

K.C. Number 1482-0

23727

SUNDANCE RECREATIONAL RESORT PLAT B PINE CREEK

AGREEMENT BETWEEN MOUNTAIN HOME DEVELOPER
AND PROPERTY OWNERS ASSOCIATION AND UTAH COUNTY

AGREEMENT between the undersigned mountain home developer and property owners association, herein referred to as the "Developer" and the "Association", respectively, and Utah County, herein referred to as the "County".

WHEREAS the Developer owns certain real property in the unincorporated area of Utah County, which real property is more particularly described in Exhibit A attached hereto and by reference made a part hereof; and ^{Sundance Recreational Resort Plat "B" recorded concurrently} herewith;

WHEREAS the Developer is desirous of establishing on said real property a mountain home development (herein referred to as the "development") in conformity with the ordinances of Utah County, and also intends to provide for the benefit of subsequent owners certain open spaces, streets and other common facilities and services to be owned, maintained and operated by the Association; and

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

IN CONSIDERATION of the necessary approvals, consents and authorizations to be given by Utah County for the purpose of allowing the Developer and Association to establish and operate said development, and for the purpose of complying with the ordinances of Utah County in such cases made and provided, the Developer and Association covenant and agree with the County, as follows:

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

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

- (a) Open spaces and common areas as required by Utah County Ordinances.
- (b) All roadways, with necessary appurtenances, to equal or exceed Utah County standards.
- (c) A culinary water system supplying water to each lot to equal or exceed Utah State and Utah County standards.
- (d) Fire protection facilities to equal or exceed Utah State and Utah County standards.
- (e) Drainage facilities to equal or exceed Utah County standards.
- (f) Domestic sewage disposal facilities to equal or exceed Utah County standards.

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

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

The Developer shall secure specifications from the City-County Health Department setting forth minimum requirements for the disposal of domestic sewage for each dwelling site within the development and shall record such specifications in the office of the County Recorder along with the final plat.

3. Developer agrees that not less than 800 gallons of culinary water per day and 800 gallons of irrigation water per day shall be available to each lot, and that no charge for the same shall be made by the Developer to either the owner or occupant of said lot or the Association. It is understood, however, that the Association may make a reasonable operation and maintenance charge for the use of such culinary water, either by assessment or a service fee.

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4. Developer represents and declares that it will make no user fee or charge to the owner or occupant of any lot or to the Association for any service, facility, business or enterprise which owners or occupants of the development need to subscribe to or patronize in order to have full use and enjoyment of their property or the common areas or facilities within the development. It is understood, however, that that Association may make a reasonable charge, by assessment or otherwise, for the use of services and facilities provided for occupants of the development, or which may be necessary for the operation and maintenance thereof.

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

6. The Association has been duly incorporated as a non-profit corporation under the laws of the state of Utah in accordance with the documentation heretofore submitted to and approved by Utah County for such purpose, and said Association is fully organized.

7. The Association shall furnish and provide at its expense maintenance and services as follows:

(a) All necessary maintenance for the open spaces and other common areas.

(b) All necessary maintenance and improvements for roadways and their appurtenances to meet Utah County requirements.

(c) Culinary water service for each lot and operation and maintenance of the culinary water system so that the same will continue to meet Utah State and Utah County requirements.

(d) Fire protection services and facilities and the operation and maintenance of the same to meet Utah County requirements.

(e) All necessary maintenance and improvements for drainage facilities necessary to meet Utah County requirements.

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• (f) Garbage and trash removal services that will meet Utah County requirements.

(g) Operation and maintenance of domestic sewage disposal facilities so that the same will continue to meet Utah State and Utah County requirements.

8. For the purpose of providing funds for the operation and maintenance of the development and the furnishing of necessary services to the occupants thereof, the Developer and the Association shall require an annual assessment to be made on each lot, and may also provide for special assessments for capital improvements which the Association may desire to make. The annual assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. The assessments levied by the Association shall be used exclusively to promote the recreation, health,

safety and welfare of the residents of the development, and for the improvement and maintenance of the common areas and facilities, and for the furnishing of all required services thereto. The annual assessments shall be fixed at a uniform rate for all lots and shall be collected on a monthly basis unless the County agrees to a quarterly or other periodic basis. The annual assessment for the first calendar year shall be 14.40 Dollars (\$14.40) per lot, and shall be adjusted according to the number of months remaining in the calendar year. The amount of the annual assessments may be increased by the Association, but the same shall not be decreased at any time without the consent and approval of Utah County. The annual assessments shall commence as to all lots on the first day of the month following conveyance of the open spaces and common areas and facilities to the Association, or on the first day of the month next following the expiration of 60 days after the recording of the development plat, whichever event first occurs. It is understood that no lot shall be conveyed, sold or otherwise disposed of within the development, nor shall the right to possession of any lot be transferred to any person, until the open spaces, common areas and facilities have been conveyed to the Association. It is further understood that lots owned by the Developers shall not be exempt from assessment. If assessments are not paid, the Association shall bring an action at law against the owner personally obligated to pay the same, or shall foreclose the lien against the property assessed. No owner of any lot may waive or otherwise escape liability for the assessment by non use of the common area or facilities or the abandonment of his lot.

9. To assure performance by the Association of its obligations hereunder, and to provide a means of paying for necessary services, maintenance and the enforcement of covenants, restrictions and agreements relating to the development should the Association default in so doing, an impound account

shall be established by depositing twenty percent (20%) of the annual assessment on each lot paid to the Association in such an account until there has been deposited in such account a sum equal to the amount resulting from multiplying the number of lots or dwelling units (whichever is greater) approved for such development by fifty dollars. Thereafter, no funds need be deposited until funds from the account have been expended to obtain compliance with this agreement, whereupon twenty percent (20%) of the annual assessment shall again be deposited until the account has reached the required sum. It is the intention of this provision to require said account to be maintained at the required sum determined by the above formula. Utah County shall have the right to draw upon said impound account whenever a majority of the board of county commissioners deems it necessary to do so for the purposes of providing necessary services, maintenance, enforcement of covenants and restrictions, abating nuisances, and otherwise obtaining compliance with the terms of this agreement and the Association's obligations to the County; and expenditures may be made for professional or technical services, including reasonable attorney's fees, required in obtaining such compliance. The discretion herein given the board of county commissioners to disburse funds from such account for the purposes stated shall be absolute and binding upon the parties hereto and all persons claiming under or through them. No other person or corporation shall have the right to draw against said account. The account shall be deposited with Utah County, who may charge a reasonable fee for servicing the same by deducting the same from the account. Payments by the Association to the account of that portion of the annual assessments above required shall be made monthly (or such other approved period as assessments are payable) within thirty days after collection by the Association. Utah County shall have the right to audit the Association's assessment records upon reasonable notice for the purpose of verifying the accuracy of the amounts remitted to the account; and the Association shall have the right to audit the impound account and disbursements made therefrom upon reasonable notice. All income produced by the impound account shall belong to the Association, but shall remain in and become a part of the account at all times when the total amount deposited therein is less than the required sum. All income to the account which may cause it to exceed the required sum shall be paid over to the Association.

10. The Developer and the Association agree to establish and record in the office of the Utah County Recorder prior to any conveyance, sale, transfer, disposition or creation of any interest in or encumbrance on the land of the development described in Exhibit A attached hereto and by reference made a part hereof, a declaration of protective covenants and restrictions and management policies which shall have first been submitted to and approved by Utah County. Said covenants and restrictions and management policies shall run with the land and be binding upon all parties and persons residing on the land or claiming any ownership or interest in the premises under or through the Developer, and the same shall not be modified or changed.

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thereafter without the approval of Utah County. All of the covenants and provisions of this agreement, and such provisions as the zoning ordinances of Utah County require to be set forth in such declaration, shall be set forth in and made a part of said declaration of protective covenants and restrictions and management policies, together with such other provisions as the Developer and Association deem necessary for their purposes. Among other required restrictions, said declaration shall provide that no lot within the development shall be used for human occupancy, either temporarily or permanently, except during a reasonable period for construction, until culinary water and sewage and waste disposal facilities approved by Utah County are provided and available for use on said lot; and thereafter, no such lot shall be used for human occupancy at any time the culinary water or sewage and waste disposal facilities are not in compliance with the statutes of the state of Utah, ordinances of Utah County, and rules and regulations promulgated thereunder. Said declaration shall further provide that at the request of Utah County, the Developer and the Association shall discontinue culinary water service to any lot where a violation of the laws of the state of Utah, the ordinances of Utah County, and rules and regulations promulgated thereunder, continues after 10 days notice in writing to the owner of the lot of such violation and the same remains unremedied.

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

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12. Wherever in this agreement Utah County is referred to, it is understood that the reference is to the appropriate board, commission, department or person to whom authority shall have been delegated by law or ordinance or appropriate action of the board of county commissioners; and where no such delegation has been or can lawfully be made, the reference is to the board of county commissioners.

IN WITNESS WHEREOF, the parties to this agreement have caused the same to be executed by their proper officers thereunto duly authorized this 1 day of August, 1983.

ATTEST:

Diane Smith

North Fork Land Co.
(the Developer)

By Jon M. Liss
vice President

ATTEST:

Diane Smith

Pine Creek Homeowners
(the Association)

By Jon M. Liss
vice-President

UTAH COUNTY

Robert J. Redford
Chairman of the Board of
County Commissioners

ATTEST:
Robert J. Redford
Robert J. Redford
Robert E. Capron, his attorney-in-fact

Lola Redford by
Robert E. Capron, her attorney
in fact

(Attorney in Fact - Individual)

State of Utah ss.
County of Utah

On Aug. 2, 1983 before me, the undersigned, a Notary Public in and for said State, personally appeared Robert E. Gipson personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument as the Attorney in fact of Robert Redford & Lola Redford and acknowledged to me that he subscribed the name of Robert Redford & Lola Redford thereto as principals and his own name as Attorney in fact.

WITNESS my hand and official seal.

Signature:

Residing at: Provo, Utah

My Commission expires: April 23, 1986



RECORDED AT THE REQUEST OF

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