

WHEN RECORDED RETURN TO:  
Deer Crest Associates I, L.C.  
P.O. Box 8888  
Park City, UT 84060

00198240 Bk00363 Pg00689-00694

WASATCH CO RECORDER-ELIZABETH M PARCELL  
1997 NOV 03 10:06 AM FEE \$109.00 BY MWC  
REQUEST: DEER CREST ASSOCIATES I LC

## COVENANTS AND AGREEMENTS

### DEER CREST PROJECT

(89 Lots—Deer Crest Estates Subdivision—Phase I)

These COVENANTS AND AGREEMENTS are entered into this 31<sup>st</sup> day of October, 1997 between DEER CREST ASSOCIATES I, L.C. ("DCA") and WASATCH COUNTY (the "County").

A. DCA is the developer of the Deer Crest Project ("Deer Crest Project") located in part in Wasatch County, Utah. The Deer Crest Project has been approved by Wasatch County pursuant to that certain First Amended Findings and Order on Density Determination dated as of August 5, 1996 and recorded in the official records of the Wasatch County Recorder as Entry Number 188648 in Book 328 at Page 684 (the "Amended Density Determination").

B. DCA has received final approval for the platting of the first 89 single family lots of the Deer Crest Project, and in connection with the recordation of the final plat for the 89 lots (the "Plat"), has submitted improvement plans sufficient for engineering cost estimates and improvement bonding purposes, but not including final detailed construction drawings, specifications and calculations for (a) detention, storage and conveyance facilities for storm water and water quality, (b) ski bridges, tunnels, steepened slopes and retaining walls and (c) culinary water system, irrigation water system and sewer system facilities.

C. DCA has agreed to record an agreement assuring that the submission and approval of the final detailed construction drawings, specifications and calculations for the tunnels and bridges, the water and sewer system facilities and storm water facilities, which has not occurred prior to the recordation of the Plat, will be complied with as a precondition to the issuance of construction permits for the work covered by those detailed construction drawings, specifications and calculations that have not yet been approved and as a precondition to the issuance of building permits for any homes on the Plat.

#### THE PARTIES AGREE AS FOLLOWS:

1. Covenants and Agreements. DCA hereby covenants and agrees to submit the following final drawings, specifications and calculations within ninety (90) days after the recordation of the Plat:

October 30, 1997

1

PAGE ( ) INDEX ( ) ABSTRACT ( ) PLAT ( ) CHECK ( )

689

- a. Final detailed construction drawings, specifications and calculations for detention ponds and related drainage channels, culverts and related facilities for storm water and water quality designed in accordance with Wasatch County standards and submitted to the County for review and approval. The County has generally approved for adequacy the sizing and locations of these facilities. The County has also established an amount for the bonding of the completion of all storm water and water quality facilities and the completion of such work has been bonded for by DCA.
- b. Final detailed construction drawings, specifications and calculations for ski bridges and ski tunnels, steepened slopes and retaining walls designed in accordance with Wasatch County standards and submitted to the County for review and approval. The County has approved for adequacy the sizing and location of these facilities. The County has also established an amount for the bonding of the completion of all ski tunnels and bridges, steepened slopes and retaining walls and the completion of such work has been bonded for by DCA.
- c. Final detailed construction drawings, specifications and calculations for the culinary water system, irrigation water system (including snowmaking and fire flows) and sewer system designed in accordance with Wasatch County standards and submitted to the County for review and approval. The County has generally approved for adequacy the sizing and locations of the water and irrigation systems facilities and sewer pipe. The County has also established an amount for the bonding of the completion of all water, irrigation and sewer systems facilities and the completion of such work has been bonded for by DCA.

These Covenants and Agreements shall be recorded against Lots 1-54 and 59-93, Deer Crest Estates Subdivision—Phase I, in accordance with the Plat recorded in the official records of the Wasatch County Recorder.

2. Scope and Timing of County Review. The review and approval of final construction drawings, specifications and calculations for items listed in 1 a., 1 b. and 1 c. above shall comply with Wasatch County standards. The County's review shall be conducted in a timely manner. DCA shall be provided with reasonable notice of any deficiencies in the submitted drawings, specifications and calculations and shall be given a reasonable opportunity to correct or revise any deficient drawings, specifications or calculations.

3. Issuance of Permits for Construction of Facilities. Permits for the construction of the facilities or structures identified in paragraph 1 a., 1 b. or 1 c. shall not be issued until approval of the applicable final construction drawings, specifications and calculations.

4. Issuance of Building Permits for Homes. The submission of the required final construction drawings, specifications and calculations identified in paragraph 1 and the approval of those final construction drawings, specifications and calculations by the County shall be a

October 30, 1997

condition precedent to the issuance of building permits for homes on any lots within the subdivision covered by the Plat.

5. Approval of Drawings, Specifications and Calculations. Upon approval of any of the final construction drawings, specifications and calculations identified in paragraph 1 a., 1 b. or 1 c., the County agrees to execute and record a notice indicating the County's approval of the drawings, specifications and calculations in question and terminating this Agreement with respect to any such approved drawings, specifications and calculations in such form as may reasonably be required by DCA.

6. Dispute Resolution. Any disputes that arise between DCA and the County with respect to the adequacy of any final drawings, specifications and calculations shall be submitted by the parties to mediation and then to arbitration in accordance with the mediation and arbitration procedures of the United States District Court for the District of Utah. Either party may initiate mediation or arbitration by giving written notice to the other party. The parties shall use reasonable efforts to identify and agree upon a qualified, independent mediator or arbitrator within 15 days after the date of any such notice. For purposes of this Agreement, a qualified, independent mediator or arbitrator shall be deemed to be a civil or structural engineer with not less than 10 years professional experience in designing structures of the type that are the subject of the dispute.

7. Notices. All notices and other communications provided for in this Agreement shall be in writing and shall be sufficient for all purposes if (i) sent by fax to the fax number set forth below or at such other number as the respective party may designate by notice as provided herein, and concurrently sent by 1st class U.S. mail, (ii) personally delivered, or (iii) sent by certified or registered U.S. mail, return receipt requested, postage prepaid, and addressed to the respective party at the fax number and address set forth below or at such other address as such party may hereafter designate by written notice to the other parties as herein provided.

To DCA:

Deer Crest Associates I, L.C.  
c/o LCC Properties Group, L.C.  
136 Heber Avenue, Suite 308  
P.O. Box 8888  
Park City, UT 84060  
Fax: (435) 655-8120

To Wasatch County:

Wasatch County  
25 North Main Street  
Heber City, UT 84032  
Attn: County Planner  
Fax: (435) 654-5116

If personally delivered, notices and other communications under this Agreement shall be deemed to have been given and received and shall be effective when personally delivered. If sent by fax and mail in the form specified in this section, notices and other communications under this

October 30, 1997

Agreement shall be deemed to have been given and received and shall be effective when faxed and deposited in the U.S. mail, whichever shall last occur.

8. Costs. Except with respect to the County's costs of review of drawings and calculations, which shall be paid by DCA, each party shall pay its own costs and expenses incurred in preparation and execution of and performance under this Agreement.

9. Entire Agreement. This Agreement (including the exhibits attached hereto) constitutes the entire agreement between the parties hereto relative to the subject matter hereof. This Agreement may not be amended or modified except in writing executed by all of the parties hereto.

10. Interpretation. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Utah. This Agreement shall bind and inure to the benefit of the parties hereto and their respective successors and assigns.

11. Counterparts and Facsimile Signatures. This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, binding between the executing parties, and all of which shall together constitute one and the same instrument. Original, facsimile or power of attorney signatures shall be binding upon the executing party.

12. No Waiver. Acceptance by either party of any performance less than required hereby shall not be deemed to be a waiver of the rights of such party to enforce all of the terms and conditions hereof. Except as otherwise expressly provided herein, no waiver of any such right hereunder shall be binding unless reduced to writing and signed by the party to be charged therewith.

13. Covenants Run With the Land. Each right and obligation in this Agreement (whether affirmative or negative in nature) (a) shall constitute a covenant running with the land; (b) shall bind every person having any fee, leasehold or other interest in any portion of the property described herein; and (c) shall be binding upon any person whose title is acquired by voluntary conveyance, judicial foreclosure, trustee's sale, deed in lieu of foreclosure or otherwise.

14. Public Benefit. Nothing contained in this Agreement shall be deemed a gift or dedication of any portion of the property to the general public on an unlimited basis or for the public or for any public purpose.

15. Attorneys' Fees. In the event of any legal, equitable or administrative action or proceeding brought by any party against any other party under this Agreement, the prevailing party shall be entitled to recover the reasonable fees of its attorneys, and any costs incurred in such action or proceeding including costs of appeal, if any, in such amount as the court or administrative body having jurisdiction may award.

IN WITNESS WHEREOF, the parties hereto have executed these Covenants and Agreements as of the day and year first above written.

County: WASATCH COUNTY

By: [Signature]  
Its: Brent R. Titcomb



STATE OF Utah )  
  ) :ss.  
COUNTY OF Wasatch )

The foregoing instrument was acknowledged before me on the \_\_\_\_\_ day of October, 1997, by \_\_\_\_\_, as \_\_\_\_\_ of Wasatch County.

\_\_\_\_\_  
Notary Public  
Residing at \_\_\_\_\_

My Commission Expires:  
\_\_\_\_\_

October 30, 1997

00198240 Bk00363 Pg00693

DCA:

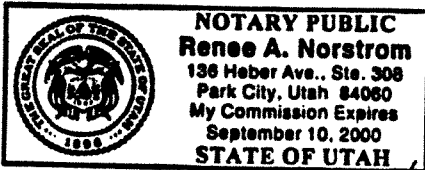
DEER CREST ASSOCIATES I, L.C.

By LCC Properties Group, L.C., Managing Member

By: [Signature]  
David M. Luber, Managing Member

STATE OF UTAH )  
COUNTY OF Serrant ) :ss

The foregoing instrument was acknowledged before me on the 31<sup>ST</sup> day of October, 1997, by David M. Luber, Managing Member of LCC Properties Group, L.C., the managing member of Deer Crest Associates I, L.C.



[Signature]  
Notary Public  
Residing at Park City

My Commission Expires: 9/10/2000

00198240 Bk00363 Pg00694

October 30, 1997