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MAINTENANCE AGREEMENT

00206175 BK 00393 Pg 00347-00354
WASATCH CO RECORDER-ELIZABETH N PARCELL
1998 AUG 27 14:34 PM FEE \$67.00 BY MWC
REQUEST: HOLMES DEVELOPMENT LC

AGREEMENT among Holmes Development, LLC and Lake Creek Farms

Homeowners Association, L.C. herein referred to as the "Developer" and the "Association", respectively, and Wasatch County herein referred to as the "County".

WHEREAS the Developer owns certain real property in the unincorporated area of the County, which real property is more particularly described in Exhibit A attached hereto and by reference made a part hereof; and which is also described in documents relating to Lake Creek Farms development and filed in the office of County Recorder; and

WHEREAS the Developer is desirous of establishing on said real property a planned subdivision development (herein referred to as the "development") in conformity with the ordinances of the County, and also intends to provide for the benefit of subsequent owners certain streets, to be owned and maintained and operated by the Association and certain easements for drainage ways, detention basins and trails to be maintained and operated by the Association;

Whereas it is necessary and proper in connection with said development that an agreement be entered into among the Developer and the Association and the County for the purpose of guaranteeing the integrity, proper management and upkeep of the development and the furnishing of necessary services to subsequent owners, and for the further purpose of assuring that existing taxpayers are not burdened with the expenses of providing new residents with capital improvements and needs or desired services not common to the entire county or provided on a county-wide basis;

NOW, THEREFORE, in consideration of the necessary approvals, consents and authorizations to be given by the County for the purpose of allowing the Developer and Association to establish and operate said development, and for the purpose of complying with the ordinances of the County in such cases made and provided, the Developer and Association covenant and agree with the County, as hereinafter set forth.

Where in this agreement the County is referred to, it is understood that the reference is to the appropriate Board, Commission, department or person to whom authority shall have been delegated by law or ordinance or appropriate action of the Board of County Commissioners; and where now such delegation has been or can lawfully be made, the reference is to the Board of County Commissioners.

1. The County shall have no obligation to construct or provide capital improvements or extended services for said development which are not common to the entire county and which are not provided on a county-wide basis. The County shall have the right, however, to enter upon the premises of the development for inspection and for enforcement of all applicable laws, ordinances, rules and regulations relating to the development, the operation of the development, the construction of improvements and

their maintenance within the development, and the furnishing of all necessary services for the development.

2. The Developer agrees to construct and provide at its expense the following improvements for said development:

- (a) Open spaces and common areas as shown of the approved plans for the development.
- (b) All roadways, with necessary appurtenances, to equal or exceed county standards.
- (c) A culinary water system supplying water to each lot to equal or exceed State and Twin Creeks Special Service District standards and County standards.
- (d) Fire flows from the culinary system to equal or exceed State and County standards.
- (e) Drainage facilities to equal or exceed County standards.
- (f) Domestic sewage disposal facilities to equal or exceed County standards.
- (g) All other facilities and services as shown of the approved plans.

The Developer agrees that all construction in the development shall conform to the plans of said development and the documents submitted to and approved by the County, and also to the requirements of all applicable laws, ordinances, rules and regulations promulgated by governmental authorities having jurisdiction.

Upon approval of each phase the development by the County, and prior to the conveyance, sale or disposition by the Developer of any land or interest in land within the development, the Developer shall either complete all required improvements for the development or else furnish a corporate surety bond or other security satisfactory to the County, in an amount equal to the cost of constructing the same as estimated by the County, to assure the proper construction and completion of such improvements. Improvements shall be commenced within 180 days after approval of the final plan of the development, and shall be completed within two, (2), years unless an extension is granted as provided by the ordinances of the County.

3. The Developer agrees to provide not less than the amount of culinary water per day to each lot as is required to meet the standards of the State and County Health Departments, whichever standard is greater, and that no charge for the same shall be made by the Developer to either the owner or occupant of said lot or the Association, except that the Association may make a reasonable operation and maintenance charge for the use of such culinary water, either by assessment or a service fee. The Developer represents and declares that it will make no user fee or charge to the owner or occupant of any lot or to the Association for any service, facility, business or enterprise which owner or occupants of the development need to subscribe to or patronize in order to have full use and enjoyment of their property or facilities within the development, except that the Association may make a reasonable charge, by assessment or otherwise, for the use of

services and facilities provided for occupants of the development, or which may be necessary for the operation and maintenance thereof.

4. Prior to the conveyance, sale or other disposition of any lot within the development, and before the right to possession of any lot is transferred to any person, the Developer will convey to and transfer control of all roadways, designated open spaces, the culinary water system, the water rights necessary to meet the requirements of paragraph 3, and all other common areas or facilities to the association, without charge or the assumption of any obligation for the cost of construction of improvements thereon or thereto. All designated open spaces shown on the approved plans will also be transferred to the Association, subject to a covenant and restriction running with the land prohibiting any future dwellings or convenience establishments thereon and all other buildings except those approved by the County.

5. The Association will be duly incorporated and fully organized as a non-profit corporation under the laws of the State of Utah in accordance with the documentation heretofore submitted to and approved by the County for such purpose.

6. The Association shall furnish and provide at its expense maintenance and service as follows;

- (a) All necessary maintenance for the open spaces and other common areas.
- (b) The payment of all costs for necessary maintenance and improvements for roadways and their appurtenances to meet County standards and conditions through a County special service district for road maintenance.
- (c) Annually inspect or after any major storm event all drainage facilities and perform necessary maintenance or make any improvements that meet county standards and conditions.
- (d) Remove sediment build up for detention basins when it reaches a depth of at least one foot.
- (e) Each lot owner will provide for the maintenance and irrigation of the area between the asphalted street and their front property line in order to maintain the adequate growth of vegetation along the streets to prevent erosion.
- (f) All maintenance of covenants, conditions, restrictions and management policies set forth in the documents submitted in connection with approval of the project.

7. For the purpose of providing funds for the operation and maintenance of the development and the furnishing of necessary services to the occupants thereof, the

Developer and the Association shall require an annual assessment to be made on each lot, and may also provide for special assessments for capital improvements which the Association may desire to make. The annual assessments, together with interest, costs and reasonable attorney fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. The assessments levied by the Association shall be used exclusively to promote the recreation, health, and safety and welfare of the residents of the development, and for improvement furnishing of all required services thereto. The annual assessments shall be fixed at a uniform rate for all lots, except where it can be shown that additional services will be needed to serve one or more lots as a matter of equity, and shall be collected on an annual basis.

The annual assessment for the first calendar year shall be two hundred dollars, (\$200), per lot and shall be adjusted according to the number of months remaining in the calendar year. The amount of the annual assessments may be increased by the Association, but the same shall not be decreased at any time without the consent of the County. The annual assessments shall commence as to all lots on the first day of the month following conveyance of the streets and easements to the Association, or on the first day of the month next following the expiration of the 180 days after the recording of the development plat, whichever event first occurs. It is understood that no lot shall be conveyed, sold or otherwise disposed of within the development, nor shall the right to possession of any lot be transferred to any person until the streets and easements have been conveyed to the Association. It is further understood that lots owned by the Developer shall not be exempt from assessment. If assessments are not paid, the Association shall bring an action at law against to owner personally obligated to pay the same, or shall foreclose the lien against the property assessed. No owner of any lot may waive or otherwise escape liability for the assessment by non-use of the common area or facilities or the abandonment of his lot, except for lots which may be owned by the public.

8. To assure performance by the Association of its obligations hereunder, and to provide a means of paying for necessary services, maintenance and the enforcement of covenants, conditions, restrictions, management policies and agreements relating to the development should the Association default in so doing, and impound account shall be established by depositing twenty per cent (20%) of the annual assessment on each lot paid to the Association in such an account until there has been deposited in such account a sum equal to the amount resulting from multiplying the number of lots or dwelling units (whichever is greater) approved for such development by fifty dollars, or the sum of _____, whichever is greater. Thereafter, no funds need be deposited until funds from the account have been expended to obtain compliance with this agreement, whereupon funds from said 20% of the annual assessment shall again be deposited until the account has reached the required sum. It is the intention of this provision to require said account to be maintained at the required sum determined by the above formula. The County shall

have the right to draw upon said impound account whenever a majority of the Board of County Commissioners deems it necessary to do so for the purposes of providing necessary services, maintenance or enforcement of covenants, conditions, restrictions and management policies, abating nuisances, and otherwise obtaining compliance with the terms of this agreement and the Association's obligations to the County; and expenditures may be made for professional or technical services, including reasonable attorney's fees, required in obtaining such compliance. The discretion herein given the Board of County Commissioners to disburse funds from such account for the purposes stated shall be absolute and binding upon the parties hereto, after public hearing if one is requested by either the Developer, Association or County. No other person or corporation shall have the right to draw against said account. The account shall be deposited with Zions First National Bank who may charge a reasonable fee for servicing the same by deducting the same from the account. Payments by the Association to the account of that portion of the annual assessments above required shall be made yearly within thirty days after collection by the Association. The County shall have the right to audit the Association's assessment records upon reasonable notice, for the purpose of verifying the accuracy of the amounts remitted to the account; and the Association shall have the right to audit the impound account and disbursements made therefrom upon reasonable notice. All income produced by the impound account shall belong to the Association, but shall remain in and become part of the account at all times when the total amount deposited therein is less than the required sum. All income to the account which may cause it to exceed the required sum shall be paid over to the Association.

9. The Developer and the Association agree to establish and record in the office of the County Recorder prior to any conveyance, sale, transfer, disposition or creation of any interest in or encumbrance on the land of the development described in Exhibit A attached hereto and by reference made a part hereof, declaration of covenants, conditions, restrictions and management policies which shall have first been submitted to and approved by the County. Said covenants, conditions, restrictions and management policies shall run with the land and shall be binding upon all parties and persons residing on the land or claiming any ownership or interest in the premises under or through the Developer, and the same shall not be modified or changed thereafter without the approval of the County. All covenants and provisions of this agreement, and such provisions as the development code of the County require to be set forth in such declaration, shall be set forth in and made a part of said declaration of covenants, conditions, restrictions and management policies, together with such other provisions as the Developer and Association deem necessary for their purposes. Among other required restrictions, said declaration shall provide that no lot within the development shall be used for human occupancy, either temporarily or permanently, except during a reasonable period of construction, until culinary water and sewage and waste disposal facilities approved by the County are provided and available for use on said lot; and thereafter, no such lot shall be used for human occupancy at any time the culinary water or sewage and waste disposal facilities are not in compliance with the statutes of the State of Utah, ordinances of the County, and rules and regulations promulgated thereunder. Said declaration shall further provide that at the request of the County, the

Developer and the Association shall discontinue culinary water service to any lot where a violation of the laws of the State of Utah, the ordinance of the County, and rules and regulations promulgated thereunder, continues after 30 days notice in writing to the owner of the lot of such violation and the same remains unremedied.

10. At the request of the County, the Association agrees to enforce all covenants, conditions restrictions and management policies set forth in said declaration and recorded in the office of the County Recorder. Upon failure of the Association to enforce said covenants, conditions, restrictions and management policies, the County may do the work or cause suit to be brought against to Association for the purpose of requiring it to enforce the same or to recover the costs of said work or bring and prosecute a suit in the name of the Association for the purpose of enforcing said covenants, conditions, restrictions and management policies. If the Association becomes disorganized, fails to function properly, or fails to maintain its corporate entity in good standing, or if it fails to perform its obligations hereunder and under the aforesaid declaration of covenants, conditions, restrictions, and management policies, the County is hereby given the right to close the development to human occupancy, and may obtain or enforce such closure by injunction or other appropriate legal action; and said development shall remain closed to human occupancy until such time as the Association is properly organized and functioning and performing its obligations hereunder. The provisions of this paragraph shall be clearly set forth in the declaration of covenants, conditions, restrictions, and - management policies of the development herein above referred to.

11. If any part of provision of this agreement shall be adjudged unconstitutional, invalid or unenforceable by a court of competent jurisdiction, then such adjudgement shall not affect any other part or provision of this agreement, except that part or provision so adjudged to be unconstitutional, invalid or unenforceable.

IN WITNESS WHEREOF, the parties to this agreement have caused the same to be executed by their proper officers thereunto duly authorized the 4th day of August, 1998,

Attest:

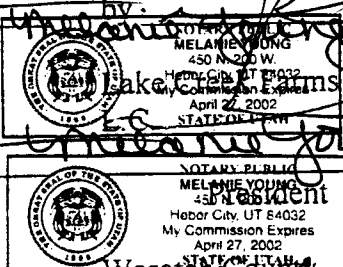
Holmes Development, LLC

[Handwritten signature]

Attest:

Lake Creek Farms Homeowners Association, LLC

[Handwritten signature]



Attest:

Wasatch County
Chairman of the Board of County Commissioners

[Handwritten signature]

SURVEYOR'S CERTIFICATE

I, F. LEWS PRATT, DO HEREBY CERTIFY THAT I AM A REGISTERED LAND SURVEYOR, AND THAT I HOLD CERTIFICATE NO. 149065 AS PRESCRIBED UNDER THE LAWS OF THE STATE OF UTAH. I FURTHER CERTIFY BY AUTHORITY OF THE OWNERS, I HAVE MADE A SURVEY OF THE TRACT OF LAND SHOWN ON THIS PLAT AND DESCRIBED BELOW, AND HAVE SUBDIVIDED SAID TRACT OF LAND INTO LOTS, BLOCKS, STREETS, AND EASEMENTS AND THE SAME HAS BEEN CORRECTLY SURVEYED AND STAKED ON THE GROUND AS SHOWN ON THIS PLAT AND THAT THIS PLAT IS TRUE AND CORRECT.

BOUNDARY DESCRIPTION

COMMENCING AT A POINT LOCATED SOUTH 89-22-03 WEST ALONG THE SECTION LINE 8.59 FEET
FROM THE NORTH WEST CORNER OF SECTION 12
 TOWNSHIP 4 SOUTH, RANGE 5 EAST, SALT LAKE BASE & MERIDIAN; THENCE AS FOLLOWS

BEARING	DISTANCE	REMARKS
N 90-00-00 E	1321.72'	
S 00-00-00 E	1476.00	
S 89-35-00 W	37.91'	
N 38-40-38 W	148.79	
N 32-55-18 W	85.54'	
N 73-42-56 W	143.10'	
S 80-52-32 W	107.32'	
S 80-52-32 W	256.68'	
S 80-52-32 W	115.44'	
S 71-44-51 W	123.60'	
S 65-52-04 W	201.46'	
S 82-52-24 W	219.31'	ALONG THE BOUNDARY OF LAKE CREEK FARMS PLAT "B"
N 90-00-00 W	14.76'	ALONG THE BOUNDARY OF LAKE CREEK FARMS PLAT "A"
N 00-00-00 E	1472.50'	TO THE POINT OF BEGINNING

AREA = 41.04 ACRES

BASIS OF BEARING = SOUTH 89-22-03 WEST ALONG THE SECTION LINE

7 July 1998
 DATE

F. Lewis Pratt
 SURVEYOR (See Seal Below)

OWNER'S DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT WE, ALL OF THE UNDERSIGNED OWNERS OF ALL THE PROPERTY DESCRIBED IN THE SURVEYOR'S CERTIFICATE HEREON AND SHOWN ON THIS MAP, HAVE CAUSED THE SAME TO BE SUBDIVIDED INTO LOTS, BLOCKS, STREETS, AND EASEMENTS AND DO HEREBY DEDICATE THE STREETS AS INDICATED HEREON FOR PERPETUAL USE OF THE PUBLIC; AND DO HEREBY DEDICATE THE OPEN SPACE AND COMMON AREA AS HERE ON INDICATED FOR THE PERPETUAL USE AND MAINTENANCE TO THE LAKE CREEK FARMS HOME OWNERS ASSOCIATION.

IN WITNESS WHEREOF WE HAVE HEREUNTO SET OUR HANDS THIS 7 DAY OF July, A.D. 1998

ACKNOWLEDGEMENT

STATE OF UTAH }
 COUNTY OF WASATCH } S.S.

ON THE 7 DAY OF July A.D. 1998, PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, IN AND FOR STATE AND COUNTY OF Wasatch, IN SAID STATE OF UTAH, THE SIGNER () OF THE ABOVE OWNER'S DEDICATION, _____ IN NUMBER, WHO DULY ACKNOWLEDGED TO ME THAT _____ SIGNED IT FREELY AND VOLUNTARILY AND FOR THE USES AND PURPOSES THEREIN MENTIONED.

MY COMMISSION EXPIRES _____

 NOTARY PUBLIC
 RESIDING IN _____ COUNTY.

CORPORATE ACKNOWLEDGEMENT

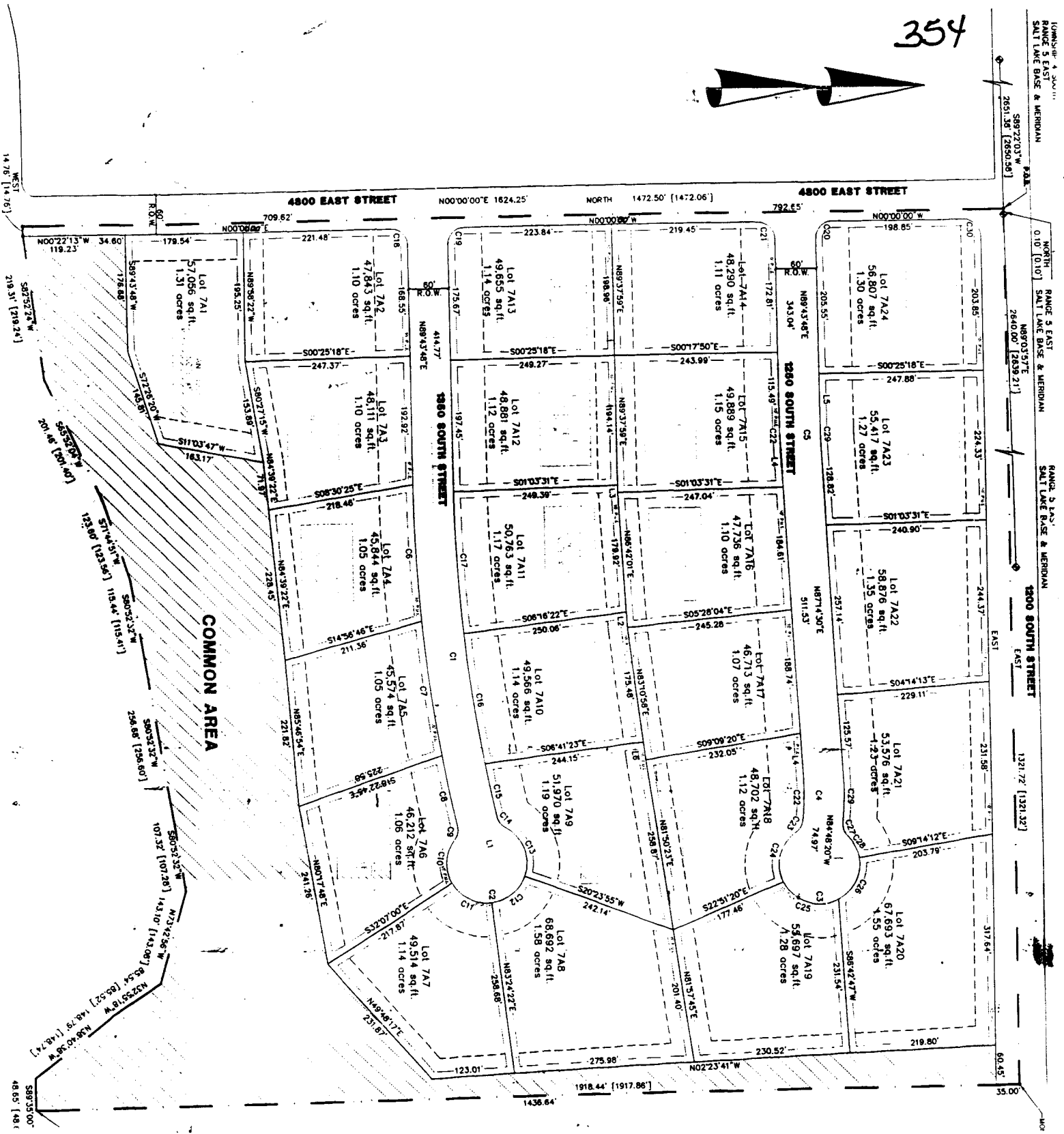
STATE OF UTAH }
 COUNTY OF WASATCH } S.S.

ON THIS THE _____ DAY OF _____ A.D. 19____, PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC IN AND FOR SAID STATE AND COUNTY _____, WHO AFTER BEING DULY SWORN, ACKNOWLEDGED TO ME THAT _____

A _____ CORPORATION, THAT _____ SIGNED THE OWNERS DEDICATION FREELY AND VOLUNTARILY FOR AND IN BEHALF OF SAID CORPORATION FOR THE PURPOSE THEREIN MENTIONED AND THAT SAID CORPORATION EXECUTED THE SAME.

MY COMMISSION EXPIRES _____

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