

00227030 BK 00474 Pg 00732-00760
WASATCH CO RECORDER-ELIZABETH A PARDELL
2000 SEP 07 15:07 PH FEE \$76.00 BY MWD
REQUEST: GREENER HILLS ESTATES LLC

MAINTENANCE AGREEMENT
FOR
GREENERHILLS SUBDIVISION

AGREEMENT among Greener Hills Estates, L.L.C. and GREENERHILLS Homeowners Association, Inc., herein referred to as the "Developer" and the "Association", respectively, and Wasatch County, Utah, herein referred to as the "County".

WHEREAS the Developer owns certain real property in the unincorporated area of the County, which real property is more particularly described in documents relating to GREENERHILLS Subdivision and filed in the office of the Wasatch County Recorder; and

WHEREAS the Developer desires to establish on said real property a planned development (herein referred to as the "development") in conformity with the ordinances of the County, and also intends to provide for the benefit of subsequent owners certain open spaces, streets and other common facilities and services to be owned, maintained and operated by the Association; and

WHEREAS it is necessary and proper in connection with said development that an agreement be entered into among the Developer and the Association and the County for the purpose of guaranteeing the integrity, proper management and upkeep of the development and the furnishing of necessary services to subsequent owners, and for the further purpose of assuring that existing taxpayers are not burdened with the expenses of providing new residents with capital improvements and needed or desired services not common to the entire county or provided on a county-wide basis;

NOW, THEREFORE, in consideration of the necessary approvals, consents and authorizations to be given by the County for the purpose of allowing the Developer and Association to establish and operate said development, and for the purpose of complying with the ordinances of the County in such cases made and provided, the Developer and Association covenant and agree with the County, as hereinafter set forth.

Wherever in this agreement the County is referred to, it is understood that the reference is to the appropriate Board, Commission, department or person to whom authority shall have been delegated by law or ordinance or appropriate action of the Board of County Commissioners; and where no such delegation has been or can lawfully be made, the reference is to the Board of County Commissioners.

1. The County shall have no obligation to construct or provide capital improvements or extended services for said development which are not common to the entire county and which are not provided on a county-wide basis. The County shall have the right, however, to enter upon the premises of the development for inspection and for enforcement of all

applicable laws, ordinances, rules and regulations relating to the development, the operation of the development, the construction of improvements and their maintenance within the development, and the furnishing of all necessary services for the development.

2. The Developer agrees to construct and provide at its expense the following improvements for said development:

(a) The Developer shall establish a network of nature trails located on platted easements across the privately owned Lots. The trails shall be graded and improved to a level appropriate for recreational equine use. The trails shall be marked in an appropriate manner. The trails shall be subject to covenants and restrictions running with the land and of the following terms:

(1) Each lot owner in the development shall benefit from a nonexclusive easement for the use and enjoyment of the trails.

(2) No lot owner shall be permitted to make any improvement or erect any structure within the confines of the easement that interfere with the use and enjoyment of the easement by other lot owners.

(3) The GREENERHILLS Homeowners Association, Inc. shall be responsible for the maintenance of the trails. The Homeowners Association shall benefit from a nonexclusive easement on the trails for the purpose of maintenance.

(4) If Wasatch County or adjoining property owners establish a larger network of trails within the region, the GREENERHILLS Homeowners Association, Inc. shall permit the public to access the trail network. Under no circumstances shall motorized vehicles of any kind be permitted to use the easement. Nor shall the easement ever be improved beyond that necessary for recreational equine use, unless expressly approved by the Homeowners Association.

(b) All roadways, with necessary appurtenances, to equal or exceed County standards.

(c) A culinary water system supplying water to each lot to equal or exceed State and County standards.

(d) An irrigation water system supplying water to each lot to equal or exceed State and County standards.

(e) Fire protection facilities to equal or exceed State and County standards. The fire protection system shall be turned over to the Wasatch County Fire Protection District.

- (f) Drainage facilities to equal or exceed County standards.
- (g) Domestic sewage disposal facilities to equal or exceed County standards.
- (h) All other facilities and services as shown on the approved plans.

The Developer agrees that all construction in the development shall conform to the plans of said development and the documentation submitted to and approved by the County, and also to the requirements of all applicable laws, ordinances, rules and regulations promulgated by governmental authorities having jurisdiction.

Upon approval of the development by the County, and prior to the conveyance, sale or disposition by the Developer of any land or interest in land within the development, the Developer shall either complete all required improvements for the development or else furnish a corporate surety bond or other security satisfactory to the County, in an amount equal to 110 percent of the cost of construction, the same as estimated by the County, to assure the proper construction and completion of such improvements. Improvements shall be commenced within 180 days after approval of the preliminary plan of the development, and shall be completed within two years unless an extension is granted as provided by the ordinances of the County, in which case any bond or security shall also be extended.

3. The Developer agrees to acquire access to culinary water rights not less than the amount of culinary water per day to each lot as required to meet the standards of the State and County Health Departments, whichever standard is greater. The Developer shall transfer such rights to the Twin Creek Special Services District. The Developer also agrees to install the infrastructure to distribute culinary water throughout the Development to each numbered Lot. The Parties further agree that no charge for the same, other than the sale price of the lot, shall be made by the Developer to either the owner or occupant of said lot or the Association.

The Developer further agrees to acquire access to one acre-foot of irrigation water rights to service each lot. The irrigation water rights shall be held jointly by the Lot owner and Wasatch County. The Developer also agrees to install the infrastructure to distribute irrigation water throughout the Development. The Parties further agree that no charge for the same, other than the sale price of the lot, shall be made by the Developer to either the owner or occupant of said lot or the Association.

4. The Developer represents and declares that there shall be no fees or charges to Owners in order for Owners to have full, use and enjoyment of their property or the common areas or facilities within the development, except that the Association may make a reasonable charge, by assessment or otherwise, charge, the use of services and facilities provided for occupants of the development, or which may be necessary for the operation and maintenance thereof. However, the Association may contract with the Developer for services such as, but not limited to, snow removal and landscape maintenance.

Furthermore, the Developer and the Association may jointly contract for services from third parties, provided that the cost of services is shared equitably.

5. Prior to the conveyance, sale or other disposition of any lot within the development, and before the right to possession of any lot is transferred to any person, the Developer will convey to and transfer control of all roadways, the culinary water distribution system and all other common areas or facilities to the association, without charge or the assumption of any obligation for the cost of construction of improvements thereon or thereto and free and clear of all monetary liens and encumbrances. Water rights will be transferred as explained in paragraph 3.

6. The Association will be duly incorporated and fully organized as a non-profit corporation under the laws of the State of Utah in accordance with the documentation heretofore submitted to and approved by the County for such purpose.

7. The Association shall furnish and provide at its expense maintenance and services as follows:

- (a) Maintenance of the nature trails established by the Developer and shown on the GREENERHILLS Plat.
- (b) All necessary maintenance and improvements for roadways and their appurtenances to meet County standards and conditions.
- (c) All routine maintenance for drainage facilities necessary to meet County standards and conditions.
- (d) All necessary and routine maintenance for the culinary and irrigation water distribution systems.

8. For the purpose of providing funds for the operation and maintenance of the development and the furnishing of necessary services to the occupants thereof, the Developer and the Association shall require an annual assessment to be made on each lot, and may also provide for special assessments for capital improvements which the Association may desire to make. The annual assessments, together with interest, costs and reasonable 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. Each such assessment, together with interest, costs and reasonable attorney's 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 assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the development, and for the improvement and maintenance of the common areas and facilities, and for the furnishing of all, required services thereto. The annual assessments shall be fixed at a uniform rate for all lots, except where it can be shown that additional services will be needed to serve one or more lots as a matter of equity. If assessments are not paid, the

Association shall bring an action at law against the owner personally obligated to pay the same, or shall foreclose the lien against the property assessed. No owner of any lot may waive or otherwise escape liability for the assessment by non-use of the common area or facilities or the abandonment of his lot, except for lots which may be owned by the public.

9. To provide a means of paying for the necessary services to or maintenance of the services enumerated in paragraph 7 herein an impound account shall be established by depositing ten percent (10 %) of the Association's annual assessment on each lot to such an account until there has been deposited a total sum equal to the amount resulting from multiplying the number of lots or dwelling units (whichever is greater) approved for such development by two hundred dollars (\$200). Thereafter no funds need be deposited until funds from the account have been expended as set forth below, whereupon funds from said 10% of the annual assessment shall again be deposited until the account has again reached the required sum. It is the intention of this provision to require said account to be maintained at the required sum determined by the above formula.

The County shall not have the right to draw upon said impound account unless the County Commission determines that the Association's failure to maintain the above-described systems and facilities after 30 days reasonable written notice to the Association to correct the problem. If the Association fails after such reasonable opportunity to take the required actions, the County may then (but shall have no obligation to) do so and defray the cost thereof with funds from the impound account. In the alternative to taking such actions, the County may initiate an action in Court to enforce the Association's obligations hereunder and defray the costs of such action, including the Costs of technical services and reasonable attorney's fees from the impound account. In addition, the County shall be entitled to recover reasonable attorney's fees and costs (whether incurred before or after settlement or judgment) expended in enforcing any part of this agreement. No person or entity other than the County shall have the right to draw against the impound account.

The impound funds shall be deposited in an interest bearing account with who may charge a reasonable fee from the account. Payments by the Association to the account of that portion of the annual assessments above required shall be made monthly (or such other approved period as assessments are payable) within thirty days after collection by the Association. The County shall have the right to audit the Association's assessment records upon reasonable notice, for the purpose of verifying the accuracy of the amounts remitted to the account; and the Association shall have the right to audit the Impound account and disbursements made therefrom upon reasonable notice. All income produced by the impound account shall belong to the Association, but shall remain in and become part of the account at all times when the total amount deposited therein is less than the required sum. All income to the account which may cause it to exceed the required sum shall be paid over to the Association. The remedies of the County described in this section 9 are not exclusive, but in the alternative to and cumulative with all other equitable and legal remedies which the County may pursue for breach of this agreement under all applicable statutes, ordinances, rules and regulations.

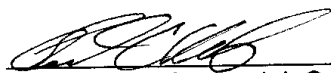
10. The Developer and the Association agree to establish and record in the office of the County Recorder prior to any conveyance, sale, transfer, disposition or creation of any interest in or encumbrance on the land of the development a declaration of covenants, conditions, restrictions and management policies which shall have first been submitted to and approved by the County. Said covenants, conditions, restrictions and management policies shall run with the land and shall be binding upon all parties and persons residing on the land or claiming any ownership or Interest in the premises under or through the Developer. All of the covenants and provisions of this agreement, and such provisions as the development code of the County require to be set forth in such declaration, shall be set forth in and made a part of said declaration of covenants, conditions, restrictions and management policies, together with such other provisions as the Developer and Association deem necessary for their purposes. Among other required restrictions, said declaration shall provide that no lot within the development shall be used for human occupancy, either temporarily or permanently, except during a reasonable period for construction, until culinary water and sewage and waste disposal facilities approved by the County are provided and available for use on said lot; and thereafter, no such lot shall be used for human occupancy at any time the culinary water or sewage and waste disposal facilities are not in compliance with the statutes of the state of Utah, ordinances of the County, and rules and regulations promulgated thereunder.

11. At the request of the County, the Association agrees to enforce all covenants, conditions, restrictions and management policies set forth in said Declaration and recorded in the office of the County Recorder. Upon failure of the Association to enforce said covenants, conditions, restrictions and management policies, the County may cause suit to be brought against the Association for the purpose of requiring it to enforce the same or bring and prosecute a suit in the name of the Association for the purpose of enforcing said covenants, conditions, restrictions, and management policies.

12. If any part or provision of this agreement shall be adjudged unconstitutional, invalid or unenforceable by a court of competent jurisdiction, then such adjudgment shall not affect any other part or provision of this agreement, except that part or provision so adjudged to be unconstitutional, invalid, or unenforceable.

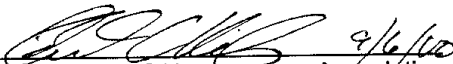
IN WITNESS WHEREOF, the parties to this agreement have caused the same to be executed by their proper officers thereunto duly authorized this 6th day of ~~August~~ September, 2000.

ATTEST:


Greener Hills Estates, L.L.C.
By Brent C. Hill, Managing Member

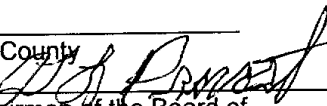
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ATTEST:

 9/6/10
GREENERHILLS Homeowners Association, Inc.
By Brent C. Hill, Incorporator

ATTEST:

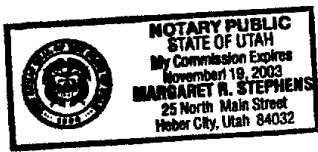
County Clerk
Add proper acknowledgment

Wasatch County
By 
Chairman of the Board of
County Commissioners

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State of Utah)
)ss.
County of Wasatch)

The foregoing instrument was acknowledged before me on the 6 day of September, 2000,
by Brent Hill as President & Managing ^{member} of Greener Hills
Development LLC, and Greener Hills Homeowner's Association, Inc..



Margaret R. Stephens
Notary Public

25 North Main, Heber City, Utah 84032
Residing at:

My commission expires: 11/19/03

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ALL OF LOTS 1-51, GREENERHILLS SUBDIVISION, according to the Official Plat thereof, recorded in the office of the Wasatch County Recorder.

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