

E 135610 B 0582 P 0577
Date 10-AUG-1999 16:19pm
Fee: 84.00 Check
CALLEEN B. PESHELL, Recorder
Filed By RGL
For LEUCADIA
TOOELE COUNTY CORPORATION

When recorded mail to:
Leucadia Financial Corporation
21 North G Street
Salt Lake City, Utah 84103

**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
RESIDENTIAL GATEWAY NEIGHBORHOOD 2-A,
BEING A PORTION OF THE GATEWAY NEIGHBORHOOD PUD,
STANSBURY PARK,
TOOELE COUNTY, UTAH**

13-29-
12-114-
12-64-

KNOW ALL MEN BY THESE PRESENTS: That LEUCADIA FINANCIAL CORPORATION ("Developer") is the owner of that certain property in Tooele County, State of Utah, known and to be known as the Gateway Neighborhood Planned Unit Development (the "Gateway PUD"). The Gateway PUD includes commercial, greenbelt, and recreation areas, as well as a residential area designated and known as the "Residential Gateway Neighborhood 2-A," which residential area is more particularly described on Exhibit A hereto (the "Property"). The Property will be developed in three phases (each a "Phase") to be known respectively as "Residential Gateway Neighborhood 2-A, Phase 1," "Residential Gateway Neighborhood 2-A, Phase 2," and "Residential Gateway Neighborhood 2-A, Phase 3." Each Phase will be subdivided into residential Lots (each a "Lot") and other lands as shown on the official subdivision plat (each a "Plat") to be recorded with respect to such Phase. The official subdivision plat for Residential Gateway Neighborhood 2-A, Phase 1 is being recorded in Tooele County, Utah, concurrently with the recording of this Declaration of Covenants, Conditions, and Restrictions (the "Declaration"), which Plat covers a portion of the Property more particularly described as follows:

All of the Residential Gateway Neighborhood 2-A, Phase 1 subdivision, according to the official plat thereof on file with the Tooele County Recorder.

It is the intention of the Developer to dedicate the streets shown on each Plat to the public. The easements indicated on each Plat are and will be perpetually reserved for use for public utilities and other uses as designated thereon or as set forth herein, and in any amendments or supplements thereto or hereto.

NOW, THEREFORE, Developer hereby declares that all of the Property described above is held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied, and improved subject to the following easements, limitations, restrictions, covenants and conditions, all of which are declared and agreed to be in furtherance of a common plan for the development of the Property, and the improvement and sale thereof, and are established and agreed upon for the purposes of enhancing and protecting the value, desirability and attractiveness of the Property and every Lot therein, to prevent nuisances, and to secure to each Lot owner the full benefit and enjoyment of his or her Lot. The acceptance of any deed to

or conveyance of any Lot or other part of the Property by the grantees therein named shall constitute their covenant and agreement (for themselves and their legal representatives, heirs, executors, administrators, successors and assigns) with the Developer and with each other Lot owner to accept, hold, improve, use and convey such Lot or other part of the Property subject to said easements, limitations, restrictions, covenants and conditions.

ARTICLE I - GENERAL RESTRICTIONS

1. LAND USE. No Lot shall be used except for single family residential purposes. No professional, business, or commercial use shall be made of any dwelling or Lot, or any portion thereof. As used herein "family" is defined to mean persons related by blood or marriage or by legal adoption.

2. ARCHITECTURAL CONTROL: No building, structure, fence, wall, pool, or other improvement, and no landscaping shall be commenced, constructed, erected, maintained, altered or restored on any Lot without the prior approval of the Architectural Control Committee as provided below.

3. IMPROVEMENTS.

A. TYPE. No building may be commenced, constructed, erected, placed, or permitted on any Lot except for one detached single-family dwelling with attached garage. All construction shall be of new materials, except that used brick may be permitted so long as it conforms with the applicable ordinances of Tooele County and is approved by the Architectural Control Committee. All structures shall be constructed in accordance with the applicable ordinances of Tooele County and the rules of the Architectural Control Committee as in effect from time to time. No mobile homes, prefabricated homes, modular homes, or log homes shall be placed or erected on any Lot.

B. LOCATION: No building shall be located on any Lot nearer to the front lot line than twenty-five (25) feet; nor nearer to the rear lot line than twenty (20) feet; nor nearer to a side lot line than eight (8), (in each case feet unless otherwise required by an ordinance of Tooele County); in each case measured to the foundation of such building. For the purposes of this paragraph, eaves, steps, and open porches shall not be considered as part of a building when determining such set-backs; provided however, that this shall not be construed to permit any structure on a Lot to encroach upon another Lot.

C. MINIMUM SIZE OF DWELLING: The total square footage of living area on the first level above ground and located within the area of the foundation for any dwelling constructed on a Lot, exclusive of porches, balconies, patios, and the garage, shall be not less than 1,200 square feet, or, in the case of a two-story dwelling, not less than 800 square feet. No dwelling on any Lot shall have more than two stories. The minimum total square footage of any garage construct on a Lot shall be 400 square feet.

D. EXTERIOR FINISH. The Developer intends that the dwellings on the Property reflect a variety of architectural styles, each with a harmonious blend of materials and colors. The use of masonry and stucco is encouraged. No reflective finishes other than glass or hardware fixtures may be used on exterior finishes.

E. LANDSCAPING: Within 12 months after the completion of construction of the dwelling upon a Lot, the owner of such Lot must have substantially completed the landscaping of the Lot. Such landscaping shall include, but shall not be limited to, the preparation for the planting of lawn, grass or other appropriate ground cover, appropriate shrubbery, and the planting of at least two trees in the front yard. Trees, lawns, shrubs, or other plantings placed on a Lot shall be properly nurtured and maintained. Should any Lot owner fail to comply with the provisions of this paragraph, the Architectural Control Committee shall have the right to seek an order from a court of proper jurisdiction requiring specific performance to comply with the provisions hereof, and shall also have the authority, but not the obligation, to complete the landscaping and require the Lot owner to pay a reasonable amount for such completion. All attorneys fees and costs incurred in any such action, and all expenses incurred in connection with such completion, shall constitute a lien on such Lot owner's Lot, and shall also be a personal obligation of said owner, enforceable at law, until payment is made.

F. FENCES. Fences or walls shall be made of PVC vinyl, brick, or slump block. No fences or walls of chain link, wire mesh, barbed wire, wood, or unpainted concrete block shall be allowed. Fences, walls, and hedges shall not exceed six feet in height and shall not extend into the front yard set-back at any point, except that a fence, wall, or hedge not exceeding three and one-half feet in height may enclose not more than one-half the area beyond the front yard set-back.

G. DWELLING HEIGHT. The highest point of the roof line of any structure on a Lot shall not exceed 35 feet as measured from the natural ground level.

H. DILIGENCE IN CONSTRUCTION: Once construction of any dwelling or other structure has begun, work thereon must be completed within a reasonable length of time (eight months shall be presumed to be reasonable).

I. ANTENNAE: No external radio, television, satellite dish, or other antennae of any kind or nature, or device for the reception or transmission of radio, microwave, or other similar signals shall be permitted on any Lot, without the prior approval of the Architectural Control Committee.

J. UNDERGROUND UTILITY LINES. All power, telephone, and other utility lines must be placed underground running from each dwelling or other structure to the nearest transformer, pole or vault. No owner of a Lot shall place or permit to exist any suspended overhead power, telephone, or other utility line of any kind.

K. WATER SUPPLY AND SEWER SERVICE. No owner of a Lot shall arrange for water supply and/or sanitary sewer service to any Lot other than from the Stansbury Park Improvement District, or any successor agency.

4. EASEMENTS AND DRIVEWAYS: Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded Plat for each Phase. Within these easements, no structure, planting or other material shall be placed or permitted to remain, or other activity undertaken, which may damage or interfere with the installation, maintenance or replacement of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. Flood easements and drainage ditches may not be interfered with in any way, including driveways or pedestrian walkways, without the written approval of Tooele County and/or the Stansbury Park Improvement District. The design and construction of all driveways at the area where they intersect with public highways must be approved by Tooele County. The easement areas of each Lot shall be maintained continuously by the owner of the Lot, except for those improvements for which a public authority or utility company is responsible.

5. SLOPE CONTROL: No structure, planting or other material shall be placed or permitted to remain or other activities undertaken which may damage or interfere with the natural surface, or create erosion or sliding problems. The slope control area of each Lot and all improvements thereon shall be maintained continuously by the owner of the Lot, and no improvements shall adversely affect the slope control of other Lots.

6. PROHIBITED USES AND STRUCTURES. Without limiting prohibitions contained elsewhere in this Declaration, the following uses and structures are prohibited.

A. NUISANCES: No use of firearms for any purpose or noxious or offensive activity resulting in such occurrences as unreasonable noise, the creation of hazardous or unsafe conditions, or offensive odors shall be carried on upon any Lot or portion of the Property, nor shall anything be done thereon which may be or may become an annoyance or nuisance.

B. TEMPORARY STRUCTURES. No structure of a temporary nature, and no trailer, basement, outhouse, tent, shack, garage, or other outbuilding shall be used at any time as a residence either temporarily or permanently. No old or second-hand structures shall be moved onto any Lot, it being the intention hereof that all dwellings and other structures erected on any Lot be new construction of good quality, workmanship, and materials.

C. UNSAFE USES. No Lot or portion of the Property shall be used, nor any activity conducted thereon, so as to endanger the health and safety of any other person, or so as to disturb the reasonable use and enjoyment of any other Lot.

D. OIL AND MINING OPERATIONS: No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot.

E. STORAGE OF BUILDING MATERIALS: No Lot or other portion of the Property shall be used or maintained for the storage of building materials except that building materials may be stored on a Lot during actual construction on that Lot. Once a dwelling is occupied or made available for sale on a Lot, all building materials shall be removed or stored inside such dwelling.

F. SIGHT DISTANCE AT INTERSECTIONS AND CORNERS: No fence, wall, hedge, or shrub planting which obstructs sightlines at elevations between two and six feet above the roadways shall be placed or permitted to remain on any Lot at street corners or curves within the triangular area formed by the front and side lines of such Lot. Sightline limitations shall apply on any Lot within 10 feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections or obstructions of such sightlines.

7. PETS, ANIMALS, ETC.: No animals other than ordinary household pets shall be kept on any Lot. Household pets shall be strictly controlled.

8. GENERAL APPEARANCE.

A. SIGNS: No billboard of any character shall be erected, posted, painted or displayed upon any Lot. No sign of any kind, except "for sale" or "for lease" signs of customary and reasonable size and design, shall be displayed to the public view on any Lot without the prior approval of the Architectural Control Committee, and said Committee shall have the right to remove or cause the removal of any billboard or sign erected and displayed in violation of this paragraph.

B. UNSIGHTLINESS: No unsightliness shall be permitted within the Property. Without limiting the generality of the foregoing, (a) no vehicle, boat or equipment shall be constructed, reconstructed, repaired or abandoned within the Property, except for work done entirely within a building, (b) refuse, garbage, rubbish, and other waste shall be placed and kept at all times in covered containers, and each Lot, whether improved or unimproved, shall be kept free of trash, weeds, rubbish and other refuse, and (c) all buses, tractors, trailers, camping vehicles, boats, personal water craft, boat trailers, snowmobiles, mobile homes, and all terrain vehicles on any Lot (except those parked temporarily) shall be enclosed or screened from view from any public street within the Property, and such enclosures and screening shall require the prior approval of the Architectural Control Committee as provided below. No unsightly materials or other objects are to be stored on any Lot in view of the general public.

9. OVERNIGHT PARKING. No vehicle of any kind, including, but not limited to, automobiles, trucks, buses, tractors, trailers, camping vehicles, boats, personal water craft, boat

trailers, snowmobiles, mobile homes, two, three and four-wheeled all terrain motor vehicles, or other wheeled vehicles shall be permitted to be parked on any public street within the Property between the hours of 2:00 a.m. and 6:00 a.m.

10. **SAFE CONDITION:** Without limiting any other provision of this Declaration, each owner shall maintain and keep such owner's Lots at all times in a safe, sound and sanitary condition and repair and shall correct any condition or refrain from any activity which might interfere with the reasonable enjoyment by other owners of their respective Lots.

11. **NO SUBDIVISION OF LOTS.** Lot sizes as described on the recorded Plat are considered minimum lot sizes and no person shall further subdivide any Lot.

12. **RESERVED RIGHTS OF DEVELOPER.** Anything to the contrary herein notwithstanding, Developer reserves the following rights which shall continue for so long as Developer or any successor developer(s) of the Property is the owner of any Lot: (a) the right to complete construction of subdivision improvements; (b) the right to use any Lot owned by Developer or any successor developer as a model home; (c) the right to post reasonable and customary signs with respect to a model home, construction on a Lot, or the marketing of homes and/or Lots; (d) the right to assign Developer's rights hereunder in whole or in part to builders intending to construct homes on Lots.

ARTICLE II - DURATION, ENFORCEMENT, AND AMENDMENT

1. **DURATION OF RESTRICTIONS:** All of the easements, limitations, restrictions, covenants, and conditions set forth in this Declaration (as the same may be amended or modified as provided herein) shall continue and remain in force and effect for twenty-five years from the date hereof, and shall as then in force be continued thereafter for successive periods of twenty years each, unless terminated by a written agreement executed by the then record owners of not less than three-fourths of the Lots then subject to this Declaration, with one vote per Lot, and placed on record in the office of the Tooele County Recorder. Any provision of this Declaration may be modified or amended by a written agreement executed by the then record owner(s) of any portion of the Property as to which a Plat has not been filed, and by the then record owners of not less than three-fourths of the Lots then subject to this Declaration, with one vote per Lot, and placed on record in the office of the Tooele County Recorder.

2. **NOTICES:** Any notice required to be sent to any Lot owner shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of such owner.

3. **CONSTRUCTION AND SEVERABILITY:** All of the easements, limitations, restrictions, covenants and conditions contained in this Declaration shall be construed together. Invalidation of any one of said easements, limitations, restrictions, covenants or conditions, or any part thereof, shall in no way limit the enforceability or applicability of any of the remaining easements, limitations, restrictions, covenants or conditions.

4. VIOLATION CONSTITUTES NUISANCE: Every act or omission whereby any easement, limitation, restriction, covenant or condition in this Declaration is violated in whole or in part, is declared to be and shall constitute a nuisance, and may be abated by appropriate legal action by the Developer, the owner of any Lot or portion of the Property, or the Architectural Control Committee. Remedies hereunder shall be deemed cumulative and not exclusive.

5. ENFORCEMENT: Each easement, limitation, restriction, covenant and condition contained in this Declaration is for the benefit of the Developer and the owners from time to time of any Lot or portion of the Property. Each such easement, limitation, covenant, condition and restriction shall inure to the benefit of and run with title to each and every Lot and portion of the Property, and shall apply to and be binding upon each and every successor in interest. Each easement, limitation, restriction, covenant, and condition is and shall be deemed a covenant of equitable servitude, and the actual or threatened breach thereof, or the continuance of any such breach, may be enjoined, abated, or remedied by appropriate proceedings at law or in equity by the Developer, the owner from time to time of any Lot or portion of the Property, or the Architectural Control Committee; provided, however, that no such breach shall affect or impair the lien of any bona fide mortgage or trust deed which shall have been given in good faith and for value, except that any subsequent owner of said Lot or portion of the Property shall be bound and obligated by the said easement, limitation, restriction, covenant, or condition, whether ownership is obtained by foreclosure, at a trustee's sale, or otherwise.


6. ARCHITECTURAL CONTROL COMMITTEE: The Architectural Control Committee which is vested with the powers described herein shall consist of three persons appointed by the Developer. Prior to the commencement of any excavation, construction, remodeling, or landscaping on any Lot, there shall first be filed with the Architectural Control Committee two (2) complete sets of plans and specifications therefor, together with a block or plot plan indicating the exact part of the site the improvements or other work will cover and said work shall not commence unless the Architectural Control Committee shall approve said plans as being in compliance with this Declaration and the rules of the Committee as then in force. The Committee shall have the right to refuse to approve any such plans and specifications which are not desirable in its opinion or for other reasons, and shall have the right to take into consideration the suitability of the proposed building and of the materials of which it is to be built to the site upon which it is proposed to erect the same, the harmony thereof with the surroundings and the effect of the building or other structure so planned on the outlook from the adjacent or neighboring property. The Committee shall promulgate and maintain rules and guidance for approving or disapproving plans and specifications, and may promulgate rules and regulations to minimize the inconvenience to adjoining Owners during construction, require pre-construction conferences, and regulate portable offices and trailers, construction area appearance and debris, construction parking, dust control, and other matters. The second set of said plans shall be filed as a permanent record with the Architectural Control Committee. In the event the Committee fails to approve or disapprove or request additional information with respect to any plans and specifications within 15 days after submission, then such plans and specifications shall be deemed approved. There shall be but one Architectural Control Committee for all subdivisions within the Property. From and after the time that all of the Lots in the Property have been sold by Developer, the owners of all Lots shall have the right to elect the members of the

Architectural Control Committee. Members of the Architectural Control Committee shall serve terms of two years each and shall serve until their successors are duly appointed or elected. The presence of two members of the Committee shall constitute a quorum for the conduct of business. Decisions of the Committee shall be made by majority vote.

7. ASSIGNMENT OF POWERS: Any and all rights and powers of the Developer herein contained may be delegated, transferred or assigned. Wherever the term "Developer" is used herein, it includes Developer and its successors and assigns.

IN WITNESS WHEREOF, the undersigned has hereunto executed this document this 29th day of July, 1999.

LEUCADIA FINANCIAL CORPORATION

By: 

Lawrence W. Pinnock, Vice President

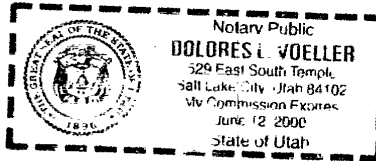
STATE OF UTAH)
)ss
County of Salt Lake)

On the 29TH day of July, 1999, personally appeared before me Lawrence W. Pinnock, the Vice President of LEUCADIA FINANCIAL CORPORATION, a Utah corporation, who being by my duly sworn did say that he executed the foregoing instrument for and on behalf of said corporation by authority of a resolution of its board of directors for the uses and purposes set forth therein.

Dolores L. Voeller
Notary Public

My Commission Expires:

June 12, 2000



Boundary Description - Gateway Neighborhood

Beginning at a point on the South right-of-way line of State Highway 40-50, said point lying South 00°07'45" East 338.81 feet along the West section line of Section 15, and East 156.27 feet from the Northwest corner of Section 15, Township 2 South, Range 4 West, Salt Lake Base & Meridian; and traversing thence North 51°25'52" East 382.49 feet along said right-of-way to the point of curvature of a 880.00 foot radius curve to the right; thence Northeasterly 512.48 feet along the arc of said curve and right-of-way through a central angle of 33°22'00"; thence North 84°47'52" East 22.56 feet along said right-of-way; thence leaving said right-of-way South 05°12'08" East 966.91 feet to the point of curvature of a 470.00 foot radius curve to the left; thence Southeasterly 273.71 feet along the arc of said curve through a central angle of 33°22'00"; thence South 38°34'08" East 14.09 feet to the point of curvature of a 660.00 foot radius curve to the right; thence Southeasterly 289.73 feet along the arc of said curve through a central angle of 25°09'07"; thence South 62°04'52" East 60.00 feet; thence South 27°55'08" West 207.17 feet to the point of curvature of a 370.00 foot radius curve to the left; thence Southwesterly 210.16 feet along the arc of said curve through a central angle of 32°32'41"; thence South 04°37'32" East 288.03 feet to a point on the North boundary of the Stansbury Park 30.00 foot wide Greenbelt along Stansbury Parkway; thence traversing along said boundary the following seven (7) courses: South 84°51'48" West 113.33 feet to the point of curvature of a 806.04 foot radius curve to the right; thence Northwesterly 711.24 feet along the arc of said curve through a central angle of 50°33'27"; thence North 44°34'46" West 214.73 feet; thence North 44°45'55" West 303.79 feet; thence North 44°20'48" West 124.46 feet to the point of curvature of a 227.74 foot radius curve to the right; thence Northwesterly 177.52 feet along the arc of said curve through a central angle of 44°39'39"; thence North 00°18'50" East 251.94 feet to a point on the arc of a 160.00 foot radius non-tangent curve to the left (Bearing to Radius = North 00°20'16" West); thence leaving said greenbelt Northeasterly 106.76 feet along the arc of said curve through a central angle of 38°13'52"; thence North 51°25'52" East 487.07 feet; thence North 38°34'08" West 410.00 feet to the point of beginning.

contains 1,843,477 sf or 42.32 acres more or less

SURVEYOR'S CERTIFICATE

To: Leucadia Financial Corporation:

To: B & D Title Insurance Company:

This is to certify that this map or plat and the survey on which it is based were made in accordance with "Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys," jointly established and adopted by ALTA and ACSM in 1997, and includes items 1,4,5,11, of Table A thereof, and pursuant to the Accuracy Standards of an "Urban" survey.

Date: 6/30/99

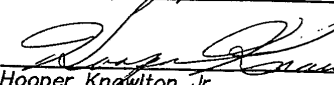

 Hooper Knowlton Jr.
 Utah Registered Land Surveyor
 Licence No. 2761



EXHIBIT A

E 135610 B 0582 P 0586