

Ent. 280211 Bk. 0738 Pg. 0009-0063  
ELIZABETH M PALMIER, Recorder  
WASATCH COUNTY CORPORATION  
2005 FEB 24 3:02pm Fee 143.00 MWC  
EMDCDCP LLC

**Deer Canyon Preserve, EMDCDCP LLC  
DEVELOPMENT AGREEMENT**

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This DEVELOPMENT AGREEMENT (the "Agreement") is entered into as of this 24<sup>th</sup> day of February, 2005, by and between DCP, LLC, a Utah limited liability company (hereinafter called "Developer"), and Wasatch County, a political subdivision of the State of Utah (hereinafter called the "County"). Developer and the County are hereinafter referred to individually as a "Party" and collectively as the "Parties." This Agreement supersedes and replaces any previous agreements entered into or representations made by and between Developer and the County involving the Property (defined below).

**RECITALS**

- A. The County, acting pursuant to its authority under Utah Code Ann. Section 17-27-101, et seq., and Section 17-53-223, and Section 17-53-302(13), as amended, and in furtherance of its land use policies, goals, objectives, ordinances, and regulations, in the exercise of its discretion, has elected to approve and enter into this Agreement.
- B. Developer has a legal interest in certain real property consisting of approximately 401.49 acres located in the unincorporated portion of the County, as described in Exhibit A attached hereto.
- C. Developer has requested approval to develop the real property described in Exhibit A as a single-family residential development consisting of 60 Equivalent Residential Units or lots (hereinafter referred to as "ERUs"), together with other uses, as more particularly described in Section 2 of this Agreement. This development is commonly known as Deer Canyon Preserve and is more particularly described in a Plat on file with the Wasatch County Recorder, which Plat is incorporated by reference herein.
- D. The County desires to enter into this Agreement because the Agreement establishes planning principles, standards, and procedures to: (1) eliminate uncertainty in planning and guide the orderly development of the Property consistent with the County General Plan, the County Development Code, and the conditions imposed by the Planning Commission and County Legislative Body; (2) mitigate significant environmental impacts; (3) ensure installation of necessary on-site and off-site public improvements; (4) provide for the preservation of substantial permanent open space; (5) make provision for trail facilities; (6) provide for the timely payment of all fees and charges, including impact fees in the amounts set forth herein; (7) ensure that public services appropriate to the development of the Property are provided; (8) provide

affordable housing; (9) provide for the maintenance of facilities, trails and open space within the development during construction and after completion; and (10) otherwise achieve the goals and purposes of the County and Developer.

- E. Developer desires to enter into this Agreement to ensure that Developer may proceed with the Project in accordance with the "Applicable Law" (defined below).
- F. The County has undertaken review and planning actions relating to the development of the Property and the Project. These actions are set forth in the official minutes and record of the County Planning Commission and the preliminary approval of the County Legislative Body. A condition of final approval of the Project is that Developer enter into and abide by the terms of this Agreement. The terms of this Agreement apply to the Project, and to any and all phases or plats therein. These various review and planning actions are collectively referred to herein as the "Current Approvals."
- G. On \_\_\_\_\_, following a duly noticed public hearing, the Wasatch County Planning Commission granted final approval to Developer, subject to Developer entering into this Agreement.
- H. By developing the Project in accordance with this Agreement, the Project shall be in compliance with the Wasatch County General Plan and all development ordinances, resolutions, rules, regulations, policies, standards, and directives of the County.
- I. Each Party acknowledges that it is entering into this Agreement voluntarily.

**NOW, THEREFORE**, in consideration of the mutual promises, covenants, and provisions set forth herein, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

## AGREEMENT

### **Section 1. EFFECTIVE DATE AND TERM**

#### **1.1 Effective Date.**

This Agreement shall become effective on the date it is executed by Developer and the County (the "Effective Date"). The Effective Date shall be inserted in the introductory paragraph preceding the Recitals.

**1.2 Term.**

The term of this Agreement (the "Term") shall commence upon the Effective Date and continue for a period of twenty-five (25) years. Unless otherwise agreed between the County and Developer, Developer's vested interest(s) and right(s) contained in this Agreement expire at the end of the Term, or upon termination of this Agreement.

Upon termination of this Agreement, for any reason, the obligations of the Parties to each other hereunder shall terminate, but none of the licenses, building permits, or certificates of occupancy granted prior to expiration of the Term or termination of this Agreement shall be rescinded or limited in any manner.

**Section 2. DEFINITIONS**

Any term or phrase used in this Agreement that has its first letter capitalized shall have that meaning given to it in this section.

"Applicable Law" shall have that meaning set forth in Section 4.2 of this Agreement.

"Approval Date" shall mean the date set forth in Recital G of this Agreement.

"Changes in the Law" shall have that meaning set forth in Section 4.2 of this Agreement.

"Conditions to Current Approvals" shall have the meaning set forth in Section 3.1(b) of this Agreement.

"County" shall mean Wasatch County and shall include, unless otherwise provided, any and all of the County's agencies, departments, officials, employees or agents.

"County General Plan" or "General Plan" shall mean the General Plan of Wasatch County, adopted December 10, 2001.

"Current Approvals" shall have the meaning set forth in Recital F of this Agreement.

"Developer" shall have that meaning set forth in the preamble, and shall include Developer's successors in interest and assigns.

"Director" shall mean the Director of the Wasatch County Planning Department, or his or her designee.

"Effective Date" shall have that meaning set forth in Section 1.1 of this Agreement.

"Home Owners' Association" means the Deer Canyon Preserve Home Owners' Association, a non-profit corporation formed in accordance with the state and federal law and authorized to impose fees sufficient to perform the maintenance obligations transferred to it by Developer.

"Planning Commission" shall mean the Wasatch County Planning Commission.

"Project" shall mean the Property and the development on the Property which is the subject of this Agreement, including all phases or plats regularly approved by the County and any ancillary and additional improvements or endeavors incident to the development of the Project.

"Project Improvements" shall mean all infrastructure improvements intended for public or private use and located within the boundaries of the Project, including but not limited to sewer lines, water lines, roads, electricity, gas, telephone, detention basins, curb and gutter, trails, recreational facilities, and open space.

"Property" shall mean the parcel or parcels of land which are the subject of this Agreement and which are more particularly described in Exhibit A.

### **Section 3. OBLIGATIONS OF DEVELOPER AND THE COUNTY**

#### **3.1 Obligations of Developer.**

(a) ***Generally.*** The Parties acknowledge and agree that the County's agreement to perform and abide by the covenants and obligations of the County set forth herein is material consideration for Developer's agreement to perform and abide by the covenants and obligations of Developer set forth herein.

(b) ***Conditions to Current Approvals.*** Developer shall comply with all of the following Conditions to Current Approvals:

- (1) ***Compliance With Conditions Imposed By County:*** Developer agrees to comply with any and all conditions imposed by the Planning Commission and the County Legislative Body during the permitting and approval process as set forth in the official minutes of the County Planning Commission and the preliminary approval by the County Legislative Body.
- (2) ***Payment of Administrative Fees:*** Developer agrees to pay all generally applicable Wasatch County fees as a condition of developing the Property and Project.

- (3) **Payment of Impact Fees:** Wasatch County has enacted an impact fee ordinance. Subject to adjustments approved by the Director and/or the County Legislative Body, Developer agrees to pay the Wasatch County impact fees due and payable in connection with any structure built by Developer, or Developer's agent, employee, contractor, or subcontractor.
- (4) **Affordable Housing:** To comply with the County Affordable Housing Ordinance, Developer will enter into and agree to be bound by a separate Affordable Housing Agreement, dated as of the Effective Date of this Agreement and recorded in the office of the Wasatch County Recorder. The Affordable Housing Agreement is attached hereto as Exhibit B.
- (5) **Special Service District Fees, and Charges:** The following services will be provided to the Project by special service districts, each of which has issued to Developer a "will serve" letter, copies of which are attached hereto as Exhibit C and incorporated by reference herein:

Service	Entity Providing Service
Culinary Water	Jordanelle Special Service District
Irrigation Water	Jordanelle Special Service District
Trash Removal	Wasatch County Solid Waste Special Service District
Sanitary Sewer	Jordanelle Special Service District
Fire Protection	Wasatch County Fire Protection Special Service District

Developer agrees to pay any and all fees imposed by the District in connection with development of the Project, including (but not limited to) fees for plan check and engineering review.

Developer further agrees to enter into an Agreement with the Jordanelle Special Service District detailing Developer's obligations in relation to water system and sewer system construction and dedication. This Agreement shall be executed by the parties and is incorporated by reference herein as Exhibit D.

- (6) **Construction of Project Improvements:** All Project Improvements within each phase of the Project shall be inspected and accepted by the County in writing prior to the issuance of any building permit within that phase.
- (7) **Construction of School Bus Stop.** As a condition of final approval of the Project, Developer shall provide for and construct a school bus turn around and bus stop at the entrance of the Project. The bus stop shall permit a standard-size school bus to turn around and shall

otherwise provide a safe area for children while waiting for, entering, or exiting the school bus. The construction of the school bus stop shall be completed with phase 1. The bus stop shall be similar in design to that constructed in the Deer Mountain development in the Jordanelle Basin.

- (8) **Phasing:** Unless otherwise stated herein, Developer may in his or her discretion develop the Project in phases. In developing each phase, Developer shall ensure the logical extension of the Project Improvements through each phase and throughout the Project, all in conformance with the requirements of this Agreement, the Applicable Law, and the requirements imposed by the County Planning Commission at preliminary and final approval and the County Legislative Body at preliminary approval.
- (9) **Irrigable Acreage.** Prior to recordation of the Plat of any phase within the Project, Developer shall provide to the County a geotechnical engineering report concluding that land within the Project not previously irrigated, may be irrigated without risk to slope stability or other public safety hazard. This report shall be maintained in the Office of the Wasatch County Planner. The Plat of each phase of the Project shall state that not more than  $\frac{1}{2}$  acre of ground per lot may be irrigated.
- (10) **Building Envelope and Accessibility.** The Plat of each phase of the Project shall identify for each lot the building envelope within which a single-family residential structure may be constructed. Prior to recordation of the Plat for any phase of the project, Developer shall demonstrate that (1) each lot is accessible by a driveway that meets County standards and specifications; (2) each such driveway can be made accessible by emergency vehicles. In no case shall any driveway within the Project exceed 15% slope. Prior to issuance of any building permit, the owner of each lot shall demonstrate to the County Fire Marshall that the planned driveway is accessible by emergency vehicles and is otherwise in compliance with the Fire Code approved and adopted at the time the driveway is constructed. Developer agrees to place a note on all plats of the Project notifying potential buyers that an access driveway is required on each lot and that substantial work may be required to construct an access driveway that meets County standards.
- (11) **Emergency Access Into the Project.** The Project is proposed to be a gated development. All gates must be fitted with a device that will permit emergency vehicles to enter the Project at any time of the day or night. The County Fire Marshall and County Sheriff shall approve the installation of any such device.

- (12) ***Maintenance of Private Roads.*** The roads in the Project shall be private roads constructed to County standards and specifications. Developer shall be responsible to maintain all roads and storm drainage systems within the Project and to provide snow-removal on said roads. This obligation may be transferred by written agreement to the Home Owners' Association. Road maintenance and snow-removal provided by Developer or the Home Owners' Association shall meet or exceed a standard of reasonableness and safety as established by the County. In the event Developer or the Home Owners' Association fails to maintain the roads and storm drainage systems or to provide snow-removal, the County may (but is not obligated to) maintain them and to provide snow-removal. The market value of the cost of this maintenance and snow-removal is hereby agreed to and shall constitute a valid lien on the Property and its lots on a parity with and collected at the same time and in the same manner as general County taxes that are a lien on the Property. Nothing in this Agreement is intended by the parties to create any obligation on the part of the County to undertake now or at some future time maintenance of the private roads within the Project.
- (13) ***One Private Road Subject to Vacation by Highway Authority.*** Notwithstanding the foregoing, approximately 1500 feet of the road known as Deer Canyon Drive commencing at the the entry to the Project on State Road 248 and continuing into the Project has been abandoned and dedicated to the public use and as such is a public right of way. Developer may petition Wasatch County to vacate this public right of way. If vacated, this right of way shall become a part of the private road system within the Project. If public right of way over this road is not vacated, it shall remain a public right of way.
- (14) ***Maintenance of Open Space and Trails and Detention Basin:*** Developer has granted to the County an open space easement attached hereto as Exhibit E and incorporated by reference herein. Developer has also reserved certain portions of the Project as trails detailed in the Trail Plan attached hereto as Exhibit F and incorporated by reference herein. The trail system within each phase of the Project shall be completed and accepted by the County prior to issuance of any building permit within that phase. The trail system is open to the public. Developer shall be responsible to maintain the open space, trails, and detention basin in all respects, including but not limited to landscaping, irrigation, and weed control. This obligation may be transferred by written agreement to the Home Owners' Association. Maintenance provided by Developer or the Home Owners' Association shall meet or exceed a standard of reasonableness and safety as established by the County. In the event Developer or the

Home Owners' Association fails to maintain the open space and trails, the County may (but is not obligated to) maintain them. The market value of the cost of this maintenance is hereby agreed to and shall constitute a valid lien on the Property and its lots on a parity with and collected at the same time and in the same manner as general County taxes that are a lien on the Property. Entrance features and landscaping shall be completed with phase 1 and according to the approved landscape plans.

(15) ***Architectural Renderings and Landscape Plan:*** Developer has submitted to the County the Architectural Renderings attached hereto as Exhibit G and incorporated by reference herein. Architectural Renderings are intended to be a "typical" example of the type of dwelling that is intended for the project and complies with the CC&R's. Developer has also submitted to the County and agrees to be bound by the Landscape Plan attached hereto as Exhibit H and incorporated by reference herein.

(16) ***Bonding:***

- a. ***Performance Bonds and Warranty Bonds.*** Developer shall post performance and warranty bonds in relation to the Project. The bonds shall conform to the requirements of section 16.27.18 of the Wasatch County Code.
- b. ***Maintenance Bonds.*** Developer shall post a bond of either cash or an irrevocable letter of credit on a form approved by the County in an amount equal to the annual maintenance expense for roads, storm drainage systems, open space, trails, and detention basins within the Project. If Developer transfers these obligations by written agreement to the Home Owners' Association, the County may waive the maintenance bond requirement for that portion of the Project under the Home Owners' Association's jurisdiction, subject to the County being provided with evidence of the Association's financial ability to maintain the roads, storm drainage systems, open space, trails, and detention basins.

### **3.2 Obligations of the County.**

(a) ***Generally.*** The Parties acknowledge and agree that Developer's agreement to perform and abide by the covenants and obligations of Developer set forth herein is material consideration for the County's agreement to perform and abide by the covenants and obligations of the County set forth herein.



(b) **Conditions to Current Approvals.** The County shall not impose any further Conditions to Current Approvals other than those detailed in this Agreement and in the official minutes of the County Planning Commission at preliminary and final approval and County Legislative Body at preliminary approval unless agreed to in writing by the Parties.

(c) **Acceptance of Project Improvements.** The County agrees to accept all Project improvements intended for public use and constructed by Developer, or Developer's contractors, subcontractors, agents or employees, provided that (1) the Wasatch County Building and Engineering Department reviews and approves the plans for any Project improvements prior to construction; (2) Developer permits Wasatch County Building and Engineering representatives to inspect upon request any and all of said Project improvements during the course of construction; (3) the Project improvements have been inspected by a licensed engineer who certifies that the Project improvements have been constructed in accordance with the plans and specifications; (4) Developer has warranted the Project improvements as required by the Wasatch County Building and Engineering Department; and (5) the Project improvements pass a final inspection by the Wasatch County Building and Engineering Department. In the case of open space, landscaping, and public trails, the Planning Department will perform the reviews, approvals, and inspections described above.

#### **Section 4. VESTED RIGHTS AND APPLICABLE LAW**

##### **4.1 Vested Rights.**

(a) **Generally.** As of the Effective Date of this Agreement, Developer shall have the vested right to develop the Property in accordance with this Agreement and Applicable Law.

(b) **Reserved Legislative Powers.** Nothing in this Agreement shall limit the future exercise of the police power by the County in enacting zoning, subdivision, development, transportation, environmental, open space, and related land use plans, policies, ordinances and regulations after the date of this Agreement. Notwithstanding the retained power of the County to enact such legislation under its police power, such legislation shall not modify Developer's vested right as set forth herein unless facts and circumstances are present which meet the exceptions to the vested rights doctrine as set forth in Western Land Equities, Inc. v. City of Logan, 617 P.2d 388 (Utah, 1988), its progeny, or any other exception to the doctrine of vested rights recognized under state or federal law.

##### **4.2 Applicable Law.**

(a) **Applicable Law.** Unless otherwise provided herein, the rules, regulations, official policies, standards and specifications applicable to the development of the Property (the "Applicable Law") shall be those rules, regulations, official policies, stan-

dards and specifications, including County ordinances and resolutions, in force and effect on the date the County Legislative Body granted preliminary approval to Developer. However, notwithstanding the foregoing, any person applying for a building permit within the Project shall be subject to the building, electrical, mechanical, plumbing, and fire codes, and other County ordinances relating to the placement and construction of the proposed structure, that are in effect at the time the person files with the County a completed application for building permit.

**(b) State and Federal Law.** Notwithstanding any other provision of this Agreement, this Agreement shall not preclude the application of changes in laws, regulations, plans or policies, to the extent that such changes are specifically mandated and required by changes in state or federal laws or regulations ("Changes in the Law") applicable to the Property. In the event the Changes in the Law prevent or preclude compliance with one or more provisions of this Agreement, such provisions of the Agreement shall be modified or suspended, or performance thereof delayed, as may be necessary, to comply with the Changes in the Law.

## **Section 5. AMENDMENT**

**5.1 Amendments Generally.** Unless otherwise stated in this Agreement, the Parties may amend this Agreement by mutual written consent. No amendment or modification to this Agreement shall require the consent or approval of any person or entity having any interest in any specific lot, unit or other portion of the Project.

## **Section 6. DEFAULT; TERMINATION; ANNUAL REVIEW**

### **6.1 General Provisions.**

**(a) Defaults.** Any failure by either Party to perform any term or provision of this Agreement, which failure continues uncured for a period of thirty (30) days following written notice of such failure from the other Party, unless such period is extended by written mutual consent, shall constitute a default under this Agreement. Any notice given pursuant to the preceding sentence shall specify the nature of the alleged failure and, where appropriate, the manner in which said failure satisfactorily may be cured. If the nature of the alleged failure is such that it cannot reasonably be cured within such 30-day period, then the commencement of the cure within such time period, and the diligent prosecution to completion of the cure thereafter, shall be deemed to be a cure within such 30-day period. Upon the occurrence of an uncured default under this Agreement, the non-defaulting Party may institute legal proceedings to enforce the terms of this Agreement or, in the event of a material default, terminate this Agreement. If the default is cured, then no default shall exist and the noticing Party shall take no further action.

**(b) Termination.** If the County elects to consider terminating this Agreement due to a material default of Developer, then the County shall give to Developer a written

notice of intent to terminate this Agreement and the matter shall be scheduled for consideration and review by the County Legislative Body at a duly noticed public meeting. Developer shall have the right to offer written and oral evidence prior to or at the time of said public meeting. If the County Legislative Body determines that a material default has occurred and is continuing and elects to terminate this Agreement, the County Legislative Body shall send written notice of termination of this Agreement to Developer by certified mail and this Agreement shall thereby be terminated. The County may thereafter pursue any and all remedies at law or equity.

## **6.2 Review by County**

(a) **Generally.** The County may at any time and in its sole discretion request that Developer demonstrate that Developer is in full compliance with the terms and conditions of this Agreement. Developer shall provide any and all information reasonably necessary to demonstrate compliance with this Agreement as requested by the County within thirty (30) days of the request, or at a later date as agreed between the Parties.

(b) **Determination of Non-Compliance.** If the County Legislative Body finds and determines that Developer has not complied with the terms of this Agreement, and noncompliance may amount to a default if not cured, then the County may deliver a Default Notice pursuant to Section 6.1(a) of this Agreement. If the default is not cured timely by Developer, the County may terminate this Agreement as provided in Section 6.1(b) of this Agreement.

(c) **Notice of Compliance.** Within fifteen (15) days following any written request which Developer may make from time to time, the County shall execute and deliver to Developer a written "Notice of Compliance," in recordable form, duly executed and acknowledged by the County, certifying that: (i) this Agreement is unmodified and in full force and effect, or if there have been modifications hereto, that this Agreement is in full force and effect as modified and stating the date and nature of such modification; (ii) there are no current uncured defaults under this Agreement or specifying the dates and nature of any such default; and (iii) any other reasonable information requested by Developer. Developer shall be permitted to record the Notice of Compliance.

## **6.3 Default by the County.**

In the event the County defaults under the terms of this Agreement, Developer shall have all rights and remedies provided in Section 6.1 of this Agreement and provided under Applicable Law.

## **6.4 Enforced Delay; Extension of Time of Performance.**

Notwithstanding anything to the contrary contained herein, neither Party shall be deemed to be in default where delays in performance or failures to perform are due to, and a necessary outcome of, war, insurrection, terrorist acts, strikes or other labor

disturbances, walk-outs, riots, floods, earthquakes, fires, casualties, acts of God, restrictions imposed or mandated by other governmental entities, enactment of conflicting state or federal laws or regulations, new or supplemental environmental regulations, or similar basis for excused performance which is not within the reasonable control of the Party to be excused. Upon the request of either Party hereto, an extension of time for such cause shall be granted in writing for the period of the enforced delay, or longer as may be mutually agreed upon.

**6.5 Annual Review.**

Developer and the County shall (at the discretion of the County) meet annually to review the status of the Project and to review compliance with the terms and conditions of this Agreement.

**Section 7. DEFENSE AND INDEMNITY**

**7.1 Developer's Actions.**

Developer shall defend, hold harmless, and indemnify the County and its elected and appointed officers, agents, employees, and representatives from any and all claims, costs, judgments and liabilities (including inverse condemnation) which arise directly or indirectly from the County's approval of the Project, construction of the Project, or operations performed under this Agreement by (a) Developer or by Developer's contractors, subcontractors, agents or employees, or (b) any one or more persons directly or indirectly employed by, or acting as agent for, Developer or any of Developer's contractors or subcontractors.

**7.2 Hazardous, Toxic, and/or Contaminating Materials.** Developer further agrees to defend and hold harmless the County and its elected and/or appointed boards, officers, employees, and agents from any and all claims, liabilities, damages, costs, fines, penalties and/or charges of any kind whatsoever relating to the existence of hazardous, toxic and/or contaminating materials on the Project solely to the extent caused by the intentional or negligent acts of Developer, or Developer's officers, contractors, subcontractors, employees, or agents.

**7.3 County's Actions.**

Nothing in this Agreement shall be construed to mean that Developer shall defend, indemnify, or hold the County or its elected and appointed representatives, officers, agents and employees harmless from any claims of personal injury, death or property damage or other liabilities arising from (i) the willful misconduct or negligent acts or omissions of the County, or its boards, officers, agents, or employees; and/or (ii) the negligent maintenance or repair by the County of improvements that have been offered for dedication and accepted by the County for maintenance.

**Section 8. TRANSFER OF MAINTENANCE OBLIGATIONS.**

**8.1 Creation of Home Owners' Association.** It is anticipated that Developer will transfer certain maintenance obligations to the Home Owners' Association. The Association shall be a non-profit corporation formed in accordance with the state and federal law. The Association shall have authority to impose fees sufficient to perform the maintenance obligations transferred to it.

**8.2 Written Transfer Agreement Required.** In the event Developer transfers Developer's maintenance obligations to the Home Owners' Association, Developer shall do so by written transfer agreement approved by the County.

**Section 9. INSURANCE CERTIFICATES.**

**9.1 Insurance Certificates.** Prior to beginning construction on the Project, Developer shall furnish to the County certificates of general liability insurance indicating that the County has been added as an additional named insured with respect to construction of infrastructure, project improvements, and recreational facilities within the Project. Until such time as the Project Improvements described in Section 3.1(b) of this Agreement are completed and approved by the County, such insurance coverage shall not terminate or be canceled or the coverage reduced until after thirty (30) days' written notice is given to the County.

**Section 10. NO AGENCY, JOINT VENTURE OR PARTNERSHIP**

It is specifically understood and agreed to by and between the Parties that: (1) the subject Project is a private development; (2) the County has no interest or responsibilities for, or due to, third parties concerning any improvements until such time, and only until such time, that the County accepts the same pursuant to the provisions of this Agreement; (3) Developer shall have full power over and exclusive control of the Property and Project herein described, subject only to the limitations and obligations of Developer under this Agreement; and (4) the County and Developer hereby renounce the existence of any form of agency relationship, joint venture or partnership express or implied between the County and Developer and agree that nothing contained herein or in any document executed in connection herewith shall be construed as creating any such relationship between the County and Developer.

**Section 11. MISCELLANEOUS**

**11.1 Incorporation of Recitals and Introductory Paragraph.** The Recitals contained in this Agreement, and the introductory paragraph preceding the Recitals, are hereby incorporated into this Agreement as if fully set forth herein.

**11.2 Subjection and Subordination.** Each person or entity that holds any beneficial, equitable, or other interest or encumbrances in all or any portion of the Project at any time hereby automatically, and without the need for any further documentation or consent, subjects and subordinates such interests and encumbrances to this Agreement and all amendments thereof that otherwise comply with this Section 5. Each such person or entity agrees to provide written evidence of that subjection and subordination within 15 days following a written request for the same from, and in a form reasonably satisfactory to the County.

**11.3 Severability.** If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a particular situation, is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining terms and provisions of this Agreement, or the application of this Agreement to other situations, shall continue in full force and effect unless amended or modified by mutual consent of the Parties.

**11.4 Other Necessary Acts.** Each Party shall execute and deliver to the other any further instruments and documents as may be reasonably necessary to carry out the objectives and intent of this Agreement.

**11.5 Construction.** This Agreement has been reviewed and revised by legal counsel for both the County and Developer, and no presumption or rule that ambiguities shall be construed against the drafting Party shall apply to the interpretation or enforcement of this Agreement.

**11.6 Other Miscellaneous Terms.** The singular shall include the plural; the masculine gender shall include the feminine; "shall" is mandatory; "may" is permissive.

**11.7 Covenants Running with the Land.**

The provisions of this Agreement shall constitute real covenants, contract and property rights, and equitable servitudes, which shall run with all of the land subject to this Agreement. The burdens and benefits of this Agreement shall bind and inure to the benefit of each of the Parties, and to their respective successors, heirs, assigns, and transferees. Notwithstanding anything in this Agreement to the contrary, the owners of individual units or lots in the Project shall (1) only be subject to the burdens of this Agreement to the extent applicable to their particular unit or lot; and (2) have no right to bring any action under this Agreement as a third-party beneficiary or otherwise.

**11.8 Method of Enforcement.**

The County may look to Developer, the Home Owners' Association, or collectively to each lot or unit owners in the Project for performance of the provisions of this Agreement relative to the portions of the Project owned or controlled by such party. Any cost incurred by the County to secure performance of the provisions of this

Agreement shall constitute a valid lien on the Project, including prorated portions to individual lots or units in the Project, on a parity with and collected at the same time and in the same manner as general County taxes and assessments that are a lien on the Project. The County may pursue any remedies available at law or in equity, including the withholding of building permits or certificates of occupancy, to ensure compliance with this Agreement.

**11.9 Waiver.** No action taken by any Party shall be deemed to constitute a waiver of compliance by such Party with respect to any representation, warranty, or condition contained in this Agreement. Any waiver by any Party of a breach of any provision of this Agreement shall not operate or be construed as a waiver by such Party of any subsequent breach.

**11.10 Remedies.** Either Party may, in addition to any other rights or remedies, institute an equitable action to cure, correct, or remedy any default, enforce any covenant or agreement herein, enjoin any threatened or attempted violation thereof, enforce by specific performance the obligations and rights of the Parties hereto, or to obtain any remedies consistent with the foregoing and the purpose of this Agreement.

**11.11 Utah Law.** This Agreement shall be construed and enforced in accordance with the laws of the State of Utah.

**11.12 Covenant of Good Faith and Fair Dealing.** Each Party shall use its best efforts and take and employ all necessary actions in good faith consistent with this Agreement and Applicable Law to ensure that the rights secured by the other Party through this Agreement can be enjoyed.

**11.13 Requests to Modify Use Restrictions.** Developer's successors, heirs, assigns, and transferees shall have the right, without the consent or approval of any other person or entity owning property in any other part of the Project, to request that the County modify any zoning classification, use, density, design, setback, size, height, open space, road design, road dedication, traffic configuration, site plan, or other use restrictions associated with that portion of the Project to which the successor, heir, assign, or transferee holds title. The County shall consider any such request, but is not required to grant it.

**11.14 Representations.** Each Party hereby represents and warrants to each other Party that the following statements are true, complete and not misleading as regards the representing warranting Party:

- (a) Such Party is duly organized, validly existing and in good standing under the laws of the state of its organization.
- (b) Such Party has full authority to enter into this Agreement and to perform all of its obligations hereunder. The individual(s) executing this Agreement on behalf of such Party do so with the full authority of the Party that those individual(s) represent.

- (c) This Agreement constitutes the legal, valid and binding obligation of such Party enforceable in accordance with its terms, subject to the rules of bankruptcy, moratorium and equitable principles.

**11.15 No Third-Party Beneficiaries.** This Agreement is between the County and Developer. No other party shall be deemed a third-party beneficiary or have any rights under this Agreement.

## **Section 12. NOTICES**

Any notice or communication required hereunder between the County and Developer must be in writing, and may be given either personally or by registered or certified mail, return receipt requested. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of (i) actual receipt by any of the addressees designated below as the Party to whom notices are to be sent, or (ii) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If personally delivered, a notice shall be deemed to have been given when delivered to the Party to whom it is addressed. Any Party may at any time, by giving ten (10) days written notice to the other Party, designate any other address to which notices or communications shall be given. Such notices or communications shall be given to the Parties at their addresses set forth below:

**If to the County:**

**AL MICKELSEN**  
Director  
Wasatch County Administration Building  
25 North Main Street  
Heber City, UT 84032

**With Copies to:**

**THOMAS L. LOW**  
Wasatch County Attorney  
805 West 100 South  
Heber City, UT 84032

**If to Developer:**

DGP, LLC  
Richard T. Wolper  
3750 W. 500 South  
Salt Lake City, UT 84104



DCP, LLC  
Richard T. Wolper  
3750 W. 500 South  
Salt Lake City, UT 84104

**Section 13. ENTIRE AGREEMENT, COUNTERPARTS AND EXHIBITS**

Unless otherwise noted herein, this Agreement is the final and exclusive understanding and agreement of the Parties and supersedes all negotiations or previous agreements between the Parties with respect to all or any part of the subject matter hereof. All waivers of the provisions of this Agreement shall be in writing and signed by the appropriate authorities of the County and Developer. The following exhibits are attached to this Agreement and incorporated herein for all purposes:

**Exhibit A - Legal Description of the Property**  
“see attached Plat.”

**Exhibit B - Affordable Housing Agreement**

**Exhibit C - Will Serve Letters**

**Exhibit D - Jordanelle Agreement**

**Exhibit E - Open Space Easement**

**Exhibit F - Trail Plan**

**Exhibit G - Architectural Renderings**

**Exhibit H - Landscape Plan**

**Exhibit I - Easement agreement**

**Section 14. RECORDATION OF DEVELOPMENT AGREEMENT**

No later than ten ( 10) days after the County enters into this Agreement, the County Clerk shall cause to be recorded, at Developer's expense, an executed copy of this Agreement in the Official Records of the County of Wasatch.





**Deer Canyon Preserve  
Overall Boundary**

Beginning at the East Quarter Corner of Section 6, Township 2 South, Range 5 East, Salt Lake Base and Meridian, and running thence South 00°33'50" West, along the East line of said Section, 2569.98 feet, to the Southeast Corner of said Section 6; thence South 00°22'42" East, along the East line of Section 7, 121.18 feet; thence South 67°39'00" West, 1144.07 feet, to the Northeasterly line of US Highway 189; thence along said Northeasterly line on a non-tangent curve to the left, with a radius of 3990.94 feet, the center of which bears South 54°03'21" West, through a central angle of 1°42'11", an arc distance of 118.63 feet; thence North 45°23'02" West, along said Northeasterly line, 187.54 feet, to the Westerly line of a 100.00 foot wide County road; thence North 02°27'57" West, along said Westerly line, 308.06 feet, to the South line of Section 6; thence South 89°01'23" West, along said Section line, 43.57 feet; thence South 00°22'11" East, 128.23 feet; thence along the arc of a non-tangent curve to the right, with a radius of 390.86 feet, the center of which bears North 63°41'48" West, through a central angle of 8°33'11", an arc distance of 58.35 feet, to the Northeasterly line of US Highway 189; thence along said Northwesterly line, on a non-tangent curve to the left, with a radius of 3990.94 feet, the center of which bears South 47°27'57" West, through a central angle of 13°40'38", an arc distance of 952.68 feet; thence North 56°12'40" West, along said Northeasterly line, 262.47 feet; thence North 35°54'08" West, along said Northeasterly line, 518.76 feet; thence North 49°53'11" West, along said Northeasterly line, 514.43 feet; thence North 45°05'06" West, along said Northeasterly line, 545.95 feet; thence North 29°27'41" West, along said Northeasterly line, 747.09 feet; thence along said Northeasterly line, on a curve to the left, with a radius of 11692.72 feet, the center of which bears South 60°32'19" West, through a central angle of 2°05'28", an arc distance of 426.74 feet; to a point on the North - South forty acre line of the Northwest Quarter of said Section 6; thence North 00°28'16" West, along said forty acre line, 2534.97 feet, to the North line of said Section 6; thence South 89°58'18" East, along said North line 1003.34 feet, to the Wasatch - Summit County line; thence South 54°15'59" East, along said County line, 895.13 feet; thence North 64°40'31" East, along said County line, 323.80 feet; thence South 80°30'29" East, along said County line, 824.30 feet; thence North 52°13'31" East, along said County line, 418.80 feet; thence South 75°05'59" East, along said County line, 838.00 feet, to the East line of said Section 6; thence South 00°38'53" East, along said East line, 2204.71 feet, to the point of beginning.

Less and Excepting that portion within the Wasatch County Right of Way, more particularly described as follows:

Commencing at the Southeast corner of Section 6, Township 2 South, Range 5 East, Salt Lake Base and Meridian, thence South 89°01'23" West, along the South line of said Section, 1178.07 feet to the Point of Beginning for this description; thence South 01°08'41" East, 400.26 feet, to the said Northeasterly Right of Way line of said U.S. Highway; thence North 45°23'02" West, along said line, 129.21 feet; thence North 02°27'57" West, 308.06 feet; thence South 89°01'23" West, along the South line of said Section, 2.75 feet; thence North 01°08'41" West, 46.66 feet; thence Northwesterly along the arc of a 360.30 foot radius tangent curve to the left, through a central angle of 42°48'28", an arc distance of 269.19 feet; thence North 44°03'41" West, 293.55 feet; thence Westerly along the arc of a 360.30 foot radius tangent curve to the left through a central angle of 54°06'59", an arc distance of 340.31 feet; thence South 81°40'19" West, 351.74 feet, to the Northeasterly Right of Way line of US Highway 189; thence North 56°12'40" West, along said line, 54.14 feet; thence North 35°54'08" West, along said line, 71.85 feet; thence North 81°40'19" East, 425.29 feet; thence Easterly along the arc of a 460.30 foot radius non-tangent curve to the right, center bears South 08°11'42" East, through a central angle of 54°08'01", an arc distance of 434.90 feet; thence South 44°03'41" East, 293.64 feet; thence Southeasterly along the arc of a 460.30 foot radius non-tangent curve to the right, center bears South 46°02'06" West, through a central angle of 42°49'14", an arc distance of 344.01 feet; thence South 01°08'41" East, 46.95 feet to the Point of Beginning.

Contains 396.179 acres, more or less

LOTS 1-16 OPEN SPACE, & DETENTION BASIN  
DEER CANYON PRESERVE  
PHASE 1

**Deer Canyon Preserve  
Phase 1 Boundary**

Commencing at the East quarter corner of Section 6, Township 2 South, Range 5 East, salt lake base and meridian, and running thence South 00°33'50" West, along the East line of said section 6, a distance of 701.89 feet, to the point of beginning for this description; thence South 00°33'50" West, along East line of said section 6, a distance of 1868.09 feet, to the Southeast corner of said section 6; thence South 00°22'42" East, along the East line of section 7, 121.18 feet; thence South 67°39'00" West, 1144.07 feet, to the Northeasterly line of us highway 189; thence along said Northeasterly line on a non-tangent curve to the left, with a radius of 3990.94 feet, the center of which bears South 54°03'21" West, through a central angle of 1°42'11", an arc distance of 118.63 feet; thence North 45°23'02" West, along said Northeasterly line, 187.54 feet, to the Westerly line of a 100.00 foot wide county road; thence North 02°27'57" West, along said Westerly line, 308.06 feet, to the South line of section 6; thence South 89°01'23" West, along said section line, 43.57 feet; thence South 00°22'11" East, 128.23 feet; thence along the arc of a non-tangent curve to the right, with a radius of 390.86 feet, the center of which bears North 63°41'48" West, through a central angle of 8°33'11", an arc distance of 58.35 feet, to the Northwesterly line of us highway 189; thence along said Northwesterly line, on a non-tangent curve to the left, with a radius of 3990.94 feet, the center of which bears South 47°27'57" West, through a central angle of 13°40'38", an arc distance of 952.68 feet; thence North 56°12'40" West, along said Northeasterly line, 262.47 feet; thence North 35°54'08" West, along said Northeasterly line, 89.84 feet; thence North 45°46'04" East, 145.70 feet; thence along a 150.00 foot radius non-tangent curve to the right, the center of which bears North 75°27'12" East, through a central angle of 61°42'27", an arc distance of 161.55 feet; thence North 47°09'40" East, 557.55 feet; thence along a 150.00 foot radius curve to the right, through a central angle of 25°22'09", an arc distance of 66.42 feet; thence North 27°09'07" East, 401.27 feet; thence North 11°10'01" East, 68.63 feet; thence along a 970.00 foot radius non-tangent curve to the left, the center of which bears, North 41°11'01" East, through a central angle of 6°50'39", an arc distance of 115.87 feet; thence South 55°39'38" East, 83.52 feet; thence along a 210.00 foot radius curve to the right, through a central angle of 3°23'56", an arc distance of 12.46 feet; thence North 37°40'11" East, 165.11 feet; thence North 00°31'41" West, 592.39 feet; thence South 70°34'16" East, 1359.66 feet, to the point of beginning..

Contains 97.404 acres, more or less.

Together with a 60 foot wide road the sidelines of which are to be lengthened or shortened as necessary so as to commence at the Northwesterly boundary of phase 1, as shown hereon, and to terminate at the Westerly boundary of the overall parcel, as shown hereon. Further, in the locale of point "a", the Southwesterly sideline of said road is to transition from a curve with a radius of 150.00 feet, to a tangent line, through a curve with a radius of 10.50 feet, that is concave to the West. The centerline of said road is described as follows:

Commencing at the Northerly extremity of the course indicated as "l212, 68.63, n 11°10' 01" e" of the line table for phase 1, as shown on sheet 1 of 4 hereon, and running thence South 11° 10' 01" West, along the Northwesterly line of said phase 1, a distance of 34.32 feet to the point of beginning for this description; thence along a 1000.00 foot radius curve to the right, the center of which bears North 40° 11' 43" East, through a central angle of 0°59'18", an arc distance of 17.25 feet; thence North 48°48'59" West, 217.02 feet; thence along a 120.00 foot radius curve to the left, through a central angle of 61°03'05", an arc distance of 127.87 feet; thence South 70°07'56" West, 190.07 feet; thence along a 270.00 foot radius curve to the right, through a central angle of 68°56'19", an arc distance of 324.87 feet; thence North 40°55'45" West, 457.63 feet; thence along a 280.00 foot radius curve to the left, through a central angle of 17°46'00", an arc distance of 86.82 feet; thence North 58°41'45" West, 50.72 feet; thence along a 120.00 foot radius curve to the right, through a central angle of 85°48'17", an arc distance of 179.71 feet, to point "a"; thence North 62°53'28" West, 204.90 feet; thence along a 1000.00 foot radius curve to the right, through a central angle of 10°24'59", an arc distance of 181.80 feet; thence North 52°28'29" West, 271.21 feet; thence along a 500.00 foot radius curve to the right, through a central angle of 26°20'09", an arc distance of 229.82 feet; thence North 26°08'20" West, 122.64 feet; thence along a 200.00 foot radius curve to the left, through a central angle of 44°25'56", an arc distance of 155.10 feet; thence North 70°34'16" West, 357.43 feet to the terminus of this description.

EXHIBIT B E 280211 B 0738 P 0030

DEER CANYON PRESERVE DEVELOPMENT AGREEMENT

[Affordable Housing Agreement]

## AFFORDABLE HOUSING AGREEMENT

This Affordable Housing Agreement is entered into this 24 day of February, 2005, by and between Wasatch County, a political subdivision of the State of Utah (hereinafter "the County") and DCP, L.L.C., a limited liability company (hereinafter "the Developer").

### RECITALS

WHEREAS, the Developer is the owner of certain real property in Wasatch County, State of Utah, which property is more particularly described in Exhibit A, attached hereto and incorporated by reference herein; and

WHEREAS, the Developer has applied to the County to subdivide said real property and for approval of a clustered development on said property consisting of 60 single family residential units equaling 60 Equivalent Residential Units (hereinafter "the Project"); and

WHEREAS, the Project is more fully described in a Plat entitled "Deer Canyon Preserve" on file at the Wasatch County Recorder's Office (hereinafter "the Plat"), which Plat is incorporated by reference herein.

WHEREAS, the Wasatch County Code requires that the Developer enter into an Affordable Housing Agreement with Wasatch County as a condition of approval of the Project;

NOW THEREFORE, in consideration of the mutual covenants and promises described above and otherwise contained herein, the sufficiency of which is expressly acknowledged by the parties to this agreement, the parties now enter into the following:

### AGREEMENT

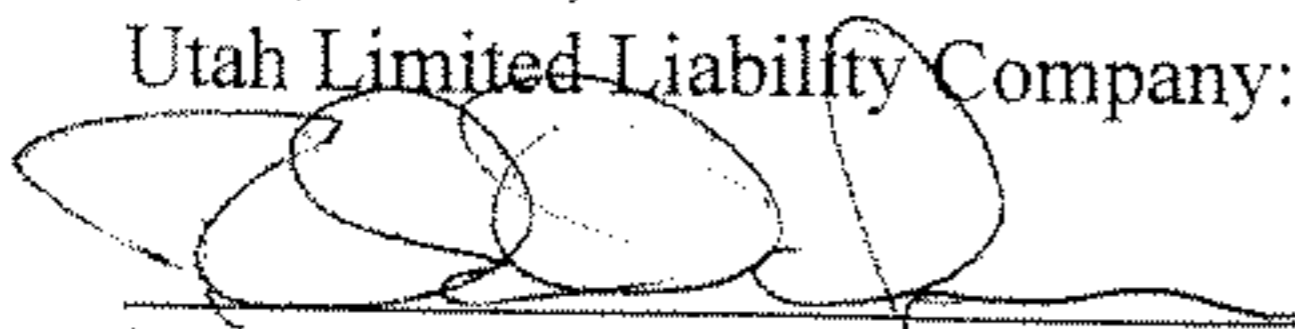
1. **Incorporation of Recitals**: The Recitals set forth above are incorporated into the body of this Agreement.
2. **Affordable Housing Requirements**: The Wasatch County Code requires that 10% of the Equivalent Residential Units in the Project be affordable housing units, or that the Developer pay to the County a fee-in-lieu to be used to promote affordable housing in Wasatch County. Accordingly, the affordable housing requirement for the Project is 6 affordable housing units, or an equivalent fee-in-lieu. The Wasatch County Housing Authority approved the transfer of the 6 affordable housing units to the Iroquois development which is also owned by DCP, LLC.
3. **Developer's Obligations**: Developer agrees to meet the foregoing affordable housing requirement as follows:

- a. **Construction of affordable housing units**: Developer shall build 6 affordable housing units in the Iroquois development. Units shall be dispersed throughout the development and approved by the Housing Authority.
4. **Satisfaction of Affordable Housing Requirements**: Performance of the Developer's obligations under this Agreement satisfies the Developer's obligation for affordable housing under the Wasatch County Code as applied to the development of the land described in Exhibit A, and the Project as described above and in the Plat.
5. **Remedies**: Failure by the Developer to perform in accordance with this Agreement will constitute failure to satisfy the affordable housing requirements of the Wasatch County Code. In the event of default by the Developer, the County shall have authority to exercise any and all remedies available at law or in equity, including the withholding of building permits for the lots shown on the Plat, to enforce the terms and conditions of this Agreement.
6. **Hold Harmless**: Developer agrees to indemnify, defend, and hold harmless (without limit as to amount) the County and its elected officials, officers, employees, and agents acting in their official capacity, from and against all loss, risk of loss, or damage, including reasonable attorney's fees, sustained or incurred because of or by reason of any claim, demand, suit, or cause of action arising out of or in any manner pertaining to Developer's actions or defaults under this Agreement.
7. **Entire Agreement**: This Agreement constitutes the entire Agreement between the parties, and no modification shall be binding unless reduced to writing and signed by the parties hereto.
8. **Duration of Agreement**: This Agreement shall terminate and become null and void upon the substantial completion of all affordable housing units to be constructed or renovated by the Developer.
9. **Successors**: This Agreement shall run with the land on which the Developer constructs or renovates the required affordable housing units. The Agreement shall be binding upon all successive owners of said land.
10. **Severability**: In the event any provision of this Agreement is held invalid, void or unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall nevertheless remain in full force and effect.


IN WITNESS WHEREOF, the parties have hereunto set their hands this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.



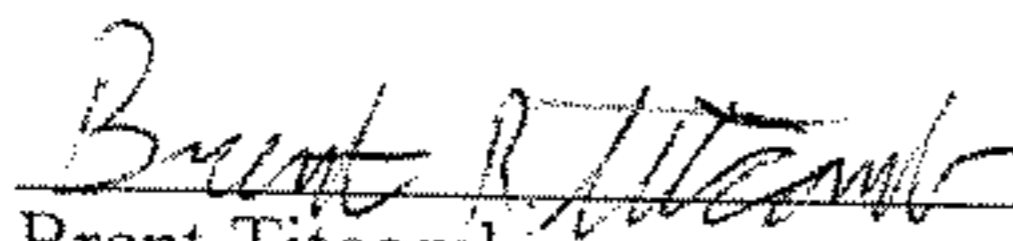
For the DEVELOPER:  
DCP, L.L.C., a  
Utah Limited Liability Company:

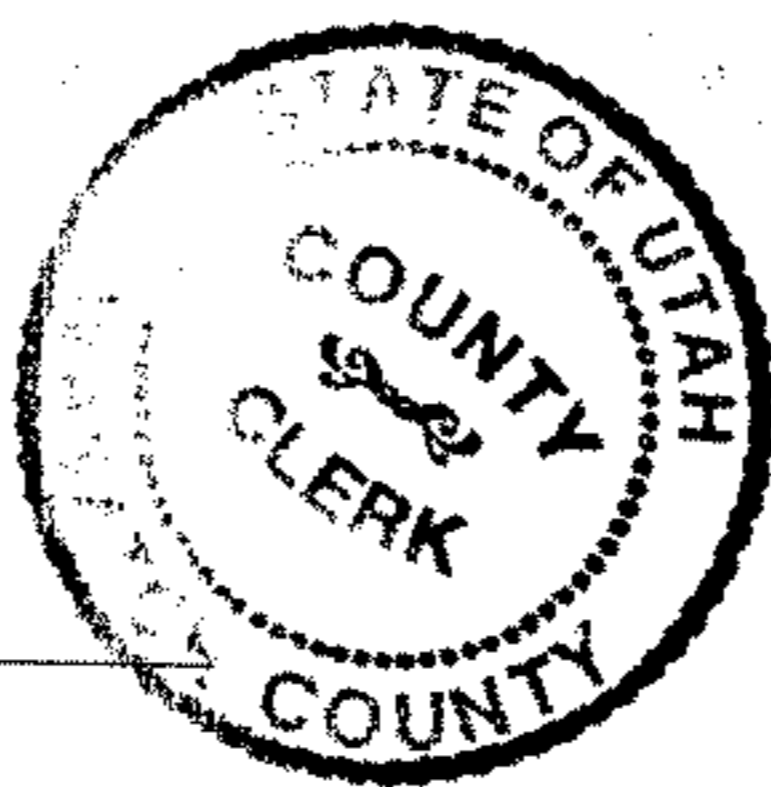
  
By: Richard T. Wolper, Manager

For WASATCH COUNTY:

  
Mike Davis  
County Manager

Attest:

  
Brent Titcomb  
Wasatch County Clerk-Auditor



# Wasatch County Housing Authority



February 17, 2005

Doug Smith  
Wasatch County Planning Department  
25 North Main Street  
Heber City, UT 84032

Re: Affordable Housing Plan - Deer Canyon Preserve & Iroquois

Dear Doug,

On behalf of the Wasatch County Housing Authority, I am providing you with the following conditional approval of the Deer Canyon Preserve and Iroquois developments owned by Rich Wolper and represented by Tom Flinders.

Deer Canyon Preserve is a gated community, featuring lots of one acre or more, designed for 60 single family units. Based on the 10% affordable housing requirement, six ERUs are required for this development. In addition, the adjacent Iroquois development has been approved for 511 ERUs with mixed use and some commercial components. Mr. Wolper and Mr. Flinders have requested approval to transfer the six Deer Canyon Preserve affordable units to the Iroquois development, for a total of 56 affordable ERUs that will be built and sold under the current affordable housing restrictions.

The Wasatch County Housing Authority approves this request, on the condition that the affordable units be built throughout the Iroquois development rather than being located in one general section. Prior to recording of the final Iroquois plat, the Wasatch County Housing Authority requests a review of the plan in order to approve the location of these affordable units.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "Jennifer Kohler".

Jennifer Kohler  
Wasatch County Housing Authority

EXHIBIT C

DEER CANYON PRESERVE DEVELOPMENT AGREEMENT

[Will Serve Letters]

E 280211 B 0738 P 0036

**ChevronTexaco**

March 12, 2003

Mr. Mike Carlton  
Wilding Engineering, Inc.  
12411 South Fort Street  
Salt Lake City, Utah 84020

Re: Wasatch County, Utah  
Deer Mountain Preserve Proposed Development Project

Dear Mr. Carlton:

Chevron Pipe Line Company (CPL) has reviewed your replatted subdivision plans submitted to our office by letter dated February 12, 2003. The subdivision plan is constrained by the presence of two high pressure crude oil pipelines that traverse the proposed development project. It is therefore critical that CPL take every precaution to protect the public from the potential dangers of crude oil pipelines and to reduce opportunities for intrusions on the pipelines by third parties. Consequently, it is a requirement for final approval of the development project that the owner/developer sign a Line Crossing Agreement prior to construction activity over the pipeline.

CPL insists that certain minimum requirements be met in order to insure the safe and uninterrupted operation and maintenance of its pipeline system. CPL is also required to abide by Department of Transportation (DOT) safety regulations governing the operation of hazardous liquids pipelines under Title 49 Code of Federal Regulations (CFR), Part 195. Accordingly, we hereby submit the following recommendations for your project.

1. The pipeline easement is 33.0 feet in width, a copy of which is attached for your reference. The correct width must be shown on the official recorded subdivision plats and the precise location of the easement shown must be verified by CPL. A representative of CPL will locate and stake the location of the two crude oil pipelines for purposes of verifying their location. Pipeline markers do not always indicate the exact location of the pipelines and any survey conducted with the use of pipeline markers may be in error.
2. The correct depth of the pipeline must be shown on all construction and engineering design drawings prior to obtaining approval from CPL to commence construction of the proposed improvements impacting the CPL pipelines. The exact depth of the pipelines are not known but are estimated to be between approximately 1 to 2.5 feet based on field experience in that area. CPL personnel will assist the developer in obtaining depth measurements at no cost. This will require the developer to pot hole at various locations within the development project in order to verify the pipeline depths where roadways and other improvements will be constructed within the pipeline right-of-way.
3. All buried line crossings, changes in depth of cover and surface use of the pipeline easement shall meet the requirements set forth in the attached Exhibit "A". The over crossing of an 18-inch ADS storm drain and a 42-inch ADS storm drain, a 6-inch C900 culinary transmission waterline and a 12-inch C900 distribution waterline as shown on sheet Chevron-1 is approved provided that the separation requirement is met as set forth in Exhibit A. CPL requests that a 2 inch slab of concrete



E 280211 B 0738 P 0037

- be placed over the top of the waterlines across the entire width of the CPL right-of-way. All roadways shall be constructed with a minimum of 48 inches of cover across the pipeline right-of-way and a minimum of 36 inches of cover off the paved portion of the roadway or within the drainage ditches on either side of the roadway. The roadway crossing the pipelines as depicted within sheet Chevron-1 and sheet P-12 will require additional fill to meet the CPL specifications outlined in Exhibit A. This work will be at the expense of the owner/developer to the satisfaction of CPL.
4. The spillway or drainage area that is designed in conjunction with the detention basin is approved provided that a minimum of 36-inches of ground cover is in place prior to the installation of a thin plastic sheet and the 12-inch minus rock for rip rap.
  5. The paragraph attached as Exhibit "B" must be placed on the construction plans and be clearly visible. The paragraph must also be a part of the official subdivision plats to be recorded in the office of the Wasatch County Recorder.

Any change in the current development would necessitate similar requirements as set forth above and would require CPL review and approval. Specific requirements must be designed for each improvement affecting the CPL pipeline. CPL reserves the right to modify its requirements to meet changing federal regulations and its own safety requirements.

Arrangements must be made in advance with Mr. Brad C. Rosewood, Salt Lake Team Leader to have a CPL representative assist the developer in determining the depth of the pipelines. Also, a minimum of 48 hours notice is required to have a CPL representative present for any construction work being done on or near the pipeline right-of-way. Mr. Rosewood may be reached at (801) 539-7339.

We appreciate the opportunity to review and comment on this and future development proposals. In the interest of public safety, CPL must be included in the review process of any development affecting our pipeline system in order to provide constructive input and to avoid future conflicts. Should you have any questions, please call Mr. Paul, McCarley, Field Technical Support at (801) 539-7596 or Mr. Wil Evans, Field Technical Support at (801) 539-7587.

Sincerely,

  
G. A. (George) Adams  
Right-of-Way Specialist

cc:  
B. C. Rosewood  
W.H. Evans  
C. P. McCarley

E 280211 B 0738 P 0038

be placed over the top of the waterlines across the entire width of the CPL right-of-way. All roadways shall be constructed with a minimum of 48 inches of cover across the pipeline right-of-way and a minimum of 36 inches of cover off the paved portion of the roadway or within the drainage ditches on either side of the roadway. The roadway crossing the pipelines as depicted within sheet Chevron-1 and sheet P-12 will require additional fill to meet the CPL specifications outlined in Exhibit A. This work will be at the expense of the owner/developer to the satisfaction of CPL.

4. The spillway or drainage area that is designed in conjunction with the detention basin is approved provided that a minimum of 36-inches of ground cover is in place prior to the installation of a thin plastic sheet and the 12-inch minus rock for rip rap.
5. The paragraph attached as Exhibit "B" must be placed on the construction plans and be clearly visible. The paragraph must also be a part of the official subdivision plats to be recorded in the office of the Wasatch County Recorder.

Any change in the current development would necessitate similar requirements as set forth above and would require CPL review and approval. Specific requirements must be designed for each improvement affecting the CPL pipeline. CPL reserves the right to modify its requirements to meet changing federal regulations and its own safety requirements.

Arrangements must be made in advance with Mr. Brad C. Rosewood, Salt Lake Team Leader to have a CPL representative assist the developer in determining the depth of the pipelines. Also, a minimum of 48 hours notice is required to have a CPL representative present for any construction work being done on or near the pipeline right-of-way. Mr. Rosewood may be reached at (801) 539-7339.

We appreciate the opportunity to review and comment on this and future development proposals. In the interest of public safety, CPL must be included in the review process of any development affecting our pipeline system in order to provide constructive input and to avoid future conflicts. Should you have any questions, please call Mr. Paul, McCarley, Field Technical Support at (801) 539-7596 or Mr. Wil Evans, Field Technical Support at (801) 539-7587.

Sincerely,



G. A. (George) Adams  
Right-of-Way Specialist

cc:

B. C. Rosewood  
W.H. Evans  
C. P. McCarley

E 280211 B 0738 P 0039



**WILDING  
ENGINEERING, INC**  
12411 SOUTH FORT STREET  
DRAPER, UTAH 84020  
(801)553-8112

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**FAX TRANSMITTAL**

**TO:** Doug Smith

**FAX #:** (435) 654-5116

**FROM:** Mike Carlton

**DATE:** March 18, 2003

**SUBJECT:** Chevron Approval Letter

**NUMBER OF PAGES (Including this sheet):** THREE

**CC:** Bea Peck (801) 537-1312

Doug,

Here is a letter that I received from Chevron Pipe Line Company (CPL). They have reviewed our construction drawings and have approved them subject to the 5 specific comments listed. The comments are summarized as follows:

- 1) The pipelines are within a 33-foot recorded easement. A CPL representative will field mark their horizontal location so they can be located vertically by potholing.
- 2) The correct depth will need to be shown on the construction plans prior to constructing within the pipeline easement. The design of our crossings may need to be adjusted after the exact depth is found. CPL requires that they be present when digging to find their lines.
- 3) The proposed utility locations (water, storm drain, sewer) are approved, subject to the pipeline location. The road design may need to adjust once the pipeline depth is known.
- 4) The spillway for detention basin #2 is approved, subject to the pipeline location. We have chosen to remove the rip rap in favor of using a erosion control mat (NAG C350) to eliminate rip rap crossing the pipe lines. This mat will protect the pipelines from erosion.
- 5) CPL required specific verbage to be added to the construction drawings. This has been done.

These comments are largely dependant on precisely locating the pipelines. We intend to locate the pipelines once construction has started on the project, but prior to working within the CPL right-of-way.

Please call me if you have any questions.

Mike Carlton

(801) 553-8112 / Fax: (801) 553-9108 / Email: mcarlton@wildingengineering.com

**Wasatch County Fire District**  
**25 North Main Street**  
**Heber City, Utah 84032**

Phone: 435-940-9636

May 9, 2003

Deer Canyon Preserve  
Rich Wolper  
134 South 700 West  
Salt Lake City, Utah 84104

**Proposed Deer Canyon Preserve**  
State Highway 248 (North of Deer Mountain)  
Business Phone: 801-908-0196 Fax 801-908-0198 - Rich Wolper  
Mobile Phone:

To Whom It May Concern:

I/We Deer Canyon Preserve, LLC, the undersigned, by my/our signature, agree that I/we will comply with all the codes and standards of the Wasatch County Fire District and the Wasatch County Code and ordinances which apply to the Deer Canyon subdivision.

Beatrice M. Beck

The Wasatch County Fire District will furnish fire protection to this area only when the infrastructure of the subject subdivision has been completed in accordance with the International Fire Code and all other Wasatch County ordinances adopted to date. No construction of any structure will be permitted until all the requirements of the International Fire Code have been met. We will service this development if all fees are current.

**Fire Flow Requirements**

Fire-Flow requirements for buildings shall be based upon Appendix B of the International Fire Code which states: The minimum fire flow requirements for one and two family dwellings having a fire area which does not exceed 3,600 square feet shall be 1,000 gallons per minute. Fire flow for dwellings having a fire area in excess of 3,600 square feet shall not be less than that specified in Table B105.1 (located on page 358 of the International Fire Code). A reduction in required fire flow of up to 50 percent as approved, is allowed where the building is equipped throughout with an approved automatic sprinkler system in accordance with Chapter 9 of the International Fire Code.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

Wasatch County Fire District

RA [Signature]

Questions concerning the requirements of this form letter may be directed to:  
Fire Marshall Steve Ivie  
Wasatch County Fire District  
25 North Main Street  
Heber City, Utah 84032 Phone 435-671-1474





E 280211 B 0738 P 0041

Michael O. Leavitt  
Governor

**State of Utah**  
**Department of Transportation**

John R. Njord, P.E.  
Executive Director

June 10, 2003

**RECEIVED**  
JUN 12 2003  
WASATCH COUNTY  
PLANNING DEPARTMENT

Mike Carlton  
Wilding Engineering, Inc.  
12411 South Fort Street  
Draper, Utah 84020

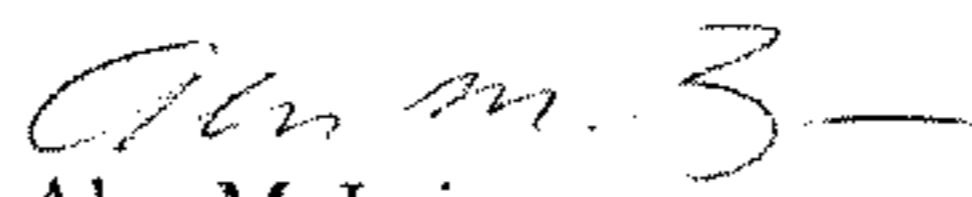
Dear Mr. Carlton:

The Utah Department of Transportation Region Two Staff has reviewed and approved the site plan for one access onto SR-248 for Deer Canyon Preserve in Summit County, Utah.

Plans are approved for six months from the date signed. Work on UDOT's right-of-way is restricted from September - April. **Before commencing work on the State highway, the contractor who is awarded the project must have a performance bond on file with UDOT, and obtain an encroachment permit from the Region Two Permits Office.** Work is not allowed on the right of way during the AM/PM peak traffic hours (6:00 - 9:00 AM and 3:30 - 6:00 PM).

If you need further information regarding your project, please feel free to contact me at (801) 975-4810.

Sincerely,

  
Alan M. Loiacono  
Right Of Way Control Coordinator

cc: Al Mickelsen, Wasatch County Planning

H:\WPFILES\ALitr\2003\Sr-248\Deer Canyon Preserve\Deer Canyon Preserve - Station 112+54. approval.wpd

**Utah!**  
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Region Two  
2010 South 2760 West • Salt Lake City, Utah 84104-4592 • Telephone (801) 975-4900 • Fax (801) 975-4811 • www.utah.gov

**JORDANELLE SPECIAL SERVICE DISTRICT**

P.O. Box 519  
10420 North Jordanelle Blvd. Ste. A  
Heber City, Utah 84032

April 5, 2002

Al Mickelson,  
Wasatch County Planner  
25 North Main Street  
Heber City, Utah 84032

Telephone: (435) 940-9515  
Facsimile: (435) 940-9632

ATTN: Richard  
Jex

Fax 654-2705

RE: Will-serve letter for final approval on Deer Canyon Preserve subdivision.

Dear Al:

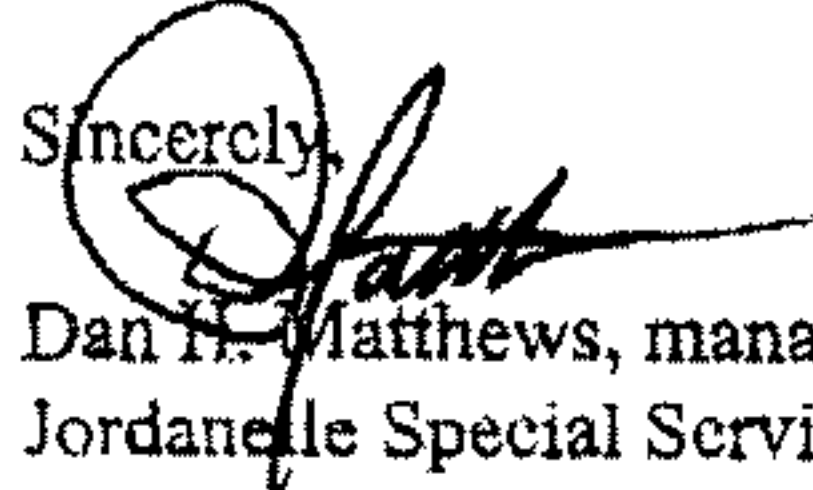
The Deer Canyon Preserve subdivision is a part of the Jordanelle Special Service District. As such, water and wastewater services will be provided by JSSD. We are working with the Developer and his engineer to ensure that the line extensions necessary to service the property will be constructed according to JSSD specifications. JSSD will provide culinary water and wastewater collection services to the Deer Canyon Preserve project as generally described below:

Culinary water: JSSD will own and operate the culinary water system which will service Deer Canyon Preserve. Deer Canyon has reserved sufficient water rights to provide for the culinary water needs of the entire proposed subdivision. The source for the water will be the Jordanelle Water Treatment Plant, with well(s) on the Butte property and the Deer Mountain property as redundant sources. Deer Canyon Preserve will pay for the extension of the culinary water line from its existing terminus on Highway 248. Deer Canyon Preserve will also be responsible for constructing a water storage tank on their own property when they desire to construct on the upper lots.

Wastewater collection: JSSD will own and operate the wastewater collection system that will service Deer Canyon Preserve. Deer Canyon Preserve will pay for the extension of the wastewater collection system line from its existing terminus on Highway 248.

We are currently in the process of reviewing the on-site and off-site engineering plans for the water and sewer improvements to be built by the developer and expect to have them in final approved form within a week. If you have any questions or concerns, please do not hesitate to give me a call.

Sincerely,

  
Dan H. Matthews, manager  
Jordanelle Special Service District  
DHM/

cc: Richard Jex, Health Department  
Dave Merrill, Deer Canyon Preserve



**EXHIBIT D**

DEER CANYON PRESERVE DEVELOPMENT AGREEMENT

[Jordanelle Agreement]

E 280211 B 0738 P 0044

E 280211 B 0738 P 0045

**JORDANELLE SPECIAL SERVICE DISTRICT**

P.O. Box 518  
10420 North Jordanelle Blvd. Ste. A  
Heber City, Utah 84032

Telephone: (435) 940-9515  
Facsimile: (435) 940-9832

February 25, 2003

Richard Wolper  
3750 West 500 South  
Salt Lake City, Utah 84104

Via fax no. (801) 908-0198

Re: Agreement with Jordanelle Special Service District.

Dear Mr. Wolper:

I appreciated speaking with you the other day and look forward to working with you on this project. As you know, in order to proceed with the development approval process and the recording of the Phase I Plat with the County, JSSD must sign the Plat and agree to service the property.

1. Deer Canyon Preserve owed the following amounts to be current with JSSD:

Annual Water Rights Invoice (2002)	\$11,721.60
Sewer Bond Invoice	\$8,479.70
Water System Bond Invoice	\$160,598.00
Ross Creek Bond Invoice	\$545,439.66

As per our prior agreement, dated April 2, 2002, Deer Canyon Preserve paid the following:

\$250,000.00. That \$250,000.00 was applied by JSSD as follows:

<u>Item</u>	<u>Amount Paid</u>	<u>Amount Remaining</u>
Water Rights Invoice for 2002	\$11,721.60	-0-
Sewer Bond Invoice	\$8,479.70	-0-
Water System Bond Invoice	\$160,598.00	-0-
Water Rights Invoice for 2003	-0-	\$17,289.36

E 280211 B 0738 P 0046

<u>Ross Creek Bond Invoice</u>	<u>\$69,200.70</u>	<u>\$476,238.96</u>
<b>Total Amount Still Due</b>		<b>\$493,528.32</b>

Deer Canyon Preserve acknowledges that these amounts are due. If Deer Canyon Preserve disputes any of these amounts, it must state the basis of that dispute now. JSSD will not proceed unless the amounts are agreed to by Deer Canyon Preserve.

2. Normally, the entire amount would be due prior the issuance of a "will-serve" letter. In order to help expedite the process, JSSD provided a "will-serve" letter in the spring of 2002. JSSD will now agree to sign the Plat for Phase I on the conditions set forth herein.

3. The payment dates for the remaining amount shall be as follows:

\$246,182.70 Transfer 20 ERU's for Deer Meadow Preserve to Deer Canyon Preserve

\$17,289.36 2003 Water Rights Invoice due on or before February 2, 2003.  
(Plus applicable penalties and interest)

\$230,056.26 portion of Ross Creek Bond Invoice due on or before July 1, 2003.

In the event the July 1" payment is not made, Deer Canyon Preserve acknowledges that JSSD will not sign further Plats, or take any other action with respect to future Phases until the payment is made.

4. In addition, Deer Canyon Preserve agrees to immediately pay the out-of-pocket expense invoices in order to pay any additional costs incurred by the District in reviewing the engineering drawings.
5. Prior to commencing construction on the approved set of plans, Deer Canyon Preserve shall submit their engineer's estimate of the cost of constructing the sewer and water improvements in the current phase. JSSD shall review the engineer's estimate, and once the amount is agreed upon, Deer Canyon Preserve shall pay 5% of the engineer's estimate to JSSD for construction inspection and review. Subsequent phases shall be handled the same way. Deer Canyon Preserve is also required to post a performance bond which meets the Wasatch County requirements before receiving a construction permit.
6. Upon completion of the construction, Deer Canyon Preserve's engineer shall prepare and certify a set of "as-built" drawings which shall be submitted to the District for approval. Once the District accepts the approved "as-built" drawings, the District shall accept the water and sewer system and the appropriate warranty period shall commence.
7. Wasatch County's policy states that no building permits will be issued on any lot until the infrastructure improvements are 100% complete. JSSD will not sign a building permit application until all water and sewer improvements for the Plat in question are complete and accepted by the District.

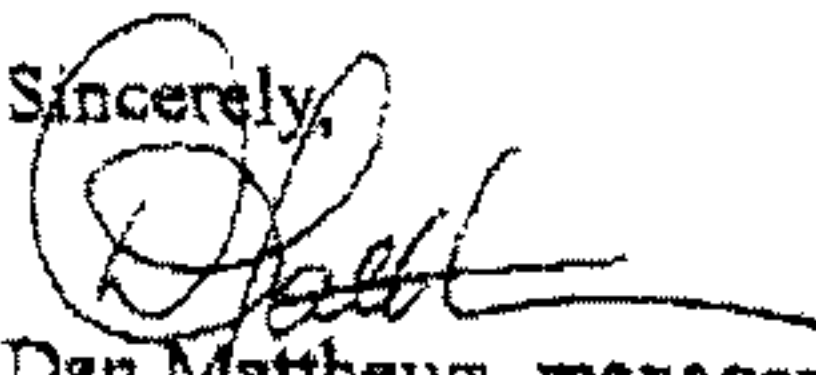
E 280211 B 0738 P 0047

- 8. Deer Canyon Preserve agrees that as a condition of receiving of receiving service, Deer Canyon Preserve agrees to be bound by, and conform to, all JSSD policies, procedures, standards, ordinances and regulations.
- 9. JSSD Wastewater Treatment Impact Fees are collected at the time a building permit is issued.
- 10. In the event Deer Canyon Preserve upsizes any water or sewer system improvement for use by another developer, JSSD and Deer Canyon Preserve shall enter into a line extension agreement whereby Deer Canyon Preserve may be reimbursed for a portion of the construction cost if others hook to the improvements constructed by Deer Canyon Preserve.
- 11. By signing this letter agreement and proceeding, Deer Canyon Preserve agrees to all of the conditions set forth above.

I hope that this accurately reflects our understanding. If not, please let me know immediately so we can solve any issues. I have attached a copy of the memo we discussed in my office setting forth the appropriate fees that will be charged as part of this project. Some of the fees are subject to review and adjustment by the JSSD board and may be changed by resolution from time to time. If you have any questions or concerns, please do not hesitate to give me a call. If you are comfortable with these terms, please sign and date a copy of this letter, and return it to my office.

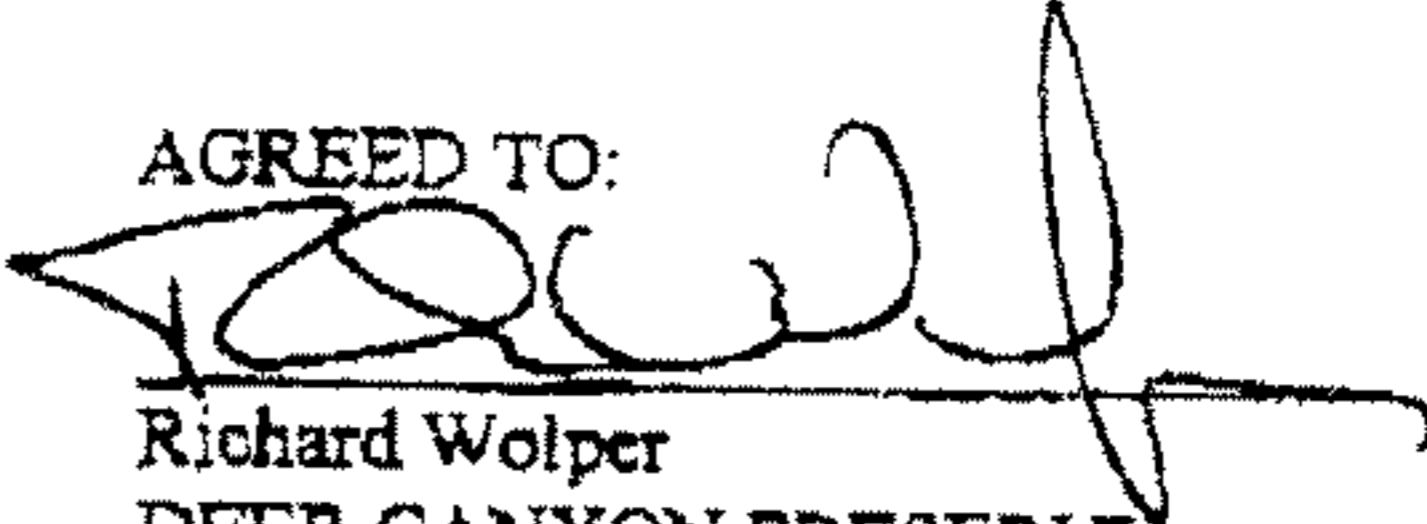
Again, we look forward to working with you on this project.

Sincerely,

  
 Dan Matthews, manager  
 Jordanelle Special Service District

DHM/  
 attachments

AGREED TO:



Richard Wolper  
 DEER CANYON PRESERVE  
 DATE: 3-11-03

EXHIBIT E

E 280211 B 0738 P 0048

DEER CANYON PRESERVE DEVELOPMENT AGREEMENT

[Open Space Easement]

The real property described below shall be subject to an Open Space Easement in favor of Wasatch County. No structure or other development shall be permitted on this real property except as approved by the County Legislative Body. The Developer shall be responsible to maintain this real property in its natural state. This obligation may be transferred by written agreement to the Home Owners' Association. Maintenance provided by Developer or the Home Owners' Association shall meet or exceed a standard of reasonableness and safety as established by the County. In the event Developer or the Home Owners' Association fails to maintain the real property, the County may (but is not obligated to) maintain it. The market value of the cost of this maintenance is hereby agreed to and shall constitute a valid lien on the Property the Project and its lots on a parity with and collected at the same time and in the same manner as general County taxes that are a lien on the Property.

**LEGAL DESCRIPTION**  
OPEN SPACE PARCEL 1

BEGINNING AT THE SOUTHEAST CORNER OF SECTION 6, TOWNSHIP 2 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN, AND RUNNING THENCE SOUTH 00°22'42" EAST, 121.18 FEET; THENCE SOUTH 67°39'00" WEST, 1144.07 FEET, TO A POINT ON THE NORTHEASTERLY LINE OF US HIGHWAY 189; THENCE ALONG SAID NORTHEASTERLY LINE ON A NON-TANGENT CURVE TO THE LEFT, WITH A RADIUS OF 3990.94 FEET, THE CENTER OF WHICH BEARS SOUTH 54°03'21" WEST, THROUGH A CENTRAL ANGLE OF 1°42'11", AN ARC DISTANCE OF 118.63 FEET; THENCE NORTH 45°23'02" WEST, 187.54 FEET; THENCE NORTH 02°27'57" WEST, 78.91 FEET; THENCE ALONG A NON-TANGENT CURVE TO THE LEFT WITH A RADIUS OF 441.50 FEET, THE CENTER OF WHICH BEARS NORTH 53°47'32" WEST, THROUGH A CENTRAL ANGLE OF 10°26'09", AN ARC DISTANCE OF 80.41 FEET; THENCE ALONG A CURVE TO THE LEFT WITH A RADIUS OF 204.00 FEET, THROUGH A CENTRAL ANGLE OF 17°34'25", AN ARC DISTANCE OF 62.57 FEET; THENCE NORTH 08°11'55" EAST, 71.32 FEET; THENCE ALONG A CURVE TO THE LEFT WITH A RADIUS OF 430.00 FEET, THROUGH A CENTRAL ANGLE OF 13°23'23", AN ARC DISTANCE OF 100.49 FEET; THENCE NORTH 85°53'44" EAST, 393.14 FEET; THENCE NORTH 13°17'56" WEST, 964.61 FEET; THENCE NORTH 53°09'18" WEST, 418.49 FEET; THENCE ALONG A NON-TANGENT CURVE TO THE LEFT WITH A RADIUS OF 210.00 FEET, CENTER BEARS NORTH 38°20'03" WEST, THROUGH A CENTRAL ANGLE OF 103°55'39", AN ARC DISTANCE OF 380.91 FEET; THENCE NORTH 37°40'11" EAST, 165.11 FEET; THENCE NORTH 00°31'41" WEST, 592.39 FEET; THENCE SOUTH 70°34'16" EAST, 1359.66 FEET, TO THE EAST LINE OF SAID SECTION 6; THENCE SOUTH 00°33'50" WEST, ALONG SAID EAST LINE, 1868.09 FEET, TO THE POINT OF BEGINNING.

CONTAINS 63.364 ACRES, MORE OR LESS.



**LEGAL DESCRIPTION**  
OPEN SPACE PARCEL 2

THENCE SOUTH 00°22'11" EAST, 128.23 FEET; THENCE ALONG THE ARC OF A NON-TANGENT CURVE TO THE RIGHT, WITH A RADIUS OF 390.86 FEET, THE CENTER OF WHICH BEARS NORTH 63°41'48" WEST, THROUGH A CENTRAL ANGLE OF 8°33'11", AN ARC DISTANCE OF 58.35 FEET, TO THE NORTHWESTERLY LINE OF US HIGHWAY 189; THENCE ALONG SAID NORTHWESTERLY LINE, ON A NON-TANGENT CURVE TO THE LEFT, WITH A RADIUS OF 3990.94 FEET, THE CENTER OF WHICH BEARS SOUTH 47°27'57" WEST, THROUGH A CENTRAL ANGLE OF 5°45'44", AN ARC DISTANCE OF 401.37 FEET; THENCE NORTH 51°14'50" EAST, 334.98 FEET; THENCE SOUTH 38°45'10" EAST, 63.00 FEET; THENCE ALONG A CURVE TO THE RIGHT, WITH A RADIUS OF 370.00 FEET, THROUGH A CENTRAL ANGLE OF 46°13'20", AN ARC DISTANCE OF 298.49 FEET; THENCE ALONG A CURVE TO THE RIGHT WITH A RADIUS OF 132.50 FEET, THROUGH A CENTRAL ANGLE OF 18°18'07", AN ARC DISTANCE OF 42.32 FEET; THENCE SOUTH 25°46'17" WEST, 13.36 FEET; THENCE NORTH 02°27'57" WEST, 69.15 FEET; THENCE SOUTH 89°01'23" WEST, 43.57 FEET;

CONTAINS 2.205 ACRES, MORE OR LESS.

EXHIBIT F

E 280211 B 0738 P 0050

DEER CANYON PRESERVE DEVELOPMENT AGREEMENT

[Trail Plan]



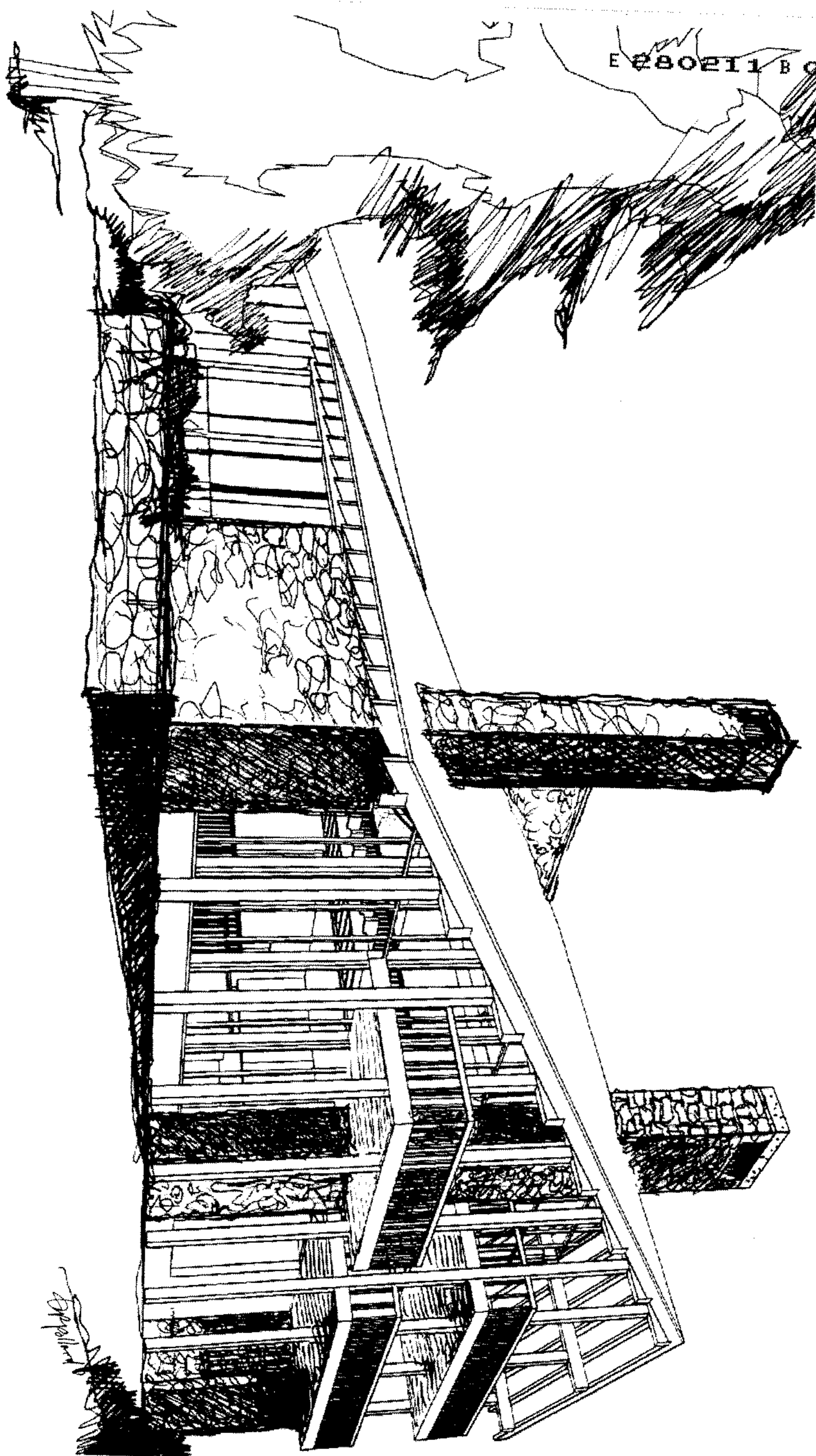
EXHIBIT G

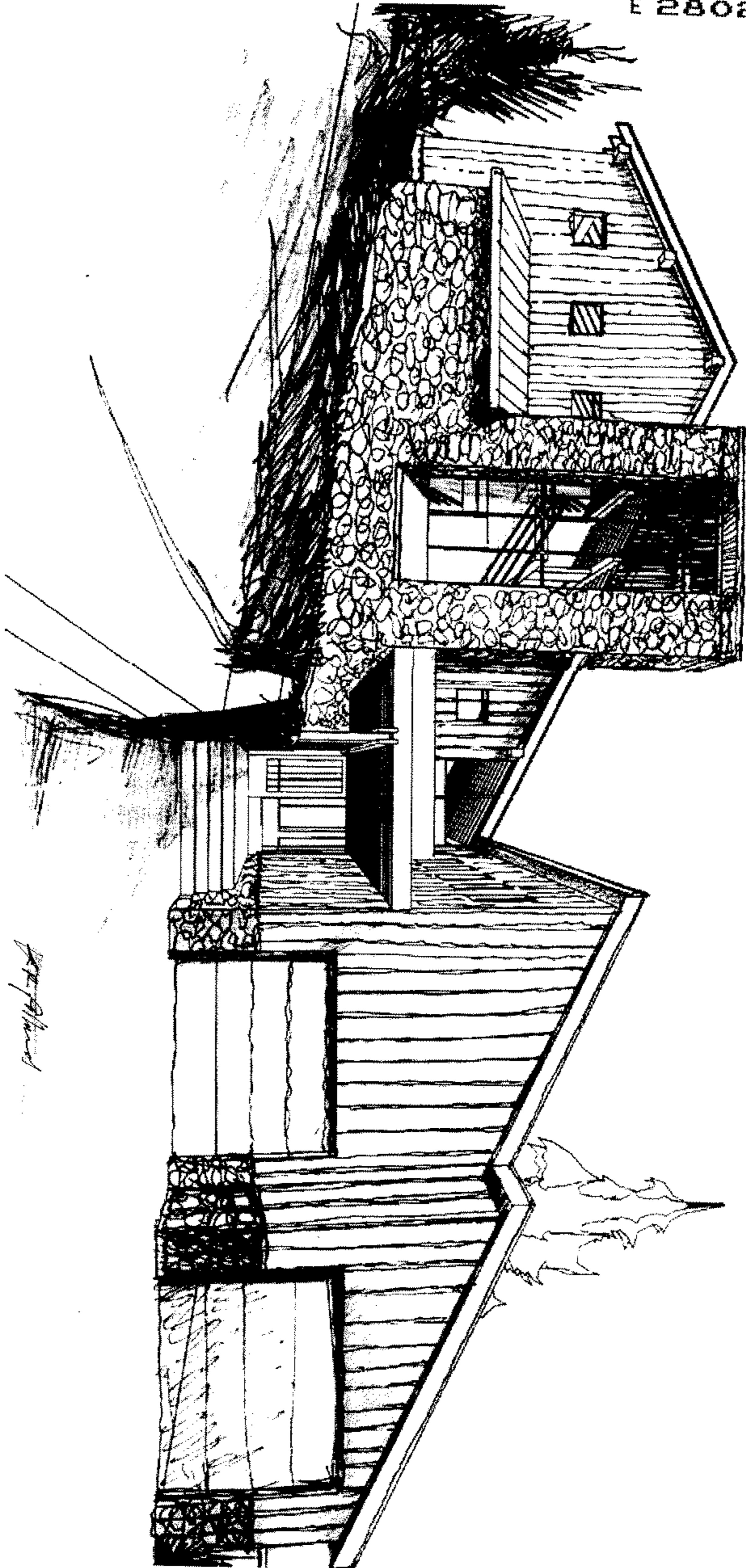
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DEVELOPMENT AGREEMENT

[Architectural Renderings]

E 280211 B 0738 P 0053





*Handwritten signature or initials*

E 280211 B 0738 P 0055

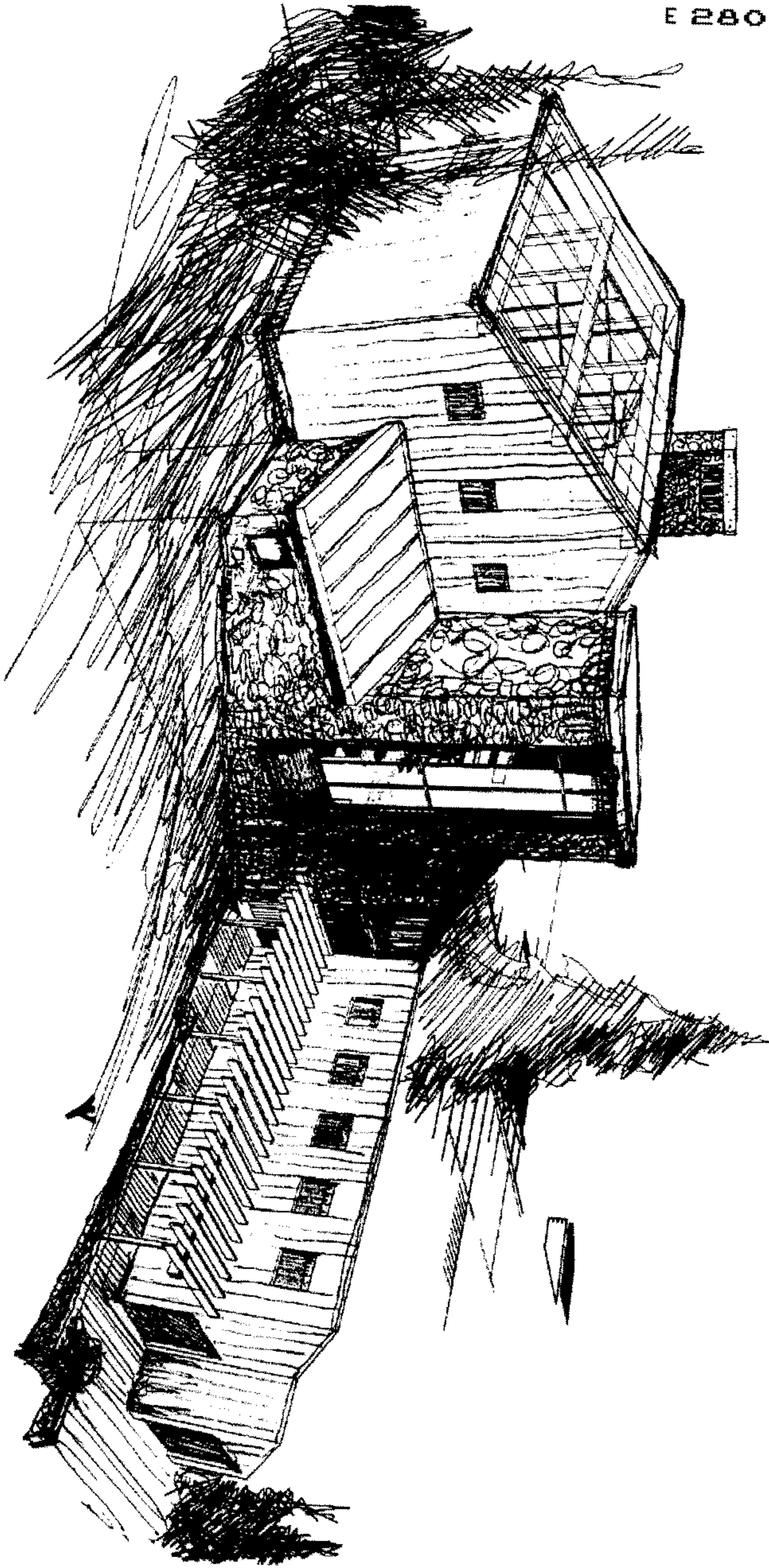


EXHIBIT H

280211  
DEER CANYON PRESERVE DEVELOPMENT AGREEMENT 0738 P 0056

[Landscape Plan]







WHEN RECORDED RETURN TO:  
Richard Wolper  
3750 West 500 South  
Salt Lake City, Utah 84104

## EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT is made and entered into as of this \_\_\_ day of April, 2003, by and among DCP, L.L.C., a Utah limited liability company, whose address is 3750 West 500 South, Salt Lake City, Utah 84104 (Grantee) and Deer Meadow Preserve, L.L.C., a Utah limited liability company, whose address is 3750 West 500 South, Salt Lake City, Utah, 84104. (Grantor).

### RECITALS

WHEREAS, Grantee and Grantor own adjacent parcels of property in Wasatch County, Utah lying north and east of the Jordanelle reservoir, with Grantee owning the property identified in Exhibit "A" (the "Benefitted Parcel") and Grantor owning certain adjacent property, which includes the property identified in Exhibit "B" (the "Burdened Parcel"); and

WHEREAS, Grantee (or its Assigns) intends to construct a private gated road (the "Road") and utility, lines, pipes, cables and equipment (the "Utilities") on the Burdened Parcel for the purposes of, among other things, providing a secondary access and utility services to and from the Benefitted Parcel; and

WHEREAS, Grantor is willing to allow the Road and the Utilities to be constructed and maintained on the Burdened Parcel for the benefit of the Benefitted Parcel, as well as Grantor's other adjacent property;

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties agree and contract as follows:

1. GRANT OF EASEMENT. Grantor hereby grants, transfers and conveys to Grantee a non-exclusive easement on and across the Burdened Parcel, together with the right of ingress and egress for all purposes, including the purpose of constructing, operating, maintaining, repairing, replacing and using the Road and the Utilities, which easement shall continue for so long as the Road and Utilities shall have utility and purpose for the benefit of the Benefitted Parcel. The Road shall be available for use at all times for use by Grantee and Grantor and all other owners of any portion of the Benefitted Parcel or Grantor's other adjacent property, as well as their respective family members, guests and invitees, subject to security procedures now or hereafter implemented by Grantee.

2. OPERATION AND MAINTENANCE. Grantee and its successors-in-interest, shall operate, maintain, repair and replace the Road and the Utilities at their sole cost and expense.

Grantee or its successors-in-interest shall repair any damage to the Burdened Parcel caused by Grantee's construction activity in connection with the installation, repair, maintenance or replacement of the Road or the Utilities. Grantee may assign its obligations hereunder to the Deer Canyon Preserve Homeowners Association, or its successor-in-interest, in which case Grantee shall be relieved of all further obligations hereunder.

3. TERM. This Easement shall continue in force and effect until terminated by an agreement in writing signed by all of the parties then owning any portion of the Benefitted Parcel or the Burdened Parcel.

4. COVENANT RUNNING WITH THE LAND. This Agreement, during the term hereof, constitutes a covenant running with the land described in Exhibit "A" and Exhibit "B" and the burdens and benefits of this agreement shall run with the land and shall be binding upon the parties and their successors-in-interest, heirs, personal representatives, and assigns.


5. ATTORNEY'S FEES. In the event that this Agreement or any provision hereof shall be enforced by an attorney retained by a party hereto, whether by suit or otherwise, the fees and costs of such attorney shall be paid by the party who breaches or defaults hereunder, including fees and costs incurred upon appeal or in bankruptcy court.

6. ENTIRE AGREEMENT. This Agreement constitutes the entire understanding and agreement by and among the parties hereto, and supersedes all prior agreements, representations or understandings by and among them, whether written or oral, pertaining to the subject matter hereof.


7. FURTHER ACTION. The parties hereby agree to execute and deliver such additional documents and to take further action as may become necessary or desirable to fully carry out the provisions and intent of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

DCP, L.L.C.,  
a Utah Limited Liability Company

By:   
Its: manager

Deer Meadow Preserve, L.L.C.,  
a Utah Limited Liability Company

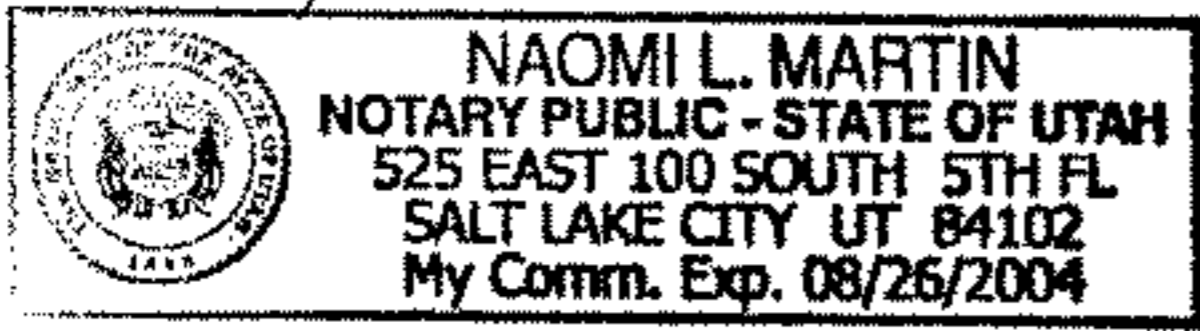
By:   
Its: manager

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

On the 3<sup>rd</sup> day of April, 2003, personally appeared before me Richard Wolper, who being by me duly sworn did say that he is the Manager of DCP, L.L.C., a Utah limited liability company and that the within and the forgoing instrument was signed on behalf of said limited liability company by its authority and Richard Wolper duly acknowledged to me that said limited liability company executed the same.

My Commission Expires:

8/26/2004



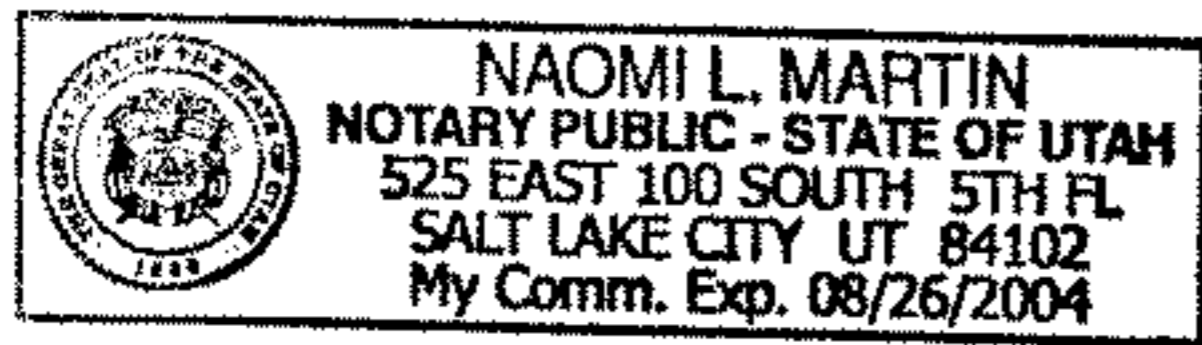
Naomi L. Martin  
NOTARY PUBLIC  
Residing at: 525 East 100 South 5th Floor  
SLC, UTAH 84102

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

On the 3<sup>rd</sup> day of April, 2003, personally appeared before me Richard Wolper, who being by me duly sworn did say that he is the Manager of Deer Meadow Preserve, L.L.C., a Utah limited liability company and that the within and the forgoing instrument was signed on behalf of said limited liability company by its authority and Richard Wolper duly acknowledged to me that said limited liability company executed the same.

My Commission Expires:

8/26/2004



Naomi L. Martin  
NOTARY PUBLIC  
Residing at: 525 East 100 South 5th Floor  
SLC UT 84102

## EXHIBIT "A"

DESCRIPTION OF BENEFITTED PARCEL  
(The following property is located in Wasatch County, Utah)

Beginning at the East Quarter Corner of Section 6, Township 2 South, Range 5 East, Salt Lake Base and Meridian, and running thence South 00°33'50" West, along the East line of said Section, 2569.98 feet, to the Southeast Corner of said Section 6; thence South 00°22'42" East, along the East line of Section 7, 121.18 feet; thence South 67°39'00" West, 1144.07 feet, to the Northeasterly line of US Highway 189; thence along said Northeasterly line on a non-tangent curve to the left, with a radius of 3990.94 feet, the center of which bears South 54°03'21" West, through a central angle of 1°42'11", an arc distance of 118.63 feet; thence North 45°23'02" West, along said Northeasterly line, 187.54 feet, to the Westerly line of a 100.00 foot wide County road; thence North 02°27'57" West, along said Westerly line, 308.06 feet, to the South line of Section 6; thence South 89°01'23" West, along said Section line, 43.57 feet; thence South 00°22'11" East, 128.23 feet; thence along the arc of a non-tangent curve to the right, with a radius of 390.86 feet, the center of which bears North 63°41'48" West, through a central angle of 8°33'11", an arc distance of 58.35 feet, to the Northeasterly line of US Highway 189; thence along said Northwesterly line, on a non-tangent curve to the left, with a radius of 3990.94 feet, the center of which bears South 47°27'57" West, through a central angle of 13°40'38", an arc distance of 952.68 feet; thence North 56°12'40" West, along said Northeasterly line, 262.47 feet; thence North 35°54'08" West, along said Northeasterly line, 518.76 feet; thence North 49°53'11" West, along said Northeasterly line, 514.43 feet; thence North 45°05'06" West, along said Northeasterly line, 545.95 feet; thence North 29°27'41" West, along said Northeasterly line, 747.09 feet; thence along said Northeasterly line, on a curve to the left, with a radius of 11692.72 feet, the center of which bears South 60°32'19" West, through a central angle of 2°05'28", an arc distance of 426.74 feet; to a point on the North - South forty acre line of the Northwest Quarter of said Section 6; thence North 00°28'16" West, along said forty acre line, 2534.97 feet, to the North line of said Section 6; thence South 89°58'18" East, along said North line 1003.34 feet, to the Wasatch - Summit County line; thence South 54°15'59" East, along said County line, 895.13 feet; thence North 64°40'31" East, along said County line, 323.80 feet; thence South 80°30'29" East, along said County line, 824.30 feet; thence North 52°13'31" East, along said County line, 418.80 feet; thence South 75°05'59" East, along said County line, 838.00 feet, to the East line of said Section 6; thence South 00°38'53" East, along said East line, 2204.71 feet, to the point of beginning.

Less and Excepting that portion within the Wasatch County Right of Way, more particularly described as follows:

Commencing at the Southeast corner of Section 6, Township 2 South, Range 5 East, Salt Lake Base and Meridian, thence South 89°01'23" West, along the South line of said Section, 1178.07 feet to the Point of Beginning for this description; thence South 01°08'41" East, 400.26 feet, to the said Northeasterly Right of Way line of said U.S. Highway; thence North 45°23'02" West, along said line, 129.21 feet; thence North 02°27'57" West, 308.06 feet; thence South 89°01'23" West, along the South line of said Section, 2.75 feet; thence North 01°08'41" West, 46.66 feet; thence Northwesterly along the arc of a 360.30 foot radius tangent curve to the left, through a central angle of 42°48'28", an arc distance of 269.19 feet; thence North 44°03'41" West, 293.55 feet; thence Westerly along the arc of a 360.30 foot radius tangent curve to the left through a central angle of 54°06'59", an arc distance of 340.31 feet; thence South 81°40'19" West, 351.74 feet, to the Northeasterly Right of Way line of US Highway 189; thence North 56°12'40" West, along said line, 54.14 feet; thence North 35°54'08" West, along said line, 71.85 feet; thence North 81°40'19" East, 425.29 feet; thence Easterly along the arc of a 460.30 foot radius non-tangent curve to the right, center bears South 08°11'42" East, through a central angle of 54°08'01", an arc distance of 434.90 feet; thence South 44°03'41" East, 293.64 feet; thence Southeasterly along the arc of a 460.30 foot radius non-tangent curve to the right, center bears South 46°02'06" West, through a central angle of 42°49'14", an arc distance of 344.01 feet; thence South 01°08'41" East, 46.95 feet to the Point of Beginning.

**EXHIBIT "B"**

DESCRIPTION OF BURDENED PARCEL

(The following property is located in Wasatch County, Utah)

A 60 FOOT WIDE ROAD THE SIDELINES OF WHICH ARE TO BE LENGTHENED OR SHORTENED AS NECESSARY SO AS TO COMMENCE AT THE NORTH-SOUTH 40 ACRE LINE OF NORTHWEST QUARTER OF SECTION 36, TOWNSHIP 2 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN AND TO TERMINATE AT THE SOUTHERLY RIGHT-OF-WAY LINE OF HIGHWAY 196 AT BROWNS CANYON. THE CENTERLINE OF SAID ROAD IS DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH QUARTER CORNER OF SECTION 36, TOWNSHIP 2 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN AND RUNNING THENCE NORTH 89° 58' 18" WEST, ALONG THE NORTHERLY LINE OF SAID SECTION, 1319.53 FEET TO THE NORTH-SOUTH 40 ACRE LINE OF THE NORTHWEST QUARTER OF SAID SECTION; THENCE SOUTH 0° 28' 16" EAST, ALONG SAID NORTH-SOUTH 40 ACRE LINE, 1929.75 FEET TO THE POINT OF BEGINNING FOR THIS DESCRIPTION; THENCE NORTH 70° 34' 16" WEST, 170.31 FEET; THENCE ALONG A 200.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 62° 03' 48", AN ARC DISTANCE OF 216.64 FEET; THENCE NORTH 8° 30' 28" WEST, 138.20 FEET; THENCE ALONG A 200.00 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 36° 23' 23", AN ARC DISTANCE OF 127.02 FEET; THENCE NORTH 44° 53' 51" WEST, 174.48 FEET; THENCE ALONG A 500.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 39° 46' 21", AN ARC DISTANCE OF 347.08 FEET; THENCE NORTH 5° 07' 30" WEST, 785.41 FEET; THENCE ALONG A 200.00 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 84° 35' 39", AN ARC DISTANCE OF 295.29 FEET; THENCE NORTH 89° 43' 09" WEST, 74.56 FEET; THENCE ALONG A 175.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 36° 00' 00", MORE OR LESS, AN ARC DISTANCE OF 110 FEET, MORE OR LESS AND THE TERMINUS OF THIS DESCRIPTION.