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Blue Spruce, plat #1, 1
14-376-0001 thru 0040

new 2x 5A-2W
14-018-0061-pt

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR BLUESPRUCE ESTATES PHASES 1&2

Clinton

Davis County, Utah

January 6, 2004

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS for the Bluespruce Estates 1&2 is made by M&D Developers, L.L.C., a Utah Limited Liability company with its principal place of business located at 370 South 500 East, Suite 201 Clearfield, Utah, (hereinafter referred to as the "Declarant").

A. Declarant is the record owner of that certain tract of property more particularly described in Article II of this Declaration.

B. Declarant desires to provide for the preservation of the values and amenities of the Property and for maintenance of the Open Space Areas. To this end, and for the benefit of the Property and of the Owners thereof, Declarant desires to subject the Property described in Article II of this Declaration and the various lots now or hereafter contained within the entire tract hereinafter described to the covenants, restrictions, easements, charges, and liens hereinafter set forth.

C. In order to provide for the efficient preservation of the values and amenities of the Property, Declarant deems it desirable to create an entity which possesses the power to maintain and administer the Open Space Areas, and to collect and disburse the assessments and charges hereinafter provided for, and otherwise to administer and enforce the provisions of this Declaration. For such purpose, Declarant has, in conjunction with recordation of this Declaration, caused or will be caused to be incorporated under the laws of the State of Utah, as a nonprofit organization, The Bluespruce Estates 1&2, HOMEOWNERS' ASSOCIATION.

NOW, THEREFORE, Declarant hereby covenants, agrees and declares that all of the Property described in Article II hereof shall be held, transferred, sold, conveyed, occupied and used subject to the covenants, restrictions, conditions, easements, charges, assessments, obligations, and liens hereinafter set forth.

1. DEFINITIONS

1. When used in this Declaration, these defined terms shall have following meaning, unless the context clearly requires otherwise
 - 1.1 Additional Land shall, at any point in time, mean the real property, or any portion thereof, located in Davis County, State of Utah, and more particularly described in Exhibit on attached hereto.
 - 1.2 Association shall mean the Bluespruce Estates 1&2, Homeowners Association, a Utah nonprofit corporation.
 - 1.3 Board shall mean and refer to the Board of Directors to the Association as duly elected in accordance with the terms and conditions of the Articles of Incorporation.
 - 1.4 Open Space Area shall mean and refer to that part of the Property which is not included with the Lots and which is owned by the Association for the Open Space use and enjoyment of the Owners, together with all improvements thereon and all easements appurtenant thereto including, but not limited to, storm water basins, private utility lines and personal property owned by the Association when the context so requires.
 - 1.5 Declaration shall mean and refer to this Declaration of Covenants, Conditions and Restrictions, including any subsequent amendments hereto.

- 1.6 Development shall at any point in time mean, refer to, and consist of The Bluespruce Estates 1&2 Plat Map then in existence and improvements within said Plat.
- 1.7 Homeowners' Association Easements shall mean those easements designated upon the Plat or provided in this Declaration and reserved for the benefit of the Association and its Members. All such easements shall be limited to the purposes specified for the same. Such easements shall include, but are not limited to, each Landscape Easement, Open Space Easement, Monument Easement and other easement described upon the Plat or provided herein.
- 1.8 Landscape Easement shall mean those areas designated on a Plat as an Open Space Landscape Easement in which the Association has retained an easement requiring the planting, maintenance and replacement of natural trees and shrubs and other landscaping requirements for the benefit of all Owners of Lots within the Plat. A Landscape Easement shall not be an Open Space Area when the same is located upon a Lot, but costs incurred by the Association in requiring and maintaining such areas for the benefit of Members shall be deemed Open Space Area costs to the extent not assessable to specific Owners. No structures shall be erected within a Landscape Easement.
- 1.9 Residential Home shall mean and refer to a home, which is designed and intended for use and occupancy as a single-family residence, together with all improvements located on or with respect to the Home concerned which are used in connection with such residence.
- 1.10 Home shall mean and refer to anyone of the separately numbered and individually described plots of land described on a Plat (a) which is intended to be owned individually, rather than by an association of Owners or in Open Space by Owners of different Lots; and (b) which is intended to be used as the site of a single Residential Home.
- 1.11 Member shall mean and refer to every person who holds a membership in the Association.
- 1.12 Monument Easement shall mean a landscape Easement where a structure, statue, sign or other improvement is placed to create further aesthetic value to the property.
- 1.13 Mortgage shall mean any mortgage, deed of trust or trust deed or the act of encumbering any Home or any property by a mortgage, trust, or deed or trust.
- 1.14 Mortgagee shall mean any person named as a mortgagee of a mortgage, or beneficiary under or holder of a deed of trust.
- 1.15 Owner shall mean and refer to the person who is the Owner of record (in the office of the County Recorder of Davis County, Utah) of a fee or an undivided interest in any Home. Notwithstanding any applicable theory relating to a mortgage, deed of trust or like instrument, the term Owner shall not mean or include a mortgagee or a beneficiary or trustee under a deed of trust unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.
- 1.16 Parcel shall mean and refer to each portion of the Property which is separately subjected to the terms of this Declaration, with the intention that it shall thereby comprise part of the Development, and which is filed for record in the office of the County Recorder of Davis County, Utah. The real property described in Article II of this Declaration constitutes a Parcel.
- 1.17 Pathway Easement shall mean those areas within the Open Space Area and designated on the Bluespruce Estates 1&2 in which the Association has retained an easement for a walking, biking, equestrian and other recreation uses path which shall be regulated or limited primarily, but not exclusively, for the benefit of all Owners of Lots within the Plat. The Pathway Easement shall be part of the Open Space Areas and costs incurred by the Association in repairing such areas for the benefit of Members shall be deemed Open Space Area costs.
- 1.18 Plat shall mean and refer to any plat of a planned unit development, or any plat or map similar to any of the foregoing: (a) which covers all or a portion of the Property; (b) which describes or creates one or more Lots; (c) on

which or in an instrument recorded in conjunction therewith is expressed the intent that the Plat or planned unit development created by the Plat shall comprise the Development or that the real property described therein is all or a portion of the Additional Land and that such real property shall become part of the Plat or planned unit development; and (d) which is filed for record in the office of the County Recorder of Davis County, Utah. Recorded concurrently with this Declaration is Bluespruce Estates 1&2, executed and acknowledged by Declarant on _____, and which creates separately numbered Lots. Said plat constitutes a Plat.

1.19 Property shall mean and refer to all of the real property which is covered by one or more Plats.

1.20 Plat shall mean and refer to the entire residential development which is created by a Plat.

II. PROPERTY DESCRIPTION

2.1 Submission. The Property which, as of the date hereof, is and shall be held, transferred, sold, conveyed and occupied subject to the provisions of this Declaration, consists of real property situated in Davis County, State of Utah, and more particularly described as follows:

SEE EXHIBIT "A"

EXCLUDING all presently existing or to be constructed or installed sewer lines, water mains, gas lines, electrical conduits, telephone lines, cable television lines and related facilities to the extent that they are located outside the Lots included within the above-described tract; provided, however, that lines and systems specifically conveyed to the Association by declarant shall not be included within this exclusion.

RESERVED UNTO DECLARANT, however, such easements and rights of ingress and egress over, across, through and under the above-described tract, and any improvements now or hereafter constructed thereon as may be reasonably necessary for Declarant or any assignee of Declarant (in a manner which is reasonable and not inconsistent with the provision of this Declaration). (i) to construct a Residential Home on each and every Home; (ii) to improve the Property with such facilities, including, but not limited to, roads, recreational facilities, walkways and various landscaped areas, designed for the use and enjoyment of all the Members as Declarant may reasonably determine to be appropriate; (iii) to repair and (iv) to develop and improve, as Declarant or its assignee, may in its sole discretion to be appropriate, each and every portion of the Entire Tract, irrespective of whether or not the particular portion of such Entire Tract development or improved is or is to be part of Bluespruce Estates 1&2. If, pursuant to the foregoing reservation, the above-described tract or any improvement thereon is traversed or partially occupied by a permanent improvement or utility line, a perpetual easement for such improvement or utility line shall exist. With the exception of such perpetual easements the reservation hereby effected shall, unless sooner terminated in accordance with its terms, expire seven (7) years after the date on which this Declaration is filed for record in the office of the County Recorder of Davis County, Utah.

ALL OF THE FORGOING IS SUBJECT TO: all lines for current and future taxes, assessment and charges imposed or levied by governmental or quasi-governmental authorities; all patent reservations and exclusions; all mineral reservation and exclusions; all mineral reservations of record and rights incident thereto; all instruments of record which affect the above-described tract or any portion thereof, including without limitation, and mortgage or deed of trust; all visible easements and rights-of-way; and all easements and rights-of-way of record.

3.1 Membership. Every Owner shall be a Member of the Association. Membership in the Association shall be mandatory, shall be appurtenant to the Home in which the Owner has the necessary interest, and shall be separated from the Home to which it appertains.

3.2 Voting Rights. The Association shall have the following described classes of voting membership:

Class A. Class A Members shall all be Owners, with the exception of the Declarant, until the Class B membership ceases, at which time the Declarant shall become a Class A Member. Class A Members shall be entitled to one vote per Home in which the interest required for membership in the Association is held. In no event, however, shall more than one Class A vote exist with respect to any Home.

Class B. The Class B Member shall be the Declarant. The class B Member shall be entitled to two votes per Home interest in the Association. The Class B Membership shall automatically cease and be converted to a Class A Membership on the first to occur of the following events:

- (a) when the total number of votes held by all Class A Members equals the total number of votes held by the Class B Member, plus one (1) vote; or
- (b) the expiration of twenty-five (25) years after the date in which this Declaration is filed for record in the office of the County Recorder of Davis County, Utah.

The Class B Membership shall be revived in the event that Additional Land is annexed as part of the Development and such annexation results in the addition of sufficient Lots to give the Developer more votes, such Developer receiving three votes for each Home, which is more than the Class A Members who are to receive one vote for each Home.

3.3 Multiple Ownership Interests. In the event there is more than one Owner of a particular Home, the vote relating to such Home shall be exercised as such Owners may determine in person or by proxy, shall be conclusively presumed to be the vote attributable to the Home concerned unless an objection is immediately made by another Owner of the same Home. In the event such an objection is made, the vote involved shall not be counted for any purpose whatsoever other than to determine whether a quorum exists.

3.4 Record of Ownership. Every Owner shall promptly cause to be duly filed of record the conveyance document (or in the case of a contract buyer, a copy of the sales contract) to him of his Home. Each Owner shall file a copy of such conveyance document (or contract) with the secretary of the Association with a transfer fee of \$25.00, who shall maintain a record of ownership of the Lots. Any Owner who mortgages his Home or any interest therein by a mortgage which has priority over the lien of any assessment provided herein shall notify the secretary of the Association of the name and address of the Mortgagee and also the release of such Mortgage; and the secretary of the Association shall maintain all such information in the records of ownership. Any cost incurred by Owner shall nevertheless be at the expense of such Owner reimbursed to the association as "Reimbursement Assessment" in accordance with the provisions of Section 5.5.

IV. PROPERTY RIGHTS IN OPEN SPACE AREAS

4.1 Easement of Enjoyment. Each Member shall have a right and easement of use and enjoyment in and to the Open Spaces Areas. Such right and easement shall be appurtenant to and shall pass with title to each Home and in no event be separated there from. Any Member may delegate the right and easement of the use and enjoyment described herein to any family member, tenant, lessee or contract purchaser who resides on such Member's Home.

4.2 Form for Conveyance. Any deed, lease, mortgage, deed of trust, or other instrument conveying or encumbering title to a Home shall describe the interest or estate involved substantially as follows:

Lot No. , contained within the Bluespruce Estates 1&2. Plat, the same as identified in the Plat recorded as Entry No. in Book , at Page, and in the "Declaration of Covenants, Conditions and Restrictions of the Bluespruce Estates 1&2. Plat recorded as Entry No. , in Book , at Page , of the official records of the Davis county Recorder. TOGETHER WITH a right and easement of use and enjoyment in and to the Open Space Areas and Easements described and provided for in said Declaration of Covenants, Conditions and Restrictions and in the Record of Survey Map in the official record of the Davis County Recorder.

Whether or not the description employed in such instrument is in the above-specified form, however, all provisions of this Declaration shall be binding upon and shall inure to the benefit of any party who acquires and interest in a Home.

4.3 Transfer of Title. Declarant agrees to convey to the Association title to the Open Space Area of the Development free and clear of all liens (other than the lien of current general taxes and the lien of any assessments, charges, or taxes imposed by governmental or quasi-governmental authorities), at such time that the Declarant's Class B Membership ceases and is converted to a Class A Membership pursuant to paragraph 3.2 herein. If improvements to the Open Space area have not been completed by Declarant at the time title to the Open Space Area transfers to the Association, Declarant will still be obligated to make such improvements.

4.4 Limitation on Easement. A Member's right and easement of use and enjoyment concerning the Open Space Areas shall be subject to the following:

(a) The right of the Association to impose reasonable limitations on the number of guests per Member who at any given time are permitted to use the Open space Areas;

(b) The right of the Architectural Control committee to approve and designate the point of access from Home in accordance with the requirements of Article VIII;

(c) The right of any governmental or quasi-governmental body having jurisdiction over the Property to access and right of ingress and egress over and across any street, parking area, walkway, or open area contained within the Property for purposes of providing police and fire protection, transporting school children, and providing any other municipal or governmental service; and

(d) The right of the Association to dedicate or transfer all or any part of the Open Space areas, and any sewer, water and storm drain trunk lines and storm water basins, to any public agency or authority for such purposes and subject to such conditions as may be agreed upon by the Association. Any such dedication or transfer must, however, be assented to by (i) the public agency of authority, Clinton City; (ii) all holders of first Mortgages secured by Lots and (iii) by two-thirds (2/3) of the vote of each class of membership which Members present in person or by proxy are entitled to cast at a meeting duly called for that purpose written or printed noticed setting forth the purpose of the meeting and the action proposed shall be sent to all Members at least ten (10) but not more than thirty (30) days prior to the meeting date.

V. ASSESSMENTS

5.1 Personal Obligation and Lien. Each Owner shall, by acquiring or in any way becoming vested with his interest in a Home, be deemed to covenant and agree to pay to the Association the monthly and special assessments described in this Article, together with the hereinafter provided for interest and costs of collection. All such amounts shall be, constitute, and remain: (a) a charge and continuing lien upon the Home with respect to which such assessment is made; and (b) the personal obligation of the person who is the Home Owner at the time the assessment falls due. No Owner may exempt himself or his Home from liability for payment of assessment by waiver of his rights concerning the Open Space Areas or by abandonment of his Home. In a voluntary conveyance of a Home, the grantee shall be jointly and severally liable with the grantor for all such unpaid assessments, late payment fees, interest and costs of collection, including reasonable attorney fees, which shall be a charge on the Home at the time

of conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefore.

5.2 Purpose of Assessments. Assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety and welfare of residents of the Property, including but not limited to the appearance and aesthetics of the Development. The use made by the Association of funds obtained from assessments may include, but is not limited to, payment of the cost of taxes and insurance on the Open Space Areas; maintenance, repair and improvements within the Open Space Areas; establishing and funding a reserve to cover maintenance or repair or replacement of improvements within the Open Space Areas; maintenance, repair, and improvement of the Landscaped Easement to the extent undertaken by the Association; and any expenses necessary or desirable to enable the Association to perform or fulfill its obligations, functions or purposes under this Declaration or its Articles of Incorporation.

5.3 Maximum Monthly Assessment. As of the date under Section 5.7, each Home shall be subject to a monthly assessment sufficient to maintain the Open Space areas. The assessment may be increased or decreased so long as the change is assented to by not less than a majority of the Members present in person or represented by proxy at a meeting duly called for such purposes. Written notice setting forth the purpose of the meeting shall be sent to all Members at least ten (10) but not more than thirty (30) days prior to the meeting date. The Board of Directors of the Association may from time to time and in its discretion set the amount of the monthly assessment at any sum not in excess of the then applicable maximum amount.

5.4 Special Assessment. From and after the date set under Section 5.7, the Association may levy special assessments for the purpose of defraying, in whole or in part: (a) any expense or expenses not reasonably capable of being fully paid with funds generated by monthly assessments; or (b) the cost of any construction, reconstruction or unexpectedly required repair or replacement in connection with the Open Space Areas. Any special assessments must be assented to by not less than a majority of the Members other than the Declarant (or if the two class voting structure is still in effect as provided herein, a majority of the votes of each Class of Members), present in person or represented by proxy that are entitled to cast at a meeting duly called for the purpose. Written notice setting forth the purpose of the meeting shall be sent to all Members at least ten (10) but not more than thirty (30) days prior to the meeting date.

5.5 Reimbursement Assessments on Specific Home. In addition to the monthly assessment and any special assessment authorized pursuant to Section 5.3 and 5.4 above, the Board may levy at any time Special Assessments (a) on each Home specifically benefited by any improvement to adjacent roads, sidewalks, planting areas or other portions of the Open Space Areas made on the written request of the Owner of the Home to be charged; (b) on each Home the Owner or occupant of which the Association shall cause any damage to the Open Space Areas necessitating repairs; and (c) on each Home as to which the Association shall incur any expense for maintenance or repair work performed, or enforcement action taken, pursuant to Section 3.4, Section 6.1 (c), Section 6.2 (a) or other provisions of this Declaration (all or part of the foregoing being sometimes referred to as a "Reimbursement Assessment"). The aggregate amount of any such Special assessment shall be determined by the cost of such improvements, repairs, maintenance or enforcement action, including all overhead and administrative costs and attorney fees, and shall be allocated among the affected Lots according to the special benefit or cause of damage or maintenance or repair work or replacement action, as the case may be, and such assessment may be made in advance of the performance of work. If a special benefit arises from any improvements which is part of the general maintenance obligations of the Association, it shall not give rise to a Reimbursement Assessment against the Lots benefited.

5.6 Uniform Rate of Assessment. Except as provided in section 5.5 above, monthly and special assessments shall be fixed at a uniform rate for all Lots. Declarant, for each unsold Home owned by it in the development, shall pay monthly assessments as herein provided for all Home owners; provided that until such date as Declarant closes and conveys a Lot to an Owner (other than Declarant), the monthly assessment attributable to such Home shall be one-half (1/2) the regular monthly assessment.

5.7 Monthly Assessment Due Dates. The monthly assessments provided for herein shall commence as to all Lots on the date a deed is delivered to the purchaser of a Home, or if the date is by way of a contract of sales, on

the date the contract is executed by the parties thereto or the date of occupancy agreement, or the date the Owner actually takes possession of a Home, whichever first occurs. The first monthly assessment shall be adjusted according to the number of days remaining in the month of conveyance, contract or occupancy as the case may be. At least fifteen (15) days prior to the effective date of any change in the amount and the first due date of the assessment concerned.

5.8 Certificate Regarding Payment. Upon the request of any Owner or prospective purchaser or encumbrance of a home the Association shall issue a certificate stating whether or not all assessments respecting such Home are current and, if not, the amount of the delinquency. Such certificate shall be conclusive in favor of all persons who in good faith rely thereon.

5.9 Effect of Non-Payment: Remedies. Any assessment not paid when due shall, together with the hereinafter provided, however, that any such lien will be subordinate to the lien or equivalent security interest of any first mortgage on the Home recorded prior to the date any such assessments became due, if the assessment became due. If the assessment is not paid within sixty (60) days after the date on which it becomes delinquent, the amount thereof shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum, and the Association may bring an action either against the Owner who is personally liable or to foreclose the lien against the Home. Any judgment obtained by the Association shall include reasonable attorney's fees, court costs, and each and every expense incurred by the Association in enforcing its rights.

5.10 Tax collection by County Authorized. It is recognized that under the Declaration the Association will own the Open Space Areas and that it will be obligated to pay property taxes to Davis County. It is further recognized that each Owner of a Home as a Member of the Association will be required to reimburse the Association for his pro rata share of such taxes paid. Notwithstanding anything to the contrary contained in the Declaration, Davis County, if it elects, shall be authorized to collect such pro rata share of taxes directly from each Owner by inclusion of said share with the tax levied on each home.

VI. DUTIES AND POWERS OF THE ASSOCIATION

6.1 Duties of the Association. Without limiting any other duties which may be imposed upon the Association by its Articles of Incorporation or this Declaration, the Association shall have the obligation and duty to do and perform each and every one of the following for the benefit of the Owners and the maintenance and improvement of the Property;

(a.) The Association shall accept all owners and members of the Association.

(b.) The Association shall accept title to all Open Space Areas conveyed to it by Declarant.

(c.) The Association shall maintain, repair, and replace all Open Space areas, and all exterior trees, shrubs, grass, and other Open Space Areas, including but not limited to the maintenance of all exterior trees, shrubs, grass, and other Open Space Area improvements. The Association shall install, maintain and replace monument and landscaping on the Property, and will provide adequate water to sustain all such landscaping.

In the event that the need for maintenance or repair of Open Space Areas or the Landscape Easement as specified herein is caused through the willful or negligent acts of an Owner, or the Landscape Easement as specified herein is caused through the willful or negligent acts of an Owner, or through the willful or negligent acts of the family, tenant, guest or invitees of an Owner, the Board may cause such repairs to be made by the Association and the cost of such maintenance or repair (and administrative expenses equal to ten (10%) percent

of such costs) shall be added to and become part of a Reimbursement Assessment (as set forth on Section 5.5) to "Which such Home is subject.

(d.) To extent not assessed to or paid by the Owners directly, the Association shall pay all real property taxes and assessments levied upon any portion of the Open Space Areas, provided that the Associations shall have the right to contest or compromise any such taxes or assessments.

(e.) The Association shall obtain and maintain in force the policies of insurance required by the provisions of this Declaration.

(f.) The Association shall employ a responsible corporation, partnership, firm, person or other entity as the Managing agent to manage and control the Open Space Areas, subject at all time to direction by the Board, with such administrative functions and power as shall be delegated to the Managing Agent by the Board. The compensation of the Managing Agent shall be specified by the Board. Any agreement appointing a Managing agent shall be terminable by either party, with or without cause and without payment of any termination fee, upon thirty (30) days written notice thereof, and the term of any such agreement may not exceed one year, renewable by agreement of the parties for successive one-year periods. Any managing Agent may be an independent contractor and not an agent or employee of the Association.

6.2 Powers and Authority of the Association. The Association shall have all the powers set forth in its Articles of Incorporation and its By-laws, together with its general powers as a nonprofit corporation, and the power to do any and all things which may be authorized, required or permitted to be done by the Association under and by virtue of this Declaration, including the power to levy and collect assessments as hereinafter provided. Without in any way limiting the generality of the foregoing, the Association shall have the following powers.

- (a.) In fulfilling any of its duties under this Declaration, including its duties for the maintenance, repair, operation or administration of the Open Space Areas or in exercising any of its rights to construct, maintain and repair improvements of other work upon any of the Open Space Areas, and provided that any contract for goods or services having a term of more than one (1) year shall state that it may be terminated by either party at the end of the first year of at any time thereafter upon no less than ninety (90) days written notice, the Association shall have the power and authority (i) to pay and discharge and all liens placed upon any Open Space Areas on account of any work done or performed by the Association in the fulfillment of any of its obligations and duties of maintenance, repair, operation or administration and (ii) to obtain, contract and pay for, or to otherwise provide for:
- i. Construction, maintenance, repair and landscaping of the Open Space Areas on such terms and conditions as the Board shall deem appropriate.
 - ii. Such insurance policies or bonds as the Board may deem appropriate for the protection or benefit of Declarant, the Association, the members of the Board and the Owners
 - iii. Such utility services, including (without limitation) water, sewer, trash removal, snow removal, electrical, telephone and gas service, as the Board may from time to time deem desirable.
 - iv. Developers will provide and install mailboxes for each lot. The homeowner will be responsible for maintaining the mailbox. If at any time the mailbox needs repairs and the homeowner does not make them, the association will make the repairs needed and then the homeowner will be assessed the amount the association has spent.

- iv. The services of architect, engineers, attorneys and certified public accountants and such other professional or nonprofessional services as the Board may deem desirable;
- v. Fire, police and such other protection services as the Board may deem desirable for the benefit of the Owner or any of the Property; and

6.3 Association Rules. The Board from time to time and subject to the provisions of this Declaration, may adopt, amend, repeal and enforce rules and regulations governing, among other things: (a) the use of the Open Space Areas; (b) the use of Residential Lots for business or rental purpose; and (c) other matters concerning the use and enjoyment of the Property and the conduct of residents.

6.4 Limitation of Liability. No member of the Board acting in good faith shall be personally liable to any Owner, guest, lessee or any other person for any error of omission of the Association, its representatives and employees, the Board, any committee, or the Managing Agent.

6.5 Insurance. The Association shall secure and at all times maintain the following insurance coverage:

(a.) Policy or policies of fire and casualty insurance, with extended coverage endorsement, for the full insurable replacement value of all improvements comprising a part of the Open Space Areas. The name of the insured under each policy shall be in form and substance similar to: "The Bluespruce Estates Phases 1&2 Homeowners' Association for the use and benefit of the individual Home Owners and Mortgages, and their interests may appear."

(b.) A policy or policies insuring the Owners, the association, and its directors, officers, agents, and employees against any liability incident to the ownership, use or operation of the Open Space Areas which may arise among themselves, to the public, and to any invitees or tenants of the Property or of the Owners. Limits of liability under such insurance shall be \$1,000,000 for all persons injured in any one accident. Such policies shall be issued on a comprehensive liability basis and shall provide a cross-liability endorsement pursuant to which the rights of the named insured as between themselves are not prejudiced.

The following additional provisions shall apply with respect to insurance:

(1) In addition to the insurance described above, the association shall secure and at all times maintain insurance against such risks as are or hereafter may be customarily insured against in connection with developments similar to the Property in construction, nature and use.

(2) All policies shall be written by a company holding a rating of "AA" or better from Best's Insurance Reports.

(3) The Association shall have the authority to adjust losses.

(4) Insurance secured and maintained by the Association shall not be brought into contribution with insurance by the individual Owners or their mortgages.

(5) Each policy of insurance obtained by the Association shall, if reasonably possible, provide: a waiver of *the* insurer's subrogation rights with respect to the Association, the Owners, and their respective directors, officers, agents, employees, invitees, and tenants; that such cannot be canceled, suspended or invalidated due to the conduct of the Association or of any director, officer, agent or employee of the Association without a prior written demand that the defect be cured; that any "no other insurance" clause therein shall not apply with respect to the insurance held individually by Owners.

6.6 Quorum Requirements. The quorum required for any action by the Members hereunder, unless otherwise specifically set forth in this Declaration, shall be as follows: at the first meeting called, the presence of the Members or of proxies entitled to cast sixty percent (60%) of all outstanding votes shall constitute a quorum. If a quorum is not present at the first meeting or any subsequent meeting may be called at which a quorum shall be one-half of the quorum which was required at the immediately preceding meeting. No such subsequent meeting shall be held more than forty-five (45) days following the immediately preceding meeting.

VII. USE RESTRICTIONS

7.1 Use of Open Space Area. The Open Space Areas shall be used in a manner consistent with their community nature and with the use restrictions applicable to Lots and Residential Lots.

7.2 Use of Lots and Residential Homes. All Lots are intended to be improved with Residential Lots and are restricted to such use. No trade or other non-residential use shall be conducted on any Residential Home. Each Residential Home shall be used only as a single-family residence. No Home or residential Home shall be so used, occupied, or altered in violation of law, so as to jeopardize the support of any other residential Home, so as to create a nuisance or interfere with the rights of any Owner, or in a way which would result in an increase in the cost of insurance covering the Open Space Areas.

7.3 Landscaping and Landscape Easement. All landscaping will be installed by Declarant and will be maintained by the Association.

7.4 Recreational Vehicles. No boats, motor homes, or other recreational vehicles shall be parked on the roads within the Development. No large trucks and commercial vehicles belonging to Owners or other residents of the Property shall be parked within the Development. No motor vehicles of any kind shall be repaired, constructed, or reconstructed on and Home, Private Street, Public Street adjacent to the Development, or Open Space Areas, except that these restrictions shall not apply to emergency repair of vehicles.

7.5 Pets. Owners may have indoor pets, if pets are outdoors they need to be fenced in a dog run, or total fenced in yard.

7.6 Open Space Areas. The Open Space Areas and Easements of the Developments shall be improved and used only for the following purposes:

- (a.) Vehicular and pedestrian access to and from and movement within the Development, and space for temporary vehicular parking. The Pathways Easements shall be restricted to pedestrian, bicycling and other non motorized use.
- (b.) Recreational use limited primarily but not exclusively for the benefit of all Owners and occupants of Residential Homes.
- (c.) Beautification of the development.
- (d.) Privacy for the Owners and occupants of Residential Lots.
- (e.) Storm water management.

(f.) Such other uses as shall be determined from time to time by the benefit of members of the Association, following consultation with the Architectural Control Committee.

7.7 Insurance. No use shall be made of any Residential Home which shall cause the improvements within the Development or any part thereof to be uninsurable against loss by fire or other perils included in insurance contracts, or cause such insurance contracts, or cause such insurance to be canceled or suspended, or caused any company issuing such insurance to refuse renewal thereof. Each Owner shall be responsible for securing insurance presently known as homeowners special form coverage (Form 3, or better).

7.8 Machinery and Equipment. No machinery or equipment of any kind shall be placed, used, operated or maintained in or adjacent to any Home except machinery or equipment as is usual and customary in connection with the use, maintenance or construction of a Residential Home or appurtenant structures.

7.9 Maintenance and Repair. No Residential Home, building, structure, or landscaping upon any lot shall be permitted to fall into disrepair and, subject to the requirements herein as to approval by the Architectural Control Committee, each such building, structure, or landscaping at all times shall be kept in good condition and as appropriate, adequately painted or otherwise finished by its Owners. Such obligations shall extend, but shall not be limited to, the painting, repair, replacement and care of roofs, gutters, down spouts, and exterior building surfaces.

7.10 Nuisances. No rubbish or debris of any kind shall be placed or permitted by an Owner upon or adjacent to any Lots, so as to render such Home or portion thereof unsanitary, unsightly, offensive, or detrimental to other Owners. No Residential Home to ascertain whether or not the provisions of the Declaration and the rules and regulations of the Board or of the Association have been or are being complied with.

7.11 Right of Entry. During reasonable hours, any member of the Architectural Control Committee or any member of the Board, or any officer or authorized representative of any of them, shall have the right to enter upon and inspect any building site or Home to ascertain whether or not the provisions of this Declaration and the rules and regulations of the Board or of the Association have been or are being complied with.

7.12 Enforcement or Land Use Regulations. The following persons shall have the right to exercise or seek any remedy at law or in equity to enforce strict compliance with this Declaration:

- (a) Declarant, so long as it has any interest in any of the Property;
- (b) Clinton City;
- (c) Any Owner; or
- (d) The Association.

The prevailing party in an action for enforcement of any provisions of the Declaration shall be entitled to collect court costs and reasonable attorney fees.

7.13 Exception For Declarant. Notwithstanding the restrictions contained in this Article VII, for the twenty-five (25) years following the date on which this Declaration is filed for record in the office of the County Recorder of Davis County, Utah, Declarant shall have the right to use any Lot or Residential Home owned by it, and any part of the Open Space Areas reasonably necessary or appropriate, in furtherance of any construction, marketing, sales, management, promotional, or other activities designed to accomplish or facilitate improvements of the Open Space Areas or improvement and/ or sale of all Lots owned by the Declarant subject to the rights of Clinton City as provided herein.

7.14 Declarant's Obligations. Declarant hereby covenants in favor of each Owner that all Residential Lots erected by it and all improvements of the Open Space Areas accomplished by it in the Development (i) shall be architecturally compatible with respect to one another, and (ii) that on or before twenty-five (25) years for the date on which this Declaration is filed for record in the office of the County Recorder of Davis County, Utah, there shall be substantially completed and usable all Open Space Areas of the Plat, all approximately in the locations shown on the Plat.

IX RIGHTS OF FIRST MORTGAGEE AND CLEARFIELD CITY

Notwithstanding anything to the contrary contained herein, the following provisions shall apply:

9.0 Notice of Default. In the event an Owner neglects for a period of thirty (30) days or more to cure any failure on his part to perform his obligations under this Declaration, the Association shall give written notice of such fact to the holder of any first mortgage covering such Owner's Home.

9.1 Abandonment, Termination, Etc. Unless Clinton City and all of the holders of first mortgages on the individual Lots have given their proper written approval, neither the Association nor the Owners acting as a group shall be entitled by act, omission, or otherwise:

- (a) To abandon or terminate the project or to abandon or terminate the arrangement that was established by the Declarant and the Plat of the Project.
- (b) To partition or subdivide any Lot or Open Space Areas;
- (c) To abandon, partition, subdivide, encumber, sell, hypothecate, transfer, or otherwise encumber all or any part of the Open Space Areas except for the creating of easements and similar purposes other than the repair, replacement, or reconstruction of such improvements.

9.2 Notice of Substantial Damage or Destruction. The Association shall have the right to notify Clinton City and all institutional holders of any first mortgage lien or equivalent security interest on a Home in writing in the event that there occurs any substantial damage to or destruction of any Residential Home or any part of the Open Space Areas involving an amount in excess of, or reasonably estimated to be in excess of \$15,000. Said notice shall be given ten (10) days after the Association learns of such damage or destruction.

9.3 Condemnation or Eminent Domain Proceedings. The Association shall give written notice to Clinton City and to all institutional holders of any first mortgage lien or equivalent security interest of any condemnation proceedings or proposed acquisition of a Residential Home or of any portion of the Open Space Areas within ten (10) days in advance of the effective date of any reduction in or cancellation of the policy.

9.4 Hazard Policy to Include Standard Mortgagee Clause. Each hazard insurance policy shall include the standard mortgage clause which either shall be endorsed to provide that any proceeds shall be paid to the Association for the use and benefit of mortgage as their interests may appear, or shall be otherwise endorsed to fully protect the interest of mortgagees. In addition, the mortgage clause shall provide that the insurance carrier shall notify each mortgage at least ten (10) days in advance of the effective date of any reduction in or cancellation of the policy.

9.5 Rights Upon Foreclosure of Mortgage. The lien of the assessments provided in Section I, Article V shall be subordinate to the lien of any First Mortgage upon such Home; and the holder of a first mortgage (or deed of trust) on a Home who comes into possession of the Home by virtue of foreclosure of such first Mortgage, or in lieu of foreclosure obtains possession by deed or assignment, or any purchaser at a foreclosure sale, will take the Home free of any claims for unpaid assessments and charges against the Home which will accrue prior to the time

such holder comes into possession of the Home, except for claims for a share of such assessments or charges, resulting from a reallocation of such assessments or charges to all Lots including the mortgage Home.

9.6 Mortgagees' Rights concerning Amendments. No material amendment to this Declaration, the Bylaws or the Articles of Incorporation of the Association shall be accomplished or effective unless Clinton City and at least two-thirds (2/3) of the mortgagees (based on one vote for each mortgagee) of the individual Lots have given their prior written approval to such amendment.

X. MISCELLANEOUS

10.1 Notices. Any notice required or permitted to be given to any Owner or Member under the provisions of this Declaration shall be deemed to have been properly furnished if mailed, postage prepaid, to the person who appears as a Member or Owner, at the latest address for such person appearing in the records of the Association at the time of mailing.

10.2 Amendment. Any amendment hereto shall require (i) the prior written approval of Clinton City to such amendments; (2) the affirmative vote of at least two-thirds (2/3) of all votes, which Members present in person or represented by proxy are entitled to cast at a meeting duly called such purpose; and (iii) so long as the Class B membership exists, the written consent of the Declarant. Written notice setting forth the purpose of the meeting and the substance of the amendment proposed shall be sent to all Members at least ten (10) but not more than thirty (30) days prior to the meeting date. The quorum required for any such meeting shall be as follows: At the first meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of all the votes of the Class A Membership shall constitute a quorum. If the quorum is not present at the first meeting or any subsequent meeting, another meeting may be called (subject to the notice requirement set forth in the foregoing portion of this Section 31, at which a quorum shall be one-half (1/2) of the quorum that was required at the immediately preceding meeting. No such subsequent meeting shall be held more than forty-five (45) days following the immediately preceding meeting. Any amendment authorized pursuant to this Section shall be accomplished through the recordation of an instrument executed by the President or Vice President of the Association, and by the Declarant if the Class B Membership then exists, and shall also be approved by Clinton City. In such instrument the President or Vice President of the Association shall certify that the vote required by this Section for Amendment has occurred. Notwithstanding anything to the contrary herein, the Declarant, with the prior written consent of Clinton City, may amend this Declaration for the specific purpose of increasing or expanding the Plat from the property described in 2.2.

10.3 Consent in Lieu of Voting. In any case which this Declaration requires for authorization or approval of a transaction the assent or affirmative vote of a state percentage of the votes present or represented at a meeting, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Members entitled to cast at least the state percentage of all membership votes outstanding in connection with the Class of membership considered. The following additional provisions shall govern any application of this section 10.3:

(a.) All necessary consents must be obtained prior to the expiration of ninety (90) days after the first consent is given by any Member.

(b.) The total number of votes required for authorization or approval under this Section 10.3 shall be determined as of the date on which the last consent is signed.

(c.) Except as provided in the following sentence, any change in ownership of a Home which occurs after consent has been obtained from the Owner thereof shall not be considered or taken into account for any purpose. A change in ownership of a Home which occurs after consent has been obtained from the Owner thereof shall not be considered or taken into account for any purpose. A change in ownership that would otherwise result in and entitle the new Owner to give or withhold his consent.

(d.) Unless the consent of all Members whose memberships are appurtenant to the same Home are secured, the consent of none of such Members shall be effective.

10.4 Lease Provision. Any Owner may lease his Home and such buildings as are situated thereon; provided, however, that any lease agreement between a Home Owner and Lessee must be in writing, and must provide, inter alia, that:

(a.) The terms of the lease shall be subject to the provisions of the Declaration, Articles of Incorporation of the Association and By-laws; and

(b.) Any failure by the Lessee to comply with the terms of such documents shall constitute a default under the lease.

10.5 Declarant's Rights Assignable. All or any portion of the rights of Declarant under this declaration or in any way relating to the property may be assigned.

10.6 Dissolution. Subject to the restrictions set forth in Article IX of this Declaration pertaining to mortgage and Clinton City protection, the association may be dissolved by the affirmative assent in writing of two thirds (2/3) of the votes. Upon dissolution of the Association of all its assets (including the Open Space Areas) may be transferred to an appropriate public agency or authority to be used for purposes similar to those provided for in the By-laws, the Articles of Incorporation, or this Declaration. In the event that such dedication or transfer is not made or is not accepted, the Association's assets shall be transferred to a non profit corporation, trust, or other entity to be used for such similar purposes, and each Owner shall continue to be obligated to make assessments payments for the maintenance and upkeep of the Open Space Areas on a pro rata basis that conforms substantially with the assessment procedure, terms and conditions set forth in Article V of this Declaration.

10.7 Enforcement by Clinton City. If the Association fails to maintain the Open Space Areas, Clinton City shall have the right, but not the obligation, upon giving the Association thirty (30) days notice in writing, to step in and do the necessary maintenance and management with the right to sue and collect the costs thereof, including attorney fees, against the association and with the same right to lien the Lots and collect the costs thereof against the Owners as the Association has under this Declaration.

10.8 Interpretation. The captions that 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 so requires, the singular shall include the plural shall include the singular, the whole shall include any party thereof, and any gender shall include the other gender. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof.

10.9 Covenants to Run With Land. This Declaration and all provisions hereof shall constitute covenants to run with the land or equitable servitude, as the case may be, and shall binding upon and shall inure to the benefit of the Declarant, and all parties who hereafter acquire any interest in a Lot or in the Open Space Areas shall be subject to the terms of this Declaration and the provisions of any rules, regulations, agreements, instruments, and determinations contemplated by this declaration; and failure to comply with any of the foregoing shall be grounds for an action by the Association or an aggrieved Owner for the recovery of damages, or for injunctive relief, or both. By acquiring any interest in a Lot or in the Open Space Areas, the party acquiring such consents to, and agrees to be bound by, each and every provision of this Declaration.

10.10 Effective Date. This Declaration and any amendment hereof shall take effect upon its being filed for record in the office of the County Recorder of Davis County, State of Utah.

EXECUTED the day and year first above written.

E 1962380 B 3476 P 154

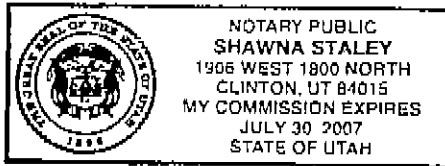
Bluespruce Estates 1&2.

By: Doug Hamblin
Doug Hamblin, Managing Member

STATE OF UTAH

County of Davis

Personally appeared before me, Doug Hamblin, Doug Hamblin and signed the foregoing
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR Bluespruce Estates 1&2 on
this 27th day of JANUARY, 2007.



Shawna Staley
Notary Public

E 1962380 B 3476 P 155

EXHIBIT A

BLUESPRUCE ESTATES PHASE 1 DESCRIPTION

PART OF THE NORTHWEST QUARTER OF SECTION 28, T.5N., R.2W., S.L.B.&M., U.S. SURVEY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE CENTER OF SAID SECTION 28 (BASIS OF BEARINGS BEING S89°57'46"E ALONG THE SECTION LINE BETWEEN THE CENTER AND THE WEST QUARTER CORNER OF SAID SECTION 28); THENCE N89°57'46"W ALONG THE QUARTER SECTION LINE BETWEEN THE CENTER AND WEST QUARTER CORNER OF SAID SECTION 28 286.20 FEET; THENCE N00°01'16"E 339.74 FEET; THENCE S89°58'44"E 31.43 FEET; THENCE N00°01'46"E 110.81 FEET; THENCE N01°11'14"E 60.01 FEET; THENCE N00°01'46"E 112.50 FEET; THENCE N89°58'14"W 79.77 FEET; THENCE N37°41'54"E 82.12 FEET; THENCE N00°01'16"E 219.75 FEET; THENCE N45°13'46"W 71.03 FEET; THENCE N00°01'27"E 80.00 FEET; THENCE N89°58'14"W 220.13 FEET; THENCE N00°01'46"W 32.04 FEET; THENCE N89°58'14"W 112.50 FEET; THENCE N00°01'46"E 253.53 FEET; THENCE S89°58'33"E 528.05 FEET; THENCE S59°58'46"E 159.44 FEET TO THE WEST LINE OF THE BRIDGES SUBDIVISION; THENCE S00°01'16"W ALONG SAID WEST LINE 1243.76 FEET TO THE POINT OF BEGINNING.

CONTAINS: 10.90 ACRES

BLUESPRUCE ESTATES PHASE 2 DESCRIPTION

PART OF THE NORTHWEST QUARTER OF SECTION 28, T.5N., R.2W., S.L.B.&M., U.S. SURVEY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF BLUESPRUCE ESTATES PHASE 1 WHICH IS ON THE QUARTER SECTION LINE, SAID POINT BEING N89°57'46"W (BASIS OF BEARINGS) ALONG THE QUARTER SECTION LINE 286.20 FEET FROM THE CENTER OF SAID SECTION 28; THENCE N89°57'46"W ALONG SAID QUARTER SECTION LINE 390.57 FEET TO AN EXISTING FENCE; THENCE N00°05'18"E ALONG SAID FENCE 450.50 FEET; THENCE N09°28'54"E 60.83 FEET TO THE EXTENSION OF THE EAST LINE OF WAYMENT ACRES SUBDIVISION PHASE 1; THENCE N00°01'46"E ALONG SAID EXTENSION AND EAST LINE 559.29' FEET TO THE BOUNDARY OF BLUESPRUCE ESTATES PHASE 1; THENCE ALONG SAID BOUNDARY THE FOLLOWING THIRTEEN (13) COURSES: (1) S89°58'14"E 112.50 FEET, (2) S00°01'46"W 32.04 FEET, (3) S89°58'14"E 220.13 FEET, (4) S00°01'27"W 80.00 FEET, (5) S45°13'46"E 71.03 FEET, (6) S00°01'16"W 219.75 FEET, (7) S37°41'54"W 82.12 FEET, (8) S89°58'14"E 79.77 FEET, (9) S00°01'46"W 112.50 FEET, (10) S01°11'14"W 60.01 FEET, (11) S00°01'46"W 110.81 FEET, (12) N89°58'44"W 31.43 FEET, AND (13) S00°01'16"W 339.74 FEET TO THE POINT OF BEGINNING.

CONTAINS: 9.33 ACRES

*Bluespruce Ests Ph-1
14-376-001 draw 0090*

*new 28 5A-2W
14-018-0061-PT*