

**DECLARATION OF COVENANTS, CONDITIONS AND  
RESTRICTIONS ESTABLISHING A PLAN OF  
CONDOMINIUM OWNERSHIP FOR THE BOULEVARD CONDOMINIUMS,  
A CONDOMINIUM PROJECT**

(An Expandable Condominium)

This declaration (the "Declaration") is made this \_\_ day of June, 1992 by Kirk D. Williamson and Jacqueline K. Williamson (Collectively "Declarant").

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**RECITALS:**

A. Declarant is the Owner of certain real property located in Utah County, Utah, more particularly described in Exhibit "B", attached hereto and incorporated herein by this reference. Declarant intends to improve the real Property in four phases, with Phase One being that real property described in Exhibit "C", Phase Two being that real property described in Exhibit "D", Phase Three being that real property described in Exhibit "E", and Phase Four being that real property described in Exhibit "F", which Exhibits "C", "D" "E" and "F" are attached hereto and incorporated herein by this reference. Such improvements shall be made in the manner hereinafter described. The real property and improvements located in Phase One, and eventually in Phase Two, if any, being hereinafter collectively referred to as the "Project".

B. Declarant has improved, or intends to improve Phase One of the Project by constructing thereon condominium units and related common areas, which common areas, and improvements are more particularly described pursuant to Utah Code Ann. § 57-8-10(2) (1985) in Exhibit "A" which is the survey map attached hereto and incorporated herein by this reference. Declarant intends to establish a Condominium Project under the provisions of the Utah Condominium Ownership Act, such that the Provisions of the Utah Condominium Ownership Act shall apply to Phase One of the Project and to the other phases only in the event and to the extent that the expansion option concerning additional phases (hereinafter defined) is exercised.

C. Phase One of the Project will consist of a minimum of eight (8) individual Units (described on addendum "A" and as hereinafter defined) and related Common Area and facilities (described on addendum "A" and as hereinafter defined). Each Owner in Phase One (as hereinafter defined) will receive title to a Unit (refer to Article 1.15 below) plus an undivided fractional interest as tenant-in-common to the Common Areas (refer to Article 1.3 below) located within the Project. Each condominium Unit shall have appurtenant to it a membership in the Association (as hereinafter defined).

D. Declarant desires to provide for the preservation of the values and amenities in said Project and for the maintenance of open spaces; and to this end, desires to subject the real property described in Exhibit "A" to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said property

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E. Declarant deems it desirable for the efficient preservation of the values and amenities in said Project, to create an Association to which all will be delegated and assigned the powers and duties of maintaining and administering and enforcing the within covenants and disbursing the charges and assessments hereinafter created.

F. Declarant has, prior to occupancy, formed The Boulevard Condominiums Owners' Association.

**DECLARATION**

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**ARTICLE I--DEFINITIONS:**

1.1 Association. Shall mean and refer to The Boulevard Condominiums Owners' Association and its successors and assigns. References to the Association herein shall, when appropriate also refer to and include the Board of Trustees, acting for and on behalf of the Association.

1.2 Board of Trustees. Shall mean the Governing Board of the Association.

1.3 Common Areas/Common Facilities. Shall mean the real property described in Exhibit "A" hereof and any additional land, if expanded, except for those portions thereof which lie within the description of any Unit. Without limiting the generality of the foregoing, Common Areas shall also include:

(a) All foundations and roofs constituting a portion of or included in the improvements which comprise a part of the Project.

(b) All installations for and all equipment connected with the furnishings of the Project with any and all Utility Services, including but not limited to electricity, gas, water and sewer.

(c) The Project outdoor lighting, fences, landscaping and maintenance systems, sidewalks, curb and gutters, parking areas and road(s) or roadway and driveways, and water drainage system.

1.4 Common Assessment. Shall mean an assessment levied to offset Common Expenses.

1.5 Common Expenses. Shall mean any of the following:

(a) The expenses of, or reasonable reserves for, the maintenance, management, operation, protection, preservation, repair, replacement for the Common Areas and Exclusive Common Areas, including the cost of unpaid Special Assessments.

(b) The cost of capital improvements to the Common Areas which the Association may from time to time authorize.

(c) The expenses of management and administration of the Association, including compensation paid the Association to managers, accountants, attorneys or other employees or agents.

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(d) Any other item or items designated by this Declaration or the Bylaws of the Association to be Common Expenses, and any other expenses reasonably incurred by the Association on behalf of the Owners.

1.6 Project. Shall mean the Site divided or to be divided into Condominiums including all structures and improvements, which is the subject of this Declaration from time to time. The Project is a statutory "Condominium Project" as defined in Utah Code Ann. § 57-8-3(2).

1.7 Eligible Mortgage Holder. A holder of a first mortgage on a Unit estate who has requested notice of certain matters from the Association.

1.8 Limited Common Areas. Shall mean those portions of the Common Areas which are limited to and reserved for the exclusive use of individual Owners, specifically the designated parking spaces, carports, Patio and/or balcony and storage areas, if any, appurtenant to a Unit. Such limited Common Areas are more particularly described on the Map, and are incorporated herein by this reference.

1.9 Map. Shall mean all survey maps, or recorded plats or vicinity maps of the Boulevard Condominiums prepared pursuant to the Utah Condominium Ownership Act and recorded at the County Recorder's Office, County of Utah, State of Utah.

1.10 Member. Shall mean a member of the Association.

1.11 Owner. Shall mean and refer to the Owner of record (in the County Recorder's Office, County of Utah, State of Utah), whether one or more Persons or entities, of a Unit. The term "Owner" shall not mean or include the mortgagee or beneficiary or trustee under a deed of trust unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof. Limitations or restrictions placed on an Owner, however, for purposes of this Declaration shall similarly apply to any and all persons claiming rights by or through said Owner.

1.12 Rules and Regulations. Shall mean the Rules and Regulations governing the use of the Common Areas and the recreational facilities thereon, duly adopted by the Association.

1.13 Special Assessment. Shall mean an assessment for Special Expenses.

1.14 Special Expenses. Shall mean any of the following:

(a) The expenses incurred by the Association for the repair of damage or loss to the Common Areas or the property of other Owners caused by the act or neglect of an Owner which is not covered by insurance.

(b) The expenses of repair or reconstruction of a building damaged or destroyed by fire or other casualty or damage for which there shall be no insurance coverage and the repair or reconstruction of which will directly benefit less than all of the Owners.

(c) Any other item or items designated by other provisions of the Declaration or the Bylaws of the Association to be Special Expenses.

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1.15 Unit. Shall mean the elements of a Condominium that are not owned in common with the other Owners of Condominiums in the Project. For purposes of this Declaration, a Unit is defined as air space in a building, together with all fixtures therein intended for the sole use of said Unit. Such Units and their respective elements are more particularly described in the Map. The boundaries of a Unit are shown and described in such Map. Ownership of a Unit includes an undivided fractional interest (as defined in Article 14.6 below) as tenant-in-common in the Common Areas located within the Project, any and all additional rights or privileges with respect to Limited Common Areas appurtenant to said Unit, and a membership in the Association. Whenever reference is made in this Declaration, in the Map, in any deed or elsewhere to a Unit it shall be assumed that such reference is made to the Unit as a whole, including each of its component elements, and to any and all exclusive easements appurtenant to said Unit or the Common Areas or Limited Common Areas, if any.

## ARTICLE II--PROPERTY RIGHTS:

2.1 Owners' Easements of Enjoyment. Every Owner shall have a fee simple interest in a Unit, as defined herein, together with a right and easement of enjoyment in and to the Common Areas and Limited Common Area which shall be appurtenant to and shall pass with the title to every Unit, subject to any other rights of the Association, or limitations as set forth in this Declaration.

2.2 Delegation of Use. Any Owner may designate his right of enjoyment to the Common Areas to the members of his family who reside with him in his unit, or to his tenants or contract purchasers who reside in his unit and to the guests or invitees of any of the foregoing. The rights and privileges of such delegate shall be subject to restriction, suspension or limitation in all respects in the same manner and to the same extent as those of the Owner.

2.3 Allocation of Interests in Common Area. The undivided interest in the Common Areas of each Owner appurtenant to each Owner's Unit shall be equal and shall be a fractional interest of the total ownership of the Common Areas as that fractional interest is defined in the recitals above.

2.4 Owners Rights to Decorate. Each Owner shall have the right, at his sole expense, to maintain, repair, paint, paper, panel, plaster, tile and finish the interior surfaces of the ceilings, floors, window frames, door frames, trim, perimeter walls of the Units and surfaces of the bearing walls and the partitions located within such Unit. Each Owner shall also have the right to substitute new finished surfaces in the place of those existing on the ceilings, floors and walls. The Owner shall have the right to maintain floors and walls. The Owner

shall have the right to maintain, repair, paint, finish, alter, substitute and add or remove any fixtures attached to such ceiling, floors and walls. Notwithstanding the foregoing, windows can be covered only by drapes and shades and cannot be painted or covered by foil, paper, blankets, sheets or other materials. Except as otherwise provided for herein, an Owner shall not be allowed to modify or decorate any exterior portion of a Unit, including the balcony, patio, fixtures, walls or other exterior portion or portions of any Unit without the Prior written approval of the Association.

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2.5 Fixtures and Appliances. An Owner shall be the Owner of the light fixtures, plumbing fixtures, refrigerator, stove, oven, dishwasher, cabinets and other fixtures located within his Unit.

2.6 Other Easements. Notwithstanding any of the provisions of this Declaration to the contrary, each Owner shall have an unrestricted right of ingress and egress to such Owner's units, which right shall be perpetual and appurtenant to Unit ownership. If any portion of the Common Areas encroaches upon any Unit or any Unit encroaches on the Common Areas or another Unit as the result of the construction, reconstruction, repair, shifting, settlement, or movement of any portion of the improvements, a valid easement for the encroachment and for the maintenance of the same shall exist in favor of the Association and/or the Owner, so long as such encroachment exists.

### **ARTICLE III--PROJECT ADMINISTRATION:**

3.1 Administration of Project. The Project, as it exists at that time, shall in all respects be administered by the Association, acting by and through its Board of Trustees, who shall be elected in accordance with the Bylaws of the Association, and whose duties will be governed by the terms of the Act, this Declaration, and the Articles of Incorporation and Bylaws of the Association. The Association may employ a professional management agent to perform, subject to the supervision of the Board of Trustees, such duties and services as the Board of Trustees shall direct, including, but not limited to, management, repair and maintenance of the Common Areas and Limited Common Areas and the collection of and accounting for assessments made by the Association.

3.2 Rules and Regulations. The Association shall have the power to establish rules and regulations further governing the Units of the Project, and it shall enforce compliance with the Rules and Regulations and may amend same from time to time. A copy of such Rules and Regulations or amendment thereto shall be delivered or mailed to each Member promptly upon the adoption thereof.

3.3 Common Utilities. The Association shall be responsible for the monthly payment of Common Area utility services that are provided by Public Utilities. The Association shall prorate those costs to the Unit Owners on an equitable basis.

### **ARTICLE IV--MEMBERSHIP; AND VOTING RIGHTS; TRANSFER OF CONTROL:**

4.1 Membership. Each Owner shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from the Ownership of the Units. Ownership

of a Unit shall be the sole qualification for membership. The membership held by an Owner shall not be transferred, pledged, or alienated in any way, except upon the sale or encumbrance of such Unit, and then only to the purchaser or Mortgagee of such Unit. If more than one person is the Owner of a Unit, such Persons shall jointly hold one Association membership.

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4.2 Voting Membership. The Association shall have two types of voting membership.

a) Owners. Owners, as defined in Paragraph 1.11 above, with the exception of the Declarant in the capacity as Declarant shall be entitled to one vote for each Unit owned.

b) Declarant. Declarant shall be entitled to three (3) votes for each planned but yet to be completed Unit or for each unsold Unit within the Project as it exists at that time. The Declarant Voting Membership shall cease to exist and shall be converted to Owner membership no later than the earlier of the first to occur of the following: (a) a period of six (6) years after the first Unit in Phase One of the Project has been conveyed; or (b) after Units to which three-fourths of the undivided interest in the Common Areas and Facilities appertain have been conveyed or after all additional land has been added to the Project and all convertible land has been converted, whichever last occurs.

4.3 Voting - Multiple Ownership. The vote attributable to and exercisable in connection with Unit ownership shall be equal to the percentage of undivided Ownership interest in the Common Areas and Facilities which is appurtenant to each Unit. In the event there is more than one Owner of a particular Unit, the vote relating to such Unit shall be exercised as such Owners may determine among themselves, however, no more than one vote per Unit shall be possible.

4.4 Suspension of Voting Rights. The voting rights of any Member shall automatically be suspended during any period in which he shall be delinquent in the payment of assessments or other amounts, expenses or fees due the Association.

4.5 Control Homeowner's Association. Declarant or Declarant's managing agent or other persons authorized by Declarant shall have the right to appoint and remove some or all of the management committee or some or all of the officers of the association until the transfer of control occurs as provided in 4.6 below.

4.6 Transfer of Control. Declarant shall transfer control of the Association to the Unit Owners no later than the earlier of:

(a) After Units to which three-fourths of the undivided interest in the Common Areas and Facilities appertain have been conveyed, or after all additional land has been added to the Project and all convertible land has been converted, whichever last occurs; or,

(b) Six (6) years following conveyance of the first Unit estate in the Project. For Purposes of the Declaration, the term "Control" means the right of Declarant to control the Association, the Association Board, the Project, or the Owners in any manner, except for

votes allocated to Unit estates Declarant owns and, intends to hold which will be treated on the same basis as votes pertaining to sold units.

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#### **ARTICLE V--REPAIR AND MAINTENANCE OF PROJECT:**

5.1 Duties of Association. The Association shall have the exclusive responsibility of maintaining, repairing, replacing and otherwise keeping in excellent condition any and all portions of the Project not required in this Article to be maintained by the Owners, specifically the Common Areas and Limited Common Areas. In addition, the Association shall have a reasonable right of entry upon any Unit to make emergency repairs and to do other work reasonably necessary for the Proper maintenance or operation of the Project. The Association shall also have the right to grant Permits, licenses and easements over the Common Areas for utilities, roads and other purposes necessary for the proper operation of the Project.

5.2 Duties of Owners. Each Owner, at his expense, shall be responsible for the maintenance and repair of the interior of his Unit, the windows of his Unit, the appliances and equipment located in his Unit, and the plumbing, heating and other systems servicing his Unit, whether such services are located within, above or underneath the Unit or within the exterior or interior bearing walls of such Unit. The Association shall be responsible for the maintenance and repair of any of the above-described items if such work would affect the structural integrity or change the appearance of any portion of the Common Areas or if such work involves equipment or facilities used in common by all or any of the Owners provided, however, that in the event such maintenance or repair is attributable to the extraordinary use or abuse of an Owner or of a few Owners, the cost of such work may be assessed to such Owner or Owners.

(a) Definition of Utilities. Term "Utilities" as used in this Article means the lines, wires, conduits or other systems if any located within the walls, floors, ceilings or other areas of a Building, which are a part of the Common Areas.

(b) Definition of Fixtures. By the term "Fixtures" as used in this Article means the fixtures and equipment within a Unit commencing at a point where they connect with the Utilities.

(c) Unit Exterior Maintenance. Except as otherwise provided herein, the Association shall have the responsibility for the maintenance and repair of the exterior of all Units.

#### **ARTICLE VI--ASSESSMENTS:**

6.1 Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Unit by acceptance of a deed therefor whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. Each such person understands and agrees that the annual and special assessments, together with interest, costs and reason-

able attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made except as otherwise provided in Utah Code Ann. § 57-8-20. Each such assessment, together with interest, costs, and reasonable attorneys' 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 personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them. In the event the Association exercises its right to foreclose for nonpayment of amounts due, Owner shall be required to pay a reasonable rental for the Unit during the time Owner is in possession thereof. For purposes of this Article VI under no circumstances shall Declarant be required to pay any assessment on any Units not yet sold to an Owner, nor shall any assessments accrue against unsold Units.

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6.2 Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area, and of the units situated upon properties.

6.3 Annual Budget. Not less than thirty (30) days prior to the commencement of each fiscal year (which shall commence on the first day of the month in which the sale of the first Unit by Declarant is closed), the Board of Trustees (or those named herein as constituting the original Board of Trustees in the event the Association has not been formed at such time) shall establish an annual budget for such fiscal year, including therein all anticipated items of Common Expense together with a reasonable reserve fund for the periodic maintenance, repair and replacement of improvements to the Common Areas and those Limited Common Areas which the Association is obligated hereby to maintain. Such funds shall be maintained out of regular assessments as common expenses.

6.4 Annual Common Assessment. By the adoption of the annual budget by the Board of Trustees there shall be established an annual Common Assessment for the payment of which each Owner (including Declarant) shall be personally liable in the same percentage as his percentage Ownership in the Common Areas. Each Owner shall pay his percentage share in even monthly installments of one-twelfth (1/12) thereof on the first day of each month during the fiscal year. Upon acquisition of record title to a Unit from Declarant, each Owner shall contribute to the capital of the Association an amount equal to one-sixth (1/6) of the amount of the projected annual assessment for that Unit. This amount shall be deposited by the buyer into the purchase and sale escrow and disbursed from the escrow to the Association. Any amounts paid into this fund by buyers shall not be considered as advance payments of regular assessments.

6.5 Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Unit to an Owner, the maximum annual assessment shall be Four Hundred Eighty Dollars (\$480) Per Unit.

(a) From and after January 1 of the year immediately following the conveyance of the first Unit to an Owner, the maximum annual assessment may be increased each year not more than 15% above the maximum assessment for the previous year without a vote of the membership.



(b) From and after January 1 of the year immediately following the conveyance of the first Unit to an Owner, the maximum annual assessment may be increased above the 15% limitation set forth herein by a vote of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

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(c) The Board of Trustees may fix the annual assessment at an amount not in excess of the maximum except as otherwise provided in paragraph 6.5(b) hereof.

6.6 Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

6.7 Notice and Quorum for Any Action Authorized Under Sections 6.5 and 6.6. Written notice of any meeting called for the purpose of taking any action authorized under Sections 6.5 or 6.6 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

6.8 Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Units except as otherwise provided herein and shall be collected on a monthly basis.

6.9 Individual Special Assessments. Special Assessments may be levied by the Board of Trustees against particular Owners for the payment of Special Expenses. Such Individual Special Assessments shall be due and payable to the Association upon demand. However, no Individual Special Assessments shall be levied against an Owner until he shall have been given the opportunity to present evidence on his behalf at a hearing before the Board of Trustees, and no such hearing shall be held until such Owner shall have received at least ten (10) days written notice specifying the reason for the proposed Individual Special Assessment and the exact time and place of the hearing.

6.10 Effect of Nonpayment of Assessments, Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest at the rate of 10% per annum. The Association may pursue its rights pursuant to Utah law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments Provided for herein by non-use of the Common Area or abandonment of his Unit.

6.11 Subordination of the Lien to Mortgages. The lien of the assessments provided for herein, or other charges the Association has on a Unit will be subordinate to a first mortgage on the Unit, if the mortgage was recorded before the delinquent assessment was due, unless otherwise restricted by Utah law. Sale or transfer of any Unit shall not affect the assessment lien, unless a foreclosure of a first mortgage is involved. Such foreclosure of a first mortgage will extinguish the assessment lien for any assessments that were payable before the foreclosure sale, but will not relieve any subsequent Unit Owner from paying further assessments. No sale or transfer shall relieve such Unit from liability for any assessments thereafter becoming due or from the lien thereof.

**ARTICLE VII--INSURANCE:** ENT439 17 BK 2989 PG 435

7.1 Insurance Coverage. The Association shall obtain and pay premiums upon, as a Common Expense, the following insurance policies:

- (a) Hazard insurance;
- (b) Liability insurance; and
- (c) Fidelity bond coverage.

All such insurance Policies shall comply in all respects with the FNMA insurance requirements as set forth in Chapter 3, Part 5, (Sections 501-504) of the FNMA Lending Guide, dated January 3, 1983, as amended or supplemented.

7.2 Course of Construction Insurance. Pursuant to Title 38 Code of Regulations Section 36.4360 (a)(5), and if required by law, Declarant has purchased or will purchase, prior to Construction, a (general) liability insurance policy in an amount not less than one Million (\$1) Dollars, for each occurrence, to cover any liability which owners of previously sold units are exposed to as a result of further condominium project development.

**ARTICLE VIII--MORTGAGEES, INSURERS' GUARANTORS:**

8.1 Notices. Any Owner who mortgages his Unit shall furnish the Association the name and address of such Mortgagee, and the Association shall maintain such information in a book entitled "Mortgages of Units". The Association shall provide timely written notice to such mortgagee of

- (a) Any condemnation or casualty loss that effects either a material portion of the Project or the Unit securing its mortgage;
- (b) Any sixty (60) day delinquency in the payment of assessments or charges owed by the Owner of any Unit on which it holds the mortgage;
- (c) A lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and

(d) Any proposed action that requires the consent of a specified percentage of eligible mortgage holders. In addition, any mortgage holder, insurer or guarantor of any Unit located within the Project shall be entitled to the information referred to in this paragraph upon presenting a written request for such to the Association, which request shall state the name, address and the Unit number or address of the Unit in which the mortgage holder, insurer or guarantor has an interest.

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8.2 Right to Examine. The Mortgagee shall have the right to examine the books and records of the Association upon request and to require annual reports of the financial status of the Association.

### **ARTICLE IX--ARCHITECTURAL CONTROL:**

9.1 Creation of Committee. No building, fence, wall or other structure shall be commenced, erected or maintained upon the Project, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Trustees of the Association, or by an Architectural Committee composed of three (3) or more representatives appointed by the said Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

### **ARTICLE X--RESTRICTIONS:**

10.1 Residential Use. Except as otherwise provided in Article II hereof, each building shall contain four (4) units, which units may be occupied or used by Owner(s), or by the tenants of any such Owner(s) as a dwelling unit and occupied by one family per Unit, provided, however, that to the extent such use is not prohibited by Orem City Ordinance, rule or regulation, a Unit may be occupied and used by family, or social guests of any such Owner or tenant.

10.2 Commercial Use. Except as otherwise provided in this Declaration, including paragraph 10.1 above, no part of the Development shall be used or caused, allowed or authorized to be used in any way, directly or indirectly for any business, commercial, manufacturing, mercantile, storing, vending, mineral extraction or other such non-residential purpose or Purposes.

10.3 Antennas and External Fixtures. No television or radio poles, antennas, flag poles, clothes lines, or other external fixtures other than those originally installed by Declarant or approved by the Association and any replacements, shall be constructed, erected or maintained on or within the Project or any structures within it. No wiring, insulation, air conditioning, or other machinery or equipment other than that originally installed by Declarant or approved by the Association, and their replacements, shall be constructed, erected or maintained on or within the Project, including any structures, within it.

10.4 Fences. No fences, awnings, sunshades or walls of any nature shall be erected or maintained on or around any portion of any structure or elsewhere within the Project except those that are installed in accordance with the original construction of the Project, and their replacements, or as are authorized and approved by the Association. No Owner shall make structural alterations or modifications to his Unit or any of the Common Areas or limited Common Areas, except as otherwise approved by the Association in writing. The Association shall not approve any alterations, decorations or modifications which would jeopardize or impair the soundness, safety or appearance of the Project. ENT43917 BK 2989 PG 437

10.5 Signs. No sign of any kind shall be displayed to the public view on or from any condominium or Unit or any other Portion of the Project without the approval of the Association, except such signs that may be used by the Declarant or its designees for a period of two years from the date of recordation of this Declaration for the purpose of developing, selling and improving condominiums within the Project. However, one sign of customary and reasonable dimensions advertising a Unit for sale or for rent may be placed within each Unit or within the Common Area immediately adjacent thereto by the Owner of such Unit, the location and size of such shall be subject to approval by the Association.

10.6 Offensive Conduct; Nuisances. No obnoxious or offensive activities, including but not limited to repair of automobiles or other motorized vehicles (other than emergency repairs), shall be carried on within the Project. Nothing shall be done or within the Project that may be or may become an annoyance or nuisances to the residence of the Project, or that in any way interferes with the quiet enjoyment of the occupants of the Units. Unless otherwise Permitted by the Association, no Owner shall (1) use power tools or maintain a hobby shop and/or (ii) serve food or beverages, cook, barbecue, or engage in similar activities, except within such Unit or Common Area appurtenant to such unit. No Owner shall store any dangerous explosive or inflammable materials either in his Unit or upon the Common Areas, or Permit anything to be done or keep or permit to be kept in his Unit or on the Common Areas anything that will increase the rate of insurance, or increase the possibility of danger or injury to any persons or to the Project.

10.7 Restricted Use of Recreational Vehicles. No boat, truck, trailer, camper, recreational vehicle or tent shall be used as a living area while located on or within the Project. However, trailers or temporary structures for use incidental to the initial construction of the Project or any subsequent construction thereto, or the initial sale of Units may be maintained within the Project, but shall be Promptly removed on completion of all initial construction and all initial sales.

10.8 Use of Common Areas. The Common Areas shall not be used for storage of supplies or personal property. Stairs, entrances, sidewalks, yards, driveways or parking areas shall not be obstructed in any way nor shall unauthorized persons use them for other than their intended purposes. In general, no activities shall be carried on nor condition maintained by any Owner either in his Unit or upon the Common Areas which despoils the appearance of the Project.

10.9 Animals. No animals, reptiles, rodents, birds, fish, livestock or poultry shall be kept in any condominium or Unit or elsewhere within the Project except that fish in aquariums,

birds inside bird cages, and one animal per unit, which animal may not have a weight in excess of twenty pounds (20#), may be kept as household pets in any unit, if (i) they are not kept, bred or raised for commercial purposes, and (ii) their maintenance is approved by the Association. The Association can Prohibit or modify this restriction on the maintenance of pets or any animal in the sole and exclusive opinion of the Association. Each person bringing or keeping a pet on the Project shall be liable pursuant to the laws of the State of Utah to other Owners, their family members, guests, invitees, tenants, and contract purchasers, and their respective family members, guests, and invitees for any damage to persons or property caused by any pet brought on or kept on the Project by such person or by members of his family, his guests or invitees.

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10.10 Trash Disposal. Trash, garbage or other waste shall be kept only in sanitary containers or receptacles, which containers or receptacles, unless otherwise directed by Orem City, shall be placed at the discretion of the Association. No Owner of a Unit or tenant thereof shall permit or cause any trash or refuse to be kept on any portion of the Project other than in the receptacles customarily used for it, which shall be located only in places specifically designed for such purpose or within the Owner's Unit (except on the scheduled day for trash pick-up).

10.11 Outside Drying and Laundering. No exterior clothes lines shall be erected or maintained and there shall be no exterior drying or laundering of clothes or other items of personal property on balconies, patios, porches, railings or other areas.

10.12 Structural Alterations. No structural alterations to the interior of any Unit shall be made and no plumbing or electrical work within any bearing or common walls shall be made by any Owner or permitted to be made, without the prior written consent of the Association.

10.13 Exterior Alterations. No Owner shall at his expense or otherwise make or permit to be made any alterations for modifications (including Painting) to the exterior of the buildings, or to Units, fences, railings, walls or landscaping situated within the Project without the prior written consent of the Association (who shall consider harmony with external design, color and location with the Project as a whole).

10.14 Limited Common Areas. Included in the Project shall be Limited Common Areas as described in paragraph 1.8 hereof. Notwithstanding any provision in this Declaration to the contrary, the Owner of each such Unit shall have an exclusive appurtenant easement to use such appurtenant Limited Common Area whether or not such is specifically described in the deed for such Unit. Each such area shall be subject to the terms of this Declaration. Each such Owner shall have the right to place furniture and potted plants upon his patio and balcony area, if any. Except as provided in this paragraph, nothing contained herein shall give any Owner the right to paint, decorate, remodel or alter said Limited Common Area without the prior written consent of the Association.

10.15 Parking Restrictions; Use of Parking Area. Unless otherwise permitted by the Association, no automobile, boat, trailer or recreational vehicle, camper, truck or commercial vehicle shall be parked or left on any street or any part of the Project other than in any parking area designated by the Association for the parking and storage of such vehicles,

including Limited Common Areas. However, parking by commercial vehicles for the purpose of making deliveries, shall be permitted in accordance with Association rules. Except with the written consent of the Association, no Owner shall park any where in the Development more motor vehicles than there are Parking spaces owned by or assigned to such Owner.

10.16 Compliance with Laws. Nothing shall be done or kept in any Unit or in the Development that might increase the rate of, or cause the cancellation of, insurance on the Project, or any portion of the Project, without the prior written consent of the Association. No Owner shall permit anything to be done or kept in his Unit that violates any permanent, law, ordinance, statute, rule or regulation of any local, county, state or federal body. No Owner shall allow any furniture, furnishings or other personal property belonging to such Owner to remain within any portion of the Project except in such Owner's Unit or exclusive use area and except as may otherwise may be permitted by the Association.

**ARTICLE XI--DEFAULT:** ENT439 17 BK 2989 PG 439

11.1 Definition. Failure of an Owner of any Tenant or Agent of any Owner to comply with any of the terms of this Declaration, the Articles of Incorporation or Bylaws of the Association or the duly adopted Rules and Regulations of the Association, shall constitute an event of default and shall be grounds for relief, which may include without limitation an action to recover sums due for damages and injunctive relief, any combination thereof, or any other right allowed by Utah law.

11.2 Remedies. Except as may be limited by law, in addition to all other remedies herein contained or as may be Provided by law, the Association may discontinue the furnishing of any services (excluding utilities) to an Owner who is in default of his obligations to the Association or other Owners as set forth herein upon thirty (30) days' written. Notice to such Owner and to any Mortgagee of such Owner s Unit of its intent to do so.

11.3 Costs. In any proceeding arising because of any alleged default by any Owner, the Association, if successful, shall be entitled to recover all amounts, allowed by law including the costs of the proceedings and reasonable attorneys' fees from such Owner.

11.4 No Waiver. The failure of the Association or of any Owner to enforce any right, provision, covenant or condition which may be granted by the Act, this Declaration, the Articles of Incorporation or Bylaws of the Association, or the Rules and Regulations, shall be deemed to be cumulative and the exercise of any one or more of such rights, remedies and privileges shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other additional rights, remedies or privileges, as may be available to such party at law or in equity.

**ARTICLE XII--GENERAL PROVISIONS:**

12.1 Association as Representative. The Association shall represent Unit owners (1) in any condemnation proceedings or in negotiations, settlements and agreements with any condemning authority for acquisition of the Common Areas or any part thereof; and (2) with respect to any insurance maintained by the Association pursuant to Article VII hereof. Each

owner hereby irrevocably names, constitutes and appoints the Association as his true and lawful attorney-in-fact for the purpose of allowing the Association to represent such owner in any such proceedings, negotiations, or insurance matters. ENT43917 BK 2989 PG 440

12.2 Limitations in Actions of Association. Except as provided by the Utah Condominium Ownership Act, in case of condemnation or substantial loss to the Units and/or Common Area of the Project, unless at least two-thirds (2/3) of the first mortgagees (based on one vote for each mortgage owned) or owners (other than Declarant) of the individual Units have given their prior written approval, the Association may not:

(a) By act or omission seek to abandon or terminate the Project;

(b) Change the pro rata interest or obligations of any Unit in order to levy assessments or charges, allocate distributions of hazard insurance proceeds or condemnation awards, or determine the pro rata share of ownership of each Unit in the Common Areas

(c) Partition or subdivide any Unit

(d) Seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Area by act or omission. The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Area as otherwise provided in this Declaration, shall not be considered a transfer for purposes of this Declaration;

(e) Use hazard insurance proceeds for losses to any Unit or to the Common Area for other than the repair, replacement or restriction of the Unit, or the Common Area.

Notwithstanding the foregoing, in the event of a taking or acquisition of part or all of the Common Areas by a condemning authority, or if the Project or a portion thereof is not sold but is instead taken, the award shall be distributed among the Owners and their respective Mortgagees pursuant to Utah Code Ann. S 57-8-32.5 (1985).

12.3 Acceptance or Governing Rules. The Association, all present or future Owners, tenants or future tenants, or any other persons using the facilities of the Project are subject to and shall comply with the Utah Condominium Ownership Act, this Declaration, the Articles of Incorporation and Bylaws of the Association, and the Rules and Regulations, and the acquisition, occupancy or rental of a Unit shall signify that all such documents are accepted and ratified. In the event of a conflict in any of the provisions of any such documents, the documents shall govern or control in the following order or preference: (a) the Utah Condominium Ownership Act; (b) this Declaration; (c) the Articles of Incorporation of the Association; (d) the Bylaws of the Association; and (e) the Rules and Regulations.

12.4 Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

12.5 Delivery of Notices. All notices or other documents required herein to be delivered by the Association or Owners may be delivered either personally or by mail. If delivered personally, same shall be deemed to have been delivered when actually received by the Owner or when left at the front door of his Unit. If mailed, the same shall be deemed delivered when deposited in the United States Mail addressed to the Owner at his address as it appears on the records of the Association with postage thereon prepaid.

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12.6 Severability. If any of the provisions of the Declaration or any paragraph, sentence, clause, phrase or work, or the application thereof in any circumstances shall be invalidated, such invalidity shall not affect the validity of the remainder of this Declaration, and the application of any provisions, paragraph, sentence, clause, phrase or work in any other circumstances shall not be affected thereby.

12.7 Covenants and Restrictions. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years.

12.8 Amendment. Owners shall have the right to amend this Declaration, the Articles of Incorporation of Boulevard Condominium Owners Association, and Bylaws of Boulevard Condominium Owners Association (the "Project Documents") as set forth herein. Amendments of a material nature must be agreed to by Owners representing at least sixty-seven percent (67%) of the total votes in the Association. In addition, approval must be obtained from eligible mortgage holders representing at least fifty-one percent (51%) of the votes of Unit estates that are subject to mortgages held by eligible holders.

12.9 Merger/Amendment. If Applicable, the Condominium regime may not be amended or merged with a successor condominium regime without prior written approval of the Administrator of the Department of Veterans Affairs and until the successor Condominium has been legally established and construction completed. Declarant may add phases to this expandable condominium as outlined hereinafter (refer to Article XIV below).

12.10 Material Changes. For purposes of this paragraph, a change to any of the following shall be considered material:

- (a) Voting Rights;
- (b) Assessments, assessment liens, or subordination of assessment liens;
- (c) Reserves for maintenance, repair and replacement of Common Areas;
- (d) Responsibility for maintenance and repairs;
- (e) Reallocation of interests in a general or Limited Common Areas, or rights to their use;
- (f) Boundaries of any Unit;



- (g) Convertibility of Units into Common Areas or vice versa;
- (h) Expansion or contraction of the Project, or the addition, annexation or withdrawal of property to or from the Project;
- (i) Insurance or fidelity bonds;
- (j) Amendment to the provisions governing the leasing or renting of Units;
- (k) The placing of any restriction on a Unit Owner's right to sale or transfer his or her Unit;
- (l) A decision by the Association to establish self management when professional management has been required previously by an eligible mortgage holder;
- (m) Restoration or repair of the Project (after a hazard damage or partial condemnation) in a manner other than that specified in the Project documents;
- (n) Any action to terminate the legal status of the Project after substantial destruction or condemnation occurs or any provision or provisions that expressly benefit mortgage holders, insurers or guarantors.

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Except as otherwise limited by Utah law, if the Owners desire to terminate the legal status of the Project for reasons other than substantial destruction or condemnation of the Property, the eligible mortgage holders representing at least sixty-seven percent (67%) of the votes of the mortgaged Units must agree.

In addition, an amendment to the project documents shall not be considered material if it is for the purpose of correcting technical errors, or for clarification only. The project documents may provide that an eligible mortgage holder who receives a written request to approve additions or amendments who does not delivery or post to the requesting part a negative response within thirty (30) days shall be deemed to have approved such request.

12.11 Paragraph Titles. Paragraph titles are used in this Declaration for convenience of reference and are not intended to limit, enlarge or change the meaning of the contents of the various paragraphs.

12.12 Lease; Rental. Notwithstanding any other provision of this Declaration to the contrary, no Owner may lease or rent a unit or enter an agreement to lease or rent a unit for a Period of less than thirty (30) days. Any such lease or rental agreement must be in writing and shall in all respects be subject to the requirements of the Project documents and the Association.

**ARTICLE XIII--RIGHTS AND RESPONSIBILITIES OF DECLARANT:**

13.1 Rights of Action. The Association and any aggrieved Owner shall have a right of action against Owners who fail to comply with the provisions of the Project documents, or

decisions or actions made or taken by the Association. Owners shall have the same right(s) of action against the Association.

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13.2 Easements; Voting Rights. Declarant is granted hereby an easement over the Common Areas for completion of improvements and for making repairs to improvements and for purposes of marketing unsold Units. As more fully set forth in Article IV hereof, Declarant shall retain voting rights for any unsold Units at the time and control of the Project is transferred to the Association.

13.3 Prior Contract. Declarant is hereby given the right to execute professional management contracts for the management of the Project prior to the transfer of control over the Project from Declarant to the Association, except that:

(a) Such professional management contracts may not be for a period exceeding two years;

(b) The Association is hereby given a right of termination of any such professional management contracts, with or without cause, which right of termination is exercisable without penalty of any kind at any time after transfer of control, upon not more than thirty (30) days prior written notice to the other party thereto.

13.4 Declarant Condominium Fees. Declarant is hereby granted an exclusion from payment of Condominium Fees for any and all undeveloped and/or unfinished additional land and/or improvements, including the proposed additional phases two through four and at no time shall it be construed that Declarant shall owe Condominium Fees for undeveloped and/or unfinished additional land and/or improvements, except that:

(a) Declarant shall participate in the payment of condominium fees, on a pro rata (percentage of completion) (as determined at the sole discretion of the General Contractor) basis, for units, in buildings under construction, which are owned by the Declarant, until the units are 100 percent complete.

(b) Upon one hundred percent (100%) completion of a unit, Declarant shall pay seventy-five (75%) of the monthly condominium fee assessment until the unit is sold.

#### **ARTICLE XIV--EXPANSION:**

14.1 Property Subjected/Reservation of Option to Expand. In accordance with Utah Code Ann. § 57-8-10(4) and the other applicable provisions of the Utah Condominium Ownership Act, Utah Code Ann. § 57-8-1 et seq., Declarant subjects the real property described in Exhibit "C," and incorporated herein by this reference, to the provisions of this Declaration and to the Utah Condominium Ownership Act. Declarant expressly reserves the option to expand the Project in the future by adding to the Project the real property described on Exhibits "D", "E", and "F" (the "Additional Land") attached hereto and incorporated herein by this reference, and to subject said Additional Land to the terms and provisions of this Declaration and to the Utah Condominium Ownership Act, Utah Code Ann. S 57-8-1 et seq.

Such Additional Land, if it is added, shall comprise Phase Two, phase three, and phase four of the Project.

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14.2 No Limitation on Option. Declarant's option to expand the Project shall not be subject to any limitations, including limitations regarding the right of Unit owners to consent to such expansion, except as otherwise provided by law.

14.3 Time Limit. Declarant shall have seven (7) years from the recordation of this Declaration or a period of six (6) years after the first Unit in Phase One of the Project has been conveyed to exercise his option to expand the Project.

14.4 Order of Adding Additional Land. Portions of the Additional Land may be added after the start of construction of the Project described in Exhibit "A", it being the intent of the Declarant to add all such Additional Land, if any, in increments known as phases as described in Exhibits "D", "E" and "F" and all at different times.

14.5 Location of Improvements. No assurances are made as to the locations of any improvements that may be made on any portions of the Additional Land added to the Project.

14.6 Number of Units/Undivided Interest in Common Areas. Phase One of the Project shall have a minimum of eight (8) Units, and each such Unit owner in Phase One shall have an undivided fractional interest as tenant-in-common to the Common Areas of the Project. If the Project is expanded by adding the Additional Land which would comprise Phase Two through Four of the Project, then the Project shall consist of a maximum of 36 Units, with each such Unit owner having an undivided fractional interest based upon the actual total number of Units in the Project as tenant-in-common to the Common Areas located within the Project as expanded. The maximum number of Units that may be created on the Additional Land is twenty-eight (28).

14.7 Residential Use. All land and floor areas of Units created on the Additional Land, if any, will be restricted exclusively to residential use.

14.8 Compatible Structures. Declarant contemplates that all structures to be erected on the Additional Land will be generally compatible with structures on the land in Phase One of the Project in terms of quality of construction, the principal materials to be used, and architectural style.

14.9 Other Improvements. Declarant makes no representation or assurances as to a description of other improvements, if any, to be made on the Additional Land, except as otherwise provided in this Article XIV.

14.10 Limited Common Areas. Any Units created on the Additional Land added to the Project will be substantially identical to the Units on the land originally within the Project.

14.11 Limited Common Areas. Declarant makes no assurances in regard to the creation of limited common areas and facilities within the Additional Land added to the Project.

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**ARTICLE XV--AVAILABILITY OF PROJECT DOCUMENTS:**

The Association shall at all times maintain current copies of the Declaration, Bylaws and rules concerning the Project as well as its own books, records and financial statements available for inspection by Owners or by holders, insurers and guarantors of first mortgages that are secured by Units in the Project. Such documents shall be available during normal business hours, or upon reasonable prior request. Any mortgage holder may prepare at its own expense and out of its statement for the proceeding fiscal year of the Association, and the Association shall provide such access as may be necessary for the preparation of such audited statement. In the event the Association chooses to have audited statements prepared, such audit statement shall be made available for inspection by such mortgage holder according to the terms and conditions of this paragraph.

IN WITNESS WHEREOF, Declarant has duly executed this Declaration the day and year first above written.

DECLARANT--THE BOULEVARD CONDOMINIUMS

Kirk D. Williamson  
Kirk D. Williamson

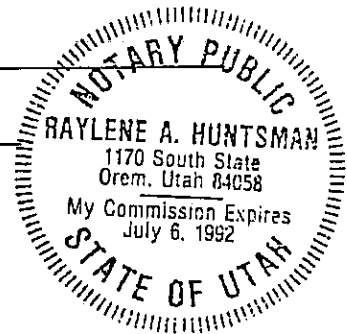
Jacqueline K. Williamson  
Jacqueline K. Williamson

SUBSCRIBED and sworn to before me this 25<sup>TH</sup> day of June, 1992.

Raylene A. Huntsman  
NOTARY PUBLIC

Address Orem, Utah

My Commission Expires 7-6-92



# EXHIBIT "B"

ENT43917 BK 2939 PG 446

## Entire Real Property

Beginning at a point in a fence line, said point being located North 280.22 feet and East 857.77 feet from the South Quarter Corner of Section 10, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence North 00 degrees 34'11" East along said fence line 412.07 feet to the Southerly boundary of Foxmoor Subdivision, Plat "E"; thence North 89 degrees 59'09" East along said Subdivision 149.36 feet to the Westerly boundary of Orem Boulevard; thence the following two courses along said Orem Boulevard: South 18 degrees 04'55" East 298.10 feet, and South 18 degrees 29'30" East 135.71 feet; thence West 289.02 feet to the point of beginning. (2.07 ACRES)

# EXHIBIT "C"

ENT43917 BK 2989 PG 447

## **PHASE ONE**

Plat "A" Buildings "A" & "B" The Boulevard Condominiums; commencing at a point which is North 280.22' and East 989.27' from the South 1/4 Cor. Sec. 10, T.6S, R.2E, Salt Lake Base & Meridian; thence as follows: North 89.00 feet; thence West 24.97 feet; thence North 44.00 feet; thence East 63.00 feet; thence North 20.00 feet; thence East 68.52 feet; thence S18 04'55"E 25.56 feet; thence S18 29'30"E 135.71 feet; thence West 157.52 feet to the point of beginning. (Contains 0.4712 Acres)

# EXHIBIT "D"

ENT43917 BK 2989 PG 448

## *PHASE TWO*

Plat "B" Buildings "D" & "E" The Boulevard Condominiums; commencing at a point which is North 280.22' and East 857.77' from the South 1/4 Cor. Sec. 10, T.6S, R.2E, Salt Lake Base & Meridian; thence as follows: N00 34'11"E 169.26 feet; thence S89 25'49"E 48.98 feet; thence; South 2.47 feet; thence S89 25'49"E 20.00 feet; thence S00 34'11"W 13.09 feet; thence East 45.00 feet; thence South 20.00 feet; thence West 9.00 feet; thence South 44.00 feet; thence East 24.97 feet; thence South 89.00 feet; thence East 131.50 feet to the point of beginning. (Contains 0.4507 acres)

# EXHIBIT "E"

ENT43917 BK 2989 PG 449

## **PHASE THREE**

Plat "C" Buildings "F" & "G" The Boulevard Condominiums; commencing at a point which is North 449.47' and East 859.43' from the South 1/4 Cor. Sec. 10, T.6S, R.2E, Salt Lake Base & Meridian; thence as follows: N00 34'11"E 99.00 feet; thence S89 25'49"E 49.00 feet; thence S00 34'11"W 74.47 feet; thence S89 25'49"E 20.00 feet; thence N00 34'11"E 15.91 feet; thence East 148.69 feet; thence S18 04' 55"W 58.91 feet; thence West 68.52 feet; thence South 20.00 feet; thence West 54.00 feet; thence North 20.00 feet; thence West 45.00 feet; thence N00 34'11" E 13.09 feet; thence N89 25'49"W 20.00 feet; thence North 2.47 feet; thence N89 25'49"W 48.98 feet to the point of beginning. (Contains 0.3518 acres)



# EXHIBIT "F"

ENT43917 BK 2989 PG 450

## **PHASE FOUR**

Plat "D" Buildings "H", "I", & "J" The Boulevard Condominiums; commencing at a point which is North 548.46' and East 860.44' from the South 1/4 Cor. Sec. 10, T.6S, R.2E, Salt Lake Base & Meridian; thence as follows: N00 34'11"E 143.81 feet; thence N89 59'09"W 149.36 feet; thence S18 04'54"W 213.64 feet; thence West 148.68 feet; thence S00 34'11" W 15.91 feet; thence N89 25'49"W 20.00 feet; thence N00 34'11"E 74.47 feet; thence N89 25;49"W 49.00 feet to the point of beginning. (Contains 0.7964 acres)