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County

650382

Cheri Brunvand

2001 APR 19 A 10:53
SUMMIT COUNTY RECORDER

**FARMER'S GROVE GOVERNMENTAL
COVENANTS AND AGREEMENTS**

LC
This Farmer's Grove Governmental Covenants and Agreements ("Governmental Covenants") is made and entered into at Breckenridge, Colorado, this 9TH day of April, 2001, by and between Farmers Grove, LLC, a Colorado limited liability company ("Owner"), the Farmer's Grove Association, a Colorado non-profit corporation ("Association"), the Town of Breckenridge, a Colorado municipal corporation ("Town"), and the Board of County Commissioners, Summit County, Colorado ("County"). The Town and the County are sometimes referred to collectively herein as "the Governmental Entities."

Recitals

- A. Owner is owner of record of the hereinafter described real property situate in the County of Summit and State of Colorado.
- B. Owner's predecessor, Hydraulic Links Company, LLC, heretofore entered into a Water Service Agreement with the Town dated October 15, 1999, which Water Service Agreement has been assigned to and assumed by Owner, pursuant to which Water Service Agreement the Town has agreed to sell treated water to Owner for use at the real property hereinafter described.
- C. It is a condition of the Water Service Agreement that the Owner create valid and enforceable covenants running with the land, enforceable by the Governmental Entities, which assure that the hereinafter described real property will be developed, sold, and maintained subject to various covenants and agreements pertaining to short term rentals, wood burning appliances, fencing, deck and patio restrictions, and landscape requirements.
- D. By Resolution No. 2000-28, the County approved a Preliminary Plat for 41 lots, consisting of 32 single family lots and 9 duplex lots, and 11 tracts for open space for the hereinafter described real property, which Resolution No. 2000-28 requires that the Owner create valid and enforceable covenants running with the land enforceable by the Governmental Entities, which assure that the hereinafter described real property will be developed, sold, and maintained subject to various covenants and agreements pertaining to short term rentals, wood burning appliances, fencing, deck and patio restrictions, and landscape requirements.
- E. Under these Governmental Covenants Owner intends, declares and covenants that the regulatory and restrictive covenants set forth herein governing the use and maintenance of the hereinafter described real property shall be and are covenants running with the land and are intended to be and shall be binding upon the Owner, the Association, and all subsequent owners of the hereinafter described real property for the stated term of these Governmental Covenants, unless and until these

Governmental Covenants are released and terminated by the Governmental Entities in the manner hereinafter described.

- F. The Association, of which all of the owners of Lots and Units constructed upon the hereinafter described property will be members and which is to have the responsibility for maintaining all of the general common elements and improvements pursuant to the terms of the Declaration of Covenants, Conditions and Restrictions of Farmer's Grove, is a non-profit Colorado corporation created and established by the Owner for the purposes set forth in said Declaration.

NOW, THEREFORE, in partial consideration of the agreement of the Town to provide treated water to the real property hereinafter described, and in partial consideration of the County's approval of the Final Subdivision Plat for the property, the sufficiency of which is hereby acknowledged by Owner and the Association, the Owner, the Association, the Town and the County, agree and covenant as follows:

1. Property Subject to Covenants. The real property which is to be subject to the provisions of these Restrictive Covenants is all of that real property depicted and described on the Subdivision Plat for Farmer's Grove Subdivision as recorded in the records of Summit County, Colorado, situated in Section 1, Township 6 South, Range 78 West of the 6th P.M., County of Summit, State of Colorado, and more particularly described in Exhibit A attached hereto and thereby incorporated herein, all of which is hereinafter referred to as "Property."

2. Short Term Rental Restriction. Owner hereby covenants and agrees with the Governmental Entities that no portion of the Property including, but not limited to, any and all Lots, residential units constructed thereon, or any portion thereof, shall be leased or rented to any person or entity for any period less than nine months in duration.

3. Open Space Requirement. Owner and the Association hereby covenant and agree with the Governmental Entities as follows:

(a) At least fifty percent of the Property, or 220,312 square feet, shall at all times be maintained as landscaped open areas in conformity with the requirements of the B-3 Zone.

(b) In the event that the Governmental Entities determine that the Owner or Association is in default hereunder, the Governmental Entities, or either of them, shall notify the Owner and the Association of such default in writing. Within thirty (30) days following receipt of such notice, the Owner and the Association shall correct such default, or, in the event of a default not capable of being corrected within thirty (30) days, the Owner and the Association shall contact the Governmental Entities and provide a timetable agreeable to such Governmental Entities to correct the default and, thereafter, correct the default with due diligence. If the Owner and the Association fail or refuse to correct any default as provided above, the Governmental Entities, or either of them, may enforce this Covenant as hereafter provided.

4. Height Restrictions. Owner and the Association agree and covenant that the maximum height of residential buildings shall be no more than 30 feet, above existing grade. Appendages such as chimneys, vents, and television or radio antennas, or architectural accents approved by the Upper Blue Planning Commission may exceed the height allowance by 10%.

5. Commercial Development or Use. At no time shall any commercial development or use be allowed upon the Property.

6. Wood Burning Appliance Prohibition. Owner hereby covenants and agrees with the Governmental Entities that no wood burning appliances shall be installed at or upon any portion of the Property including, but not limited to, any and all Lots, residential units constructed thereon, or any portion thereof. As used in this paragraph 6, the term "wood burning appliance" shall mean any appliance, including fireplaces, woodstoves, wood furnaces, and similar appliances, which utilizes the burning of wood for heating, cooking, or other similar purposes.

7. Fencing Restriction. Owner hereby covenants and agrees with the Governmental Entities that no fence or other similar structure shall be installed, constructed or maintained upon any portion of the Property, except for those fences meeting the following criteria:

(a) All fences shall be 36" or less in height;

(b) All fences shall be white picket fences of a common style and design as approved by the Farmer's Grove Association Design Review Committee;

(c) The area enclosed by a fence on any given Lot shall not exceed 250 square feet; and

(d) No fence or any portion thereof shall extend outside of the Building Envelope for such Lot as depicted and shown on the Subdivision Plat of Farmer's Grove as recorded in the records of Summit County, Colorado.

8. Deck and Patio Restrictions. Owner hereby covenants and agrees with the Governmental Entities that no deck, patio, or other similar structure shall be installed, constructed or maintained upon any portion of the Property, except for those decks and patios meeting the following criteria:

(a) All decks and/or patios shall be constructed so that the surface of such deck or patio is no greater than 18" above the finish grade over which such deck or patio is constructed;

(b) The total area of decks and patios on each Lot shall not exceed 250 square feet;

(c) No deck or patio shall be constructed on any Lot except at the rear of the residential structure existing on such Lot; and

(d) No deck or patio, or any portion thereof, shall extend outside of the Building Envelope for such Lot as depicted and shown on the Subdivision Plat of Farmer's Grove as recorded in the records of Summit County, Colorado. The terms "deck" and "patio" shall not include a covered front porch.

9. Common Landscaping. Owner and the Association hereby covenant and agree with the Governmental Entities as follows:

(a) The Association, of which all of the owners of Lots and residential units constructed on the Property will be members, and which is to have the responsibility for maintaining all of the general common elements and improvements located upon all common elements under and pursuant to the Declaration of Covenants, Conditions and Restrictions of Farmer's Grove to be filed by the Owner, at all times shall maintain the landscaping described upon the Landscape Plan recorded in the records of Summit County, Colorado, which is incorporated herein by reference. All landscaping to be maintained pursuant to this paragraph 9 shall at all times be served by an operable underground irrigation system.

(b) In the event that the Governmental Entities determine that the Association is in default hereunder as the result of any of the landscaping described in the Landscape Plan dying, being destroyed or being removed from the Property, the Governmental Entities, or either of them, shall notify the Association of such default in writing. Within thirty (30) days following receipt of such notice, the Association shall correct such default, or, in the event of a default not capable of being corrected within thirty (30) days, the Association shall contact the Governmental Entities and provide a timetable agreeable to such Governmental Entities to correct the default and, thereafter, correct the default with due diligence. If the Association fails or refuses to correct any default as provided above, the Governmental Entities, or either of them, may enforce this Covenant as hereafter provided.

10. Lot Landscaping. Owner hereby covenants and agrees with the Governmental Entities as follows:

(a) Owner and each subsequent owner of each Lot in Farmer's Grove shall plant no less than eight (8) trees upon such Lot within ten months after completion of the residential structure constructed thereon. All trees shall be served by an underground irrigation system and shall be maintained in a healthy manner. Any tree that dies must be immediately replaced. At least four of the trees shall be nursery grown quality evergreen trees at least 8' in height. The other four trees shall either be evergreen or cottonwood trees that meet the criteria of the preceding sentence or shall be aspen trees, however, if aspen, three aspen trees, at least 6' in height, shall count as one tree. The foregoing notwithstanding, five shrubs may be substituted for one of the required trees. If aspen trees are planted, they shall be planted in groupings. A sample Lot landscape plan is attached hereto as Exhibit B.

(b) All areas of each lot that lie outside of the Building Envelope as depicted upon the Subdivision Plat for Farmer's Grove, and those areas between the front and rear boundary of each lot and the paved street surface adjacent thereto, except driveways and parking areas, shall be landscaped with either seeded or sodded grass, by the owner of such lot, and maintained as described in this paragraph 7(b). Seeded or sodded yards shall consist of: (1) a lawn, to be mowed, made up of a Kentucky Bluegrass and Chewings Fescue mix; or (2) bunch type grasses, such as Sheep Fescue, Hard Fescue and Creeping Red Fescue, that may or may not be mowed. All grass areas required to be maintained by each owner pursuant to this paragraph 7(b) shall be served by an underground irrigation system.

(c) In the event the Governmental Entities determine that any owner is in default hereunder as the result of any of the landscaping described in this paragraph 7 dying, being destroyed, being removed, or being improperly maintained, the Governmental Entities, or either of them, shall notify the Owner of such default in writing. Within thirty (30) days following receipt of such notice, the said Owner shall correct such default or, in the event of a default not capable of being corrected within thirty (30) days, the Owner shall contact the Governmental Entities and provide a timetable agreeable to the Governmental Entities to correct the default and, thereafter, correct the default with due diligence. If the Owner fails or refuses to correct any default as provided above, the Governmental Entities, or either of them, may enforce this covenant as hereafter provided.

11. Architectural Standards. Owner and the Association hereby covenant and agree with the Governmental Entities that the Farmer's Grove Architectural and Development Standards, dated March 2, 2001, shall be enforceable by the Governmental Entities and shall not be amended without the written consent of both the Town and the County.

12. Remedies. These Governmental Covenants are made for the benefit of the Governmental Entities, which are given the sole power to enforce same. In the event of default by the Owner or Association hereunder, the Governmental Entities shall have the right of specific performance of this Covenant and the right to obtain from any court of competent jurisdiction a temporary restraining order, preliminary injunction and permanent mandatory injunction to obtain such performance.

13. Attorney's Fees. If any action is brought in a court of law by either party to these Governmental Covenants concerning the enforcement, interpretation or construction of these Governmental Covenants, the prevailing party, either at trial or upon appeal, shall be entitled to reasonable attorney fees, as well as court costs, including expert witness fees, incurred in the prosecution or defense of such action.

14. Recording. These Governmental Covenants shall be placed of record in the real property records of Summit County, Colorado and the covenants contained herein shall run with the land and shall bind and inure to the benefit of the Owner, the Association, their successors and assigns, and the Governmental Entities for a period of ninety-nine (99) years from the date of this Covenant.

15. Covenants Running With the Land. The Owner and Association hereby agree that any and all requirements of the laws of the State of Colorado to be satisfied in order for the provisions of these Governmental Covenants to constitute restrictive covenants running with the land shall be deemed to be satisfied in full, and that any requirements of privity of estate are intended to be satisfied, or, in the alternative, that an equitable servitude has been created to insure that the covenants herein contained shall run with the land. During the term of these Governmental Covenants, each and every contract, deed or other instrument hereafter executed conveying the Property or any portion thereof shall expressly provide that such conveyance is subject to these Governmental Covenants, provided, however, that the covenants herein contained shall survive and be effective as to successors and/or assigns of all or any portion of the Property, regardless of whether such contract, deed or other instrument hereafter executed conveying the Property or portion thereof provides that such conveyance is subject to these Governmental Covenants.

16. Waiver and Modification. The provisions of this Covenant may be waived, modified or terminated with the written consent of both the Association and the Governmental Entities. No such waiver, modification or termination shall be effective until the proper instrument in writing shall be executed and recorded in the office of the Clerk and Recorder of Summit County, Colorado.

IN WITNESS WHEREOF the parties have executed this document the date first written above.

OWNER:

FARMERS GROVE, LLC,
a Colorado limited liability company

By: 

Chris Peterson, Manager

Owner's Address:

P.O. Box 23217
Silverthorne, CO 80498

ASSOCIATION:

FARMER'S GROVE ASSOCIATION, a Colorado
non-profit corporation

By: 

Chris Peterson, President

Association's Address:

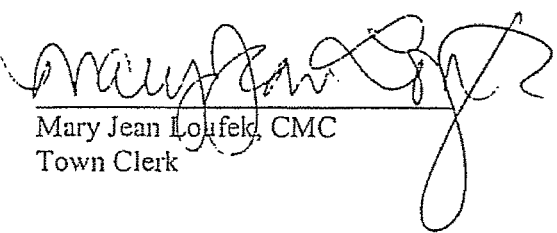
P.O. Box 23217
Silverthorne, CO 80498

TOWN OF BRECKENRIDGE, a Colorado
municipal corporation

By: 

Timothy J. Gagen, Town Manager

ATTEST:


Mary Jean Loufek, CMC
Town Clerk

Town's Address:

P. O. Box 168
Breckenridge, CO 80424

SUMMIT COUNTY BOARD OF COUNTY
COMMISSIONERS

By: 

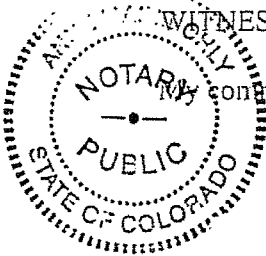
William C. Wallace, Chairman

County's Address:

P. O. Box 68
Frisco, CO 80443

STATE OF COLORADO)
) ss.
COUNTY OF SUMMIT)

The foregoing instrument was acknowledged before me this 11/15 day of April, 2001, by Chris Peterson, as Manager of Farmers Grove, LLC, a Colorado limited liability company.



WITNESS my hand and official seal.

My commission expires:

11/24/2001

Anne Marie Only
Notary Public

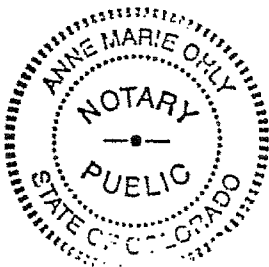
STATE OF COLORADO)
) ss.
COUNTY OF SUMMIT)

The foregoing instrument was acknowledged before me this 4/15 day of April, 2001, by Chris Peterson, as President of of Farmer's Grove Association, a Colorado non-profit corporation.

WITNESS my hand and official seal.

My commission expires:

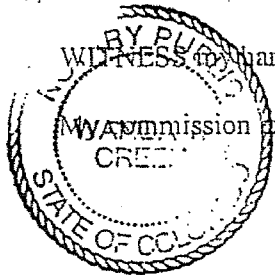
11/24/2001



Anne Marie Only
Notary Public

STATE OF COLORADO)
) ss.
COUNTY OF SUMMIT)

The foregoing instrument was acknowledged before me this 4th day of April, 2001, by Timothy J. Gagen, Town Manager, and Mary Jean Loufek, CMC, as Town Clerk, of the Town of Breckenridge, a Colorado municipal corporation. *(Damen's Grove Governmental Cov + Agn.)*



WITNESS my hand and official seal.

My commission expires: June 8, 2002

Wanda J. Green
Notary Public

STATE OF COLORADO)
) ss.
COUNTY OF SUMMIT)

The foregoing instrument was acknowledged before me this ____ day of _____, 2001, by William C. Wallace, as Chairman of the Board of County Commissioners for Summit County, Colorado.

WITNESS my hand and official seal.

My commission expires: _____

Notary Public

CONSENT AND SUBORDINATION AGREEMENT

The undersigned, being the holder of a lien encumbering the above described real property as described in Paragraph 1, above, hereby consents to the execution and recording of this Farmer's Grove Governmental Covenants and Agreements ("Governmental Covenant"), and further agrees that the lien or encumbrance owned or possessed by the undersigned against the above described real property shall be subordinated and made junior and subject to this Governmental Covenant. In the event of the foreclosure of the lien or encumbrance owned or possessed by the undersigned, this Governmental Covenant shall be treated as a prior and superior encumbrance, and any foreclosure sale shall be made subject to this Governmental Covenant.

LIENHOLDER:

COMMUNITY FIRST NATIONAL BANK

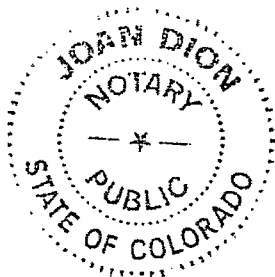
By: William Balhiser
William Balhiser, President

STATE OF COLORADO)
COUNTY OF SUMMIT) ss.

The foregoing instrument was acknowledged before me this 6 day of April, 2001, by William Balhiser, as President of Community First National Bank.

WITNESS my hand and official seal.

My commission expires: 4-6-02



Notary Public

EXHIBIT A

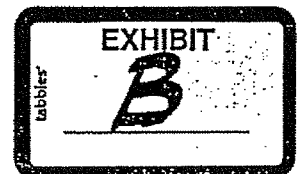
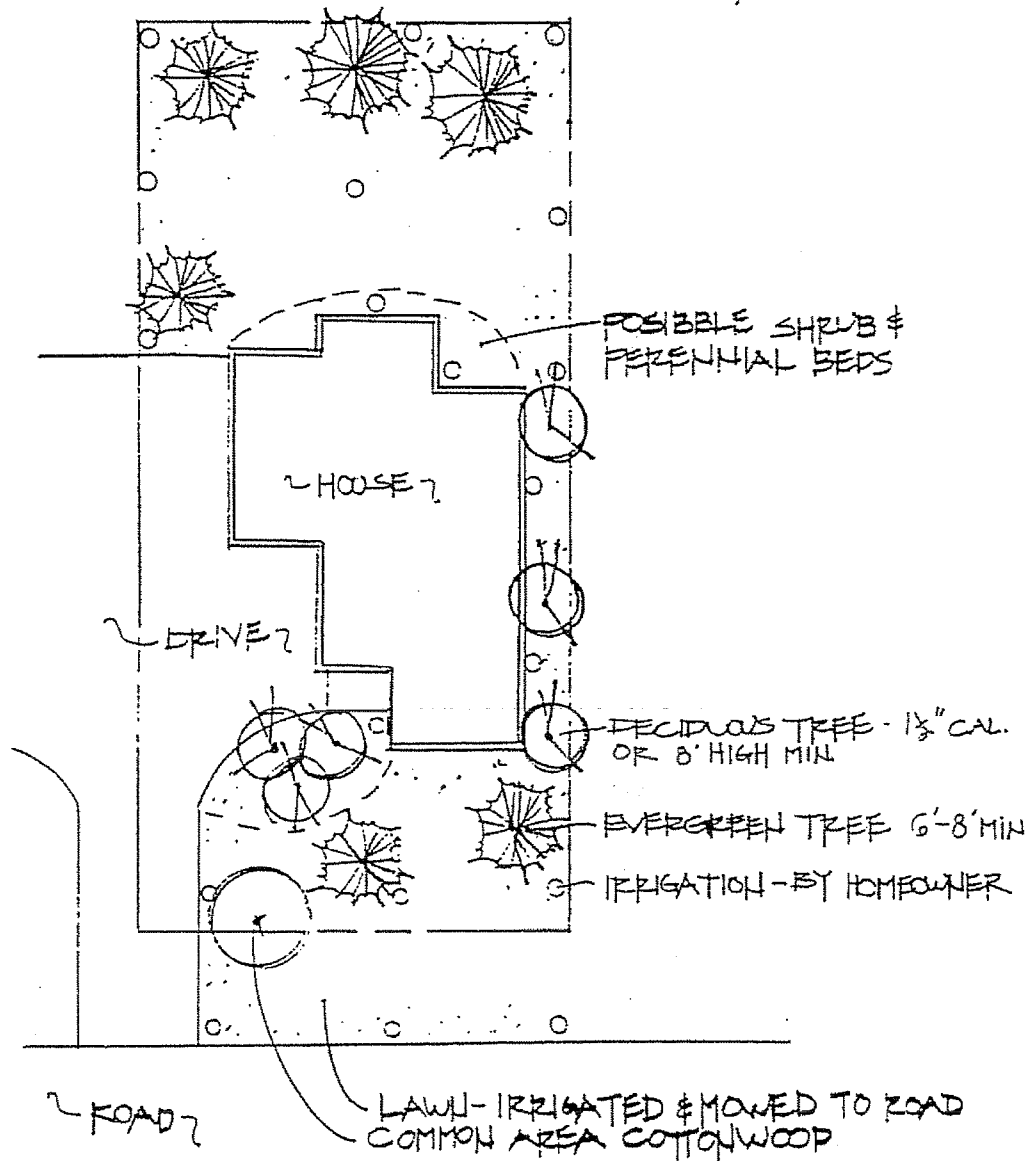
FARMER'S GROVE SUBDIVISION

LEGAL DESCRIPTION

A TRACT OF LAND SITUATE IN SECTION 1, TOWNSHIP 6 SOUTH, RANGE 78 WEST OF THE 6TH P.M., COUNTY OF SUMMIT, STATE OF COLORADO, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 1, T 6 S, R 78 W 6TH P.M.; THENCE N 10°02'10" W, 3555.31 FEET TO THE POINT OF BEGINNING; SAID POINT BEING IDENTICAL WITH THE NORTHWEST CORNER OF THE ALPENSEE SUBDIVISION, FILING NO. 3, A SUBDIVISION RECORDED SEPTEMBER 10, 1963 AT RECEPTION NUMBER 97401 IN THE SUMMIT COUNTY RECORDS; BEING ALSO A POINT ON THE EASTERLY LINE OF THE SUMMIT HIGH SCHOOL PROPERTY DESCRIBED IN THAT DEED RECORDED JANUARY 6, 1995 UNDER RECEPTION NUMBER 484033 IN THE SUMMIT COUNTY RECORDS; THENCE N 14°22'24" W, 672.30 FEET ALONG THE EASTERLY LINE OF SAID SUMMIT HIGH SCHOOL PROPERTY TO AN ANGLE POINT; THENCE CONTINUING ALONG SAID EASTERLY LINE OF SAID SUMMIT HIGH SCHOOL PROPERTY N 06°36'27" W, 263.24 FEET TO THE SOUTHWEST CORNER OF THAT PARCEL DESCRIBED IN DEED RECORDED UNDER RECEPTION NUMBER 531993 IN THE SUMMIT COUNTY RECORDS; THENCE N 83°23'33" E, 499.60 FEET ALONG THE SOUTHERLY LINE OF SAID PARCEL RECORDED AT RECEPTION NUMBER 531993 TO THE WESTERLY RIGHT OF WAY OF COLORADO STATE HIGHWAY 9; THENCE S 06°32'24" E, 267.00 FEET ALONG SAID WESTERLY RIGHT-OF-WAY; THENCE CONTINUING ALONG SAID WESTERLY RIGHT-OF-WAY S 11°56'37" E, 369.46 FEET; THENCE CONTINUING ALONG SAID WESTERLY RIGHT-OF-WAY S 13°56'39" E, 233.16 FEET TO A POINT ON THE NORTHERLY LINE OF SAID ALPENSEE III SUBDIVISION; THENCE S 75°46'04" W, 476.79 FEET ALONG THE NORTHERLY LINE OF SAID ALPENSEE SUBDIVISION FILING NO 3 TO THE POINT OF BEGINNING CONTAINING 440,623 SQUARE FEET OR 10.115 ACRES MORE OR LESS; IN SUMMIT COUNTY, COLORADO, UNDER THE NAME AND STYLE OF "FARMER'S GROVE" HAS LAID OUT, PLATTED AND SUBDIVIDED SAME AS SHOWN ON THIS PLAT, AND BY THESE PRESENTS DOES HEREBY DEDICATE TO THE COUNTY OF SUMMIT, STATE OF COLORADO, THE STREETS, ROADS AND OTHER PUBLIC AREAS AS SHOWN HEREON FOR USE AS SUCH AND HEREBY DEDICATE THOSE PORTIONS OF LAND LABELED AS UTILITY EASEMENTS TO THE COUNTY OF SUMMIT FOR USE BY UTILITY COMPANIES IN THE INSTALLATION AND MAINTENANCE OF UTILITY LINES AND FACILITIES. IT IS UNDERSTOOD THAT THE DEDICATION OF PUBLIC RIGHTS-OF-WAY FOR STREETS AND ROADS DOES NOT NECESSARILY RESULT IN ACCEPTANCE OF ROADS CONSTRUCTED THEREIN FOR MAINTENANCE BY THE COUNTY OF SUMMIT.

EXHIBIT A



FARMER'S GROVE

EXAMPLE - TYPICAL INDIVIDUAL LANDSCAPE

Amendment to Declaration of Covenants, Conditions and Restrictions of Farmer's Grove
11/1/06

Original Declaration 4/9/2001, filed with Summit County Recorder, Cheri Brunvand,
4/19/2001

Article VII, Section 7.10 Pets

Effective 11/1/06, households that are not occupied by the property owner will not be allowed to have dogs, cats or customary household pets. Tenants that have been part of the community prior to 11/1/2006 will be allowed to have pets according to the restrictions outlined in Section 7.11 of the Covenants and Restrictions of Farmers Grove.