this Declaration or the Plat without the express written approval of the owner of the real property which shall be benefited or intended to be benefited by the existence of such Easement. It is expressly agreed that any and all Easements granted pursuant to this Declaration shall survive any termination, expiration or other cessation of this Declaration and shall be extinguished only upon the execution and delivery of a termination executed by the party legally entitled to terminate the Easement intended to be terminated.

7.2. Other Easements. In addition to other Easements specifically granted in this Declaration, there are hereby granted to each Owner and established certain perpetual easements described in this Article and/or which are described on the Plat.

7.3. Ingress, Egress and Parking on Maintenance Areas. There is hereby granted to each Owner a non-exclusive Easement for ingress and egress for both pedestrian and vehicular traffic over and across, together with the right for temporary parking of motor vehicles upon, all portions of the Maintenance Areas which have been designed, constructed and designated or which shall in the future be

designed, constructed and designated for such use, together with the right to temporarily park vehicles upon such portions of the Maintenance Areas which have been designed, constructed and designated or which shall in the future be designed, constructed and designated for such use. All parking pursuant to the Easement hereby established shall be for temporary business use associated with the conduct of business within the Project, and such use shall be in accordance with applicable Rules and Regulations.

7.4. Temporary Construction Easement. There is hereby granted to Declarant and each Owner a temporary Easement over and across roadways constructed on the Property for ingress and egress of construction vehicles and equipment during the time of actual construction of Improvements; provided, however, that (i) the party whose agents are using the Easement herein granted for construction of Improvements shall be responsible for any and all damages caused by any such usage, (ii) the use of the streets shall be limited to wheeled vehicles of such weight and size as shall be in compliance with applicable laws and ordinances, and (iii) the use shall be subject to interruptions and limitations imposed during the construction of Improvements.

7.5. Public Utilities Easement. There is hereby granted to Declarant, each Owner and to the provider of any utility service, a non-exclusive Easement (the "Utilities Easement") to construct, install, operate, service, repair, replace and maintain any and all underground public and private utility lines of any nature, including, without limitation, culinary water, irrigation water, sanitary sewer, storm water drainage, natural gas, electricity, cable television, telephone and other forms of communication, which may now or in the future exist and which may be required or desirable to service any Improvements, including specifically, but without limitation, all wiring, lines, conduits, pipes, sewers, valves, junction boxes, control boxes and drainage lines and related facilities (the "Utility Lines"). The Utilities Easement shall be located upon those areas of the Project designated on the Plat. The Utilities Easement herein granted shall include an easement over and across the surface of the Property within the boundaries of the Utility Easement as may be necessary to service and maintain such Utility Lines. In the event any utility company, quasi-utility company, public entity, agency or district, cable company or similar entity furnishing a service covered by this Utility Easement requests a specific easement to be located within the Utilities Easement by separate recordable document, Declarant reserves and is hereby given the right and authority to grant such easement, provided that such Easement shall be in compliance with the provisions of this Section 7.5. At such time as Declarant shall cease to be the Owner of real property over which the Utility Easement is required, the Company shall be deemed to have reserved the right and authority to grant such Easement, provided that such Easement shall conform to the provisions of this Section 7.5.

7.6. Sign Easements. There is hereby granted to Declarant and the Company one or more Easements (the "Sign Easements") to construct, install, service, replace and maintain the Project Signs. The Sign Easements shall be located upon the Maintenance Areas, and other areas of the Project specifically designated on the Plat. The Sign Easements herein granted shall include an easement over and across the surface of the Property from public streets to the location of the Project Signs as shall be reasonably necessary for the construction, installation, servicing, replacement and maintenance of the Project Signs. The Sign Easements shall be utilized in the manner that shall be reasonably determined to be the least disruptive to those portions of the Property upon which such Sign Easements are situated. Responsibility for the maintenance of the Project Signs is specifically set forth in Section 5.6. An Owner of a Parcel upon which one of the Sign Easements shall be located shall be responsible to install and maintain Landscaping upon such areas of the Sign Easements that shall not be occupied by a Project Sign, but shall not be responsible to maintain any Project Signs and related Improvements installed by Declarant or the Company upon said Owner's Parcel.

7.7. Maintenance Area Easements. There is hereby granted to Declarant and the Company an Easement to install, service, replace and maintain the Landscaping and Common Facilities located within a Maintenance Area. This Easement shall be located upon those areas of the Project designated on the

Plat as Maintenance Areas and shall include an Easement over and across the surface of the Property from public streets to the Maintenance Areas as shall be reasonably necessary for access to the Maintenance Areas and for the installation, servicing, replacement and maintenance of the Landscaping and Common Facilities within the Maintenance Areas. This Easement shall be utilized in the manner that shall be reasonably determined to be the least disruptive to those portions of the Property upon which such Easement is situated.

7.8. Access to Perform Duties. There is hereby granted unto the Company an Easement, together with the right to grant and transfer such Easement to others as is reasonably required to accomplish the intended purpose of such Easement, over and through all portions of the Project for the purpose of permitting the Company to exercise its rights and discharge its obligations and duties under this Declaration. Such right of access shall be specifically granted to security personnel employed by or under contract with the Company, all police officers, firefighters, ambulance personnel and similar emergency personnel in the performance of their respective duties.

7.9. Extension of Easement. Each Parcel, whether now or in the future existing, as defined in accordance with the provisions of this Declaration, shall have appurtenant thereto, and shall be benefited and burdened by, as applicable, the Easements herein granted. Each Owner shall be entitled to the benefit of the Easements herein granted and shall be entitled to permit each Occupant, together with any employee and any business customer, invitee and guest of said Owner and/or Occupant, to enjoy the benefits of the Easements herein granted, but said Owner's use and enjoyment of its Parcel shall be subject to and burdened by the Easements also herein granted.

7.10. No Public Dedication. Nothing contained in this Declaration shall be deemed to be a gift or dedication of any portion of the Project to or for the general public or for any public purpose whatsoever, it being the intention of the Declarant that this Declaration will be strictly limited to and for the purposes herein expressed. Notwithstanding the grant of the Easements, each Owner may be entitled to take whatever steps it deems necessary to protect and preserve the private ownership of its Parcel and to prevent the same from being dedicated to the public use as a matter of law; provided, however, that such steps shall be taken in such manner and at such time as shall cause minimal disruption of the occupancy and usage of said Owner's Parcel. An Easement granted herein to the City shall be deemed granted to the City and may be used by its employees, agents, contractors and representatives in performance of their respective duties within the Project, and shall not be construed to be a grant to the public generally.

ARTICLE VIII
Architectural Control

8.1. Architectural Control. No Owner, except Declarant, shall, without the prior written approval of the Design Review Board, granted in accordance with the provisions of this Article VIII, undertake or permit others to undertake upon said Owner's Parcel: (i) the construction, installation, erection or expansion of any Building or other Improvements, including utility facilities; (ii) the voluntary demolition or destruction of any Building or other Improvements; (iii) the grading, excavation, filling or similar disturbance of the surface of the land, including, without limitation, changes of grade or drainage pattern, (iv) landscaping, clearing or removal of trees, shrubs or plants; (v) planting or other installation of Landscaping; or (vi) any change or alteration of any previously approved Improvements, including any change of exterior appearance, color or texture or approved Landscaping. Approval shall be requested and granted or denied in accordance with this Article. If the Design Review Board should determine, in accordance with the provisions of this Declaration, that a proposed Improvement or alteration of the same is not consistent with the Design Standards, if any, such Improvement or alteration shall not be made. Declarant and the Board shall have the standing and authority to enforce, in accordance with rights and remedies provided in this Declaration and in courts of competent jurisdiction, the Design Standards, if any, and the decisions of the Design Review Board.

8.2. Design Review Board. There shall be established a three (3) member Design Review Board to administer the provisions of this Article VIII. The members of the Design Review Board may, but need not, be Owners or Occupants of the Project. Until the earlier to occur of (i) January 1, 2030, or (ii) the date upon which Declarant shall no longer own any Parcels within the Project, Declarant shall have the right to appoint all members of the Design Review Board. Thereafter, the membership of the Design Review Board shall be determined by the Board and its members shall be appointed and/or removed upon a vote of the Board.

8.3. Purpose of Design Review Board. It is the stated purpose of the Design Review Board to assure that all Buildings and other Improvements which shall be constructed or installed upon the Project (i) shall be of good quality and sound construction, (ii) shall harmonize with the existing surroundings and Improvements which have been or will be constructed upon the Project, (iii) are located upon the applicable Parcel in such manner as to enhance the overall design of the Project, (iv) shall be in compliance with Design Standards adopted by the Design Review Board and (v) shall not detract from the overall quality and design of the Project. Notwithstanding the foregoing, the Design Review Board shall be permitted to approve such plans and specifications as it shall have determined, in its best judgment, will promote the development and maintenance of the Project as a first-class development, whether or not such plans and specifications comply strictly with the Design Standards, if any, formally adopted by the Design Review Board as set forth in this Article VIII. Compliance of proposed plans and specifications with applicable zoning requirements, building codes and other laws shall not necessarily mean that such plans and specifications shall be permitted to be developed and implemented pursuant to this Declaration. Approval of the plans and specifications may be withheld not only because of noncompliance with any of the specific conditions, covenants and restrictions contained in this Declaration, but also by virtue of the reasonable dissatisfaction of the Design Review Board with the location of the Improvements on the Parcel, the elevation, the color scheme, the finish, design, proportions, architecture, drainage plan, shape, height, style and appropriateness of the proposed Improvements or alteration to existing Improvements, the materials used therein, the Landscaping, including size, height or location of vegetation on the Parcel, or because of the Design Review Board's reasonable dissatisfaction with any other matters which, in the reasonable judgment of the Design Review Board, will render the proposed Improvements to be not in harmony with the Project or not in keeping with the Design Standards, if any. Notwithstanding any provision to the contrary contained herein, the Design Review Board may, in its discretion, issue blanket approval of any single-family residence to be constructed according to a standard set of plans and

specifications submitted in advance by a homebuilder and approved by the Design Review Board in accordance with the procedures set forth in Section 8.5.

8.4. Design Standards. The Design Review Board may, but shall not be required to, adopt such Design Standards as it reasonably deems necessary to inform Owners of the standards which will be applied in approving or disapproving proposed Improvements. Such Design Standards may be written or unwritten and may be adopted formally or otherwise, and the term "Design Standards" shall refer to any such standards as are adopted by the Design Review Board. Any requirements imposed by the Design Review Board as a condition for approval of any proposed Improvements shall be in compliance with existing law, but may impose additional requirements not otherwise imposed by law. The Design Review Board shall have the right to amend or revise the Design Standards from time to time, in writing or otherwise, as the Design Review Board may determine upon a majority vote of its members; provided, however, that no amendment or revision shall require an Owner to alter or modify either (i) any existing Improvement, or Landscaping constructed in accordance with the provisions of this Article VIII upon said Owner's Parcel, or (ii) plans and specifications which shall have been approved by the Design Review Board within six (6) months of the date of the adoption of such amendment or revision, pursuant to which plans and specifications construction shall have commenced, but may not be completed. The different, additional or revised Design Standards shall become effective as to all matters requiring Design Review Board approval from and after the date of adoption of the revised Design Standards by the Design Review Board. Design Standards may amplify, but may not be less restrictive than the regulations and restrictions contained in this Declaration and shall be binding upon all Owners of Parcels within the Project. Review and approval by the Design Review Board shall be based upon the standards set forth in this Declaration, the Design Review Board's reasonable judgment, and in the Design Standards, if any. The Design Review Board shall consider not only the quality of the specific proposal, but also its effect and impact on neighboring Parcels, existing Buildings and the entire Project. In no event shall any Improvement be constructed which shall not be in compliance with engineering, architectural or building codes or any other code design requirements and zoning or other applicable municipal, state or federal laws, ordinances or regulations.

8.5. Design Review Procedures. The Design Standards, if any, may specifically set forth the procedures of the Design Review Board with respect to the submission of plans and specifications for approval and may provide such other rules, regulations, policies and recommendations which the Design Review Board will consider in approving or disapproving proposed construction or alteration of Improvements; provided, however, that such procedures shall not be less restrictive than the procedures required in this Article VIII. Whether the Design Review Board adopts formal Design Standards or not, an Owner shall submit to the Design Review Board three (3) copies of preliminary "plans and specifications" for any Improvements to be constructed upon its Parcel, which plans and specifications shall include site plans, maps, dimension drawings, exterior elevations, drainage plans, parking plans, exterior colors, materials and textures and other data sufficient to adequately disclose the scope and design of the proposed Improvements and a detailed Landscape Plan. Within five (5) days of its receipt of a submission from an Owner, the Design Review Board shall advise such Owner in writing whether the Design Review Board considers the materials sufficiently complete to permit review by the Design Review Board. If the Design Review Board determines the submission to be insufficient, such notice shall specify the information that will be required to permit the Design Review Board to begin its review. If an Owner desires to construct Improvements according to plans and specifications for which the Design Review Board has previously issued a blanket approval as set forth in Section 8.3, the provisions of this Section 8.5 shall not apply. Instead, such Owner shall proceed to prepare and submit final construction plans and specifications as set forth in Section 8.8.

8.5.1. Review Period. All such plans and specifications submitted to the Design Review Board shall be approved or disapproved by the Design Review Board in writing within thirty (30)

business days after its receipt of a complete submission. In the event that additional information is requested by the Design Review Board, the approval period will be extended accordingly. The Design Review Board shall provide written notification of approval or disapproval. In the event that the plans and specifications are not approved as submitted, such written notification shall also include a reasonably detailed explanation of the reasons for such disapproval. The Design Review Board shall have the right to approve submitted plans and specifications subject to specified conditions. Upon approval, two (2) copies of the plans and specifications and related materials shall be returned to the Owner and one (1) copy shall be retained by the Design Review Board.

8.5.2. Term of Approval. Approval by the Design Review Board shall be effective for a period of six (6) months from the date the approval is given, or six (6) months from the expiration of the thirty (30) day period specified where approval is not expressly granted or denied. If construction has not commenced within said six (6) month period, the approval shall be deemed expired and no construction shall thereafter commence without written renewal of such prior approval and such renewal shall be upon such terms as shall be imposed by the Design Review Board pursuant to Design Standards, if any, then in effect.

8.6. Required Vote. The act, concurrence or determination of any two (2) or more members of the Design Review Board shall constitute and shall be necessary for the Design Review Board to act. Such concurrence or action of said two (2) or more members of the Design Review Board may occur with or without a meeting, and at the same time or at different times. The Design Review Board shall maintain such records as it shall deem necessary to record actions taken or determinations made by it.

8.7. Variances. The Design Review Board may from time to time authorize variances from compliance with any provision of the Design Standards, if any, when circumstances such as topography, natural obstructions, or aesthetic, environmental or planning objectives or considerations may so warrant; provided, however, that no variance granted shall, in the reasonable opinion of the Design Review Board, constitute a material violation of the standards for the Project set forth in Section 8.4 of this Declaration. Each such variance must be approved by a majority of the members of the Design Review Board. If such a variance is granted, no violation of this Declaration or the Design Standards, if any, shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of a variance shall not operate to waive or to render unenforceable any of the terms and provisions of this Declaration for any purpose except as to the particular Parcel and the provisions and circumstances covered by the variance, nor shall the granting of a variance be deemed to set a precedent with respect to any subsequent requests for variances. The Design Review Board shall not delegate to any single member or group of members of the Design Review Board or to any other person the power to grant variances pursuant to this Section 8.7. Any request for variance must be in writing and specify the variance requested and the reasons for such variance. A request for a variance shall be reviewed by the Design Review Board within thirty (30) business days after its receipt of a written request for the same. The Design Review Board shall provide written notification of approval or disapproval. Notification of disapproval shall include a reasonably detailed explanation of the reasons for such disapproval. In the event that the Design Review Board shall fail to act within said thirty (30) day period, the requested variance shall be deemed disapproved, and within fifteen (15) days from said date the Design Review Board shall provide written notification of the reasons for such disapproval.

8.8. Final Plans. Upon approval of preliminary plans and specifications, the Owner shall proceed to prepare final construction plans and specifications, including a final Landscape Plan, which shall conform to the plans and specifications approved by the Design Review Board. Not later than the date on which the final plans and specifications are submitted to the appropriate governmental authority for the issuance of building permits, the Owner shall submit copies of the final plans and specifications and final Landscape Plan to the Design Review Board. Prior to the commencement of construction, the

Design Review Board shall have the right to determine whether the final plans and specifications and Landscape Plan conform with the approval previously granted by the Design Review Board. Such determination shall be made within ten (10) business days of the date final plans and specifications are delivered to the Design Review Board. The Design Review Board shall provide written notice of its approval or disapproval. Failure of the Design Review Board to provide such notice within said ten (10) day period shall be deemed approval.

8.9. Inspection. The Design Review Board shall have the right and authority to monitor construction of the Improvements to see that such Improvements are in compliance with the plans and specifications which have been approved by the Design Review Board. The Design Review Board shall notify the Owner in writing of any failure to comply with the plans and specifications approved by the Design Review Board. This right of inspection shall expire thirty (30) days after the Design Review Committee shall have received a written notice of completion of construction from the Owner.

8.10. Notice of Noncompliance. If the Company determines that any Improvements have been constructed without approval of the Design Review Board or were not constructed in substantial compliance with the description and materials furnished to and any conditions of approval imposed by the Design Review Board, then the Company or the Design Review Board shall notify the Owner in writing of such noncompliance. Such notice shall specify the noncompliance and shall require the Owner to take such action as may be necessary to remedy the noncompliance within thirty (30) days of the date of such notice or in the event such noncompliance is not reasonably capable of being remedied within said thirty (30) days, then within such time, the Owner shall have commenced such action as shall be required to remedy the noncompliance and shall diligently prosecute the same to completion.

8.11. Correction of Noncompliance. If the Owner does not comply with the notice sent pursuant to Section 8.10, then the Company may, in its discretion, record a notice of noncompliance against the Parcel on which the noncompliance exists, may remove or correct the noncomplying Improvement and, in such event, the Owner shall reimburse Declarant or the Company, as applicable, upon demand, for any and all expenses incurred in connection therewith. If such expenses are not reimbursed within thirty (30) days of notice thereof, the Board shall levy a Reimbursement Assessment in accordance with the provisions of Section 6.8. The Company shall have standing and authority to enforce in courts of competent jurisdiction the Design Standards, if any, and the decisions of the Design Review Board. The right to remedy or remove any noncomplying Improvement shall be in addition to all other rights and remedies which the Company may have at law, in equity or under this Declaration, including specifically, but without limitation, the right to injunctive relief from a court of competent jurisdiction to stay construction or compel removal of a noncomplying Improvement. Should the Company be required to enforce the provisions hereof by legal action, the attorneys' fees and costs incurred, whether or not judicial proceedings are involved, shall be collectible from the Owner.

8.12. No Liability. No member of the Design Review Board shall be personally liable for civil claims arising from acts or omissions made in the performance of duties as a member of the Design Review Board, unless the acts or omissions are the result of the intentional misconduct of such member. Plans and specifications are not reviewed for (i) engineering, architectural, building code or any other code design requirements, (ii) compliance with zoning or other applicable municipal ordinances or regulations, or (iii) compliance with the requirements of any public utility. Neither the approval of plans and specifications by the Design Review Board, nor the compliance of such plans and specifications to the Design Standards, if any, shall be construed to constitute any acknowledgement, warranty or representation by Declarant, the Company or the Design Review Board as to the technical sufficiency, adequacy or safety of any Improvement or the compliance with applicable building codes, regulations or laws, including specifically, but without limitation, the Americans With Disabilities Act of 1990, as amended, and any regulations adopted pursuant thereto.

8.13. Delegation of Design Review. The Design Review Board may, in its discretion, assign or delegate all or any portion of its responsibility and authority under this Article VIII to a Neighborhood Association or another body of the Design Review Board's choosing. In the event of such assignment or delegation, the body named by the Design Review Board shall possess all of the powers granted under this Article VIII and shall conduct itself in accordance with the standards and requirements outlined herein.

8.14. Exclusions. The provisions of this Article VIII shall not be applicable to the Maintenance Areas, Project Signs and any and all Improvements related thereto.

8.15. Application to Declarant. The provisions of this Article VIII, including specifically the Design Standards, if any, shall be applicable to any Building and related Improvements that Declarant intends to construct upon a Parcel owned by Declarant.

ARTICLE IX Annexation

9.1. Right of Declarant. Declarant (joined by the owner of the lands to be annexed if other than Declarant) shall have the sole right, but not the obligation, to bring within the scheme of this Declaration additional real property, provided that such real property shall be contiguous to the real property which, at the time of such annexation, shall constitute the "Property" under this Declaration. Such right may be exercised by Declarant at any time within thirty (30) years from the date this Declaration has been recorded and which annexation may be accomplished without the consent or signature of the Company, its Members, Owners or Occupants or any Mortgagee.

9.2. Manner of Annexation. Declarant may annex additional real property by the recordation of one or more supplemental declarations signed by Declarant and recorded in the office of the County Recorder of Salt Lake County, State of Utah. Such supplemental declaration shall contain the legal description of the real property to be annexed to this Declaration, shall submit the additional real property to the terms and conditions hereof and declare that the described real property and any and all Improvements that shall at anytime be located upon any portion of such property shall be held, sold, conveyed, transferred, designed, constructed, operated, maintained, leased, subleased and occupied subject to the easements, covenants, conditions and restrictions set forth in this Declaration.

9.3. Effect of Supplemental Declaration. Upon the recordation of a supplement to this Declaration in the office of the County Recorder of Salt Lake County, State of Utah, the real property described therein shall be subject to this Declaration.

ARTICLE X Mortgagee Protection

10.1. Mortgagee Protection. No breach of any of the covenants, conditions, restrictions, or limitations contained in this Declaration shall defeat or render invalid the lien of any Mortgage made in good faith and for value; provided, however, that all such covenants, conditions, restrictions or limitations contained herein shall be binding upon an Owner whose title is derived through foreclosure, trustee's sale or by deed or assignment in lieu of foreclosure.

10.2. Notice of Noncompliance to Mortgagee. From and after the time a Mortgagee makes written request to the Company therefor, the Company shall notify such Mortgagee in writing in the event that the Owner of a Parcel encumbered by the Mortgage held by such Mortgagee neglects, for a period of

thirty (30) days or more, to cure any failure on the part of such Owner to perform any of its obligations under this Declaration.

10.3. Priority of Assessment Lien. The lien or claim against a Parcel for unpaid Assessments levied by the Company pursuant to this Declaration shall be subordinate to a Mortgage affecting such Parcel which has been recorded prior to the date such Assessment became due. A Mortgagee who comes into possession of the Parcel pursuant to its Mortgage or a deed or assignment in lieu of foreclosure shall take the same free of such lien or claim for unpaid Assessments or charges, but only to the extent of Assessments or charges which accrue prior to foreclosure of the Mortgage, exercise of a power of sale available thereunder or delivery of a deed or assignment in lieu of foreclosure, except that such Mortgagee shall be responsible for the payment of a pro rata share of such prior Assessments or charges resulting from a pro rata reallocation thereof to all Parcels, including the Parcel in which the Mortgagee is interested. No Assessment, charge, lien or claim which is described in the preceding sentence as being subordinate to a Mortgage or as not being a burden to a Mortgagee coming into possession pursuant to its Mortgage or a deed or assignment in lieu of foreclosure shall be collected or enforced against a Mortgagee, a successor in title to a Mortgagee or the Parcel affected or previously affected by the Mortgage concerned (to the extent any such collection or enforcement would prejudice the interests of the Mortgagee or successor in title to the Mortgagee interested in such Parcel).

10.4. Financial Information. Any Mortgagee shall have the right, at its request and expense and upon reasonable notice, to examine the books and records of the Company during reasonable business hours. From and after the time a Mortgagee makes written request to the Company therefor, and at the expense of such Mortgagee, the Company shall furnish to such Mortgagee copies of such financial reports or writings summarizing or reflecting the financial position or history of the Project as may be prepared for distribution to or use by the Owners generally.

10.5. Article Supersedes Others. In the event another provision or clause of this Declaration deals with the same subject matter as is dealt with in any provision or clause of this Article X, the provision or clause which results in the greatest protection and security for a Mortgagee shall control the rights, obligations, or limits of authority, as the case may be, applicable to the Company with respect to the subject concerned.

10.6. Amendment to Article. No amendment to this Article X which has the effect of diminishing the rights, protection, or security afforded to Mortgagees shall be accomplished or effective unless all of the first Mortgagees of the individual Parcels have given their prior written approval to such amendments. Any amendment to this Article X shall be accomplished by an instrument executed by the Company and filed for record in the office of the County Recorder of Salt Lake County, State of Utah. In any such instrument, an officer of the Company shall certify under penalties of perjury that the prior written approval of first Mortgagees required by this Article X as a condition to amendment has been obtained.

10.7. Notices to Mortgagee. Any notice to a Mortgagee under this Article X shall be in writing and shall be sufficient for all purposes if personally delivered or if sent by first-class mail, postage prepaid, and addressed to the Mortgagee at the address for notices from time to time specified by the Mortgagee in writing to the Company. Any such notice shall be given in the manner specified in Section 11.1 of this Declaration.

ARTICLE XI
Miscellaneous Provisions

11.1. Notices. Upon acquisition of title to a Parcel, each Owner shall provide written notice to the Company of such Owner's address for purposes of furnishing notices in connection with this Declaration. The Company shall maintain a record of the notice addresses furnished by the Owners. The address provided by an Owner shall be used for any notice required to be given under this Declaration and if no such address shall have been provided, then the address used by Salt Lake County for the mailing of real property tax statements for such Parcel shall be used for such notice. All notices to be given pursuant to this Declaration shall be sufficient if given by personal service, by guaranteed overnight delivery service or by being mailed postage prepaid, certified or registered mail, return receipt requested, to the prescribed address. Any time period provided in the giving of any notice hereunder shall commence upon the date of personal service, the date after delivery to the guaranteed overnight delivery service or two (2) days after mailing certified or registered mail. Notice of the regular annual meeting of the Members shall be sent as set forth in the Bylaws.

11.2. Amendment. Except where otherwise specifically provided in this Declaration, this Declaration may be amended upon the affirmative vote of a majority of the total votes of the Owners, taken together, as determined in accordance with Section 4.3; PROVIDED, HOWEVER, that no such amendment shall be permitted which would have a materially adverse impact upon a Commercial Parcel without the prior written consent of the Owner of such Commercial Parcel. Any such amendment shall recite that a vote of the Owners has been properly taken and that the amendment has been approved in accordance with the provisions hereof, shall be certified by an officer of the Company and shall be recorded in the office of the Salt Lake County Recorder, State of Utah. Any such amendment shall take effect upon such recordation. Each Owner makes, constitutes and appoints the Company the true and lawful attorney-in-fact of said Owner to act in said Owner's name, place and stead to make, execute, sign, acknowledge and file with respect to the Project such amendments to this Declaration as may be required by law or by vote taken pursuant to the provisions of this Declaration. Any amendment to this Declaration which shall require the express consent of a specified party, shall be accomplished only by an amendment executed by both the Company and the party from whom such consent shall be required which shall be filed for record in the office of the County Recorder of Salt Lake County, State of Utah.

11.3. Amendment by Declarant. Declarant reserves and shall have the sole right to (i) amend this Declaration without the vote or consent of any Owner for the purpose of curing any inconsistency between the provisions contained herein, (ii) amend this Declaration without the vote or consent of any Owner in any manner which does not adversely affect the substantive rights of existing Owners, or Mortgagees, and (iii) to amend this Declaration without the vote or consent of any Owner during the first two (2) years after the same has been recorded to comply with the request of any Mortgagee referred to in Article X. The foregoing amendments may be made without the joinder or approval of any Owner, Mortgagee or the Company.

11.4. Insurance. The Company shall obtain and maintain such insurance as may be required by law, including workmen's compensation insurance, and shall have the power to obtain such other insurance and such fidelity, indemnity or other bonds as the Board shall deem necessary or desirable. Insurance policies and insurance coverage shall be reviewed at least annually by the Board in light of the then existing and reasonably anticipated liabilities of the Company. All policies required shall be written by a company or companies authorized to write such insurance in the State of Utah and having a Best's Insurance Reports Rating of not less than A-XII, or in the event such publication ceases to be published, then an equivalent rating from an alternative rating service reasonably acceptable to the Company.

11.4.1. Owner's Insurance. Each Owner shall at all times maintain commercial general liability and property damage insurance providing coverage against personal injury, death and property damage occurring on such Owner's Parcel in reasonable amounts and coverage that are customary for owners of first-class property of similar kind and type in the Salt Lake City, Utah metropolitan area. Each Owner or Occupant, to the extent such Owner shall place responsibility on the Occupant to do so, shall keep its Parcel and all Improvements thereon insured for the full replacement value thereof (less deductible) against property loss. Subject to the rights of any Mortgagee, all proceeds from such policy for any property loss, to the extent required, shall be used first by the Owner to repair or replace the Improvements on any Parcel damaged by a covered peril.

11.4.2. Company Insurance. The Company shall acquire and maintain general commercial liability and property damage insurance providing coverage against personal injury, death and property damage occurring on or about the Maintenance Areas and Common Facilities and shall, to the extent reasonably obtainable, have limits of not less than Five Hundred Thousand Dollars (\$500,000.00) per person and One Million Dollars (\$1,000,000.00) per occurrence. In addition, the Company shall keep all Project Signs insured for the full replacement value thereof (less deductible) against property loss. Insurance for the Maintenance Areas and Common Facilities may be written in the name of, and the proceeds thereof payable to the Company, as trustee for each Owner. Premiums for insurance carried by the Company shall be a Common Expense.

11.5. Condemnation. In the event that all or any part of the Maintenance Areas is taken through condemnation or is conveyed to a condemning authority under threat of condemnation, the entire condemnation award or proceeds shall be used first to pay costs and expenses incurred to restore the remaining portions of the Maintenance Areas to the condition that existed prior to such taking and any portion that shall remain thereafter shall be allocated to all Owners in the same proportion as used in the allocation of Common Expenses. Costs and expenses incurred in restoring such Maintenance Areas or other areas which shall be in excess of said condemnation award allocable to the Maintenance Areas shall be a Common Expense and may be included in a Supplemental Assessment made to all Owners. Subject to the rights of any Mortgagee, should the Improvements on any Parcel be taken by eminent domain or be conveyed by the Owner by deed in lieu thereof, the proceeds therefrom shall be used first to restore the remaining Improvements on the Parcel.

11.6. Duration. The covenants and restrictions of this Declaration shall run with and bind the Property and Project for a term of fifty (50) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless terminated at the end of any such period by the affirmative vote of two-thirds (2/3) of the Owners. No such termination shall terminate any Easement granted herein and all such Easements shall survive any termination of this Declaration and may be extinguished only in the manner provided by law for the termination of an easement. If any of the covenants, conditions, restrictions or other provisions of this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Jon M. Huntsman, Jr., governor of the State of Utah.

11.7. No Merger. The easements, covenants and restrictions and other provisions contained in this Declaration shall remain in full force and effect despite the fact that any of the Parcels may be owned by the same persons from time to time. It is the express intent of the Declarant to create a common scheme for the development and operation of the Project which will not be terminated by the doctrine of merger or otherwise unless this Declaration is terminated in accordance with the provisions hereof.

11.8. Assignment of Declarant's Rights and Remedies. Any and all of the rights, powers and reservations of Declarant herein contained may be assigned by Declarant to any person, corporation,

association or other entity which assumes such assigned duties of Declarant hereunder. In the event that Declarant attempts to assign less than all of the rights, powers and reservations of Declarant set forth herein, then any such assignment must specify which rights, powers and reservations are being assigned and the only party that shall be permitted to exercise a right reserved or granted unto Declarant shall be the party to whom such right has been assigned. To be effective, such assignment must be in writing, must be recorded in the office of the Salt Lake County Recorder, State of Utah, and must specifically refer to the rights, powers and reservations of Declarant hereunder which are being assigned. Upon acceptance of such assignment by any such person or entity (such acceptance may be shown, among other ways, by execution of such assignment by such assignee, or by such assignee recording the assignment in the office of the Salt Lake County Recorder, State of Utah) and recording of such assignment in the office of the Salt Lake County Recorder, State of Utah, said assignee shall, to the extent of such assignment, assume, and be deemed to have assumed, Declarant's duties hereunder and shall have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by Declarant herein. Upon such assignment and recording, and to the extent thereof, the party making such assignment shall be relieved from all liabilities, obligations and duties hereunder arising from and after the date of such assignment. Anything contained elsewhere herein to the contrary notwithstanding, the mere conveyance or transfer of ownership of the Property by Declarant to any person or party, whether by deed or other instrument of conveyance, shall in no way convey any right, power or reservation of Declarant hereunder. A successor to Declarant by reason of any merger or consolidation of the then Declarant shall automatically be deemed to have assumed Declarant's duties hereunder and shall have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by Declarant herein.

11.9. Violation Creates Nuisance. Any violation of any provision, covenant, condition or equitable servitude contained in this Declaration, whether by act or omission, is hereby declared to be a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action, by any party entitled to enforce the provisions of this Declaration.

11.10. Violation of Law. Any violation of any federal, state, municipal or local law, ordinance, rule or regulation, pertaining to the ownership, occupation or use of any Property or Improvements within the Project, is hereby declared to be a violation of this Declaration and shall be subject to any and all of the enforcement procedures set forth in this Declaration.

11.11. No Third-Party Beneficiary. This Declaration has been executed and recorded for the benefit of Declarant and the Owners. Unless otherwise set forth herein with specificity which shall include the name of the party intended to be benefited by a specific provision of this Declaration, no other party shall be construed to be an intended third-party beneficiary of any of the rights, duties or obligations set forth herein, and no party other than Declarant or an Owner shall, therefore, have the right to enforce any provision hereof, unless such right shall be specifically set forth herein.

11.12. Words of Conveyance. The use of the word "grant," and any form thereof, as used in provisions of this Declaration to create or preserve easements, licenses or other rights and privileges described herein, shall be deemed to be construed in such manner as shall be required to give effect to the easement, license, right or privilege intended to be created or preserved by such provisions and, to the extent necessary to effect such result, any use of the word "grant," or any form thereof, shall be deemed to include such other words of conveyance (e.g., reserve, quitclaim, convey, transfer, etc.) as may be required to give effect to the easement, license, right or privilege intended to be created or preserved.

11.13. Liberal Interpretation. The provisions of this Declaration shall be liberally construed as a whole to effectuate the purpose of this Declaration.

11.14. Gender and Number. In this Declaration, unless the context requires otherwise, the masculine, feminine and neuter genders and the singular and the plural shall be deemed to include one another, as appropriate.

11.15. Captions. The titles, headings and captions used herein are for convenience only and are not a part of this Declaration and shall not be considered in construing, nor shall the same be used to limit or amplify, the terms and provisions hereof.

11.16. Invalidity of Provision. If any provision of this Declaration as applied to any circumstance shall be adjudged by a court of competent jurisdiction to be void or unenforceable for any reason, the same shall in no way affect (to the maximum extent permissible by law) any other provision of this Declaration, the application of any such provision under circumstances different from those adjudicated by the court, or the validity or enforceability of the Declaration as a whole.

11.17. Exhibits. All exhibits to this Declaration are incorporated herein by this reference.

11.18. Governing Law. This Declaration and the exhibits attached hereto shall be governed by and construed under the laws of the State of Utah.

[Signature Page Follows]

SIGNATURE PAGE
TO
MASTER DECLARATION
OF
EASEMENTS, COVENANTS AND RESTRICTIONS
FOR
Highbury Commons at Lake Park

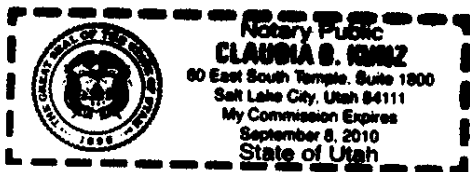
EXECUTED to be effective the day same shall be recorded in the office of the Salt Lake County Recorder, State of Utah.

Declarant: Zions Securities Corporation
a Utah corporation

By: P. David Jensen
P. David Jensen
Its: Senior Vice President and COO

STATE OF UTAH)
: ss.
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me on the 26th day of September, 2006, by P. David Jensen, the Senior Vice President and COO of Zions Securities Corporation, a Utah corporation.



Claudia B. Kunz
Notary Public
Residing at Salt Lake City, UT
My commission expires: 9/8/2010

**EXHIBIT A
TO
MASTER DECLARATION**

Legal Description

A parcel of land located in the Southwest Quarter of Section 24, Township 1 South, Range 2 West, Salt Lake Base and Meridian, Salt Lake County, Utah, described as follows:

BEGINNING at the northwest corner of Highbury Commons at Lake Park, a subdivision recorded July 05, 2006 as Entry No. 9774083 in Book 2006P at Page 185 of the Salt Lake County records, said point being North 00°13'50" East 94.49 feet along the west line of Section 24, Township 1 South, Range 2 West, Salt Lake Base and Meridian and South 89°46'10" East 67.00 feet from the Southwest Corner of said Section 24, and thence along the east right-of-way line of 5600 West Street North 00°13'50" East 1,331.46 feet to the southerly line of the Riter Canal as described in that certain Quit Claim Deed recorded February 01, 1996 as Entry No. 6271172 in Book 7322 at Page 866 of said records; thence along said southerly line the following six courses: 1) South 81°25'42" East 185.41 feet, 2) North 82°01'36" East 282.88 feet, 3) North 82°44'19" East 273.53 feet, 4) South 88°20'40" East 291.32 feet, 5) South 83°23'43" East 224.40 feet and 6) South 79°56'11" East 240.33 feet to the west line of property described in that certain Quit Claim Deed recorded March 26, 1998 as Entry No. 6904719 in Book 7922 at Page 113 of said records; thence along the boundary of said property the following three courses: 1) South 00°06'42" West 176.61 feet, 2) East 150.00 feet and 3) North 00°06'42" East 150.00 feet to said southerly line of the Riter Canal; thence along said southerly line the following three courses: 1) South 79°56'11" East 89.60 feet, 2) South 78°48'11" East 197.28 feet and 3) South 87°05'05" East 393.31 feet; thence South 767.58 feet to the northerly right-of-way line of Lake Park Boulevard; thence along said northerly right-of-way line the following eleven courses: 1) West 934.07 feet to a point of tangency of a 653.00 foot radius curve to the left, 2) Southwesterly 662.12 feet along said curve through a central angle of 58°05'46" and a long chord of South 60°57'07" West 634.12 feet to a point of compound curvature of a 156.00 foot radius curve to the left, 3) Southwesterly 29.55 feet along said curve through a central angle of 10°51'11" and a long chord of South 26°28'38" West 29.51 feet, 4) South 21°03'03" West 34.49 feet to a point of tangency of a 46.00 foot radius curve to the right, 5) Southwesterly 22.28 feet along said curve through a central angle of 27°45'01" and a long chord of South 34°55'33" West 22.06 feet, 6) South 48°48'04" West 41.81 feet to a point of tangency of a 146.00 foot radius curve to the right, 7) Southwesterly 88.03 feet along said curve through a central angle of 34°32'44" and a long chord of South 66°04'26" West 86.70 feet, 8) South 83°20'48" West 112.29 feet to a point of tangency of a 329.00 foot radius curve to the right, 9) Westerly 11.47 feet along said curve through a central angle of 01°59'49" and a long chord of South 84°20'42" West 11.47 feet, 10) South 89°48'42" West 525.30 feet and 11) North 44°58'44" West 42.27 feet to the POINT OF BEGINNING. Said parcel contains 2,415,602 square feet or 55.45 acres, more or less.

LESS AND EXCEPTING THE FOLLOWING:

Lot 2, Highbury Commons at Lake Park, according to the Official Plat thereof, recorded July 5, 2006 as Entry No. 9770483 in Book 2006P at Page 185 of Official Records.

**EXHIBIT B
TO
MASTER DECLARATION**

Depiction of Overall Project

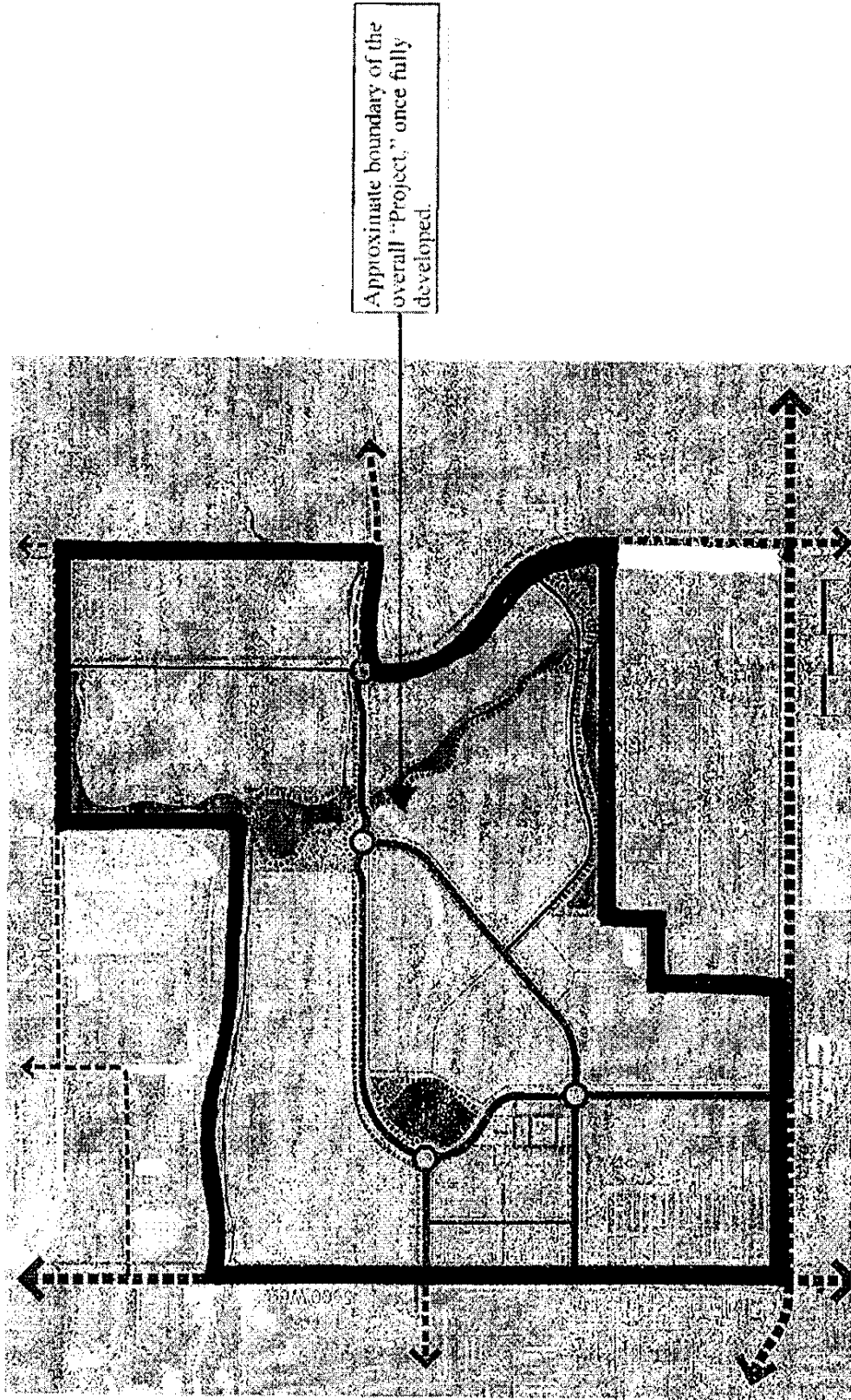


Exhibit "B" – Page 1 of 1

EXHIBIT C
TO
MASTER DECLARATION

Site Plan

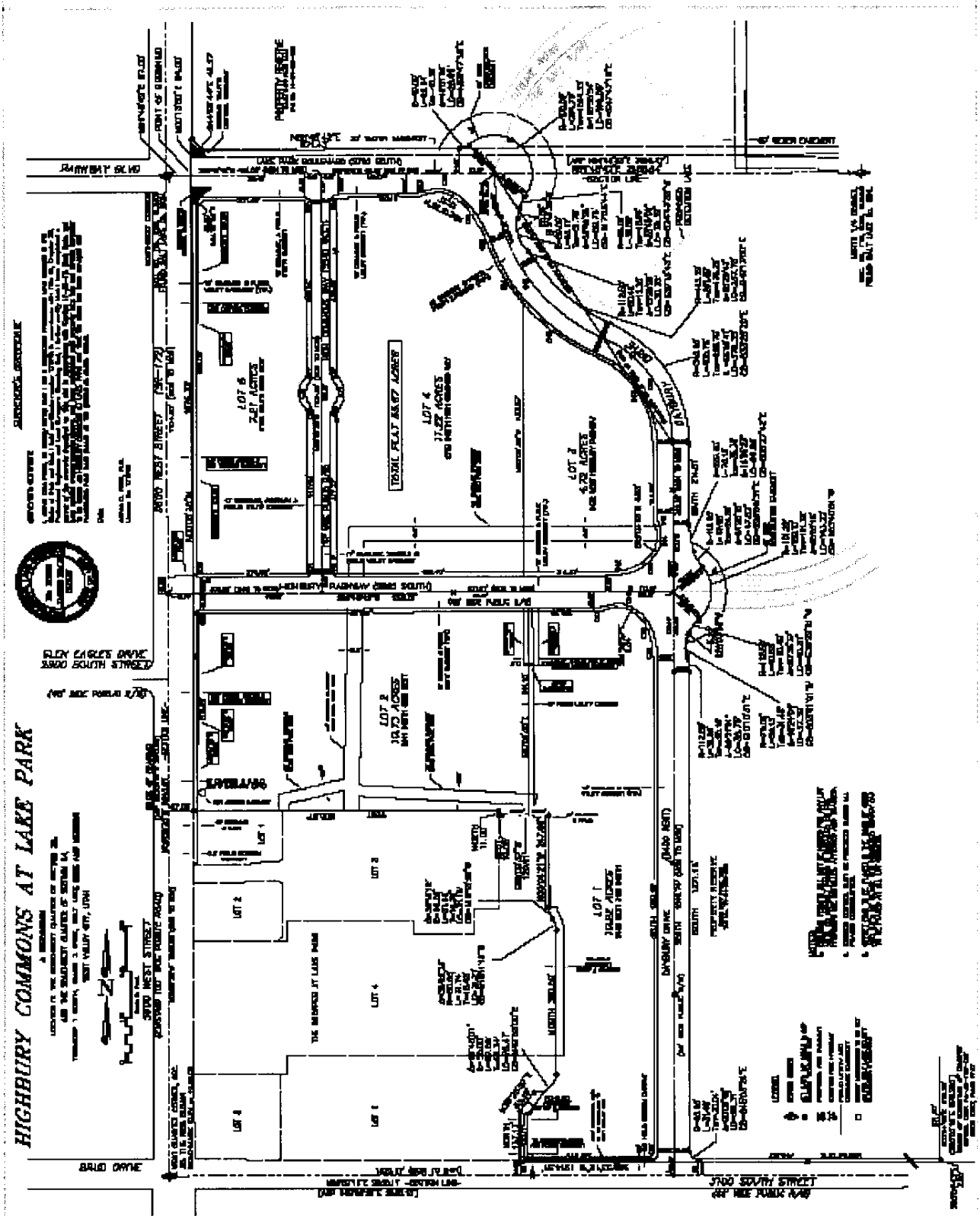
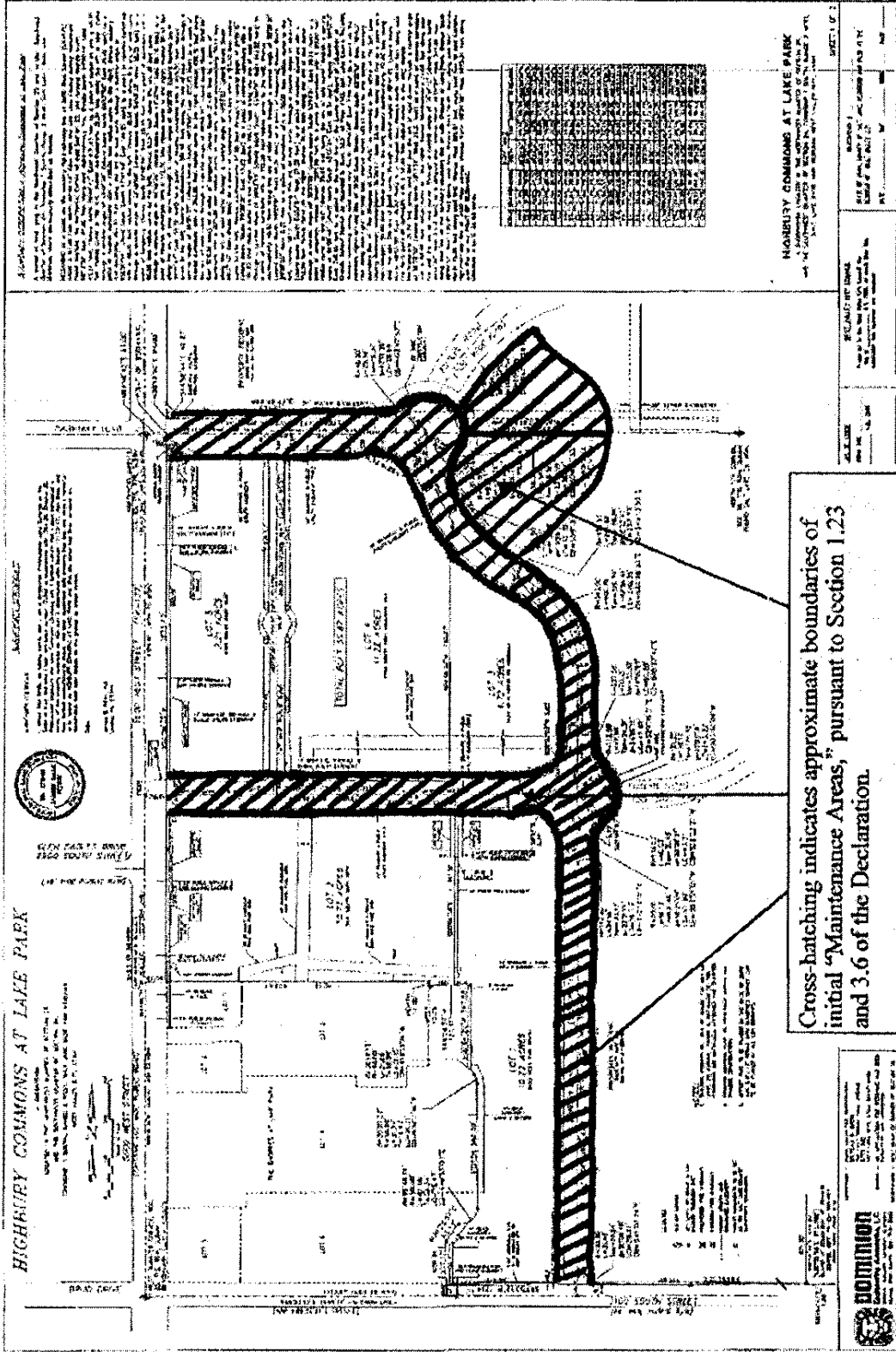


Exhibit "C" – Page 1 of 1

**EXHIBIT D
TO
MASTER DECLARATION**

Approximate Depiction of Maintenance Areas



Cross-hatching indicates approximate boundaries of initial "Maintenance Areas," pursuant to Section 1.23 and 3.6 of the Declaration.

NOTE: Only the landscaped portions of roadways constitute Maintenance Areas. The paved portions of all roadways shall not constitute Maintenance Areas.