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WHEN RECORDED RETURN TO:

David M. Luber
Deer Crest Associates I, L.C.
P.O. Box 8888
Park City, UT 84060

**OPEN SPACE AGREEMENT
DEER CREST PROJECT**

00209786 Bk 00408 Pg 00478-00487
WASATCH CO RECORDER-ELIZABETH M PARCELL
1998 DEC 23 15:20 PM FEE \$60.00 BY RMM
REQUEST: COALITION TITLE

**Deer Crest Estates Subdivision—Phase 2
Open Space 1 through Open Space 8**

This OPEN SPACE AGREEMENT is entered into this 17th day of December, 1998 between DEER CREST ASSOCIATES I, L.C. ("DCA") and WASATCH COUNTY (the "County").

A. DCA is the developer of the Deer Crest Project ("Deer Crest Project") located in part in Wasatch County Utah. The Deer Crest Project has been approved by Wasatch County pursuant to that certain First Amended Findings and Order on Density Determination dated as of August 5, 1996 and recorded in the official records of the Wasatch County Recorder as Entry Number 188648 in Book 328 at Page 684 (the "Amended Density Determination").

B. DCA has received final approval for the platting of 37 single family lots as Phase 2 of the Deer Crest Estates, and in connection with the recordation of the final plat, has agreed to record an agreement preserving certain portions of the Deer Crest Project as open space in partial compliance with the requirements of the Amended Density Determination.

THE PARTIES AGREE AS FOLLOWS:

1. Open Space Preservation. DCA hereby agrees to preserve the following real property as open space (the "Open Space"):

Open Space 1 through Open Space 8 as shown on the plat of Deer Crest Estates Subdivision—Phase 2 recorded in the official records of the Wasatch County Recorder.

The above open space preservation covenants are subject to the reserved rights, limitations and agreements set forth below.

2. Permitted Uses and Activities within the Open Space. The Open Space is intended to be used for general recreational purposes including the construction, use, maintenance, repair and reconstruction of ski runs and ski trails and structures used for ski and

recreational purposes and related ski facilities, and biking and hiking trails. The location of these recreational facilities and trails are shown on the Plat or will be established by the final construction plans as approved by the County. The Open Space may also be used for the following uses and activities:

- a. The construction, use, maintenance, repair and reconstruction of roads, bridges, and tunnels and the construction, repair and maintenance of any retaining walls or other slope retention structures and any cuts, fills or other changes to the natural terrain required in connection with the roads, bridges and tunnels.
- b. The construction, use, maintenance, repair and reconstruction of any utility lines, utility facilities and related service roads.
- c. The right of DCA, the Deer Crest Master Association or Deer Crest lot owners to install fire suppression equipment and to modify existing foliage adjacent to lots in order to improve fire safety.
- d. All recreational activities and any temporary or permanent above ground improvements associated with such activities.

3. **Hiking and Biking Trails.**

- a. Public Access to Hiking and Biking Trails. In fulfillment of certain conditions in the Amended Density Determination, DCA hereby grants the general public the non-exclusive right of access to those hiking and biking trails generally shown on Exhibit A for hiking and biking purposes. The rights of the general public shall be subordinate to the rights of Deer Valley Resort Company or any successor in the operation of biking trails within the Open Space and the rights of the Deer Crest Master Association pursuant to the Master Declaration of Covenants, Conditions and Restrictions for Deer Crest. The rights of the Deer Crest Master Association and any operator of hiking and biking trails shall include the rights to establish reasonable rules and regulations based on health, safety and welfare considerations relating to the use of hiking and biking trails for hiking and biking purposes. These rules and regulations may include restrictions on the hours of use, the need to stay on designated trails and other similar matters. Trail rules and regulations shall be subject to County approval. The public hiking and biking trails may also be closed on occasion from time to time on a temporary basis for construction and maintenance and for private events. The public may not be charged for the non-event use of hiking and biking trails for those purposes.
- b. Location of Hiking and Biking Trails with Public Access. The hiking and biking trails that are the subject of public access shall be identified and

included within one or more specific easement instruments to be recorded against any affected property, including the Open Space. Upon the recordation of instruments containing specific legal descriptions for the hiking and biking trails, the public access grant in this Open Space Agreement shall be deemed superseded and shall be of no further force or effect. DCA contemplates the recording of this separate instrument affecting the Open Space within two years from the date of this Open Space Agreement.

- c. Private Trails. DCA and the Deer Crest Master Association reserve the right to designate and mark certain trails, not shown on Exhibit A, exclusively for the purposes of its residents.

4. Public Access to Ski Facilities, Ski Runs and Ski Trails. The public shall have the right to use those ski facilities, ski runs, and ski trails within the Deer Crest Development shown as "public" on Exhibit B, which shall be operated by Deer Valley Ski Resort Company or any successor in the operation of ski facilities in Deer Valley Resort, or any other commercial operator of any ski area which is later created and adjoins the Deer Crest project. Certain ski trails which are marked on Exhibit B as "private" shall be for private use of homeowner's and guests to access their residences. All such private trails shall be marked as "private" on the entrance to such ski trail. Deer Valley or any such successor operator of the Deer Crest ski facilities may charge a fee for access to and use of public ski facilities, ski runs and ski trails and may establish rules and regulations limiting such access and use provided such fees, access and use shall be consistent with rules, regulations and fees for a public ski area are applied equally to all skiers using the facilities of both ski areas. The preceding provisions relating to public access shall be applicable for so long as the ski facilities, ski runs and ski trails in Deer Valley Resort (under that name or any other name) are operated by a commercial ski operator or there is any other commercial ski area adjoining the Deer Crest project. In the event that Deer Valley Resort or any successor operation closes or becomes a private ski resort, and there is no other adjoining commercial ski area, then, only in that event the Deer Crest Master Association shall have the right to close the ski facilities, ski runs and ski trails to the general public and operate the ski facilities, ski runs and ski trails as private facilities, runs and trails in accordance with the provisions of the Amended Density Determination. At such time as Deer Valley Resort, reopens to the public (as Deer Valley Resort or under any other name), or any other adjoining property commences commercial ski operations, Deer Crest facilities will also be reopened to the general public.

5. Ownership of Open Space. DCA may retain ownership of the Open Space until after DCA shall have completed construction of all roads, bridges, tunnels, ski facilities, ski runs, ski trails, hiking and biking trails and other improvements affecting the Open Space. DCA hereby agrees to convey the Open Space in whole the Deer Crest Master Association no later than three (3) months after completion of those improvements. The conveyance shall be subject to this Agreement, the rights of DCA or the Deer Crest Master Association to construct, use, maintain, repair and reconstruct roads, utilities and hiking and biking trails within the subject areas, and the rights of DCA, the Deer Crest Master Association, Deer Valley Resort Company,

or any other operator of ski facilities on the subject land to construct, use, maintain, repair and reconstruct ski facilities, ski runs and ski trails within the subject areas.

6. Notices. All notices and other communications provided for in this Agreement shall be in writing and shall be sufficient for all purposes if (i) sent by fax to the fax number set forth below or at such other number as the respective party may designate by notice as provided herein, and concurrently sent by 1st class U.S. mail, (ii) personally delivered, or (iii) sent by certified or registered U.S. mail, return receipt requested, postage prepaid, and addressed to the respective party at the fax number and address set forth below or at such other address as such party may hereafter designate by written notice to the other parties as herein provided.

To DCA:

Deer Crest Associates I, L.C.
c/o LCC Properties Group, L.C.
136 Heber Avenue, Suite 308
P.O. Box 8888
Park City, UT 84060
Fax: (435) 655-8120

To Wasatch County:

Wasatch County
25 North Main Street
Heber City, UT 84032
Attn: County Planner
Fax: (435) 654-5116

If personally delivered, notices and other communications under this Agreement shall be deemed to have been given and received and shall be effective when personally delivered. If sent by fax and mail in the form specified in this section, notices and other communications under this Agreement shall be deemed to have been given and received and shall be effective when faxed and deposited in the U.S. mail, whichever shall last occur.

7. Costs. Except as otherwise specifically provided in this Agreement, each party shall pay its own costs and expenses incurred in preparation and execution of and performance under this Agreement.

8. Entire Agreement. This Agreement (including the exhibits attached hereto) constitutes the entire agreement between the parties hereto relative to the subject matter hereof. This Agreement may not be amended or modified except in writing executed by all of the parties hereto.

9. Interpretation. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Utah. This Agreement shall bind and inure to the benefit of the parties hereto and their respective successors and assigns.

10. Counterparts and Facsimile Signatures. This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be deemed to be an

original, binding between the executing parties, and all of which shall together constitute one and the same instrument. Original, facsimile or power of attorney signatures shall be binding upon the executing party.

11. No Waiver. Acceptance by either party of any performance less than required hereby shall not be deemed to be a waiver of the rights of such party to enforce all of the terms and conditions hereof. Except as otherwise expressly provided herein, no waiver of any such right hereunder shall be binding unless reduced to writing and signed by the party to be charged therewith.

12. Covenants Run With the Land. Each right and obligation in this Agreement (whether affirmative or negative in nature) (a) shall constitute a covenant running with the land; (b) shall benefit and bind every person having any fee, leasehold or other interest in any portion of the property described herein; and (c) shall benefit and be binding upon any person whose title is acquired by voluntary conveyance, judicial foreclosure, trustee's sale, deed in lieu of foreclosure or otherwise. DCA shall not have any obligations under this Agreement after it has transferred its interest in the subject property. DCA's rights and obligations under this Agreement may be transferred to and assumed by the Deer Crest Master Association with the written approval of the County, which approval shall not be unreasonably withheld.

13. Public Benefit. Nothing contained in this Agreement shall be deemed a gift or dedication of any portion of the property to the general public on an unlimited basis or for the public or for any public purpose.

14. Attorneys' Fees. In the event of any legal, equitable or administrative action or proceeding brought by any party against any other party under this Agreement, the prevailing party shall be entitled to recover the reasonable fees of its attorneys, and any costs incurred in such action or proceeding including costs of appeal, if any, in such amount as the court or administrative body having jurisdiction may award.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

County:

WASATCH COUNTY

Attest
Brent R. Peterson

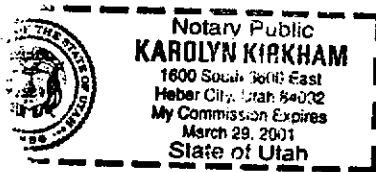


By: [Signature]
Its: County Commissioner

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State of Utah)
)ss.
County of Wasatch)

The foregoing instrument was acknowledged before me on the 23rd day of December, 1998, by
T. Loren Provest as County Commissioner of Wasatch
County.



Karolyn Kirkham
Notary Public

Heber Ut.
Residing at:

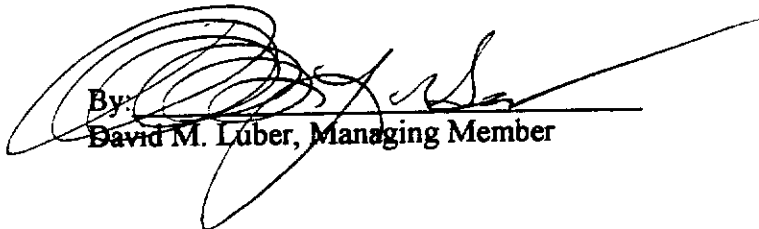
My commission expires: 3-29-2001

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DCA:

DEER CREST ASSOCIATES I, L.C.

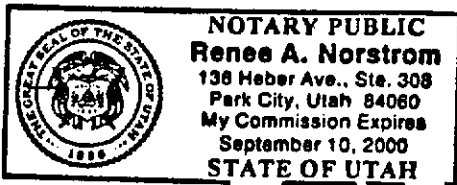
By LCC Properties Group, L.C., its Managing Member


By: 
David M. Luber, Managing Member

STATE OF UTAH)

COUNTY OF Summit)
:ss

The foregoing instrument was acknowledged before me on the 17th day of December, 1998, by David M. Luber, Managing Member of LCC Properties Group, L.C., the managing member of Deer Crest Associates I, L.C.




Notary Public
Residing at Park City

My Commission Expires: 9/10/2000

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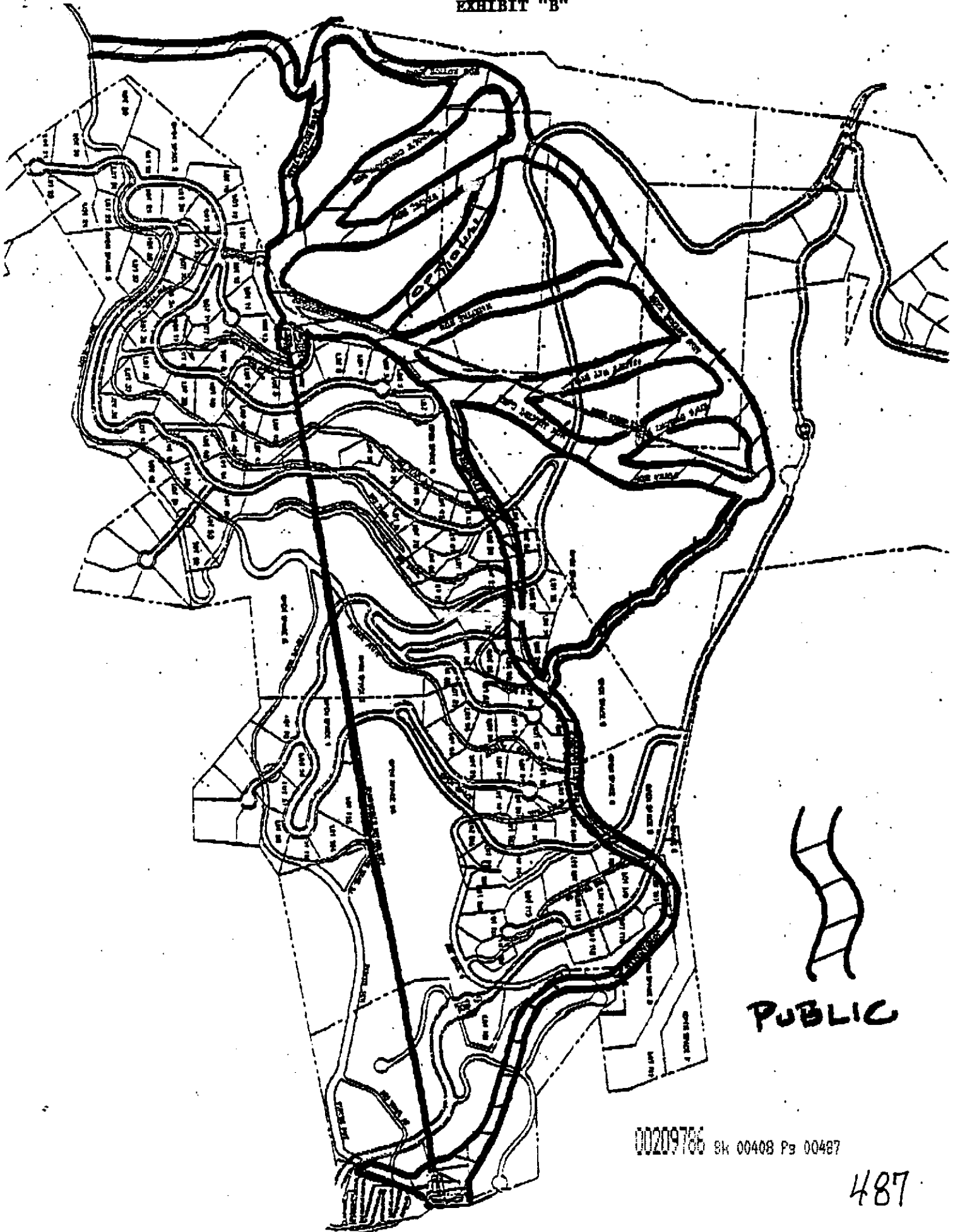
DEER CREST ESTATES PHASE 2 DESCRIPTION

Beginning at a point which is North 89°19'56" West along the Section line 650.56 feet and North 160.75 feet from the Northeast Corner of Section 23, Township 2 South, Range 4 East, Salt Lake Base and Meridian; (Basis of bearing being North 89°19'56" West 5246.36' feet between said Northeast Corner and the Northwest Corner of said Section 23); thence North 20°57'16" West 189.32 feet; thence South 64°47'01" West 127.27 feet; thence South 00°09'19" West 352.16 feet; thence South 42°19'29" East 573.69 feet; thence South 21°45'53" West 212.76 feet; thence North 73°23'29" West 99.29 feet; thence South 58°24'43" West 172.47 feet; thence South 13°18'07" West 60.00 feet; thence South 01°15'49" West 760.49 feet; thence South 80°20'00" West 736.74 feet; thence South 58°42'51" West 212.30 feet; thence North 77°57'08" West 239.77 feet; thence South 52°54'54" West 108.00 feet to a point of curvature of a 75.00 foot radius curve to the right, the center of which bears North 31°52'10" East; thence along said curve 34.77 feet through a central angle of 26°33'49"; thence North 31°34'02" West 14.63 feet; thence South 58°25'58" West 50.00 feet; thence North 31°34'02" West 30.26 feet; thence South 58°25'58" West 265.71 feet; thence North 48°20'21" West 214.86 feet; thence South 85°53'00" West 63.64 feet to the East line of Deer Crest Estates Subdivision Phase I; thence along said East line the following eight (8) courses: thence 1) North 02°01'58" East 971.51 feet; thence 2) South 87°22'42" East 170.69 feet; thence 3) North 58°20'23" East 22.83 feet; thence 4) North 31°39'37" West 109.78 feet; thence 5) North 53°23'46" East 226.05 feet; thence 6) North 03°35'53" East 189.33 feet; thence 7) North 12°58'31" East 466.63 feet; thence 8) North 22°53'39" West 536.81 feet; thence North 12°29'17" East 200.13 feet; thence South 77°30'43" East 550.93 feet; thence North 05°26'43" West 28.39 feet; thence North 84°38'40" East 1386.01 feet to the West line of Highway U.S. 40, said point being North 84°38'40" East 2.76 feet from a mining claim witness corner brass cap; thence South 18°45'45" East along said West line 493.82 feet; thence South 05°26'45" East 119.49 feet; thence South 84°40'19" West 468.52 feet to the POINT OF BEGINNING.

Contains 96.38 acres more or less.
Together with all ingress/egress and utility easements as depicted or described hereon.

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EXHIBIT "B"




PUBLIC

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