

101 to 171 01-254-0101 to 0171 Eaglepointe Est 1
201 to 235 01-255-0201 to 0235 Eaglepointe Est 2
301 to 340 01-256-0301 to 0340 Eaglepointe Est 3

OCT 27 1999

E 1555030 B 2575 P 297
SHERYL L. WHITE, DAVIS CNTY RECORDER
1999 OCT 27 11:26 AM FEE .00 DEP AC
REC'D FOR DAVIS COUNTY

97-323-B

**FIRST AMENDMENT TO DECLARATION
OF PROTECTIVE COVENANTS, CONDITIONS,
RESTRICTIONS, AND RESERVATION OR GRANT OF EASEMENTS
FOR EAGLEPOINTE ESTATES PHASES 1, 2, & 3**

This **First Amendment to Declaration of Protective Covenants, Conditions, Restrictions and Reservation or Grant of Easements** (hereinafter referred to as the "First Amendment"), is made to be effective as of the 27th day of October, 1999, by **DAVIS COUNTY**, a body politic of the State of Utah ("Davis County"); **B&E PACE INVESTMENT, LTD.**, a Utah limited partnership ("Pace"); **CORDOVA, LTD.**, a Utah limited partnership ("Cordova"); **EAGLEPOINTE DEVELOPMENT, L.C.**, a Utah limited liability company ("Eaglepointe"); Davis County, Pace, Cordova, and Eaglepointe are hereinafter collectively referred to as the "Declarant"; in contemplation of the following facts and circumstances:

- A. Declarant is the fee title owner of the residential subdivision lots more particularly described in Exhibit "A", attached hereto.
- B. Declarant filed in the Office of the Davis County Recorder that certain **DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS, RESTRICTIONS, AND RESERVATION OR GRANT OF EASEMENTS FOR EAGLEPOINTE ESTATES PHASES 1, 2, & 3** dated June 30, 1999 and recorded July 2, 1999 as Entry No. 1529721 in Book 2528 at Page 468 (the "Declaration").
- C. Declarant desires to amend the Declaration as more fully set forth hereinbelow.

NOW, THEREFORE, the Declarant hereby amends the Declaration as follows:

1. Revisions to Section 5.5. Section 5.5 of the Declaration is hereby amended to read as follows:

5.5 Materials: Quality. All structures constructed within the Subdivision shall be of acceptable materials and shall be of good quality workmanship and materials. For any dwelling to be constructed within **EAGLEPOINTE ESTATES PHASE 1, 2, and 3** seventy percent (70%) of all exterior construction shall be of new brick, stone, or stucco. Masonry (brick, stone and stucco) exterior is strongly encouraged. Log structures are prohibited. All roof materials and colors must be approved by the Committee. The typical roof pitch shall be at least 4/12. The Committee may grant a variance of the pitch. A minimum width of six (6) inches shall be required on the fascia. The Committee may grant a variance on the width

of the fascia. All stacks and chimneys from fireplaces in which combustible materials other than natural gas, are burned shall be fitted with spark arresters. All Owners shall strictly comply with all state laws and city ordinances pertaining to fire hazard control."

2. **Revisions to Section 5.6.** Section 5.6 of the Declaration is hereby amended to read as follows::

5.6 **Minimum Size and Length of Dwelling.** No dwelling shall be permitted on any Lot wherein the stacking is more than two and one-half (2 1/2) stories in height, and the ground floor area of the main structure, exclusive of garages and open porches, is less than the following area measurements:

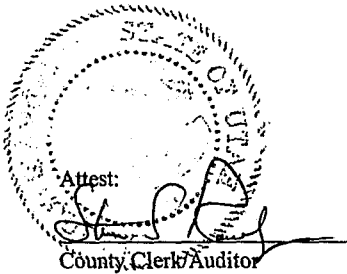
(i) For any single story dwelling to be constructed within EAGLEPOINTE ESTATES PHASE 1, 1,650 square feet, not including basement area. For any single story dwelling to be constructed within EAGLEPOINTE ESTATES PHASES 2 and 3, 1,800 square feet, not including basement area;

(ii) For any two story dwelling to be constructed within EAGLEPOINTE ESTATES PHASE 1, 1,000 square feet on the main floor with the aggregate footage of above ground floors of the structure to total a minimum of 2,100 square feet. For any two story dwelling to be constructed within EAGLEPOINTE ESTATES PHASES 2 or 3, 1,100 square feet on the main floor with the aggregate footage of above ground floors of the structure to total a minimum of 2,400 square feet;

(iii) For any multi-level dwelling to be constructed within EAGLEPOINTE ESTATES PHASE 1, 1,300 total square feet for the upper two (2) main living levels, provided however that no multi-level dwelling shall have less than 2,100 finished square feet, excluding basement, as measured from the level of the sidewalk in front of the dwelling. For any multi-level dwelling to be constructed within EAGLEPOINTE ESTATES PHASES 2 and 3, 1,600 total square feet for the upper two (2) main living levels, provided however that no multi-level dwelling shall have less than 2,400 finished square feet, excluding basement, as measured from the level of the sidewalk in front of the dwelling.

3 **Declaration in Full Force and Effect as Amended.** The parties hereto certify that the Declaration is in full force and effect as amended hereby.

IN WITNESS WHEREOF, Declarant has executed this First Amendment as of date set forth above.



DAVIS COUNTY,
a body politic of the State of Utah

By:

Dannie R. McConkie

Dannie R. McConkie
Print Name

Its Chairman

Approved as to form:

[Signature]
Office of Davis County Attorney

B&E PACE INVESTMENT, LTD.,
a Utah limited partnership

By:

W. Earl Pace
W. Earl Pace, its general partner

CORDOVA, LTD.,
a Utah limited partnership

By:

John C. Allen
John C. Allen, its general partner

EAGLEPOINTE DEVELOPMENT, L.C.,
a Utah limited liability company

By: Its Manager

EXCEL INVESTMENT CORPORATION,
a Utah corporation

By:

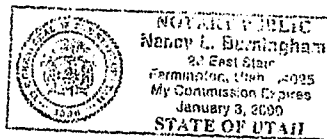
W. Scott Kjar
W. Scott Kjar, its Vice President

STATE OF UTAH)
 : ss.
COUNTY OF DAVIS)

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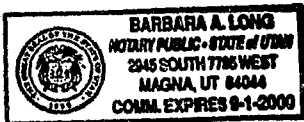
The foregoing instrument was acknowledged before me this 27th day of October, 1999, by Dannie R. McCorbie the Chairman, of Davis County, a body politic of the State of Utah.

Nancy L. Birmingham
Notary Public
Residing at: Farmington, Utah
My Commission Expires: 1-3-2000



STATE OF UTAH)
 : ss.
COUNTY OF DAVIS)

On this 27th day of October, 1999, personally appeared before me **W. EARL PACE**, who is the general partner of **B&E PACE INVESTMENT, LTD.**, a Utah limited partnership, which limited partnership is the signer of this instrument and he acknowledged to me that the foregoing instrument was signed by him in behalf of **B&E PACE INVESTMENT, LTD.**, and said **W. EARL PACE** acknowledged to me that said limited partnership executed the same.

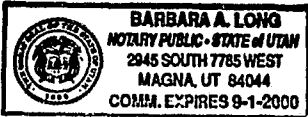


Barbara A. Long
Notary Public
Residing at:
My Commission Expires:

STATE OF UTAH)
)
) : ss.
COUNTY OF DAVIS)

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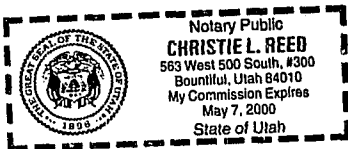
On this 20th day of October, 1999, personally appeared before me **JOHN C. ALLEN**, who is the general partner of **CORDOVA, LTD.**, a Utah limited partnership, which limited partnership is the signer of this instrument and he acknowledged to me that the foregoing instrument was signed by him in behalf of **CORDOVA, LTD.**, and said **JOHN C. ALLEN** acknowledged to me that said limited partnership executed the same.



Barbara A. Long
Notary Public
Residing at:
My Commission Expires:

STATE OF UTAH)
)
) : ss.
COUNTY OF DAVIS)

The foregoing instrument was acknowledged before me this 15th day of October, 1999, by **W. SCOTT KJAR**, whose identity is personally known to or proved to me on the basis of satisfactory evidence, and who, being by me duly sworn, did say that he is the Vice President of **EXCEL INVESTMENT CORPORATION**, a Utah corporation, the manager of **EAGLEPOINTE DEVELOPMENT, L.C.**, a Utah limited liability company, and that said document was signed by him in behalf of said corporation by authority of its bylaws (or a resolution of its board of directors, as the case may be) in its capacity of Manager of **EAGLEPOINTE DEVELOPMENT, L.C.**, and said **W. SCOTT KJAR** acknowledged to me that said corporation executed the same on behalf of said limited liability company.



Christie L. Reed
Notary Public
Residing at: Bountiful, Utah
My Commission Expires: May 7, 2000

Exhibit "A"

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to

EAGLEPOINTE PHASE 1, 2, & 3 DECLARATION

Legal Description of Property

EAGLEPOINTE ESTATES PHASE 1 Subdivision: All of Lots 101 through and including 171 of EAGLEPOINTE ESTATES PHASE 1, according to the official plat thereof, on file and of record in the Davis County Recorder's Office.

EAGLEPOINTE ESTATES PHASE 2 Subdivision: All of Lots 201 through and including 235 of EAGLEPOINTE ESTATES PHASE 2, according to the official plat thereof, on file and of record in the Davis County Recorder's Office.

EAGLEPOINTE ESTATES PHASE 3 Subdivision: All of Lots 301 through and including 340 of EAGLEPOINTE ESTATES PHASE 3, according to the official plat thereof, on file and of record in the Davis County Recorder's Office.