

**WHEN RECORDED RETURN TO:**

Richard Welch  
Farmington Development Corporation  
273 N. East Capitol Street  
Salt Lake City, UT 84103  
(801) 580-2160

E 2660125 B 5516 P 1421-1445  
RICHARD T. MAUGHAN  
DAVIS COUNTY, UTAH RECORDER  
05/07/2012 04:22 PM  
FEE \$502.00 Pgs: 25  
DEP RTT REC'D FOR FARMINGTON CITY

**TENTH SUPPLEMENT AND AMENDMENT  
TO  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
AND  
RESERVATION OF EASEMENTS AND BYLAWS  
FOR  
FARMINGTON CROSSING ON SPRING CREEK POND**

This Tenth Supplement and Amendment to Declaration of Covenants, Conditions and Restrictions, and Reservation of Easements and Bylaws for Farmington Crossing on Spring Creek Pond (the "Tenth Supplement") is executed by Farmington Development Corporation, a Utah corporation, of 273 N. East Capitol Street, Salt Lake City, UT 84103 (the "Declarant").

*See desc pgstor #'s*

**RECITALS:**

1. Farmington Crossing on Spring Creek Pond is a Utah planned unit development located in Davis County, Utah developed by the Declarant ("Farmington Crossing on Spring Creek Pond").
2. The Declaration of Covenants, Conditions and Restrictions for Farmington Crossing on Spring Creek Pond was recorded in the office of the County Recorder of Davis County, Utah on May 6, 2005 as Entry No. 2071653 in Book 3783 at Pages 639-713 of the official Records (the "Farmington Crossing Declaration"). A Plat Map for Phase I of Farmington Crossing on Spring Creek Pond was recorded concurrently therewith.
3. The First Supplement and Amendment to Declaration of Covenants, Conditions and Restrictions for Farmington Crossing on Spring Creek Pond was recorded in the office of the County Recorder of Davis County, Utah on August 15, 2005 as Entry No. 2096923 in Book 3849 at Pages 361-372 of the official Records (the "First Supplement"). A Plat Map for Phase II and Phase III of Farmington Crossing on Spring Creek Pond was recorded concurrently therewith.
4. The Second Supplement and Amendment to Declaration of Covenants, Conditions and Restrictions for Farmington Crossing on Spring Creek Pond was recorded in the

office of the County Recorder of Davis County, Utah on April 5, 2006 as Entry No. 2157971 in Book 4006 at Pages 1132-1139 of the official Records (the "Second Supplement"). A Plat Map for Phase IV of the Farmington Crossing on Spring Creek Pond Project, known as Farmington Crossing on Spring Creek Pond South, Phase 1 was recorded concurrently therewith.

5. The Third Supplement and Amendment to Declaration of Covenants, Conditions and Restrictions for Farmington Crossing on Spring Creek Pond was recorded in the office of the County Recorder of Davis County, Utah on September 27, 2006 as Entry No. 2205234 in Book 4126 at Pages 185-190 of the official Records (the "Third Supplement").

6. The Fourth Supplement and Amendment to Declaration of Covenants, Conditions and Restrictions for Farmington Crossing on Spring Creek Pond was recorded in the office of the County Recorder of Davis County, Utah on November 28, 2007 as Entry No. 2323640 in Book 4417 at Pages 151-156 of the official Records (the "Fourth Supplement"). A Plat Map for Phase V of the Farmington Crossing on Spring Creek Pond Project, known as Farmington Crossing on Spring Creek Pond North, Phase 1 was recorded concurrently therewith.

7. The Fifth Supplement and Amendment to Declaration of Covenants, Conditions and Restrictions for Farmington Crossing on Spring Creek Pond was recorded in the office of the County Recorder of Davis County, Utah on January 15, 2010 as Entry No. 2505989 in Book 4942 at Pages 231-236 of the official Records (the "Fifth Supplement"). A Plat Map for Phase VI of the Farmington Crossing on Spring Creek Pond Project, known as Farmington Crossing on Spring Creek Pond South Phase 2 was recorded concurrently therewith.

8. The Sixth Supplement and Amendment to Declaration of Covenants, Conditions and Restrictions for Farmington Crossing on Spring Creek Pond was recorded in the office of the County Recorder of Davis County, Utah on March 12, 2010 as Entry No. 2516288 in Book 4980 at Pages 57-61 of the official Records (the "Sixth Supplement"). A Plat Map for Phase VII of the Farmington Crossing on Spring Creek Pond Project, known as Farmington Crossing on Spring Creek Pond North Phase 3 was recorded concurrently therewith.

9. The Seventh Supplement and Amendment to Declaration of Covenants, Conditions and Restrictions for Farmington Crossing on Spring Creek Pond was recorded in the office of the County Recorder of Davis County, Utah on September 23, 2010 as Entry No. 2554561 in Book 5115 at Pages 140-144 of the official Records (the "Seventh Supplement"). A Plat Map for Phase VIII of the Farmington Crossing on Spring Creek Pond Project, known as Farmington Crossing on Spring Creek Pond North Phase 4 was recorded concurrently therewith.

10. The Eighth Supplement and Amendment to Declaration of Covenants, Conditions and Restrictions for Farmington Crossing on Spring Creek Pond recorded in the office of the County Recorder of Davis County, Utah on April 19, 2011 as Entry No. 2594765 in Book 5255 at Pages 124-127 of the official Records (the "Eighth Supplement").

11. The Ninth Supplement and Amendment to Declaration of Covenants, Conditions and Restrictions for Farmington Crossing on Spring Creek Pond recorded in the office of the County Recorder of Davis County, Utah on July 6, 2011 as Entry No. 2606052 in Book 5309 at Pages 310-317 of the official Records (the "Ninth Supplement").

12. Farmington Crossing on Spring Creek Pond and Farmington Crossing East have or will enter into a cross easement or reciprocal use easement to share the use and maintenance of certain recreational amenities, which runs with the land.

13. This document affects the properties, project and phases referred to above in paragraphs 2-9, inclusive, and described with particularity on Exhibit "A-1" attached hereto and incorporated herein by this reference shall be known herein as the "Farmington Crossing Properties" or where the context requires "Farmington Crossing".

13. Farmington Crossing on Spring Creek Pond and Farmington Crossing East are adjoining developments and shall share access to and the use of a certain Recreation Amenity, including a swimming pool and clubhouse (collectively, "Recreation Amenity").

14. To govern the Recreation Amenity, a Declaration of Covenants, Conditions, and Restrictions and Reservation of Easements and Bylaws for the Farmington Crossing on Spring Creek Pond and Farmington Crossing Recreation Amenity was or will be recorded in the office of the County Recorder of Davis County, Utah (the "Recreation Amenity Declaration").

15. The land subject to the Recreation Amenity Declaration is described with particularity in Exhibit "B" attached hereto and incorporated herein by this reference and is sometimes called the Easement Area or the "Recreation Amenity". The Easement Area consists of the Community Center (Recreation Amenity No. 1), the Splash Pad (Recreation Amenity No. 2)<sup>1</sup>, and Lot 76-1 as shown on the Final Plat for Farmington Crossing North Phase 5 (Recreation Amenity No. 3)<sup>2</sup>.

16. The Recreation Amenity Declaration controls the access to and use of the Recreation Amenity.

17. The real property subject to the Declaration is located in Davis County, Utah and described more particularly in Article II below (the "Property").

18. Declarant intends to sell or is in the process of selling to various purchasers the fee title to the individual Units and Lots at Farmington Crossing on Spring Creek Pond and

---

1 Owned by the Farmington Crossing Spring Creek Pond Homeowners Association or in common by the lot and/or unit owners at Farmington Crossing Spring Creek Pond, subject to the Recreation Amenity Declaration.

2 Owned by the Farmington Crossing East Homeowners Association or by Farmington East, LC (or its assign), subject to the Recreation Amenity Declaration.

Farmington Crossing East, together with a reciprocal easement of access to and use of the Recreation Amenity.

19. Declarant desires, by filing this Recreation Amenity Declaration to submit the Recreation Amenity and all improvements now or hereafter constructed thereon to the equitable servitudes, cross and reciprocal easements, and protective covenants, conditions, and restrictions set forth herein.

20. Declarant desires to update the Declaration generally and in particular by adding the amendments from the Utah Community Associations Act, Utah Code Ann., Sections 57-8a-1 et seq. from the general 2011 Utah Legislative Session.

21. The undersigned hereby certifies that all of the requirements to amend the Declaration set forth in Article III, Section 41 of the Declaration, as amended and supplemented, have been satisfied.

### **AMENDMENTS TO COVENANTS, CONDITIONS, AND RESTRICTIONS**

NOW, THEREFORE, for the reasons recited above and subject to the covenants, conditions and restrictions set forth below, Declarant hereby makes the following amendments to the Declaration:

1. Article I of the Declaration, entitled "Definitions," is hereby amended to add or modify the following terms<sup>3</sup>:

4. Assessment shall mean and refer to an amount charged or assessed against a Lot or an Owner pursuant to a Project Document, including but not limited to the Lot or Owner's share of the Common Expenses, a Regular Assessment, Special Assessment, Recreation Amenity Assessment, or other amount assessed against a Lot or Owner under or pursuant to the Act, including Utah Code Ann., Section 57-8a-405(8) (i.e., insurance).

39. Project Documents shall mean and refer to the Declaration, Bylaws, Rules and Regulations, Articles of Incorporation, and Recreation Amenity Declaration.

47. Board of Directors shall mean and refer to the governing board of the Association.<sup>4</sup>

48. Recreation Amenity shall mean and refer to the property, recreation amenities and facilities submitted and subject to the Recreation Amenity Declaration, including by way of illustration but not limitation the Community Center (Recreation

---

<sup>3</sup> The terms are set forth in numerical order as they appeared in the original Declaration, not in alphabetical order.

<sup>4</sup> The Board of Directors may also be referred to as the Management Committee which is the name assigned to the governing board by the Utah Community Association Act.

Amenity No. 1), the Splash Pad (Recreation Amenity No. 2), and Lot 76-1 on the Plat (Recreation Amenity No. 3).

49. Recreation Amenity Assessment shall mean and refer to the Assessment charged by the Recreation Amenity Association.

50. Recreation Amenity Association shall mean and refer to the Farmington Crossing Spring Creek Pond and Farmington Crossing East Recreation Amenity Association comprised of two (2) members: The Farmington Crossing on Spring Creek Pond Homeowners Association and the Farmington Crossing East Homeowners Association acting as a group in accordance with the Recreation Amenity Declaration.

51. Recreation Amenity Declaration shall mean and refer to that certain Declaration of Covenants, Conditions, and Restrictions and Reservation of Easements and Bylaws for Farmington Crossing on Spring Creek Pond and Farmington Crossing East Recreation Amenity recorded or to be recorded in the office of the County Recorder of Davis County, Utah.

52. Declarant shall mean and refer to the person who executes this Tenth Supplement and Amendment to Declaration of Covenants, Conditions and Restrictions, and Reservation of Easements and Bylaws for Farmington Crossing on Spring Creek Pond and submits it for recording in the office of the Davis County Recorder and includes the person's successor and assign.

53. Judicial Foreclosure shall mean and refer to a foreclosure of a Lot for the nonpayment of an Assessment through the courts in the manner provided by law for the foreclosure of a mortgage on real property and as provided herein under Collection of Assessments.

54. Non-judicial foreclosure shall mean and refer to the sale of a Lot for the nonpayment of an Assessment outside the courts in the same manner as the sale of trust property under Utah Code Ann., Sections 57-1-19 through 57-1-34 and as provided herein under Collection of Assessments.

55. Total Votes shall mean and refer to the total number of votes appertaining to all Lots within Farmington Crossing on Spring Creek Pond.

2. Article III, Section 2 of the Declaration is hereby amended to add the following provision: "The easement of enjoyment and the right to access and use of the Recreation Amenity is appurtenant to each Lot may not be partitioned or separated from the Lot and any attempt to do so shall be void."

3. Article III, Section 5 of the Declaration is hereby amended to add the following language:

"The easement of enjoyment and right to access and use of the Recreation Amenity shall not be partitioned or separated from the Lot to which it appertains and even though not specifically mentioned in an instrument of transfer, document of conveyance or security instrument such easement of enjoyment and right to access and use of the Recreation Amenity shall automatically accompany the transfer, conveyance or pledge of the Lot to which it relates.

4. Article III, Section 6(l) of the Declaration is hereby amended to grant to the Owners the non-exclusive easement of enjoyment and right to access and use the Recreation Amenity.

5. Article III, Section 37 of the Declaration entitled "Insurance" is hereby deleted in its entirety and the following language is substituted in lieu thereof:

37. Insurance.

(a) Definition. As used in this section the term "reasonably available" means available using typical insurance carriers and markets, irrespective of the ability of the Association to pay.

(b) Property and Liability Insurance Required -- Notice If Insurance Not Reasonably Available.

(1) The Association shall maintain, to the extent reasonably available:

(a) subject to Utah Code Ann., Section 57-8a-405 (as amended or supplemented), property insurance on the physical structure of all attached dwellings and Common Areas in the project, insuring against all risks of direct physical loss commonly insured against, including fire and extended coverage perils; and

(b) subject to Utah Code Ann., Section 57-8a-406, liability insurance, including medical payments insurance covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the Common Areas.

(2) If the Association becomes aware that property insurance under Subsection (1)(a) or liability insurance under Subsection (1)(b) is not reasonably available, the Association shall, within seven (7) calendar days after becoming aware, give all Owners notice, as provided in Utah Code Ann., Section 57-8a-215, that the insurance is not reasonably available.

(c) Other and Additional Insurance -- Limit on Effect of Owner Act or Omission -- Insurer's Subrogation Waiver -- Inconsistent Provisions.

(1) (a) The Declaration or bylaws may require the Association to carry other types of insurance in addition to those described in Utah Code Ann., Section 57-8a-403(as amended or supplemented),.

(b) In addition to any type of insurance coverage or limit of coverage provided in the Declaration or Bylaws and subject to the requirements of this part, the Association may, as the Board of Directors considers appropriate, obtain: (i) an additional type of insurance than otherwise required; or (ii) a policy with greater coverage than otherwise required.

(2) Unless an Owner is acting within the scope of the Owner's authority on behalf of the Association, an Owner's act or omission may not:

(a) void a property insurance policy under Subsection 57-8a-403(1)(a) (as amended or supplemented), or a liability insurance policy under Utah Code Ann., Subsection 57-8a-403(1)(b) (as amended or supplemented); or

(b) be a condition to recovery under a policy.

(3) An insurer under a property insurance policy or liability insurance policy obtained under this part waives its right to subrogation under the policy against any Owner or member of the Owner's household.

(4) (a) An insurance policy issued to the Association may not be inconsistent with any provision of this part.

(b) A provision of a governing document that is contrary to a provision of this part has no effect.

(c) A property insurance or liability insurance policy issued to the Association may not prevent an Owner from obtaining insurance for the Owner's own benefit.

(d) Property Insurance.

(1) This section applies to property insurance required under Utah Code Ann., Subsection 57-8a-403(1)(a) (as amended or supplemented),.

(2) The property covered by property insurance shall include any property that, under the Declaration, is required to become Common Areas.

(3) The total amount of coverage provided by blanket property insurance may not be less than 100% of the full replacement cost of the insured property at the time the insurance is purchased and at each renewal date, excluding items normally excluded from property insurance policies.

(4) Property insurance shall include coverage for any fixture, improvement, or betterment installed by an Owner to an attached dwelling, including a floor covering, cabinet, light fixture, electrical fixture, heating or plumbing fixture, paint, wall covering, window, and any other item permanently part of or affixed to an attached dwelling.

(5) Notwithstanding anything in this part and unless otherwise provided in the declaration, the Association is not required to obtain property insurance for a loss to a dwelling that is not physically attached to another dwelling or to a Common Area structure.

(6) Each Owner is an insured person under a property insurance policy.

(7) If a loss occurs that is covered by a property insurance policy in the name of the Association and another property insurance policy in the name of an Owner:

(a) the Association's policy provides primary insurance coverage; and

(b) notwithstanding Subsection (7)(a) and subject to Subsection (8): (i) an Owner is responsible for the Association's policy deductible; and (ii) the Owner's policy applies to that portion of the loss attributable to the Association's policy deductible.

(8) (a) As used in this Subsection (8): (i) "Covered loss" means a loss, resulting from a single event or occurrence, that is covered by the Association's property insurance policy; (ii) "Lot damage" means damage to a Lot, a dwelling or other improvement on a Lot, or any combination thereof; and (iii) "Lot damage percentage" means the percentage of total damage resulting in a covered loss that is attributable to Lot damage.

(b) An Owner who owns a Lot that has suffered Lot damage as part of a covered loss is responsible for an amount calculated by applying the Lot damage percentage for that Lot to the amount of the deductible under the Association's property insurance policy.



(c) If an Owner does not pay the amount required under Subsection (8)(b) within 30 days after substantial completion of the repairs to, as applicable, the Lot or a dwelling on the Lot, then the Association may levy an assessment against an Owner for that amount.

(9) The Association shall set aside an amount equal to the amount of the Association's property insurance policy deductible or \$10,000, whichever is less.

(10) (a) The Association shall provide notice in accordance with Section 57-8a-215(as amended or supplemented), to each Owner of the Owner's obligation under Subsection (8) for the Association's policy deductible and of any change in the amount of the deductible.

(b) The Association that fails to provide notice as provided in Subsection (10)(a) is responsible for the amount of the deductible increase that the Association could have assessed to an Owner under Subsection (8).

(c) The Association's failure to provide notice as provided in Subsection (10)(a) may not be construed to invalidate any other provision of this part.

(11) If, in the exercise of the business judgment rule, the board determines that a claim is likely not to exceed the Association's property insurance policy deductible:

(a) the Owner's policy is considered the policy for primary coverage to the amount of the Association's policy deductible;

(b) an Owner who does not have a policy to cover the Association's property insurance policy deductible is responsible for the loss to the amount of the Association's policy deductible, as provided in Subsection (8); and (c) the Association need not tender the claim to the Association's insurer.

(12) (a) An insurer under a property insurance policy issued to the Association shall adjust with the Association a loss covered under the Association's policy.

(b) Notwithstanding Subsection (12)(a), the insurance proceeds for a loss under the Association's property insurance policy: (i) are payable to an insurance trustee that the Association designates or, if no

trustee is designated, to the Association; and (ii) may not be payable to a holder of a security interest.

(c) An insurance trustee or the Association shall hold any insurance proceeds in trust for the Association, Owners, and lien holders.

(d) (i) Insurance proceeds shall be disbursed first for the repair or restoration of the damaged property; (ii) After the disbursements described in Utah Code Ann., Subsection (12)(d)(i) are made and the damaged property has been completely repaired or restored or the project terminated, any surplus proceeds are payable to the Association, Owners, and lien holders.

(13) An insurer that issues a property insurance policy under this part, or the insurer's authorized agent, shall issue a certificate or memorandum of insurance to:

- (a) the Association;
- (b) an Owner, upon the Owner's written request; and
- (c) a holder of a security interest, upon the holder's written request.

(14) A cancellation or nonrenewal of a property insurance policy under this section is subject to the procedures stated in Utah Code Ann., Section 31A-21-303(as amended or supplemented),.

(15) The Board of Directors that acquires from an insurer the property insurance required in this section is not liable to Owners if the insurance proceeds are not sufficient to cover 100% of the full replacement cost of the insured property at the time of the loss.

(e) Liability Insurance.

(1) This section applies to a liability insurance policy required under Utah Code Ann., Subsection 57-8a-403(1)(b) (as amended or supplemented),.

(2) A liability insurance policy shall be in an amount determined by the board but not less than an amount specified in the declaration or bylaws.

(3) Each Owner is an insured person under a liability insurance policy that the Association obtains that insures against liability arising from the Owner's interest in the Common Areas or from membership in the Association.

(f) Directors and Officers Insurance. The Association shall purchase and maintain adequate directors and officers insurance.

(g) Fidelity Bond. The Association shall purchase and maintain a sufficient fidelity bond to satisfy the requirements of lenders.

(h) Damage to a Portion of Project -- Insurance Proceeds.

(1) (a) If a portion of the project for which insurance is required under this part is damaged or destroyed, the Association shall repair or replace the portion within a reasonable amount of time unless: (i) the project is terminated; (ii) repair or replacement would be illegal under a state statute or local ordinance governing health or safety; or (iii) (A) at least 75% of the allocated voting interests of the Owners in the Association vote not to rebuild; and (B) each Owner of a dwelling on a Lot that will not be rebuilt votes not to rebuild.

(b) If a portion of a project is not repaired or replaced because the project is terminated, the termination provisions of applicable law and the governing documents apply.

(2) The cost of repair or replacement in excess of insurance proceeds and reserves is a common expense.

(3) If the entire project is damaged or destroyed and not repaired or replaced:

(a) the Association shall use the insurance proceeds attributable to the damaged Common Areas to restore the damaged area to a condition compatible with the remainder of the project;

(b) the Association shall distribute the insurance proceeds attributable to Lots and Common Areas that are not rebuilt to: (i) the Owners of the Lots that are not rebuilt; (ii) the Owners of the Lots to which those Common Areas that are not rebuilt were allocated; or (iii) lien holders; and

(c) the Association shall distribute the remainder of the proceeds to all the Owners or lien holders in proportion to the common expense liabilities of all the Lots.

(4) If the Owners vote not to rebuild a Lot:

(a) the Lot's allocated interests are automatically reallocated upon the Owner's vote as if the Lot had been condemned; and

(b) the Association shall prepare, execute, and submit for recording an amendment to the declaration reflecting the reallocations described in Subsection (4)(a).

6. Article III of the Declaration is hereby amended to add the following new Sections:

61. Amenities Reciprocal Use Agreements. The Declarant and/or the Association shall enter into a cross easement or reciprocal use easement agreement and covenant to share costs with the Farmington Crossing East Association for access to and use of the Recreation Amenity. This Section may not be modified or repealed without the express prior written consent of all of the following: (a) the Declarant, (b) all of the Owners, (c) the other member of the Recreation Amenity Association, and (d) all Mortgagees holding a security interest in or against property located within either Farmington Crossing on Spring Creek Pond or Farmington Crossing East.

62. Recreation Amenity Association. The Association shall be a member of the Recreation Amenity Association. This requirement is mandatory. This Section may not be modified or repealed without the express prior written consent of all of the following: (a) the Declarant, (b) all of the Owners, (c) the other member of the Recreation Amenity Association, and (d) all Mortgagees holding a security interest in or against property located within either Farmington Crossing on Spring Creek Pond or Farmington Crossing East.

63. Amendments to Satisfy Requirements of Lenders. The Declarant reserves to itself and is hereby granted the unilateral right to amend all or any part of this Declaration to such extent and with such language as may be requested by a State Department of Real Estate (or similar agency), FHA, VA, the FHLMC or FNMA and to further amend to the extent requested by any other federal, state or local governmental agency which requests such an amendment as a condition precedent to such agency's approval of this Declaration or approval of the sale of Units, or by any federally chartered lending institution as a condition precedent to lending funds upon the security of any Unit, or any portions thereof. Any

such amendment shall be effected by the recordation by Declarant of a written Amendment duly signed by the Declarant, specifying the federal, state or local governmental agency or the federally chartered lending institution requesting the amendment and setting forth the change, modification or amendment requested by such agency or institution. Recordation of such an Amendment shall be deemed conclusive proof of the agency's or institution's request for such an amendment, and such Amendment, when recorded, shall be binding upon all Units and all persons having an interest therein. It is the desire of Declarant to retain control of the Association and its activities during the anticipated period of planning and development. If any amendment requested pursuant to the provisions of hereof deletes, diminishes or alters such control in any manner whatsoever in the opinion of Declarant, Declarant shall have the unilateral right to amend this Declaration to restore such control.

64. Board of Directors Action to Enforce Governing Documents -- Parameters.

(a) The Board of Directors shall use its reasonable judgment to determine whether to exercise the Association's powers to impose sanctions or pursue legal action for a violation of the governing documents, including: (i) whether to compromise a claim made by or against the Board of Directors or the Association; and (ii) whether to pursue a claim for an unpaid Assessment.

(b) The Association may not be required to take enforcement action if the Board of Directors determines, after fair review and acting in good faith and without conflict of interest, that under the particular circumstances: (i) the Association's legal position does not justify taking any or further enforcement action; (ii) the covenant, restriction, or rule in the governing documents is likely to be construed as inconsistent with current law; (iii) (A) a technical violation has or may have occurred; and (B) the violation is not material as to a reasonable person or does not justify expending the Association's resources; or (iv) it is not in the Association's best interests to pursue an enforcement action, based upon hardship, expense, or other reasonable criteria.

(c) If the Board of Directors decides to forego enforcement, the Association is not prevented from later taking enforcement action.

(d) The Board of Directors may not be arbitrary, capricious, or against public policy in taking or not taking enforcement action.

(e) This section does not govern whether the Association's

action in enforcing a provision of the governing documents constitutes a waiver or modification of that provision.

65. Fair and Reasonable Notice.

(a) Notice that the Association provides by a method allowed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, constitutes fair and reasonable notice, regardless of whether or not the Association is a nonprofit corporation.

(b) Notice that the Association provides by a method not referred to in Subsection (a) constitutes fair and reasonable notice if: (i) the method is authorized in the Declaration, articles, Bylaws, or rules; and (ii) considering all the circumstances, the notice is fair and reasonable.

(c) The Association may provide notice by electronic means, including text message, email, or the Association's website; provided, however, anything to the contrary notwithstanding, an Owner may, by written demand, require the Association to provide notice to the Owner by mail.

66. Association Rules -- Requirements and Limitations Relating to Board of Directors' Action on Rules -- Vote of Disapproval.

(a) The Board of Directors may adopt, amend, modify, cancel, limit, create exceptions to, expand, or enforce the rules of the Association, subject to the right of the Owners or Declarant to disapprove the action in accordance with the Act. Before adopting, amending, modifying, canceling, limiting, creating exceptions to, or expanding the rules of the Association, the Board of Directors shall:

(1) at least fifteen (15) days before the Board of Directors will meet to consider a change to a rule or design criterion, deliver notice to Owners, as provided in Utah Code Ann., Section 57-8a-214(as amended or supplemented), that the Board of Directors is considering a change to a rule or design criterion;

(2) provide an open forum at the Board of Directors meeting giving Owners an opportunity to be heard at the Board of Directors meeting before the Board of Directors takes action; and

(3) deliver a copy of the change in the rules or design criteria approved by the Board of Directors to the Owners as provided in Utah Code Ann., Section 57-8a-214(as amended and supplemented) within

fifteen (15) days after the date of the Board of Directors meeting.

(b) The Board of Directors may adopt a rule without first giving notice to the Owners hereunder if there is an imminent risk of harm to a Common Area, an Owner, an occupant of a Lot, a Lot, or a dwelling constructed on a Lot. The Board of Directors shall provide to the Owners written notice of a rule so adopted.

(c) A rule adopted by the Board of Directors is disapproved if within sixty (60) days after the date of the Board of Directors meeting where the action was taken:

(1) there is a vote of disapproval by at least 51% of all the allocated voting interests of the Owners in the Association; and (ii) the vote is taken at a special meeting called for that purpose by the Owners under the Declaration, articles, or Bylaws; or

(2) the Declarant delivers to the Board of Directors a writing of disapproval; and the Declarant is within the period of Declarant control; or for an expandable project, the Declarant has the right to add real estate to the project.

(d) The Board of Directors has no obligation to call a meeting of the Owners to consider disapproval, unless Owners submit a petition, in the same manner as the Declaration, Articles, or Bylaws provide for a special meeting, for the meeting to be held. Upon the Board of Directors receiving a petition, the effect of the Board of Directors' action is stayed until after the meeting is held and is subject to the outcome of the meeting.

(e) During the Period of Declarant's Control, the Declarant may exempt itself from Association rules and the rulemaking procedure.

68. Rules. A rule shall be reasonable. A rule may not be inconsistent with an express provision of a Declaration.

69. Display of the Flag. The Association may not prohibit an Owner from displaying a United States flag inside a dwelling or on a Lot, if the display complies with United States Code, Title 4, Chapter 1, The Flag. The Association may restrict the display of a flag on the Common Areas.

70. Budget. At least annually the Board of Directors shall prepare and adopt a budget for the Association. The Board of Directors shall present the adopted budget to Association members at a meeting of the members. A budget shall be considered disapproved if within forty five (45) days after

the date of the meeting at which the Board of Directors presents the adopted budget there is a vote of disapproval by at least 51% of all the allocated voting interests of the Owners in the Association and the vote is taken at a special meeting called for that purpose by Owners under the Declaration, Articles, or Bylaws. If a budget is disapproved, then the budget that the Board of Directors last adopted that was not disapproved by members continues as the budget until and unless the Board of Directors presents another budget to members and that budget is not disapproved. During the Period of Declarant's Control, Association members may not disapprove a budget.

71. Reserve Analysis and Reserve Fund. The term "reserve analysis" means an analysis to determine the need for a reserve fund to accumulate money to cover the cost of repairing, replacing, and restoring Common Area, including the Recreation Amenity, and facilities that have a useful life of three years or more, but excluding any cost that can reasonably be funded from the general budget or other funds of the Association of Owners, and the appropriate amount of any reserve fund. The Board of Directors shall cause a reserve analysis to be conducted no less frequently than every five (5) years and update a previously conducted reserve analysis no less frequently than every two years. The Board of Directors may conduct a reserve analysis itself or may engage a reliable person or organization, as determined by the management committee, to conduct the reserve analysis. The Board of Directors may not use money in a reserve fund for daily maintenance expenses, unless a majority of the members of the Association of Owners vote to approve the use of reserve fund money for that purpose or for any purpose other than the purpose for which the reserve fund was established. The Board of Directors shall maintain a reserve fund separate from other funds of the Association of Owners; provided, however, this provision may not be construed to limit the Board of Directors from prudently investing money in a reserve fund, subject to any investment constraints imposed by the declaration. This Section does not apply to the Association during the Period of Declarant's Control. The Association shall annually, at the annual meeting of Owners or at a special meeting of Owners present the reserve study and provide an opportunity for Owners to discuss reserves and to vote on whether to fund a reserve fund and, if so, how to fund it and in what amount; The Association shall prepare and keep minutes of each meeting so held and indicate in the minutes any decision relating to funding a reserve fund.

72. Corporate Status of Association. The Association shall have corporate status. If the corporate status of the Association is terminated or dissolved without possibility of reinstatement under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, then the Association may be re-incorporated by the acting



Directors of the Association re-filing Articles of Incorporation that are substantially similar to the Articles of Incorporation, as amended, in existence at the time of termination or dissolution. Upon the Association's re-incorporation, the Board of Directors shall readopt Bylaws for the Association that are the same as the Bylaws that were in existence at the time of termination or dissolution; and all Owners within the project are members of the reincorporated Association.

73. Lien Rights. The Association shall have a lien against a Lot to secure payment of all Assessments, fees, charges, and costs associated with collecting unpaid Assessments and related charges, including court costs and a reasonable attorney fee, and fines against the Owner of the Lot. The recording of this Declaration constitutes record notice and perfection of the lien. Any unpaid Assessment or fine and related charges shall accrue interest at the rate determined by the Board of Directors. Late fees may also be charged. A lien under this section has priority over each other lien and encumbrance on a lot except: (a) a lien or encumbrance recorded before the Declaration is recorded; (b) a first or second security interest on the Lot secured by a mortgage or trust deed that is recorded before a recorded notice of lien by or on behalf of the Association; or (c) a lien for real estate taxes or other governmental assessments or charges against the Lot. In the event of a conflict, the lien of the Recreation Amenity Association shall have priority over any other Association liens, regardless of when the liens were created or written notice recorded. To enforce a lien the Association may cause a Lot to be sold through judicial or non-judicial foreclosure in accordance with Utah law. At least thirty (30) calendar days before initiating a non-judicial foreclosure, the Association shall provide written notice to the Owner of the Lot by certified mail (return receipt requested) that it intends to foreclose the lien non-judicially.<sup>5</sup>

---

<sup>5</sup> NOTICE OF NON-JUDICIAL FORECLOSURE AND RIGHT TO DEMAND JUDICIAL FORECLOSURE

The (insert the name of the Association), the Association for the project in which your lot is located, intends to foreclose upon your lot and allocated interest in the Common Areas using a procedure that will not require it to file a lawsuit or involve a court. This procedure is being followed in order to enforce the Association's lien against your lot and to collect the amount of an unpaid assessment against your lot, together with any applicable late fees and the costs, including attorney fees, associated with the foreclosure proceeding. Alternatively, you have the right to demand that a foreclosure of your property be conducted in a lawsuit with the oversight of a judge. If you make this demand and the Association prevails in the lawsuit, the costs and attorney fees associated with the lawsuit will likely be significantly higher than if a lawsuit were not required, and you may be responsible for paying those costs and attorney fees. If you want to make this demand, you must state in writing that 'I demand a judicial foreclosure proceeding upon my lot,' or words substantially to that effect. You must send this written demand by first class and certified U.S. mail, return receipt requested, within fifteen (15) days after the date of the postmark on the envelope in which this notice was mailed to you. The address to which you must mail your demand is [insert the Association's address for receipt of a demand].

74. Termination of a Delinquent Owner's Rights to Receive Utility Service or Use Recreational Amenity -- Notice -- Informal Hearing. The phrase "delinquent Owner" means an Owner who fails to pay an Assessment when due. The Board may terminate a delinquent Owner's right to receive a utility service for which the Owner pays as a common expense; or of access to and use of recreational facilities. Before terminating a utility service or right of access to and use of recreational, including the Recreation Amenity, the manager or Board of Directors shall give the delinquent Owner notice of its intent. The notice shall state that the Association will terminate the Owner's utility service or right of access to and use of recreational facilities, including the Recreation Amenity, or both, if the Association does not receive payment of the unpaid Assessments and related charges. Written notice of the Owner's right to request a hearing shall be provided and may not be less than 14 days.

75. Rents. If an Owner who is renting his Lot fails to pay any assessment for a period of more than sixty (60) days after it is due and payable, then the Board of Directors may demand that the renter pay directly to the Association all future rental payments due the Owner/Landlord until such time as the account is current, provided the Association has provided the Owner/Landlord with at least fifteen (15) days prior written notice of its intent to attach the rents.

76. Property Manager or Management. The property and Association shall be managed either (a) by the Declarant or one of Declarant's employees, agents, representatives, designees or affiliates or (b) a professional property manager or management company, unless by an affirmative vote of at least 67% of the Total Votes the Owners elect to self-manage.

7. The introductory paragraph to Article III, Section 43 is hereby amended to read as follows. The remainder of Section 43 shall not be changed and is incorporated herein by this reference as if it were rewritten:

43. Mortgagee Protection. Nothing herein contained, and no violation of these covenants, conditions and restrictions, shall invalidate or impair the lien of any mortgage or deed of trust, given in good faith and for value, including by way of illustration but not limitation the security interest in a Lot and its appurtenant interest in the Association, the Common Area and Facilities, and/or the non-exclusive right to access and use the Recreation Amenity. Mortgagees are excluded from any leasing or rental restrictions when obtaining or after obtaining a Lot in foreclosure. The lien or claim against a Lot for unpaid Assessments levied by the Board of Directors or by the Association pursuant to this Declaration shall be subordinate to any Mortgage recorded on or before the date such Assessments become due.

8. Declarant and the Association hereby grant to the Recreation Amenity Association, its successors and assigns, a non-exclusive, perpetual, right-of-way and easement to, from, over, under, across and through the Recreation Amenity and Easement Area, together with and including the right to access, use, operate, maintain, repair, and replace such Recreation Amenity. The non-exclusive easement created hereby and the Easement Area are to be used in common by the Farmington Crossing Spring Creek Pond Neighborhood, and its individual Owners and occupants, and the Farmington Crossing East Neighborhood, and its individual Owners and occupants, subject to all of the terms, covenants, conditions, and restrictions set forth herein as well as any and all of the rules adopted by the Recreation Amenity Association. The easement created hereby and the Easement Area are intended to be used as a private non-exclusive easement for the use and benefit of each Neighborhood and its individual Owners and occupants, and not for the general public.

9. The Property shall be burdened by and benefit from the Recreation Amenity and Easement Area.

10. In the event of any conflict, inconsistency or incongruity between the provisions of this amendment and the provisions of the Declaration or Bylaws, the former shall in all respects govern and control.

11. This amendment or supplement shall take effect upon its being filed for record in the office of the County Recorder of Davis County, Utah.

IN WITNESS WHEREOF, Declarant has executed this instrument the 20 day of March, 2012.

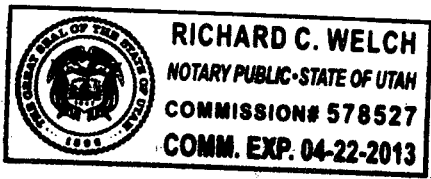
DECLARANT:  
FARMINGTON DEVELOPMENT CORPORATION  
a Utah corporation

By: [Signature]  
Bryson Garbett, President

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

On the 20 day of March, 2012, personally appeared before me Bryson Garbett, who by me being duly sworn, did say that he is the President of FARMINGTON DEVELOPMENT CORPORATION, a Utah corporation, and that the within and foregoing instrument was signed in behalf of said corporation by authority of its Articles of Incorporation and a Resolution of its Board of Directors, and Bryson Garbett duly acknowledged to me that said corporation executed the same.

[Signature]  
Notary Public



**EXHIBIT "A"**  
**LEGAL DESCRIPTION OF THE PROPERTY**

The Land described in the foregoing document is located in Davis County, Utah and is described more particularly as follows:

All Lots within **FARMINGTON CROSSING ON SPRING CREEK POND, PHASE 1, PHASE 2, and PHASE 3**, according to the official plat thereof as recorded in the Office of the Davis County Recorder, State of Utah. ✓

All Lots within **FARMINGTON CROSSING SOUTH, PHASE 1 and PHASE 2**, a Planned Unit Development, according to the official plat thereof as recorded in the Office of the Davis County Recorder, State of Utah. ✓

All Lots within **FARMINGTON CROSSING NORTH, PHASE 1, PHASE 3 and PHASE 4**, a Planned Unit Development, according to the official plat thereof as recorded in the Office of the Davis County Recorder, State of Utah. ✓

08-360-0001 → 0046

08-365-0001 → 0071

08-366-0001 → 0057

08-468-0001 → 0039

08-392-0001 → 0100

08-466-0001 → 0008

08-433-0001 → 0066

0105 → 0145, 0147

08-474-0001 → 0015

**EXHIBIT "B"**  
**LEGAL DESCRIPTION OF THE RECREATION AMENITY AND EASEMENT AREA**

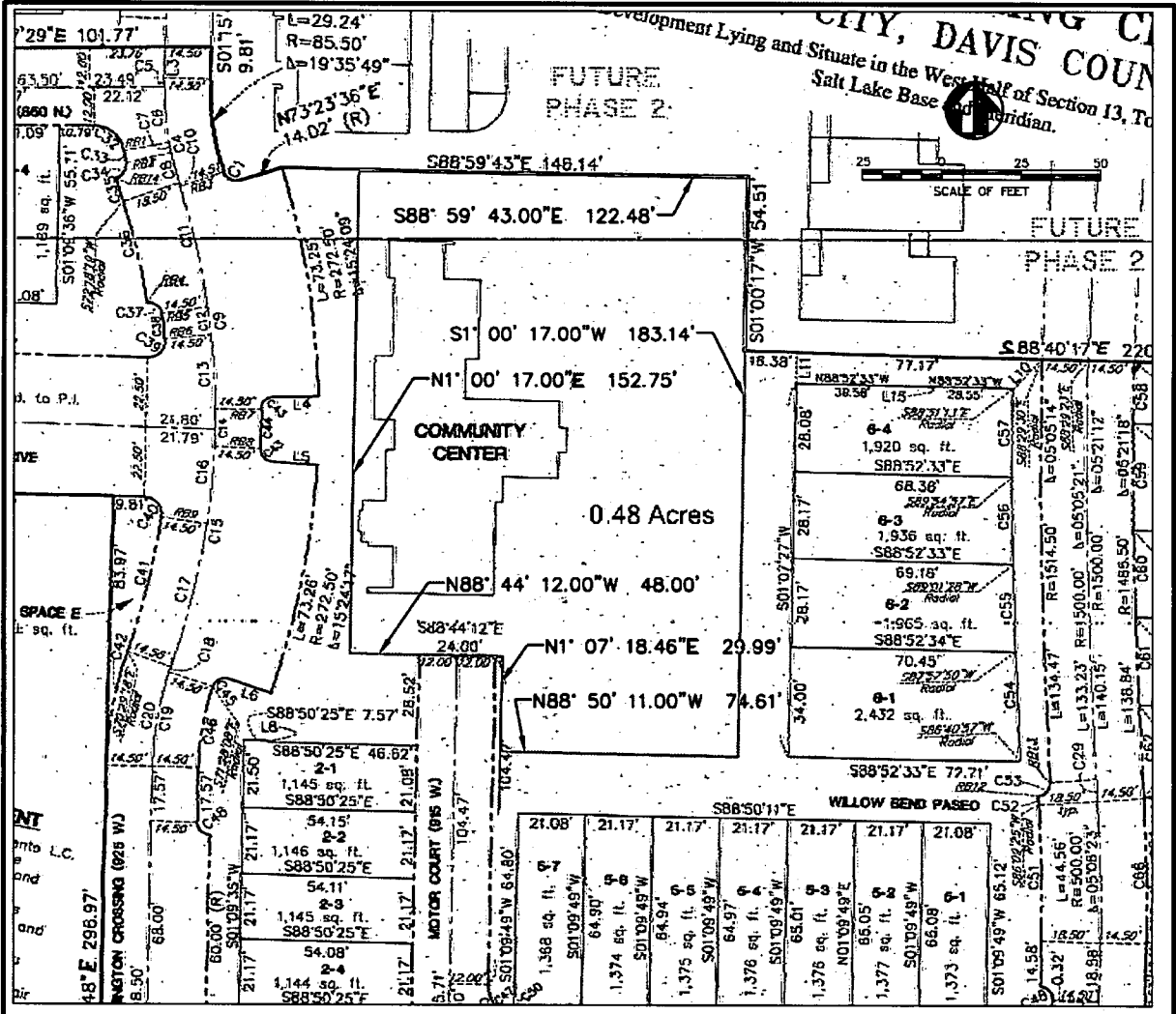
The Land described in the foregoing document is located in Davis County, Utah and is described more particularly as follows:

Community Center—Recreation Amenity No. 1

A parcel of land lying and situate in the West Half of Section 13, Township 3 North, Range 1 West, Salt Lake Base and Meridian, Farmington City, Davis County, Utah. Comprising 0.48 acres out of the Common Area of the Farmington Crossing on Spring Creek Pond, Phase 1 Subdivision, a Planned Unit Development, recorded May 6, 2005 as Entry number 2071659, in Book 3783, at Page 750 of the Davis County Records. Basis of Bearing for subject parcel being South 00°12'06" East 2642.87 feet (measured) 2642.96 (per Record of Survey) between the Davis County brass cap monument monumentalizing the Northwest corner of said Section 13 and the Davis County rebar and cap monumentalizing the West Quarter Corner of said Section 13. Subject Parcel being more particularly described as follows:

Commencing at the Northwest Corner of said Section 13, thence South 00°12'06" East 2087.66 feet coincident with the West line of the Northwest Quarter of said Section 13; thence East 835.24 feet to a point on the easterly right of way line of Shepard Creek Parkway; Thence coincident with said easterly right of way line the following three (3) courses, (1) Southerly 31.02 feet coincident with the arc of a 332.50 foot radius curve to the right (center bears South 85° 46'25" West) through a central angle of 05°20'45"; (2) South 01°07'05" West 568.99 feet to a point of curvature; (3) Southeasterly 44.16 feet coincident with the arc of a 50.00 foot radius curve to the left (center bears South 88° 53'00 East) through a central angle of a 50° 36'19" to a point on the North boundary of the said Farmington Crossing on Spring Creek Pond, Phase 1 Subdivision Boundary; Thence the following eleven (11) courses coincident with said North Boundary, (1) North 56° 33'55" East 66.08 feet; (2) North 52° 23'55" East 6.05 feet along a radial line to a point on the arc of a 32.00 foot radius curve; (3) Northerly 21.71 feet coincident with the arc of said 32.00 foot radius curve to the right through a central angle of 38° 51'53" to a point on a radial line; (4) South 88° 44'12" East 24.00 feet along said radial line to a point on the arc of a 8.00 foot radius curve; (5) easterly 12.77 feet coincident with the arc of said 8.00 foot radius curve to the left through a central angle of 91° 28'19" to a point of tangency; (6) North 89° 47'29" East 101.77 feet; (7) South 01° 15'48" West 9.81 feet to a point of curvature; (8) Southeasterly 29.24 feet coincident with the arc of a 85.50 foot radius curve to the left (center bears South 88° 44'12" East) through a central angle of 19° 35'49" to a point of compound curvature; (9) Easterly 6.16 feet coincident with the arc of a 4.00 foot radius curve to the left (center bears North 71° 39'59" East) through a central angle of 88° 16'23" to a point of tangency; (10) North 73° 23'36" East 14.02 feet; (11) South 88° 59'43" East 23.66 feet to the TRUE POINT OF BEGINNING

Thence continuing along the said subdivision boundary South 88° 59'43" East 122.48 feet; thence South 01° 00'17" West 183.14 feet; thence North 88° 50'11" West 74.61 feet; thence North 01° 07'18" East 29.99 feet; thence North 88° 44'12" West 48.00 feet; thence North 01° 00'17" East 152.75 feet to the point of beginning.



A parcel of land lying and situate in the West Half of Section 13, Township 3 North, Range 1 West, Salt Lake Base and Meridian, Farmington City, Davis County, Utah. Comprising 0.48 acres out of the Common Area of the Farmington Crossing on Spring Creek Pond, Phase 1 Subdivision, a Planned Unit Development, recorded May 6, 2005 as Entry number 2071689, in Book 3783, at Page 750 of the Davis County Records. Basis of Bearing for subject parcel being South 00°12'06\"/>

Commencing at the Northwest Corner of said Section 13, thence South 00°12'06\"/>

Thence continuing along the said subdivision boundary South 88°59'43\"/>

PLOTTED DATE: Wednesday, 18 May 2011 - 12:23pm

**TWIN PEAKS**  
Engineering & Land Surveying  
2264 NORTH 1450 EAST LBH, UTAH 84043  
(801) 450-3511, (801) 439-0700 FAX

COMMUNITY CENTER AREA  
FARMINGTON CROSSING

SHEET NO.

SCALE: 1" = 50'

SPLASH PAD—RECREATION AMENITY NO. 2

A parcel of land lying and situate in the North West Quarter of Section 13, Township 3 North, Range 1 West, Salt Lake Base and Meridian, Farmington City, Davis County, Utah. Comprising 0.4 acres out of the Common Area of Farmington Crossing North, Phase 3 Subdivision, a Planned Unit Development recorded March 12, 2010, as Entry 2516287, in Book 4980, at Page 56 of the Davis County Records. Basis of Bearing for subject parcel being South 00°12'06" East 2642.87 feet (measured) between the Davis County brass cap monument monumentalizing the Northwest corner of said Section 13 and the Davis County rebar and cap monumentalizing the West Quarter Corner of said Section 13. Subject Parcel being more particularly described as follows:

Commencing at the Northwest Corner of said Section 13, thence South 00°12'06" East 723.92 feet coincident with the west line of the Northwest Quarter of said Section 13; thence North 89°47'54" East 171.44 feet to a point on the easterly right of way of Shepard Creek Parkway and the northwest corner of said Farmington Crossing North, Phase 3, and the TRUE POINT OF BEGINNING;

Thence coincident with the north boundary of said Farmington Crossing North, Phase 3 Subdivision, South 89°43'17" East 186.0 feet;

Thence South 00°16'43" West 185.08 feet to a point on the easterly right of way of said Shepard Creek Parkway and the west boundary of said Farmington Crossing North, Phase 3;

Thence coincident with said west boundary North 44°51'48" West 262.39 feet to the point of beginning.





SECOND POOL--RECREATION AMENITY NO. 3

All of Lot 76-1 of the **FARMINGTON CROSSING NORTH, PHASE 5**, according to the official plat thereof, on file and of record in the office of the Davis County Recorder

*pt. 08-413-0007*