

EXHIBIT E

**MASTER DECLARATION OF ESTABLISHMENT OF EASEMENTS,
COVENANTS, CONDITIONS AND RESTRICTIONS OF
OREM CENTER BUSINESS PARK**

UTAH
NOTARY PUBLIC
JAN 3 1986
JAN 3 56
TAMM TITLE & Abstract Co.

This Master Declaration is made this 6th day of December, 1985
Orem Tek Development, a Utah corporation, hereinafter referred
to as "Declarant."

WITNESSETH:

WHEREAS, Declarant is the agent of certain property in
the City of Orem, County of Utah, State of Utah, known
as the Orem Center Business Park, which is more particularly
described in Exhibit "A" attached hereto and by this reference
incorporated herein, hereinafter referred to as the "Entire
Property", and,

WHEREAS, Declarant desires to create on the Entire Property
a manufacturing/business park development with permanent
Common Facilities and desires to provide for the preservation
of the values and amenities in said development. To this
end, and for the benefit of the Entire Property and the
Owners thereof, Declarant desires to subject the Entire
Property to the easements, covenants, conditions, restrictions,
charges and liens hereinafter set forth, and

BOOK 23773 PAGE 733

WHEREAS, Declarant desires to develop the Entire Property in individual units (hereinafter referred to as "Units"), each of which shall be subject to this Master Declaration and to a separate Supplemental Declaration of Establishment of Easements, Covenants, Conditions, and Restrictions relating to the specific plan for each such unit, hereinafter referred to as "Supplemental Declarations", which Supplemental Declarations will not be less restrictive than the Master Declaration.

NOW, THEREFORE, Declarant hereby declares that the Entire Property described above shall be held, sold, conveyed, transferred, leased, subleased, and occupied subject to the following easements, covenants, conditions and restrictions which shall run with the Entire Property and which are for the purpose of protecting the value and desirability of the Entire Property, and every portion thereof, and shall be binding upon all parties having any right, title, or interest in the Entire Property or any portion thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof:

BOOK 2373 PAGE 734

ARTICLE I
DEFINITIONS

Section 1. "Common Facilities Manager" shall mean, in the following order of precedence:

A. Declarant, so long as it is an owner of any portion of the Entire Property or until it shall have assigned all of its rights and obligations hereunder to either or both of the entities described in paragraphs B and C of this section.

B. Any association organized in the future by the Owners of two-thirds of the land area in the Entire Property for the purpose of fulfilling the obligations of the Common Facilities Manager under this Declaration (hereinafter referred to as the "Association"), and to which Declarant has assigned its rights and obligations as provided in Subparagraph A of this Section; or

C. Any public agency or authority organized under the laws of the State of Utah, including but not limited to the City of Orem (hereinafter referred to as a "Public Entity") which accepts the responsibility of maintenance and operation of all or any part of the Common Facilities, and to which Declarant has assigned its rights and obligations as provided in Subparagraph A of this Section, provided, however, that such responsibility shall be assigned to

BOOK 2378 PAGE 705

a Public Entity only with the concurrence of the Owners of two-thirds of the land area in the Entire Property; or

D. Any combination of such Association and Public Entity.

Section 2. "Owner" shall mean the record owner whether one or more persons or entities, fee simple title to any Lot which is part of the Entire Property (or in the event of a sale/-leaseback transaction involving any Lot, the lessee or lessees thereunder) but excluding those having such interest solely as security for the performance of and obligation in which event the equitable owner of such fee simple title shall be deemed to be the Owner thereof.

Section 3. "Common Facilities" shall mean the following:

A. That certain lake and its environs which may be shown on any recorded subdivision map and/or a Supplemental Declaration relating to a portion of the Entire Property in such location and with such designs as may be shown on such subdivision map or Supplemental Declaration.

B. Any parcel of land designated as a Common Area on a recorded subdivision map and/or Supplemental Declaration relating to a portion of the Entire Property.

Section 4. "Common Facilities" shall mean all of the following which shall be located within drainage easements and public rights-of-way at such time as such easements are created and such facilities are constructed:

BOOK 2373 PAGE 736

- A. All drainage easements and their drainage systems.
- B. Landscaping.
- C. The irrigation system and associated pumps and hardware.
- D. Street signs.
- E. Street lights.
- F. Street furniture.
- G. Any other facility specifically designated in any Supplemental Declaration relating to a portion of the Entire Property as being Common Facilities.

Section 5. "Lot" shall mean any parcel of land shown upon any recorded subdivision map of the Entire Property, except dedicated public rights-of-way.

Section 6. "Committee" shall mean the Architectural and Development Control Committee as defined in Article 11 hereof.

Section 7. "Declarant" shall mean Orem Tek Development & UTA or its successors and assigns, if such successors and assigns are the Owners of any portion of the Entire Property and/or are designated by Orem Tek Development to perform the obligations of Declarant hereunder.

Section 8. "Building" shall mean and include, but not be limited to, the main portion of a structure built for permanent use and all projections or extensions thereof, including but not limited to garages, outside storage areas, outside platforms, canopies, enclosed malls and porches.

Section 9. "Improvements" shall mean and include, but not

BOOK 2373
PAGE 757

be limited to, buildings, driveways, exterior lighting, fences, landscaping, lawns, loading areas, parking areas, retaining walls, roads, screening walls, signs, utilities, walkways, berms and swales all of which are located on a Lot.

Section 10. "Landscaping" shall mean a space of ground covered with lawn, living ground cover, shrubbery, trees and the like which may be complemented with earth berms, masonry or similar materials, all harmoniously combined with themselves and with other improvements.

Section 11. "Occupant" shall mean an entity, whether it be an individual, corporation, joint venture, partnership or association, which has purchased, leased, rented or otherwise legally acquired the right to occupy and use any building or lot, whether or not such right is exercised.

Section 12. "Park" shall mean the Entire Property as from time to time developed and known as the "Orem Center Business Park".

Section 13. "Land Areas" shall mean the entire parcel referred to except dedicated public rights-of-way.

Section 14. "Set Back" shall mean the distance from the property line of the Lot to the Improvement that is subject to the Set Back requirement provided in this Master Declaration or in any Supplemental Declaration.

BOOK 2373 PAGE 738

ARTICLE II
ARCHITECTURAL AND DEVELOPMENT CONTROLS

Section 1. Architectural and Development Control Committee: the Common Facilities Manager shall appoint a three (3) member Architectural and Development Control Committee, one of which shall be Orem Tek Development Corp. so long as it shall own property within the park, Utah Transit Authority so long as it shall own property within the park through its designee and a third party, herein referred to as the "Committee", the function of which shall be to insure that all improvements on the Entire Property harmonize with existing surroundings and structures and meet the restrictions and requirements described in this Declaration or as contained in any Development Guidelines established by the Committee.

Section 2. Submission to Committee: No improvement of a Lot shall be constructed or be maintained, and no significant alteration of any Improvement situated on a Lot shall be performed, unless complete plans and specifications therefore have first been submitted to and approved in writing by the Committee, which approval shall not be unreasonably refused.

Section 3. Approval Procedure: Any plans and specifications submitted to the Committee shall be approved or disapproved by it in writing within thirty (30) days after submission. In the event the Committee fails to take any action within such

BOOK 2373 PAGE 739

period, it shall be deemed to have approved the material submitted; provided, however, that with respect to any such material which constitutes a variation or waiver of any of the requirements in this Declaration stated, such variation or waiver shall be deemed to have been refused.

Section 4. Standards: In deciding whether to approve or disapprove plans and specifications submitted to it, the Committee shall use its best judgement to insure that all Improvements, construction, Landscaping, and alterations on Lots within the Entire Property conform to and harmonize with the requirements and restrictions of this Declaration.

Section 5. Development Guidelines:

A. The Committee shall adopt such Development Guidelines as it deems necessary to inform owners of the standards which will be applied in approving or disapproving proposed construction.

B. Such guidelines may amplify but may not be less restrictive than the regulations and restrictions stated in this Declaration and shall be binding upon all Owners of Lots within the Entire Property provided, however, that such Owners may modify such guidelines as set forth in Article VIII Section 4 of this Declaration.

C. Such guidelines shall specifically state the rules and regulations of the Committee with respect to the submission of plans and specifications for approval, time or times within which such plans and specifications must be submitted, and state such other rules, regulations, policies, and recommendations

BOOK 2373
PAGE 740

which the Committee will consider in approving or disapproving proposed construction of or alteration to buildings.

Section 6. Basis for Approval: Review and approval by the Committee must be based upon the standards set forth in this Declaration and in the Development Guidelines. The Committee shall consider not only the quality of the specific proposal but also its effect and impact upon neighboring Lots, the Entire Property, and the surrounding neighborhoods.

Section 7. No liability for damages: The Committee shall not be liable for damages by reason of any action, inaction, approval, disapproval by it with respect to any requirement made pursuant to this Article.

Section 8. Declarant's Obligation: Declarant hereby covenants in favor of each Owner all Improvements erected by it and all Improvements of the Entire Property made by it shall be architecturally compatible with respect to one another insofar as is possible, with this Declaration and with the Development Guidelines.

BOOK 2373 PAGE 741

ARTICLE III
PROHIBITED USES

Section 1. Entire Property: No portion of the Entire Property may be occupied by any use which is in violation of applicable ordinances, laws, and regulations of any governmental entity having jurisdiction over the use of any of the Entire Property.

Section 2. Use of Land: No structure shall be erected, placed, altered or permitted to remain on any of such lots other than a permanent structure designed and used for the following purposes:

A. Research and development, enclosed light manufacturing, warehousing and distribution, and general business offices.

B. High technology or technology related manufacturing shall be located in Area A of the Park, except where the manufacturing process requires a building height greater than 35 feet exclusive of mechanical equipment or when such processes generate noise, smoke, glare, odors, vibration, dust, liquid wastes, radiation, or radioactivity greater than that allowed in Article III, Section 3. Such buildings shall meet the zoning ordinances of Orem City.

C. Activities of a heavier industrial nature or those requiring building heights in excess of 35 feet shall be allowed

BOOK 2373 PAGE 742

to locate in Area B, provided that such buildings are allowed by the zoning ordinances of Orem City and with written approval of the Committee.

D. Retail uses incidental to and in support of any uses permitted in paragraphs (a) through (d) above, such as cafeterias, banking or copy centers, and shops on the same tract as the permitted use. Retail uses which service the immediate needs of the surrounding residential area may be permitted adjacent to any high image street, subject to approval of the Architectural and Development Control Committee.

E. Operations required to maintain or support any use permitted in paragraphs (a) through (d) above, on the same tract as the permitted use, such as maintenance shops, power plants, antenna farms, machine shops, etc.

F. Public Transit District Facilities operated by a public transit district pursuant to section 11-20-16 Utah Code Annotated 1953 as amended.

In no event shall any land be used in a manner not permitted in the area where such land is located, regardless of any lot designation or description. The following operations and uses shall be prohibited on any lot within the Park.

1. Residential, except for the purposes of housing maintenance and protection personnel.
2. Trailer courts or parks.
3. Retail truck stops.
4. Junk Yards
5. Self Storage Facilities or Public Warehouses
6. Commercial excavation of building or construction materials.
7. Distilling of Bones.
8. Dumping.
9. Disposal, incineration or reduction of garbage, sewerage, dead animals or refuse.
10. Fat rendering.
11. Stockyard or slaughtering animals.
12. Refining of petroleum or its products.
13. Smelting of iron, tin, zinc or other ores.
14. Raising or keeping of livestock or other animals excluding dogs utilized for security of the premises.
15. Kennels or dog pound.
16. Retail motor vehicle garage or repair shop.
17. Circus grounds
18. Coal and coke storage and sales.
19. Contractors shop or storage yard.
20. Fairgrounds.
21. Laundries or dry cleaning establishments.
22. Livery stables and riding academy.

BOOK 2373
PAGE 744

23. Railroad switching yard but not a light rail public transit facility operated by a public transit authority.
24. Commercial tire retreading and vulcanizing shop, but not UTA regrooving.
25. Sports arena or stadium.
26. Retail Service Stations.
27. Outdoor drive-in theaters.
28. Commercial and retail operations (except as specified in paragraph D above).
29. Lumber yards.
30. Hotels and motels (except as specified in paragraph D above).
31. Churches, hospitals or similar institutions.
32. Shopping centers (except as specified in paragraph D above).
33. Retail oil and gas storage.
34. Quarries or removal of quarried materials.
35. Bowling alleys and billiard establishments.
36. Sewage treatment plants or garbage dumps.
37. Fast food establishments, except where ancillary to a permitted use such as on-premises food services provided for persons employed within the boundaries of the Park.
38. Public exposition building or center.
39. Funeral home.

BOOK 2373 PAGE 745

40. Outdoor billboards or other outdoor advertising structures.

41. Airport.

42. Raceways.

The Committee shall be the sole judge of whether a proposed activity falls within such categories.

Section 3. Performance Standards:

A. Intent: It is the intent of this sub-section to provide that office, manufacturing, distribution, public transit facilities and related activities shall be established and maintained with proper appearance from streets and adjoining properties and to provide that each such permitted use shall be a good neighbor to adjoining properties by the control of emission of noise, odor, glare, vibration, smoke, dust, liquid wastes, radiation, radioactivity, etc.

It is the further intent of this sub-section to state the conditions of construction and operation with which all permissible uses will be expected to comply. In many cases the relation of a prospective use to all these performance standards cannot be judged properly at the time of building permit issuance. In such cases, the recipient of the building permit should note that these performance standards, like all other provisions of this ordinance, are continuing obligations and that all permitted uses will be expected to be operated in compliance with these standards.

B. Compliance: The performance standards set forth

in sub-paragraph (E) below shall complied with and any use which fails to comply with these standards shall be in violation of this agreement.

C. Measurement: Each measurable standard shall be measured at the appropriate indicated location.

D. Effects of Concurrent Operations: The sum total of the effects of concurrent operations on two or more tracts measured at any property line shall not be greater or more offensive to the senses than the standards contained herein. Compliance with the provisions of this sub-paragraph by single or mutual changes in operational levels, scheduling of operations and other adjustments is permitted.

E. Standards:

1. Landscaping. All required yards except improved areas and parking facilities shall be open landscaped and green areas. If any yards are to be landscaped, they shall be landscaped attractively with lawn, trees, shrubs, etc. All landscaping shall be properly maintained in a sightly and well-kept condition.

2. Noise. Noise shall be measured on any property line of the tract on which the operation is located. Noise, except noise from motor vehicles, shall be muffled so as not to become object-

BOOK 2373 PAGE 747

ionable due to intermittance, beat frequency, shrillness or intensity. At the property line the sound pressure level of noise radiated continuously from a facility shall not exceed the values in Tables 2 in any octave band frequency. The sound pressure level shall be measured with a Sound Level Meter and an Octave Band Analyzer that conforms to specifications published by the American Standards Association. (American Standard Sound Level Meters for Measurement of Noise and Other Sounds, z24.3 - 1944, and American Standard Specifications for an Octave-Band Filter Set for the Analysis of Noise and Other Sounds, z24.10 - 1953, American Standards Association, Inc., New York, N.Y., shall be used.)

TABLE 2

Maximum permissible sound-pressure levels at specified points of measurement for noise radiated continuously from a facility.

Frequency Band Cycles Per Second	Decibel*Level
20 - 75	75
75 - 150	69
150 - 300	62
300 - 600	56
600 - 1,200	52
1,200 - 2,400	49
2,400 - 4,800	46
4,800 - 10,000	43
10,000 - 20,000	41
20,000 - 30,000	40**
30,000 - 40,000	39**
40,000 - 50,000	38

BOOK 2373 PAGE 748

* According to the following formula :
Sound pressure level in Decibels equals $10 \log$

$\frac{P_1}{P_2}$
where P_2 equals 0.002 dynes/cm squared

BOOK 2373 PAGE 749

3. Odors. Odors from any use hereafter begun, except motor vehicles owned or leased by owner, shall not be discernible at the property line to a greater degree than odors from plants for the manufacture or fabrication of books, electronic equipment, or other plants in which operations do not result in greater degree of odors. The values given in (Odor Thresholds) Chapter 5, "Physiological Effects", in the "Air Pollution Abatement Manual," by the Manufacturing Chemists' Association, Inc., Washington, D.C., copyright 1951, shall be used as standard in case of doubt concerning the character of odors emitted. Detailed plans for the prevention of restricted odors crossing property lines may be required before the issuance of a building permit.

4. Glare. Glare, whether direct or reflected, such as from floodlights, or high temperature processes, and as differentiated from general illumination, shall not be visible at any property line, insofar as is possible.

5. Exterior Lighting. Any lights used for exterior illumination shall direct light away from adjoining properties, insofar as is possible.

6. Vibration. Vibration, except motor vehicles, shall

BOOK 2373
PAGE 750

not be discernible at any property line to the human sense of feeling for three minutes or more duration in any one hour. Vibration at any time shall not produce at any time an acceleration of more than .01 gravities or shall result in any combination of amplitudes and frequencies beyond the "safe" range of Table 7 United States Bureau of Mines Bulletin No. 442, "Seismic Effects of Quarry Blasting," on any structure. The methods and equations of said Bulletin No. 442 shall be used to compute all values for the enforcement of this provision.

7. Smoke. Measurement shall be of the point of emission. The Ringelman Smoke Chart published by the United States Bureau of Mines shall be used for the measurement of smoke. Smoke not darker or more opaque than No. 1 on said chart may be emitted except smoke not darker or more opaque than No. 2 on said chart may be emitted for periods not longer than four (4) minutes in any thirty (30) minutes. These provisions, applicable to visible grey smoke, shall also apply to visible smoke of a different color but with an equivalent apparent opacity. The provisions of this paragraph shall not apply to smoke from motor vehicles.

BOOK 2373
PAGE 751

8. Dust. Solid or liquid particles shall not be emitted at any point in concentrations exceeding 0.3 grains per cubic foot of the conveying gas or air. For measurement of the amount of particles in gases resulting from combustion, standard corrections shall be applied to a stack temperature of 500 degrees Fahrenheit and 50 % excess air. The provisions of paragraph 12 below shall apply to dust.

9. Gases. Fumes or gases other than motor vehicles, shall not be emitted at any point in concentrations or amounts that are noxious, toxic, or corrosive. The values given in Table I (Industrial Hygiene Standards - Maximum allowable Concentration for eight hour day, five days per week), (Odor Thresholds), Table III (Concentrations of Substances Causing Pain in the Eyes), and Table IV (Exposures to Substances Causing Injury to Vegetation) in the latest revision of Chapter 5, "Physiological Effects", that contains such tables, in the "Air Pollution Abatement Manual," by the Manufacturing Chemists Association, Inc. Washington, D.C., are hereby established as guides for the determination of permissible concentration or amounts. Detailed plans for the elimination of fumes or gases may be required before the issuance of a building permit. The provisions of paragraph 12 below shall apply to gases.

BOOK 2373
PAGE 752

10. Hazard. All permitted operations within the park shall be carried on with reasonable precautions against fire and explosion hazards.

11. Radiation. All permitted operations with the Park shall cause no dangerous radiation at any property line as specified by the the regulations of the United State Atomic Energy Commission.

12. Radioactivity. Operations shall cause no radioactivity at any property line in violation of Title 10, Chapter 1, Part 20, Code of Federal Regulations, "Standards for Protection Against Radiation," dated January 16, 1957, or any subsequent revision or amendment thereof.

13. Electrical Radiation. Any electrical radiation shall not adversely affect at any point any operations or any equipment other than those of the creator of the radiation. Avoidance of adverse effects from electrical radiation by appropriate single or mutual scheduling of operations is permitted.

14. Waste. All sewage and industrial wastes shall be treated and disposed of in such manner as to comply with the water quality standards applicable to the classification assigned

BOOK 2373 PAGE 753

to the receiving waters by the Utah Division of Environmental Health and the City of Orem, Department of Public Works. Approval of all plans for waste disposal facilities shall be required before the issuance of any building permit. The provisions of paragraph 12 above shall apply.

BOOK 2373 PAGE 754

ARTICLE IV
IMPROVEMENTS

Improvements on Lots shall be constructed strictly in accordance with the following restrictions and requirements:

Section 1. Construction of Improvements:

A. **Temporary Structures:** No temporary building or other temporary structure shall be permitted on any Lot: provided, however, that trailers, temporary buildings and the like shall be permitted for construction purposes during the construction period of a permanent building. Such structures shall be placed as inconspicuously as practicable, shall cause no inconvenience to Owners or Occupants of other Lots, and shall be removed not later than thirty (30) days after the date of substantial completion for beneficial occupancy of the Building in connection with which the temporary structure was used.

B. **Completion of Construction:** Once begun, any Improvements, construction, Landscaping, or alterations approved by the Committee shall be diligently prosecuted to completion. If reasonably necessary for construction of such Improvement, Landscaping or alteration, the person or persons carrying out the same shall be entitled to temporarily use and occupy unimproved portions of the Entire Property and the Lots owned by Declarant

in the vicinity of the activity, provided that, on completion of construction such property and Lots shall be restored at such person's or persons' cost to a condition equal to their condition immediately prior to such use.

Section 2. Location of Buildings;

A. Buildings on all Lots abutting Major Streets shall be set back a minimum distance from same, as follows:

1. Buildings or portions of buildings, 18 feet or less in height shall be set back 50 feet of Geneva Road for a width not exceeding 25% of the Lot fronting on such road.

2. Buildings, or portions of buildings, 35 feet or less in height, shall be set back 75 feet of Geneva Road for a width not exceeding 25% of the width of the Lot fronting on such road.

B. Buildings located on Lots abutting other streets or properties which are a part of the Entire Property shall be set back a minimum of 35 feet from other such streets or property lines except as follows:

1. Buildings, or portions of buildings, 12 feet or less in height, may extend to within 30 feet of such other streets for a width not exceeding 25% of the width of the Lot abutting upon such other street.

C. All buildings shall be set back a minimum of 20

BOOK 2373 PAGE 756

feet from the adjoining property lines except as where otherwise specified in Article IV, Section 2, Subsection B of this document. This set back requirement may be waived by the Committee with the written concurrence of the Owners of all adjacent and adjoining Lots.

D. Buildings having a frontage on the lake shall be set back a minimum of 30 feet from the lake front property line except as follows:

1. A bulkhead or hard edge frontage may be created on the lake front property lines from which the minimum building set back shall be 10 feet.

2. Restaurants and similar uses with lakeview seating may extend to or over the water in any area specifically designated for such purpose in a recorded subdivision map of a portion of the Entire Property and/or a supplemental Declaration.-- Continuity of the lake edge must be maintained but may be separated from the water's edge the minimum practical distance to permit pedestrian traffic to bypass such building.

E. Discretionary setback variation: The foregoing minimum setbacks have been established to create and preserve an attractive setting for buildings located along the street. However, uniformity of setback

BOOK 2373 PAGE 757

is not desired and accordingly, the Committee is authorized in its sole judgement and discretion, to authorize variations from the minimums on an ad hoc basis when a proposed building or building complex is judged to enhance the street setting rather than detract therefrom. Such variation must be expressly approved in writing by the Committee: provided, however that no such variation shall be in violation of the zoning ordinance of Orem City.

F. Land Coverage: The size of any Lot may vary to meet the requirements of the specific intended business as approved by the "DECLARANT". All buildings and parking areas on any lot shall not occupy more than eighty percent (80%) of the total area of the lot.

Section 3. Building Standards: Buildings shall be constructed according to the following standards and guidelines:

A. Materials: All structures must be finished on the front and sides with acceptable materials. Metal roofs, and wooden exterior coverings other than acceptable veneers are not allowed within the confines of the Entire Property. Concrete block construction shall be permitted if portions are covered with approved materials. Metal buildings shall be permitted within the Park if such buildings are finished on the front and sides with masonry,

BOOK 2373 PAGE 758

brick, glass, aggregate or other form of appearance enhancing veneer.

B. Colors: All buildings shall be finished in colors which will harmonize with the environment and with other tenants of the Park.

C. Height: Building height in Area A is restricted to a maximum of three (3) stories above ground level or a total of 35 feet, exclusive of mechanical equipment. Buildings located in Area B, shall be restricted to a maximum of five stories above ground level or a total of 60 feet, exclusive of mechanical equipment: provided, however that no such building shall be in violation of zoning ordinances of Orem City.

D. Outside Storage: Refuse and outside storage areas shall be visibly screened from streets and adjacent properties. All such areas shall be located to the rear of the building or to the side of a building, other than street side, at least three-fourths (3/4ths) of the way from the front of the building.

E. Utilities: All onsite utility service lines, including electrical lines and telephone lines, located within a lot shall be placed underground. Any transformer or terminal equipment provided within or immediately adjacent to the parcel

BOOK 2373 PAGE 759

area shall be visibly screened from view from streets and adjacent properties, with appropriate screening material provided by, maintained by and at the sole cost and expense of the Lot owner.

Section 4. Parking Areas: Parking Areas shall be constructed and maintained by the Owner as follows:

A. Parking Surfaces: All parking spaces, parking areas and driveways must be paved surfacing and properly drained. Surface water drainage systems shall be approved by the City Engineering Department, Orem, Utah.
Parking Setbacks: All parking areas shall be set back a minimum of thirty (30) feet from all dedicated public streets.

B. Parking requirements:

1. Parking on public streets is prohibited.
2. There shall be sufficient land allocated by the Owner to meet the following minimum parking requirements:

(a) Commercial and office use: One space per 300 square feet of gross floor area.

(b) Warehousing and Distribution: One space per 1,000 square feet of gross floor area.

(c) Industrial Use: One space per 600 square feet of gross floor area.

(d) The foregoing minimum parking requirements

BOOK 2373 PAGE 760

may be modified by the Committee in its sole judgement and discretion, which modification must be in writing.

C. All parking surfaces must be paved with concrete, asphalt or other hard surface paving material, must be marked, and must be properly graded to assure adequate drainage.

D. Screening of Parking Areas: All parking areas shall be appropriately screened from streets and adjoining Lots.

Section 4. Loading, Service and Outside Storage:

A. Each Lot development shall provide sufficient on-lot loading facilities to accommodate site activity. All loading movement including turn around and maneuvering shall be made off the public rights-of-way.

B. Loading docks shall be located and screened so as to minimize visibility from any street or adjacent property. No loading dock facing a public street shall be located within 120 feet of that street.

C. Open storage shall be screened from the view of any street and adjacent properties; provided, however, that screen fences or walls over 3 feet high shall not be located within a building setback area.

D. Rubbish and garbage facilities shall not be visible from any High Image Street and must be screened to minimize visibility from any other street.

E. Screening of loading, service and outside

storage areas may consist of a combination of earth mounding, Landscaping, walls and/or fences approved by the Committee. (All of Section 4 must meet the Orem City Code which may be more restrictive.)

Section 5. Site Grading:

A. Earth Mounding: On High Image Streets earth mounding is required as a screen along the street in front of parking and service areas; mounding is not required where landscaping extends from street to building.

B. Surface drainage: All surface drainage systems must conform to Orem City standards and must be approved by the Orem City Engineer prior to installation. A surface drainage system has been developed for use on Lots within the Entire Property. It is mandatory that all surface drainage systems be expressly approved in writing by the Committee prior to installation.

Section 6. Site Landscaping:

A. Site Landscaping includes all planted materials, site lighting, and mechanical equipment incidental to any building.

B. All landscaping plans shall be submitted to the Committee for written approval prior to installation.

C. Site Lighting.

1. Floodlighting of the front buildings is limited to concealed light sources if at all possible.

2. Other lighting fixtures, except parking area lighting, shall be selected and installed so that light sources are, if at all possible, not visible from any street, and concealed light sources shall be utilized wherever practical.

3. Lighting fixtures shall not be more than 40 feet in height.

D. All mechanical equipment incidental to any building, including roof mounted mechanical equipment, shall be enclosed or screened so as to be an integral part of the architectural design of the building to which it is attached or related.

E. All site landscaping shall be completed within 90 days of completion of the building construction, or as soon as the weather permits.

Section 7. Signs: All signs must be approved in writing by the Committee. No sign of a flashing or moving character shall be installed and no sign shall be painted on a building wall. All permanent and temporary signs shall be in conformance with Orem City Code and with the Signage and Development Guideline for Orem Center Business Park as specified in the appropriate attachments. No billboards or outdoor advertising will be permitted.

Section 8. Maintenance: Buildings, Landscaping, and other improvements shall be continuously maintained so

as to preserve a well kept appearance. If the Common Facilities Manager is not satisfied with the level of maintenance on a Lot, it shall so notify the Owner in writing and the Owner shall have thirty (30) days thereafter in which to restore its Lot to a level of maintenance acceptable to the Committee. If in the Common Facilities Manager's opinion, the Owner has failed to bring the Lot to an acceptable standard within such thirty (30) day period, the Common Facilities Manager may order the necessary work performed on the Lot at the Owner's expense.; multiple Owners of Lots shall be jointly and severally liable.

Section 9. Utility Connections: All utility lines, connections and installations must be underground and rise within the building or fixture. Any external transformers, meters and similar apparatus must be at ground level and screened so as to minimize visibility thereof from public streets and adjacent residential areas.

ARTICLE V

RIGHTS TO COMMON AREAS AND COMMON FACILITIES

Section 1. Ownership of Common facilities: The Common Facilities Manager shall own all Common Areas in trust for the use and benefit of the Owners.

Section 2. Owner's Easements of Enjoyment: Every Owner shall have a right and easement of enjoyment in and to all of the Common Areas and Common Facilities, which right and easement shall be appurtenant to and shall pass with the title to every Lot. Every Owner may delegate his right and easement to the Common Facilities Manager and Common Facilities to his employees, tenants, invitees, lessees, guests or contract purchasers.

Section 3. Limitation on Easement: An Owner's right and easement of use and enjoyment concerning the Common Areas and Common Facilities shall be subject to the following:

A. Such right and easement shall not be exercised in any manner which substantially interferes with the purposes for which the Common Areas and Common Facilities are provided or with the right and easement of any other Owner with respect thereto.

B. The right of the City of Orem, the County of Utah, and any other governmental or quasi-governmental body having jurisdiction over the Entire Property to access and rights of ingress and egress

BOOK 2373 PAGE 765

over and across any street, parking area, walkway, or open area contained within the Entire Property for purposes of providing police and fire protection, and providing any other governmental or municipal service; and

C. The right of the Declarants or the Association to dedicate or transfer all or any part of the Common Facilities to any Public Entity for such purposes and subject to such conditions as may be agreed to by Declarant. Upon any dedication or transfer of Common Areas and Common Facilities hereunder, the provisions of this declaration relating to the maintenance thereof shall terminate to the extent the Public Entity assumes such maintenance.

D. The right of the Common Facilities Manager, in its sole discretion, to grant such utility and right-of-way easements as may be necessary or convenient to the Entire Property and/or the development of any portion thereof.

BOOK 2373 PAGE 766

ARTICLE VI

MAINTENANCE OF COMMON AREAS AND COMMON FACILITIES

Section 1. The Common Facilities Manager shall maintain and operate, or provide for the maintenance and operation of, the Common Facilities and the improvements located thereon or related thereto and may reconstruct, repair, or replace any capital improvement thereon.

Section 2. General and Special Assessments:

A. General Assessments. The Common Facilities Manager may assess each Owner for the cost of maintenance and operation of the Common Facilities and of the improvement located thereon, including the indirect costs thereof. Each Lot or portion thereof shall be subject to a quarterly assessment equal to the total quarterly cost of maintenance and operation of such common facilities and Improvements, multiplied by a fraction, the numerator of which is the land acreage of each such Lot or portion thereof or useage of common facilities, and the denominator of which is the total land acreage of all platted Lots within the Entire Property, or useage of the common facilities.

B. Special Assessments: In addition to the quarterly assessments authorized above, the Common Facilities Manager may levy, in any year, a special assessment applicable to that year only for the purpose of defraying,

BOOK 2373 PAGE 767

in whole or in part, the cost of any reconstruction, repair, or replacement of a capital improvement upon the Common Facilities as may be necessitated by normal wear and tear and damage by the elements; provided that any such assessment shall be consented to in writing as set forth in Article VIII Section 4 of this Declaration.

C. Owner's Liability For Payment of Assessments and Liens: The Declarant for each Lot owned within the Property, hereby covenants, and each Owner of any lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Common Areas Manager the assessments described in Paragraphs A and B of this Section. Such assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made and shall also be the personal obligation of the person who was the Owner of such property at the time when the Assessment fell due. The personal obligation for delinquent assessments shall not pass to a Owner's successors in title unless expressly assumed by them.

D. Date of Commencement and Notification of Quarterly Assessments: The quarterly assessments provided

BOOK 2373 PAGE 765

for herein shall commence as to all platted Lots on the first day of the month following the date of recording of any subdivision map. The first quarterly assessment shall be adjusted according to the number of months remaining in the calendar quarter. The Common Facilities Manager shall estimate the amount of the quarterly assessment against each Lot at least thirty (30) days in advance of each quarterly assessment period and the due date for payment thereof. Written notice shall be sent to every Owner subject thereto. At the end of the quarterly assessment period, the Common Areas Manager shall determine the exact cost of maintenance described in Paragraphs A and B of this Section and shall charge or credit each Owner in the next quarterly assessment for the difference between the actual expense and the estimated expense of maintenance.

E. The Common Facilities Manager shall upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Common Facilities Manager setting forth whether the assessments on a specified Lot have been paid and said certificate may be conclusively relied upon by the party requesting the same.

F. Effect of Nonpayment of Assessment - Remedies: Any assessment not paid within thirty (30) days after

BOOK 2373 PAGE 769

the due date shall be charged interest from the due date at the variable rate of Prime at 2 percent per annum. The Common Facilities Manager may bring an action at law against the Owner personally obligated to pay same and/or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Facilities or abandonment of a Lot.

G. Subordination of the Lien to Mortgages and Deeds of Trust: The lien of any assessments provided for herein shall subordinate to the lien of any first mortgages and Deeds of Trust. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to foreclosure of any mortgages and Deeds of Trust, or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer but shall not extinguish the liability of the Owner therefor. No other sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

H. Effect of Public Entity: In the event the Common Facilities Manager is a Public Entity, there shall be no assessments, quarterly or special, levied pursuant to this Declaration with respect to any Common

Facilities, the responsibility of maintenance and operation for which is assumed by said Public Entity, but said Public Entity may levy its customary taxes or assessments to provide for such maintenance and operation.

Section 3. Insurance: The Common Facilities Manager shall acquire and maintain insurance against insurable hazards in amounts which reasonably protect the Common Facilities Manager and the Owners from loss and/or liability arising from the hazards insured against, including any property owned and utilized by the Common Facilities Manager in connection with the Common Facilities. Such insurance coverage may be written in the name of, and the proceeds thereof payable to, the Common Facilities Manager, as the Trustee for the Owners. Such insurance may include, but is not limited to, fire insurance, comprehensive liability insurance and Workmen's Compensation Insurance. Premiums for insurance carried by the Common Facilities Manager shall be a common expense included in the quarterly assessments or charges made by the Common Facilities Manager. The Common Facilities Manager shall notify the Owners in writing of the type and amount of any such insurance secured by it and shall immediately advise the Owners in writing of any changes made with respect thereto.

Section 4. Replacement or Repair of Property: Damaged or destroyed Common Facilities, or the property of the Common Facilities Manager used in connection with the Common Facilities, shall be repaired or replaced by the Common Facilities Manager utilizing insurance proceeds therefore. In the event there are no insurance proceeds of the insurance proceeds are insufficient to cover the cost of repair or replacement of the property damaged or destroyed, the Common Facilities Manager may make a special assessment under Section 2B of this Article to cover such cost. In the event the Owners fail to approve an assessment for such repair or replacement, the Common Facilities Manager shall not be required to make such repair or replacement at its expense.

ARTICLE VII
LIMITATION OF RESTRICTIONS
ON DECLARANT

Section 1. Declarant's Work: Declarant are undertaking the work of developing an industrial/business park and incidental improvement upon Lots included within the Entire Property. The completion of that work and the sale, rental and other disposal of said Lots is essential to the establish-

ment and welfare of the Entire Property as a industrial/business park.

Section 2. Declarant's Exemptions: In order that said work may be completed and the Entire Property be developed, nothing herein shall:

A. Prevent Declarant, its contractors, or subcontractors, from doing on the Entire Property or any Lot thereof, whatever is necessary or advisable in connection with the completion of said work: or

B. Prevent Declarant, its contractors, or subcontractors, from erecting, constructing and maintaining on any part or parts of the Entire Property, such structures as may be reasonably necessary for the conduct of its business of completing said work and establishing said property as a industrial/business park and disposing of platted Lots of the Entire Property in parcel by sale, lease or otherwise; or

C. Prevent declarant from maintaining such sign or signs on any part of the Entire Property as may be necessary for the sale, lease, or disposition thereof.

The Declarant shall pay due regard to the rights of tenants to the use and enjoyment of their property and nothing herein shall interfere with those rights.

ARTICLE VIII
GENERAL PROVISIONS

Section 1. Enforcement: Declarant, or any owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure of Declarant or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability: Invalidation of any one of these covenants or restrictions by judgement or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 3. Duration: The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, to a maximum of 99 years unless terminated at the end of any such period by vote of the Owners as set forth in Section 4 of this Article.

Section 4. Modification, Consents, Terminations and Amendments: Any modification of the Development guidelines

(as set forth in Article II Section 5 hereof), termination of this Declaration (as set forth in Article VIII Section 3 hereof) or amendments of this Declaration shall take place only by the affirmative vote of sixty (60) percent of all votes entitled to be voted. Each Owner, except Declarant, shall have one vote for each acre of land, or any fraction thereof owned by it. Declarant shall have votes equal to the total votes of all Owners other than Declarant or one vote per acre or any fraction thereof owned by it in the Entire Property, whichever is less. Any termination of amendments of this Declaration must be recorded.

Section 5. No Severance of Right From Ownership of a Lot: No purchaser or Owner of any Lot shall convey his interest under this Declaration of any Association formed pursuant to the provisions hereof, and no member of any such Association shall convey, transfer, sell, assign or otherwise dispose of his membership rights in said Association without at the same time conveying, selling and transferring his interest in the lot to which his membership attaches, and the membership shall be transferred only to a new Owner or purchaser of the Lot to which membership is attached.

Section 6. Interpretation: The captions which precede the Articles and Sections of this Declaration are for convenience only and shall in no way affect the manner in which any provision hereof is construed. Whenever the context

BOOK 2373 PAGE 775

so requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, and any gender shall include both genders. The invalidity or unenforceability of any portion of this Declaration shall be liberally construed to effect all of its purposes. These Easements, Covenants, Conditions and Restrictions shall be construed in accordance with the law of the State of Utah.

EXHIBIT "A"

Commencing at a point located North 341.88 feet and East 1175.20 feet from the Southwest corner of Section 21 (also Northwest of 28), Township 6 South, Range 2 East, Salt Lake Base and Meridian (Basis of Bearing is North 89°28'50" East along the Section line); thence South 1°36'24" West along a fence line 302.00 feet; thence East 222.05 feet; thence South 0°58'59" West 16.86 feet; thence East 263.64 feet; thence along the West boundary of Geneva Road (State Road #114) as follows: South 34°45'41" East 225.44 feet, along the arc of a 11426.20 foot radius curve to the right 372.26 feet (chord bears South 33°49'41" East 372.24 feet), South 32°53'41" East 333.02 feet; thence South 89°27'19" West along a fence line 2159.91 feet; thence South 0°08'02" East along a fence line 220.12 feet; thence North 89°48'40" West along a fence line 1257.28 feet; thence along Utah Lake Meander Line as follows: North 38°15' West 291.37 feet, North 40°00' West 481.80 feet, North 37°30' West 488.40 feet, North 32°30' West 106.81 feet; thence North 89°50'40" East along a fence line 1422.67 feet; thence North 0°11' East along a fence line 250.00 feet; thence North 0°29'39" West 333.78 feet; thence North 89°27' East 672.04 feet; thence East 197.68 feet; thence North 89°18'31" East along a fence line 1053.10 feet; thence South 34°37'10" East along the West boundary of Geneva Road (State Road #114) 250.55 feet; thence South 55°22'50" West 129.90 feet; thence South 89°53'13" West 81.66 feet; thence South 0°06'47" East 270.46 feet; thence East along a fence line 167.86 feet to the point of beginning.

AREA = 107.30 ACRES

IN WITNESS WHEREOF the undersigned, being the Declarant herein, has hereunto caused this Declaration to be executed by its duly authorized officers this 6th day of December, 1985.

Orem Tek Development Corp.

Declarant

BY/S/

BY/S/

Morris W. Stuart Sec.

Secretary

William A. Fresh

President

STATE OF UTAH
COUNTY OF UTAH

On 6 Dec. 86, before me, the undersigned, a Notary Public in and for said State, personally appeared William A. Fresh known to me to be the President, and Morris W. Stuart known to me to be the Secretary of the Corporation that executed the within Instrument, known to me to be the persons who executed the within Instrument on behalf of the Corporation therein named, and acknowledged to me that such Corporation executed the same, and acknowledged to me that such Corporation executed the within Instrument pursuant to its bylaws or a resolution of its board of directors.

My Commission Expires July 9, 1989
Residing Orem, Utah

516

Notary Public

BOOK 2373 PAGE 778