

DECLARATION OF EASEMENTS, COVENANTS,
CONDITIONS AND RESTRICTIONS

VAL VISTA PARK

A Planned Unit Development (Expandable)

American Fork, Utah County, Utah

THIS DECLARATION (the "Declaration") is made this 13 day of ^{May}~~February~~, 1996 by American Springs Development, L.L.C. and Patterson Construction Inc. (the "Declarants"), in its capacity as the owner and developer of Val Vista Park, an expandable Planned Unit Development, American Fork, Utah (the "Development").

ARTICLE I

PURPOSE AND EFFECTUATION

1.1 Purpose. The purpose of this instrument is to provide for the maintenance and preservation of the values of Lots and Common Areas within Val Vista Park, a Planned Unit Development in American Fork, Utah.

1.2 Effectiveness. From and after the effective date hereof: (a) Each part of the Development and each Lot and improvement constructed thereon lying within the boundaries of the Development shall constitute but constituent parts of a single Planned Unit Development; (b) The Development shall consist of the Lots and of any Common Areas which are described and depicted on the Plat, together with such additional Lots and Common Areas as may come into existence pursuant to the provisions relating to annexation or expansion of the Development; (c) The Declaration for the Development shall consist of this document as the same may be modified, amended, supplemented, or expanded in accordance with the provisions hereof; and (d) The Plat of the Development shall consist of the instrument which is identified as Plat "A" and Plat "B", Val Vista Park, a Planned Unit Development, American Fork, Utah, and filed for record concurrently herewith in the office of the Utah county Recorder, American Fork, Utah, as the same may be amended, and any subsequent plats which may be filed for record pursuant to the provisions hereof relating to annexation or expansion of the Development.

Lot 5 91-107

ARTICLE II

DEFINITIONS

ENT 40688 BK 3970 PG 9

When used in this Declaration each of the following terms shall have the meaning indicated:

- 2.1 Additional Land shall, at any point in time, mean such part of the land in American Fork, Utah County, State of Utah, set forth and described in Exhibit A hereto, or added thereto by subsequent amendment.
- 2.2 Corporation shall mean VAL VISTA PARK INCORPORATED and its successors and assigns.
- 2.3 Board shall mean the Board of Directors of the Corporation which Board shall also comprise the Management Committee of the property where such committee is referred to herein.
- 2.4 Common Areas shall mean those parcels if any so designated on the Plat and owned by Val Vista Park Incorporated for the benefit, use and enjoyment of the Owners and residences within Val Vista Park and comprising common open spaces; as well as:
 - (a) All common areas and facilities designated as such in the survey map.
 - (b) All limited Common Areas and Facilities.
 - (c) All foundations, columns, girders, beams, supports, perimeter walls and roofs constituting a portion of or included in the improvements which comprise a part of the project.
 - (d) All apparatus, installations, and facilities included within the Project and existing for common use.
 - (e) All portions of the Project not specifically included within the Individual Units.
 - (f) All other parts of the Project normally in common use or necessary or convenient to its use, existence, maintenance, safety, or management.
- 2.5 Declarant shall mean this "Declaration of Easements, covenants, conditions and Restrictions of Val Vista Park, a Planned Unit Development (Expandable)" as the same may be supplemented or amended from time to time.

- 2.6 Development shall mean the Planned Unit Development known as Val Vista Park as it exists at any given time. ENT 40688 BK 3970 PG 10
- 2.7 Lot shall mean and refer to any of the separately numbered and individually described parcels of land within the Development as designated on Plat "A" intended for single family residential use and Plat "B" Single Family Twin Homes Residential use.
- 2.8 Owner shall mean any person who is the owner of record (as reflected by the records in the office of the county Recorder of Utah County, Utah) of a fee or undivided fee interest in any Lot, and any contract purchaser of any Lot. Notwithstanding any applicable theory relating to mortgages nor any trustee or beneficiary of a deed of trust or trust deed shall be an owner unless such party acquires fee title pursuant to foreclosure or sale or conveyance in lieu thereof. Declarant shall be an Owner with respect to each Lot owned by it. Multiple owners of a particular Lot shall be jointly and severally liable as to all responsibilities of an Owner.
- 2.9 Plat shall mean and refer to the subdivision plat covering the Property entitled "Plat 'A' and Plat 'B', Val Vista Park Planned Unit Development, American Fork City, Utah County, Utah," prepared and certified to by Stephen Sowby (a duly registered Utah Land Surveyor holding Certificate No. 150357), executed and acknowledged by Declarant, accepted by American Fork City, and filed for record in the office of the County Recorder of Utah County, Utah concurrently with this Declaration. Such term shall also include any subdivision plat or plats pertaining to any portion of the Additional Land as when the same is annexed and added to the Development pursuant to the annexation provisions of Article III of this Declaration.
- 2.10 Property shall mean all land covered by this Declaration, including any Common Areas and Lots and other land annexed to the Development as provided in this Declaration. The initial Property shall consist of the land described in the Plat.
- 2.11 Reimbursement Assessment and Common Expenses. Reimbursement Assessment shall mean a charge against a particular Owner or his Lot for the purpose of reimbursing the corporation for costs incurred in bringing the Owner or his Lot into compliance with the provisions of this Declaration or rules and regulations of the Corporation, or any other charge designated as a Reimbursement Assessment in this Declaration, together with costs, interest, attorney's fees and other charges payable by such Owner pursuant to the provisions of this Declaration.

Common Expenses shall mean and refer to all sums which are expended on behalf of all the Unit Owners and all sums which are required by the Board to perform or exercise its functions, duties, or rights under the law, this Declaration, the Management Agreement for operation of the Project, and such rules and regulations as the Management Committee may from time to time make and adopt.

SUBMISSION

Declarant hereby submits to the provisions of the Utah Condominium Ownership act (hereinafter "the Act") the real property situated in the city of American Fork, Utah County, State of Utah described in Exhibit A to this Declaration, and incorporated herein as if here set forth in full.

ARTICLE IV

COVENANTS, CONDITIONS AND RESTRICTIONS

- 4.1 Descriptions of Improvements. The improvements included in the Project are now or will be located on the tract of real property described in Article II hereof, and all such improvements are described in the Map. The Development shall consist of 27 Lots consisting of Lots numbered 91 through 117 which consist of single family residential lots, and Plat "B" consisting of 14 single family lots and 10 twin home lots numbered 52 through 75.
- 4.2 Common and Limited Common Areas and Facilities. The Common Areas contained in the project are identified on the Plat. Neither the Percentage Interest in the Common Areas shall be separated from the Lot to which it appertains and, even though not specifically mentioned in the instrument of transfer, such Percentage Interest and such right of exclusive use shall automatically accompany the transfer of the lot to which they relate.
- 4.3 Computation of Percentage Interests. All Lot owners holding Percentage Interests in the Common Area do so based on the fact that the Lots are substantially equal in size. The Percentage Interest in the Common Area shall be for all purposes including, but not limited to, participation in assessments for Common Expenses.
- 4.4 Easement for Encroachment. If any part of the Common Area encroaches or shall hereafter encroach upon a Lot or Lots an easement for such encroachment and for the maintenance for the same shall and does exist. If any part of a Lot encroaches or shall hereafter encroach upon the Common Area, or upon an adjoining Lot or Lots, an easement for such encroachment and for the maintenance shall and does exist. such encroachments shall not be considered to be encumbrances either to the common Area or the Lots. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of the building(s) on the tract, by error in the original Plat, by settling, rising or shifting of the earth, or by changes in position caused by repair or reconstruction of the Project or any part

thereof.

4.5 Easement for Utility Services. There is hereby created a blanket easement upon, across, over and under the Tract described in the Plat for egress, ingress, installation, replacing repairing and maintaining all utilities, including but not limited to, water, sewers, gas, telephones, electricity, and other utility services.

4.6 Use of Lots and Common Areas.

ENT 40688 BK 3970 PG 12

(a) There shall be no obstructions of the common Areas by the Owners, their tenants, guests or invitees without the prior written consent of the Committee. The committee may by rules and regulations prohibit or limit the use of the Common Areas as may be reasonably necessary for protecting the interests of all the Owners or protecting the Units or the common Areas. Nothing shall be kept or stored on any part of the Common Areas without the prior written consent of the Committee, except as specifically provided herein. Nothing shall be altered on, constructed in or removed from the Common Areas except upon the prior written consent of the Committee.

(b) Nothing shall be done or kept on any Lot or in the Common Areas or nay part thereof which would result in the cancellation of the insurance on the Project or any part thereof or increase of the rate of the insurance on the Project or any part thereof over what the Committee, but for such activity, would pay, without the prior written consent of the Committee. Nothing shall be done or kept in any Lot or in the Common Areas or nay part thereof which would be a violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body. No damage to, or waste of, the Common Areas or any part thereof shall be committed by any Owner or any invitee of any Owner, and each Owner shall indemnify and hold the committee and the Owners harmless against all loss resulting from any such damage or waste caused by him or his invitees; provided, however, that any invitee of the Declarant shall not under any circumstances be deemed to be an invitee of any other Owner. No noxious, destructive or offensive activity shall be carried on in any Lot or in the Common Areas or any part thereof, not shall anything be done therein which may be or may become an annoyance or nuisance to any other owner or to any person at any time lawfully residing in the Project.

(c) No Owner shall violate the rules and regulations for the use of the Lots and of the Common Areas as adopted form time to time by the Management Committee.

4.7 Building Type and Use: All Lots shall be known and described as residential Lots and shall be used only for custom build residential Homes, country estates. No structure shall be erected, altered, converted, placed or permitted to remain, on any Lot in Plat "A" and Plat "B" lots 52-61 and 72-75 other than a one single-family dwelling not to exceed two and one-half (2-1/2) stories in height, together with attached garage and any related structure approved by the Committee; all building and improvements shall be used solely for single family residential purposes and shall not be used for commercial

purposes or in violation of zoning or other laws or regulations. No structure may be erected prior to construction of the main dwelling. The Project is intended only for the custom built homes of harmonious design to complement the natural terrain and other homes constructed in the subdivision. No mobile homes, pre-manufactured homes, or domes shall be approved.

ENT 40688 BK 3970 PG 13

- 4.8 Dwelling Size: The minimum size of the dwellings is not the only criteria used in the decision to approve or disapprove plans. Plans which meet the minimum size requirement may be disapproved based on other criteria. The size of the dwelling is established primarily to reflect the Declarant's intent regarding the quality of the Project. Recognizing that size is not necessarily indicative of the quality, the Committee may grant reasonable requests for variances to size criteria or give credit for special construction amenities when, in its opinion, such variances and credits enhance the quality and compatibility of the structure and the Project development.

The following shall apply to the single family lots and pad sites:

The finished, enclosed living area of the main dwelling structure, exclusive of garages and porches, shall not be less than eighteen hundred (1,800) square feet for a one level dwelling nor less than twenty-six (2,600) square feet (NOT including the basement) for a multiple level dwelling, but the ground floor finished enclosed living area for a dwelling of more than one level shall be not less than thirteen hundred (1,300) square feet. The main level of a ranch with a basement shall not be less than eighteen hundred (1,800) square feet and the total square footage of the home shall not be less than twenty eight hundred (2,800) square feet including basement. In its sole discretion, the Committee may treat a bi-level or a Home with walk-out basement as a single or multi-level building depending upon its appearance, size, location and amount of finished interior space. Attached garages are required for all houses and shall be of size to accommodate not less than three cars.

The following shall apply to the twin home residential lots in Plat "B":

The finished area, enclosed living area of the main dwelling structure, excluding garages and porches, shall be no less than 1,500 square feet on one level per residential dwelling unit, not including basement and not less than 2,400 square feet including basement. In its sole discretion, the committee may treat a bi-level or home with a walk-out basement as a single level or multi-level building depending upon its appearance, size, location and amount of finished interior space. Attached garages are required for all homes and shall be of size to accommodate not less than two cars.

- 4.9 Building Location: When the house plans are submitted, there shall be submitted to the Committee a separate plot plan showing the planned location of all improvements contemplated upon the Lot, and the Committee may alter the site location or deny construction if, in the opinion of the Committee, the proposed site location would

unduly interfere with adjoining Lots as to view, proximity and construction, the natural growth or terrain, or cause other potential interference with existing or proposed construction on adjoining Lots. Buildings should be located on Lots in such a way as to minimize damage to existing foliage and natural growth.

ENT 40688 BK 3970 PG 14

- 4.10 Setbacks: The only set back requirement is the front of the house is erected not less than twenty five (25') feet from the front property line.
- 4.11 Temporary Residences: No structure of temporary character, trailer, basement, tent or accessory building shall be used on any Lot as a resident, temporarily or permanently.
- 4.12 Time of Construction and Builder's Compliance Fee: Once construction shall have been initiated on any structure, residences, ancillary buildings or any other structure which has been previously approved by the Committee, construction of that particular structure, including landscaping, shall be completed within twelve (12) months of the time such construction was initiated. The Committee may extend the time for completion under unusual circumstances, and any such time extension shall be in writing. In no event, other than inclement weather, shall final grading and clean-up (debris, stumps, limbs, leftover building items, etc.) be delayed more than thirty (30) days after completion of a Home.

If any structure be abandoned, Declarant or the Committee shall have the authority to remove or complete all or portions of such structures so as to prevent its being unsightly and a detriment to the area. Notice of intent to remove or complete will be mailed to the Owner at his last known address, and shall be posted on the Lot ten (10) days prior to such action and, in the event that such removal becomes necessary, the Owner of the Lot shall be liable for all costs of such work, which costs shall constitute a lien which shall be recorded against said Property, and shall be due and payable immediately and bear interest at the rate of eighteen percent (18%) per annum or two percent (2%) above the prime rate as set forth in the Wall Street Journal, whichever is higher, until paid.

- 4.13 Obstructions to Vision at Intersections: No fence, wall, hedge, tree, shrub planting or other structure which unduly obstructs lines-of-sight shall be placed or permitted to remain on any corner formed by the intersections of streets. The Committee shall be the sole and exclusive judge of whether said obstruction exists or may exist or whether a possible safety hazard may exist.

Nuisance: Nothing shall be done or permitted on any Lot which may be or become an annoyance or nuisance to the neighborhood. No noise or any noxious or otherwise offensive activities or commercial businesses or trades shall be carried on upon any Lot. Any exterior lighting on any Lot shall either be indirect or of such controlled focus and intensity as not to unduly disturb residents of adjacent or nearby property.

No horses, trail bikes, minibikes, motorcycles, all-terrain vehicles, snowmobiles, or other such noise causing vehicles shall be operated within the Project other than on public roads and going to and from residences. No activity shall be permitted which will generate a noise level sufficient to interfere with the reasonable quiet enjoyment of the persons on any adjoining or nearby Lots.

ENT 40688 BK 3970 PG 15

- 4.14 Refuse and Rubbish: Rubbish, garbage or other waste shall be kept and disposed of in a sanitary manner. Containers or other equipment for the storage or disposal of garbage, trash, rubbish or other refuse shall be kept in a clean, sanitary condition. All garbage or trash containers shall be kept at all times in a closed garage or placed in walled-in areas designed to blend in with the house so that they shall not be visible from other Lots or from public streets. Bottled gas tanks, if any, must be underground, or concealed behind walled-in areas designed to blend in with the house, and must be approved by the Committee and may be subject to the approval of the Fire Department. No trash, litter, junk, equipment, boxes or other such items shall be permitted to remain exposed upon any Lot and visible from public streets or from other Lots within the subdivision.
- 4.15 Signs: Except for project signs of Declarant, all other signs displayed must be first approved in writing by Declarant or the Committee. This covenant does not preclude the display of customary 18" x 24" builder or real estate signs. Declarant or the Committee reserves the right to make exceptions to size requirements, or to require modification or removal of any signs deemed not in keeping with the appearance of the Project; however, neither Declarant nor the Committee shall require real estate signs to be smaller than provided herein, and this restriction shall run with the land and may only be changed with the prior written consent of the Declarant. Declarant, its monuments on Lots at either side of the street at each entry point into the Project, and may also erect gateways, fences, posts, walls, signs and other structures both to permanently identify the Project and to market it. In addition, Declarant reserves the right to place signs on any Lot in the subdivision as Declarant deems necessary for marketing, safety or traffic guidance, and Owners of Lots in the Project agree thereto. Easements are hereby created for all signs, gateways, fences, posts, walls and structures installed by Declarant and for their maintenance. Association shall maintain all entrance signs, fences, monuments and structures, pay utility bills, and pay all expenses related thereto.

4.16 Clothes Drying Area: Exterior clotheslines are prohibited.

4.17 Utilities:

All utility lines, including service lines of whatsoever kind or nature, shall be underground on all Lots within the Project. It shall be the responsibility of each Owner to extend underground service lines to his house from existing lines or lines.

4.18 Animals:

No animals, poultry or livestock of any kind shall be housed, raised or kept on any Lot or property either temporarily or permanently except that commonly accepted domestic household pets may be kept, provided that they are not kept or maintained for any commercial purposes and provided further that they are kept in full compliance with any applicable rules and regulations of the Association.

No pets shall be permitted to run loose and shall be kept under control of owners at all times. Kennels for the commercial raising, breeding and boarding of animals are prohibited.

4.19 Easements: Easements for installation, operation and maintenance of utilities, roadways, water lines, drainage facilities and such other purposes as may be designated by Declarant and/or governmental authorities are reserved on, over and under a strip of land ten feet (10') wide along all front Lot lines, and as shown on recorded Plat Map.

4.20 Redivision: Further subdivision of Lots in the Project is not permitted, however, the intent of this covenant is not to preclude minor Lot line adjustments to resolve building hardships, provided that such variations meet all legal requirements and are approved by Declarant and the Committee in writing. If a Lot line had been vacated, the affected property may not be again redivided into separate Lots without the prior written approval of Declarant, in addition to meeting all of the requirements of any government entities and the prior written approval of the Committee. Notwithstanding this paragraph, the Declarant may redivide and/or replat the Project.

ARTICLE V

ASSESSMENTS

5.1 Assessments:

5.2 Creation of the Obligation for Assessments. Each Owner, for each Lot owned within the Property, by acceptance of a deed therefor or interest therein, whether or not it shall be so expressed in such deed, shall be deemed to covenant and agree to pay to the Association, in the manner, amounts and times prescribed herein, all assessments, charges, fees, fines and other sums which are described in this Declaration (hereinafter collectively called the "Assessments") and which shall be both a personal obligation of the Owner and a lien against his Lot as provided herein. Each Owner shall be jointly and severally liable to the Association for the payment of all Assessments. The personal obligation for delinquent Assessments shall not pass to an Owner's successors in title or interest unless expressly assumed by them. No Owner may waive or

otherwise escape personal liability for the payment of the Assessments by non-use of any common properties or services, by abandonment or leasing of his Lot, or by asserting any claims against the Association, the Declarant or any other person or entity.

ENT 40688 BK 3970 PG 17

- 5.3 Purpose of Assessments: The Assessments levied by the Association shall be used exclusively to promote the health, safety and welfare of the Owners and for the improvement and maintenance of the Project as more specifically provided herein.
- 5.4 Monthly Assessments: The monthly assessments may specifically include, but shall not be limited to, expenses of management of the Association and its activities; taxes and special Assessments upon the Association's real and personal property, if any; premiums for all insurance which the Association is require by statute or First Mortgages to maintain, or all insurance authorized by the Board in its sole discretion, and all other expenses connected with such insurance; the creation of adequate reserve funds for maintenance, repairs and replacement of those elements of common property or maintenance that must be done or replaced on a periodic basis and are payable in regular installments, rather than by Assessments; and, any other costs, expenses, and fees which may be incurred or may reasonably be expected to be incurred by the Board, in its sole discretion, for the benefit of the Owners under or by reason of this Declaration including, without limitation, expenses relating to the Augmentation Plan and any common properties.
- 5.5 Limited on Annual Assessments: Until January 1, 1997 the maximum annual Assessments on each Lot shall be fifty Dollars (\$50.00), and thereafter until January 1, 1998, the maximum annual assessment shall not exceed One Hundred and Fifty Dollars (\$150.00) and after that date it may be increased by the Association's Board of Directors at a rate not to exceed ten percent (10%) per year thereafter, provided however, that the annual Assessment, exclusive of any optional user's fees and any insurance premiums paid by the Associations, shall not exceed \$300.00 per year.
- 5.6 Procedure for Annual Assessments: The Assessments shall be payable in a quarterly amount and shall commence as to all Lots, including Lots owned by Declarant, when the first Lot is conveyed to a purchaser from Declarant. The Association's Board of Directors may fix the monthly Assessment at an amount not in excess of the maximum stated above and shall provide such notice and procedure for budgeting and collection as the Board deems appropriate in its sole discretion. The Association may furnish to an Owner, upon written request delivered to the Association's registered agent, a written statement setting forth the amount of any unpaid Assessments levied against a Lot, and the statement may be relied upon all Owners acting in good faith thereon as conclusive evidence of payment of such Assessment.

5.7 Collection of Assessments:

ENT 40688 BK 3970 PG 18

- 5.8 Personal Liability. Any Assessment which is not paid when due shall be delinquent, and the Association may impose a late charge for each month any Assessment is delinquent, and may also collect the attorneys fees, costs and expenses of any collection. Additionally, the Association may bring an action at law against any Owner personally obligated to pay any Assessment and, in the event of any lawsuit, the delinquent Owner shall pay all attorneys fees, court costs and any expenses of such lawsuit.
- 5.9 Lien. Additionally, any such unpaid Assessment, together with all expenses of collection and attorneys fees, shall be a continuing lien upon the Lot against which such Assessment was made. The Association may enforce such lien by filing with the Clerk and Recorder of Utah County a statement of lien with respect to said Lot, setting forth such information as the Association may deem appropriate. Said lien shall run with the land and shall additionally secure all Assessments and expenses which become due after its filing. Said lien may be foreclosed by the Association in the manner provided for foreclosures of mortgages under the laws and statutes of the State of Utah. All rights and remedies of the Associations are cumulative, and foreclosure of the lien shall not prevent a lawsuit against the Owner personally liable therefor whether taken before, after or during such foreclosure. Said lien may be released by recording an appropriate document executed by an officer or agent of the Association. Such lien is in addition to any statutory lien allowed to the Association by law. Said lien shall be superior and prior to any homestead rights or similar exemption now or hereafter provided under state or federal law to any Owner, whose acceptance of a deed to a Lot shall constitute a waiver of such homestead or other rights.
- 5.10 Subordination of the Lien to Mortgages. The lien for any Assessment provided for herein shall be subordinate to the lien of a First Mortgage recorded before the delinquent Assessment was due. Sale or transfer of any Lot shall not affect the lien for said Assessment except that sale or transfer of any Lot pursuant to foreclosure of any such First Mortgage, or any proceeding in lieu thereof, including deed in lieu of foreclosure, shall extinguish the lien of Assessment which became due prior to any acquisition of title to such Lot by the First Mortgagee pursuant to any such sale or transfer, or foreclosure, of any proceeding in lieu thereof including, without limitation, any deed in lieu of foreclosure. No such sale, transfer, foreclosure, or any above-described proceeding in lieu thereof, shall relieve any Lot from liability for any Assessment becoming due after such acquisition of title, nor from the lien thereof, nor the personal liability of the Owner of such Lot for Assessments due during the period his ownership.

ARTICLE VI

ARCHITECTURAL CONTROL

6.1 Architectural Control and Design:

ENT 40688 BK 3970 PG 19

6.2 Purpose. The purpose of this covenant is to assure, through intelligent architectural control of building design, placement, materials, colors and construction, the Project shall become and remain an attractive residential community, and to uphold and enhance property values.

6.3 Architectural Control Committee:

(1) Composition: The Committee is composed of Declarant, its heirs, successors or assigns, represented by three (3) persons who shall be appointed by Declarant until a majority of the Lots have been sold by Declarant; however, at its option and choice of time, Declarant may relinquish control of the Committee to the Association at any time; after the Association controls the Committee, the three (3) members shall be appointed by the Association's Board of Directors.

Members of the Committee shall serve two year terms, provided however, any member appointed by the Declarant may be removed by the Declarant and any member of the Committee appointed by Association may be removed by a vote of two-thirds (2/3) of the Board. In the event of the death or resignation of any member of the Committee, the remaining members thereof shall have full authority to designate a successor elected member to fill the remaining term.

(2) Non-Liability: Neither the Declarant, the Committee, the Association, nor any persons acting therefor, shall be liable in damages or otherwise to any person submitting requests for approval or to any Owner by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove with regard to such requests, or with regard to any other actions taken by the Committee or the Association under authorization of the provisions hereof.

(3) Records retained by Committee: The Committee shall maintain records of election of its members. It shall retain a complete file of applications, Home plans, and location sketches until all structures applied for thereunder have been completed and for five (5) years thereafter. If requests for additions are made, both the original plans and plans for said additions will be kept until said additions are completed.

(4) Compensation: A non-refundable architectural review fee not to exceed One Hundred Dollars (\$100.00) shall be submitted along with each submittal of plans to the Committee to defray the administrative costs of the review process. Any unused portions thereof shall be deposited into the Enforcement Fund as set forth in Paragraph 7.3 hereof. No compensation other than reimbursement of expenses, shall be received by members of the Committee for services performed pursuant to this covenant.

6.4 Procedure for Obtaining Approval of Plans:

ENT 40688 BK 3970 PG 20

(1) The application and plans shall be submitted with review fee to the Committee.

(2) If the Owner believes that his plans may encounter serious objections, he should submit preliminary drawings and/or a preliminary sketch and request, in writing, and preliminary review prior to incurring the expense of having detailed architectural working plans drawn. Such preliminary review shall not constitute final action.

(3) The Owner shall make written application on a form provided by and obtained from the Committee which shall be submitted with the following attachments:

(a) One (1) copy of a site plan, drawn to scale, showing the exact location on the Lot of all proposed improvements (house, well, septic, leach field and other buildings even if only contemplated for the future). Exact proposed setbacks from Lot lines must be delineated. Access routes (driveways) to proposed structures and any clearing, plantings, outside lighting plans, or fencing must be included.

(b) One (1) complete set of construction plans for building(s) detailing the floor plan, elevations, site locations, and exterior building materials.

(c) Color samples and, if deemed necessary by the Committee, samples of siding, roofing and other material.

(d) A landscape plan shall be submitted in accordance with this Declaration.

(e) The Committee shall examine and consider plans, make field trips to the site; the Owner may be required to provide a survey and shall stake out the proposed location of buildings prior to submission of final plans. The Committee shall approve or disapprove all submissions in writing and shall return a copy of the submission form with its determination and

comments, as appropriate. The set of plans, site plan and material/color samples shall be kept in the files of the Committee. The Committee may require the Owner to make other submissions, to include material samples, prior to considering any application.

ENT 40688 BK 3970 PG 21

(f) The Committee should seek to approve or disapprove submissions within thirty (30) days of written receipt, but, if disapproved, the Committee may take an additional thirty (30) days to consider any resubmitted plans. Normally, submissions will be resolved in less time, but Owners should plan sufficiently in advance to give the Committee time to examine thoroughly plans, make on-site inspections and make well-considered decisions. In the event that the Committee fails to approve or disapprove within sixty (60) days after written receipt of any written submission or, in any event, if no suit has been filed to enjoin the construction prior to its completion, approval shall not be required, and the related covenants requiring Committee approval shall be deemed to have been fully complied with, provided that all other covenants herein have been properly observed and complied with. The foregoing notwithstanding, no plans shall be approved nor shall the above sixty (60) day automatic approval pertain, unless the Owner is current on his Assessments to the Association.

(g) Yoting: A two-thirds vote (2/3) of the Committee shall determine approval or disapproval. The Committee members will coordinate and work in concert with each other and report their decisions as a group and not individually.

6.5 Authority of Committee: The Committee is empowered to approve or disapprove in writing all plans for construction, site locations, clearing, plantings, fencing, additions to existing structures, remodeling that alters the exterior, replacement of roofs, changing of house colors and any other changes in the natural environment of Lots or appearance of Homes in the Project. Disapproval of submissions by the Committee may be based upon any grounds, including purely aesthetic grounds. If such submissions are disapproved, the Committee shall give written reason for said disapproval to applicant. The Committee may make other reasonable requirements of the applicant including, but not limited to, submission of additional plans, specifications, and material samples, and may require such changes as it deems necessary to conform to the overall intent as herein expressed.

The Committee shall have the right to alter site locations as shown on the submitted site plan, or deny construction if, in the opinion of the Committee, the proposed site locations will unduly interfere with adjoining Lots as to view, intrusions or sound or light, sanitation, proximity or type of construction, actual or proposed, or unduly

The Committee may prohibit the construction of fences, houses or any other improvements to any Lot, and is empowered to order their removal if written application was not made by the Owner, or if approval was not granted in accordance with these covenants, or if actual construction is different from the approved plans.

The Committee, upon written request, shall have the authority to grant in writing, variances from the provisions of this Declaration as they apply to construction and setbacks, in cases of irregularly shaped Lots, unusual terrain, highly desirable building sites near Lot lines, or other conditions wherein the strict enforcement of these covenants would result in unusual hardship. The Committee shall be the sole and exclusive judge of whether or not such hardship exists. It is the intent of these Declarations that the Committee shall exercise broad discretionary powers hereunder and its decisions shall be final and conclusive. The Committee shall resolve all questions and interpretation and these covenants shall be interpreted in accordance with their general purpose and intent as herein expressed.

6.6 Architectural Design and Requirements: In addition to the other requirements hereof, the following pertain:

(1) Construction: No building, accessory building, structure, walls, gates, hedges, fences, mailboxes, driveways, windbreaks, swimming pools, flagpoles, greenhouses, common areas, hot tubs, satellite dishes, windmills, pump houses, water tanks, gas tanks, exterior lighting or other improvements shall be commenced, erected, converted, placed, added to, maintained or altered on any Lot until the construction plans and specifications, to include design, height, material and color samples to be used, and a site plan showing the exact location of the structure(s), have been approved by the Committee in writing as to quality of workmanship and materials, harmony of external design with existing structure(s), location with respect to other structures planned, and as to topography and finished grade elevation. This requirement applies both to new construction and to subsequent changes, additions, repainting and major repairs or renovations. No constructions of any such improvement shall be commenced until the Committee approvals required by these covenants are obtained. All construction shall comply with the Development Guide, including wildfire mitigation, and fire retardant materials should be used whenever possible.

(2) Masonry: A minimum of seventy five percent (75%) of the exterior area of the primary dwelling shall be of masonry construction (e.g., brick, stone, cultured stone, stucco).

(3) Color: Structural color schemes shall be compatible with the natural environment of the Project. Subdued, unobtrusive colors will normally be required, and color samples must be submitted with plans.

ENT 40688 BK 3970 PG 23

(4) Facing/Siding: Exposed concrete on building shall be stuccoed, or covered with brick or stone or other material meeting the approval of the Committee. If brick or stone is used as facing, other than decoratively, it must be used on all sides of a building as seen from any road. Natural wood siding must be treated and periodically maintained with some type of preservative or stain, and color samples shall be submitted with plans.

(5) Chimneys: Spark arresters shall be required on all chimneys, and open fires in the Project are prohibited.

(6) Roofing: Roof materials and color shall be consistent with architecture, color, and exterior wall material of any structure. Shake shingles, as described below, tile, or slate, real or similar, will normally be required; however, the Committee may allow variations from this requirement in those cases where such variation would be harmonious with the surrounding area and where such roofing materials would not be practical for a particular design or structure. New and modern materials with shake appearance are encouraged. No asphalt or asbestos shingles will be permitted, except as approved by the Committee to be compatible with a shake or tile appearance, except architectural 80 grade asphalt shingles. The overhang of the roof on ranch-style Homes shall normally be at least eighteen (18) inches.

(7) Energy Features: Energy efficiency is encouraged through well-sealed and insulated construction and the use of passive solar design techniques. Roof-mounted solar collectors, skylights and other unusual or energy conservation features should be custom designed and must be approved by the Committee. Roof mounted solar collectors shall match the slope of the roof to which they are attached. Solar collectors shall be located or screened so that reflections do not unreasonably defeat the intent of these covenants to maintain a natural environment. Tall wind-powered electrical generators are prohibited.

(8) Extreme Designs: Homes of extreme design may or may not be approved depending upon location and appearance, it being the intent of these covenants to establish an area of quiet, unobtrusive dignity and quality consistent with other Homes in the Project.

(9) Materials. All materials used in the construction, alteration or remodeling of any building shall be new and of good quality and design. Used materials of

good quality may be used, provided they are first approved in writing by the Committee.

ENT 40688 BK 3970 PG 24

(10) Mailboxes. Mailboxes and their support structures should be of a quality to enhance the Home and must be approved by the Committee. Normally support structures for mailboxes will be of masonry construction (for example, stone, brick, concrete, stucco, cultured stone, etc.) but a combination of masonry and wood compatible with the colors and materials used on the Home will be considered. The box itself, if made of metal, shall be painted to cover raw or galvanized metal which is deemed unattractive. The masonry materials used in the support structure shall be the same or similar to the masonry portion of the Home in texture and color. The street address numbers on the mailbox structure shall be made of brass, other metal, or ceramic. Wooden numbers will not be approved. Plastic or metal newspaper boxes are not permitted; therefore, mailbox designs should incorporate a separate space for newspapers, as the U.S. Postal Service rules prohibit placing newspapers or anything other than U.S. mail in a mailbox. Maintenance of the mailbox and post system in good, attractive, painted (if appropriate) condition shall be the responsibility of the individual Owners.

(11) Fences: Fencing and hedges will be permitted only on the rear property line only on the rear property line of Plat "A" but shall normally be no higher than six feet (6') and must not enter the common areas. Fences shall only be constructed of vinyl material. All fences in Plat "B" shall conform to American Fork City fencing Ordinances and shall be constructed of Vinyl materials only.

(12) Antennas: Attic antennas inside the house (as opposed to roof antennas) are effective, are less vulnerable to damage and are encouraged. Tall or otherwise prominent and visible antennas are prohibited. Mini-satellite dish antennas may be used only in areas where they will be unobtrusive, and shall be painted and screened to blend in with the natural environment; they must be approved in writing by the Committee prior to installation. Screening with small trees is effective and minimizes unattractive views from public roads and adjoining Lots. Full size satellite dishes are not permitted.

(13) Lighting: Outdoor lighting will be permitted to the extent it does not create a visual nuisance to neighboring property (except that reasonable landscape lighting may be approved by the Committee). Outdoor lights will be focused. Lighted entry pylon and/or driveway lights will be of a type that can be turned on and off by the Owner, and placed so as to avoid annoying nearby Lot Owners. Normally, such lights shall be turned off when not needed.

(14) **Landscaping:** New plantings and growth will be controlled so as not to unreasonably obstruct mountain views from adjoining Lots. The Committee is authorized, but not obligated, to enforce removal, thinning or topping of view obstructions and, in their sole discretion, to determine the validity of any complaints. The Committee may remedy any view obstruction by entry and removal of the offending item, as well as exercising any rights and remedies hereunder. Landscape to be complete no later than 12 months past date of building permit issuance.

ENT 40688 BK 3970 PG 25

- 6.7 **Penalty Fee for Violations:** Written application for approval of plans shall be made by the Owner of the Lot (not the builder) and the Owner shall be held responsible for any violations of this Declaration which are committed by the builder or other persons engaged by the Owner. If any excavation, cutting of trees, or construction is commenced by Owner or Owner's representatives prior to receipt of written approval by the Committee, then the Owner agrees to pay an immediate fine of One Thousand Dollars (\$1,000.00) to the Enforcement Trust Fund described in Paragraph 7.3, which shall utilize said funds to enforce this Declaration as necessary. Purchasers of Lots in the Project agree to make such payment and understand that a lien shall be filed against their Lot if they do not, as provided in Paragraph 7.3. Further, if legal action is necessary to enforce this Declaration, Owners agree to pay all expenses and to include reasonable legal fees incurred by the Committee or the Association in collection of said fine. Payment of said fine does not preclude further action by the Committee to disapprove plans in areas in which clearing or construction has begun.

ARTICLE VII

ENFORCEMENT

- 7.1 **Enforcement:**
- 7.2 **General Enforcement.** Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant, either to restrain violation or to recover damages. Covenants are for the use, convenience and protection of all Owners and the Association. The Declarant, the Committee, any Owner or the Association may act to enforce the covenants; none of the foregoing, however, are obligated to do so. The Declarant and the Committee, together or separately, or through authorized agents or employees, further reserve the right, whenever there shall have been an apparent violation of one or more of the provisions of these covenants and after ten (10) days notice to Owner, to enter upon the Lot where such violation exists and summarily abate or remove the same at the expense of the Owner, and such entry and abatement or removal shall not be deemed a trespass. Owners in the Project expressly agree to abide by injunctions without necessity of bond, in order to simplify judicial proceedings to remedy covenant violations. In addition, if a judicial action is

necessary to prohibit a covenant violation and a violation is established, the violator(s) shall pay and agree to pay all costs of the enforcement proceeding, including without limitation reasonable attorneys' fees. The failure to enforce any right, reservation, restriction, or condition contained herein, however long continued, shall not be deemed a waiver of the right to do so thereafter as to the same breach or as to a breach occurring prior to or subsequent thereto and shall not bar or affect its enforcement. The invalidation by any court of any restriction herein contained shall not in any way effect any of the other restrictions, but they shall remain in full force and effect.

- 7.3 Enforcement Trust Fund: One Hundred Dollars (\$100.00) each shall be paid at closing by the purchaser of each Lot; and said funds shall be kept in a trust fund by Declarant to be used for enforcement of this Declaration. Any fines under Paragraph 6.7 or as otherwise may be collected from time to time shall also be placed in said fund. Said fund shall be used by Declarant, its successors and assigns, for paying future legal and other expenses involved in enforcing this Declaration, and the Declarant is hereby authorized to use said fund. In addition, said fund or portions thereof may be transferred into the Association treasury for the purposes set forth herein, and may be used at the discretion of Association for paying subdivision expenses which shall no longer be the responsibility of the Declarant, such as maintenance of entrance ways and signs, special mailings, and other expenses; however, the fund shall not be depleted to the extent that insufficient funds are available to enforce the covenants. Likewise, the Association may transfer Association funds into the Enforcement Trust Fund if needed to enforce these covenants. The Committee or the Association desiring to use said fund for the enforcement of these covenants shall make written request of Declarant for the use of monies in said fund, and Declarant shall have sole authority to approve or deny any such request. The Fund shall be kept by Declarant in an interest-bearing account which may be closed and funds distributed to the Association after all Lots have been built upon, or earlier, at the discretion of Declarant.
- 7.4 Liens: Nonpayment of fees incurred by Declarant or the Committee or the Association in enforcing correction of a violation of these covenants or in abatement or removal as covered herein shall result in a recorded lien being placed upon the Lot or Lot interest owned by the violator(s), including improvements thereon; said lien shall bear interest at eighteen percent (18%) per annum or two percent (2%) above the prime as set forth in the Wall Street Journal, whichever is higher, from the date filed. Declarant or the Committee or the Association is empowered to file such lien if, within thirty (30) days of written notification to Owner of amount due, the Owner has not made payment in full. Such lien shall run with the land except as provided in Paragraph 9 hereof. Continued failure to pay such liens may result in foreclosure on the entire Lot in order to enforce payment as provided by Paragraph 9 hereof.

OWNERS ASSOCIATION

- 8.1 Association: The Association shall operate as a Utah non-profit corporation pursuant to its Articles of Incorporation and By-Laws, which may include, without limitation, provisions for the indemnification of officers and directors. Every Owner of a Lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. If additional Lots are added to the Association, membership shall automatically be expanded thereby. Members shall have the right to cast votes on all matters to be voted on by the members, as provided in the Association's Articles of Incorporation and By-Laws. Each member shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

ARTICLE IX

ENT 40688 BK 3970 PG 27

RIGHTS OF DECLARANT

Right of Declarant: Notwithstanding any contrary provision of this Declaration, the Declarant, its successors or assigns, expressly reserves the following rights and privileges, which may or may not be exercised in the Declarant's sole discretion:

Declarant may amend or change the plat to add additional property to the subdivision, change Lot lines or subdivide Lots into more Lots, and/or grant utility or other easements.

The Declarant, or any builder authorized Declarant may construct and maintain sales offices, management offices, advertising signs, model Homes, construction yards and construction materials within the Project.

Declarant may grant easements for utilities or public purposes through the Property and make improvements or changes necessitated by such easements.

The Declarant may, until the Declarant has conveyed a majority of the Lots to residential purchasers or December 31, 1999, whichever occurs earlier, appoint or remove any officer of the Association or any member of the Board of Directors of the Association. Following the relinquishment of control by Declarant, the Owners shall elect the Board as provided in this Declaration, the Articles of Incorporation and the Bylaws.

The Declarant may, without vote of the Owners or Mortgagees make such amendments to this Declaration, the Articles of Incorporation and/or the By-Laws as may be authorized and approved in writing by the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration, or the Department of Veterans Affairs so as to induce such organizations to make, purchase, sell, insure or guaranty First

Mortgages within the Property, provided however, no such amendment will change the intent of these covenants to establish and maintain the Project as a single family residential area of high quality. Each Owner, and Mortgagee, by accepting a deed or mortgage, appoints Declarant as his or its attorney in fact to execute any such amendment.

ENT 40688 BK 3970 PG 28

The Declarant may enter into agreements with the purchaser of any Lot or Lots (without the consent of the purchasers of other Lots or adjoining or adjacent property) to deviate from those conditions, restrictions, limitations and agreements herein set forth, and any such deviation which shall be manifested by agreement in writing shall not constitute a waiver of any such condition, restriction, limitation, or agreement as to the remaining Lots in the Project, and the same shall remain fully enforceable on all other Lots located in the Project by Declarant, its successors or assigns, and the Association or other Owners, except as against the Lot where such deviation is permitted.

Until December 31, 1999, the Declarant reserves the right to expand the Project, without approval of the Owners or Mortgagees, to include additional real property and improvements but the total number of Lots as expanded shall not exceed two hundred (200) Lots. Such expansion may be accomplished by recording a supplement or supplements to this Declaration with the Clerk and Recorder of Utah County, Utah containing a legal description of the real property thereby annexed and any additional provisions deemed appropriate by Declarant, which may annex the property in phases, but shall not be liable or obligated to annex any property. Upon annexation, the additional property and the owners thereof shall be bound by this Declaration, the Association's Articles of Incorporation, By-Laws and Rules, and any additional provisions in the annexation supplement. By accepting a deed to any Lot or a Mortgage, each Owner and Mortgagee grants Declarant a right to expand the Project and consents to such annexation expanding the Project and will not oppose or hinder Declarant's right to expand and annex additional real property and improvements or to develop adjoining properties and improvements.

ARTICLE X

MISCELLANEOUS

Terms of Covenants: These covenants and restrictions are to run with the land and shall remain in full force and effect for twenty-five (25) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless revoked as provided herein. This Declaration may be revoked or amended at any time by an instrument signed by two-thirds (2/3's) of the Owners of the Lots (one vote per Lot). All amendments shall be certified by the Association's President and Secretary as complying with this Paragraph, and the certified amendment shall be recorded in the real property records of Utah County.

Rules and Regulations. The Association's Board of Directors may adopt, amend, repeal and enforce such rules and regulations as may be deemed necessary or desirable with respect to the interpretation and implementation of this Declaration and matters related thereto, the operation of the Association, the use and enjoyment of the Project including, without limitation, rules to enforce the Augmentation Plan, the Development Guide, and related matters. Any such Rules and Regulations shall be reasonable and uniformly applied as determined by the Board in its sole discretion. Rules and Regulations shall be effective upon adoption by resolution of the Board of Directors. Each Owner and other person shall comply with such Rules and Regulations and shall see that family members, contractors, guests and invites of such Owner comply with the Rules and Regulations. Rules and Regulations shall have the same force and effect as if they were set forth in and were part of this Declaration. The Board of Directors shall have power and discretion to interpret this Declaration, and any such interpretation shall be final, absolute and binding on each Owner, unless made with malice or wanton disregard for an Owner's rights.

ENT 40688 BK 3970 PG 29

Notices: Any notice required to be given to any Owner or other person under the provision of these protective covenants shall be deemed to have been properly given when mailed, post paid, to the last known address of the record owner of the Lot in which the member has an interest.

Declarant May Assign: The Declarant, its successors or assigns, may assign any and all of its rights, powers, obligations and privileges under this instrument to any other corporation, association, committee or person.

VA or FHA Approval: The Declarant has not obtained evidence of approval for guaranteed or insured loans by the Federal Housing Administration or the Department of Veterans Affairs.

Indemnification of Management Committee. Each member of the Management Committee shall be indemnified and held harmless by the Unit Owners against all costs, expenses, and fees, reasonably incurred by him in connection with any proceeding to which he may become involved by reason of his being or having been a member of said Committee.

Number and Gender. Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

Severability. If any of the provisions of this Declaration or any paragraph, sentence, clause, phrase or word or the application thereof in any circumstance be invalidated, such invalidity shall not affect the validity of the remainder of the Declaration, and the application of any such provision, paragraph, sentence, clause, phrase or word in any other circumstances shall not be affected thereby.

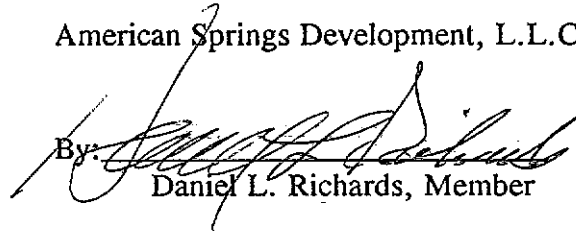
The headings appearing at the beginning of the paragraphs of this Declaration are only for convenience of reference and are not intended to described, interpret, define or otherwise affect the content, meaning or intent of this Declaration or any paragraph or provision hereof.

Effective Date. This Declaration shall take effect upon recording in the office of the County Recorder of Utah County, Utah.

ENT 40688 BK 3970 PG 30

IN WITNESS WHEREOF, the undersigned, being the Declarant, has caused this instrument to be executed and its seal to be affixed hereto on the 13 day of ~~February~~ ^{May}, 1996.

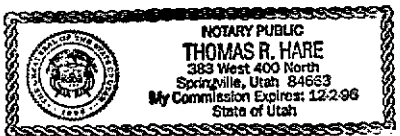
American Springs Development, L.L.C.

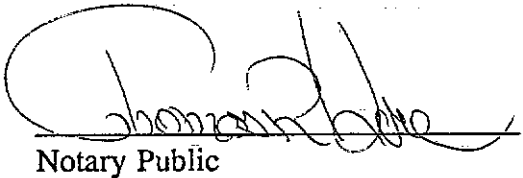
By: 
Daniel L. Richards, Member

STATE OF UTAH)
 :SS.
COUNTY OF UTAH)

Notary Public

On this 13 day of ~~February~~ ^{May}, 1996, personally appeared before me Daniel L. Richards who being by me duly sworn, did say that he is a member of American Springs Development, L.L.C., a Utah limited liability company, and that the foregoing instrument was signed by him in behalf of said company he duly acknowledged to me that the said Company executed the same.




Notary Public

Exp 12/2/96