

WHEN RECORDED, RETURN TO:

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DOUG CROFTS, WEBER COUNTY RECORDER
27-OCT-98 147 PM FEB 11/99 00DEP NB
REC FOR: KAUFMAN.&.BROAD

**MOUNTAIN RIDGE SUBDIVISION
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS**

KNOW ALL MEN BY THESE PRESENTS:

That UTAH LAND HOLDING COMPANY, LLC, a Colorado limited liability company ("Utah Holding"), SWAT II LLC, a Colorado limited liability company ("Swat II"), ROCOLO II, LLC, a Colorado limited liability company ("Rocolo II"), and KAUFMAN AND BROAD OF UTAH, INC., a California corporation ("Kaufman and Broad") (collectively, the "Developers"), being the owners of the following described real property (the "Subdivision") located in Ogden City, Weber County, State of Utah, to be known as the Mountain Ridge Subdivision, to-wit:

See Exhibit A

Attached hereto and by this reference made a part hereof,

do hereby establish the nature of the use and enjoyment of all lots and common areas to be designated in the Subdivision and do declare that all such lots and common areas and all conveyances of such lots and common areas shall be made subject to the following covenants, conditions and restrictions in order to facilitate a more useful and consistent development of such lots and common areas, and to maintain the value thereof.

A. PREAMBLE

The Developers intend to develop the Subdivision in three (3) phases over time with the property consisting of Phases I and III being presently owned by Utah Holding, Swat II and Rocolo II, and that portion of the Subdivision known as Phase II being presently owned by Kaufman and Broad. Notwithstanding the foregoing sentence, this Declaration of Covenants, Conditions and Restrictions (the "Declaration") shall apply to all land in the Subdivision regardless of when platted, approved, recorded or otherwise developed, and regardless of how or by who the Subdivision, or any part thereof, is now or hereafter owned.

To accomplish the purposes, protect the rights and enforce the obligations set forth herein, Developers have organized, or hereafter shall organize, a homeowners' association as a Utah nonprofit corporation to be known as the Mountain Ridge Homeowners' Association, Inc. (the "HOA"), and an Architectural Control Committee (the "ACC"), the duties and responsibilities of which are more fully set forth below.

B. OWNERSHIP

1. **Division.** The Subdivision shall be divided into lots (the "Lots") and common areas (the "Common Areas") by plat maps (the "Plat Maps") to be recorded in the future for each of the three (3) phases. The Common Areas shall include all Subdivision land not enclosed in a Lot or dedicated or set aside for use as a street or other public purpose, as set forth on the Plat Maps. The Common Areas have been or shall be conveyed and transferred to the HOA.

2. **Use, Control and Maintenance of Common Areas.** Except as otherwise provided in this Declaration, any Lot owner shall be entitled to nonexclusive use of the Common Areas in any lawful manner that does not hinder or encroach upon the rights of other Lot owners and is not contrary to any rules and regulations promulgated by the HOA. The HOA shall determine reasonable rules and regulations for such use. The Common Areas shall be maintained, improved and repaired by the HOA at its discretion and expense.

3. **Inseverability.** Title to no part of a Lot may be separated from any other part thereof during the period of ownership hereunder, and each Lot shall always be conveyed, devised, encumbered and otherwise affected only as a complete Lot. Every devise, encumbrance, conveyance or other disposition of a Lot, or any part thereof, shall be construed to be a devise, encumbrance, conveyance or other disposition, respectively, of the entire Lot together with all appurtenant rights created by law or by this Declaration, including membership in the HOA as hereinafter set forth.

4. **No Subdivision.** No Lot or portion thereof may be divided or subdivided or a fractional portion thereof sold or conveyed so as to be held in divided ownership. Under no circumstances shall interests in a Lot be divided into, leased, sold, conveyed or used as time periods of intervals or sold or conveyed to owners or holders for use on a timeshare basis.

5. **No Partition.** The Common Areas shall be owned in fee by the HOA, and no owner may bring any action for partition of the Common Areas.

6. **Description of Lot.** Every contract for the sale of a Lot and every other instrument affecting title to a Lot may describe a Lot by its identifying number or symbol as indicated in this Declaration or as shown on the Plat Maps. Such description shall be construed to describe the Lot, and to incorporate all the rights incident to ownership of a Lot and all of the limitations on such ownership as described in this Declaration and/or the Articles of Incorporation or Bylaws of the HOA.

7. **City Approval Required for Certain Changes.** Notwithstanding any provision to the contrary contained herein, if any present or future Lot owner or other interest holder in any portion of the Subdivision seeks to make a change to a Lot or other aspect of the Subdivision that would require an amendment to the final development plan or conditional use permit relating to the Subdivision, such party must first obtain the approval of Ogden City pursuant to its Planned Residential Unit Development ordinances.

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C. RESIDENTIAL AREA COVENANTS

8. **Land Uses and Building Type.** No Lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any Lot other than one detached single-family dwelling not to exceed two and one-half (2½) stories above the foundation, with private attached garage for at least two (2) cars. The homes may also have a basement, part of which may be above ground. Exposed concrete shall be finished in a manner acceptable to the ACC. All plans and specifications shall be approved in advance by the ACC.

9. **Architectural Control.** No building shall be erected, placed, or altered on any Lot until the construction plans and specifications and a plan showing the location of the structure have been approved in writing by the ACC. Such approval will concern itself with the acceptability and harmony of external design of the proposed structure and the location of the proposed structure with respect to topography and grade, quality of material, size, height, color, etc. All buildings shall be of good quality, workmanship and materials. Gable, soffit and fascia may be aluminum or vinyl or other material may be substituted if approved first by the ACC. Exterior antennas for televisions or other uses are prohibited without the prior written approval of the ACC. The ACC shall have final control for approval of all color and material plans. In the event a Developer or Lot Owner submits a plan for construction of a residence, identical to a plan previously approved by the ACC, the ACC shall approve the plan subject to the setback and location requirements.

10. **Building Requirements.**

(a) **Setbacks.** All buildings (excluding fences) shall be constructed with (i) a front setback of no less than eighteen (18) feet measuring from the back sidewalk line which is closest to the residence, (ii) a rear setback of no less than thirty (30) feet for Lots on the border of the Subdivision and fifteen (15) feet for all other Lots, and (iii) side yard setbacks no less than seven (7) feet, provided that there is no less than fifteen (15) feet between buildings on Lots sharing a side boundary. Accessory buildings may be located according to city ordinance from the rear lot line so long as such buildings do not encroach upon any easements. Notwithstanding the foregoing, all buildings on corner Lots shall be constructed with a twenty (20) foot setback on all sides abutting streets and with the regular rear setback on the side(s) not abutting streets. The area within the required setbacks shall be landscaped when and as required of other areas within each Lot.

(b) **Eaves, Steps, Etc.** For the purpose of this Declaration, eaves, steps and open porches shall not be considered as part of a building, provided, however, that this shall not be construed to permit any portion of any building on a Lot to encroach upon another Lot.

(c) **Dwelling Size.** All Lots shall, when construction is complete, contain a residential structure with such amount of horizontal living space as shall be reasonably required by the ACC, with consideration of the Lot size and location and the size of other residences previously constructed in the Subdivision or approved by the ACC.

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Each home must have at least a two-car garage and a driveway of no less than eighteen (18) feet in length.

(d) **Front.** Any Lot situated on land within 100 feet of the border of the Subdivision (a "Periphery Lot") may only have a home that fronts onto the street. A corner Periphery Lot, bordered by two perpendicular streets, may have a home fronting either street. A Periphery Lot abutting two parallel streets may only have a home that fronts onto the street that borders the Subdivision.

(e) **Height.** The maximum height for any building on a Lot shall be 35 feet.

11. **Out Buildings.** It is understood that out buildings, such as storage sheds, swimming pools and dressing facilities, tennis courts and dressing facilities may be constructed on any Lot so long as they are in conformity with harmonious development of the Subdivision and receive prior approval of the ACC. No such out building shall at any time be used for human habitation, either temporarily or permanently.

12. **Easements.** Easements for installation and maintenance of utilities and drainage facilities are reserved as shall be shown on the Plat Maps. Within these easements, no permanent structure, planting, or other material shall be placed or permitted which may damage or interfere with installation and maintenance of utilities, or which may change the direction or flow of drainage channels in the easements. Construction or planting of easily removable items on said easement areas shall be permitted, such as wood or chain link fences, bushes, shrubs or sod. The easement for each Lot and all improvements thereon shall be maintained continuously by the owner of the Lot, except for those improvements for which a public authority or utility company is responsible or for which the HOA has assumed or been assigned responsibility for maintenance.

13. **Nuisances.** No noxious or offensive trade or activity shall be conducted on any Lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. All recreational vehicles shall be parked off the street and screened from view from the street at the setback line of the residence. Recreational vehicles shall not be parked overnight on the street nor in driveways in front of the residence set-back line, but shall be allowed to remain overnight on the property only if housed in a garage or screened from the street behind the residence set-back line as defined herein. Failure to comply with the provisions hereof shall constitute a nuisance. No mobile or prefabricated home will be permitted on any Lot for occupancy. No used buildings of any kind shall be placed on any Lot. No clothes drying or storage of any articles that are unsightly shall be permitted unless in enclosed areas designed for such purposes. No open storage of building materials, except during course of actual construction, shall be permitted on any Lot or street, nor shall junk, unlicensed cars or other unsightly items be maintained or stored on any Lot or street. Minor vehicle repairs may be accomplished on a Lot during the daylight hours. Major vehicle repairs lasting more than three (3) days are strictly prohibited. The phrase "residence set-back line" shall be determined by the front bearing wall of the residence.

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14. **Temporary Structure.** No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other out buildings shall be used on any Lot at any time as a residence, either temporarily or permanently.

15. **Signs.** No signs of any kind shall be displayed to the public view on any Lot except one (1) sign of not more than five (5) square feet advertising the property for sale or rent, or signs used by the Developers to advertise the property during the construction or sales period. The placement of signs, graphics, or advertisements which are permanent in nature or represent advertisement for small business conducted in home on a Lot in the Subdivision is prohibited. The restrictions in this paragraph concerning the quantity and size of signs in the Subdivision shall not apply to signs of any of the Developers or those acting on behalf of any of the Developers.

16. **Livestock and Poultry.** No animals, livestock or poultry of any kind, such as pigeons or rabbits, may be raised, bred or kept on any Lot, except that dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purpose and are restricted to the owners' premises or on a leash under handler's control. The number and size of household pets may be restricted by the HOA if the pets create a nuisance. The head of household of any Lot that has household pets shall be responsible for removal of all feces or other pet residue on a daily basis and will ensure that there are no offensive odors that would constitute an annoyance to neighbors of the neighborhood as a result of maintaining household pets. All cases regarding animals shall conform to the applicable ordinances of Ogden City, Utah.

17. **Appearance, Sanitation and Fire Hazard Control.** Each owner shall be required to maintain his property to keep it in a reasonable state of appearance and preservation. No Lots shall have accumulated thereon any rubbish, trash or unsightly debris. The burning of rubbish, leaves or trash on any Lot is strictly prohibited. Trash containers shall be covered and kept screened from view from the street in suitable enclosed areas, except during collection. In the event any rubbish, trash or unsightly debris, or overgrowth of weeds remains on a Lot beyond a thirty (30) day period and the owner of such Lot fails to remove such within ten (10) days after written notice has been mailed by the HOA, the HOA may cause the same to be removed and the individual Lot owner shall be responsible for the reasonable expenses of such removal. If any such Lot or part thereof develops into an unclean or unsanitary condition or shall fall into a state of disrepair, and in the event that the owner of such Lot shall fail to correct such condition or state of disrepair promptly following written notice from the HOA, the HOA shall have the right to petition any court of competent jurisdiction for legal and equitable relief to correct such condition or state of disrepair and to enforce this Declaration, and the applicable Lot owner shall be responsible for all court costs and attorney fees incurred to obtain said relief. Exterior light poles and placement of swamp coolers and air conditioners shall be approved in writing by the ACC. The owner of each Lot shall maintain and replace light bulbs for light poles located thereon and for additional address lighting. Window mount coolers of all kinds are prohibited. No electrical power lines, telephone cables or other auxiliary service lines shall be exposed except with the prior written approval by the ACC.

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18. **Sight Distance at Intersection.** No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street lines or in case of a round property corner from the intersection of the street property lines extended. The provisions of this section shall take precedence over any other provisions herein relating to allowable fence height.

19. **Landscaping.** Any trees, lawn, shrubs, or other planting provided by the Developers shall be properly nurtured and maintained or replaced at the property owner's expenses upon request of the ACC. Front and side lawns must be planted or sod within one (1) year from completion of the home, and back lawns must be planted or sod within two (2) years of completion of the home on any Lot. No fences or screens shall be erected without prior written consent of the ACC. No fences or screens shall be erected so as to constitute a traffic hazard particularly near driveway and street intersections. All trees, shrubs or plants located between the sidewalk and curb and gutter on each Lot shall be planted, watered and maintained by the Owner of said Lot.

20. **Slope and Drain Control.** No structure, planting or other material shall be placed or permitted to remain or other activities undertaken which may cause damage or interfere with established slope ratios, create erosion or sliding problems, or which may change the direction of flow of drainage channels or obstruct or retard the flow of water through drainage channels. The slope control area of each Lot and all improvements in them shall be maintained continuously by the owner of the Lot, except for those improvements for which a public authority or utility company is responsible or for which the HOA has assumed or been assigned responsibility.

21. **Hazard Insurance.** Each owner shall at all times maintain a hazard insurance policy insuring the residential structures located on that owner's Lot.

22. **Fences.** All yard fences and gates on a Lot shall be repaired and maintained by the Lot owner. No fence placed within a setback area that abuts a street shall be constructed to a height greater than four (4) feet. No fence in any other area of a Lot shall be constructed to a height greater than seven (7) feet. The owner of any Lot which abuts any Common Area that is described on the Plat Maps as a wetland or detention basin area shall construct a fence not less than four feet and not more than seven feet high (not later than when construction of the home on the Lot is completed) on the border of such Lot and the wetlands or detention basin area. Such fence shall be completed pursuant to the landscape approval and timing requirements that otherwise apply to such Lot.

23. **Sidewalks.** Sidewalks abutting public streets shall be four (4) feet wide; those abutting private streets shall be a minimum of four (4) feet wide. The HOA shall maintain, repair and replace all sidewalks which have not been dedicated to Ogden City.

24. **Common Improvements.** All common improvements, entryway signage, gateways, walkways or other common improvements relating to the Subdivision shall be

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designed, installed, constructed, repaired and maintained as directed by the HOA and at the expense of the HOA. The costs of the foregoing shall be included in the calculation of HOA assessments to the individual Lot owners.

25. **Waiver.** Each Lot owner hereby waives any and all claims or causes of action he or she may have against the ACC or the HOA as a result of any action taken by the ACC or the HOA in good faith pursuant to this Declaration or to any other authority granted to the ACC or the HOA, or as a result of filing any lien or taking any lawful action to collect any assessment.

D. HOME OWNERS' ASSOCIATION

26. **Membership.** Each owner of a Lot shall be entitled and required to be a member of the HOA; membership shall begin immediately and automatically upon becoming a Lot owner and shall terminate immediately and automatically upon ceasing to be a Lot owner. If title to a Lot is held by more than one person, the membership appurtenant to that Lot shall be shared by all such persons in the same proportionate interests and by the same type of tenancy in which title to the Lot is held. An owner shall be entitled to one membership for each Lot owned by him or her. Each membership shall be appurtenant to the Lot to which it relates and shall be transferred automatically by conveyance of that Lot. Ownership of a Lot cannot be separated from membership in the HOA appurtenant thereto, and any devise, encumbrance, conveyance, or other disposition of a Lot shall be construed to be a devise, encumbrance, conveyance or other disposition, respectively, of the owner's membership in the HOA and rights appurtenant thereto. No person or entity other than an owner may be a member of the HOA, and membership in the HOA may not be transferred except in connection with the transfer of a Lot.

27. **Governing Board.** The HOA shall be governed by a Board of Trustees (the "Board"), membership of which shall consist of three (3) persons, one from each phase of the Subdivision. The Developers shall appoint the initial members, as designated in the Articles of Incorporation of the HOA, who shall remain in office until the later of June 30, 1999, or until more than 50% of the lots in a phase have been sold to individual lot owners. When more than fifty percent (50%) of the Lots in a phase have been sold to individual owners for residential purposes, the terms of the initial appointed members attributed to that phase shall end and the owners of Lots in that phase shall elect a new member of the Board. The terms of such elected members shall be for one (1) year. Except for the initial first terms, all terms of Board members shall begin on July 1 and end on June 30 of the next year. All decisions of the Board shall be by majority vote. In the event of death or resignation of any member of the Board, the remaining members of the Board shall have full authority to select a successor to serve the remainder of the term. Board members must either be appointed by the Developers or be a Lot owner or a member of the household of a Lot owner. If a Board member is no longer a Lot owner or a member of the household of a Lot owner, such member shall be deemed to have resigned from the Board. The members of the Board shall not be entitled to any compensation for services performed. However, any reasonable expenses incurred by the Board shall be paid and reimbursed by the HOA out of the Common Expense Fund, as defined

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below. The Board may elect one (1) of its members to act as Chairman and execute documents on its behalf, if necessary.

28. **Voting.** Each Lot owner shall be entitled to one (1) vote in the election of members of the Board or any other matter for which Lot owners are entitled to vote. Only one (1) vote may be cast for each Lot, regardless of whether such Lot is owned jointly, in common or in any other manner. If there is more than one (1) owner of any Lot, the owners of such Lot shall determine among themselves how the vote with respect to such Lot will be cast. But in no event shall more than one (1) vote be cast for any one Lot. Notwithstanding the foregoing, no Lot owner shall have a right to vote until the Plat Map for the phase including such owner's Lot is recorded.

29. **Common Areas.** Subject to the rights and duties of the Lot owners as set forth in this Declaration, the HOA shall be responsible for the exclusive management and control of the Common Areas and all improvements thereon, and shall keep the same in a good, clean, attractive, safe and sanitary condition, order and repair. The HOA shall also be responsible for maintenance, repair and replacement of Common Areas, improvements and other items located within or used in connection with the Common Areas. All goods and services procured by the HOA in performing its responsibilities under this section shall be paid for with funds from the Common Expense Fund, as defined below.

30. **Wetlands.** A portion of the Common Areas consists of wetlands, the location of which shall be depicted on the Plats (the "Wetlands Area"). The HOA shall own, operate and maintain the Wetlands Area subject to the mitigation plan set forth on Exhibit "B" hereto (the "Mitigation Plan"), and shall maintain the Wetlands Area in compliance with the Mitigation Plan and restrict the use of the Wetlands Area as prescribed in the Mitigation Plan or as otherwise required by any state or federal agency having jurisdiction over the use of the Wetlands Area, including the U.S. Army Corps of Engineers (the "Corps"). Said restrictions on the Wetlands Area shall include, but not be limited to, the following:

(a) No excavation or discharge of fill material shall be allowed, including construction of buildings or other structures, minor grading or placement of topsoil, unless prior authorization is obtained from the Corps;

(b) No grazing of animals will be allowed;

(c) No mowing shall be allowed unless necessary for safety reasons and prior authorization is obtained from the Corps; and

(d) Any additional plantings shall be limited to native vegetation, including grasses, shrubs and trees.

31. **Maintenance of Mountain Road Parking Strip.** The HOA assumes all responsibilities of adjacent or abutting property owners under the Ordinance of Ogden City, for maintenance of parking strips and removal of snow and ice from sidewalks, for all such

improvements located within the public right-of-way of Mountain Road where the back or rear boundary of a lot abuts Mountain Road and its adjacent sidewalk and parking strip.

32. **Hold Harmless of Ogden City.** The HOA acknowledges that Ogden City has waived the requirement that the open canal in the Wetlands Area be fenced, on the condition that Ogden City be held harmless for not requiring a fence. Accordingly, the HOA hereby holds Ogden City harmless from any accident, injury, damage or other claim pertaining to and caused by no fence being constructed around the open canal in the Wetlands Area.

33. **Development Plan Conditions.** It is hereby acknowledged that this P.R.U.D. Subdivision has been granted a Conditional Use Permit by Ogden City, based upon compliance with Ogden City Ordinances and the approved development plans, including providing for a trail in the Wetlands Area. Substantive changes to this Declaration, the Common Areas, the approved landscaping or trail system plan may require an amendment to the Conditional Use Permit with a failure to seek such an amendment (should it be required) resulting in the possible violation of an Ogden City Ordinance or of the Conditional Use Permit.

34. **Manager.** The HOA may, by written contract, delegate in whole or in part to a professional manager such of the HOA's duties, responsibilities, functions and powers hereunder as are properly delegable.

35. **Real and Personal Property.** The HOA may acquire and hold real, personal and mixed property of all types for the use and benefit of all the Lot owners and may dispose of such property by sale or otherwise. All such property shall be paid for out of the Common Expense Fund and all proceeds from the disposition thereof shall be part of such Fund.

36. **Rules and Regulations.** The HOA may make reasonable rules and regulations governing the use of the Lots and the Common Areas which rules and regulations shall be consistent with the rights and duties established in this Declaration. The HOA may take judicial action against any Lot owner to enforce compliance with such rules and regulations or other obligations of Lot owners arising hereunder, or to obtain damages for noncompliance therewith, as permitted by law. In the event of such judicial action, the HOA shall be entitled to recover its costs, including reasonable attorney fees, from the offending Lot owner.

37. **Granting Easements.** The HOA may, without the votes or consent of the Lot owners or any other person, grant or create, on such terms as it deems advisable, utility and similar easements and rights-of-way over, under, across and through the Common Areas.

38. **Implied Rights.** The HOA may exercise any right or privilege given to it expressly by this Declaration or by law, and every other right or privilege reasonably implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

39. **Agreement to Pay Assessments.** Developers, for each Lot owned by them, respectively, hereby covenant and agree, and each owner of any Lot by the acceptance of instruments of conveyance and transfer therefor, whether or not it be so expressed in said

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instruments, shall be deemed to covenant and agree with each other and with the HOA to pay to the HOA all assessments made by the HOA for the purposes provided in this Declaration. Such assessments shall be fixed, established and collected from time to time as provided in this Section 39.

(a) Annual Assessments. Annual assessments shall be computed and assessed against all Lots in the Subdivision as follows:

(i) Common Expense. Annual Assessments shall be based upon advance estimates of the HOA's cash requirements to provide for payment of all estimated expenses arising out of or connected with maintenance and operation of the Common Areas, including the Wetlands Area. Such estimated expenses may include, among other things, the following: expenses of management; taxes and special assessments (until the Lots are separately assessed); premiums for all insurance policies that the HOA is required or permitted to maintain hereunder; repairs and maintenance, wages for HOA employees, including fees for a Manager (if any); utility charges, including charges for utility services to the Lots to the extent not separately metered or billed; legal and accounting fees; any deficit remaining from a previous period; creation of a reasonable contingency reserve, surplus, and/or sinking fund; and any other expenses and liabilities which may be incurred by the HOA for the benefit of all of the Lot owners under or by reason of this Declaration. Such shall constitute the Common Expense, and all funds received from assessment under this subsection 39(a) shall constitute the Common Expense Fund.

(ii) Apportionment. Expenses attributable to the Common Expense Fund shall be apportioned equally to all Lots in the Subdivision and assessed to all Lot owners on such apportioned basis, each Lot to be assessed the same amount regardless of Lot size or which Phase of the Subdivision it is located in or whether a home has been constructed thereon. Developers or their respective assignees shall be liable for the amount of any assessments against Lots owned by them. Notwithstanding the foregoing, a Lot shall not be counted for determining the proper apportioned per-Lot amount until the Plat Map covering the phase of the Subdivision including such Lot has been recorded.

(iii) Annual Budget. Annual Assessments shall be determined on a January 1 through December 31 fiscal year basis. On or before December 1 each year, the HOA shall prepare or cause to be prepared an operating budget for the upcoming fiscal year. The budget shall itemize the estimated expenses of Common Expense for such fiscal year, anticipated receipts (if any), and any deficit or surplus from the prior operating period. The budget shall serve as the supporting document for the Annual Assessment for the upcoming fiscal year and as the major guideline under which the HOA shall be operated during such annual period.

(iv) Notice and Payment. Annual Assessments shall be made on a January 1 through December 31 fiscal year basis. The HOA shall furnish each Lot owner with a copy of the budget and notify each owner as to the amount of the Annual Assessment with respect to his or her Lot on or before December 15 each year for the fiscal year commencing on January 1 next following such date. Each annual Assessment shall be payable in twelve

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(12) equal monthly installments due on the first day of each calendar month during the fiscal year to which the assessment relates or, at the discretion of the HOA, in quarterly and/or unequal installments. All unpaid installments of any Annual Assessment shall bear interest at the rate of one and one-half percent (1½ %) per month (or at such lesser rate equal to the maximum interest rate allowed by Utah law) from the date each such installment is due until paid. The failure of the HOA to give timely notice of any Annual Assessment as provided herein shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, or a release of any Lot owner from the obligation to pay such assessment or any other assessment; but the date when the payment shall become due in such case shall be deferred to a date fifteen (15) days after notice of such assessment shall have been given to the owner in the manner provided in this Declaration.

(v) Inadequate Funds. In the event that the Common Expense Fund proves inadequate at any time and for whatever reason, including nonpayment of any Lot owner's assessment, the HOA may levy additional assessments in accordance with the procedure set forth in subsection 39(b) below, except that the vote therein specified shall be unnecessary.

(b) Special Assessments. In addition to the Annual Assessment authorized by this Section, the HOA may levy, at any time and from time to time, upon affirmative vote of at least fifty-one percent (51%) of the total votes of the HOA, Special Assessments, payable over such periods as the HOA may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of the Subdivision or any part thereof, or for any other expenses incurred or to be incurred as provided in this Declaration (including without limitation Common Expenses). This subsection shall not be construed as an independent source of authority for the HOA to incur expenses, but shall be construed to prescribe the manner of assessing for expenses authorized by other Sections hereof. Any amounts assessed pursuant hereto shall be assessed to Lot owners in the same proportion as the Annual Assessment, except that if additional Lots have been added by reason of a new Plat Map being recorded, the additional Lots shall be counted and assessed. Notice in writing of the amount of such Special Assessments and the time for payment thereof shall be given promptly to the Lot owners; no payment shall be due sooner than fifteen (15) days after such notice shall have been given. All unpaid portions of any Special Assessment shall bear interest at the rate of one and one-half percent (1½ %) per month (or at such lesser rate equal to the maximum interest rate allowed by Utah law) from the date such portions become due until paid. All funds received from assessments under this Section shall be part of the Common Expense Fund.

(c) Lien for Assessments. All sums assessed to owners of any Lot within the Subdivision pursuant to the provisions of this Section 39, together with interest thereon as provided herein, shall be secured by a lien on such Lot in favor of the HOA. To evidence a lien for sums assessed pursuant to this Section 39, the HOA may prepare a written notice of a lien setting forth the amount of the assessment, the date due, the amount remaining unpaid, the name of the owner of the Lot and a description of the Lot. Such a notice shall be signed and acknowledged by a duly authorized officer of the HOA and may be recorded in the office of the County Recorder of Weber County, State of Utah. No notice of lien shall be recorded until

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there is a delinquency in payment of the assessment. A copy of such lien shall be mailed to the Lot owner(s) involved within twenty (20) days from recording. Such lien may be enforced by judicial foreclosure by the HOA in the same manner in which mortgages on real property may be foreclosed in the State of Utah. In any such foreclosure, the Lot owner shall be required to pay the costs and expenses of such proceeding (including reasonable attorney fees) and such costs and expenses shall be secured by the lien being foreclosed. The Lot owner shall also be required to pay to the HOA any assessments against the Lot which shall become due during the period of foreclosure, and all such assessments shall be secured by the lien being foreclosed. The HOA shall have the right and power to bid in at any foreclosure sale, and to hold, lease, mortgage, or convey the subject Lot. The rights of the HOA under this subsection 39(c) shall be in addition to any other rights provided by law with respect to liens for and collection of unpaid assessments.

(d) Personal Obligation of Owner. The amount of any Annual or Special Assessment against any Lot shall be the personal obligation of the owner of such Lot to the HOA. Suit to recover a money judgment for such personal obligation shall be maintainable by the HOA without foreclosing or waiving the lien securing the same. No Owner may avoid or diminish any such personal obligation by waiver of the use and enjoyment of any of the Common Areas or by abandonment of his Lot or by waiving any services or amenities provided for in this Declaration. In the event of any suit to recover a money judgment for unpaid assessments hereunder, the involved owner shall pay the costs and expenses incurred by the HOA in connection therewith, including reasonable attorney fees.

(e) Statement of Account. Upon payment of a reasonable fee not to exceed \$50.00 and upon written request of any Lot owner, mortgagee, prospective mortgagee, or prospective purchaser of a Lot, the HOA shall issue a written statement setting forth the following: The amount of the unpaid assessments, if any, with respect to such Lot; the amount of the current Annual Assessment and the date or dates upon which Installments thereof become due; credit for advanced payments or prepaid items, including without limitation the owner's share of prepaid insurance premiums. Such statement shall be conclusive upon the HOA in favor of persons who rely thereon in good faith.

(f) Personal Liability of Purchaser. Subject to the provisions of subsection 39(e), a purchaser of a Lot shall be jointly and severally liable with the seller thereof for all unpaid assessments against such Lot up to the time of the grant or conveyance; provided, however, that the provisions of this subsection shall not prejudice the purchaser's right to recover from the seller the amount paid by the purchaser for such assessments.

(g) Amendment of Section. This Section 39 shall not be amended unless the owners of at least seventy-five percent (75%) of all of the Lots in the Subdivision consent and agree to such amendment by instruments duly recorded.

40. Amplification and Amendment. The provisions of this Part D may be amplified by Articles of Incorporation and Bylaws of the HOA; provided, however, that no such amplification shall substantially alter or amend any rights or obligations of the Lot owners

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set forth in this Declaration. This Part D shall not be amended unless the owners of all Lots unanimously consent and agree to such amendment by instruments duly recorded.

E. ARCHITECTURAL CONTROL COMMITTEE

41. **Membership.** The ACC shall be comprised of nine (9) persons, three (3) members from each of the three (3) phases of the Subdivision. The Developers shall appoint the initial members, as set forth in the Bylaws of the HOA. When more than fifty percent (50%) of the Lots in a phase have been sold to individual owners for residential purposes, the owners of Lots in that phase shall elect three (3) new members at which time the terms of the appointed members attributed to that phase shall end. The terms of such elected members shall be for two (2) years and shall be staggered such that one (1) member from each Phase in the Subdivision shall be elected in odd years and two (2) members from each Phase shall be elected in even years. Except for the initial first terms, all terms of ACC members shall begin on July 1 and end on June 30 two years later. All decisions of the ACC shall be by majority vote. In the event of the death or resignation of any member of the ACC, the remaining members of the ACC shall have full authority to select a successor for the remaining term of such member. Except for the initial appointed members, ACC members must be Lot owners or members of the household of a Lot owner. If an ACC member is no longer a Lot owner or a member of the household of a Lot owner, such member shall be deemed to have resigned from the ACC. Neither the members nor the ACC shall be entitled to any compensation for services performed. Notwithstanding the foregoing, any reasonable expenses incurred by the ACC or any of its members shall be paid by the HOA out of the Common Expense Fund. Voting by Lot owners for members of the ACC shall be in the same manner as voting for HOA matters.

42. **Purpose and Procedure.** Interpretation of the architectural covenants that affect the location and external appearance of any building, structure or landscape element of any Lot shall be the sole purpose and function of the ACC. It is recognized that the decisions of the ACC involve a substantial amount of subjective judgment as to which reasonable persons might disagree. However, to promote efficiency in the development and consistency in the aesthetics of the Subdivision, the decisions of the ACC are final and not subject to review by the Lot owners as a whole or by the HOA. Further, the HOA is required hereby to enforce any decisions of the ACC. Any ACC approval or disapproval as required in this Declaration shall be in writing. Plans and specifications, including exterior color and material proposals, shall be submitted to the ACC in duplicate and one approved set shall be returned to the Lot owner. In the event the ACC or its designated representative fails to approve or disapprove within thirty (30) days after plans and specifications have been submitted to it, approval shall be deemed to have been given.

F. GENERAL PROVISIONS

43. **Intent and Purpose.** The provisions of this Declaration, and any Supplemental or Amended Declaration, shall be liberally construed to incorporate, include and effectuate the purpose of creating a uniform plan for the development and operation of a Planned Residential Unit Development pursuant to the ordinances of Ogden City. Failure to enforce any provision,

restriction, covenant, or condition in this Declaration, or in any Supplemental or Amended Declaration, shall not operate as a waiver of any such provision, restriction, covenant, or condition or of any other provisions, restrictions, covenants, or conditions.

44. **Term.** The covenants and restrictions of this Declaration are to run with the land and shall be binding on all parties and all persons claiming any right, title or interest in the land arising after the date this Declaration is recorded for a period of twenty (20) years from the such date. After which time, said covenants and restrictions shall be automatically extended for successive periods of ten (10) years.

45. **Condition Precedent.** Notwithstanding any provision in this Declaration to the contrary, none of the provisions hereof relating to voting or assessments by the HOA with respect to a specific Lot shall have any force or effect until such time as the Plat Map describing the phase including such Lot is recorded.

46. **Enforcement.** The HOA or any owner of a Lot in the Subdivision shall have the right to enforce by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations and changes now or hereafter imposed by the provisions of this Declaration. In addition to remedies at law or in equity, the HOA may abate any nuisances or correct any violation hereunder and the individual Lot owner shall pay the reasonable expenses incurred therein, including court costs and reasonable attorney fees. No liability shall attach to the ACC, the HOA, or their representatives in acting pursuant to the provisions of these covenants and enforcing the terms thereof, including abatement of nuisances. Failure by the HOA or by any Lot owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

47. **No Partition.** The Common Areas shall be owned in common by all of the Owners, and no Owner may bring any action for partition thereof.

48. **Mechanics Liens.** No labor performed or material furnished for use in connection with any Lot with the consent or at the request of an Owner or his agent or subcontractor shall create any right to file a statement of mechanic's lien against the Lot of any other Owner not expressly consenting to or requesting the same nor against any interest in the Common Areas.

49. **No Obstructions.** There shall be no obstruction of the Common Areas by any Owner. Owners shall neither store nor leave any of their property in the Common Areas, except with the prior written consent of the HOA.

50. **Effective Date.** This Declaration shall take effect upon recording.

51. **Severability.** Invalidation of any provision herein by judgment or court order shall in no way affect any of the other provisions, which other provisions shall remain in full force and effect.

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52. **Amendments by Developers.** This Declaration may be amended, either in whole or in part, by the Developers in ownership at any time prior to the sale of fifty percent (50%) of the Lots in any phase of the Subdivision. Thereafter, this Declaration may only be amended, either in whole or in part, by a seventy-five percent (75%) vote of all Lot owners, unless a greater majority is otherwise required for a specific section herein.

53. **Permits.** In addition to obtaining the approval of the ACC, each Lot owner must also obtain a building permit from the appropriate governmental authority with respect to any improvements, additions or other changes to any structure on any Lot in the Subdivision.

54. **Notice.** All demands and notices to be given hereunder, if any, shall be personally delivered or sent by registered mail addressed to the appropriate party at the postal address of the Lot, if a Lot owner, or at the non-owner's postal address as of the date of this Declaration, or to such other address as a party may hereafter designate in writing.

55. **Governing Law.** The terms of this Declaration shall be governed by and construed in accordance with Utah law. Any legal proceedings relating to the subject matter of this Declaration shall be brought exclusively in the State of Utah, and the Lot owners agree that the courts of the State of Utah shall have personal jurisdiction over them with respect to any action arising hereunder.

56. **Paragraph Headings.** Paragraph headings in this Declaration are for convenience only and shall not be deemed to modify, interpret or limit the provisions hereof.

57. **Equitable Remedies.** Any breach or evasion of any of the terms of this Declaration by any Lot owner will result in immediate and irreparable injury to the other Lot owners and the HOA and will authorize recourse to injunction and/or specific performance as well as to any other legal or equitable remedies to which such injured parties may be entitled hereunder.

58. **Remedies Cumulative.** The various rights and remedies herein contained and reserved shall not be considered as exclusive of any other rights or remedies, but shall be construed as cumulative and shall be in addition to every other remedy now or hereafter existing at law, in equity or by statute.

59. **Zoning Ordinance.** Notwithstanding any provision hereof to the contrary, all Lot owners in the Subdivision are required to comply with all the rules, regulations and ordinances adopted by Ogden City and applicable to the Lots in the Subdivision.

60. **Assignment by Developers.** Nothing herein shall prohibit the Developers from conveying, transferring and assigning their respective interests as the Developers herein to one (1) or more parties. Such assignee(s) shall have all rights and obligations hereunder as if they were an original signatory hereto and named herein as the Developers. A sale by any of the Developers or their assignee(s) of a Lot or Lots to an individual for residential purposes shall not constitute an assignment by the Developers to such purchaser.

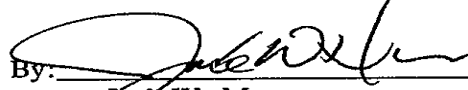
E# 1584301 BK1965 PG2915

IN WITNESS WHEREOF, the Developers have caused this Declaration of Covenants, Conditions and Restrictions to be executed as of the date set forth below.

Date: May 18, 1998

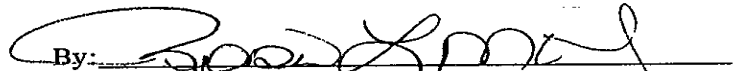
DEVELOPERS:

UTAH LAND HOLDING COMPANY, LLC, a
Colorado limited liability company

By: 

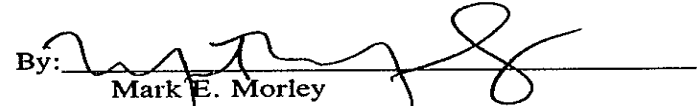
Jack W. Mason
Its: Manager

SWAT II, LLC, a Colorado limited liability
company

By: 


Robin L. Morley
Its: Manager

ROCOLO II, LLC, a Colorado limited
liability company

By: 

Mark E. Morley
Its: Manager

KAUFMAN AND BROAD OF UTAH, INC.,
a California corporation

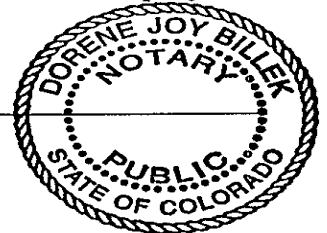
By: 
Its: PRESIDENT

E# 1584301 BK1965 PG2916

STATE OF Colorado)
 : ss.
COUNTY OF El Paso)

On this 18th day of May, 1998, personally appeared before me Jack W. Mason, personally known to me, or proved to me on the basis of satisfactory evidence, to be the Manager of Utah Land Holding Company, LLC, who executed the within instrument on behalf of said limited liability company therein named, and acknowledged to me that said company executed the same.

Dorene Joy Billek
Notary Public



My Commission Expires 05/16/2000

STATE OF COLORADO)
 : ss.
COUNTY OF EL PASO)

On this 18th day of May, 1998, personally appeared before me Robin L. Morley, personally known to me, or proved to me on the basis of satisfactory evidence, to be the Manager of SWAT II, LLC, who executed the within instrument on behalf of said limited liability company therein named, and acknowledged to me that said company executed the same.

Mary L. Kerbs
Notary Public

STATE OF Colorado)
 : ss.
COUNTY OF El Paso)

On this 18th day of May, 1998, personally appeared before me Mark E. Morley, personally known to me, or proved to me on the basis of satisfactory evidence, to be the Manager of ROCOLO II, LLC, who executed the within instrument on behalf of said limited liability company therein named, and acknowledged to me that said company executed the same.

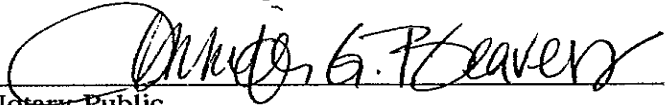
Dorene Joy Billek
Notary Public



My Commission Expires 05/16/2000

STATE OF UTAH)
 : ss.
COUNTY OF Salt Lake)

On this 25TH day of ^{JUNE} May, 1998, personally appeared before me Richard A. Petersen, personally known to me, or proved to me on the basis of satisfactory evidence, to be the President of KAUFMAN AND BROAD OF UTAH, INC., a California corporation, who executed the within instrument on behalf of said corporation therein named, and acknowledged to me that said corporation executed the same.



Notary Public



E4 1584301 BK1965 PG2918

EXHIBIT A
EXHIBIT "A"
(DESCRIPTION OF REAL PROPERTY)

(11-005-0003 & 11-005-0012)

BEGINNING AT A POINT ON THE WEST LINE OF MOUNTAIN ROAD, SAID POINT BEING NORTH 89°05'44" WEST 631.59 FEET ALONG SECTION LINE AND NORTH 558.44 FEET FROM THE SOUTHEAST CORNER OF SECTION 4, TOWNSHIP 6 NORTH, RANGE 1 WEST, SALT LAKE BASE & MERIDIAN AND RUNNING THENCE NORTH 89°05'44" WEST 1005.84 FEET ALONG THE NORTH LINE OF WOODLAND HEIGHTS SUBDIVISION NO. 1; THENCE NORTH 89°51'44" WEST 242.90 FEET ALONG SAID NORTH LINE; THENCE SOUTH 54°15'16" WEST 128.71 FEET ALONG AND BEYOND SAID NORTH LINE TO THE EAST LINE OF MEADOWLARK MEADOWS SUBDIVISION, PHASE 2 (AMENDED); THENCE NORTH 7°12'06" EAST 90.84 FEET ALONG SAID EAST LINE TO THE SOUTHEASTERLY LINE OF MEADOWLARK MEADOWS SUBDIVISION, PHASE 3; THENCE NORTH 83°28'23" EAST 167.08 FEET ALONG SAID SOUTHEASTERLY LINE; THENCE NORTH 53°39'18" EAST 131.60 FEET ALONG SAID SOUTHEASTERLY LINE; THENCE NORTH 45°00'09" EAST 120.21 FEET ALONG SAID SOUTHEASTERLY LINE; THENCE NORTH 16°41'48" WEST 77.24 FEET ALONG SAID SOUTHEASTERLY LINE TO THE SOUTH LINE OF NORTH STAR SUBDIVISION NO. 1; THENCE SOUTH 82°52'21" EAST 3.35 FEET ALONG SAID SOUTH LINE; THENCE NORTH 12°00'16" WEST 51.74 FEET ALONG THE EAST LINE OF SAID SUBDIVISION; THENCE NORTH 22°38'36" EAST 141.67 FEET ALONG SAID EAST LINE; THENCE NORTH 6°00'35" EAST 119.33 FEET ALONG SAID EAST LINE AND ALONG THE EAST LINE OF NORTH STAR SUBDIVISION NO. 2; THENCE NORTH 7°33'57" WEST 264.87 FEET ALONG SAID EAST LINE; THENCE NORTH 27°30'00" EAST 15.36 FEET ALONG SAID EAST LINE TO THE NORTHEAST CORNER OF LOT 47 OF SAID SUBDIVISION; THENCE NORTH 72°32'31" WEST 211.86 FEET TO THE NORTHEAST CORNER OF LOT 49 OF SAID SUBDIVISION; THENCE NORTH 89°43'06" WEST 8.58 FEET ALONG THE NORTH LINE OF SAID SUBDIVISION; THENCE NORTH 00°13'04" EAST 1182.36 FEET ALONG A BOUNDARY LINE AGREEMENT TO QUARTER SECTION LINE; THENCE SOUTH 89°46'50" EAST 1411.41 FEET ALONG QUARTER SECTION LINE TO THE WEST LINE OF MOUNTAIN ROAD; THENCE SOUTH 7°30'16" WEST 10.49 FEET ALONG SAID WEST LINE; THENCE SOUTH 89°58'46" EAST 17.15 FEET; THENCE SOUTH 7°30'16" WEST 468.28 FEET ALONG SAID WEST LINE TO THE POINT OF CURVATURE OF A 3781.27 FOOT RADIUS CURVE TO THE LEFT; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE AND ALONG SAID WEST LINE 134.36 FEET (CHORD BEARS: SOUTH 6°29'12" WEST 134.35 FEET) TO THE NORTH LINE OF THE STUBBLEFIELD PARCEL; THENCE NORTH 85°31'44" WEST 291.26 FEET; THENCE SOUTH 4°28'16" WEST 150.00 FEET; THENCE SOUTH 85°31'44" EAST 291.63 FEET TO SAID WEST LINE AND A POINT ON THE ARC OF A 3781.27 FOOT RADIUS NON-TANGENT CURVE TO THE LEFT; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE AND ALONG SAID WEST LINE 18.11 FEET (CHORD BEARS: SOUTH 3°03'30" WEST 18.11 FEET); THENCE SOUTH 2°55'16" WEST 710.70 FEET ALONG SAID WEST LINE TO THE POINT OF CURVATURE OF A 2187.08 FOOT RADIUS CURVE TO THE RIGHT; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE AND ALONG SAID WEST LINE 275.47 FEET (CHORD BEARS: SOUTH 6°31'46" WEST 275.29 FEET) TO THE POINT OF COMPOUND CURVATURE OF A 1823.45 FOOT RADIUS CURVE TO THE RIGHT; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE AND ALONG SAID WEST LINE 196.26 FEET (CHORD BEARS: SOUTH 13°13'16" WEST 196.16 FEET); THENCE SOUTH 16°18'16" WEST 139.67 FEET ALONG SAID WEST LINE TO THE POINT OF CURVATURE OF A 8955.72 FOOT RADIUS CURVE TO THE LEFT; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE AND ALONG SAID WEST LINE 20.41 FEET (CHORD BEARS: SOUTH 16°14'21" WEST 20.41 FEET) TO THE POINT OF BEGINNING.

WHICH IS ALSO TO INCLUDE THE FOLLOWING DESCRIBED PROPERTIES, AS THEY WILL BE KNOWN AFTER RECORDATION OF THE SUBDIVISION PLATS:

11-268-0001 TO 0016

ET 1584301 BK1965 PG2919

11-269-0001 TO 0023

11-270-0001 TO 0025

EXHIBIT A

ALL OF LOTS 1 THROUGH 58, MOUNTAIN RIDGE SUBDIVISION, PHASE 1,
ALL OF LOTS 59 THROUGH 121, MOUNTAIN RIDGE SUBDIVISION, PHASE 2,
ALL OF LOTS 122 THROUGH 187, MOUNTAIN RIDGE SUBDIVISION, PHASE 3,
MORE PARTICULARLY ALL OF MOUNTAIN RIDGE SUBDIVISIONS, PHASES 1, 2 AND 3.
SITUATE IN WEBER COUNTY, STATE OF UTAH.

E# 1584301 BK1965 PG2920

MOUNTAIN RIDGE

**Construction Plan
Mitigation Plan
May 12, 1998**

Regulatory Branch (NW-26) 199450109

Construction Plan

The construction plan is to lower the non-wetland area and re-channel the small stream that forks around the non-wetland area and channel it through the area. The Wetland Grading drawing shows the elevations and dimensions of construction. The top soil will be removed first and stock piled for replacement back on the area. The quantity of material removed will be approximately 1482 cubic yards. The drainage ditch will be constructed as shown, there will be no rip rap material placed in the bottom. The slope on the ditch is 2.6 percent. The excess material that is removed will be placed in the subdivision. The area will be re-vegetated with native grass. There will be roots that will be in the top soil removed that will grow back.

Mitigation Plan

The wetland area will be separated from the development by fences built by the land owners on the back side of their lots. There are provisions in the Mountain Shadows Subdivision Declaration of Covenants, Conditions and Restrictions on page 8, paragraph 30, Wetlands, it states the following:

A portion of the Common Areas consists of wetlands, the location of which shall be depicted on the Plats (the "Wetlands Area"). The HOA (Home Owners Association) shall own, operate and maintain the Wetlands Area subject to the mitigation plan set forth on Exhibit "B" hereto (the "Mitigation Plan") and shall maintain the Wetlands Area in compliance with the Mitigation Plan and restrict the use of the Wetlands Area as prescribed in the Mitigation Plan or as otherwise required by the state or federal agency having jurisdiction over the use of the Wetlands Area, including the Army Corps of Engineers. Said restrictions on the Wetlands Area shall include, but not be limited to, the following:

- (a) No excavation or discharge of fill material shall be allowed, including construction of buildings or other structures, minor grading or placement of topsoil, unless prior authorization is obtained from the Corps;
- (b) No grazing of animals will be allowed;

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EXHIBIT "B"

- (c) No mowing shall be allowed unless necessary for safety reasons and prior authorization is obtained from the Corps; and
- (d) Any additional planting shall be limited to native vegetation, including grasses, shrubs and trees.

The mitigation plan is for the area that will be disturbed during construction. The wetland ground after construction will be left alone. Once it has been re-seeded with native vegetation, there will be no additional disturbance to it. The HOA will be responsible to make sure that the area along with all the wetland is undisturbed. There will be trails within the area for the public to walk through and to enjoy.

The HOA will need to monitor the mitigated area for a period of three (3) years to determine whether the re-vegetated area is growing back. They will take two (2) pictures during the year to show the area. The pictures will need to be accompanied with a cover letter and the Regulatory Branch Number (NW-26) 199450109, and sent to the following:

Mr. Michael A. Schwinn, Chief
Army Corps of Engineers
Utah Regulatory Office
1403 South 600 West, Suite A
Bountiful, Utah 84010

After review of the monitoring information sent each year, the Corp. will determine the status of compliance with the mitigation plan. The Corp of Army, Utah Regulatory Office, will be notified who is president and contact person of the HOA prior to the submittal.