

Recording Requested by and  
When Recorded Return to:

COLONIES AT VALAIS  
c/o Midway Village, L.C.  
5200 South Highland Drive, Suite 101  
Salt Lake City, Utah 84117

00211039 BK 00413 Pg 00432-00475  
KASATCH CO RECORDER-ELIZABETH M PARCELL  
1999 FEB 05 10:40 AM FEE \$119.00 BY NWC  
REQUEST: MIDWAY VILLAGE LC

PAGE (●) INDEX ( ) ABSTRACT ( ) PLAT ( ) CHECK ( )

**DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
COLONIES AT VALAIS**

**TABLE OF CONTENTS**

RECITALS ..... Page 1

ARTICLE I.

DEFINITIONS ..... Page 2

ARTICLE II.

NATURE AND PURPOSE OF COVENANTS ..... Page 7

ARTICLE III.

PARCELS SUBMITTED TO DECLARATION ..... Page 7

- 3.1 Submission of Parcels ..... Page 7
- 3.2 Submission of Common Areas ..... Page 8
- 3.3 Annexation by Declarant ..... Page 9
- 3.4 Limitation on Annexation ..... Page 9

ARTICLE IV.

PROPERTY RIGHTS AND USE RESTRICTIONS ..... Page 10

- 4.1 Member's Easements of Enjoyment ..... Page 10
- 4.2 Title to Common Areas ..... Page 10
- 4.3 Extent of Members' Easements ..... Page 10
- 4.4 Form of Conveyancing ..... Page 11
- 4.5 Governing Documents and Laws ..... Page 11
- 4.6 Signs ..... Page 11
- 4.7 Toxic Materials ..... Page 12
- 4.8 Maintenance ..... Page 12
  - a. General ..... Page 12
  - b. Waterway Maintenance ..... Page 12
  - c. Parkway Maintenance ..... Page 12
- 4.9 Common Area Facilities ..... Page 12

ARTICLE V.

MEMBERSHIP AND VOTING RIGHTS ..... Page 13

- 5.1 Organization ..... Page 13
- 5.2 Membership ..... Page 13
- 5.3 Voting Rights ..... Page 13
- 5.4 Multiple Ownership Interests ..... Page 14

ARTICLE VI.

BOARD OF TRUSTEES ..... Page 14  
6.1 Decisions ..... Page 14  
    a. Majority Vote ..... Page 14  
    b. Unanimous Vote ..... Page 14

ARTICLE VII.

COVENANT FOR ASSESSMENTS ..... Page 14  
7.1 Covenant to Pay Assessment ..... Page 14  
7.2 Purpose of Assessments ..... Page 15  
7.3 Rate of Assessments ..... Page 15  
7.4 Maximum Periodic Assessment ..... Page 15  
7.5 Special Assessments ..... Page 15  
7.6 Reimbursement Assessment on Specific Living Unit or Lot ..... Page 16  
7.7 Periodic Assessment Due Dates ..... Page 16  
7.8 Collection by Association ..... Page 16  
7.9 Effect of Nonpayment of Assessments; Remedies of the Master Association  
    ..... Page 16  
    a. Enforcement by Suit ..... Page 17  
    b. Enforcement by Lien ..... Page 17  
7.10 Effect of a Sale or Transfer on Assessments ..... Page 19  
7.11 Tax Collection by County Authorized ..... Page 19  
7.12 Exempt Property ..... Page 20  
7.13 Delivery by Owner ..... Page 20  
7.14 Delivery of Statement by Board ..... Page 20

ARTICLE VIII.

DUTIES AND POWERS OF THE MASTER ASSOCIATION AND BOARD . Page 20  
8.1 General Powers of the Master Association ..... Page 20  
8.2 Contracts of the Master Association ..... Page 20  
8.3 Association Rules ..... Page 20  
8.4 Entry Onto Project Zones ..... Page 21

ARTICLE IX.

INSURANCE ..... Page 21  
9.1 Insurance Coverage ..... Page 21  
9.2 Additional Insurance Provisions ..... Page 21

ARTICLE X.

DAMAGE AND DESTRUCTION AFFECTING COMMON AREAS ..... Page 22

ARTICLE XI.

EMINENT DOMAIN ..... Page 22

ARTICLE XII.

ARCHITECTURAL CONTROL ..... Page 23

ARTICLE XIII.

NOTICES ..... Page 23

ARTICLE XIV.

RIGHTS OF LENDERS ..... Page 23  
14.1 Notice to Institutional Holders of Default ..... Page 23  
14.2 Assessments on Foreclosure ..... Page 24  
14.3 Rights of Institutional Holders ..... Page 24  
14.4 Payment of Taxes and Insurance Premiums ..... Page 24  
14.5 Priority on Distribution of Proceeds ..... Page 24  
14.6 Notice of Destruction or Taking ..... Page 24  
14.7 Mortgage Protection Clause ..... Page 25  
14.8 Conflicts ..... Page 25

ARTICLE XV.

FINANCIAL STATEMENTS ..... Page 25

ARTICLE XVI.

DEVELOPMENT AND MAINTENANCE OBLIGATIONS ..... Page 25  
16.1 Governing Documents ..... Page 25  
16.2 Trees and Lighting ..... Page 25

ARTICLE XVII.

GENERAL PROVISIONS ..... Page 26  
17.1 Indemnifications ..... Page 26  
    a. General ..... Page 26

	b. <u>Master Association</u> .....	Page 26
17.2	<u>No Discriminatory Restrictions</u> .....	Page 26
17.3	<u>Severability</u> .....	Page 26
17.4	<u>Term</u> .....	Page 26
17.5	<u>Amendments</u> .....	Page 26
17.6	<u>Construction</u> .....	Page 27
17.7	<u>Singular Includes Plural</u> .....	Page 27
17.8	<u>Nuisance</u> .....	Page 27
17.9	<u>Conflicts</u> .....	Page 27
17.10	<u>Attorneys' Fees</u> .....	Page 27
17.11	<u>Performance</u> .....	Page 28
17.12	<u>Assignability</u> .....	Page 28
17.13	<u>No Third Party Rights</u> .....	Page 28
17.14	<u>No Waiver</u> .....	Page 28
17.15	<u>Time of Essence</u> .....	Page 28
17.16	<u>Force Majeure</u> .....	Page 28
17.17	<u>Cooperation</u> .....	Page 28
17.18	<u>No Relationship</u> .....	Page 28
17.19	<u>Consents and Approvals</u> .....	Page 28
17.20	<u>Exhibits</u> .....	Page 29
17.21	<u>Recitals</u> .....	Page 29
17.22	<u>The Declaration</u> .....	Page 29

EXHIBIT "A"

MASTER CONCEPT DEVELOPMENT PLAN .....	Page 31
---------------------------------------	---------

EXHIBIT "B"

ENTIRE TRACT REAL PROPERTY DESCRIPTION .....	Page 32
--	---------

EXHIBIT "C"

RESIDENTIAL ZONE A LEGAL DESCRIPTION .....	Page 33
--	---------

EXHIBIT "D"

COMMON AREA LEGAL DESCRIPTION .....	Page 34
-------------------------------------	---------

EXHIBIT "E"

ADDITIONAL LAND REAL PROPERTY DESCRIPTION .....	Page 35
---	---------

EXHIBIT "E"

ADDITIONAL LAND REAL PROPERTY DESCRIPTION ..... Page 36

EXHIBIT "F"

PARK PARCEL DESCRIPTION ..... Page 37

00211039 BK 00413 Pg 00437

**DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
COLONIES AT VALAIS**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (the "Declaration") is made as of November 5<sup>th</sup>, 1998, by Midway Village, L.C., a Utah limited liability company ("Declarant").

**RECITALS:**

A. This Declaration governs certain real property and improvements that are part of a larger area consisting of approximately 120 acres located at the northwest corner of the intersections of Interlaken Drive and Burgi Lane in the City of Midway, County of Wasatch, State of Utah ("the Development Area"), as depicted on the plan attached as Exhibit "A" hereto (the "Master Plan").

B. The Development Area is divided into areas as shown on the Master Plan, more particularly described as follows: (1) the residential development area (the "Residential Parcels"); (2) a project entrance and public park (collectively the "Park Parcel"); and (3) an access area (the "Parkway").

C. The Project initially consists of two (2) zones (the "Project Zones") as depicted on the Master Plan: (1) "Residential Zone A;" and (2) a "Common Area Zone;" although Residential Zones may be expanded, additional Residential Zones may be added, and the Common Area Zone may be expanded and supplemented, from the Additional Land in accordance with the provisions herein contained. The Project, as initially constituted, is graphically described on Exhibit "A" attached hereto. "Residential Zone A," as hereafter expanded, and any additional Residential Zones added to the Project or later expanded, shall be referred to collectively as the "Residential Zones."

D. Each Residential Zone may be divided into separate Planned Unit Developments, Subdivisions and/or Condominium Projects, each containing Living Units and/or Lots.

E. Declarant is under an obligation to dedicate the Park Parcel to Midway City for the general well being and use of the City and its residents.

F. Declarant is the owner of the Project. Declarant has deemed it desirable to impose a general plan for the improvement and development of the Project and the adoption and establishment of covenants, conditions and restrictions upon the real property and each and every portion thereof and upon the use, occupancy and enjoyment thereof, all for the purpose of enhancing and protecting the value, desirability and attractiveness of the Project.

G. Declarant hereby declares that all portions of the Project shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied and improved subject to the following easements, restrictions, covenants, conditions and equitable servitudes.

## ARTICLE I.

### DEFINITIONS

1.1 Additional Land shall, at any point in time, mean the real property, or any portion thereof, located in Wasatch County, State of Utah, and more particularly described on Exhibit "E" attached hereto.

1.2 Annexation Agreement. The term "Annexation Agreement" shall mean that certain Annexation Agreement dated as of September 18, 1997, between the City and Declarant, respecting certain obligations and restrictions associated with the Project.

1.3 Articles. The term "Articles" shall mean the Articles of Incorporation of the Master Association, as amended from time to time.

1.4 Association Rules. The term "Association Rules" shall mean the rules and regulations regulating the use and enjoyment of the Common Areas and otherwise governing the Master Association and the Project.

1.5 Board. The term "Board" shall mean the duly elected Board of Trustees of the Master Association.

1.6 Bylaws. The term "Bylaws" shall mean the Bylaws of the Master Association, as amended from time to time.

1.7 City. The term "City" shall mean Midway City.

1.8 Colony Association or Colony Associations. The term "Colony Association" or "Colony Associations" shall mean the separate Owner's association established to administer a condominium project, planned unit development or subdivision and which is submitted to the terms of the Declaration pursuant to the provisions of Article III.

1.9 Colony Association's Common Areas.

1.10 Common Areas. The term "Common Areas" shall mean the Common Areas which are to be owned by the Master Association for the common use and enjoyment of all of the Owners and their guests and invitees, and which are designated as such on a Map, including but not limited to streets, driveways, sidewalks, Parkway (as defined herein and except as dedicated to the City), Trails (as herein defined) and Waterways (as herein defined), together with all amenities and



improvements thereon and all easements appurtenant thereto including but not limited to private utility lines and easements, landscape easements and personal property owned by the Master Association when the context so requires. Easements reserved for the Master Association shall also be made available for the use and benefit of the Colony Associations.

1.11 County. The term "County" shall mean the County of Wasatch.

1.12 Declarant. The term "Declarant" shall mean Midway Village, L.C., a Utah limited liability company, and its successors and assigns, if such successors or assigns should acquire the entire Project (or balance thereof not previously submitted to the terms of this Declaration) from the Declarant for the purpose of development, or any Parcel within the Entire Tract.

1.13 Declaration. The term "Declaration" shall mean the covenants, conditions, restrictions, reservations, easements, liens and charges imposed by or expressed in this Declaration.

1.14 Entire Tract. The term "Entire Tract" shall mean and refer to that certain real property, and the appurtenances thereto, located in Wasatch County, State of Utah, and more particularly described on Exhibit "C" attached hereto and incorporated herein by reference. The Park Parcel shall be excluded from the Entire Tract upon dedication thereof to the City; provided, however, if at any time the City shall sale, transfer or convey the Park Parcel to any party other than a body politic of the State of Utah, the Park Parcel shall thereafter automatically be subject to the terms and conditions of this Declaration.

1.15 Environmental Laws. The term "Environmental Laws" shall mean any federal, state, local or foreign statutes, codes, plans, regulations or common laws related to pollution or protection of the environment, including, without limitation, any common laws of nuisance or trespass and any laws or regulations relating to emissions, discharges, releases or threatened releases of Toxic Materials into the environment (including, without limitation, ambient air, surface water, ground water, land surface or subsurface strata) or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Toxic Materials. "Environmental Laws" shall also include all orders, decrees, judgments, injunctions, notices or demand letters issued, entered, promulgated or approved under those Environmental Laws.

1.16 Governing Documents. The term "Governing Documents" shall mean (a) this Declaration, (b) the Annexation Agreement between the City and Declarant, (c) a Preliminary Agreement by and between Interlaken Water Company and Declarant regarding the use of Interlaken Drive, and any amendments or modifications of the same, (d) the Water Supply Agreement by and between Declarant, City and Midway Irrigation Company; (e) the Maps and Plats (as defined herein), (f) the Articles, (g) the Bylaws, (h) the Association Rules, and (i) the covenants, restrictions and all other agreements and instruments pertaining to and governing the foregoing or the Project or the activity or matter in question as may be amended from time to time.

00211039 Blk 00413 Pg 00440

1.17 Governing Laws. The term "Governing Laws" shall mean all laws, ordinances, regulations, orders, judgments and other legislation pertaining to and governing the Project or the activity or matter in question.

1.18 Improvement. The term "Improvement" shall mean any structure or appurtenance thereto of every type and kind, including but not limited to buildings, walkways, sprinkler pipes, garages, room additions, patio covers, swimming pools, spas, recreational facilities, roads, driveways, parking areas, fences, screening walls, retaining walls, stairs, decks, landscaping, antenna, edges, windbreaks, plantings, planted trees and shrubs, poles, signs, exterior air conditioning and water softening fixtures or equipment.

1.19 Institutional Holder. The term "Institutional Holder" shall mean any holder (beneficiary) of a Senior Mortgage which encumbers any portion of the Project, which holder is a bank or savings and loan association or established mortgage company, or other entity chartered under federal or state laws, any corporation or insurance company, or any federal or state agency.

1.20 Living Unit or Unit. The term "Living Unit" or "Unit" shall mean and refer to one of separately number and individually described condominium units, as identified in a condominium declaration, or one of separate and individually described single family residences constructed upon a Lot as described in a declaration for a planned unit development or a declaration for a subdivision.

1.21 Lot. The term "Lot" shall mean and refer to any one 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 common by Owners of different lots; and (b) which is intended to be used as the site of a single Living Unit.

1.22 Maintenance Area. The term "Maintenance Area" shall mean the Common Areas and the areas known as the Waterways.

1.23 Master Association. The term "Master Association" shall mean COLONIES AT VALAIS MASTER ASSOCIATION, a Utah nonprofit corporation, its successors and assigns.

1.24 Member. The term "Member" shall mean those persons entitled to membership in the Master Association as provided in this Declaration and in the Articles and Bylaws.

1.25 Mortgage. The term "Mortgage" shall mean any duly recorded and valid mortgage or deed of trust encumbering any portion of the Project.

1.26 Owner. The term "Owner" shall mean: (i) the holder of record ownership of a fee title interest in a Parcel, and that party's successors and assigns including but not limited to a Colony Association; (ii) a person who is the owner of record (in the office of the County Recorder of Wasatch County, Utah) of a fee in a Living Unit. Persons or entities that hold an interest in a Parcel or a Living Unit merely as security for the performance of an obligation shall not be considered Owners.

1.27 Parcel. The term "Parcel" shall mean and refer to each portion of the Entire Tract, which, within 30 years after the date on which this Declaration is recorded in the office of the County Recorder of Wasatch County, Utah, is separately subjected to the terms of this Declaration with the intention that it shall thereby comprise a portion of the Project. The real property described in Article III as Residential Zone A of this Declaration constitutes a Parcel.

1.28 Parkway. The term "Parkway" shall mean the road known as Valais Parkway and the related landscape improvements, walkways and other improvements adjacent thereto or as designated as such on the Master Plan.

1.29 Park Parcel. The term "Park Parcel" shall mean that certain real property more particularly described on Exhibit "F" attached hereto and the Improvements as required of the Declarant in accordance with the Governing Documents.

1.30 Parties. The term "Parties" shall mean the Declarant, the Owners, the Members, the Colony Associations and all other persons or entities having rights and obligations under this Declaration.

1.31 Project. The term "Project" shall mean the Colonies at Valais, as then constituted, including but not limited to the Parcels subject to the terms of this Declaration, the Common Areas, the Waterway and the Parkway (until the same is dedicated to the City).

1.32 Record of Survey Map, Plat Map or Map. The term "Record of Survey Map", "Plat Map," or "Map" shall mean and refer to any Survey Map of a Condominium Project, a Plat Map of a Planned Unit Development, or a Plat or Map of a Subdivision:

- a. which covers a portion of the Entire Tract;
- b. which describes or creates a Condominium Project, a Planned Unit Development, or a Subdivision;
- c. on which or in which an instrument recorded in conjunction therewith there is expressed the intent that the project created by the Map shall comprise a part of the Colonies at Valais Project; and
- d. which is recorded in the office of the County Recorder of Wasatch County, Utah, within 30 years after the date of which this Declaration is so recorded.

Recorded concurrently with this Declaration is (i) a Record of Survey Map of "Mirabelle Colony I at Valais," (also showing Master Association Common Areas); and (ii) a Declaration of Covenants, Conditions and Restrictions of Mirabelle Colony 1 at Valais, P.U.D., executed and acknowledged by the Declarant on the 30 day of November, 1998, and creating a Colony Association for an expandable Planned Unit Development consisting of initially sixteen (16) Living Units.

1.33 Reimbursement Assessment. The term "Reimbursement Assessment" shall mean a charge against each Owner for the purpose of reimbursing the Master Association for any costs incurred by the Master Association on behalf of an individual Owner, pursuant to the provisions of Section 7.6.

1.34 Senior Mortgage. The term "Senior Mortgage" shall mean any Mortgage that is (a) recorded against any portion of a Parcel, Living Unit, or Lot prior to any lien for delinquent assessments, claims or other encumbrances by the Master Association; and (b) is recorded prior to all other loans encumbering such Parcel, Living Unit, or Lot. Encumbrances for loans recorded in second or lower position shall not be Senior Mortgages without an express written subordination agreement from the Master Association which may be given or withheld in the Master Association's sole discretion.

1.35 Special Service District. The term "Special Service District" shall mean that special service district in existence or to be formed by the City and Developer in accordance with the terms and conditions of the Governing Documents which provides both culinary and secondary water to or for the benefit of Owners of Lots and Living Units; and (ii) that makes monthly charges to Owners for the improvements located and maintained in such special service district, which charges will be in addition to those charges imposed by Midway City for water. Such charges will be reflected upon individual water statements. The Special Service District will cover all Parcels located within the Project. By becoming an Owner within the Project, each Owner shall be deemed to have given his consent to the creation of and the requirements of the Special Service District.

1.36 Trails. The term "Trails" shall mean a system of trails, and easements reserved for the construction and maintenance of such Trails, to be established by Declarant as a Common Area and designated as such on one or more Maps as the same are submitted to the terms and conditions of this Declaration.

1.37 Toxic Materials. The term "Toxic Materials" shall mean any flammable explosives, asbestos, industrial substances, pollutants, contaminants, chemicals, wastes, discharges, emissions, radioactive materials and other hazardous substances, whether injurious by themselves or in combination with other materials, including, but not limited to, substances defined as "hazardous substances," "hazardous materials," "hazardous wastes" or "toxic substances" described in the "Environmental Laws."

1.38 Trustees. The term "Trustees" shall mean the duly appointed members of the Board.

1.39 Waterway or Waterways. The term "Waterway" or the "Waterways" shall mean the stream(s) and irrigations canals and bed(s) therefore designated as such on Maps.

00211039 Blk 00413 Pg 00443

ARTICLE II.

NATURE AND PURPOSE OF COVENANTS

2.1 The covenants, conditions and restrictions set forth in this Declaration constitute a general scheme for the development, protection and maintenance of the Project to enhance the value, desirability and attractiveness of the Project for the benefit of all Owners. These covenants, conditions and restrictions are imposed upon Declarant, the Owners, the Parcels, the Waterways, the Parkway (until the same is dedicated to the City) and the Master Association. Such covenants, conditions and restrictions shall be a burden upon and a benefit to each Owner, and also that Owner's successors and assigns. All such covenants, conditions and restrictions are intended as and are hereby declared to be covenants running with the land or equitable servitudes upon the land, as the case may be.

ARTICLE III.

PARCELS SUBMITTED TO DECLARATION

3.1 Submission of Parcels. The Parcel which is and shall be held, transferred, sold, conveyed and occupied subject to the provisions of this Declaration consists of the following-described real property situated in Wasatch County, State of Utah.

Residential Zone A:

SEE THE LEGAL DESCRIPTION ATTACHED HERETO AS EXHIBIT "C" AND INCORPORATED HEREIN BY REFERENCE.

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

RESERVING UNTO DECLARANT, however, such easements and rights of ingress and egress over, across and through and under the above-described Parcel 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 provisions of this Declaration): (i) to construct and install utilities lines and related improvements; and (ii) to improve the Common Areas with such facilities, including, but not limited to, roads, recreational facilities, Waterways, Trails, walkways and various landscaped areas, designed for the use and enjoyment of all the Members as Declarant may reasonably determine to be appropriate; and (iii) a perpetual easement of ingress and egress for the benefit of the balance of the

Entire Tract, however developed or utilized, over the Parkway, whether or not the balance of the Entire Tract, or portions thereof, is part of the Project. If, pursuant to the foregoing reservation, the above-described Parcels 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 thirty (30) years after the date on which this Declaration is filed for record in the office of the County Recorder of Wasatch County, Utah.

ALL OF THE FOREGOING IS SUBJECT TO: All liens for current and future taxes, assessments and charges imposed or levied by governmental or quasi-governmental authorities; all patent reservations and exclusions; all mineral reservations 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, any mortgage or deed of trust; all visible easements and rights-of-way; and all easements and rights-of-way of record.

3.2 Submission of Common Areas. Subject to the provisions of Section 4.2, Declarant shall submit to the terms of this Declaration: (i) the Common Areas, including any Common Area Facilities (as hereinafter defined) located therein as more particularly described on Exhibit "D" attached hereto; and (ii) the Parkway, reserving unto the Declarant the right to dedicate the Parkway or portions thereof to the City in accordance with the Governing Documents.

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

RESERVING UNTO DECLARANT, however, such easements and rights of ingress and egress over, across and through and under the above-described Parcel 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 provisions of this Declaration): (i) to construct and install utilities lines and related improvements; and (ii) to improve the Common Areas with such facilities, including, but not limited to, roads, recreational facilities, Waterways, Trails, walkways and various landscaped areas, designed for the use and enjoyment of all the Members as Declarant may reasonably determine to be appropriate; and (iii) a perpetual easement of ingress and egress for the benefit of the balance of the Entire Tract, however developed or utilized, over the Parkway, whether or not the balance of the Entire Tract, or portions thereof, is part of the Project. If, pursuant to the foregoing reservation, the above-described Parcels 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 thirty (30) years after the date on which this Declaration is filed for record in the office of the County Recorder of Wasatch County, Utah.

ALL OF THE FOREGOING IS SUBJECT TO: All liens for current and future taxes, assessments and charges imposed or levied by governmental or quasi-governmental authorities; all patent reservations and exclusions; all mineral reservations 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, any mortgage or deed of trust; all visible easements and rights-of-way; and all easements and rights-of-way of record.

3.3 Annexation by Declarant. Declarant may from time to time expand the Project by the annexation of all or any part of the real property comprising the Additional Land. Such annexation may include (i) additions to a Residential Zone; (ii) additional Residential Zones; (iii) Common Areas, including Common Area Facilities; (ii) one or more Waterways and/or Trails, some of which may traverse Residential Zones and/or Common Areas. The annexation of any portion of the Additional Land shall become effective upon the recordation in the office of the Wasatch County Recorder of a Plat for the Additional Land, or portion thereof, and by either a separate Declaration for a Colony Association, or supplement thereto, or a supplement to this Declaration which (i) describes the real property to be annexed and confirms that it is part of the Additional Land; (ii) declares that the annexed real property is to be held, sold, conveyed, encumbered, leased, occupied and improved as part of the Project and subject to this Declaration; and (iii) sets forth such additional limitations, restrictions, covenants and conditions as are imposed by the owner of and applicable to the annexed real property and the applicable Colony Association. Upon the effective date of such annexation, the annexed real property as identified in the Plat of the same, shall become part of the Project and shall be subject to the provisions of this Declaration and any amendment or supplement thereto.

3.4 Limitation on Annexation. Declarant's right to annex any portion of the Additional Land shall be subject to the following limitations:

- a. The annexed real property must be all or part of the Additional Land as identified in this Declaration.
- b. Declarant shall not effectuate any annexation of real property which would cause the total number of Living Units within the Project to exceed five hundred (500) when completed.

00211039 Blk 00413 Pg 00446

ARTICLE IV.

PROPERTY RIGHTS AND USE RESTRICTIONS

All real property within the Project shall be held, used and enjoyed subject to the following limitations and restrictions.

4.1 Member's Easements of Enjoyment. Every Member shall have a right and easement of enjoyment in and to the Common Areas to be exercised in accordance with the intended use thereof and subject to the further limitations herein contained. Such right and easement shall be appurtenant to and shall pass with title to each Living Unit and/or Lot and in no event shall be separated therefrom. Such right and easement of enjoyment shall include the right to the non-exclusive use by Members, subject to the reasonable restrictions as hereinafter set forth, of Common Areas for recreation, social, physical needs and desires; and to contribute to the common health, security and happiness of the Members. Any Member may delegate the right and easement of use enjoyment described herein to any tenant, lessee or contract purchaser who resides in such Member's Living Unit, subject to the terms and conditions of the Association Rules.

4.2 Title to Common Areas. The Declarant may retain the legal title to the Common Areas until such time as it has completed Improvements thereon (the "Common Area Facilities) and until such time, as in the opinion of the Declarant, the Master Association is able to maintain the same, but notwithstanding any provision herein, the Declarant hereby covenants for itself, its successors and assigns, that it shall convey the Common Areas to the Master Association on or before ten (10) years from the date on which this Declaration is recorded in the office of the County Recorder, free and clear of all liens (other than the lien of current general taxes and the lien on any assessment, charges, or taxes imposed by governmental or quasi-governmental authorities). Even though title is retained by the Declarant, Declarant shall have the right to use assessments for the maintenance of such Common Area Facilities.

4.3 Extent of Members' Easements. Member's right and easement of use and enjoyment concerning the Common Areas created hereby shall be subject to the following:

a. The right of the Declarant and the Master Association as provided in its Articles and Bylaws, to suspend a Member's right to the use and enjoyment of any Common Area Amenities included in the Common Areas for any period during which an assessment on such Member's Living Unit or Lot remains unpaid and for a period not exceeding sixty (60) days for any infraction by such Member of the provisions of this Declaration or the Association Rules;

b. The right of the Master Association to impose reasonable limitations on the number of guests per Member who at any given time are permitted to use the Common Areas;

00211039 BK 00413 P3 00447



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

d. The right of the Declarant or the Master Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority, or utility for such municipal, governmental and/or non-commercial purposes and subject to such conditions as may be agreed to by the Declarant or by the Members, provided that no such dedication or transfer by the Master Association shall be effective unless written notice of the proposed agreement and action thereunder is sent to every Member at least thirty (30) days in advance of any action taken unless an instrument signed by Members entitled to cast sixty percent (60%) of the votes of the Membership has been obtained agreeing to such dedication, transfer, purpose or condition; and

e. The right of the Master Association to borrow money for the purpose of improving the Common Areas and to mortgage the Common Areas, or any part hereof, to carry out such improvements.

4.4 Form of Conveyancing. Any deed, lease, mortgage, deed of trust, or other instruments conveying or encumbering title to a Living Unit or Lot, subject to the terms of this Declaration, shall be deemed to include the right and easement of use and enjoyment in and to the Common Areas as provided herein but subject to the limitations also contained herein.

4.5 Governing Documents and Laws. Each portion of the Project shall be used subject to and in compliance with all Governing Documents and Governing Laws. The Governing Documents each impose certain obligations on the Project. To the extent that those Governing Documents impose specific obligations on certain Project Zones, the Owners associated with those Project Zones shall take all actions and pay all costs reasonably necessary to carry out those obligations as they apply to their specific Project Zones. Notwithstanding the foregoing, to the extent that any of the obligations under the Annexation Agreement are specifically identified therein as the responsibility of Declarant, Declarant shall be solely liable for the performance of those covenants.

4.6 Signs. All signs, posters, displays, billboards and other advertising devices (collectively, the "Signs") and the conditions promulgated for the regulation thereof shall conform to the requirements of all Governing Documents and Governing Laws. The Association shall erect a sign for the entire Project at one or more locations and in a style approved by the Board. The Association may establish as part of the Association Rules, additional provisions for the display and/or placement of signs or the prohibition thereof.

00211039 Bk 00413 Pg 00448

4.7 Toxic Materials. No Owner shall store, use, manufacture, process, distribute, treat, transport, handle, emit, dispose of, discharge or release any Toxic Materials at or from the Project or any portion thereof in violation of any Environmental Laws.

4.8 Maintenance.

a. General. Each Owner shall take all actions and pay all costs necessary to maintain its Living Unit and the Improvements thereon in a safe, clean, sanitary, workable and attractive condition. The Master Association shall take all actions and pay all costs necessary to maintain the Common Areas (except where otherwise required of a Colony Association) in a safe, clean, sanitary, workable and attractive condition.

b. Waterway Maintenance. The Master Association shall take all actions and pay all costs necessary to maintain the Waterways, excluding however landscaping on the banks thereof for any Waterway which is contained within a Colony Association. Each Colony Association shall take all actions and pay all costs necessary to maintain the landscaping along the banks and frontage of any Waterway abutting or which traverses through such Colony Association's Common Areas.

c. Parkway Maintenance. In accordance with the requirements of the City and the Governing Documents, the Declarant shall dedicate the Parkway, or portions thereof to the City. Until such dedication and for those portions of the Parkway which are not dedicated, each Owner shall be entitled to an easement for ingress and egress to such Owner's Parcel, Living Unit or Lot, limited however to the intended uses therefore. Declarant shall be entitled to an easement for ingress and egress to the Additional Land, and Declarant shall take all actions and pay all costs necessary to construct the Parkway. To the extent not dedicated, the Master Association shall maintain the Parkway except that each Colony Association shall take all actions and pay all costs necessary to maintain the landscaping of the Parkway between such Colony Association's Common Areas and any publicly dedicated street.

4.9 Common Area Facilities. Subject to the Governing Laws, the Association is authorized to lease portions of the Common Area Facilities for the operation of commercial enterprises which may be beneficial to the comfort and well being of the Owners, including, but not limited to a convenience store or recreational equipment rentals. Any such lease shall be approved by the Declarant and the Board, shall be between the Master Association and such lessee, and shall be evidenced by a written lease agreement. Nothing shall be altered or constructed in or removed from the Common Areas except upon the written consent of the Board, subject to the provisions of this Declaration limiting construction on portions of the Common Areas.

00211039 Blk 00413 Pg 00449

## ARTICLE V.

### MEMBERSHIP AND VOTING RIGHTS

5.1 Organization. The Master Association is organized as a Utah corporation under the Utah Nonprofit Corporation and Co-operative Association Act. The Master Association is charged with the duties and vested with the powers prescribed by law and set forth in the Master Association's Articles, Bylaws and this Declaration.

5.2 Membership. Every Owner shall be a Member of the Master Association. Membership shall be appurtenant to and may not be separated from the fee ownership of a Parcel, Living Unit, or Lot which has been submitted to the terms of this Declaration. Transfer of a Parcel, Living Unit, or Lot shall automatically transfer membership in the Master Association.

5.3 Voting Rights. The Master Association shall have the following described two classes of voting membership:

Class A. Class A Members shall be all Owners other than the Declarant until the Class B membership ceases. Class A Members shall be entitled to one vote for each Living Unit or Lot 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 Living Unit or Lot.

Class B. The Class B Member shall be the Declarant. The Class B Member shall be entitled to the following votes:

a. with respect to each Living Unit or Lot in which it holds the interest required for membership in the Association, three (3) votes;

b. with respect to each acre (to the nearest tenth of an acre) of Additional Land, not previously submitted to the Project, or with respect to each acre (to the nearest tenth of an acre) of each Parcel submitted to the Project, for which no Living Units have been constructed or no Lots have been created or subdivided, in which it holds the interest required for Membership in the Association, twenty (20) votes. The Class B Membership shall automatically cease and be converted to a Class A membership on the first to occur of the following events:

1. When the total number of votes held by all Class A Members equals the total number of votes held by the Class B Member; or

2. The expiration of thirty (30) years after the date on which this Declaration is filed for record in the office of the County Recorder of Wasatch County, Utah.

5.4 Multiple Ownership Interests. In the event there is more than one Owner of a particular Living Unit, Lot, Parcel or portion of Additional Land, the vote relating to such shall be exercised as such Owners may determine among themselves. A vote cast at any Association meeting by any of such Owners, whether in person or by proxy, shall be conclusively presumed to be the vote attributable to the Living Unit, Lot, Parcel, or portion of Additional Land concerned unless an objection is immediately made by another Owner of the same property. 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.

## ARTICLE VI.

### BOARD OF TRUSTEES

#### 6.1 Decisions.

a. Majority Vote. Any action by the Master Association which must have the approval of the Trustees before being undertaken, shall require the vote or written assent of a majority of all the Trustees except as otherwise expressly set forth in this Declaration.

b. Unanimous Vote. Notwithstanding anything herein to the contrary, the following actions must have the unanimous approval of all of the Trustees before being undertaken:

- i. Any amendments to this Declaration; and/or
- ii. Any other matters where a unanimous vote is specifically required by this Declaration.

## ARTICLE VII.

### COVENANT FOR ASSESSMENTS

7.1 Covenant to Pay Assessment. Each Owner, by acquiring or in any way becoming vested with his interest in a Living Unit or Lot, shall be deemed to covenant and agree to pay to the Master Association the periodic 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 Living Unit and/or Lot with respect to which such assessment is made; and (b) the personal obligation of the person who is the Owner of such Living Unit or Lot at the time the assessment falls due. No Owner may exempt himself or his Living Unit or Lot from liability for payment of assessments by waiver of his rights concerning the Common Areas or by abandonment of his Living Unit or Lot. In a voluntary conveyance of a Living Unit or Lot, 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 attorneys fees, which shall be a charge on the Living Unit or Lot at the time of the conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor.

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

7.3 Rate of Assessments. Assessments shall be levied against each Owner according to the ratio of the number of bedrooms in a Living Unit owned by the Owner assessed to the total number of bedrooms in all Living Units in the Project subject to assessments. For purposes of the foregoing, in the event that a Lot is subject to assessment but does not have a Living Unit constructed thereon, it shall nevertheless be considered for purposes of determining assessments be deemed to have one bedroom attributable to such Lot.

7.4 Maximum Periodic Assessment. From and after the date set under Section 7.7, each Living Unit and/or Lot which is subject to the terms of this Declaration shall be subject to a periodic assessment of not more than Five Hundred Dollars (\$500.00) annually (the "Ceiling"). From and after January 1, 2000, the Ceiling for the periodic assessment may be increased or decreased so long as the change is 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 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 Trustees of the Master Association may from time to time and in their discretion set the amount of the periodic assessment at any sum not in excess of the then applicable Ceiling amount.

7.5 Special Assessments. From and after the date set under Section 7.7, the Master Association may levy special assessments for the purpose of defraying, in whole or in part: (a) any expense or expenses not reasonable capable of being fully paid with funds generated by periodic assessments; or (b) the cost of any construction, reconstruction or unexpectedly required repair or replacement in connection with the Common Areas. Any such 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 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.

7.6 Reimbursement Assessment on Specific Living Unit or Lot. In addition to the periodic assessment and any special assessment authorized pursuant to Sections 7.4 and 7.5 above, the Board may levy at any time Special Assessments on each Living Unit or Lot, the Owner or occupant of which shall cause any damage to the Common Areas necessitating repairs (the foregoing being sometimes referred to as "Reimbursement Assessment"). The aggregate amount of any such Special Assessments shall be determined by the cost of such improvements, repairs, maintenance or enforcement action, including all overhead and administrative costs and attorney's fees, and shall be allocated among the affected Living Units or Lots according to the special benefit or cause of damage or maintenance or repair work or enforcement 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 Improvement which is part of the general maintenance obligations of the Association, it shall not give rise to a Reimbursement Assessment against the Living Units or Lots benefitted.

7.7 Periodic Assessment Due Dates. The periodic assessments provided for herein shall commence as to a Living Unit or Lot on the date a deed is delivered by the Declarant to the purchaser of a Living Unit or a Lot, or if the sale is by way of a contract of sale (by installment payment with a deed to be delivered on payment), 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 Living Unit and/or Lot, whichever first occurs. The first periodic assessment shall be adjusted according to the number of days remaining in the periodic of conveyance, contract or occupancy as the case may be. Thereafter all periodic assessments shall be due and payable as provided by the Board. At least fifteen (15) days prior to the effective date of any change in the amount of the monthly assessment, the Association shall give each Owner written notice of the amount and the first due date of the assessment concerned.

7.8 Collection by Association. It is anticipated that with respect to each or a combination of Parcels within the Project, there will exist a Colony Association, authorized to levy assessments for the purpose of administration of the purposes and affairs of such Colony Association. Each Colony Association which becomes a part of the Project shall be, and is hereby authorized to utilize the Colony Association for the purposes of collecting from the Owners of such Colony Association and enforcing liability for the payment of assessments levied pursuant to this Declaration and the enabling Declaration of the Colony Associations included within the Project.

7.9 Effect of Nonpayment of Assessments; Remedies of the Master Association. Each Owner shall pay to the Master Association each and every of the assessments provided for in this Declaration and agrees to the enforcement of all such assessments in the manner herein specified. In addition, a late charge shall be assessed on any assessment not paid within fifteen (15) days after the date on which it becomes due. Such late charge shall be the greater of ten percent (10%) of the delinquent assessment or \$25.00. Any assessment, including late charges and previously accrued interest associated therewith and not paid within thirty (30) days after the assessment becomes due shall thereafter bear interest at an annual percentage rate not to exceed eighteen percent (18%) or the highest rate allowed by law, whichever is less, both before and after judgment. In the event attorneys are employed for collection of any assessment, whether by suit or otherwise, or to enforce compliance with or specific performance of the terms and conditions of this Declaration, each Owner

agrees to pay actual attorneys' fees and costs thereby incurred in addition to any other amounts due or any other relief or remedy obtained against said Owner. In addition to any other remedies herein or by law provided, the Board or its authorized representative, may enforce the obligations of the Owners to pay the assessments provided for in this Declaration, and each of them, in any manner provided by law or in equity, or without any limitation of the foregoing, by either or both of the following procedures:

a. Enforcement by Suit. The Master Association may commence and maintain a suit at law against any Owner obligated to pay assessments for such delinquent assessments as to which that Owner is personally obligated. Such suit shall be maintained in the name of the Master Association. Any judgment rendered in any such action shall include the amount of the delinquency, together with interest thereon as provided for herein, costs of collection, court costs and reasonable attorneys' fees in such amount as the Court may adjudge against the delinquent Owner. Suit to recover a money judgment for unpaid assessments shall be maintained without foreclosing or waiving the lien provided below.

b. Enforcement by Lien.

i. Grant of Lien. The Owners hereby irrevocably grant, transfer and assign to America West Title Company, Salt Lake City, Utah, and its successors and assigns ("Trustee"), with power of sale and right of entry and possession for the benefit of the Master Association, all of the Owners' Living Unit and/or Lot together with all rights, rents, issues, profits and other interests associated therewith. There is hereby created a claim of lien, with power of sale, on each and every Living Unit and Lot to secure payment to the Master Association of any and all assessments levied against any and all Owners, Living Units and Lots provided for in this Declaration, and all costs of collection which may be paid or incurred by the Master Association in connection therewith, including actual attorneys' fees.

ii. Exercise of Lien Rights. At any time after the occurrence of any delinquency in the payment of any such assessment, the Board or any authorized representative thereof may make a written demand for payment to the delinquent Owner. Said demand shall state the date and amount of the delinquency. Each delinquency shall constitute a separate basis for a demand or claim of lien or a lien, but any number of defaults may be included within a single demand or claim of lien and any demand or claim of lien on account of prior delinquencies shall be deemed to include subsequent delinquencies and amounts due on account thereof. If such delinquency is not paid within ten (10) days after delivery of such demand, the Board or its duly authorized representative may thereafter elect to file and record a claim of lien on behalf of the Master Association against the Living Unit and/or Lot of the defaulting Owner in the Office of the County Recorder of the County. Such claim of lien shall be executed and acknowledged by any officer of the Master Association and shall contain substantially the following information:

1. The name of the record Owner;
2. The legal description of the Living Unit or Lot against which the claim of lien is made.
3. The total amount claimed to be due and owing for the amount of the delinquency, interest thereon, collection costs, and estimated attorneys' fees (with any proper offset allowed);
4. That the claim of lien is made by the Master Association pursuant to this Declaration;
5. That a lien is claimed against said Living Unit and/or Lot in an amount equal to the amount stated, together with all other amounts becoming due from time to time in accordance with this Declaration; and
6. The name and address of the trustee authorized by the Master Association to enforce the lien by sale through non-judicial foreclosure.

Upon recordation of a duly executed original or copy of a claim of lien, the lien claimed therein shall immediately attach and become effective in favor of the Master Association as a lien upon the Living Unit and/or Lot against which such assessment was levied.

iii. Foreclosure of Lien. Any such lien may be foreclosed by appropriate action in a court or in the manner provided under the Governing Laws for the foreclosure of a Mortgage (Deed of Trust) with power of sale, or in any other manner permitted by the Governing Laws. The Board is hereby authorized to appoint its attorney, any officer or trustee of the Master Association, or any title company authorized to do business in the County as trustee for the purpose of conducting such power of sale foreclosure. The lien provided for herein shall be in favor of the Master Association and shall be for the benefit of all other Owners and shall secure payment of all sums set forth in the claim of lien, together with all sums becoming due and payable in accordance with this Declaration after the date of recordation of said claim of lien. The Master Association shall have the power to bid at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any Living Unit and/or Lot. In the event such foreclosure is by action in Court, reasonable attorneys' fees, court costs, title search fees, interest and all other costs and expenses shall be allowed to the extent permitted by the Governing Laws. Each Owner hereby expressly waives any objection to the enforcement and foreclosure of this lien in this manner. Upon the timely curing of any default for which a notice of claim of lien was filed by the Board and the payment of all sums secured by the lien created by the recordation of such claim of lien, the Board shall cause an officer of the Master Association to file and record an appropriate release of such claim of lien



in the office of the County Recorder of the County. Notwithstanding anything contained in this Declaration to the contrary, no action may be brought to foreclose the lien created by recordation of a claim of lien, whether judicially, by power of sale, or otherwise, until the expiration of ten (10) days after a copy of said claim of lien, showing the date of recordation thereof has been mailed to the Owner of the Unit Owner described in such claim of lien.

iv. Lien Priority. Such a lien shall have priority over all liens or claims created subsequent to the recordation of this Declaration except for (a) tax liens for real property taxes on any Living Unit; (b) assessments on any Living Unit in favor of any municipal or other governmental assessing unit; and (c) Senior Mortgages.

7.10 Effect of a Sale or Transfer on Assessments. The sale or transfer of any Living Unit or Lot shall not affect any assessment lien created pursuant to the term of this Declaration to secure assessments becoming due whether prior to, on, or after the date of such sale or transfer, nor shall such sale or transfer diminish or defeat the personal obligation of any Owner for delinquent assessments as provided for by Section 7.1; provided, however, that the sale or transfer of any Living Unit or Lot pursuant to a judicial foreclosure or foreclosure by power of sale of a Senior Mortgage, or proceeding in lieu of foreclosure of a Senior Mortgage, shall extinguish any assessment lien which has attached and become effective with regard to the Living Unit or Lot being so transferred prior to the time of such sale or transfer, and shall prohibit the recordation of any assessment lien against such Living Unit or Lot on account of assessments which became due prior to the date of such sale or transfer; provided, however, that there shall be a lien on the interests of the purchaser at such sale which shall attach, be created and become effective and be foreclosed in accordance with this Declaration and which shall secure all assessments becoming due after the date of any such sale or transfer. In the event that all or any portion of an assessment is extinguished from a Living Unit or Lot under this Section, the Trustees shall have the right, but not the obligation, to proportionately reallocate all or any portion of that extinguished assessment among the other Living Units or Lots. For the purpose of this Section, a sale or transfer of a Living Unit or Lot shall occur on the date of recordation of a deed or other instrument of title evidencing the conveyance of record title to the Living Unit or Lot. Notwithstanding the extinguishment of any assessment lien by a Senior Mortgage, that extinguishment shall not relieve the Owner originally responsible for the delinquent assessment secured by that lien for the obligation to pay that delinquent assessment to the Master Association. The Master Association shall execute and deliver a separate subordination agreement requested by any lender that holds a Senior Mortgage.

7.11 Tax Collection by County Authorized. It is recognized that under the Declaration the Master Association will own the Common Areas and that it will be obligated to pay property taxes to the County. It is further recognized that each Owner of a Living Unit or a Lot 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, the County 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 Living Unit or Lot.

7.12 Exempt Property. All property in the Project dedicated to and accepted by any public authority and the Common Areas shall be exempt from the assessments created in this Declaration.

7.13 Delivery by Owner. Each Owner shall, as soon as practicable before the transfer of title to a Living Unit, Lot or Parcel, or the execution of a real property sales contract, give to the prospective transferee a copy of this Declaration and copies of the Bylaws and Articles, and a true statement in writing from the Board as to the amount of any delinquent assessments and information relating to penalties, attorneys' fees and other charges authorized by this Declaration on the applicable property as of the date the statement is issued.

7.14 Delivery of Statement by Board. Upon written request, the Board shall, within ten (10) days of the mailing or delivery of such request, provide the Owner, Mortgagee, or prospective purchaser or Mortgagee, of a Living Unit or Lot with a copy of this Declaration and copies of the Bylaws and Articles, together with a true statement in writing as to the amount of any delinquent assessments, penalties, attorneys' fees and other charge authorized by this Declaration on the Living Unit or Lot as of the date of the request. The Board may impose a fee for providing such documents and statement, but in no event shall the fee exceed the reasonable cost to prepare and reproduce the requested documents.

**ARTICLE VIII.**

**DUTIES AND POWERS OF THE MASTER ASSOCIATION AND BOARD**

8.1 General Powers of the Master Association. All powers relating to the management, operation and maintenance of the Common Areas shall be vested in the Master Association and in its Board. The Master Association may do any and all other acts and things that a nonprofit corporation is empowered to do, which may be necessary, convenient or desirable in the administration of its affairs for the specific and primary purposes of meeting its duties as set forth in this Declaration. The Master Association, through its Board, shall have the authority to delegate its powers to committees, officers of the Master Association or its employees.

8.2 Contracts of the Master Association. The Master Association shall have the right and power to employ or engage a manager and other employees or agents and contract for such services, labor and materials as the Master Association may deem reasonable or necessary to operate and maintain the Project and the Common Areas, and the Improvements thereon and to discharge its other duties as herein provided.

8.3 Association Rules. The Board shall also have the power to adopt, amend, and repeal such Association Rules and regulations as it deems reasonable. Upon completion of the notice requirements, the Association Rules shall have the same force and effect as if they were set forth in and were part of this Declaration and shall be binding on the Owners and their successors in interest whether or not actually received thereby.

8.4 Entry Onto Project Zones. The Master Association and its representatives shall have the right to enter upon any portion of the Project, including a Parcel subject to the terms of a Declaration for a Colony Association, to the extent such entry is reasonably justified and necessary in connection with the performance by the Master Association of its duties and responsibilities under this Declaration, including, without limitation, the construction, maintenance or effectuation of emergency repairs for the benefit of the Common Areas, the Waterways, or for any of the Owners within the Project. The Master Association shall indemnify the Owners for any liability or damage arising from such entry.

## ARTICLE IX.

### INSURANCE

9.1 Insurance Coverage. The Master 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 Common Areas. The name of the insured under each such policy shall be in form and substance similar to: "Colonies at Valais Master Association, Inc., for the use and benefit of the individual Members, Owners and Mortgagees, as their interests may appear".

b. A policy or policies insuring the Owners, the Master Association, and its directors, officers, agents, and employees against any liability incident to the ownership, use or operation of the Common Areas which may arise among themselves, to the public, and to any invitees or tenants of the Project or of the Owners. Limits of liability under such insurance shall be not less than \$1,000,000 for any one person injured; \$3,000,000 for all persons injured in any one accident; and \$500,000 for property damage resulting from one occurrence. 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.

9.2 Additional Insurance Provisions. The following additional provisions shall apply with respect to insurance to be obtained by the Master Association:

a. In addition to the insurance described above, the Master Association shall secure and all times maintain insurance against such risks as are or hereafter may be customarily insured against in connection with developments similar to the Project in construction, nature and use.

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

c. The Master Association shall have the authority to adjust losses.

d. Insurance secured and maintained by the Master Association shall not be brought into contribution with insurance held by the Colony Associations, individual Owners or their mortgagees.

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

**ARTICLE X.**

**DAMAGE AND DESTRUCTION AFFECTING COMMON AREAS**

10.1 If all or any portion of the Common Areas or Common Area Facilities is damaged or destroyed by fire, or other casualty, the Master Association shall be required and is hereby authorized to take any and all action to repair or rebuild the damaged portions or to cause the damaged portions to be repaired or rebuilt; provided, however in the event that sixty percent (60%) of the Members in attendance in person or by proxy at an authorized meeting of the Members vote not to repair or rebuild the damaged portions, the Master Association shall be relieved of such obligation.

**ARTICLE XI.**

**EMINENT DOMAIN**

11.1 The term "taking" as used in this Article shall mean condemnation by eminent domain or sale under threat of condemnation. In the event of a threatened taking of all or any portion of the Common Areas or the Improvements thereon, the Owners hereby appoint the Board and such persons as the Board may delegate to represent all of the Owners in connection with the taking. The Board shall act in its sole discretion with respect to any awards being made in connection with the taking and shall be entitled to make a voluntary sale to the condemnor in lieu of engaging in a condemnation action. Any awards received on account of the taking shall be paid to the Master Association and either held as prepaid assessments of the Owners or disbursed proportionately to the Owners, in accordance with the same percentages that assessments are

allocated to the Owners. The rights of an Owner and the holder of a Senior Mortgage on any Living Unit or Lot as to such pro rata distribution shall be governed by the provisions of the Senior Mortgage encumbering such Living Unit and/or Lot.

## ARTICLE XII.

### ARCHITECTURAL CONTROL

12.1 Except to the extent required by the City or any other governmental agency, Members, Board and Owners shall have no architectural controls over Project Zones or Parcels controlled by Colony Associations in which they do not have an ownership interest. The Project Zones and Parcels controlled by Colony Associations shall be owned, developed, maintained, operated and conveyed in accordance with applicable Governing Laws.

## ARTICLE XIII.

### NOTICES

13.1 In each instance in which notice is to be given to an Owner, the same shall be in writing and may be delivered personally or such notice may be delivered by United States mail, certified or registered, postage prepaid, return receipt requested, addressed to the Owner at the most recent address furnished by the Owner in writing for the purpose of giving notice, or if no such address shall have been furnished, then to the street address of such Living Unit or Lot, and any notice so deposited in the mail within the County shall be deemed delivered forty-eight (48) hours after such deposit. Any notice to be given to the Master Association may be delivered personally to any Trustee of the Board or delivered in such other manner as may be authorized by the Master Association. Any notice to be given to the Master Association shall be delivered by the United States mail, certified or registered, postage prepaid, return receipt requested, and any notice so deposited in the mail within the County shall be deemed delivered forty-eight (48) hours after such deposit.

## ARTICLE XIV.

### RIGHTS OF LENDERS

Notwithstanding any provisions to the contrary as may be provided elsewhere in this Declaration, Lenders shall have the following rights:

14.1 Notice to Institutional Holders of Default. Any Institutional Holder of any Mortgage on a Living Unit and/or Lot shall be entitled to receive, upon written request to the Master Association, written notification from the Master Association of any default by the Owner (trustor)

of such Living Unit or Lot in the performance of such Owner's obligations under the Declaration or the Articles or Bylaws which is not cured within thirty (30) days from the date of such default.

14.2 Assessments on Foreclosure. Any Institutional Holder of any Senior Mortgage who obtains title to a Living Unit or Lot pursuant to the remedies provided in the Mortgage (but exclusive of a deed in lieu of foreclosure), or through foreclosure of the Senior Mortgage, shall not be liable for any claims for unpaid assessments or charges against such Living Unit or Lot which accrued prior to the acquisition of title to such Living Unit or Lot by the Institutional Holder of the Senior Mortgage.

14.3 Rights of Institutional Holders. All Institutional Holders of Mortgages on individual Living Units and/or Lots shall, upon written request to the Master Association, be entitled to:

- a. Inspect the books and records of the Master Association during normal business hours;
- b. Receive an annual financial statement of the Master Association within ninety (90) days provided, however, that such statements shall be made available only if they have been prepared by the Master Association in the regular course of business, following the end of any fiscal year of the Master Association and the Master Association may charge a reasonable fee for providing the same; and
- c. Receive written notice of all meetings of the Members of the Master Association and shall be entitled to designate a representative to attend to all such meetings.

14.4 Payment of Taxes and Insurance Premiums. Institutional Holders of Mortgages on Living Units and/or Lots within the Project may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge or lien against any Common Areas, if any, and may pay overdue premiums on hazard insurance policies or secure hazard insurance coverage upon the lapse of a policy for any Common Area property and the Institutional Holders making such payments shall be owed immediate reimbursement therefor from the Master Association.

14.5 Priority on Distribution of Proceeds. No Owner or any other party shall have priority over any rights of Institutional Holders of Mortgages upon individual Living Units and/or Lots pursuant to their Mortgages in the case of a distribution to Owners of insurance proceeds or condemnation awards for losses to or a taking of all or any portion of the Common Areas and/or the individual Living Units and/or Lots.

14.6 Notice of Destruction or Taking. In the event that any Common Areas, or portions thereof, or Improvements thereon, are substantially damaged or destroyed, or are made the subject of any condemnation proceeding in eminent domain or are otherwise sought to be acquired by a condemning authority, the Master Association shall promptly notify all Institutional Holders of Mortgages affected by such destruction, taking or threatened action.

14.7 Mortgage Protection Clause. No breach of the covenants, conditions or restrictions herein contained, nor any lien created hereby, shall defeat or render invalid the lien of any Senior Mortgage made in good faith and for value, but all of said covenants, conditions and restrictions shall be binding upon and effective against any Owner whose title is derived through foreclosure or trustee's sale, or otherwise.

14.8 Conflicts. In the event of any conflicts between any of the provisions of this Article and any other provisions of the Declaration, the provisions of this Article shall control.

#### ARTICLE XV.

##### FINANCIAL STATEMENTS

15.1 The Master Association shall prepare budgets and financial statements of a type and at times determined by the Board.

#### ARTICLE XVI.

##### DEVELOPMENT AND MAINTENANCE OBLIGATIONS

16.1 Governing Documents. The Parties shall take all actions and pay all costs necessary to perform all of their respective obligations under the Governing Documents except to the extent modified under this Declaration. None of the Governing Documents shall be amended without the approval of the Declarant and the Board. Declarant shall not pass Declarant's obligations under the Governing Documents on to the Colony Association Owners or any other person or entity without the prior written consent of the Board; provided, however nothing herein shall eliminate the Colony Associations or the Owners from their obligation to pay for services and utilities which may be provided under such Governing Documents.

This Article is not intended to restate the obligations of Declarant or the Owners under the Governing Documents but rather is intended to (a) elaborate upon or clarify certain matters not otherwise set forth in the Governing Documents; and (b) restate certain maintenance obligations that must continue beyond the time that the Governing Document in which they are set forth will otherwise expire.

16.2 Trees and Lighting. All plans for trees, planting, landscaping and lighting in the Project must be approved by the Declarant and the Board.

00211039 BK 00413 Pg 00462

## ARTICLE XVII.

### GENERAL PROVISIONS

#### 17.1 Indemnifications.

a. General. Except to the extent caused by the negligence or intentional misconduct of any indemnified Party hereunder, the Parties hereby indemnify and hold each other harmless from and against all claims, liabilities and expenses (including attorneys' fees) arising out of (a) their respective Project Zones and/or Colony Associations; (b) their breach of this Declaration or any of the other Governing Documents; and (c) their negligence or intentional misconduct. All indemnifications under this Declaration shall survive the termination of this Declaration with respect to matters arising out of circumstances existing prior to such termination.

b. Master Association. To the fullest extent allowed by the Governing Laws, the Master Association shall indemnify and hold harmless, and the Members and owners shall release, all directors and officers of the Master Association, the Board and their respective committees from any and all liabilities, claims and expenses (including attorneys' fees) associated with the performance of their duties on behalf of the Master Association, the Board or their respective committees to the extent that the actions or omissions of those individuals are in good faith and without intentional or criminal misconduct or fraud.

17.2 No Discriminatory Restrictions. No Party shall execute or cause to be recorded any instrument or take or omit to take any action that imposes a restriction upon the use, sale, lease or occupancy of all or any portion of that Owner's Project Zone or any other area in the Project or Colony Associations on the basis of race, sex, sexual preference, marital status, national ancestry, color, religion or age.

17.3 Severability. Should any of the covenants contained in this Declaration be void or be or become unenforceable in law or in equity, the remaining portions of this Declaration shall, nevertheless, be and remain in full force and effect.

17.4 Term. Subject to the limitations set forth in this Section 17.4, this Declaration and the covenants herein contained shall be in effect until December 31, 2050 and shall automatically be extended for successive periods of 20 years unless within 6 months prior to the expiration of the initial term or any 20 year renewal period a written agreement executed by all of the then Members shall be placed on record in the Office of the County Recorder of the County by the terms of which agreement the effectiveness of this Declaration is terminated or the covenants herein contained are extinguished in whole or in part as to all or any part of the property then subject thereto.

17.5 Amendments. Subject to the rights of lenders as set forth in Article XIV, this Declaration may be amended only as follows:



a. By the affirmative vote of not less than two-thirds of all Class A Membership votes which Members present in person or represented by proxy are entitled to cast at a meeting duly called for such purpose, and so long as Class B Memberships exist; and

b. The written consent of 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 seven (7) 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 a quorum is not present at the first meeting or any subsequent meeting, another meeting may be called (subject to the notice requirements set forth in the foregoing portion of this Section 17.5) 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 sixty (60) days following the immediately preceding meeting. Any amendment authorized pursuant to this Section 17.5 shall be accomplished through the recordation of an instrument executed by the Master Association (and by the Developer if the Class B Membership then exists). In such instrument an officer or director of the Master Association shall certify that the vote required by the Section 17.5 for amendment has occurred.

17.6 Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of the Project and for the maintenance of the Maintenance Areas. The Article and Section headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction. No rule of strict interpretation shall be applied against any Party.

17.7 Singular Includes Plural. Whenever the context of this Declaration requires same, the singular shall include the plural and the masculine shall include the feminine.

17.8 Nuisance. The result of every act or omission, whereby any provision, condition, restriction, covenant, easement or reservation contained in this Declaration is violated in whole or in part, is hereby declared to be and constitutes a nuisance, and every remedy allowed by law or equity against a nuisance, either public or private, shall be applicable against every such result, and may be exercised by the Declarant, Board, the Master Association, or any other Owner. Such remedy shall be deemed cumulative and not exclusive.

17.9 Conflicts. In case of any conflict between this Declaration and the Articles or Bylaws, this Declaration shall control.

17.10 Attorneys' Fees. In the event of any controversy or claim respecting this Declaration or the Governing Documents, or in connection with the enforcement of this Declaration or the Governing Documents, the prevailing parties shall be entitled to be reimbursed for reasonable expenses (including attorneys' fees) and damages that they may incur.

17.11 Performance. Each Party, person and/or entity governed and affected by this Declaration shall perform its respective obligations under this Declaration in a manner that will not unreasonably or materially delay, disrupt or inconvenience any other Party, person and/or entity governed and affected by this Declaration, the development of any portion of the Project or the issuance of certificates of occupancy or other approvals associated therewith.

17.12 Assignability. The Parties shall not assign, convey, encumber or otherwise transfer their respective obligations under this Declaration separate from their respective interests in the Project.

17.13 No Third Party Rights. The obligations of the Parties set forth in this Declaration shall not create any rights in or obligations to any other persons or entities other than the Parties.

17.14 No Waiver. Any Party's failure to enforce any provision of the Declaration shall not constitute a waiver of the right to enforce such provision. The provisions may be waived only in a writing by the party intended to be benefitted by the provisions, and a waiver by a Party of a breach hereunder by the other Party shall not be construed as a waiver of any succeeding breach of the same or other provisions.

17.15 Time of Essence. Time is expressly made of the essence with respect to the performance of each and every obligation hereunder.

17.16 Force Majeure. Any prevention, delay or stoppage of the performance of any obligation under this Declaration which is due to strikes; labor disputes; inability to obtain labor, materials, equipment or reasonable substitutes therefor; acts of nature; governmental restrictions, regulations or controls; judicial orders; enemy or hostile government actions; wars; civil commotions; fires or other casualties or other causes beyond the reasonable control of the Party obligated to perform hereunder shall excuse performance of the obligation by that Party for a period equal to the duration of that prevention, delay or stoppage.

17.17 Cooperation. The Parties shall cooperate together, take such additional actions, sign such additional documentation and provide such additional information as reasonably necessary to accomplish the objectives set forth herein.

17.18 No Relationship. Nothing in this Declaration shall be construed to create any partnership, joint venture or fiduciary relationship between the Parties.

17.19 Consents and Approvals. Except as expressly stated in this Declaration, the consent, approval, permit, license or other authorization of any Party shall not be unreasonably withheld, conditioned or delayed. In the event that a party requests in writing the approval or consent of another party, the Board or the Master Association on any matter associated with the Declaration and the requesting Party does not receive a written disapproval within thirty (30) days following the date of such request, the non-responding Party's silence shall be deemed to be the non-responding Party's consent to, or approval of, the matter requested by the Party making the request. No consent,

approval or authorization, or the absence thereof, by any Party shall make the Party liable in any manner for the matter subject to that consent, approval or authorization or the consequences thereof.

17.20 Exhibits. All Exhibits attached hereto and hereby made a part hereof.

17.21 Recitals. The recitals are incorporated into this Declaration.

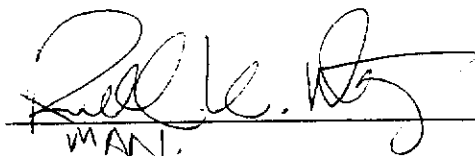
17.22 The Declaration. By acceptance of a deed or by acquiring any ownership interest in any of the real property included within this Declaration, each person or entity, for himself or itself, his heirs, personal representatives, successors, transferee and assigns, binds himself, his heirs, personal representatives, successors, transferee and assigns, to all of the provisions, restrictions, covenants, conditions, rules and regulations now or hereafter imposed by this Declaration and any amendments thereof. In addition, each such person by so doing thereby acknowledges that this Declaration sets forth a general scheme for the improvement and development of the real property covered hereby, and hereby evidences his intent that all the restrictions, conditions, covenants, rules and regulations contained herein shall run with the land and be binding on all subsequent and future Owners, grantees, purchasers, assignees, and transferee thereof. Furthermore, each such person fully understands and acknowledges that this Declaration shall be mutually beneficial, prohibitive and enforceable by the various subsequent and future Owners.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereto set its hand.

"Declarant"

MIDWAY VILLAGE, L.C., a Utah limited liability company

By:  
Its:

  
MAN.

00211039 Bk 00413 Pg 00466

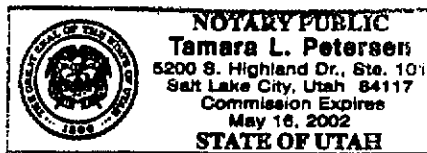
DECLARANT'S ACKNOWLEDGMENT

STATE OF UTAH )  
 : ss.  
COUNTY OF SALT LAKE )

On the 30 day of November, 1998, personally appeared before me Russell L. White, who being by me duly sworn, did say that he is the Manager of Midway Village, L.C., a Utah limited liability company, and that said instrument was duly authorized by the limited liability company at a lawful meeting held by authority of its operating agreement and signed in behalf of said limited liability company.

Tamara L. Petersen  
NOTARY PUBLIC  
Residing at:  
5200 S. Highland Dr.

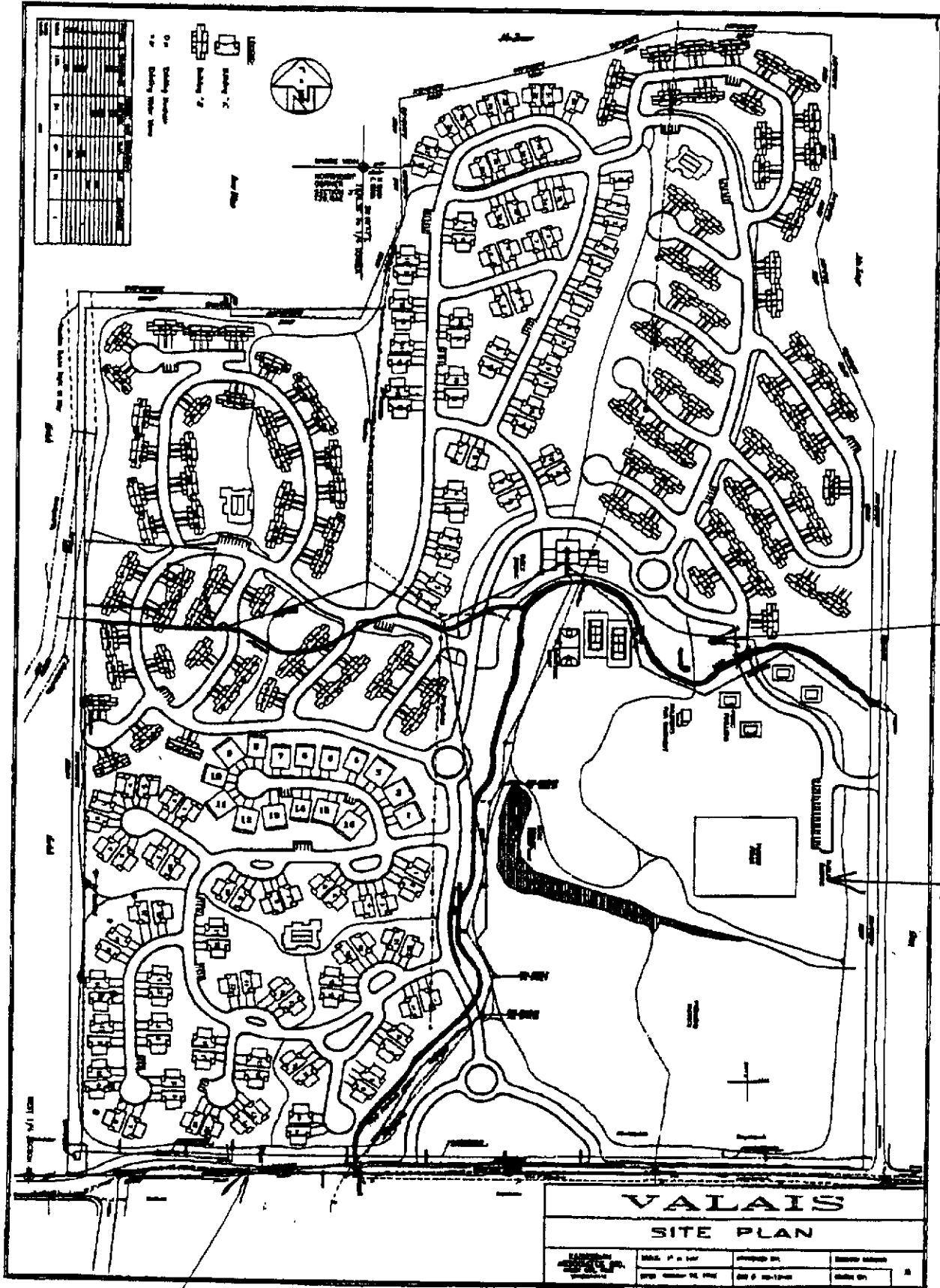
My Commission Expires:  
5/16/02



00211039 BK 00413 Pg 00467

**EXHIBIT "A"**  
**MASTER CONCEPT DEVELOPMENT PLAN**

00211039 Ek 00413 Ps 00468



*Common Area Parkway*

*Park Parcel*

*Residential Parcels*

**EXHIBIT "B"**

**ENTIRE TRACT REAL PROPERTY DESCRIPTION**

COMMENCING at the Northeast corner of Section 27, Township 3 South, Range 4 East, Salt Lake Base & Meridian; thence East, a distance of 93.30 feet to the POINT OF BEGINNING; thence North 1°52'00" West, a distance of 187.50 feet; thence North 77°42'27" East, a distance of 218.62 feet; thence North 75°54'06" East, a distance of 300.17 feet; thence North 69°44'48" East, a distance of 212.44 feet; thence South 87°39'23" East, a distance of 377.27 feet; thence South 0°42'09" West, a distance of 250.12 feet; thence South 3°34'19" East, a distance of 165.63 feet; thence South 14°42'49" West, a distance of 146.90 feet; thence South 9°16'14" East, a distance of 226.93 feet; thence South 24°38'01" East, a distance of 276.02 feet; thence South, a distance of 750.03 feet; thence South 0°11'00" West, a distance of 1242.53 feet to the south line of the Northwest Quarter of Section 26, Township 3 South, Range 4 East, Salt Lake Base & Meridian; thence South 89°14'49" West, a distance of 1250.24 feet to the East Quarter Corner of Section 27, Township 3 South, Range 4 East, Salt Lake Base & Meridian; thence South 89°53'59" West, a distance of 736.87 feet; thence North, a distance of 2330.96 feet; thence East, a distance of 379.50 feet; thence South, a distance of 57.75 feet; thence East, a distance of 321.75 feet; thence North 19°55'00" East, a distance of 286.76 feet; thence North 1°52'00" West, a distance of 134.71 feet to the POINT OF BEGINNING; said described tract containing 121.470 acres, more or less.

00211039 BH 00413 P3 00470

EXHIBIT "C"

RESIDENTIAL ZONE A LEGAL DESCRIPTION

Commencing at the Northeast Corner of Section 27, Township 3 South, Range 4 East, Salt Lake Base & Meridian; thence East, a distance of 156.97 feet; thence South, a distance of 1580.01 feet to the POINT OF BEGINNING; thence South 12°35'43" East, a distance of 222.37 feet; thence South 79°06'03" West, a distance of 145.19 feet; thence North 30°51'05" West, a distance of 52.68 feet; thence West, a distance of 386.14 feet; thence North 5°45'34" West, a distance of 68.10 feet; thence North 47°40'54" West, a distance of 73.94 feet; thence North 21°03'17" East, a distance of 178.36 feet; thence South 89°17'55" East, a distance of 209.91 feet; thence South 82°21'39" East, a distance of 108.60 feet; thence South 70°06'03" East, a distance of 199.01 feet to the POINT OF BEGINNING; said described tract containing 3.433 acres, more or less.

00211039 Blk 00413 Ps 00471



**EXHIBIT "D"**

**COMMON AREA LEGAL DESCRIPTION**

Commencing at the Northeast Corner of Section 27, Township 3 South, Range 4 East, Salt Lake Base & Meridian; thence East, a distance of 331.26 feet; thence South, a distance of 1522.95 feet to the POINT OF BEGINNING; thence South 13°43'01" West, a distance of 82.96 feet; thence South 21°48'59" West, a distance of 70.03 feet; thence South, a distance of 200.78 feet; thence South 32°29'20" West, a distance of 67.50 feet; thence South 0°57'49" West, a distance of 115.65 feet; thence South 38°21'12" East, a distance of 85.95 feet; thence South 3°33'30" East, a distance of 57.92 feet; thence South 35°43'44" West, a distance of 86.62 feet; thence North 20°48'25" West, a distance of 174.32 feet; thence North 2°49'15" East, a distance of 277.80 feet; thence North 12°35'43" West, a distance of 222.37 feet; thence North 11°09'35" East, a distance of 105.94 feet; thence South 73°02'46" East, a distance of 160.77 feet to the POINT OF BEGINNING; said described tract containing 1.515 acres, more or less.

00211039 BK 00413 Pg 00472

## EXHIBIT "E"

## ADDITIONAL LAND REAL PROPERTY DESCRIPTION

COMMENCING at the Northeast corner of Section 27, Township 3 South, Range 4 East, Salt Lake Base & Meridian; thence East, a distance of 93.30 feet to the POINT OF BEGINNING; thence North 1°52'00" West, a distance of 187.50 feet; thence North 77°42'27" East, a distance of 218.62 feet; thence North 75°54'06" East, a distance of 300.17 feet; thence North 69°44'48" East, a distance of 212.44 feet; thence South 87°39'23" East, a distance of 377.27 feet; thence South 0°42'09" West, a distance of 250.12 feet; thence South 3°34'19" East, a distance of 165.63 feet; thence South 14°42'49" West, a distance of 146.90 feet; thence South 9°16'14" East, a distance of 226.93 feet; thence South 24°38'01" East, a distance of 276.02 feet; thence South, a distance of 750.03 feet; thence South 0°11'00" West, a distance of 1242.53 feet to the south line of the Northwest Quarter of Section 26, Township 3 South, Range 4 East, Salt Lake Base & Meridian; thence South 89°14'49" West, a distance of 1250.24 feet to the East Quarter Corner of Section 27, Township 3 South, Range 4 East, Salt Lake Base & Meridian; thence South 89°53'59" West, a distance of 736.87 feet; thence North, a distance of 2330.96 feet; thence East, a distance of 379.50 feet; thence South, a distance of 57.75 feet; thence East, a distance of 321.75 feet; thence North 19°55'00" East, a distance of 286.76 feet; thence North 1°52'00" West, a distance of 134.71 feet to the POINT OF BEGINNING; said described tract containing 121.470 acres, more or less.

## LESS AND EXCEPTING:

COMMENCING at the Northeast corner of Section 27, Township 3 South, Range 4 East, Salt Lake Base & Meridian; thence East, a distance of 1289.74 feet; thence South, a distance of 1369.31 feet to the POINT OF BEGINNING; thence South, a distance of 47.90 feet; thence South 0°11'00" West, a distance of 1208.11 feet; thence South 89°53'46" West, a distance of 1272.09 feet; thence South 82°23'59" West, a distance of 16.74 feet; thence North, a distance of 73.03 feet; thence North 23°12'50" East, a distance of 42.11 feet; thence North 38°25'24" East, a distance of 195.39 feet; thence North 25°59'32" East, a distance of 32.61 feet; thence North 46°40'21" East, a distance of 143.25 feet; thence North 35°43'44" East, a distance of 86.62 feet; thence North 3°33'30" West, a distance of 57.92 feet; thence North 38°21'12" West, a distance of 85.95 feet; thence North 0°57'49" East, a distance of 115.65 feet; thence North 32°29'20" East, a distance of 67.50 feet; thence North, a distance of 200.78 feet; thence North 21°48'59" East, a distance of 70.03 feet; thence North 13°43'01" East, a distance of 213.97 feet; thence North 10°17'52" East, a distance of 267.65 feet; thence North 60°02'16" East, a distance of 108.69 feet; thence North 87°57'23" East, a distance of 112.59 feet; thence South 58°35'19" East, a distance of 102.95 feet; thence South 18°26'51" East, a distance of 110.08 feet; thence South 34°59'39"

**EXHIBIT "E"**

**ADDITIONAL LAND REAL PROPERTY DESCRIPTION  
(Continued)**

East, a distance of 98.11 feet; thence South 65°42'42" East, a distance of 62.41 feet; thence North 57°16'53" East, a distance of 191.89 feet; thence South 87°57'21" East, a distance of 111.97 feet; thence South 51°21'22" East, a distance of 209.57 feet to the POINT OF BEGINNING; said described tract containing 33.697 acres, more or less.

**ALSO LESS AND EXCEPTING:**

Commencing at the Northeast Corner of Section 27, Township 3 South, Range 4 East, Salt Lake Base & Meridian; thence East, a distance of 156.97 feet; thence South, a distance of 1580.01 feet to the POINT OF BEGINNING; thence South 12°35'43" East, a distance of 222.37 feet; thence South 79°06'03" West, a distance of 145.19 feet; thence North 30°51'05" West, a distance of 52.68 feet; thence West, a distance of 386.14 feet; thence North 5°45'34" West, a distance of 68.10 feet; thence North 47°40'54" West, a distance of 73.94 feet; thence North 21°03'17" East, a distance of 178.36 feet; thence South 89°17'55" East, a distance of 209.91 feet; thence South 82°21'39" East, a distance of 108.60 feet; thence South 70°06'03" East, a distance of 199.01 feet to the POINT OF BEGINNING; said described tract containing 3.433 acres, more or less.

00211039 Blk 00413 Pg 00474

## EXHIBIT "F"

## PARK PARCEL DESCRIPTION

COMMENCING at the Northeast corner of Section 27, Township 3 South, Range 4 East, Salt Lake Base & Meridian; thence East, a distance of 1289.74 feet; thence South, a distance of 1369.31 feet to the POINT OF BEGINNING; thence South, a distance of 47.90 feet; thence South 0°11'00" West, a distance of 1208.11 feet; thence South 89°53'46" West, a distance of 1272.09 feet; thence South 82°23'59" West, a distance of 16.74 feet; thence North, a distance of 73.03 feet; thence North 23°12'50" East, a distance of 42.11 feet; thence North 38°25'24" East, a distance of 195.39 feet; thence North 25°59'32" East, a distance of 32.61 feet; thence North 46°40'21" East, a distance of 143.25 feet; thence North 35°43'44" East, a distance of 86.62 feet; thence North 3°33'30" West, a distance of 57.92 feet; thence North 38°21'12" West, a distance of 85.95 feet; thence North 0°57'49" East, a distance of 115.65 feet; thence North 32°29'20" East, a distance of 67.50 feet; thence North, a distance of 200.78 feet; thence North 21°48'59" East, a distance of 70.03 feet; thence North 13°43'01" East, a distance of 213.97 feet; thence North 10°17'52" East, a distance of 267.65 feet; thence North 60°02'16" East, a distance of 108.69 feet; thence North 87°57'23" East, a distance of 112.59 feet; thence South 58°35'19" East, a distance of 102.95 feet; thence South 18°26'51" East, a distance of 110.08 feet; thence South 34°59'39" East, a distance of 98.11 feet; thence South 65°42'42" East, a distance of 62.41 feet; thence North 57°16'53" East, a distance of 191.89 feet; thence South 87°57'21" East, a distance of 111.97 feet; thence South 51°21'22" East, a distance of 209.57 feet to the POINT OF BEGINNING; said described tract containing 33.697 acres, more or less.

00211039 Bk 00413 P3 00475