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WHEN RECORDED MAIL TO:

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Salt Lake City, Utah 84111

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KIMBALL, PARR & CROCKETT  
SALT LAKE CITY, UTAH

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DECLARATION OF EASEMENTS

THIS DECLARATION (the "Declaration") is made and entered into this 5<sup>th</sup> day of July, 1985, by BERTAGNOLE INVESTMENT COMPANY LIMITED PARTNERSHIP, a Utah limited partnership ("BIC"), E.M.B.C., a Utah general partnership ("EMBC"), THE BOYER COMPANY, a Utah general partnership ("Buyer") and PIONEER FORK ROAD OWNERS ASSOCIATION, a Utah nonprofit corporation ("Pioneer").

RECITALS

A. BIC and EMBC each own an undivided fifty percent (50%) interest in and to a tract of real property located in Salt Lake County, State of Utah, the legal description of which is set forth on Exhibit "A." Said tract is referred to herein as "Tract A".

B. BIC owns a tract of real property located in Salt Lake County, State of Utah, the legal description of which is set forth on Exhibit "B." Said tract is referred to herein as "Tract B."

C. EMBC and BIC also own a certain tract of real property located in Salt Lake County, State of Utah, the legal

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description of which is set forth on Exhibit "C." Said tract is referred to herein as "Tract C."

D. BIC and EMBC have entered into certain agreements to sell Tract C to Boyer, and BIC, EMBC, Boyer and Pioneer desire to create certain easements and rights across Tract C for the benefit of Tract A and Tract B which easements will survive the conveyance to Boyer of title with respect to Tract C.

E. Boyer has recorded a certain instrument titled "Declaration of Covenants, Conditions and Restrictions of Emigration Oaks, a Planned Unit Development" dated February 2, 1985 (the "CCR Declaration") and recorded April 26, 1985, as Entry No. 4018735, in Book 5042, at Page 299 of the Official Records of Salt Lake County, State of Utah and a plat titled "Emigration Oaks - Phase 1A, a Planned Unit Development" (the "Plat") and recorded April 26, 1985, as Entry No. 4018734, in Book     , at Page      of the Official Records of Salt Lake County, State of Utah. The CCR Declaration and Plat created a planned unit development (the "PUD") with respect to certain real property located in Salt Lake County of which Tract C is a part.

NOW THEREFORE, the Parties hereby adopt the following easements and burdens:

1. Definitions. As used in this Declaration:

(a) "Party" means each person executing this instrument and its heirs, assigns and successors in interest as the same may be shown by records of Salt Lake County, State of Utah, as of the date of the exercise of powers granted hereunder or the performance of or failure

of performance by such Parties of the obligations created by this Agreement. Without limiting the generality of the foregoing, the term Party refer to the persons who fit the following classifications:

(i) The person or persons holding fee title to all or any portion of Tract A, Tract B or Tract C; and

(ii) The lessee or lessees under a ground lease of all or a portion of any Tract for a fixed minimum term of thirty (30) years, or longer, in which event the fee owner of the real property covered by such lease will not be deemed to be a Party as to such Tract for the purposes of this Agreement during the duration of such ground lease.

(b) "Parties" means all of the persons who are a Party, taken in the aggregate.

2. Grant of Easement. Owner, Boyer and Pioneer hereby establish the following easements across Tract C:

(a) Nonexclusive easements appurtenant to Tract A and Tract B across the Private Roads (as defined in the CCR Declaration) on Tract C for the purpose of pedestrian traffic of the Benefitted Parties (as defined below).

(b) Nonexclusive easements appurtenant to Tract A and Tract B across the Private Roads on Tract C for the purpose of furnishing access and the right of access for the vehicles of the Benefitted Parties between the public streets and Tract A and Tract B; provided that the foregoing right of access shall be limited to use for such purposes and to such extent as may be customary to use of the Tract A and Tract B for residential purposes and for construction and development of residential improvements and infrastructure.

(c) Nonexclusive easements appurtenant to Tract A and Tract B across, under and through the Private Roads on Tract C for the purpose of providing utility lines and services to Tract A and Tract B or portions thereof, including connection to storm and sanitary sewers.

The easements granted pursuant to subsections (a) through (c) above shall benefit each of the Parties and their respective guests,

invitees, successors and assigns (all of the foregoing constituting the "Benefitted Parties"). Boyer and its successors and assigns are permitted to alter, relocate or change the configuration of the Private Roads on Tract C at any time and from time to time so long as the Private Roads provide access to the main State highway in Emigration Canyon.

3. Obligation of Parties Owning Tract A and Tract B.

The Parties owning Tract A and Tract B shall be obligated to pay Assessments (as defined in the CCR Declaration) with respect to the Private Roads in accordance with Article V of the Declaration. This obligation shall arise, however, only from and after the date of development of any improvements on Tract A or Tract B, as the case may be. In applying the provisions of Article V of the Declaration each parcel into which Tract A or Tract B is subdivided shall be deemed to be a "Lot."

4. Duration. This Declaration and each easement, covenant, restriction, and undertaking of this Agreement shall be perpetual. The foregoing notwithstanding, the easements established in favor of Tract A and/or Tract B by this Declaration and the obligation to pay assessments shall terminate and be of no further force and effect with respect to such portions of Tract A and/or Tract B which become included in the PUD pursuant to Article XI of the CCR Declaration. The effective date of such termination shall be the date of amendment of the Plat to include such portion in

the PUD. If a portion of Tract A and/or Tract B is included in the PUD, this Declaration shall continue to exist for the benefit of the remainder of Tract A and/or Tract B not included in the PUD.

5. Modification. This Declaration and any easement, covenant, restriction or undertaking contained herein may be terminated, extended, modified, or amended as to the whole of the Tracts or any portion of them, with the unanimous consent of the Parties.

6. Not A Public Dedication. Nothing contained in this Declaration will be deemed to be a gift or dedication of any portion of either Tract to the general public or for the general public or for any public purpose whatsoever, it being the intention of the Parties that this Declaration will be strictly limited to and for the purpose expressed here.

7. Mutuality; Reciprocity Runs With Land.

(a) Each and all of the easements, restrictions, covenants and rights granted or created herein are appurtenances to the Tracts and none of the easements, restrictions, covenants and rights may be transferred, assigned, or encumbered except as an appurtenance to such Tracts. For the purposes of the easements, restrictions and rights, the Tract benefitted will constitute the dominant estate, and the Tract burdened by such easements, restrictions, and rights will constitute the servient estate.

(b) Each and all of the covenants, restrictions, conditions, and provisions contained in this Agreement (whether affirmative or negative in nature) are made for the direct, mutual and reciprocal benefit of each Tract; will create mutual equitable servitudes upon each Tract in favor of each other Tract; will constitute covenants running with the land; will bind every person having any fee, leasehold, or other interest in any portion of the

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Tract at any time or from time to time to the extent that such portion is affected or bound by the covenant, restriction, condition, or provision in question, or that the covenant, restriction, condition or provision is to be performed on such portion; and will inure to the benefit of the Parties and their respective successors and assigns as to their respective Tracts.

8. Miscellaneous Provisions.

(a) The Parties do not by this Declaration, in any way or for any purpose, become partners or joint venturers of each other in the conduct of their respective businesses or otherwise.

(b) Each Party shall be excused for the period of any delay in the performance of any obligations hereunder when prevented from so doing by cause or causes beyond such Party's control, including labor disputes, civil commotion, war, governmental regulations or controls, fire or other casualty, inability to obtain any material or services or acts of God.

(c) Failure of a Party to insist upon the strict performance of any provision or to exercise any option hereunder shall not be construed as a waiver for the future of any such provision or option. No provision of this Declaration shall be deemed to have been waived unless such waiver be in writing signed by each other Party.

(d) If any provision of this Declaration or the application thereof to any person or circumstance shall to any extent be invalid, the remainder of this Declaration or the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby and each provision of this Declaration shall be valid and enforced to the fullest extent permitted by law.

(e) Except as otherwise provided, all provisions herein shall be binding upon and shall inure to the benefit of the Parties, their legal representatives, heirs, successors and assigns.

(f) Each person executing this Declaration individually and personally represents and warrants that he is duly authorized to execute and deliver the same on behalf of the entity for which he is signing (whether it

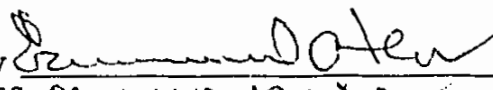
be a corporation, general or limited partnership or otherwise), and that this Declaration is binding upon said entity in accordance with its terms.

(g) This Declaration shall be construed in accordance with the laws of the State of Utah.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first set forth above.

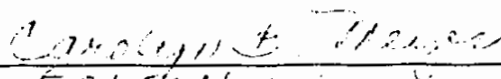
"BIC"

BERTAGNOLE INVESTMENT COMPANY  
LIMITED PARTNERSHIP, a Utah  
limited partnership

By   
Its general partner

"EMBC"

E.M.B.C., a Utah general  
partnership

By   
Its partner

"BOYER"

THE BOYER COMPANY, a Utah  
general partnership

By   
Its partner

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"PIONEER"

PIONEER FORK ROAD OWNERS  
ASSOCIATION, a Utah nonprofit  
corporation

By Richard W. Moffat  
Its Secretary

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

On this 5th day of July, 1985, personally  
appeared before me Emanuel C. [Signature], who duly acknow-  
ledged to me that he executed the foregoing Declaration of Easements  
as one of the Partners of BERTAGNOLE INVESTMENT COMPANY LIMITED  
PARTNERSHIP, a Utah limited partnership, and that the statements  
contained therein are true.

NOTARY PUBLIC  
STATE OF UTAH  
My Commission Expires:  
February 10, 1986

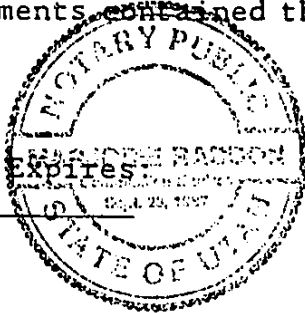
[Signature]  
NOTARY PUBLIC  
Residing at: Garfield City, Utah

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

On this 2<sup>nd</sup> day of July, 1985, personally appeared before me Carolyn B. Meyer, who duly acknowledged to me that he executed the foregoing Declaration of Easements as one of the Partners of E.M.B.C., a Utah general partnership, and that the statements contained therein are true.

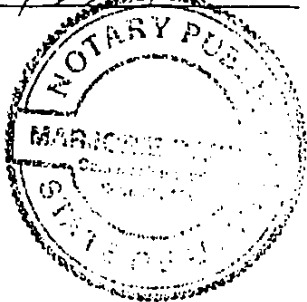


My Commission Expires: 9-23-87

Marjorie Rasmussen  
NOTARY PUBLIC  
Residing at: Salt Lake City UT

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

On this 3<sup>rd</sup> day of July, 1985, personally appeared before me H. Roger Brown, who duly acknowledged to me that he executed the foregoing Declaration of Easements as one of the Partners of THE BOYER COMPANY, a Utah general partnership, and that the statements contained therein are true.



My Commission Expires: 9-23-87

Marjorie Rasmussen  
NOTARY PUBLIC  
Residing at: Salt Lake City UT

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

On this 2nd day of July, 1985, personally appeared before me Richard W. McPherson, who being by me duly sworn, did say that he is the secretary of PIONEER FORK ROAD OWNERS ASSOCIATION, a Utah nonprofit corporation, and that the foregoing Declaration of Easements was executed on behalf of said corporation by authority of its bylaws (as the case may be) and that said corporation executed the same.

Margaret Madison  
NOTARY PUBLIC  
Residing at: Sect 10, Box 107

My Commission Expires:

9-23-87



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EXHIBIT "A"

Legal Description of "Tract A"

[Land as to which EMBC and BIC each own an undivided fifty percent (50%) interest and which is being retained by EMBC and BIC]

A parcel of land located in Section 32, Township 1 North, Range 2 East, Salt Lake Base and Meridian, being further described as follows: Beginning at a point North 1320.00 feet along the West line of said Section 32 from the southwest corner of said Section 32; thence continuing along said West line 3960.00 feet to the Northwest corner of said Section 32; thence East 3984.75 feet; thence South 2640.12 feet; thence West 2640.00 feet; thence South 889.66 feet; thence South 61°42'00" West 132.26 feet; thence South 71°01'00" West 1130.19 feet; thence West 134.83 feet to the point of beginning. Containing 275.173 acres more or less.

LESS AND EXCEPTING the real property described on Exhibit "C."

EXHIBIT "B"

Legal Description of "Tract B"

[Land as to which BIC owns the entire interest and which is being retained by BIC].

A parcel of land located in Section 23, 29, 32 and 33, Township 1 North, Range 2 East, Salt Lake Base and Meridian, being further described as follows:

Beginning at the West Quarter corner of said Section 29; thence East 7946.40 feet; thence South 2626.47 feet; thence North 89°42'20" East 2176.82 feet; thence South 32°45'00" West 458.57 feet; thence South 69°45'00" West 125.00 feet; thence South 42°30'00" West 520.00 feet; thence South 56°45'00" West 160.00 feet; thence South 49°00'00" West 905.00 feet; thence South 65°15'00" West 745.00 feet; thence South 49°15'00" West 1030.00 feet; thence South 29°54'00" West 310.95 feet; thence North 24°30'00" East 660.00 feet; thence North 65°30'00" West 550.00 feet; thence South 24°30'00" West 542.81 feet; thence South 89°23'00" West 546.85 feet; thence South 73°25'00" West 716.07 feet; thence South 0°42'58" West 63.60 feet; thence West 1320.00 feet; thence North 2640.12 feet; thence West 3984.75 feet; thence North 2640.00 feet to the point of beginning.

EXHIBIT "C"

Legal Description of "Tract C"

[Land as to which EMBC and BIC each own an undivided fifty percent (50%) interest and which is being conveyed to The Boyer Company].

The following described land, but only to the extent located within the Northwest Quarter of the Southwest Quarter; the Northwest Quarter; and the West half of the Northeast Quarter of Section 32, Township 1 North, Range 2 East, Salt Lake Base and Meridian:

A parcel of land located in Section 32, Township 1 North, Range 2 East, Salt Lake Base and Meridian being further described as follows: Beginning at a point North 1320.00 feet and East 13.053 feet from the Southwest corner of said Section 32; thence North 00°32'30" West, 1380.691 feet; thence East 203.766 feet; thence South 60°16'31" East 253.429 feet to a point on a 325.000 foot radius curve to the right bearing to radius point being South 52°48'52" East; thence along the arc of curve 95.046 feet; thence North 53°56'30" East, 135.708 feet to the beginning of a 267.552 foot radius curve to the left; thence along the arc of said curve 130.302 feet to the point of reverse curvature bearing to radius point being South 63°57'44" East, 75.00 feet; thence along the arc of said curve 95.981 feet; thence South 80°38'19" East, 725.919 feet; thence North 50°00'00" East, 1137.468 feet; thence South 37°07'15" East, 830.815 feet; thence South 53°08'29" West, 1396.770 feet; thence South 61°42'00" West, 471.449 feet to the Northeast corner of Lot 22, Master Plan, Acorn Hills N/R Subdivision as prepared by Bollwinkel Engineering and Land Surveying Corp., Salt Lake City, Utah; thence continuing along the northerly line of said subdivision South 61°42'00" West, 132.257 feet and South 71°01'00" West, 560.530 feet to the Northwest corner of Lot 24 of said subdivision; thence South 71°01'00" West, 52.877 feet to the Northeast corner of Lot 6 of the extension of said Acorn Hill N/R Subdivision; thence South 71°01'00" West, 185.71 feet to the Northwest corner of said Lot 6; thence South 71°01'00" West, 331.073 feet; thence West 121.775 feet to the point of beginning. Containing 66.751 Acres, more or less. Basis of bearings being the South line of the Southeast Quarter of Section 31, Township 1 North, Range 2 East, Salt Lake Base and Meridian, which has a bearing of South 89°40'01" East.

Save and except any and all oil, gas and mineral rights together with reasonable access and drilling rights (provided the exercise of the same do not unreasonably impair the use and enjoyment of the surface rights) which expressly are reserved to Grantor. Without limiting the generality of the foregoing limitation, the exercise of such reserved rights shall not: (a) damage any then existing or contemplated subdivision or building improvements; (b) affect the stability of the land or its capacity to support subdivision improvements such as roads, curbs, gutters, sidewalks, sewer, water or gas pipes, electricity or telephone lines or residential structures.