



W2092115

E# 2092115 PG 1 OF 7
DOUG CROFTS, WEBER COUNTY RECORDER
21-MAR-05 3:10 PM FEE \$29.00 DEP KA
REC FOR: METRO NATIONAL TITLE - OGDEN
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When Recorded, Return To:
Bryan B. Todd
358 So. Rio Grande, Suite 200
Salt Lake City, Utah 84101

**AMENDMENT TO DECLARATION OF COMMON DRIVEWAY EASEMENT
HIDDEN OAKS AT WOLF CREEK RESORT SUBDIVISION
EDEN, UTAH**

THIS AMENDMENT TO DECLARATION OF COMMON DRIVEWAY EASEMENT is made as of October 21, 2004 by **WOLF CREEK PROPERTIES, L.C.**, a Utah limited liability company, **RYAN J. BUSHELL, KYLIE BUSHELL, RACHEL NIELSEN MATTHEW R. DANA and KRISTA L. DANA** (collectively, "**Declarants**") as the owners of the lots of real property legally described on **Exhibit A** attached hereto (the "**Lots**"). References to numbered Lots herein shall refer to the Lots as shown and numbered on **Exhibit B** attached hereto. Declarants hereby completely amend and supersede that certain Declaration of Common Driveway Easement made as of September 5, 2003 and recorded September 12, 2003 as Entry No. 1974391 in the Official Records of Weber County, Utah as set forth herein. Declarants hereby establish non-exclusive, perpetual easements for the construction and use of common driveways (the "**Common Driveways**") for the benefit of the owners of the Lots from time to time (the "**Owners**"), and establish other obligations, as follows:

1. The following groups of Lots ("**Groups**") shall each share a Common Driveway, with the following pro-rata shares (the "**Shares**") applicable thereto for all purposes hereunder:

	<u>Lot</u>	<u>Share</u>
Group A:	1	16.667%
	2	33.333%
	3	50%
Group B:	4	40%
	5	20%
	6	40%
Group C:	7	50%
	8	50%

The first Owner in each Group to develop its Lot (the "**First Builder**") shall construct the Common Driveway for such Group as provided herein. Each other party in such Group ("**Other Party**") grants to the First Builder a temporary construction easement to enter upon such portion of the Other Party's Lot as may be reasonably necessary for the purpose of constructing the Common Driveway, provided First Builder, in the exercise of its right to enter thereon, shall not unreasonably interfere with any work being performed on the Other Party's Lot. The temporary

construction easement granted to First Builder hereunder shall automatically terminate upon the completion of the construction of the Common Driveway, or upon First Builder's failure to comply with the terms and conditions set forth herein, should such failure occur prior to the completion of such construction. Upon completion of construction of the Common Driveway, First Builder shall, at its cost and expense, otherwise restore the Other Party's Lot to substantially the same condition as existed before such construction work, to the extent practicable under then current conditions, and repair any and all damage to the Other Party's Lot which may be caused by virtue of such construction.

2. Each Common Driveway shall be constructed in the location shown on **Exhibit B** attached hereto. First Builder shall, at its sole cost and expense, at the same time as it constructs its other on-site improvements on its Lot, construct the Common Driveway in a good and workmanlike and first-class manner, and in accordance with all applicable covenants, restrictions, laws, codes and other regulations. If First Builder fails to so complete all such construction, then the Other Party shall have the right (in order of election if there is more than one Other Party), but not the obligation, to perform such construction work as if it were First Builder and vice-versa, and all provisions hereof will be applied accordingly.

3. First Builder shall not permit or cause any construction, mechanic's, laborer's, materialmen's, or other similar liens to attach to the Other Party's Lot. If, despite the foregoing, First Builder permits or causes any such liens to attach to the Other Party's Lot, First Builder shall, at its sole cost and expense, cause all such liens to be discharged or bonded over to the satisfaction of the Other Party within ten (10) business days following notice thereof. If First Builder fails to so discharge or bond over all such liens, the Other Party shall have the right to discharge such liens (without any inquiry as to the validity or merits thereof) and any amount paid by such Other Party in connection with such action, and all costs and expenses (including, without limitation, reasonable attorneys' fees, disbursements and court costs) incurred by the Other Party in connection therewith shall be paid by First Builder to the Other Party within five days of written demand therefor. During construction, First Builder shall not store or keep, or permit to be stored or kept, any construction equipment, vehicles or materials on the Other Party's Lot.

4. The Owners in each Group shall jointly maintain their Common Driveway in a good and clean condition and state of repair as set forth below, and each Owner shall pay its Share of all reasonable costs incurred in so doing. Such condition shall include: (i) keeping the Common Driveway at all times in a clean, uncluttered, orderly and sanitary condition; (ii) promptly and adequately clearing promptly surface water, ice and snow; and (iii) repaving or resurfacing the Common Driveway and generally maintaining the same in a smooth and evenly covered condition.

5. Each Other Party shall reimburse First Builder for such Other Party's Share of the reasonable costs incurred by First Builder in connection with the construction of the Common Driveway (as set forth in paid invoices) within 30 days of request therefor accompanied by copies of all invoices as described above and all appropriate lien waivers.

6. No Owner shall install, place, keep, permit or maintain any fences, barricades, or other obstruction, in, on or across or upon any portion of the Common Driveway which interferes with the free flow of vehicular or pedestrian traffic, except as necessary in connection with the maintenance or repair of the Common Driveway.

7. First Builder will indemnify, hold harmless and defend the Other Party from and against, and pay, all claims, suits, actions, losses, damages, liabilities, costs and/or expenses including, but not limited to, attorneys' fees, court costs and disbursements, which may result or arise from, or relate or are connected in any way to, the construction of the Common Driveway or the failure of First Builder to perform any of its obligations hereunder.

8. If any Owner ("**Defaulting Owner**") fails to pay any of its obligations hereunder to another Owner ("**Entitled Owner**") within ten (10) days after receipt of written notice of such failure, the Entitled Owner will be entitled to collect in addition thereto, interest thereon from the date the obligation becomes due until fully paid, at a rate equal to the generally prevailing national "prime" rate (or equivalent) plus 5%. The Entitled Owner will have a lien against the Defaulting Owner's Lot for all such costs and amounts, which lien will be superior to all liens recorded after the date hereof, and which may be enforced and/or foreclosed as a mortgage.

9. All provisions hereof shall be specifically enforceable. Each Owner shall, upon the request of any other Owner, execute and return to the requestor within the (10) days of receipt thereof, any estoppel certificate requested by such party for the purpose of evidencing that the requestor is in full compliance with its obligations hereunder, unless the requestee believes otherwise, in which event the requestee will, within ten (10) days, provide the requestor a written statement specifying the requestor's failures to comply herewith. Any failure of the requestee to respond as and within the time periods provided above shall constitute the unconditional waiver of the requestee of any claims against the requestor regarding any matters addressed in the estoppel certificate.

10. All provisions hereof shall run with the land and be appurtenant thereto, and shall benefit and bind the parties hereto and their successor owners of the Lots. This document may be signed in counterparts.

*****signatures on following page*****

WITNESS OUR SIGNATURES:

WOLF CREEK PROPERTIES, L.C.,
a Utah limited liability company

By: [Signature]
Steven Roberts, Its Manager

[Signature]
RYAN J. BUSHELL

[Signature]
KYLIE BUSHELL

[Signature]
RACHEL NIELSEN

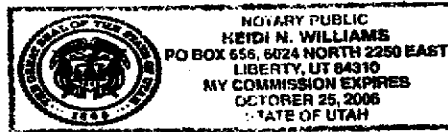
[Signature]
MATTHEW R. DANA

[Signature]
KRISTA L. DANA

STATE OF UTAH ;
COUNTY OF Weber :

On March 16, 2005, appeared before me Steven Roberts and acknowledged that he executed the foregoing instrument in the capacity indicated.

[Signature]
Notary Public

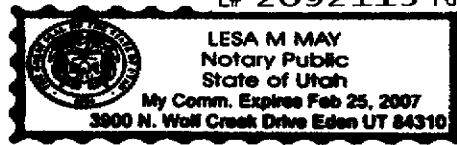


STATE OF UTAH ;
COUNTY OF Jordan :

On Dec., 2004, appeared before me Ryan J. Bushell and Kylie Bushell and acknowledged that they executed the foregoing instrument.

[Signature]
Notary Public





STATE OF UTAH ;
COUNTY OF Wasatch :

On Dec 5, 2004, appeared before me Rachel Nielsen and acknowledged that she executed the foregoing instrument.

Lesa M. May
Notary Public

STATE OF WITH THE UNITED STATES
 AIR FORCE ;
COUNTY OF AT APO AE 09094-0325

On 28 Oct 04, 2004, appeared before me Matthew R. Dana and Krista L. Dana and acknowledged that they executed the foregoing instrument.

Beth A. Roberts
Notary Public

BETH A. ROBERTS, S Sgt, USAF
Military Notary 10 U.S.C. 1044a

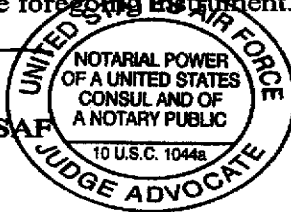


EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

Hidden Oaks At Wolf Creek

A PART OF THE NORTHWEST ¼ OF SECTION 22, T7N, R1E, SLB&M; BEGINNING AT A POINT N 89°12'43" W ALONG THE SECTION LINE 475.29 FEET AND SOUTH 80.01 FEET FROM THE NORTH QUARTER CORNER OF SAID SECTION 22 WHICH IS ALSO ON THE WEST RIGHT-OF-WAY SR-158 (POWDER MOUNTAIN ROAD & WOLF CREEK DRIVE) 50.00 FEET OFFSET FROM THE CENTERLINE; THENCE

2002-11-14-1000
24-209-0001-1-2000

SOUTHERLY 98.47 FT. ALONG A CURVE TO THE LEFT ON SAID WEST ROW LINE (R=540.37, D=10°26'26", T=49.37, CH=98.33, CHB=S10°32'41"E) TO A TANGENT LINE; THENCE

S 15°45'58" E 152.69 FT. ALONG SAID ROW LINE TO A TANGENT CURVE; THENCE

SOUTHERLY 116.46 FT. ALONG SAID WEST ROW LINE ON A TANGENT CURVE TO THE RIGHT (R=625.00, D=10°40'36", T=58.40, CH=116.30, CHB=S10°25'39"E) TO THE NORTH LINE OF WOLF CREEK SUBDIVISION NO. 2; THENCE

N 84°39'16" W 292.66 FT. ALONG SAID NORTH LINE OF WOLF CREEK SUBDIVISION NO. 2; THENCE

N 03°39'16" W 155.00 FT. ALONG THE NORTHEAST LINE OF SAID WOLF CREEK SUBDIVISION NO. 2; THENCE

S 74°03'08" W 193.56 FT. ALONG THE NORTH LINE OF SAID WOLF CREEK SUBDIVISION NO. 2; THENCE

N 13°06'33" W 51.85 FT. THENCE

S 76°49'48" W 101.95 FT. THENCE

S 31°49'48" W 84.42 FT. TO THE NORTH LINE OF SAID WOLF CREEK SUBDIVISION NO. 2; THENCE

S 74°S03'08" W 119.37 FT. ALONG SAID NORTH LINE OF WOLF CREEK SUBDIVISION NO. 2 TO THE NORTHEAST LINE OF THE FAIRWAYS AT WOLF CREEK PRUD; THENCE

N 31°43'58" W 178.00 FT. ALONG SAID NORTHEAST LINE OF THE FAIRWAYS AT WOLF CREEK PRUD TO THE SOUTHERLY ROW LINE OF FAIRWAYS DRIVE (4300 NORTH ST.); THENCE

N 58°16'02" E 217.75 FT. ALONG SAID SOUTHERLY ROW LINE TO A TANGENT CURVE; THENCE

EASTERLY 175.95 FT. ALONG SAID SOUTHERLY ROW LINE TO A TANGENT CURVE TO THE RIGHT (R=310.00, D=32°31'15", T=90.42, CH=173.60, CHB=N74°31'40"E) TO A TANGENT LINE; THENCE

S 89°12'43" E 418.28 FT. ALONG SAID SOUTHERLY ROW LINE TO THE POINT OF BEGINNING.

CONTAINS 4.472 ACRES / 194,793 S.F.

BASIS OF BEARING: N 89°12'43" W FROM THE NORTH ¼ TO THE NORTHWEST CORNER OF SECTION 22, T7N, R1E, SLB&M

