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Alan Spriggs, Summit County Utah Recorder

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By LANDMARK TITLE COMPANY

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**PREPARED BY AND UPON  
RECORDATION RETURN TO:**

Parr Brown Gee & Loveless  
185 South State Street, Suite 800  
Salt Lake City, Utah 84111  
Attention: David E. Gee, Esq.  
Tax Parcel No. KJS-1

**DECLARATION OF OPEN SPACE  
EASEMENT AND RESTRICTIONS**

THIS DECLARATION OF OPEN SPACE EASEMENT AND RESTRICTIONS (this "**Declaration**"), is entered into as of this the 29th day of October, 2010, by BOYER SNYDERVILLE JUNCTION, L.C., a Utah limited liability company ("**Declarant**").

**RECITALS**

A. Declarant owns certain real property located in Summit County, Utah, described on **Exhibit A** attached hereto and made a part hereof (the "**Property**").

B. A portion of the Property described on **Exhibit B** attached hereto and made a part hereof is to be used for an affordable housing project ("the "**Housing Parcel**"). By a separate instrument titled Housing Parcel Restrictive Covenant, the use of the Housing Parcel has been restricted to residential purposes not including short term lodging or similar transient uses.

C. A portion of the Property described on **Exhibit C** attached hereto and made a part hereof (the "**Open Space Parcel**") is to be used primarily for open space for the development that will be located on the remainder of the Property other than the Housing Parcel and the Open Space Parcel.

D. Declarant desires to create deed restrictions with respect to the Open Space Parcel that limit the use of that Parcel to open space and purposes identified in this Declaration as being consistent with such open space use.

NOW, THEREFORE, in order to create a coherent development regime for the Property, the Declarant hereby declares as follows and imposes the following covenants and restrictions on the Property:

1. **Definitions.** Certain capitalized terms which are used in this Declaration are defined in this Declaration prior to this Section. In addition to those previously defined terms, the following capitalized terms shall have the meanings indicated:

**"Authorizing Person"** means:

(a) Initially, the Declarant, continuing until such time as Declarant is no longer an Owner of any Parcel of the Remainder Property.

(b) Thereafter, such Owner of any Parcel of the Remainder Property as Declarant (or any successor Authorizing Person) shall designate in a written document which is recorded as an amendment to this Declaration; provided, if an owner's association is formed with respect to any portion of the Remainder Property, the Declarant or any successor Authorizing Person may designate that association as the Authorizing Person in a written document recorded as an amendment to this Declaration.

(c) Declarant, any successor Authorizing Person and/or any association appointed pursuant to part (b) may designate in a written document which is recorded as an amendment to this Declaration, Summit County or any of its agencies, boards or districts (including, without limitation, the Snyderville Basin Recreation District) as the Authorizing Person.

(d) If Declarant or a successor Authorizing Person fails to designate a successor Authorizing Person in accordance with parts (b) or (c), then the Owners of the Remainder Parcels other than the Open Space Parcel and the Housing Parcel shall designate the Authorizing Person in a written document which is recorded as an amendment to this Declaration.

(e) Notwithstanding any other provision of this Declaration, a Person which is the Owner of the Housing Parcel and/or the Open Space Parcel shall not be the Authorizing Person unless such Person also owns another Parcel of the Property.

**"Easement"** is defined in Section 3.

**"Governmental Authorities"** means all governmental or quasi-governmental units, commissions, councils, boards, agencies, staffs or similar bodies.

**"Government Requirements"** means, with respect to a specified matter, all laws, ordinances, statutes, regulations or other similar laws promulgated by Governmental Authorities having jurisdictions over that matter.

**"Incidental Encroachments"** is defined in Section 5(j).

**"Mortgage"** means a recorded mortgage, deed of trust or other security agreement creating a lien on a Parcel or a portion of a Parcel as security for the payment of indebtedness.

**"Mortgagee"** means a Person which is the mortgagee, beneficiary or other secured party under a Mortgage.

**"Owner"** means, with respect to a specified Parcel, the Person that, at a specified time, is the owner of record in the office of the County Recorder of Summit County, Utah

of a fee or an undivided fee interest in a specified Parcel or portion of the specified Parcel. In the event that, at any time, there is more than one Owner of a Parcel, the liability of each such Owner for performance or compliance with the applicable provisions of this Declaration shall be joint and several. Notwithstanding any applicable theory or law relating to a Mortgage, the term "**Owner**" shall not mean or include a Mortgagee unless and until such Person has acquired fee title to the Parcel encumbered by the Mortgage pursuant to foreclosure, trustee's sale or any sale, conveyance or other arrangement or proceeding in lieu thereof. A ground lessee or other long term tenant shall not be deemed to be an Owner for purposes of this Declaration.

**"Parcel"** means any one of the Parcels.

**"Parcels"** means a any legally subdivided tract or parcel of the Property.

**"Person"** means a natural person, legal entity or trust.

**"Remainder Parcels"** means all of the Parcels of the Property other than the Housing Parcel and the Open Space Parcel.

2. **Open Space Easement and Restriction.** Declarant hereby irrevocably grants and reserves, on the terms set forth in this Declaration, a perpetual easement and restriction over the Open Space Parcel of the nature and character and to the extent set forth herein (the "**Easement**"). The purpose of the Easement is to preserve the view corridor created by the Open Space Parcel, and to prevent any use of the Open Space Parcel that may materially impair or interfere with its use as open space. Except as specifically permitted or reserved by this Declaration, no Person shall conduct any activity on or use the Open Space Parcel that is inconsistent with the purpose of this Declaration. Any Person conducting a permitted activity on the Open Space shall restore any areas or features of the Open Space Parcel that may be damaged by any inconsistent activity or use.

3. **Reservations.** Declarant reserves the following rights with respect to the Open Space Parcel.

(a) To enter upon the Open Space Parcel at reasonable times and in a reasonable manner in order to monitor compliance with and otherwise enforce the terms of this Declaration;

(b) To enter onto the Open Space Parcel without notice in the case of an emergency as determined by Authorizing Person;

(c) To obtain injunctive and other equitable relief against any violations, including restoration of the Open Space Parcel to the condition that existed prior to any such violation (it being agreed that Authorizing Person will not otherwise have adequate remedy at law); and

(d) To enforce this Declaration in the case of breaches by any Person by

appropriate legal proceedings.

4. Permitted Uses and Practices Within Open Space. The following limited uses and practices are permitted on the Open Space Parcel. Notwithstanding any other provision of this Declaration, the uses and practices described in this Section may not be precluded or prevented by this Declaration, except that the uses and practices by an Owner may be precluded when this Declaration requires Authorizing Person's prior approval of the use activity as provided in Section 5 of this Declaration or when such uses or practices are conducted or allowed to take place in a manner which violates the terms of this Declaration.

(a) Recreation. The right to engage in passive, non-motorized recreational activities including, without limitation, hiking, mountain biking, equestrian use, snowshoeing, cross-country skiing and other similar passive recreational uses.

(b) Trails. The right to construct new backcountry, unpaved trails in accordance with an approved Snyderville Basin Recreation District trail plan and, with the consent of the Snyderville Basin Recreation District, to construct a trail head with related facilities and parking area on the Open Space Parcel.

(c) Signs. The right to place a limited number of signs for the following purposes:

i. To state the purpose of the Easement and the terms of this Declaration;

ii. To identify trails or interpretive sites on the Open Space Parcel; and

iii. To state rules and regulations, safety, or hazardous conditions found on the Open Space Parcel in accordance with the Authorizing Person's established guidelines and ordinances for open space;

(d) Water Resources. The right to enhance, if applicable, water quality on the Open Space Parcel; provided such enhancements are consistent with the terms of this Declaration, and comply with all applicable Government Regulations.

(e) Chemicals and Biological Controls. In accordance with all applicable Government Regulations and with the consent of Authorizing Person, an Owner may use agrichemicals and biological controls within the Open Space Parcel on its Parcel as necessary to control noxious weed, pests and for mosquito abatement. Chemical and biological controls may only be used with the prior written consent of Authorizing Person and then only in compliance with all applicable Government Regulations, and in those amounts and with that frequency of application constituting the minimum necessary to accomplish reasonable noxious weed, pest and mosquito abatement objectives. If approved by Authorizing Person, the use of such agents shall be conducted in a manner to minimize any adverse effect on the preservation of the Open Space Parcel as open space

and to avoid any impairment of the natural ecosystems and their processes.

(f) Problem or Diseased Animals. Authorizing Person and an Owner of any other Parcel of the Property may use legal methods to control diseased and problem animals on such Parcel as permitted by applicable Government Regulations.

(g) Fire Suppression. Authorizing Person and, with the prior written consent of Authorizing Person, an Owner, may remove brush and vegetation from such Owner's Parcel as necessary to minimize the risk of wildfire on the Open Space Parcel. Potential means to reduce or remove high risk fuel loads may include, without limitation: mechanized methods; biological controls, short-duration grazing; slash, stack and burn; or controlled burns.

(h) Utilities. Underground utilities, water lines, sanitary sewer lines, storm sewer lines and the right to discharge their flows, natural gas lines, electric power lines, cable television lines, telephone lines, and other utility lines may be installed, maintained, repaired, enlarged, reconstructed or relocated provided any utility work is first approved by Authorizing Person in writing and any disturbance to the Open Space Parcel is restored to the original undisturbed nature of the Open Space Parcel.

(i) Special Events. Authorizing Person may permit temporary structures, such as tents, in conjunction with trail and open space use subject to the special event permitting system of Summit County.

(j) Incidental Encroachments. Incidental encroachments of landscaping, watering and irrigation facilities, or other similar non-building improvements may extend from adjoining Parcels into the Open Space Parcel if such encroachment is accidental or required by terrain or soil conditions.

5. Prior Approval. If any provision of this Declaration requires an Owner to obtain Authorizing Person's approval prior to performing any act or undertaking any activity, use, or enterprise on its Parcel, the Owner shall not perform that act or undertake that activity, use or enterprise until the notice and approval provisions of this Section have been fully satisfied. Nothing in this Section shall in any way prohibit or limit the Authorizing Person's ability to obtain writs or injunctive relief relating to any violation of this Declaration.

(a) Owner's Written Notice. Prior to the commencement of any activity, use, or enterprise which requires Authorizing Person's approval, the Owner of a Parcel will first notify Authorizing Person in writing of the proposed activity, use, or enterprise. The notice must fully inform Authorizing Person of all material aspects of the proposed activity, use or enterprise. The Owner will send such notices to Authorizing Person by registered or certified mail, return receipt requested, addressed to 90 South 400 West Suite 200, Salt Lake City, Utah 84101.

(b) Authorizing Person's Response. Authorizing Person shall have forty-five (45) days from the date such notice is received (as indicated by the registered or certified

return receipt) to review the proposed activity, use, or enterprise and to notify the Owner of any objections it may have to the activity, use, or enterprise. The objections, if any, shall be based upon Authorizing Person's judgment that the proposed activity, use or enterprise is likely to cause material damage to the Open Space Parcel or is otherwise inconsistent with the purpose and/or provisions of this Declaration. If, in the Authorizing Person's judgment, the proposal presented by the Owner can be modified to avoid material damage to the Open Space Parcel and otherwise comply with the purpose and provisions of this Declaration, then the response shall, to the extent possible and feasible, inform the Owner how the proposed activity, use or enterprise may be modified to conform with this Declaration. Except as provided in Section 6(c), the Owner may commence the proposed activity, use, or enterprise only after it receives Authorizing Person's express written approval, and only in the manner explicitly proposed by the Owner and approved by Authorizing Person. Authorizing Person will send such response to the Owner by registered or certified mail, return receipt requested, addressed to such other address as the Owner may designate in its initial notice delivered pursuant to Section 6(a).

(c) Authorizing Person's Failure to Respond. If Authorizing Person fails to post its response to a proposal presented by an Owner within forty-five (45) days after it receives the proposal by registered or certified mail, or within forty-five (45) days after Authorizing Person has received adequate information to evaluate the proposed activity, whichever is later, then the proposed activity, use or enterprise shall be deemed inconsistent with the terms of this Declaration (subject to any objections timely given by the Authorizing Person, if any), and Authorizing Person will have no further right to object to the activity, use or enterprise described in the proposal. The forty-five (45) day period shall not begin to run for purposes of this Section until such time as Authorizing Person has received adequate information from an Owner to effectively evaluate the proposed activity. In the event the Authorizing Person believes that it requires additional information to evaluate the proposed activity, Authorizing Person shall request the information from an Owner as soon as practicable, and in any case not later than forty-five (45) days after the receipt of the initial notice of the proposed activity.

(d) Right to Monitor and Withdraw Approval. After approving an activity, use or enterprise pursuant to this Section, Authorizing Person shall have the right to enter the affected Parcel and monitor the impact of the activity, use or enterprise on the Parcel. Authorizing Person shall have the right to withdraw its approval or consent to the activity, use or enterprise, or to impose additional conditions or requirements if the Authorizing Person reasonably determines that the activity, use or enterprise is inconsistent with this Declaration.

6. Prohibited Uses and Practices. Any activity or enterprise on, or use of, the Open Space Parcel inconsistent with the purpose of this Declaration and which is likely to cause material damage to the Open Space Parcel thereof is expressly prohibited. The following uses and practices, though not an exhaustive recital of inconsistent uses and practices, are explicitly and conclusively deemed inconsistent with the purposes of this Declaration, and shall be prohibited on the Open Space Parcel.

(a) Subdivision. Creating additional or separate parcels, dividing, subdividing, or taking any action which creates an actual or *de facto* subdivision of the Open Space Parcel.

(b) Construction. Constructing or using any structures or facilities on the Open Space Parcel for use in human habitation or any industrial office or retail.

(c) Wildlife Disturbance or Harassment. Harassing wildlife on the Open Space Parcel. The taking, removal, translocation or captivity of wildlife on the Open Space Parcel is prohibited, except as allowed by law.

(d) Alteration of Intermittent Watercourses and Topography. Changing, disturbing, altering, excavating, or impairing any watercourse, if any, or the topography of the ground on the Open Space Parcel, except as expressly permitted by Section 4 of this Declaration.

(e) Non-Native Species. Introducing into the Open Space Parcel any non-native plant or animal species other than those generally accepted for habitat improvement or as approved by Authorizing Person.

(f) Roads. Constructing or using roads over, through, or across the Open Space Parcel.

(g) Recreational Structures. Constructing recreational structures or facilities on the Open Space Parcel except as expressly permitted in Section 5 or pursuant to Section 6 of this Declaration.

(h) Motorized Vehicles. Operating motorized vehicles, including snowmobiles, on the Open Space Parcel except for:

i. Emergency vehicles;

ii. Vehicles used in routine maintenance of the Open Space Parcel provided these vehicles are in sound working order; and

iii. Vehicles necessary to carry out a permitted use as identified under Section 4 of this Declaration, provided these vehicles are in sound working order;

(i) Dumping. Dumping, depositing or disposing of trash, debris, ashes, sawdust, and other non-compostable refuse on the Open Space Parcel.

(j) Mineral Activities. Exploring or extracting oil, gas, rock, gravel, sand, minerals, artifacts, or other materials found in, on, or under the Open Space Parcel.

(k) Billboards. Constructing, maintaining or erecting any commercial signs or

billboards on the Open Space Parcel.

(l) Hazardous Waste. Storing, dumping, or otherwise disposing of any toxic and/or hazardous material on the Open Space Parcel. This prohibition does not impose liability on Authorizing Person, nor shall Authorizing Person be construed as having liability as a "responsible party" under CERCLA or other similar state or federal statutes.

7. Breach, Restoration and Remedies.

(a) Where Authorizing Person becomes aware of a violation or potential violation of any restriction contained in this Declaration, or becomes aware of any damage or potential damage to the Open Space Parcel, whether precipitated by the Owner or by a third party, Authorizing Person may notify the Owner in writing of such violation, potential violation, damage or potential damage. Upon the Owner's receipt of such notice, the Owner agrees to immediately take action to prevent or stop the activity which potentially or actually violates the terms or intent of this Declaration.

(b) An Owner shall have thirty (30) days after receipt of such notice to undertake actions, including restoration of the Open Space Parcel, that are reasonably calculated to swiftly correct the conditions caused by such violation. If the Owner fails to take such corrective action, Authorizing Person may (but shall not have the obligation to) undertake appropriate action, including legal action, to effect such corrections. The cost of such corrections, including Authorizing Person's expenses, court costs, and attorney's fees, shall be paid by the Owner.

(c) In the event an Owner undertakes or causes to be undertaken any activity on the Open Space Parcel that requires Authorizing Person's prior approval and such approval is not obtained consistent with Section 6 of this Declaration, or where an Owner undertakes or causes to be undertaken any activity in violation or potential violation of the terms of this Declaration, then Authorizing Person shall have the right to obtain injunctive relief or writs from courts of competent jurisdiction to stop any unauthorized activities and/or force the restoration of that portion of the Open Space Parcel affected by such activity to a similar or equivalent condition that existed prior to the unauthorized activity. Such restoration may include, without limitation, restoring soils, replanting suitable native vegetation, and/or taking such other action as Authorizing Person deems necessary to achieve restoration. In such case, the costs of restoration and litigation, including reasonable attorneys' fees and court costs, shall be borne by the Owner or those of its successors or assigns against whom a judgment is entered.

(d) Authorizing Person and each Owner acknowledge that actual or threatened instances of non-compliance under this Declaration constitute immediate and irreparable harm. The Authorizing Person is entitled to invoke the equitable jurisdiction of any court to enforce this Declaration including, without limitation, specific performance or injunction.

(e) Authorizing Person's remedies set forth in this Declaration are cumulative.



Any, or all, of the remedies may be invoked by the Authorizing Person if there is an actual or threatened violation of this Declaration.

(f) A delay in enforcement shall not be construed as a waiver of Authorizing Person's right to enforce the terms of this Declaration.

8. Costs, Taxes & Fees. An Owner shall have all responsibilities and shall bear all costs and liabilities of any kind related to the operation, upkeep, and maintenance of the Open Space Parcel, including, without limitation, responsibility for the control of noxious weeds in accordance with all applicable Government Regulations. Each Owner agrees to bear all costs of operation, upkeep and maintenance of the Parcels it owns, and agrees to reimburse the Authorizing Person and its successors and assigns for all claims and obligations arising from the operation, upkeep, and maintenance of the Open Space Parcel incurred by the Authorizing Person. Each Owner shall pay any and all lawful taxes, assessments, fees, and charges levied by competent authority against or with respect to the Parcels which it owns.

9. Indemnity. Each Owner also agrees to defend and indemnify Authorizing Person against obligations arising from past, present or future dumping of hazardous materials on the Parcels it owns, and any obligations associated with their cleanup or containment.

10. Assignment of Easement. Declarant may transfer or assign any or all of its rights under this Declaration, or delegate the right to monitor and enforce Declarant's rights under this Declaration, to any Person which qualifies as an Authorizing Person.

11. Covenants Run with the Land. This Declaration and the easements and covenants created by this Declaration are intended by the Declarant to be, and shall constitute, covenants running with the land as to each of the Parcels on which any Open Space Parcel is located, shall be binding upon each Owner and any Person who acquires or comes to have any interest in any such Parcel, and their respective grantors, transferees, lessees, heirs, devisees, personal representatives, successors, and assigns. This Declaration and all of the easements, covenants, provisions, and requirements hereof shall also inure to the benefit of Declarant and its successors, assigns and delegates pursuant to Section 12. Each Owner shall comply with, and all interests in all Parcels shall be subject to, the terms of this Declaration. By acquiring, in any way coming to have an interest in, or occupying a Parcel, the Person so acquiring, coming to have such interest in, or occupying a Parcel, shall be deemed to have consented to, and shall be bound by, each and every provision of this Declaration.

12. Subsequent Sale, Exchange or Involuntary Conversions. Declarant agrees for itself and for its successors and assigns that reference to this Declaration will be made in any subsequent deed, or other legal instrument, by means of which any interest in the any Parcel including any Open Space Parcel is conveyed, granted or let to any other Person, and that a copy of this Declaration will be attached thereto or the recording information of this Declaration used to incorporate this Declaration by reference into such conveyance.

13. Amendments. The Owner of the Open Space Parcel and the Authorizing Person may by mutual written agreement jointly amend this Declaration. Any such amendment shall be

consistent with the purpose of this Declaration, shall not affect its perpetual duration, shall not permit residential, commercial or industrial development of the Open Space Parcel except as contemplated by Section 5 and shall not permit any impairment of the Open Space Parcel. Any such amendment shall be filed in the County Recorder's office of Summit County, Utah. Nothing in this Section shall require the Authorizing Person to agree to any amendment or to consult or negotiate regarding any amendment.

14. Costs and Liabilities. Except as expressly set forth in this Declaration, the Owner of the Open Space Parcel retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of each Parcel it owns, including the maintenance of adequate comprehensive general liability insurance coverage. The Owner of the Open Space Parcel shall keep its Parcel free of any liens arising out of any work performed for, materials furnished to, or obligations incurred by such Owner or any other Person performing work on the Parcel.

(a) Taxes. The Owner of the Open Space Parcel shall pay before delinquency all taxes, assessments, fees, and charges of whatever description levied on or assessed against its Parcels by competent authority (collectively "Taxes"), including any Taxes imposed upon, or incurred as a result of, the Easement, and shall furnish Authorizing Person with satisfactory evidence of payment upon request.

(b) Hold Harmless. The Owner of the Open Space Parcel shall hold harmless, indemnify, and defend Declarant and each and every successor Authorizing Person and its officials, directors, officers, employees, agents, and contractors (collectively "Indemnified Parties") from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands or judgments, including, without limitation, reasonable attorneys' fees arising from or in any connection with: (a) injury to or the death of any Person, or physical damage to its Parcel, resulting from any act, omission, condition, or other matter related to or occurring on or about its Parcel, regardless of cause, unless due solely to the negligence of any of the Indemnified Parties; (b) the obligations specified in this Section; and (c) the existence or administration of this Easement.

15. Easement Perpetual. This Easement is perpetual.

16. Estoppel Certificates. Upon request by the Authorizing Person, the Owner of the Open Space Parcel shall within thirty (30) days execute and deliver to the Authorizing Person any document, including an estoppel certificate, which certifies compliance with any obligation of the Owner contained in this Declaration and otherwise evidences the status of this Declaration as may be requested by the Authorizing Person.

17. Notices. Any notice, demand, request, consent, approval, or communication that any party to this Declaration desires or is required to give to the other parties shall be in writing and shall be served either personally or sent by first class mail, postage prepaid, addressed as follows (or to such other address as a party may designate:

To Declarant: Boyer Snyderville Junction, L.C.  
90 South 400 West, Suite 200  
Salt Lake City, Utah 84101

With a copy to: Parr Brown Gee & Loveless  
185 South State Street, Suite 800  
Salt Lake City, Utah 84111  
Attn: David E. Gee, Esq.  
Telecopier: (801) 532-7750

If Declarant delegates any rights under this Declaration in accordance with Section 12, the Declarant may cause such delegate to be added as an additional required notice party.

18. Miscellaneous.

(a) Partial Invalidity. If any provision of this Declaration, or the application of this Declaration, or the application of this Declaration to any Person or circumstance is found to be invalid, the remainder of the provisions of this Declaration, and the application of such provisions to Persons or circumstances other than those to which it is found to be invalid, shall not be affected thereby.

(b) Titles. Section and Subsection titles and subtitles are for convenience only and shall not be deemed to have legal effect. References in this Declaration to a Section shall be deemed to be a reference to the corresponding Section of this Declaration unless the context refers to another agreement, instrument or document.

(c) Construction. The Parties acknowledge that each has reviewed and revised this Declaration with the assistance of counsel, and that no rule of construction resolving ambiguities against the drafting party shall be employed in interpreting this Declaration.

(d) Successors. This Declaration is binding upon, and will inure to the benefit of Declarant and its successors in interest and assigns. All subsequent Owners of the Open Space Parcel are bound to all provisions of this Declaration to the same extent as Declarant.

(e) Governing Law. This Declaration will be interpreted and construed in accordance with applicable Utah law.

(f) Entire Agreement. This Declaration sets forth the entire agreement of the parties. It is intended to supersede all prior discussions or understandings.

(g) Compliance With Law. All uses and practices permitted by this Declaration, shall comply with all applicable Government Regulations.

(h) Effective Date. The effective date of this Declaration will be the date signed by all parties.

(i) Merger. The Parties intend that this Declaration will not merge. It being the intent of the Parties that the Easement never be extinguished but remains in full force enjoining Declarant or its successor in interest to perpetually comply with its terms and conditions regardless of who holds title to the underlying fee interest.

(j) Change of Conditions. The fact that any use of the Open Space Parcel expressly prohibited by this Declaration or otherwise determined inconsistent with the purpose of this Declaration may become significantly more valuable or economical than permitted uses, or that neighboring properties may in the future be put entirely to uses inconsistent with this Declaration, has been considered by Declarant in granting this Declaration. It is Declarant's belief that any such changes will increase the public's benefit and interest in the continuation of this Declaration, and it is the intent of both Declarant and Declarant that any such changes not be considered circumstances sufficient to terminate this Declaration, in whole or in part. In addition, the inability to carry on any or all of the permitted uses, or the unprofitability of doing so, shall not impair the validity of this Declaration or be considered grounds for its termination.

(k) Superiority of Easement. Any mortgage, trust deed, lien, judgment, or other financial interest executed or entered against the Open Space Parcel hereafter shall be subordinate to this Declaration and in no way enable the holder of such interest or their successor(s) in interest to breach the terms of this Declaration or otherwise compromise the Open Space Parcel.

19. Recordation. Declarant shall record this Declaration in timely fashion in the Office of the Recorder of Summit County, Utah, and Declarant may re-record this Declaration or any notice or memorandum of this Declaration at any time or from time to time as it may deem necessary or appropriate to preserve and give notice of Declarant's rights in this Declaration and the Easement.


**[Signature Page Immediately Follows]**

IN WITNESS WHEREOF, Declarant executed this Declaration as of the date first set forth above.

**DECLARANT:**

BOYER SNYDERVILLE JUNCTION, L.C., a  
Utah limited liability company, by its Manager

THE BOYER COMPANY, L.C., a Utah limited  
liability company

By:   
Name: STEVEN B. OSTLU  
Its: Manager

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

BEFORE ME, the undersigned authority, on the 29<sup>th</sup> day of October, 2010, personally appeared before me Steven B. Osler, the Manager of THE BOYER COMPANY, L.C., a Utah limited liability company, which is the Manager of BOYER SNYDERVILLE JUNCTION, L.C., a Utah limited liability company.

Rachael N. Niusulu  
Notary Public

My Commission Expires: 9-17-11



**EXHIBIT "A"**  
**TO**  
**DECLARATION OF OPEN SPACE AND CONSERVATION EASEMENT AND**  
**RESTRICTIONS**

**Legal Description of Property**

Lots 1, 2, 3, 4, 5 and 6 of the Park City Tech Center Subdivision, in accordance with a Subdivision Plat recorded October 28, 2010 as Entry No. 909756, in the Official Records of Summit County, Utah.

EXHIBIT "B"  
TO  
DECLARATION OF OPEN SPACE AND CONSERVATION EASEMENT AND  
RESTRICTIONS

Legal Description of Housing Parcel

Lot 3 of the Park City Tech Center Subdivision, in accordance with a Subdivision Plat recorded October 28, 2010 as Entry No. 909756, in the Official Records of Summit County, Utah.



EXHIBIT "C"  
TO  
DECLARATION OF OPEN SPACE AND CONSERVATION EASEMENT AND  
RESTRICTIONS

Legal Description of Open Space Parcel

Lot 2 of the Park City Tech Center Subdivision, in accordance with a Subdivision Plat recorded October 28, 2010 as Entry No. 909756, in the Official Records of Summit County, Utah.