

November 20, 2006

When Recorded, Please Return to:

Morgan County  
Attention: County Attorney  
48 West Young Street  
Morgan, Utah 84050

Ent 105900 Bk 241 Pg 2  
Date: 05-JAN-2007 12:01PM  
Fee: \$197.00 Check  
Filed By: BDN  
BRENDA NELSON, Recorder  
MORGAN COUNTY  
For: ROLLINS RANCH LLC

DEVELOPMENT AGREEMENT  
FOR ROLLINS RANCH,  
MORGAN COUNTY, UTAH

**THIS DEVELOPMENT AGREEMENT FOR ROLLINS RANCH, MORGAN COUNTY, UTAH** (this "**Agreement**") is entered into as of this 20<sup>th</sup> day of November, 2006, by and between ROLLINS RANCH, L.L.C., a Utah limited liability company ("**Developer**"), and MORGAN COUNTY, a political subdivision of the State of Utah, by and through its County Council (the "**County**").

**RECITALS:**

A. Developer owns or has the contractual right to acquire approximately 249 acres of land, located in Morgan County, Utah, more particularly described on Exhibit "A" attached hereto and made a part hereof (the "**Property**"), on which Developer has proposed the development of a master planned community in accordance with the site plans attached hereto as "Exhibit "B" (the "**Site Plan**").

B. Pursuant to a duly noticed public hearings on May 14, 2005 and August 11, 2005, the County's Planning Commission voted to recommend to the County Council that the Property be rezoned from A-20 and MU-160 to RR-1 and RR-5.

C. Pursuant to a duly noticed public hearings on June 14, 2005 and September 6, 2005, the County Council considered and adopted the recommendation of the County's Planning Commission and the Property was rezoned from A-20 and MU-160 to RR-1 and RR-5 (the "**Zone Change**").

D. Pursuant to the County's Land Use Management Code Chapter 48 (the "**PRUD Ordinance**") the Developer submitted to the County, and after appropriate public hearings the [Concept Plan] attached hereto as "Exhibit "C" and made a part hereof (the "**Concept Plan**"), and the County has approved the Concept Plan.

E. The County has required that Developer and County negotiate and adopt a development agreement which advances the policies, goals and objectives of the Morgan County General Plan (the "**General Plan**"), the Morgan County Land Use Management Code (the "**Land Use Code**") and the PRUD Ordinance, and contributes to capital improvements, business growth, and development which substantially benefit the County.

F. Developer will design and develop the Property in order to harmonize the use of the Property in accordance with the objectives of the General Plan, the PRUD Ordinance and the Land Use Code to promote the long-range County development objectives and policies.

G. Developer and the County desire to address specific planning issues as set forth below and in the exhibits hereto and to clarify certain standards that will be applied in connection with the development of the Property.

H. The execution of this Agreement has been affirmatively recommended by the County Planning Commission and approved by the County Council based on specific findings of fact that the development of the Property in accordance with this Agreement, the Site Plan and the PRUD Ordinance is consistent with the goals, policies and objectives of the General Plan and is in harmony with the community character and that the use of the Property as contemplated by this Agreement, the Site Plan, the General Plan and the PRUD Ordinance and thereby is essential to the enjoyment of a substantial property right possessed by other property in the same district.

I. The County, acting pursuant to its authority under Utah Code Ann. (the "**Utah Code**") § 17-27a-101, et seq., the PRUD Ordinance, and in furtherance of its land use policies, goals, objectives, ordinances, resolutions, and regulations, has made certain determinations with respect to the Property, and, in the exercise of its administrative powers, has elected to approve this Agreement and the Site Plan, including, without limitation, the density and use standards set forth herein and therein, on this the 20<sup>th</sup> day of November, 2006.

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions hereinafter to be fully kept and performed, the parties hereby agree as follows:

1. **Zoning, Construction Drawings, and Plat Approval.**

1.1. **Re-Zoning of the Property.**

1.1.1. The County has amended the General Plan and the County's zoning maps to reflect the Zone Change, it being agreed by the County that all necessary public hearings necessary for the implementation of the Zone Change have been accomplished prior to the date hereto. The County Council, after holding all necessary public hearings, has adopted the Concept Plan.

1.1.2. This Agreement supplements, and to the extent of any inconsistencies, modifies the Concept Plan. To the extent of any inconsistencies

between the terms of this Agreement and the Concept Plan, this Agreement shall control. The County Council, after holding all necessary public hearings, has adopted this Agreement.

1.2. Planning Commission Preliminary Plat Approval.

1.2.1. Prior to commencing construction the Property, and simultaneously with the submission of this Agreement, Developer shall submit a preliminary plat, the Declaration, construction drawings and specifications (each, as may be subsequently amended from time to time in accordance with the provisions of this Agreement, a "Plat") and all required submittals (cost estimates, surety, title report, will serves, drainage etc.) for the Property to the County Planning Commission. Each Plat submitted to the County Planning Commission shall comply with all technical requirements of the Land Use Code and subdivision ordinances and all applicable federal, state and local laws, rules, regulations and ordinances. Developer shall pay fees for each Plat as are generally required by the County at the time of the submission of the Plat to the County Planning Commission. Timing of said submission and review by County Staff prior to the Planning Commission shall be in accordance with the adopted Planning Department submittal deadline policy.

1.2.2. The County Planning Commission shall review the Plat and all required submittals (cost estimates, surety, title report, will serves, drainage etc.) associated with the applicable Phase for completeness, and conformity with this Agreement and the Concept Plan (as amended by this Agreement). To the extent that such Plat is complete and consistent with the Concept Plan (as amended by this Agreement), this Agreement and all applicable federal, state and local laws, rules, regulations and ordinances, the County Planning Commission shall make a recommendation to the County Council for the approval of such Plat. The County Planning Commission shall hold all duly noticed public hearings required for the approval of such Plat under the Utah Code, the PRUD Ordinance, the Land Use Code and other County ordinances, as applicable; provided, however, nothing herein shall prevent the County Planning Commission in its discretion from holding any public hearings not required by applicable law. In the event the County Planning Commission determines that such Plat is not complete and consistent with the Concept Plan (as amended by this Agreement, all applicable federal, state and local laws, rules, regulations and ordinances and this Agreement, the County Planning Commission will provide Developer with a reasonably detailed description of any such inconsistencies, in which case Developer shall revise such Plat to remediate any such inconsistencies and resubmit such Plat to the County Planning Commission for approval pursuant to the process set forth above.

1.3. County Council Preliminary Approval of Plat. Following the recommendation from the County Planning Commission that a Plat be approved by the County Council pursuant to Section 1.2 above, such Plat shall be submitted to the County Council for approval. Developer shall be entitled to approval of the Plat provided that the Plat is complete and complies with this Agreement, Concept Plan (as amended by this Agreement) and all applicable federal, state and local laws, rules, regulations and ordinances. The County Council shall review the Plat for completeness, and conformity with this Agreement, all applicable federal, state and local laws, rules, regulations and ordinances and the Concept Plan (as amended by this Agreement). To the extent that such Plat is complete and consistent with the Concept Plan (as amended by this Agreement), this Agreement, the Land Use Code, and all applicable federal, state and local laws and ordinances, the County Council shall approve the Plat. The County Council shall hold all duly noticed public hearings required for the approval of such Plat under the Utah Code and the PRUD Ordinance, the Land Use Code and other applicable County ordinances; provided, however, nothing herein shall prevent the County Planning Commission in its discretion from holding any public hearings not required by applicable law. In the event the County Council determines that the Plat is not consistent with the Concept Plan (as amended by this Agreement) and this Agreement, the County Council will provide Developer with a reasonably detailed description of any such inconsistencies, in which case Developer shall revise such Plat to remediate any such inconsistencies and resubmit such Plat to the County Council for approval pursuant to the process set forth above.

1.4. Final Plat Approval. Following the preliminary approval of the Plat by the County Council pursuant to Section 1.3 above, the County Council shall authorize Developer to submit a final Plat to the County Staff for review. The County Staff shall review a paper Plat for completeness and conformance to the preliminary approval of the Plat (including any conditions for approval) pursuant to the provisions of Section 1.3 above. If such Plat is complete and conforms to the preliminary approval, the County Staff shall authorize Developer to submit a mylar copy of the final Plat for approval. Developer shall be responsible for obtaining all required signatures on the mylar with the exception of the County Planning Commission and County Council. The signed mylar shall be placed on the agenda of the County Planning Commission for review, approval and signature. Following receipt of the final Plat signature from the County Planning Commission, the County Staff shall place the mylar and final Overlay Ordinance on the agenda for the County Council for signature and adoption. The final Plat will then be released to the Developer for recordation.

1.5. Building Permits. Following the recordation of the final Plat, Developer is hereby authorized to sell lots in accordance with State and local law. The County Staff will issue building permits in accordance with this Agreement, the Declaration, the Land Use Code and applicable federal, state and local laws, rules, regulations and ordinances. Building permits shall only be issued when required infrastructure for the applicable Plat has been installed and inspected and approved by the County Engineer, which approval shall be limited to confirming that such infrastructure is completed in accordance with this

Agreement, Declaration, the Land Use Code and applicable federal, state and local laws, rules, regulations and ordinances. No permit shall be issued unless proof of approval from the architectural committee has been submitted to the County.

2. **Approved Use, Density, General Configuration, and Development Standards Affecting the Rollins Ranch.**

2.1. Property Affected by this Agreement. The legal description of the Property contained within or that may be contained within boundaries of the development to be known as Rollins Ranch is attached and specifically described in Exhibit "A". No additional property may be added to this description for purposes of this Agreement except by written amendment to this Agreement executed and approved by the parties hereto.

2.2. Approved Use, Density, and General Configuration. The approved use, density, and general configuration for the Property are set forth in "Exhibit "D"" attached hereto and made a part hereof.

2.3. Declaration of Covenants, Conditions and Restrictions. Upon the recording of a Plat, Developer shall record the covenants and restrictions with respect to the Rollins Ranch substantially in the form of "Exhibit "E"" which are on file in the Community Development Office (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "**Declaration**"). The County may not condition its approval of the Plat on the inclusion of more restrictive development standards than those set forth in the Declaration except as required under applicable federal, state and local laws, rules, regulations and ordinances, or upon finding of compelling public interest related to public health, safety and welfare. The entire Property shall be subject to the Declaration, but the Declaration shall establish two (2) neighborhoods (each a "**Neighborhood**") within the Property. Each Neighborhood is generally depicted on "Exhibit "F"" attached hereto and made a part hereof. The development and construction of the Property shall proceed pursuant to and consistent with the Declaration. The Declaration shall establish a single home owner's association for the Property (the "**HOA**"), which HOA shall be responsible for the maintenance of the Common Areas (as such term is defined in the Declaration). At such time as Developer submits the Plat, Developer shall prepare a budget for the HOA showing the costs and expenses expected to be incurred by the HOA during the next succeeding three (3) year period (the "**HOA Budget**"). During the period that Developer controls the HOA pursuant to the provisions of the Declaration, Developer shall contribute such amounts to the HOA as are necessary for the HOA to meet its obligations under HOA Budget (taking into account any amounts assessed against lots subject to the Declaration and owned by third parties). From and after the date that Developer relinquishes control (when 75% of the homes are occupied) of the HOA pursuant to the Declaration, Developer shall only be required to pay to the HOA such amounts as are assessed by the HOA in accordance with the Declaration

against the residential lots owned by Developer. In no event shall the County be responsible or liable for the enforcement of the Declaration.

2.4. Open Space. In connection with development of the Property, Developer shall preserve a portion of the Property as open space. The location of, and the portion of, the Property to be preserved as improved open space and natural open space shall be as set forth "Exhibit "G" attached hereto and made a part hereof (the "**Open Space Plan**"). The open spaces shall be shown on the Plat. The open space shall be maintained and owned in accordance with the Concept Plan (as amended by this Agreement) and the Plat.

2.4.1. Parks. Those portions of the open space which are to be developed as parks, shall be developed by Developer substantially in accordance with the plans shown on "Exhibit "H" attached hereto and made a part hereof. Each park shall be developed in connection with the Neighborhood in which such park is located. The parks shall be owned by the HOA and, except as provided below, shall be limited to the use of the members and guests of the HOA. So long as the Developer and HOA, as applicable, are afforded the same or greater limitations on liability as set forth in the Utah Code § 57-14-101, et seq., such parks shall be open to the general public. Upon the filing of the Plat, Developer shall convey to the HOA each of the parks to be maintained by the HOA.

2.4.2. Trails. Those portions of the open space which are to be developed as public trails shall be developed by Developer substantially as set forth in "Exhibit "I" attached hereto and made a part hereof (the "**Trail Plans**"). The trails shown in the Trail Plans shall be developed in connection with the development of the Neighborhood in which such trails are located. In connection with the development of such trails, Developer shall grant to the County a public easement for the use of all paved trails. The County shall own the improvements on the paved trails, but only retains an easement on the underlying real property. The County shall maintain the paved trails and parkways; provided, however, in lieu of removing snow and ice from the trails during the winter, the County may elect to temporarily close the trails which the County is required to maintain during the periods which snow or ice is covering such trails. The HOA shall be responsible for maintaining the open space surrounding the trails and all unpaved trails. The trails maintained by the County shall be open for the use and enjoyment by the general public. The trails maintained by the HOA and, except as provided below, shall be limited to the use and enjoyment of the members of the HOA and their guests. So long as the Developer and the HOA, as applicable, are afforded the same or greater limitations on liability as set forth in the Utah Code § 57-14-101, et seq., the trails maintained by the HOA shall be open to the general public. Any gates within the Property shall not unreasonably prevent the general public from accessing those trails and parkways which are open to the general public.

2.4.3. Native Open Space. Those portions of the open space which are not being improved by Developer and are to remain as native open space are shown on the Open Space Plan. The HOA shall own such native open space and shall be responsible for the maintenance thereof. The ownership and maintenance requirements for the native open space are outlined on "Exhibit "J"" attached hereto and made a part hereof. The native open space shall be conveyed to the HOA at the time of the filing of the Plat.

2.5. Height Restrictions. Except as provided below, each residential unit shall not exceed a height of thirty-five feet (35') measured from the lowest finished grade elevation to the ridge line of such unit.

2.6. Air Quality. All residential housing shall comply with air quality control standards set forth on "Exhibit "K"" attached hereto and made a part hereof, and with the air quality restrictions, if any, set forth in the Declaration.

2.7. Night Sky. The development of the Property shall at all times comply with the night sky provisions set forth on "Exhibit "L"" attached hereto and made a part hereof, including both public street lighting and private dwelling lighting and the applicable provisions of the Land Use Code. Such restrictions shall also be incorporated into the Declaration.

2.8. Architectural Guidelines. During the development of the Property, Developer shall comply with all architectural guidelines set forth in the Declaration and the provisions set forth on "Exhibit "M"" attached hereto and made a part hereof.

2.9. Proximity to Airport. Each Plat shall contain an aviation easement in favor of Morgan County Airport for the free and unrestricted passage of aircraft of any and all kinds for the purpose of transporting persons or property through the air, in, through, across and about the airspace over the Property. Such easement shall grant the right of flight for the passage of aircraft in airspace, together with the right to cause or create, or allow to be caused or created, such annoyances as may be inherent in, or may arise or occur from or during the operation of, aircraft in compliance with all federal, state or local aviation laws, regulations and ordinances, and other aeronautical activities therein. Further, lot owners within the Rollins Ranch agree to release and hold County harmless for accidents, damages and nuisances related to such use of said aviation easement.

2.10. Browning Agreement. Developer shall enter into an agreement with Browning ("Browning"), pursuant to which Developer shall agree to (a) construct a fence which is not less than six feet (6') high, and otherwise complies with the Declaration, between the Property and the neighboring land owned by Browning (the "Browning Property"), (b) landscape the area between the Property and the Browning Property with trees, (c) post appropriate signage on the Property warning of the potential gun hazard dangers of trespassing on Browning Property, and (d) each Plat submitted to the County

Planning Commission shall specifically acknowledge the existence of the gun range on the neighboring Browning Property, which shall be described as follows: "Browning Arms operates a fire arms test range on nearby property and periodic gun fire will be audible within the boundaries of the Property".

3. **Vested Rights and Reserved Legislative Powers.**

3.1. **Vested Rights.** Subject to Sections 3.2, 6.2 and 6.3, Developer shall have the vested right to develop and construct the Property in accordance with the zoning, subdivision, development, growth management, transportation, environmental, open space, and other land use plans, policies, processes, ordinances, and regulations (together, the "**Land Use Laws**") in existence and effective on the date of final approval of this Agreement (the "**Vesting Date**"), and applying the terms and conditions of this Agreement and the Concept Plan (as amended by this Agreement).

3.2. **Reserved Legislative Powers.** Nothing in this Agreement shall limit the County's future exercise of its police power in enacting generally applicable Land Use Laws after the Vesting Date. Notwithstanding the retained power of the County to enact such legislation under the police powers, such legislation shall only be applied to modify the vested rights of Developer under this Agreement based upon policies, facts, and circumstances meeting the compelling, countervailing public interest exception to the vested rights doctrine in the State of Utah. Any such proposed change affecting the vested rights of the Rollins Ranch shall be of general application to all development activity in the County; and, unless the County declares an emergency, Developer shall be entitled to notice and an opportunity to be heard with respect to the proposed change and its applicability to The Rollins Ranch under the compelling, countervailing public policy exception to the vested rights doctrine. Developer acknowledges that the County cannot control changes in federal or state laws, rules and regulations that might affect a developer's right to develop property, including, without limitation, state and federal environmental laws.

4. **Further Approvals.**

4.1. **Subdivision, Plat Approval and Compliance with Design Conditions.** Subject to Section 3.1, Developer expressly acknowledges and agrees that nothing in this Agreement shall be deemed to relieve it from the obligation to comply with all applicable requirements necessary for approval and recordation of the Plat as set forth in Sections 1.2 and 1.3 above. Developer has a vested right to have the Plat approved, subject to Developer's compliance with the requirements of Sections 1.2 and 1.3 hereof.

4.2. **Phasing of the Rollins Ranch.** The Rollins Ranch may be developed in three (3) or more phases, as determined by Developer, in accordance with a Plat approved pursuant to Section 1.2 hereof. The County hereby agrees that Developer is permitted to develop the first three (3) plats simultaneously, which shall consist of 117 lots. Phasing of



the Rollins Ranch shall take into account orderly development of the Rollins Ranch, coordination in connection with the installation of infrastructure improvements, future utility capacity needs, availability of access, adequacy of utilities and related considerations, and provision of open space as provided herein. The second phase of the development shall consist of not more than eighty-six (86) lots. Sales for the second phase shall not commence until 2007. The third phase of the development shall consist of not more than one-hundred and one (101) lots. Sales for the third phase shall not commence until 2009. Nothing herein shall require the Developer to develop the Property in more than three (3) phases. In the event Developer elects to develop the Property in more than three (3) phases, Developer shall not be required to develop a phase in any particular order so long as the development of such project is in accordance with the provision of the third sentence of this Section 4.2.

4.3. Timeliness. Where further approvals from the County are necessary, the County agrees to cooperate in processing requests for such approvals.

5. **Public Improvements.**

5.1. Improvements. All public improvements located within the Rollins Ranch shall be bonded, constructed and installed at the Developer's sole expense in accordance with the Plat (including the approved construction drawings and specifications), the Concept Plan (as amended by this Agreement) and this Agreement and all applicable federal, state and local laws, rules, regulations and ordinances.

5.2. Roadways. Streets within the Property shall be developed in accordance with the Concept Plan (as amended by this Agreement) and the Plat and shall be constructed prior to or concurrent with development of adjacent lots or parcels and in accordance with the Land Use Code and all applicable federal, state and local laws, rules, regulations and ordinances. Developer shall not be required to expand, operate and/or maintain any roadways outside of the Property. Developer acknowledges and agrees that the County may enact impact fees to cover the costs of constructing, maintaining and operating such roadways in accordance with the provisions of Utah Code § 11-306-201, et seq.

5.3. Sewer, Pressure Irrigation, and Storm Drainage. Developer shall install sanitary sewer, pressure irrigation culinary water supply systems and surface water drain systems for the entire Property required to serve the Phase shown on the Construction Drawings, which have been filed with the county. In addition, Developer shall cause to be brought to the Property such other utilities as are customary and necessary for the use of a residential lot. All such installation shall be done according to the reasonable and customary design and construction standards of the utility providers and the County Engineer and shall be installed underground to the extent reasonably possible. Developer shall develop water supply and storage systems and sanitary sewer systems in accordance with the provisions shown on the Construction Drawings, which have been filed with the

county. As a condition of the approval of a Plat, Developer shall obtain for each dwelling unit all necessary will-serve letters from the local water, sewer and utility providers.

6. **Miscellaneous Provisions.**

6.1. **Term of this Agreement.** The rights of the Developer under this Agreement shall continue for a period of fifteen (15) years following the approval and acceptance by the county of all phases of the development, unless the Agreement is earlier terminated or its term modified by written amendment to this Agreement. Developer's obligations under this Agreement shall continue until the earlier to occur of (a) Developer fully performing its obligations under this Agreement, or (b) the release of Developer from its obligations in accordance with Section 7.2. Notwithstanding the foregoing, any indemnification given by Developer under this Agreement shall survive the term of this Agreement.

6.2. **Fees.** Developer acknowledges that filing fees may increase over the life of the Rollins Ranch consistent with the County's exercise of its jurisdiction in accordance with applicable law.

6.3. **Construction Standards.** Construction standards for all portions of the development of the infrastructure for the Property shall be governed by the most current edition of the Land Use Code, the Utah State Building, Plumbing, Mechanical, Electrical Codes, and the International Building Code as enforced by the County as the primary governing agency, at the time of application for building permit. No part of this Agreement shall be deemed to supersede these standards. Developer shall be required to comply with all conditions necessary for the insurance of a building permit, including, without limitation, any bonding or guaranty requirements generally applied by the County.

6.4. **Dedication, Conveyance, and Preservation of Roadways and Open Space.** Upon the filing of the Plat, and except to the extent otherwise expressly set forth in this Agreement, Developer voluntarily agrees to dedicate and convey by special warranty deed or by plat dedication, at no cost to the County and free and clear of liens and encumbrances, except those existing on the Property on the date of acquisition by Developer and those agreed to by the parties (excluding any monetary liens or encumbrances), any areas designated on any plat or site plan to be used as roadways, storm water detention basins, parks open to the general public, and amenities open to the general public, in order to assure use of the land consistent with the policies, goals, and objectives of the General Plan. All parcels to be dedicated or conveyed to the County pursuant to the terms hereof shall be conveyed at the time of recordation of the Plat or at any earlier time agreed to by the parties. The County agrees to operate, maintain, repair and replace, as provided by law all public roadways and dedicated parks and trails after their approval and acceptance by the County and subject to exist warranties, if any. The County shall not be required to maintain or remove snow from any private roadways, parks and trails.

6.5. Minor Development Changes. In the event Developer desires to make minor changes to the approved Plat, plans and specifications and construction drawings which have been approved in accordance with the provisions of Sections 1.2 and 1.3 hereof, following the commencement of the development of the Property in accordance with the provisions of this Agreement and the Concept Plan (as amended by this Agreement), Developer shall submit such changes to the County Engineer for approval. So long as such changes are consistent with this Agreement, and applicable federal, state and local laws, rules, regulations and ordinances, including, without limitation, the provisions of Section 6.3 hereof, and the Concept Plan (as amended by this Agreement), the County Engineer shall approve of such changes. In the event the County Engineer determines that such changes are inconsistent with the provisions of this Agreement or the Overlay Report, Developer must seek the approval of such changes from the County Planning Commission and the County Council.

**7. Successors and Assigns.**

7.1. Binding Effect. This Agreement shall be binding on the successors and assigns of the Developer in the ownership or development of any portion of the Rollins Ranch, and the successors and assigns of the County.

7.2. Assignment.

7.2.1. Developer may from time to time and without the consent of the County, convey any or all of the Phases in their entirety to a Successor Developer, together with the rights granted by this Agreement to develop one or more of the Phases so transferred or conveyed in accordance with this Agreement; provided, however, such assignment shall in no way relieve Developer of its obligations under this Agreement and Developer shall remain jointly and severally liable with Developer's assignee to perform all obligations under the terms of this Agreement which are specified to be performed by Developer. Developer may request the written consent of the County of an assignment of Developer's interest in the Agreement. In such cases, the proposed assignee shall have the qualifications and financial responsibility necessary and adequate, as required by the County, to fulfill the obligations undertaken in this Agreement by Developer. The County shall be entitled to review and consider the ability of the proposed assignee to perform, including financial ability, past performance and experience. After review, if the County gives its written consent to the assignment, Developer shall be released from its obligations under this Agreement for that portion of the Property for which such assignment is approved.

7.2.2. Nothing in this Section 7 shall prohibit Developer, without the consent of the County, from selling residential lots in the ordinary course of the business of Developer, or prohibit the Developer from selling a portion of Rollins

Ranch to one or more occupants for the purpose of erecting, constructing, maintaining, and operating (or causing to be erected, constructed, maintained, and operated) improvements thereon consistent with the requirements of the Overlay Report and this Agreement. The provisions of this Section shall not prohibit the granting of any security interests for financing the acquisition and development of dwelling units, residential lots, commercial structures, or other development parcels within Rollins Ranch, subject to Developer complying with the Overlay Report, this Agreement and applicable federal, state and local laws, rules, regulations and ordinances.

7.2.3. Liability of Assignee. In the event of a transfer of all or any remaining portions of Rollins Ranch and upon assumption by the transferee of the Developer's obligations under this Agreement, the transferee shall be fully substituted as the Developer under this Agreement, and shall agree to be subject to all of the conditions and restrictions to which the Developer and the Property are subject to.

## **8. General Terms and Conditions.**

8.1. Agreement to Run With the Land. Except as specifically provided below, this Agreement shall be recorded in the Office of the Morgan County Recorder against the Property and shall be deemed to run with the land, shall encumber the same, and shall be binding on all successors in the ownership of any portion of the Property. Notwithstanding the foregoing, this Agreement shall not be deemed a covenant running with the land with respect to the enforcement of the zoning and land use regulations imposed hereby for any portion of the Property that would otherwise be exempt from compliance with zoning and land use regulations generally under applicable federal or state laws, rules and regulations by reason of the ownership thereof. Except as set forth in Utah Code §17-27a-305, to Developer's actual knowledge no portion of the Property is currently exempt from compliance with zoning and land use regulations. No party hereto shall, by reason of the covenants, conditions and restrictions established hereunder, have authority to take action forbidden by Utah Code §17-27a-305.

8.2. Construction of Agreement. This Agreement should be construed so as to effectuate the public purpose of implementing long-range planning objectives, obtaining public benefits, and protecting any compelling, countervailing public interest while providing reasonable assurances of continuing vested development rights.

8.3. State and Federal Law. The parties agree, intend, and understand that the obligations imposed by this Agreement are only such as are consistent with applicable state and federal laws, rules, regulations and ordinances. The parties further agree that if any provision of this Agreement becomes, in its performance, inconsistent with applicable state and federal laws, rules, regulations and ordinances or is declared invalid, this Agreement shall be deemed amended to the extent necessary to make it consistent with

applicable state and federal laws, rules, regulations and ordinances, as the case may be, and the balance of this Agreement shall remain in full force and effect.

8.4. Relationship of Parties and No Third Party Rights. This Agreement does not create any joint venture, partnership, undertaking, or business arrangement between the parties hereto nor any rights or benefits to third parties. It is specifically understood by the parties that: (a) the Rollins Ranch is a private development; (b) County has no interest in or responsibilities for or duty to third parties concerning any improvements to the Property unless the County accepts the improvements in connection with a dedication plat or deed approval; and (c) Developer shall have the full power and exclusive control of the Property subject to the obligations of Developer set forth in this Agreement.

8.5. Laws of General Applicability. Where this Agreement refers to laws of general applicability to the Rollins Ranch, this Agreement shall be deemed to refer to laws of general applicability to other developed and subdivided properties in the County.

8.6. Integration. This Agreement contains the entire agreement between the parties with respect to the subject matter hereof and integrates all prior conversations, discussions, or understandings of whatever kind or nature and may only be modified by a subsequent writing duly executed and approved by the parties hereto.

8.7. No Third Party Beneficiary. The provisions of this Agreement are and will be for the benefit of Developer and the County only and are not for the benefit of any third person or entity.

8.8. Confidentiality. This Agreement and all exhibits and attachments are subject to the provisions of the Government Records Access Management Act, Utah Code Ann. § 63-2-101 et seq. as amended.

8.9. Events of Default.

8.9.1. Upon the happening of one or more of the following events or conditions Developer or County, as applicable, shall be in default ("Default") under this Agreement:

8.9.1.1. A warranty, representation or statement made or furnished by Developer under this Agreement is intentionally false or misleading in any material respect when it was made.

8.9.1.2. A determination by County made upon the basis of substantial evidence that Developer has not complied in good faith with one or more of the material terms or conditions of this Agreement.

8.9.1.3. Any other act or omission, either by County or Developer, which (i) violates the terms of this Agreement, or (ii) materially interferes with the intent and objectives of this Agreement.

8.9.2. Procedure Upon Default.

8.9.2.1. Upon the occurrence of Default, the non-defaulting party shall give the other party thirty (30) days written notice specifying the nature of the alleged default and, when appropriate, the manner in which said Default must be satisfactorily cured. In the event that the Default cannot reasonably be cured within thirty (30) days, the defaulting party shall have such additional time as may be necessary to cure such default so long as the defaulting party takes action to begin curing such default within such thirty (30) day period and thereafter proceeds diligently to cure the default. After proper notice and expiration of said thirty (30) day or other appropriate cure period without cure, the non-defaulting party may declare the other party to be in breach of this Agreement and may take the action specified in Section 8.10.

8.9.2.2. Any Default or inability to cure a Default caused by strikes, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes therefore, governmental restrictions, regulations, or controls, enemy or hostile governmental action, civil commotion, fire or other casualty, and other similar causes beyond the reasonable control of the party obligated to perform an obligation under this Agreement, shall excuse the performance of such obligation by such party for a period equal to the period during which any such event prevented, delayed or stopped any required performance or effort to cure a Default.

8.10. Breach of Agreement. Following the occurrence of a Default by Developer, after the expiration of all application notice and cure periods set forth in Section 8.9 above, County may declare Developer to be in breach of this Agreement and County (i) may elect to withhold approval of any or all building permits or certificates of occupancy applied for in the Project, but not yet issued; and (ii) shall be under no obligation to approve or to issue any additional building permits or certificates of occupancy for any building within the Project until Developer has cured such Default. In addition to such remedies, either County or Developer may pursue whatever additional remedies it may have at law or in equity, including injunctive and other equitable relief.

8.11. Enforcement. The parties to this Agreement recognize that County has the right to enforce its rules, policies, regulations, ordinances, and the terms of this Agreement by seeking an injunction to compel compliance, or by withholding building permits or any other lawful means. In the event Developer violates the rules, policies, regulations or

ordinances of County applicable to the Property or otherwise violates the terms of this Agreement, County may, without declaring a Default hereunder or electing to seek an injunction, upon given thirty (30) days written notice to Developer specifying the nature of the alleged violation and, when appropriate, the manner in which said violation must be satisfactorily cured (or such longer period as may be reasonably required by Developer so long as Developer has commenced the cure of such violation within such thirty (30) day period and has thereafter diligently proceeded to cure such default), take such actions as shall be deemed appropriate under law until such violations have been rectified by Developer, including the withholding of building permits. County shall be free from any liability arising out of the proper exercise of its rights under this paragraph.

8.12. No Waiver. Failure of a party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such party to exercise at some future time said right or any other right it may have hereunder. Unless this Agreement is amended by vote of the County Council taken with the same formality as the vote approving this agreement, no officer, official or agent of County has the power to amend, modify or later this Agreement or waive any of its conditions as to bind County by making any promise or representation not contained herein.

8.13. Attorneys Fees. Should any party hereto employ an attorney for the purpose of enforcing this Agreement, or any judgment based on this Agreement, for any reason or in any legal proceeding whatsoever, including insolvency, bankruptcy, arbitration, declaratory relief or other litigation, including appeals or rehearings, and whether or not an action has actually commenced, the prevailing party shall be entitled to receive from the other party thereto reimbursement for all attorney's fees and all costs and expenses. Should any judgment or final order be issued in any proceeding, said reimbursement shall be specified therein.

8.14. Notices.

All notices hereunder shall be given in writing by certified mail, postage prepaid, at the following addresses:

If to the County:      Morgan County  
                                 P.O. Box 886  
                                 48 West Young Street  
                                 Morgan, Utah 84050  
                                 Attn: County Attorney  
                                 Fax No.: (801) 945 6006

With a copy to:      Morgan County Council

48 West Young Street  
Morgan, Utah 84050  
Attn: County Council Chairman  
Fax No.: (801) 945 6006

If to Developer: Rollins Ranch, LLC  
Union Pacific Depot  
12 South, 400 West, Suite 250  
Salt Lake City, Utah 84101  
Attn: Rulon Gardner  
Fax No.: (801) 943-2948

With copy to: Robert A. McConnell  
Parr Waddoups Brown Gee & Loveless  
185 South State Street, Suite 1300  
Salt Lake City, Utah 84111  
Fax No.: (801) 532-7750

8.15 Effectiveness of Notice. Any notices sent by certified mail shall be effective on the date on which such notice is sent. Any party may change its address or notice by giving written notice to the other party in accordance with the provisions with this section.

8.16 Applicable Law. This Agreement is entered into under and pursuant to, and is to be construed and enforceable in accordance with, the laws of the State of Utah.

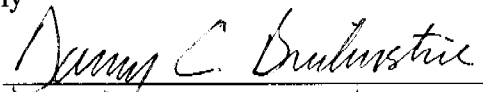
[Signatures Appear on Following Page]



IN WITNESS WHEREOF, this Agreement has been executed as of the date first set forth above.


DEVELOPER:

ROLLINS RANCH, L.L.C., a Utah limited liability company

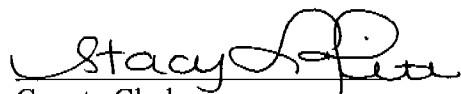
By:   
Name: Danny C. Bridenstine  
Title: Managing Member

COUNTY:

COUNTY OF MORGAN

By:   
Name:  
Title: County Council Chairman

Attest:

  
County Clerk

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

The above instrument was acknowledged before me by DANNY C. BRADENTINE, a Manager of Rollins Ranch, L.C., a Utah limited liability company, this 25<sup>TH</sup> day of NOVEMBER, 2006.



CHAD WARREN STOKES  
Notary Public  
Residing in SOUTH WEBER

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

The above instrument was acknowledged before me by \_\_\_\_\_, the County Manager of the County of Morgan, this \_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
Notary Public  
Residing in \_\_\_\_\_

**DEVELOPMENT AGREEMENT  
EXHIBIT "A"**

(Property Legal Description)

**BOUNDARY DESCRIPTION**

BEGINNING ON THE CENTER OF SECTION 24, TOWNSHIP 5 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN AND RUNNING THENCE NORTH 89°59'51" EAST ALONG SECTION LINE 2655.42 FEET TO THE EAST QUARTER CORNER OF SAID SECTION; THENCE SOUTH 00°00'20" WEST ALONG SECTION LINE 2137.95 FEET; THENCE SOUTH 38°48'52" WEST 615.12 FEET TO A POINT ON THE QUARTER SECTION LINE OF SAID SECTION; THENCE SOUTH 89°19'26" WEST ALONG SAID QUARTER SECTION LINE 959.22 FEET; THENCE WESTERLY THE FOLLOWING 8 CALLS: SOUTH 00°12'44" WEST 1282.86 FEET, SOUTH 71°17'14" WEST 116.13, SOUTH 86°24'00" WEST 78.63 FEET, SOUTH 82°05'18" WEST 83.84 FEET, SOUTH 87°44'45" WEST 177.96 FEET, NORTH 89°49'53" WEST 784.68 FEET, SOUTH 29°32'41" WEST 385.48 FEET, NORTH 88°46'29" WEST 423.53 FEET TO A POINT ON A CURVE; THENCE SOUTHWESTERLY ALONG THE ARC OF A 130.00 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 33°04'22" A DISTANCE OF 75.04 FEET (CHORD BEARS SOUTH 47°15'51" WEST 74.00 FEET); THENCE SOUTH 30°43'41" WEST 125.28 FEET TO A POINT OF CURVATURE; THENCE SOUTH WESTERLY ALONG THE ARC OF A 25.00 FOOT RADIUS CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 87°23'49" A DISTANCE OF 38.13 (CHORD BEARS SOUTH 74°25'35" WEST 34.54 FEET) TO THE NORTH LINE OF THE OLD HIGHWAY (167) AND POINT OF CURVATURE; THENCE NORTHWESTERLY ALONG SAID NORTH LINE AND THE ARC OF A 1336.81 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 18°40'16" A DISTANCE OF 435.63 FEET (CHORD BEARS NORTH 71°38'24" WEST 433.71 FEET); THENCE NORTHERLY THE FOLLOWING 7 CALLS: NORTH 18°25'57" EAST 196.43 FEET, NORTH 05°38'00" WEST 185.45 FEET, NORTH 04°24'38" WEST 322.76 FEET, NORTH 89°17'00" WEST 156.32 FEET, NORTH 22°12'22" WEST 192.73 FEET, NORTH 206.22 FEET, NORTH 05°13'12" WEST 187.43 FEET TO A POINT OF CURVATURE; THENCE NORTHWESTERLY ALONG THE ARC OF A 165.00 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 84°52'08" A DISTANCE OF 244.40 FEET (CHORD BEARS NORTH 47°39'16" WEST 222.67 FEET); THENCE NORTHERLY THE FOLLOWING 6 CALLS NORTH 08°37'59" EAST 60.42 FEET, NORTH 58°00'44" EAST 96.95 FEET, NORTH 17°29'53" WEST 296.56 FEET, NORTH 69°02'33" EAST 242.49 FEET, NORTH 42°59'58" EAST 115.06 FEET, NORTH 72°52'30" EAST 19.72 FEET; THENCE SOUTH 08°05'37" WEST 68.74 FEET; SOUTH 65°51'32" EAST 574.89 FEET TO A POINT ON THE QUARTER SECTION LINE OF SAID SECTION; THENCE SOUTH 89°55'18" EAST 642.04 FEET ALONG SAID QUARTER SECTION LINE 642.02 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION; THENCE NORTH 00°18'01" EAST ALONG SECTION LINE 2644.11 FEET TO THE POINT OF BEGINNING.

CONTAINS - 10,860,592 SQ. FT. 249.32 ACRES

Ent 105900 BK 0241 Pg 0020

Parcel #'s:

- 03 - 005 - 027
- 00 - 0003 - 3470
- 03 - 005 - 029
- 00 - 0063 - 3521
- 03 - 005 - 029 - 01
- 00 - 0071 - 5460
- 03 - 005 - 032 - 06 - 1
- 00 - 0071 - 9593



**Rollins Ranch**  
 at Mountain Green  
 Hospitality Plan Submittal

**DEVELOPMENT AGREEMENT**

**EXHIBIT "B"**  
 (Site Plan)

**RR-1 (1 ACRE BASIS)**

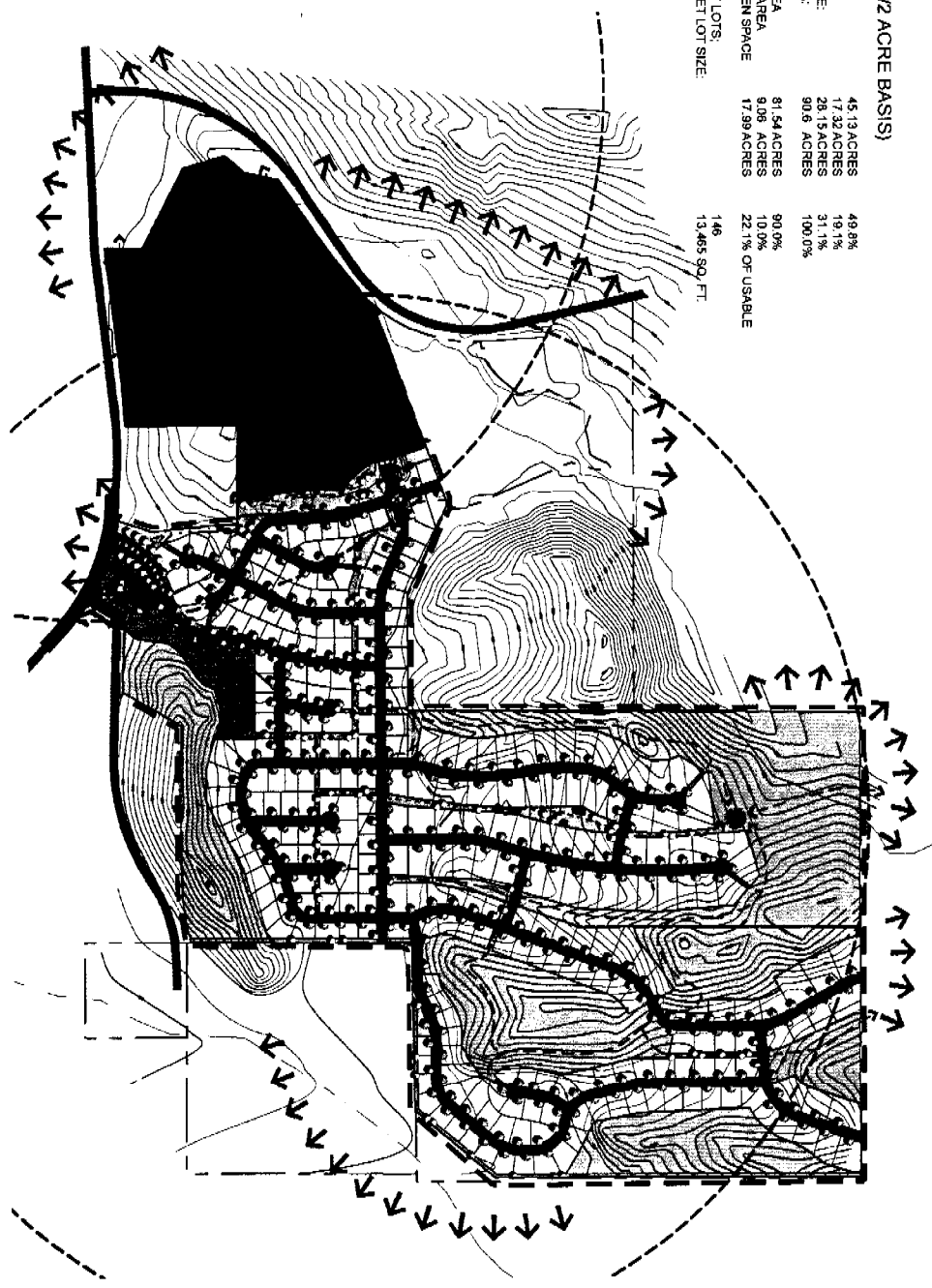
LOTS:	66.71 ACRES	42.1%
ROADWAY:	16.45 ACRES	10.4%
OPEN SPACE:	75.3 ACRES	47.5%
TOTAL AREA:	158.46 ACRES	100.0%
USABLE AREA:	135.11 ACRES	85.3%
UNUSABLE AREA:	23.35 ACRES	14.7%
USABLE OPEN SPACE:	53.18 ACRES	33.4% OF USABLE
NUMBER OF LOTS:	158	
AVERAGE NET LOT SIZE:	18,302 SQ. FT.	

**COMBINED AREA (RR-1 AND R1-20)**

LOTS:	111.94 ACRES	44.9%
ROADWAY:	33.77 ACRES	13.6%
OPEN SPACE:	103.45 ACRES	41.5%
TOTAL AREA:	249.08 ACRES	100.0%
USABLE AREA:	216.65 ACRES	87.0%
UNUSABLE AREA:	32.41 ACRES	13.0%
USABLE OPEN SPACE:	71.17 ACRES	32.9% OF USABLE
NUMBER OF LOTS:	304	
AVERAGE NET LOT SIZE:	18,025 SQUARE FEET	

**R1-20 (1/2 ACRE BASIS)**

LOTS:	45.13 ACRES	49.8%
ROADWAY:	17.32 ACRES	19.1%
OPEN SPACE:	28.15 ACRES	31.1%
TOTAL AREA:	90.6 ACRES	100.0%
USABLE AREA:	81.54 ACRES	90.0%
UNUSABLE AREA:	9.08 ACRES	10.0%
USABLE OPEN SPACE:	17.99 ACRES	22.1% OF USABLE
NUMBER OF LOTS:	146	
AVERAGE NET LOT SIZE:	13,465 SQ. FT.	

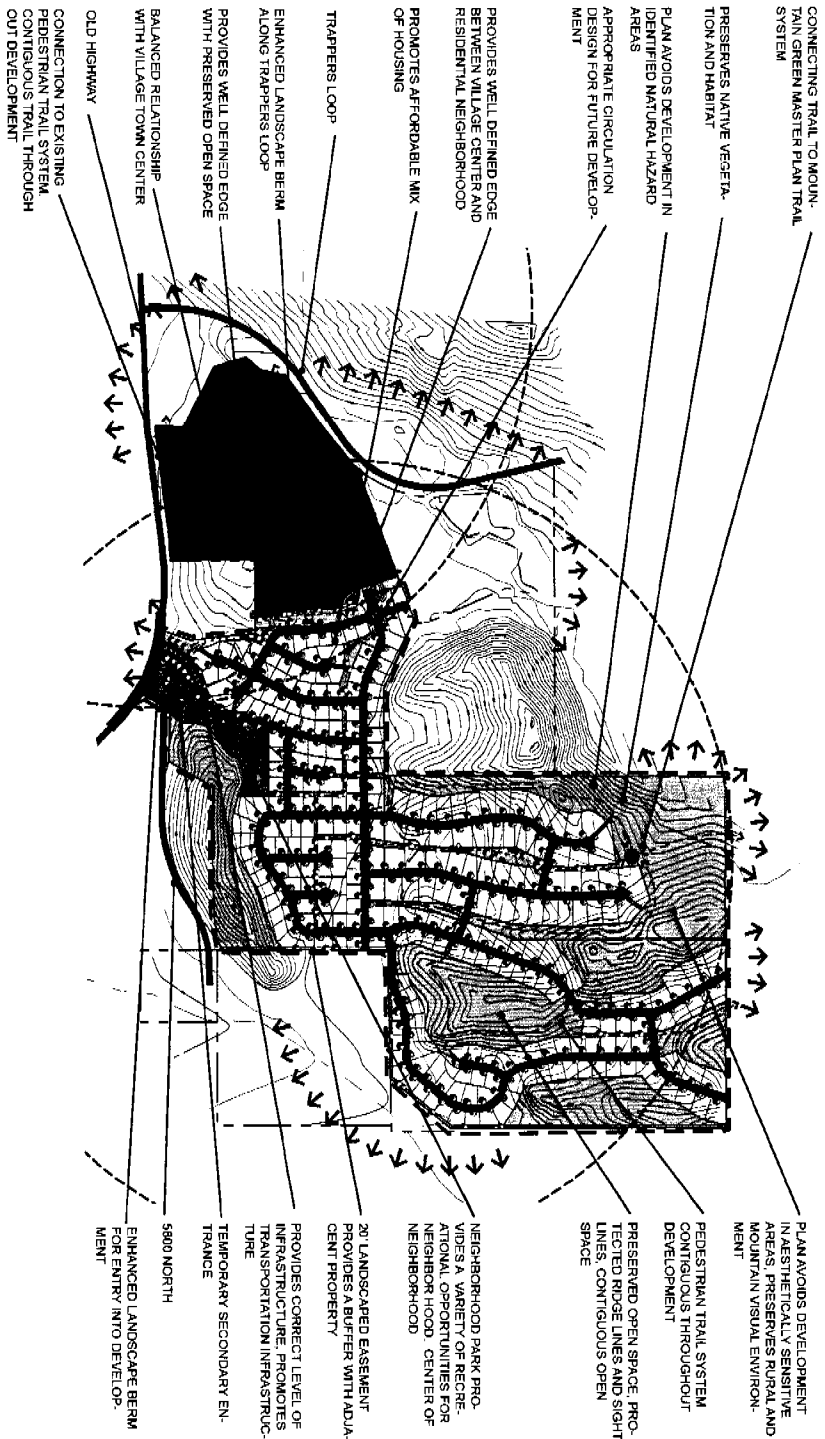


**Legend**

- RR-1
- R1-20
- COMMERCIAL
- OPEN SPACE
- NEIGHBORHOOD PARK
- PEDESTRIAN TRAIL
- PAVED PEDESTRIAN TRAIL
- TRAIL HEAD
- EXISTING ROADS
- PROPOSED ROADS
- STREAMS
- VIEW SHEDS
- PROJECT LIMITS
- PROPERTY LINES

NORTH

**DEVELOPMENT AGREEMENT  
EXHIBIT "C"**  
(Concept Plan)

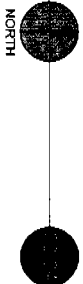


**Rollins Ranch**  
at Mountain Green  
A development by The Greenbelt

Concept Master Plan

**Legend**

- RR-1
- R1-20
- COMMERCIAL
- OPEN SPACE
- NEIGHBORHOOD PARK
- PEDESTRIAN TRAIL
- PAVED PEDESTRIAN TRAIL
- TRAIL HEAD
- EXISTING ROADS
- PROPOSED ROADS
- STREAMS
- VIEW SHEDS
- PROJECT LIMITS
- PROPERTY LINES



**DEVELOPMENT AGREEMENT**  
**EXHIBIT "D"**  
 (Approved Use)

**RR-1 (1 ACRE BASIS)**

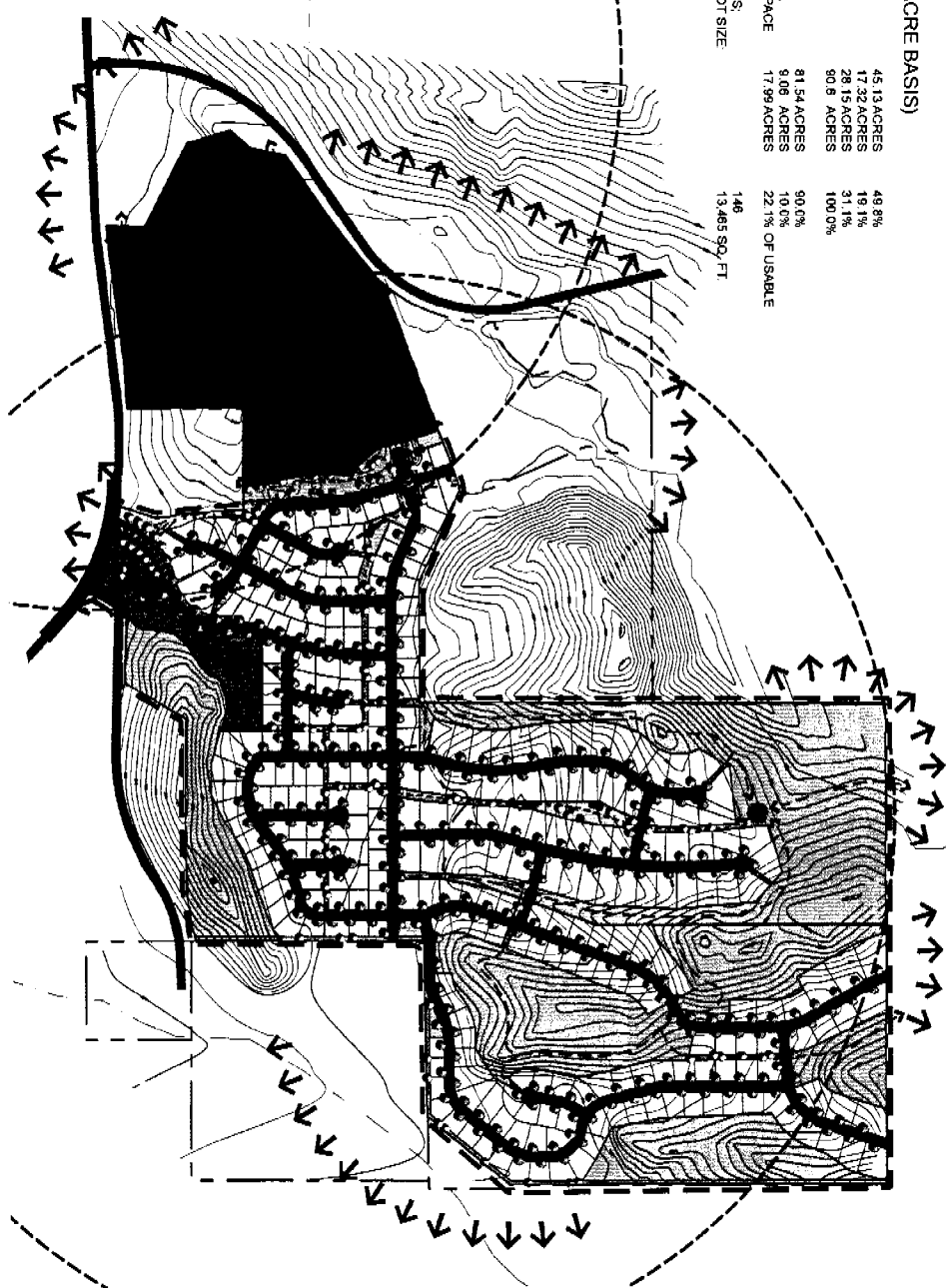
LOTS:	66.71 ACRES	42.1%
ROADWAY:	16.45 ACRES	10.4%
OPEN SPACE:	75.3 ACRES	47.5%
TOTAL AREA:	158.46 ACRES	100.0%
USABLE AREA	135.11 ACRES	85.3%
UNUSABLE AREA	23.35 ACRES	14.7%
USABLE OPEN SPACE	53.18 ACRES	33.4% OF USABLE
NUMBER OF LOTS:	158	
AVERAGE NET LOT SIZE:	18,392 SQ. FT.	

**COMBINED AREA (RR-1 AND R1-20)**

LOTS:	111.94 ACRES	44.9%
ROADWAY:	33.77 ACRES	13.6%
OPEN SPACE:	103.45 ACRES	41.5%
TOTAL AREA:	249.06 ACRES	100.0%
USABLE AREA	216.69 ACRES	87.0%
UNUSABLE AREA	32.41 ACRES	13.0%
USABLE OPEN SPACE	71.17 ACRES	32.9% OF USABLE
NUMBER OF LOTS:	304	
AVERAGE NET LOT SIZE:	16,025 SQUARE FEET	

**R1-20 (1/2 ACRE BASIS)**

LOTS:	45.13 ACRES	49.8%
ROADWAY:	17.32 ACRES	19.1%
OPEN SPACE:	28.15 ACRES	31.1%
TOTAL AREA:	90.6 ACRES	100.0%
USABLE AREA	81.54 ACRES	90.0%
UNUSABLE AREA	9.06 ACRES	10.0%
USABLE OPEN SPACE	17.99 ACRES	22.1% OF USABLE
NUMBER OF LOTS:	146	
AVERAGE NET LOT SIZE:	13,465 SQ. FT.	



**Rollins Ranch**  
 at Mountain Green  
 Henderson, Nevada

Site Development  
 Information

**Legend**

- RR-1
- R1-20
- COMMERCIAL
- OPEN SPACE
- NEIGHBORHOOD PARK
- PEDESTRIAN TRAIL
- PAVED PEDESTRIAN TRAIL
- TRAIL HEAD
- EXISTING ROADS
- PROPOSED ROADS
- STREAMS
- VIEW SHEDS
- PROJECT LIMITS
- PROPERTY LINES

NORTH

**“Exhibit E”**

**AFTER RECORDING, RETURN TO:**

The Rollins Ranch  
1513 N Hillfield Rd, Ste 2  
Layton, UT 84041

**DECLARATION  
OF  
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS  
FOR  
THE ROLLINS RANCH AT MOUNTAIN GREEN**

Rollins Ranch, LLC  
1513 N Hillfield Rd, Ste 2  
Layton, UT 84041  
Declarant

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**DECLARATION  
OF  
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS  
FOR  
THE ROLLINS RANCH AT MOUNTAIN GREEN**

**THIS DECLARATION** is made this 28 day of November, 2006, by **Rollins Ranch, LLC**, a Utah limited liability company ("Declarant").

**OBJECTIVES**

A. Declarant is the owner of certain real property in Morgan County, Utah, more particularly described on Exhibit A of the Development Agreement. Declarant desires to develop all or portions of the Property as a planned development to be known as "The Rollins Ranch" (the "Development").

B. Declarant desires to create a carefully planned community which will provide an attractive place to live. Declarant presently plans to divide and organize the Development into two residential areas (each a "Neighborhood"). The Neighborhood known as "Hidden Valley" ("Hidden Valley"), covering the northern portion of the Development, shall contain 145 residential lots. The Neighborhood known as "The Hollows" ("The Hollows"), covering the southern portion of Development, shall contain 159 residential lots. Other areas within or adjacent to the Development may be devoted to various recreational purposes, or to public or private parks and open space areas.

C. Declarant anticipates that the Development will take place in three phases. Phase 1 will include the first several lots in Hidden Valley. Phase 2 will include the remaining lots in Hidden Valley and the first several lots in The Hollows. Phase 3 will include the remaining lots in The Hollows. The Development will be guided by the Conceptual Site Plan (defined below), approved by the County and set forth on Exhibit B of the Development Agreement.

D. Declarant will provide leadership in organizing and administering the Development during the development period, but expects property owners in the Development to accept the responsibility for community administration by the time the Development is complete.

E. The purpose of this Declaration is to provide for the ownership, maintenance and use of the Common Areas (defined below) that will be owned and operated by a homeowners association for the benefit of all properties now or later made subject to this Declaration.

F. Funds for the maintenance and development of Common Areas generally will be provided through assessments against those who purchase property within the Development, although to assist with the development of The Rollins Ranch, Declarant may from time to time itself provide some Improvements. For the protection of all owners of property in the Development there

will be a system designed to assure that each person who purchased property in the Development will pay an equitable share of the moneys necessary for the maintenance and development of the Common Areas.

G. Declarant desires to subject the Property to the covenants, conditions, restrictions, easements and charges set forth in this instrument for the benefit of the Property and its present and subsequent owners. In addition, Declarant desires to establish Hidden Valley and The Hollows as separate Neighborhoods within the Development subject to the conditions, restrictions and charges set forth in this instrument for the benefit of such Neighborhood property and its present and subsequent owners.

**NOW, THEREFORE**, Declarant hereby declares that the Property shall be held, sold and conveyed subject to the following covenants, conditions, restrictions, easements and charges, which shall run with the Property and shall be binding upon all parties having or acquiring any right, title or interest in the Property or any part thereof and shall inure to the benefit of each owner thereof.

### ARTICLE 1: DEFINITIONS

As used in this Declaration, the terms set forth below shall have the following meanings:

1.1. “**Additional Property**” means any land, whether or not owned by Declarant, which is made subject to this Declaration as provided in Section 2.2 below.

1.2. “**Architectural Guidelines**” means the architectural, design and construction guidelines and review procedures adopted pursuant to Article 6, as they may be amended.

1.3. “**Architectural Review Committee**” means the committee appointed pursuant to Article 6 below.

1.4. “**Articles**” means the articles of incorporation of the Association, as may be amended from time to time.

1.5. “**Assessments**” means all assessments and other charges, fines and fees imposed by the Association on an Owner in accordance with this Declaration, including, without limitation, Annual Assessments, Special Assessments, Emergency Assessments, Limited Common Area Assessments and Individual Assessments as described in Article 10 below.

1.6. “**Assessment Unit**” means a factor assigned to each Lot in accordance with Section 10.3 below for purposes of determining such Lot’s pro rata share of Annual Assessments, Special Assessments, Emergency Assessments and Limited Common Area Assessments.

1.7. “**Association**” means The Rollins Ranch at Mountain Green Homeowners Association, Inc., a Utah nonprofit corporation to be formed to serve as the homeowners association as provided in Article 8 below, and its successors and assigns.

1.8. “**Bylaws**” means the bylaws of the Association, as may be amended from time to time.

1.9. “**Class A Member(ship)**” is defined in Section 8.3 below.

1.10. “**Class B Member(ship)**” is defined in Section 8.3 below.

1.11. “**Common Areas**” means those lots or tracts designated as “Community Open Space Parcels” on the Plats, or in this Declaration or any declaration annexing Additional Property to the Development or to any Neighborhood thereof, including any Improvements thereon, and shall also include Common Easement Areas, Limited Common Areas and any Lots converted to Common Areas as provided in Section 4.3 below.

1.12. “**Common Easement Areas**” means those easements and private roads established for the benefit of all property within the Development pursuant to the Plats or this Declaration or any declaration annexing Additional Property to the Development.

1.13. “**Community Open Space Parcels**” means that property set aside as open space pursuant to the Plats or in this Declaration or in any declaration annexing Additional Property to the Development.

1.14. “**Conceptual Site Plan**” means the most current master plan or preliminary subdivision plan of the Development that has been approved by the County.

1.15. “**County**” means Morgan County, Utah.

1.16. “**Declarant**” means Rollins Ranch, LLC, a Utah limited liability company, and its successors and assigns if such successor or assignee should acquire Declarant’s interest in the Property, or less than all of Declarant’s interest in the Property if a recorded instrument executed by Declarant assigns to the transferee all of Declarant’s rights under this Declaration.

1.17. “**Declaration**” means all of the easements, covenants, restrictions and charges set forth in this instrument, together with any rules or regulations promulgated hereunder, as the same may be amended or supplemented from time to time in accordance with the provisions hereof, including the provisions of any supplemental declaration annexing Additional Property to the Development.

1.18. “**Development**” means The Rollins Ranch, including every Neighborhood.

1.19. “**Improvement**” means every structure or improvement of any kind, including but not limited to a fence, wall, driveway, swimming pool, storage shelter or other product of construction efforts on or in respect to the Property.

1.20. “**Limited Common Areas**” means any Common Areas established for the exclusive use or enjoyment of certain Lots as designated on the Plats, in this Declaration or in any declaration annexing Additional Property to the Development.

1.21. “**Lot**” means a platted or partitioned lot or tract within the Development, with the exception of any tract or lot marked on the Plats of the Property as being common or open space or so designated in this Declaration or the declaration annexing such property to the Development. “Lot” does not include Common Areas or Public Areas.

1.22. “**Management Committee**” is defined in Section 8.4 below.

1.23. “**Mortgage**” means a mortgage or a trust deed; “**mortgagee**” means a mortgagee or a beneficiary of a trust deed; and “**mortgagor**” means a mortgagor or a grantor of a trust deed.

1.24. “**Neighborhood**” means any separately designated and developed neighborhood or area constructed upon a portion of the Development, designated as such on the Plats or in this Declaration or in any other declaration annexing Additional Property to the Development

1.25. “**Owner**” means the person or persons, including Declarant, owning any Lot in the Development, but does not include a tenant or holder of a leasehold interest or a person holding only a security interest in a Lot. The rights, obligations and other status of being an Owner commence upon acquisition of the ownership of a Lot and terminate upon disposition of such ownership, but termination of ownership shall not discharge an Owner from obligations incurred prior to termination.

1.26. “**Person**” means a natural person, a corporation, a partnership, a limited liability company, a trustee, or any other legal entity.

1.27. “**Plat**” or “**Plats**” means the plat(s) for The Rollins Ranch at Mountain Green to be recorded in the office of the Morgan County Recorder subdividing the Property or any Additional Property into Lots and indicating Common Areas, easements and other items normally shown on subdivision plats.

1.28. “**Property**” means the land described on Exhibit A of the Development Agreement and known as The Rollins Ranch and any other land as may be made subject to the terms of this Declaration by the recordation of a supplemental declaration annexing Additional Property to the Development.

1.29. “**Public Areas**” means areas dedicated to the public or established for public use in the Plats, or in accordance with this Declaration or any declaration annexing Additional Property to the Development.

1.30. “**Residence**” means a building or a portion of a building located upon a Lot within the Development and designated for separate residential occupancy, including a house.

1.31. “**Residential Lots**” means those Lots designated as such on the Plats or in this Declaration or in any declaration annexing Additional Property to the Development.

1.32. “**Rules and Regulations**” is defined in Section 4.4(d)(ii).

1.33. “**State**” means the state of Utah.

## ARTICLE 2: PROPERTY SUBJECT TO THIS DECLARATION

2.1. **Binding Effect.** The Property shall be held, conveyed, hypothecated, encumbered, used, occupied and improved only in accordance with the provisions of this Declaration, which provisions shall run with the Property and shall be binding upon all parties having or acquiring any right, title or interest in the Property or any part thereof and shall inure to the benefit of each Owner thereof.

2.2. **Annexation of Additional Property.** Declarant may from time to time and in its sole discretion annex to the Development as Additional Property any real property now or hereafter acquired by it, and may also from time to time and in its sole discretion permit other holders of real property to annex the real property owned by them to the Development. The annexation of such real property shall be accomplished as follows:

(a) The owner or owners of such real property shall record a declaration which shall be executed by or bear the approval of Declarant and shall, among other things, describe the real property to be annexed, designate the Neighborhood of which such property is a part, establish land classifications for the Additional Property, establish any additional limitations, uses, restrictions, covenants and conditions which are intended to be applicable to such property, and declare that such property is held and shall be held, conveyed, hypothecated, encumbered, used, occupied and improved subject to this Declaration.

(b) The property included in any such annexation shall thereby become a part of the Development and this Declaration, and Declarant and the Association shall have and shall accept and exercise administration of this Declaration with respect to such property.

(c) Notwithstanding any provision apparently to the contrary, a declaration with respect to any Additional Property may:

(i) establish such new land classifications and such limitations, uses, restrictions, covenants and conditions with respect to such property as Declarant may deem to be appropriate for the development of the Additional Property.

(ii) with respect to existing land classifications, establish additional or different limitations, uses, restrictions, covenants and conditions with respect to such property as Declarant may deem to be appropriate for the development of such Additional Property.

(iii) incorporate provisions contained in this Declaration with or without modification to become applicable to the Additional Property without a requirement that such provisions be repeated in the declaration applicable to the Additional Property.

(d) There is no limitation on the number of Lots or Residences which Declarant may create or annex to the Development, except as may be established by County ordinance. Similarly, there is no limitation on the right of Declarant to annex property to the Development's Common Areas, except as may be established by County ordinance.

(e) Declarant does not agree to build any specific future Improvement, but does not choose to limit Declarant's right to add additional Improvements.

(f) Upon annexation, additional Lots so annexed shall be entitled to voting rights as set forth in Section 8.3 below. (Prior to annexation, proposed Lots shown on the Conceptual Site Plan shall be counted as provided in Section 8.3 below for calculating the voting rights of the Class B Member.)

(g) The manner of reallocating the common expenses if additional Lots are annexed is set forth in Section 10.9 below.

2.3. **Withdrawal of Property.** Declarant may withdraw property from the Development only by duly adopted amendment to this Declaration, except that Declarant may withdraw all or a portion of the Property or any Additional Property at any time prior to the sale of the first Lot in the Property or Additional Property, respectively. Such withdrawal shall be by a declaration executed by Declarant and recorded in the office of the County Recorder. If a portion of the Property is so withdrawn, all voting rights otherwise allocated to Lots being withdrawn shall be eliminated, and the common expenses shall be reallocated as provided in Section 10.9 below.

### **ARTICLE 3: NEIGHBORHOOD DESIGNATIONS; LAND CLASSIFICATIONS; CONCEPTUAL SITE PLAN**

3.1. **Neighborhood Designation.** Each of The Hollows and Hidden Valley is hereby designated a Neighborhood within the Development.

(a) Hidden Valley shall consist of such real property designated as part of such Neighborhood on the Plats or declared to be a part of such Neighborhood in this Declaration or in any supplemental declaration annexing Additional Property to Hidden Valley.

(b) The Hollows shall consist of such real property designated as part of such Neighborhood on the Plats or declared to be a part of such Neighborhood in this Declaration or in any supplemental declaration annexing Additional Property to Hidden Valley.

3.2. **Land Classifications Within Development.** All land within the Development is included in one or another of the following classifications:

- (a) Residential Lots, which shall consist of all Lots on the Plats.
- (b) Common Areas, which shall be the areas designated as "Common Areas," "Community Open Space Parcels," "Common Easement Areas," "Limited Common Areas," or other similar designations, on the Plats.
- (c) Public Areas, which shall be the areas designated as public parks, trails or streets on the Plats.

3.3. **Conceptual Site Plan.** Purchasers of property within the Development hereby consent to the Conceptual Site Plan for the Development, Exhibit B of the Development Agreement, as the same may subsequently be amended. By adoption of the Conceptual Site Plan and this Declaration, Declarant is not committing itself to undertake or complete development pursuant to the Conceptual Site Plan as it now exists or take any action for which definite provision is not made in this Declaration. Those who acquire property in the Development shall have the benefits of any Common Areas actually developed in The Rollins Ranch, but shall not be legally entitled to any particular development of Common Areas, except as provided in this Declaration or in any declaration annexing Additional Property to the Development.

3.4. **Consolidation of Lots.** The Owner of two adjoining Lots, subject to the approval of the County, may elect to consolidate such Lots into one Lot. The consolidation shall be effected by the Owner's recording in the office of the County Recorder a declaration stating that the two Lots are consolidated, which declaration shall include a written consent executed by the County. Thereafter, the consolidated Lots shall constitute one Lot for all purposes of this Declaration, including voting rights and Assessments. Once so consolidated, the consolidated Lot may not thereafter be partitioned, nor may the consolidation be revoked without the approval of the County.

**ARTICLE 4: PROPERTY RIGHTS IN COMMON AREAS**

4.1. **Owners' Easements of Enjoyment.** Subject to the provisions of this Article, every Owner and his invitees shall have a right and easement of enjoyment in and to the Common Areas, which easement shall be appurtenant to and shall pass with the title to every Lot.

4.2. **Common Easement Areas.** Common Easement Areas shall consist of two types: (i) easements reserved over land for signage and visual landscape features and (ii) land reserved for private roads and trails. Such areas are to be maintained by the Association, and no changes in the use or improvement of those areas will be permitted without the approval of the Management Committee. Unless otherwise specified in this Declaration, "approval" of the Management Committee shall mean advance written approval. No building, wall, fence, paving, landscaping or

construction of any type shall be erected or maintained by any Owner so as to trespass or encroach upon the Common Easement Areas.

4.3. **Title to Common Areas.** Title to the Common Areas, including Common Easement Areas except for Common Easement Areas reserved for signage or landscaping on public or private land, shall be conveyed to the Association by Declarant, free and clear of monetary liens, prior to the date on which Class B Membership in the Association ceases and is converted to Class A Membership as described in Section 8.3(b).

4.4. **Extent of Owners' Rights.** The rights and easements of enjoyment in the Common Areas created hereby shall be subject to the following and all other provisions of this Declaration:

(a) **Easements.** Declarant grants to the Association for the benefit of the Association and all Owners of Lots within the Property (including, in the case of easements for ingress and egress, the invitees of the Owners of Lots) the following easements over, under and upon the Common Areas, including the Common Easement Areas:

(i) An easement on all Common Areas for underground installation and maintenance of power, gas, electric, water and other utility and communication lines and services installed by Declarant or with the approval of the Management Committee and any such easement shown on the Plats.

(ii) An easement for construction, maintenance, repair and use of Common Areas, including common facilities thereon.

(iii) An easement for the purpose of making repairs to any existing structures on Common Areas.

(iv) An easement across all Common Easement Areas consisting of private roads for ingress and egress to and from Lots, other Common Areas and publicly dedicated roads. This right shall include the right of access using Common Easement Areas through one Neighborhood for the benefit of the Owners of other Neighborhoods where the roads are physically connected.

(v) An easement across all Common Easement Areas consisting of trails for ingress and egress, by foot or by non-motorized vehicles only, to and from Lots, other Common Areas and publicly dedicated roads or any adjacent public lands.

Declarant or the Association may (and, to the extent required by law, shall) grant or assign such easements to the County or other political subdivisions, utilities performing utility services and/or communication companies, and the Association may grant free access thereon to police, fire and other public officials and to employees of utility companies and communications companies serving the Development.



(b) **Use of the Common Areas.** The Common Areas shall not be partitioned or otherwise divided into parcels for residential use, and no private structure of any type shall be constructed on the Common Areas. Except as otherwise provided in this Declaration, the Common Areas shall be reserved for the use and enjoyment of all Owners and no private use may be made of the Common Areas, including Common Easement Areas. Nothing herein shall prevent the placing of a sign or signs upon the Common Areas identifying the Property or any Neighborhood or identifying pathways or items of interest, provided such signs comply with any applicable County sign ordinance. The Management Committee shall have authority to abate any trespass or encroachment upon the Common Area at any time, by any reasonable means and with or without having to bring legal proceedings. A declaration annexing Additional Property may provide that the Owners of such Additional Property do not have the right to use a particular Common Area or facility located on such Common Area. In such case, those Owners will not be required to share in the costs of maintaining the facility, as is more particularly described in Section 10.9.

(c) **Alienation of the Common Areas.** The Association may not by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Areas owned directly or indirectly by the Association for the benefit of the Lots without the approval of (1) at least eighty percent (80%) of the votes cast by Class A Members participating in a meeting in person or by proxy or written ballot, and (b) the Class B Member (if any). Unless otherwise specified in this Declaration, "approval" of the Class A Membership voting rights shall mean approval by the requisite percentage of votes cast by Class A Members participating in a meeting in person or by proxy or written ballot, as specified in the Bylaws. Unless otherwise specified in this Declaration, "approval" of the Declarant or the Class B Member shall mean advance written approval. Upon the approval of a majority of the Class A Membership voting rights, the Class B Member (if any) and the County, the Association may dedicate or convey any portion of the Common Areas to a park district or other public body. Notwithstanding the foregoing, this Section shall not apply to Common Easement Areas or to the easements described in Section 4.4(a) above.

(d) **Limitations on Use.** Use of the Common Areas by the Owners shall be subject to the provisions of this Declaration and to the following:

(i) The right of the Association to suspend such use rights of an Owner to the extent provided in Article 11 below.

(ii) The right of the Association from time to time to adopt, amend or repeal rules and regulations ("Rules and Regulations") governing the conduct of persons on and the operation and use of the Common Areas as it deems necessary or appropriate in order to ensure the peaceful and orderly use and enjoyment of the Property in accordance with this Declaration and the Bylaws. A copy of the Rules and Regulations, as amended from time to time, shall be promptly delivered to each Owner by the Management Committee and shall be binding upon the Owners as of the date of delivery, provided the Rules and Regulations may contain general provisions applicable to the entire Development as well as specific provisions applicable to a particular Neighborhood(s) only.

4.5. **Delegation of Use.** Any Owner may delegate, in accordance with the Bylaws, his right of enjoyment of the Common Areas to the members of his family and to tenants or contract purchasers who reside on the Property.

4.6. **Easements Reserved by Declarant.** So long as Declarant owns any Lot, Declarant reserves an easement over, under and across the Common Areas in order to carry out sales and rental activities necessary or convenient for the sale or rental of Lots. In addition, Declarant hereby reserves to itself and for the current and future owners of Lots in the Development a perpetual easement and right-of-way for access over, upon and across the Common Areas for construction, utilities, communication lines, drainage, and ingress and egress for the benefit of other property owned by Declarant. Declarant, for itself and its successors and assigns, hereby retains a right and easement of ingress and egress over, in, upon, under and across the Common Areas and the right to store materials thereon and to make such other use thereof as may be reasonably necessary or incident to the construction of the Improvements on the Property or other real property owned by Declarant; provided, however, that no such rights shall be exercised by Declarant in such a way as to unreasonably interfere with the occupancy, use, enjoyment or access to an Owner's Lot by that Owner or his Affiliates.

4.7. **Conversion of Streets to Limited Common Areas.** Upon approval of a majority of the Class A Membership voting rights held by the owners of the Lots within any Neighborhood, any principal road providing access to the Neighborhood and not also providing access to any other Neighborhood may be converted from a Common Easement Area to a Limited Common Area for the exclusive benefit of the Neighborhood in question. Any road so converted to Limited Common Area may use gated entries to the extent permitted by County ordinance. Thereafter, the costs of maintaining such Limited Common Area and gates shall be the responsibility of Owners of Lots within the applicable Neighborhood.

## ARTICLE 5: PROPERTY RIGHTS IN LOTS

5.1. **Use and Occupancy.** The Owner of a Lot in the Property shall be entitled to the exclusive use and benefit of such Lot, except as otherwise expressly provided in this Declaration, but the Lot shall be bound by and the Owner shall comply with the restrictions contained in and all other provisions of this Declaration and the provisions of any supplement to this Declaration.

5.2. **Easements Reserved.** In addition to any utility and drainage easements shown on the Plats, Declarant hereby reserves the following easements for the benefit of Declarant and the Association:

(a) **Adjacent Common Area.** The Owner of any Lot which blends together visually with any Common Area shall, if the Association elects from time to time to so require, permit the Association to enter upon the Lot to perform the maintenance of such Common Area.

(b) **Right of Entry.** Declarant, and any representative of the Association authorized by it may at any reasonable time, and from time to time at reasonable intervals and upon

reasonable notice to the Lot Owner under the circumstances, enter upon any Lot for the purpose of determining whether or not the use and/or Improvements of such Lot are in compliance with this Declaration. No such entry shall be deemed to constitute a trespass or otherwise create any right of action in the Owner of such Lot.

(c) **Utility Easements.** Easements for installations and maintenance of drainage facilities and public utilities are hereby reserved over ten (10) feet of the front, rear and one side of each Lot, and as otherwise identified on the Plats. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may reasonably interfere with or damage utilities or drainage facilities. However, the Architectural Review Committee may, in its sole discretion, approve a structure within the easements such as a fence, wall, landscaping, driveway or off-street parking area. It is expressly understood, however, that any such Improvements shall be constructed at the Owner's or the easement holder's sole risk, as the case may be, and as provided in the easement document(s), of having the Improvements partially or wholly removed, dismantled, taken out, or destroyed where necessary because of drainage or public utility servicing, installation, alteration or maintenance. The easement areas within each Lot and all Improvements in such areas shall be maintained continuously by the Owner of the Lot, except for those Improvements which a public authority or utility company is responsible to maintain. Easements for installation and maintenance of utilities and drainage facilities may be reserved over portions of certain Lots, as shown on the Plats.

(d) **Landscape Maintenance.** The Association shall have the right to enter on any Lot with permission from the Owner, not to be unreasonably withheld, in order to maintain landscaping in the event the Owner fails to adequately maintain the landscaping in accordance with the standards of the Neighborhood in which the Lot is located, including watering and the maintenance, repair or replacement of the exterior sprinkling system. The Association's right of access for maintenance shall include the right of access to a garage or other part of a Residence on a Lot containing the automatic sprinkling control box and the right to use the water at the expense of the Owner in any amount deemed necessary and appropriate by the Association for maintaining the landscaping in the Lot.

## ARTICLE 6: ARCHITECTURAL REVIEW

6.1. **General.** No Improvements of any kind, including, without limitation, the construction of any Residence, garage, outbuilding, parking area, driveway, tennis court, walkway, swimming pool, outdoor hot tub or spa, fence, wall, curb, pool, trampoline, sing set or playground equipment, satellite dish or antenna, solar panel, outside air conditioning equipment, or any other permanent structure may be constructed, erected or installed on the Property without the approval of the Architectural Review Committee (the "Committee"). No excavation, grading, filling, draining, landscaping or installation or removal of existing vegetation shall be made without the approval of the Committee. No approval shall be required to repaint the exterior of a structure in accordance with the originally approved color scheme or to rebuild in accordance with originally approved plans and specifications. Any Owner may remodel, paint, or redecorate the interior of his Residence without approval. However, modifications to the interior of screened porches, patios and similar

portions of a Lot visible from outside the structure shall be subject to approval. All Residences constructed on the Lots shall be designed by and built in accordance with the plans and specifications of a licensed architect. This Article shall not apply to Declarant's activities. Unless otherwise specified in this Declaration or the Architectural Guidelines, "approval" of the Committee shall mean advance written approval.

6.2. **Composition of Architectural Review Committee.** Prior to the Turnover Meeting (defined in Section 8.8 below), Declarant shall serve as the Committee, provided Declarant may, in its sole discretion, appoint an interim Committee consisting of not less than four (4) persons (at least one of whom shall be a professional in the field of architecture), who shall serve until replaced by Declarant or until their successors take office at the Turnover Meeting. Declarant may at any time delegate to the Management Committee the right to appoint or remove members of the Committee; provided the Management Committee shall acquire the right to appoint or remove members of the Committee no later than the Turnover Meeting. After the Management Committee assumes control of the right to appoint or remove members of the Committee, the Committee shall consist of at least four (4) persons (at least one of whom shall be a professional in the field of architecture), including at least two, and an equal number of, Owners (or representatives of Owners) from each Neighborhood.

6.3. **Architectural Guidelines.** The Architectural Review Committee may prepare more detailed Architectural Guidelines which establish standards, rules, regulations, restrictions and guidelines, in addition to those set forth in Article 7, with respect to, but not limited to, design features, architectural styles, exterior colors and materials, details of construction, location and size of structures, landscaping and other matters requiring approval by the Committee pursuant to this Declaration. The Architectural Guidelines shall also specify the content of the Application that must be submitted to the Committee by an Owner seeking approval of proposed Improvements and shall establish the procedures for submitting the Application. The Architectural Guidelines are incorporated herein and shall be deemed to be a part of this Declaration and shall be binding on all Owners and their agents, provided the Architectural Guidelines may contain general provisions applicable to the entire Development as well as specific provisions applicable to a particular Neighborhood(s) only. In the event of a conflict between the Architectural Guidelines and this Declaration, this Declaration shall prevail. The Architectural Committee may, in its sole discretion, amend the Architectural Guidelines, subject to the approval of the Management Committee and the Class B Member (if any). Amendments to the Architectural Guidelines shall be applied prospectively only and shall not be applied so as to require modifications to or removal of Improvements previously approved once construction of the approved Improvements has commenced. The Architectural Guidelines are not the exclusive basis for Committee decisions, and compliance with the Architectural Guidelines does not guarantee approval of any Application. The Committee shall make the Architectural Guidelines available to Owners and builders who seek to construct Improvements within the Development.

6.4. **Submission to Committee.** The Owner seeking to construct Improvements (the "Applicant") shall submit an application ("Application") to the Committee for review, as specified in the Architectural Guidelines. The required Application materials may include, without limitation, plans and specifications showing site layout, structural design, exterior elevations and building

heights on each elevation, exterior materials and colors, landscaping, drainage, exterior lighting, irrigation and other features of the proposed Improvements, as applicable. The Architectural Guidelines and the Committee may require the submission of such additional information as may be reasonably necessary to consider any Application.

6.5. **Standard.** The Committee shall have the right to approve any Application in compliance with the Architectural Guidelines and this Declaration if the Committee reasonably determines that proposed Improvements are consistent with, among other things, (a) the architectural character and nature, shape, color, size, material, location and kind of all proposed Improvements, taking in consideration the aesthetic quality of any structure with respect to height, form, proportion, volume, sitting and exterior materials; (b) the adequacy of Lot dimensions for proposed Improvements; (c) the conformity and harmony of exterior design with neighboring Lots and Improvements; (d) the relation of topography, grade and finished ground elevations to that of neighboring Lots and Improvements; (e) the screening of mechanical and other installations; (f) the functional appropriateness with respect to drainage, utility service systems and lighting; and (g) the extent and quality of landscaped areas.

6.6. **Approval Procedure.** The Committee shall make a determination on each Application within thirty (30) days after receipt of a completed Application and all required information. The Committee may (a) approve the Application, with or without conditions; (b) approve a portion of the Application and disapprove other portions; or (c) disapprove the Application. The Committee shall notify the Applicant in writing of its decision within five (5) days thereafter. In the case of disapproval, the Committee shall specify the reasons for disapproval and/or offer suggestions for curing any objections. In the event the Committee fails to render its decision within thirty (30) days after receipt of a completed Application, approval will not be required and the provisions of this Article shall be deemed to have been fully complied with.

6.7. **Appeal.** Any Owner adversely affected by an action of the Committee may appeal such action to the Management Committee. Appeals shall be made in writing within ten (10) days of the Committee's action and shall contain specific objections or mitigating circumstances justifying the appeal. A final, conclusive decision shall be made by the Management Committee within thirty (15) days after receipt of the appeal.

6.8. **Fees; Assistance.** In accordance with the conditions in this section of the This Declaration, the Lot Owner shall deposit the sum of One Thousand Five Hundred Dollars (\$1,500.00) with the Architectural Review Committee, Three Hundred Dollars (\$300.00) of which shall constitute a non-refundable fee. \$700.00 of the fee will be designated for compliance the architectural terms set forth in Section 6 in this Declaration of Covenants, Conditions and Restrictions. \$500.00 of the fee will be designated for compliance with the landscaping criteria. The deposit is for the purpose of insuring that the Owner: (1) fulfills his responsibility to keep his Lot in a condition so as to prevent the rubbish and debris which accumulates during the construction and/or landscaping process from blowing or collecting on neighboring Lots and streets in the Neighborhood; (2) reasonably cleans up such Owner's Lot at or near the completion of the construction process, and (3) complies in all respects with the terms and conditions of this Declaration of Covenants, Conditions and Restrictions. If the Lot Owner fails in any of these

responsibilities \$1,200.00 of the deposit may be retained by the Architectural Review Committee as security for the performance of the Owner's obligation hereunder or as liquidated damages. Additionally, if any such failure is not remedied by Owner within fourteen (14) days after written notice thereof, the Architectural Review Committee may remedy such condition itself and in connection therewith, it may have reasonable access to the Lot and shall charge the Owner for the cost of the remedy. Upon the completion of the construction of residence and the landscaping of the Lot in a satisfactory manner, the portion of the Deposit remaining after remedial work, if any, shall be returned to the Owner by the Architectural Review Committee upon written request by the Owner. The Committee may employ architects, engineers or other persons as it deems necessary to perform the review. The Committee may, subject to the approval of the Management Committee, change the amount of the Review Fee or the Deposit at any time in order to allow for increasing costs or inflation.

6.9. **Majority Action.** Except as otherwise provided in this Declaration, a majority of the members of the Committee shall have the power to act on behalf of the Committee, without the necessity of a meeting and without the necessity of consulting the remaining members of the Committee. The Committee may render its decision only by written instrument setting forth the action taken by the consenting members.

6.10. **Liability.** Neither the Committee nor any member thereof shall be liable to any Owner, occupant, builder or developer for any damage, loss or prejudice suffered or claimed on account of any action or failure to act of the Committee or a member of the Committee, provided only that the member has, in accordance with the actual knowledge possessed by him, acted in good faith.

6.11. **Nonwaiver.** Consent by the Committee to any matter proposed to it or within its jurisdiction shall not be deemed to constitute a precedent or waiver impairing its right to withhold approval as to any similar matter thereafter proposed or submitted to it for consent.

6.12. **Effective Period of Consent.** The Committee's consent to any proposed Improvements shall automatically be revoked one year after issuance unless construction of the proposed Improvements has been commenced or the Owner has applied for and received an extension of time from the Committee.

6.13. **Estoppel Certificate.** Within thirty (30) days after written request is delivered to the Committee by any Owner, and upon payment to the Committee of a reasonable fee fixed by the Committee to cover costs, the Committee shall provide such Owner with an estoppel certificate executed by a member of the Committee and acknowledged, certifying with respect to any Lot owned by the Owner, that as of the date thereof, either: (a) all Improvements made or done upon or within such Lot by the Owner comply with this Declaration, or (b) such Improvements do not so comply, in which event the certificate shall also identify the noncomplying Improvements and set forth with particularity the nature of such noncompliance. Any purchaser from the Owner, and any mortgagee or other encumbrancer shall be entitled to rely on such certificate with respect to the matters set forth therein, such matters being conclusive as between Declarant, the Committee, the Association and all Owners, and such purchaser or mortgagee.

## ARTICLE 7: RESTRICTIONS

7.1. **Prohibition Against Further Subdivision.** No Lot may be further subdivided or otherwise separated into smaller parcels without the approval of the Management Committee and the County.

7.2. **Permitted Use.**

(a) **Residential Use.** Subject to the provisions of Section 7.2(b), the Property shall be used for residential purposes only.

(b) **Commercial Use Restricted.** Except with the consent of the Management Committee, no trade, craft, business, profession, commercial or similar activity of any kind shall be conducted on the Property, nor shall any goods, equipment, vehicles, materials or supplies used in connection with any trade, service or business be kept or stored on the Property. Nothing in this Section shall be deemed to prohibit (a) activities relating to the rental or sale of Residences; (b) the right of Declarant, the Association or any contractor or homebuilder to construct Residences on any Residential Lot, to store construction materials and equipment on such Lots in the normal course of construction, and to use any Residence as a sales or rental office or model home or apartment for purposes of sales or rental in the Development; and (c) the right of the Owner of a Residential Lot to maintain his professional personal library, keep his personal business or professional records or accounts, handle his personal business or professional telephone calls, or confer with business or professional associates, clients or customers in his Residence, provided, however, there is no external evidence thereof and such use complies with County home occupation/business ordinances. The Management Committee shall not approve commercial activities otherwise prohibited by this Section unless the Management Committee determines that only normal residential activities would be observable outside of the Residence and that the activities would not be in violation of applicable County ordinances.

(c) **Transient Lodging Use Prohibited.** Residential Lots shall be used for residential housing purposes only and shall not be rented in whole or in part for transient lodging purposes, boarding house, "bed and breakfast," or other uses for providing accommodations to travelers. No lease of any Residential Lot shall be for a period of less than thirty (30) days. No Residential Lot shall be subjected to time interval ownership.

(d) **Use of Temporary Structures as a Residence Prohibited.** No trailer, mobile home, camper, camper shell, tent, shack, garage, barn, shed, outbuilding, basement of an incomplete building, or temporary building or structure of any kind shall be used at any time for a residence, either temporary or permanent.

(e) **Drilling, Mining Prohibited.** No oil drilling, oil development operations, oil refining, mining, drilling, prospecting, quarrying, mineral exploration or similar activities shall be permitted on the Property.

(f) **Unlawful Use Prohibited.** No unlawful use shall be made of the Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction over the Property shall be observed.

7.3. **Permitted Structures.** No structures shall be erected or permitted to remain on any Residential Lot except Residences and structures normally accessory thereto which comply with the Architectural Guidelines and are approved by the Architectural Review Committee. Garages, sheds, storage units, private greenhouses, private swimming pools and other outbuildings may be erected and maintained on a Lot, provided they comply with the Architectural Guidelines and are approved by the Architectural Review Committee. No mobile home, trailer house, or other previously erected, used or temporary structure may be installed or maintained on any Lot. No derrick, oil well, tunnel, mineral excavation, shafts or other such structure designed for use in drilling for oil, natural gas, water or minerals shall be erected or maintained on any Lot.

7.4. **Minimum Square Footages - Garage Orientation for "The Hollows".** No single-story Residence shall be constructed, altered, placed or permitted to remain on any Lot unless the main floor area, exclusive of basement, open porches and garages is 2,100 square feet or greater for a house with a three-car garage or 2,400 square feet or greater for a house with a two-car garage. No two-story Residence shall be constructed, altered, placed or permitted to remain on any Lot unless the main floor area, exclusive of basements, open porches and garages, is 1,900 square feet or greater and the upper level area, exclusive of open porches, is 1,200 square feet or greater. A multi-level house, as defined as having more than two levels, must have a minimum of 3,300 square feet above the exterior finish grade.

7.5. **Minimum Square Footages - Garage Orientation for "Hidden Valley".** No single story Residence shall be constructed, altered, placed or permitted to remain on any Lot unless the main floor area, exclusive of basement, open porches and garages is 1,750 square feet or greater for a house with a three car garage or 1,900 square feet or greater for a house with a two car garage. No multi-story Residence shall be constructed, altered, placed or permitted to remain on any Lot unless the main floor, exclusive of basements, open porches and garages, is a total of 1,600 square feet or greater and the upper level, exclusive of open porches, is a total of 1,000 square feet or greater. A multi-level house, as defined as having more than two levels, must have a minimum of 2,800 square feet above the exterior finish grade.

7.6. **Setbacks; Orientation.** No Improvements shall be located on a Lot closer to the respective Lot line than as follows: twenty (20) feet from the front Lot line; ten (10) feet from each side Lot line, unless the Lot is a corner Lot, in which case the twenty (20) foot front yard standard shall apply to the applicable side yard; and twenty (20) feet from the rear Lot line. The orientation of a structure shall be subject to the approval of the Architectural Review Committee. A Residence on a flag Lot shall be oriented to face towards the side of the Lot that adjoins the staff, and the side of the flag Lot that adjoins the staff shall be considered the front yard. Flag Lots shall conform to the setbacks set forth above

7.7. **Height.** No Improvements with a height in excess of thirty-five feet (35'), measured



from the lowest finished grade of the structure to the ridgeline, excluding chimneys, shall be located on Residential Lots. The height restriction for sensitive upslope or downslope shall be thirty feet (30') and two (2) stories, measured from the lowest finished grade of the structure to the ridgeline, excluding chimneys. Declarant reserves the right to modify the grade of any Lot by as much as four (4) feet prior to the commencement of construction of Improvements thereon.

7.8. **Garages.** Garages shall be enclosed, large enough for at least two (2) cars and, where possible, situated so as to utilize a side-facing entrance.

7.9. **Completion Required Before Occupancy.** No Residence may be occupied prior to its completion and the issuance of a certificate of occupancy by the County.

7.10. **Residence to be Constructed First.** No garage, storage unit or other outbuilding may be constructed prior to the construction of the primary Residence on the Lot.

7.11. **Architectural Style and Compatibility of Improvements of "The Hollows"**. The exterior of all Residences must be constructed of brick, stucco, hardboard siding, and/or stone. Log homes and log veneer siding are prohibited. For each Residence, at least eighty-five percent (85%) of the surface area of the front and side façades combined shall consist of brick or stone for rambler style homes and seventy five percent (75%) of the surface area of the front and side façades combined shall consist of brick or stone for all other style homes. Homes with rear or side façades that face any street shall have a minimum of a 4' of stone or brick trim. Aluminum soffits and fascia trim are allowed, provided, the fascia trim is at least six inches (6") in width. Aluminum or vinyl exterior siding is prohibited. Roof surfaces shall slope a minimum of 6:12 pitch and shall be thirty-year asphalt architectural shingles, tile or slate shingles, unless approval of the Architectural Review Committee is received for the use of other roofing materials. Flat roofs, A-frame, geodesic dome and other irregular roof forms are prohibited. Colors of exterior materials shall be earth tones and grays while allowing accents of white, beige, rust, black or green. Each Residence shall complement surrounding Residences and shall not detract from the design, quality or appearance of the Development. All exterior materials and colors must be approved by the Architectural Review Committee. All exposed metal flues, vents, ventilators, or other metallic rooftop protrusions shall be positioned on the back slope of the roof and shall be coated or painted with tones which complement surrounding structures. All final decisions with respect to these enumerated standards, the additional standards set forth in the Architectural Guidelines and their application to a particular proposed structure in the Development shall be made by the Architectural Review Committee.

7.12. **Architectural Style and Compatibility of Improvements of "Hidden Valley"** The exterior of all Residences must be constructed of brick, stucco, hardboard siding, and/or stone. Log homes and log veneer siding are prohibited. Every Residence shall have a minimum of seventy five percent 75% brick or stone on the front façade and on each the side façades combined for rambler style homes and sixty five percent (65%) of the surface area of the front and side façades combined shall consist of brick or stone for all other style homes. Homes with rear or side façades that face any street shall have a minimum of a 4' of stone or brick trim. Stone and/or Brick needs to wrap the corners a min. 48". Street facing side and back facades on corner Lots shall have the minimums set forth above for front facades. Aluminum soffits and fascia trim is allowed, provided, however, that a

minimum width of 6 inches shall be required on the fascia. No aluminum or vinyl exterior siding is permitted in the Neighborhood. Roof surfaces shall slope a minimum of 6:12 pitch and shall be 30-year asphalt architectural shingles, tile or slate shingles unless specific written approval of the Neighborhood Architectural Review Committee is received for the use of other roofing materials. Flat roofs, A-frame, geodesic dome and other irregular roof forms are prohibited. Colors of exterior materials shall be earth tones and grays while allowing accents of white, beige, rust, black or green. Care should be given that each Residence complements those around it, and not detract in design, quality or appearance. All exterior materials and colors must be approved in writing by the Neighborhood Architectural Review Committee. All final decisions with respect to these enumerated standards and their application to a particular proposed structure in the Neighborhood shall be made by the Neighborhood Architectural Review Committee. All exposed metal flues, vents, ventilators, or other metallic rooftop protrusions shall be positioned on the back slope of the roof and shall be coated or painted with tones which complement surrounding structures.

7.13. **Architectural Guidelines.** The following architectural guidelines shall apply to all homes, especially lots which have been deemed sensitive or highly visible from major roads and/or other properties. All Dwellings constructed shall be required to incorporate a minimum of two of the structural elements and two of the architectural elements into the design of the rear elevation of the home as follows:

**Structural Elements**

- a. Hip Roof
- b. Roof dormers on rear of the roof
- c. Addition of bay window or other popped out element
- d. Offset second floor
- e. First floor roof break
- f. Second floor deck element

**Architectural Elements**

- a. Soffit lighting
- b. Stucco trim detail around all windows and doors
- c. Window pane detail, i.e. added grid pattern to the window glass
- d. Shutters installed on all second floor windows
- e. Material or color break between the first and second floors. Material breaks could include stucco trim details, brick and/or stone details, or other options approved by the Committee

7.14. **Landscaping** The developer will be landscaping the common areas such as parks, the pedestrian parkway, streetscapes, trail systems, the Neighborhood entry and the Neighborhood entry road. Landscaping will include turf, native grasses, trees, shrubs and other miscellaneous landscape materials, as well as accompanying irrigation systems. The common facilities will be maintained by the County or the Neighborhood Owners Association, depending upon who retains ownership and maintenance based upon the Overlay Plat.

Homeowners are encouraged to use low water usage landscape plant material. Landscaping designs should be reflective of the Morgan County Region.

#### Requirements

1. Each homeowner shall submit a Landscape Planting Plan and a Landscape Irrigation Plan to the Architectural Review Committee at a scale no greater than 1" = 20'-0".
2. Planting plans shall indicate all proposed plant material including but not limited to; trees, shrubs, groundcovers, and turf material. Plant lists shall include botanical names, common names, and size of material at time of planting. All proposed plant material shall be in compliance with the approved Rollins Ranch plant list. Homeowners may submit alternative plant material for review and approval by the Architectural Review Committee.
3. Secondary irrigation water may be provided to each Lot in an amount based on the square footage, topography and location of the Lot. The amount of irrigation water provided to each Lot will be based upon a normal water year and regional availability and is not guaranteed. The irrigation water company providing the secondary water shall have the right to restrict, reduce, regulate or curtail the amount and timing of delivered secondary water. In order to manage limited water resources, the irrigation company may specify the days, times and amounts of water to be used by the Lot Owner(s). Water conservation and natural vegetation will be encouraged.
4. Irrigation Plans shall show and label all necessary equipment for irrigation of all plant material. Each Owner will be required to install, use and maintain a Rainbird® ET Manager™, to be provided by the Association, along with a compatible timer to maintain optimal irrigation. Irrigation system shall be zoned to water plant material with similar water requirements. Irrigation plans shall incorporate water saving design principles. Irrigation of non-landscape areas is not permitted, I.E. sidewalks, driveways, etc...
5. If a certificate of occupancy is issued between September 1 and March 31, all landscaping must be completed no later than the following July 1. If the certificate of occupancy is issued between April 1 and August 31, all landscaping must be completed within 60 days of issuance of the certificate of occupancy. In the event the Owner has not installed the landscaping as required by this Section within the specified timeframes, the Deposit described in Section 6.8 shall be forfeited by the Owner to the Association and the Association may, in addition to any other remedies the Association may have, fine the Owner until the required landscaping has been installed.
6. Street trees shall be planted one tree per 50 lineal feet of frontage at a minimum 2" caliper. This number may be altered if circumstances such as visibility, sightlines, driveway installation, utility locations or adjacent property tree placements affect the overall tree spacing layout. Tree selection shall be appropriate for size of park strip.

Potential Trees are listed below (Other appropriate species may be selected from the Rollins Ranch plant list):

- Autumn Blaze Maple (*Acer x. freemanii* 'Jeffersred')
- Rocky Mountain Glow Maple (*Acer glabrum* 'Rocky Mountain Glow')
- Norway Maple (*Acer platanoides*)
- Common Hackberry (*Celtis occidentalis*)
- Redmond American Linden (*Tilia americana* 'Redmond')
- Littleleaf Lindon (*Tilia cordata*)

7. Four (4) total trees should be planted in the front Yard - 2 deciduous, minimum 2" caliper and 2 evergreen, 5'-6' height.

Acceptable Trees are listed below (Other appropriate species may be selected from the Rollins Ranch plant list.):

- Amur Maple (*Acer ginnala*)
- Autumn Blaze Maple (*Acer x. freemanii* 'Jeffersred')
- Colorado Spruce (*Picea pungens*)
- European Mountain Ash (*Sorbus aucuparia*)
- Redmond Linden (*Tilia americana* 'Redmond')
- Western River Birch (*Betula occidentalis*)
- White Fir (*Abies concolor*)
- Colorado Spruce (*Picea abies*)

8. Two (2) deciduous trees should be planted in the rear yard, minimum 1 1/2" caliper

Acceptable Trees are listed below (Other appropriate species may be selected from the Rollins Ranch plant list):

- Bechtel Crab (*Malus ioensis*)
- Canadian Red Chokecherry (*Prunus virginiana* 'Canada Red')
- Flowering Crab/Varieties (*Malus* Sp.)
- Radiant Crab Apple (*Malus* 'Radiant')
- Spring Snow Crab Apple (*Malus* 'Spring Snow')
- Summer Glow Mayday Tree (*Prunus padus* 'Summer Glow')
- Amur Maple (*Acer ginnala*)
- Autumn Blaze Maple (*Acer x. freemanii* 'Jeffersred')
- European Mountain Ash (*Sorbus aucuparia*)
- Redmond Linden (*Tilia americana* 'Redmond')
- Western River Birch (*Betula occidentalis*)

7.15. **Parkstrip.** Parkstrips, defined as the area between curb and sidewalk, shall be irrigated and maintained with grass and trees, if applicable.

7.16. **Natural Contours, Grading and Drainage.** The natural contours of a Lot may not be modified in excess of four (4) vertical feet without approval from the Architectural Review Committee. In any location where cuts exceed a three to one (3/1) slope, Lot Owners must do at least one of the following to stabilize the slope until the disturbed area is properly re-vegetated: (1) use silt fencing; (2) use an erosion blanket; or (3) as approved by the Architectural Review Committee, construct a decorative wall or use natural rock. All disturbed areas must be covered with natural soil and planted with grasses or other appropriate plant material. Owners must ensure that cuts and fills do not endanger any adjacent Lots or Common Areas. Each Lot Owner shall minimize surface water runoff flowing from his own Lot. Each Owner shall be responsible for grading his Lot to required specifications and shall not hold Declarant or the Association responsible for any damage caused by drainage on or off his Lot. All grading associated with construction of a Residence shall be completed prior to occupancy.

7.17. **Fences, Walls, Hedges and Screens.** No fences, walls hedges or non-living screens shall be constructed on any Lot without approval from the Architectural Review Committee. Vinyl or aluminum slats in chain-link fencing are prohibited. Non-white vinyl, dark-colored coated chain-link, wood or Trex<sup>®</sup> fencing is acceptable. Fences may not be constructed on slopes of fifteen percent (15%) or greater. No side-yard or backyard fences may be constructed adjacent to a Common Area fence without approval from the Architectural Review Committee, which Committee may approve such fencing so long as the fence matches the common area fence in height at least 10 feet before the two fences meet. Any Lot Owner wishing to enclose wood rail fencing with wire mesh must coordinate with the Association, which will install standard wire mesh fencing for a fee. No fences, hedges, shrubs or other living landscaping or screens of any kind shall be erected so as to pose a hazard to vehicular or pedestrian traffic, particularly near a driveway entrance. Any solid hedge within twenty feet (20') of a front Lot line shall be trimmed to a maximum height of three feet (3'). Backyard fences shall not exceed six feet (6') in height. Side yard fences shall not extend toward the front of the Lot beyond the front yard setback. Retaining walls exceeding four feet (4') in height must be designed and certified as structurally sound by a civil or structural engineer. All fencing, walls, hedges or similar structures shall be maintained in a first-class and attractive manner. When an Owner's installation, modification, removal or replacement of a fence, wall, hedge or other structure or landscaping element risks weakening the lateral support of an adjoining Owner's property, such Owner shall install and maintain bracing to support and protect against damage to the adjoining Owner's property.

7.18. **Maintenance Responsibility.** All Lots and the Improvements thereon shall be maintained in a clean, sanitary, attractive and marketable condition and in good repair at all times and in such fashion as not to create a hazard or nuisance. Such maintenance shall include, without limitation, repair and replacement of roofs, gutters, downspouts, exterior building surfaces, glass surfaces, walks, landscaping and other exterior Improvements. Each Owner shall keep all shrubs, trees, grass and plantings of every kind on his Lot neatly trimmed and properly cultivated and shall keep his Lot free of trash, weeds and other unsightly material. Each Owner shall be responsible for maintaining utility lines within his Lot. Damage caused by fire, flood, storm, earthquake, riot,

vandalism, or other causes shall be restored within a reasonable period of time. The Association reserves the right to post "No Dumping" signs on vacant Lots. The Association shall notify a Lot Owner if Lot maintenance is required. If the Lot Owner has not remedied the problem within fourteen (14) days of notification, the Association may perform said maintenance and may fine or assess the Lot Owner for all associated costs.

7.19. **Tree Removal.** No Owner or contractor or agent of any Owner or contractor shall remove any of the existing trees from a Lot, except those trees which the Architectural Review Committee has allowed to be removed in connection with the approval of an Owner's proposed Improvements. In the event that an Owner or contractor or agent of any Owner or contractor shall remove any tree from a Lot without first obtaining the written consent of the Architectural Review Committee, the Association shall be entitled to require the Owner to replace any and all trees removed with the same species, age, and height of tree or trees as the tree or trees removed, which remedy shall be in addition to all other rights and remedies of the Association as set forth in this Declaration.

7.20. **Nuisances.** No nuisance shall be permitted to exist or operate upon any Lot so as to be offensive or detrimental to any other property in the vicinity thereof or its occupants.

(a) **Noxious or Offensive Activity.** No noxious or offensive activity shall be carried out on any Lot or in any part of the Development, including, without limitation, the creation of loud or offensive noises or odors that detract from the reasonable enjoyment of the Development.

(b) **Unsightliness.** No unsightliness shall be permitted on any Lot. This shall include, without limitation, the open storage of any building materials (except during the construction of any Residence or addition); open storage or parking of farm or construction equipment, inoperable motor vehicles, boats, campers, camper shells, trailers, trucks larger than pick-up trucks (except during periods of actual loading and unloading); accumulations of lawn or tree clippings or trimmings; accumulations of construction debris or waste; household refuse or garbage except as stored in tight containers screened from view in an enclosure such as a garage; and the storage or accumulation of any other material, vehicle, or equipment on the Lot in a manner that is visible from any other Lot or any street.

(c) **Lights.** Any outdoor lighting shall be designed to direct the light downward and limit the field of light to the confines of the Lot on which it is installed. All outdoor lighting must be approved by the Architectural Review Committee and shall comply with the night sky lighting requirements of the County Land Use Management Code.

(d) **Sounds.** No continuously barking dogs, loud speakers or other noise-making devices may be used, maintained or permitted to continue on any Lot in a way that annoys or disturbs other Owners or residents in the Development or creates noise that might reasonably be expected to annoy or disturb other Owners or residents in the Development, except for security or fire alarms and noise incident to legitimate construction and maintenance work.

(e) **Pests.** No Owner shall permit any thing or condition to exist upon any portion

of the Development which shall induce, breed or harbor infectious plant diseases or noxious insects or vermin.

7.21. **Hazardous Activity Forbidden.** No activity may be conducted on any Lot that is, or would be considered by a reasonable person to be unreasonably dangerous or hazardous, or which could lead to the cancellation of a conventional homeowner's insurance policy. This includes, without limitation, the storage of caustic, toxic, flammable, explosive or hazardous material in excess of those reasonable and customary for household uses, the discharge of firearms or fireworks, and setting open fires (other than properly supervised and contained barbecues).

7.22. **Animals.** No wild or dangerous animals, horses, cows, pigs, sheep, fowl, livestock or animals, other than ordinary household pets that do not constitute a nuisance, shall be allowed on the Property. Dogs and cats or other household pets belonging to Owners or their Affiliates within the Property must be kept within an enclosure. The enclosure must be maintained such that the animal cannot escape therefrom. Chain-link fencing may not be used to confine animals unless it is completely concealed from view during all seasons of the year. Invisible fencing may be used where appropriate. Any such contained enclosure areas must be cleaned on a regular basis to minimize odors and maintain a clean appearance. Without exception, all dogs shall be restrained on a leash when off the Owner's Lot. Animal owners are responsible to immediately pick up all animal droppings that are deposited on the Property outside of their own Lot. In no case may any household pet or other animal kept at or around a Residence be allowed to create a nuisance for neighboring Lot Owners due to noise, odors or otherwise. Any other term or condition hereof to the contrary notwithstanding, an Owner may not keep or maintain more than two (2) dogs and two (2) cats older than six (6) months, on a Lot at any time.

7.23. **Motor Vehicles.** No motor vehicles, including, without limitation, automobiles, motorcycles, ATVs and other recreational vehicles, may be operated in the Development except on streets and driveways, and only to the extent permitted by law.

7.24. **Signs.** No signs will be permitted on any Lot or within the Development, except for traffic-control signs placed by the County or temporary signs warning of an immediate danger. For-sale signs may be placed on Lots, provided no such sign may exceed three (3) square feet. Declarant may erect signs within the Development for purposes of marketing the Development, including announcing the availability of Lots or providing sales information.

7.25. **Underground Utilities.** All gas, electrical, telephone, television, and any other utility lines in the Development must be underground, including lines within any Lot which service installations entirely within that Lot.

7.26. **Service Facilities.** Clothes lines, service yards and storage yards are prohibited. Exterior mechanical equipment must be screened so as not to be visible from adjoining Lots.

7.27. **Sewer Connection Required.** All Lots are served by sanitary sewer service, and no cesspools, septic tanks or other types of waste disposal systems are permitted on any Lot. All Residences must be connected to the sanitary sewer system.

7.28. **Fuel Storage.** No fuel, oil, gasoline, propane, or other fuel storage tanks may be installed or maintained on the Property. Residences shall be heated with natural gas, solar or electric heat. Propane or other such containerized fuels may be used only during construction of a Residence until the permanent heating system is installed and operational. Notwithstanding the foregoing, propane tanks for outdoor barbecues shall be permitted.

7.29. **Antennas.** Antennas must be enclosed within a structure and not roof-mounted, except that no more than two (2) satellite dishes, each measuring less than twenty-four inches (24") in diameter, shall be permitted. No ham radio receiver or transmitter antenna or other similar device shall be attached to or installed on the exterior portion of any Residence, outbuilding, or Improvement or placed on any Lot within the Development without the approval of the Architectural Review Committee.

7.30. **Mailboxes; Paper Box.** Each Lot shall have a permanent stone or brick mailbox structure that harmonizes with the style of the Residence. Mailboxes should be of sufficient size to accommodate large parcels and several days' mail. Optional newspaper holders may be included within the mailbox structure. The Architectural Review Committee must approve all mailboxes and may, in the Architectural Guidelines, establish pre-approved mailboxes.

7.31. **Fireplaces.** In order to reduce air pollution generated by fireplace emissions, all wood stoves and fireplace inserts used on the Property must be EPA-certified. Gas stoves, pellet stoves and decorative gas logs are permitted without restriction.

7.32. **Parking.** Except as may otherwise be provided in the Rules and Regulations of the Association, overnight parking of boats, trailers, off-road motorcycles, trucks, mobile homes, campers or other recreational vehicles or equipment, regardless of weight, and parking of any other vehicles in excess of three-quarter (3/4) ton in weight is prohibited on the Property, excepting only within areas designated for such purposes by the Management Committee or within the confines of an enclosed garage.

7.33. **Vehicles in Disrepair.** No Owner shall permit any vehicle which is either inoperable, in an extreme state of disrepair, or not currently licensed for use on the public roadways to be abandoned or to remain parked on the Common Areas or on any street within the Development for a period in excess of forty-eight (48) hours. A vehicle shall be deemed in an "extreme state of disrepair" when the Management Committee reasonably determines that, by reason of its poor exterior condition, its presence degrades the visual environment of the Development. Should any Owner fail to remove such vehicle within five (5) days following the date on which notice is provided to him by the Association, the Association may have the vehicle removed from the Property at the Owner's expense.

7.34. **Rubbish and Trash.** Dumping of trash or rubbish onto Common Areas or Residential Lots is prohibited. Yard rakings, dirt and other material resulting from landscaping work shall not be dumped onto streets or Common Areas. Should any Owner fail to remove any trash, rubbish, garbage, yard rakings or any such materials from any streets or Common Area or Residential



Lots where deposited by him within ten (10) days following the date on which notice is provided to him by the Management Committee, the Association may have such materials removed at the Owner's expense. Without limiting the generality of the foregoing, the Owners shall not allow any builder, contractor, or subcontractor to wash any cement truck or cement mixer or to dump or deposit any asphalt, concrete or other construction materials or debris which are not part of the Improvements to a Lot upon any part of the Property. An Owner shall be directly responsible for any violation of this Declaration or damage to any of the Property caused by the Owner's builder(s), contractor(s), or subcontractor(s). The Deposit referred to in Section 6.8 hereof may be retained by the Architectural Review Committee for any such violation or damage. Nothing contained herein shall limit the amount of damages for which an Owner may be liable. The foregoing to the contrary notwithstanding, an Owner or the Owner's contractor may, during the period of construction as specified herein, place and maintain upon a Lot no more than one (1) dumpster and one (1) portable toilet facility.

7.35. **Completion of Construction.** The construction of any structure on any Residential Lot, including painting and all exterior finish, shall be completed within twelve (12) months from the beginning of construction so as to present a finished appearance when viewed from any angle. In the event of undue hardship due to weather conditions, this provision may be extended for a reasonable length of time upon approval of the Architectural Review Committee. The construction area shall be kept reasonably clean, free of litter and in workmanlike order during the construction period. If construction has not commenced upon any Residential Lot within twelve (12) months after acquisition by the Owner, the Owner shall install the sidewalk, landscape, irrigate and maintain the Lot fully. The Architectural Review Committee may waive this requirement if it determines that construction will commence within a reasonable time. In any case, all unimproved Residential Lots shall be kept in a neat and orderly condition, free of brush, vines, weeds and other debris, and grass thereon shall be cut or mowed at sufficient intervals to prevent creation of a nuisance or fire hazard.

7.36. **Fire Protection.** All stacks and chimneys from fire places in which combustibles, other than natural gas, are burned shall be fitted with spark arresters. Exterior fires are prohibited, except fires contained within appropriate receptacles as provided by County ordinance.

7.37. **Deviations.** Deviations from the standards and restrictions set forth in Sections 7.1 through 7.36 may be allowed only with the approval of the Architectural Review Committee or, where specified, the Management Committee, for good cause shown.

7.38. **Application to Additional Property.** The provisions of Sections 7.1 through 7.37 shall not apply to Additional Property annexed to this Neighborhood if the declaration annexing such Additional Property so specifies. The declaration annexing such Additional Property to this Neighborhood may establish restrictions governing the use and conduct of such Additional Property that are more or less restrictive than the restrictions governing the Development.

7.39. **Compliance with the Law.** All activities on the Lots and use of the Lots shall comply with applicable federal, state and local laws, statutes, ordinances and regulations.

## ARTICLE 8: ASSOCIATION

8.1. **Organization.** Declarant shall organize an association of all of the Owners within the Development. Such Association, its successors and assigns, shall be organized under the name "The Rollins Ranch at Mountain Green Homeowners Association, Inc." and shall have such property, powers and obligations as are set forth in this Declaration for the benefit of the Property and all Owners. Declarant shall, before the first Lot is conveyed to an Owner, organize the Association as a nonprofit corporation under the general nonprofit corporation laws of the State. The Articles shall provide for its perpetual existence, but in the event the Association is at any time dissolved, whether inadvertently or deliberately, it shall automatically be succeeded by an unincorporated association of the same name. In that event all of the property, powers and obligations of the incorporated association existing immediately prior to its dissolution shall thereupon automatically vest in the successor unincorporated association, and such vesting shall thereafter be confirmed as evidenced by appropriate conveyances and assignments by the incorporated association. To the greatest extent possible, any successor unincorporated association shall be governed by the Articles and Bylaws as if they had been made to constitute the governing documents of the unincorporated association.

8.2. **Membership.** Every Owner of one or more Lots within the Development shall, immediately upon creation of the Association and thereafter during the entire period of such Owner's ownership of one or more Lots within the Development, be a member of the Association. Such membership shall commence, exist and continue simply by virtue of such ownership, shall expire automatically upon termination of such ownership, and need not be confirmed or evidenced by any certificate or acceptance of membership.

8.3. **Voting Rights.** Voting rights within the Association shall be allocated as follows:

(a) **Residential Lots.** Residential Lots shall be allocated one vote per Residence located on such Lot.

(b) **Classes of Voting Membership.** The Association shall have two classes of voting membership:

(i) **Class A.** Class A Members shall be all Owners with the exception of Declarant and shall be entitled to voting rights for each Lot owned computed in accordance with Section 8.3(a) above. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more voting rights be cast with respect to any Lot than as set forth in Section 8.3(a) above.

(ii) **Class B.** The Class B Member shall be Declarant and shall be entitled to five times the voting rights computed under Section 8.3(a) for each Lot owned by Declarant. For purposes of calculating the voting right of the Class B Member, the number of Lots owned by Declarant shall be deemed to include the additional unplatted Lots shown on the then current

Conceptual Site Plan. The Class B Membership shall cease and be converted to a Class A Membership on the happening of either of the following events, whichever occurs earlier:

1. When eighty percent (75%) of the Lots in the Development have been sold and conveyed to Owners other than Declarant; or
2. At such time as Declarant may elect in writing to terminate its Class B Membership.

8.4. **Management Committee.** The affairs of the Association shall be conducted by the Management Committee and by such officers as the Management Committee may elect or appoint in accordance with the Articles and Bylaws. Prior to the Turnover Meeting (described in Section 8.8 below), Declarant shall serve as the interim Management Committee; provided, Declarant may, in its sole discretion, appoint an interim Management Committee composed of three directors, who shall serve until replaced by Declarant or until their successors take office at the Turnover Meeting, whichever occurs earlier.

8.5. **General Powers and Obligations.** The Association shall have, exercise and perform all of the following powers, duties and obligations:

- (a) The powers, duties and obligations granted to the Association by this Declaration.
- (b) The powers and obligations of a nonprofit corporation pursuant to the general nonprofit corporation laws of the State.
- (c) Any additional or different powers, duties and obligations necessary or desirable for the purpose of carrying out the functions of the Association pursuant to this Declaration or otherwise promoting the general benefit of the Owners.

The powers and obligations of the Association may from time to time be amended, repealed, enlarged or restricted by changes to this Declaration made in accordance with its provisions, accompanied by changes in the Articles and Bylaws made in accordance with their provisions and with the nonprofit corporation laws of the State.

8.6. **Specific Powers and Duties.** The powers and duties of the Association shall include, without limitation, the following:

- (a) **Maintenance and Services.** The Association shall provide maintenance and services for the Development as provided in Article 9 and other provisions of this Declaration.
- (b) **Insurance.** The Association shall obtain and maintain in force policies of insurance as provided in this Declaration or the Bylaws.

(c) **Rulemaking.** The Association shall make, establish, promulgate, amend and repeal Rules and Regulations governing the Common Area.

(d) **Assessments.** The Association shall adopt budgets and impose and collect Assessments as provided in Article 10 of this Declaration.

(e) **Enforcement.** The Association shall perform such acts, whether or not expressly authorized by this Declaration, as may be reasonably necessary to enforce the provisions of this Declaration and the Rules and Regulations adopted by the Association.

(f) **Employment of Agents, Advisers and Contractors.** The Association, through its Management Committee, may employ the services of any person or corporation as managers, hire employees to manage, conduct and perform the business, obligations and duties of the Association, employ professional counsel and obtain advice from such persons or firms or corporations such as, but not limited to, landscape architects, recreational experts, architects, planners, lawyers and accountants, and contract for or otherwise provide for all services necessary or convenient for the management, maintenance and operation of the Development.

(g) **Borrow Money, Hold Title and Make Conveyances.** The Association may borrow and repay moneys for the purpose of maintaining and improving the Common Areas, subject to Section 4.4(c) above, and encumber the Common Areas as security for the repayment of such borrowed money. The Association may acquire, hold title to and convey, with or without consideration, real and personal property and interests therein, including but not limited to easements across all or any portion of the Common Areas, and shall accept any real or personal property, leasehold or other property interests within the Development conveyed to the Association by Declarant.

(h) **Transfer, Dedication and Encumbrance of Common Areas.** Except as otherwise provided in Section 4.4(c) above, the Association may sell, transfer or encumber all or any portion of the Common Areas to a Person, whether public or private, and dedicate or transfer all or any portion of the Common Areas to any public agency, authority, or utility for public purposes.

(i) **Create Classes of Service and Make Appropriate Charges.** The Association may, in its sole discretion, create various classes of service and make appropriate Individual Assessments or charges therefor to the users of such services, including but not limited to reasonable admission and other fees for the use of any and all recreational facilities situated on the Common Areas, without being required to render such services to those of its members who do not assent to such charges and to such other Rules and Regulations as the Management Committee deems proper. In addition, the Management Committee shall have the right to discontinue any service upon nonpayment or to eliminate such service for which there is no demand or adequate funds to maintain the same.

(j) **Implied Rights and Obligations.** The Association may exercise any other right or privilege reasonably to be implied from the existence of any right or privilege expressly

given to the Association under this Declaration or reasonably necessary to effectuate any such right or privilege.

8.7. **Liability.** A member of the Management Committee or an officer of the Association shall not be liable to the Association or any member thereof for any damage, loss or prejudice suffered or claimed on account of any action or failure to act in the performance of his duties, except for acts of gross negligence or intentional acts. In the event any member of the Management Committee or any officer of the Association is made a party to any proceeding because the individual is or was a director or officer of the Association, the Association shall indemnify such individual against liability and expenses incurred to the maximum extent permitted by law.

8.8. **Turnover Meeting.** Declarant shall call a meeting of the Association for the purpose of turning over administrative responsibility for the Development to the Association not later than one hundred twenty (120) days after Lots representing seventy-five percent (75%) of the voting power computed in accordance with Section 8.3 have been sold and conveyed to Owners other than Declarant (the "Turnover Meeting"). At the Turnover Meeting, Declarant or the interim directors, as the case may be, shall resign from the Management Committee and be replaced by their successors, who shall be designated as provided in this Declaration and the Bylaws. If Declarant fails to call the Turnover Meeting, any Owner or mortgagee of a Lot may call the meeting by giving notice as provided in the Bylaws.

8.9. **Appointment of Directors.** Effective as of the Turnover Meeting, the Management Committee of the Association will be composed of four directors, two from each Neighborhood within the Development. The two directors from each Neighborhood shall be elected by the Owners of Lots within that Neighborhood. Terms of office of directors shall be as set forth in the Bylaws. If additional Neighborhoods are created from Additional Property, directors for such Neighborhoods shall be added to the Management Committee of the Association in the same manner.

8.10. **Declarant Voting Rights After Turnover.** After the Turnover Meeting, Declarant shall continue to have the voting rights described in Section 8.3(b) above.

8.11. **Contracts Entered into by Declarant or Prior to Turnover Meeting.** Notwithstanding any other provision of this Declaration, any leases or contracts (including management contracts, service contracts and employment contracts) entered into by Declarant or the Management Committee on behalf of the Association prior to the Turnover Meeting shall have a term of not in excess of three (3) years. In addition, any such lease or contract shall provide that it may be terminated without cause or penalty by the Association or Management Committee upon not less than thirty (30) nor more than ninety (90) days' notice to the other party given at any time after the Turnover Meeting.

## ARTICLE 9: MAINTENANCE, UTILITIES AND SERVICES

9.1. **Maintenance of Common Areas.** The Association shall perform or provide for all maintenance of the Common Areas, Common Easement Areas, and Limited Common Areas, including but not limited to the following areas or facilities located in such Areas: parks, grass, trees, walks, private roads, entrance gates, lighting, signs, parking areas, walkways, trails, utilities and storm water facilities, unless the maintenance thereof is assumed by a public body. Such areas shall be maintained in an attractive condition and in a good and workmanlike manner so as to carry out the purpose for which such areas are intended. Pursuant to the requirements of the County Subdivision Ordinance, Declarant shall guarantee the performance of the foregoing maintenance obligations for a period of two (2) years from and after the recording of this Declaration.

9.2. **Services.** The Association shall provide or contract for such services as the Management Committee may reasonably deem to be of benefit to the Development, including, without limitation, garbage and trash removal for Common Areas and security services for the Development.

9.3. **Owner's Responsibility.** Except as otherwise provided in this Declaration or by written agreement with the Association, all maintenance of the Lots and all structures, landscaping, parking areas, and other Improvements thereon, shall be the sole responsibility of the Owner thereof, who shall maintain such in accordance with the community-wide standard of the Development. The Association shall, in the discretion of the Management Committee, assume the maintenance responsibilities of such Owner if, in the opinion of the Management Committee, the level and quality of maintenance being provided by such Owner does not satisfy such standard. Before assuming the maintenance responsibilities, the Management Committee shall notify the Owner in writing of its intention to do so, and if such Owner has not commenced and diligently pursued remedial action within thirty (30) days after mailing of such written notice, then the Association shall proceed. The expenses of such maintenance incurred by the Association shall be reimbursed to the Association by the Owner, together with interest as provided in Section 11.6 below. Such charges shall be an Individual Assessment and lien on the Lot as provided in Sections 10.8 and 11.3 below.

## ARTICLE 10: ASSESSMENTS

10.1. **Purpose of Assessments.** The Assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the Owners and occupants of the Development and for the improvement, operation and maintenance of the Common Areas and the Residential Lots.

10.2. **Types of Assessments.** The Association may levy Annual Assessments, Special Assessments, Emergency Assessments, Limited Common Area Assessments and Individual Assessments, all as more particularly described below.

10.3. **Apportionment of Assessments.** Lots owned by Declarant shall not be subject to Assessments until such time as the Lot is occupied for a residential or a commercial use, as

applicable, subject to accrual of reserves as described in Section 10.11 below. All other Lots shall pay a pro rata share of the Annual Assessments, Special Assessments, Emergency Assessments and Limited Common Area Assessments commencing upon the date such Lots are made subject to this Declaration. The pro rata share shall be based upon the total amount of each such Assessment divided by the total number of Assessment Units of Lots subject to assessment, times the number of Assessment Units assigned to such Lots. Each Residential Lot shall be assigned one Assessment Unit for each Residence located on the Lot. A single family Residential Lot shall be assigned one Assessment Unit, regardless of whether a Residence has been constructed on the Lot.

10.4. **Annual Assessments.** The Management Committee shall from time to time and at least annually prepare an operating budget for the Association, taking into account the current costs of maintenance and services and future needs of the Association, any previous over assessment and any common profits of the Association. The budget shall provide for such reserve or contingency funds as the Management Committee deems necessary or as may be required by law, but not less than the reserves required by Section 10.11 below. Annual Assessments for such operating expenses and reserves ("Annual Assessments") shall then be apportioned among the Lots as provided in Section 10.3 above. The method of adoption of the budget and the manner of billing and collection of Assessments shall be as provided in the Bylaws.

10.5. **Special Assessments.** In addition to the Annual Assessment authorized above, the Management Committee may levy during any fiscal year a Special Assessment ("Special Assessment"), applicable to that year only, for the purpose of deferring all or any part of the cost of any construction or reconstruction, unexpected repair, or acquisition or replacement of a described capital improvement, or for any other one-time expenditure not to be paid for out of Annual Assessments. Special Assessments which in the aggregate in any fiscal year exceed an amount equal to fifteen percent (15%) of the budgeted gross expenses of the Association for the fiscal year may be levied only if approved by a majority of the voting rights voting on such matter, together with the written consent of the Class B Member, if any. Special Assessments shall be apportioned as provided in Section 10.3 above and may be payable in lump sum or in installments, with or without interest or discount, as determined by the Management Committee.

10.6. **Emergency Assessments.** If the Annual Assessments levied at any time are, or will become, inadequate to meet all expenses incurred under this Declaration for any reason, including nonpayment of any Owner's Assessments on a current basis, the Management Committee shall immediately determine the approximate amount of such inadequacy and issue a supplemental budget, noting the reason therefor, and levy an Emergency Assessment for the amount required to meet all such expenses on a current basis ("Emergency Assessment"). Any Emergency Assessment which in the aggregate in any fiscal year would exceed an amount equal to five percent (5%) of the budgeted gross expenses of the Association for the fiscal year may be levied only if approved by not less than a majority of the voting rights voting on such matter, together with the written consent of the Class B Member, if any. Emergency Assessments shall be apportioned as set forth in Section 10.3 above and payable as determined by the Management Committee.

10.7. **Limited Common Area Assessments.** Annual Assessments, Special Assessments and Emergency Assessments relating to maintenance, upkeep, repair, replacement or improvements

to Limited Common Areas (“Limited Common Area Assessments”) shall be assessed exclusively to the Lots having the right to use such Limited Common Areas.

10.8. **Individual Assessments.** Any common expense or any part of a common expense benefiting fewer than all of the Lots may be assessed exclusively against the Lots benefitted (“Individual Assessment”). Individual Assessments include, without limitation, charges for services provided under Section 8.6(i). Individual Assessments shall also include default assessments levied against any Lot to reimburse the Association for costs incurred in bringing such Lot or its Owner into compliance with the provisions of this Declaration or the Rules and Regulations of the Association and for fines or other charges imposed pursuant to this Declaration for violation thereof. Unless otherwise provided by the Management Committee, Individual Assessments shall be due thirty (30) days after the Management Committee has given written notice thereof to the Owners subject to the Individual Assessments.

10.9. **Annexation of Additional Property.** When Additional Property is annexed to the Development, the Lots included therein shall become subject to Assessments from the date of such annexation. Lots owned by Declarant shall not be subject to Assessments until occupied for residential or commercial use, as applicable. All other Lots shall pay such Assessments in the amount then being paid by other Lots based upon the number of Assessment Units applicable to the Lot in question. The Management Committee may, however, at its option, elect to recompute the budget based upon the additional Lots subject to Assessments and additional Common Areas and recompute Assessments for all Lots, including the new Lots, for the balance of the fiscal year. Notwithstanding any provision of this Declaration apparently to the contrary, a declaration annexing Additional Property may provide that such Additional Property does not have the right to use a particular Common Area or facility located thereon, in which case such Additional Property shall not be assessed for the costs of operating, maintaining, repairing, replacing or improving such Common Area or facility.

10.10. **Operations Fund.** The Association shall keep all funds received by it as Assessments, other than reserves described in Section 10.11, separate and apart from its other funds, in an account to be known as the “Operations Fund.” The Association shall use such fund exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents within the Development and in particular for the improvement and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Areas and of the Lots situated upon the Property, including but not limited to:

- Article 9.
- (a) Payment of the cost of maintenance, utilities and services as described in
  - (b) Payment of the cost of insurance as described in the Bylaws.
  - (c) Payment of taxes assessed against the Common Areas and any improvements thereon.
  - (d) Payment of the cost of other services which the Association deems to be of general benefit to the Owners, including but not limited to accounting, legal and secretarial services.



10.11. **Reserve Fund.** The Association shall establish a reserve fund for replacement of those Improvements to be maintained by the Association, all or a part of which will normally require functional replacement in more than three (3) and less than thirty (30) years ("Reserve Fund"). Such Reserve Fund shall be funded by Assessments against the individual Lots assessed for maintenance of the items for which the Reserve Fund is being established. The Assessments under this Section begin accruing against each Lot from the date the Lot is sold by Declarant. Declarant shall not be obligated to contribute to the Reserve Fund at the time of the sale of each Lot by Declarant. The amount assessed to each Lot shall take into account the estimated remaining life of the items for which the reserve is created and the current replacement cost of such items. The Reserve Fund shall be established in the name of the Association and shall be adjusted at regular intervals to recognize changes in current replacement costs over time. The Reserve Fund shall be used only for replacement of Common Areas as determined by the Management Committee and shall be kept separate from the Operations Fund. After the Turnover Meeting, however, the Management Committee may borrow funds from the Reserve Fund to meet high seasonal demands on the regular operating funds or to meet other temporary expenses which will later be paid from Annual Assessments, Special Assessments, Emergency Assessments or Limited Common Area Assessments. Nothing in this section shall prohibit prudent investment of the Reserve Fund. Following the second year after the Turnover Meeting, future Assessments for the Reserve Fund may be reduced, eliminated or decreased by an affirmative vote of not less than seventy-five percent (75%) of the voting power of the Association. Assessments paid into the Reserve Fund are the property of the Association and are not refundable to sellers or Owners of Lots. Sellers of the Lots, however, may treat their outstanding share of the Reserve Fund as a separate item in any sales agreement.

10.12. **Creation of Lien and Personal Obligation of Assessments.** Declarant, for each Lot owned by it within the Development, does hereby covenant, and each Owner of any Lot by acceptance of a conveyance thereof, whether or not so expressed in any such conveyance, shall be deemed to covenant to pay to the Association all Assessments or other charges as may be fixed, established and collected from time to time in the manner provided in this Declaration or the Bylaws. Such assessments and charges, together with any interest, expenses or attorneys' fees imposed pursuant to Section 11.6, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such Assessment or charge is made; provided, however, that no lien shall attach to any Lot owned by Declarant until such time as such Lot is subject to Assessment pursuant to the requirements of Section 10.3. Such Assessments, charges and other costs shall also be the personal obligation of the Person who was the Owner of such Lot at the time when the Assessment or charge fell due. Such liens and personal obligations shall be enforced in the manner set forth in Article 11 below.

## ARTICLE 11: ENFORCEMENT

11.1. **Use of Common Areas.** In the event any Owner shall violate any provision of this Declaration, the Bylaws or the Rules and Regulations adopted by the Association governing the use of Common Areas, then the Association, acting through the Management Committee, shall notify the Owner in writing that the violations exist and that he is responsible for them, and may, after

reasonable notice and opportunity to be heard, do any or all of the following: (a) suspend the Owner's voting rights and right to use the Common Areas for the period that the violations remain unabated; (b) impose reasonable fines as an Individual Assessment upon the Owner, in a manner and amount the Management Committee deems appropriate in relation to the violation, which fines shall be paid into the Operations Fund; or (c) bring suit or action against the Owner to enforce the provisions of this Declaration. Nothing in this Section, however, shall authorize the Association to deprive any Owner of access to and from his Lot.

11.2. **Nonqualifying Improvements and Violation of Declaration.** In the event any Owner constructs or permits to be constructed on his Lot an Improvement contrary to the provisions of this Declaration, or causes or permits any Improvement, activity, condition or nuisance contrary to the provisions of this Declaration to remain uncorrected or unabated on his Lot, then the Association shall notify the Owner in writing of any such specific violations of this Declaration and shall require the Owner to remedy or abate the same in order to bring his Lot, the Improvements thereon and his use thereof, into conformance with this Declaration. If the Owner is unable, unwilling or refuses to comply with the Association's specific directives for remedy or abatement, or the Owner and the Association cannot agree to a mutually acceptable solution within the framework and intent of this Declaration, the Association shall, after notice and opportunity to be heard and within sixty (60) days of written notice to the Owner, have the right to do any or all of the following:

(a) Impose reasonable fines against such Owner in the manner and amount the Management Committee deems appropriate in relation to the violation, which fines shall constitute Individual Assessments for purposes of this Declaration;

(b) Enter the offending Lot and remove the cause of such violation, or alter, repair or change the item which is in violation of this Declaration in such a manner as to make it conform thereto, in which case the Association may assess such Owner for the entire cost of the work done, which amount shall be payable to the Operations Fund, provided that no items of construction shall be altered or demolished in the absence of judicial proceedings; or

(c) Bring suit or action against the Owner on behalf of the Association and other Owners to enforce this Declaration.

11.3. **Default in Payment of Assessments; Enforcement of Lien.** If an Assessment or other charge levied under this Declaration is not paid within thirty (30) days of its due date, such Assessment or charge shall become delinquent and shall bear interest from the due date at the rate set forth below. In such event the Association may exercise any or all of the following remedies:

(a) The Association may (1) suspend such Owner's voting rights and right to use the Common Areas until such amounts, plus other charges under this Declaration, are paid in full; and/or (2) declare all remaining periodic installments of any Annual Assessment immediately due and payable. In no event, however, shall the Association deprive any Owner of access to and from his Lot.

(b) The Association shall have a lien against each Lot for any Assessment levied against the Lot and any fines or other charges imposed under this Declaration or the Bylaws against the Owner of the Lot from the date on which the Assessment, fine or charge is due. The lien shall be foreclosed in accordance with the provisions regarding the foreclosure of mortgages. The Association, through its duly authorized agents, may bid on the Lot at such foreclosure sale and may acquire, hold, lease, mortgage or convey the Lot.

(c) The Association may bring an action to recover a money judgment for unpaid Assessments, fines and charges under this Declaration without foreclosing or waiving the lien described in Section 11.3(b). Recovery on any such action, however, shall operate to satisfy the lien, or the portion thereof, for which recovery is made.

(d) The Association shall have any other remedy available to it by law or in equity.

11.4. **Notification of First Mortgagee.** The Management Committee shall notify any first mortgagee of any individual Lot of any default in performance of this Declaration by the Lot Owner which is not cured within sixty (60) days after notice of default to the Owner.

11.5. **Subordination of Lien to Mortgages.** The lien of the Assessments or charges provided for in this Declaration shall be subordinate to the lien of any Mortgage on such Lot which was made in good faith and for value and which was recorded prior to the recordation of the notice of lien. Sale or transfer of any Lot shall not affect the Assessment lien, but the sale or transfer of any Lot which is subject to any Mortgage pursuant to a decree of foreclosure thereunder or any deed or proceeding, deed or assignment in lieu of foreclosure shall extinguish any lien of an Assessment notice of which was recorded after the recording of the Mortgage. Such sale or transfer, however, shall not release the Lot from liability for any Assessments or charges thereafter becoming due or from the lien of such Assessments or charges.

11.6. **Interest, Expenses and Attorneys' Fees.** Any amount not paid to the Association when due in accordance with this Declaration shall bear interest from the due date until paid at a rate three (3) percentage points per annum above the prime rate published in the *Wall Street Journal* at the time, or such other rate as may be established by the Management Committee, but not to exceed the lawful rate of interest under the laws of the State. A late charge may be levied for each delinquent Assessment in an amount established from time to time by resolution of the Management Committee; provided, such late charge may not exceed thirty percent (30%) of such Assessment. In the event the Association files a notice of lien, the lien amount shall also include the recording fees associated with filing the notice and a fee for preparing the notice of lien, which fee shall be established from time to time by resolution of the Management Committee. If the Association prevails in any procedure to enforce the provisions of this Declaration, the Association is entitled to an award of its costs and reasonable attorneys' fees associated with the action.

11.7. **Nonexclusiveness and Accumulation of Remedies.** An election by the Association to pursue any remedy provided for in this Declaration shall not prevent concurrent or subsequent exercise of another remedy permitted hereunder. The remedies provided in this Declaration are not

exclusive but shall be in addition to all other remedies, including actions for damages and suits for injunctions and specific performance, available under applicable law. Failure by the Association to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. In addition, any aggrieved Owner may bring an action against another Owner or the Association to recover damages or to enjoin, abate or remedy any violation of this Declaration by appropriate legal proceedings.

## ARTICLE 12: MORTGAGES

12.1. **Reimbursement of First Mortgagees.** First mortgagees of Lots may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Common Area and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage on the lapse of a policy for such Common Area. First mortgagees making such payments shall be promptly reimbursed therefor by the Association.

12.2. **Right of First Mortgagees Relating to Maintenance.** At any time that the Common Areas are not maintained or repaired by the Association to the extent reasonably necessary to protect and preserve the value of the Property for security purposes, then the record mortgagee, upon giving written notice as provided in this Section, shall be entitled to exercise the rights of the Owner of the Lot as a member of the Association to vote at all regular and special meetings of the members of the Association for a period of one year following the date of such notice. During this one-year period, the Association shall give notice of all regular and special meetings to both the Owner and the mortgagee, and the Owner may attend such meetings as an observer. Notice from the mortgagee under this section shall quote this Section and shall be sent postage prepaid by certified United States mail, return receipt requested, to the Owner with a copy by regular mail to the Association at the last known address of each.

## ARTICLE 13: AMENDMENT AND REPEAL

13.1. **Amendment and Repeal.** This Declaration, or any provision thereof, as from time to time in effect with respect to all or any part of the Property, may be amended or repealed by the vote or written consent of Owners of Lots representing seventy-five percent (75%) of the voting power in the Association, computed in accordance with Section 8.3, together with the written consent of the Class B Member, if the Class B Membership has not been terminated as provided in this Declaration. Any such amendment or repeal shall become effective only upon recordation in the official records of the County of a certificate of the president or secretary of the Association setting forth in full the amendment(s) or repeal so approved and certifying that said amendment(s) or repeal have been approved in the manner required by this Declaration. In no event shall an amendment under this section create, limit or diminish special Declarant rights without Declarant's written consent, or change the boundaries of any Lot or any uses to which any Lot is restricted unless the Owners of the affected Lots unanimously consent to the amendment.

13.2. **Regulatory Amendments.** Notwithstanding the provisions of Section 13.1, until termination of the Class B Membership, Declarant shall have the right to amend this Declaration or

the Bylaws in order to comply with the requirements of any applicable statute, ordinance or regulation of the Federal Housing Administration, the Department of Veterans Affairs, the Farmers Home Administration of the United States, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, any department, bureau, board, commission or agency of the United States or the State, or any corporation wholly owned, directly or indirectly, by the United States or the State which insures, guarantees or provides financing for a planned community or lots in a planned community.

#### ARTICLE 14: MISCELLANEOUS PROVISIONS

14.1. **Joint Owners.** In any case in which two or more persons share the ownership of any Lot, regardless of the form of ownership, the responsibility of such persons to comply with this Declaration shall be a joint and several responsibility and the act or consent of any one or more of such persons shall constitute the act or consent of the entire ownership interest; provided, however, that in the event such persons disagree among themselves as to the manner in which any vote or right of consent held by them shall be exercised with respect to a pending matter, any such person may deliver written notice of such disagreement to the Association, and the vote or right of consent involved shall then be disregarded completely in determining the proportion of votes or consents given with respect to such matter.

14.2. **Affiliates.** Affiliates entering the Property under rights derived from an Owner shall comply with all of the provisions of this Declaration and the Rules and Regulations restricting or regulating the Owner's use, improvement or enjoyment of his Lot and other areas within the Property. The Owner shall be responsible for obtaining such compliance and shall be liable for any failure of compliance by his Affiliates in the same manner and to the same extent as if the failure had been committed by the Owner himself.

14.3. **Nonwaiver.** Failure by the Association or by any Owner to enforce any covenant or restriction contained in this Declaration shall in no event be deemed a waiver of the right to do so thereafter.

14.4. **Construction; Severability; Number; Captions.** This Declaration shall be liberally construed as an entire document to accomplish the purposes thereof as stated in the introductory paragraphs hereof. Nevertheless, each provision of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision shall not affect the validity or enforceability of the remaining part of that or any other provision. As used in this Declaration, the singular shall include the plural and the plural the singular, and the masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions used herein are intended solely for convenience of reference and shall in no way limit any of the provisions of this Declaration.

14.5. **Notices and Other Documents.** Any notice or other document permitted or required by this Declaration may be delivered either personally or by mail. Delivery by mail shall be deemed made twenty-four (24) hours after having been deposited in the United States mail as certified or registered mail, with postage prepaid, addressed as follows: If to Declarant or the Association, 1513

North Hillfield Road, Suite 2, Layton, Utah 84041; if to an Owner, at the address given at the time of the Owner's purchase of a Lot, or at the Lot. The address of a party may be changed at any time by notice in writing delivered as provided herein.



**DEVELOPMENT AGREEMENT  
EXHIBIT "A"**

(Property Legal Description)

**BOUNDARY DESCRIPTION**

BEGINNING ON THE CENTER OF SECTION 24, TOWNSHIP 5 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN AND RUNNING THENCE NORTH 89°59'51" EAST ALONG SECTION LINE 2655.42 FEET TO THE EAST QUARTER CORNER OF SAID SECTION; THENCE SOUTH 00°00'20" WEST ALONG SECTION LINE 2137.95 FEET; THENCE SOUTH 38°48'52" WEST 615.12 FEET TO A POINT ON THE QUARTER SECTION LINE OF SAID SECTION; THENCE SOUTH 89°19'26" WEST ALONG SAID QUARTER SECTION LINE 959.22 FEET; THENCE WESTERLY THE FOLLOWING 8 CALLS: SOUTH 00°12'44" WEST 1282.86 FEET, SOUTH 71°17'14" WEST 116.13, SOUTH 86°24'00" WEST 78.63 FEET, SOUTH 82°05'18" WEST 83.84 FEET, SOUTH 87°44'45" WEST 177.96 FEET, NORTH 89°49'53" WEST 784.68 FEET, SOUTH 29°32'41" WEST 385.48 FEET, NORTH 88°46'29" WEST 423.53 FEET TO A POINT ON A CURVE; THENCE SOUTHWESTERLY ALONG THE ARC OF A 130.00 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 33°04'22" A DISTANCE OF 75.04 FEET (CHORD BEARS SOUTH 47°15'51" WEST 74.00 FEET); THENCE SOUTH 30°43'41" WEST 125.28 FEET TO A POINT OF CURVATURE; THENCE SOUTH WESTERLY ALONG THE ARC OF A 25.00 FOOT RADIUS CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 87°23'49" A DISTANCE OF 38.13 (CHORD BEARS SOUTH 74°25'35" WEST 34.54 FEET) TO THE NORTH LINE OF THE OLD HIGHWAY (167) AND POINT OF CURVATURE; THENCE NORTHWESTERLY ALONG SAID NORTH LINE AND THE ARC OF A 1336.81 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 18°40'16" A DISTANCE OF 435.63 FEET (CHORD BEARS NORTH 71°38'24" WEST 433.71 FEET); THENCE NORTHERLY THE FOLLOWING 7 CALLS: NORTH 18°25'57" EAST 196.43 FEET, NORTH 05°38'00" WEST 185.45 FEET, NORTH 04°24'38" WEST 322.76 FEET, NORTH 89°17'00" WEST 156.32 FEET, NORTH 22°12'22" WEST 192.73 FEET, NORTH 206.22 FEET, NORTH 05°13'12" WEST 187.43 FEET TO A POINT OF CURVATURE; THENCE NORTHWESTERLY ALONG THE ARC OF A 165.00 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 84°52'08" A DISTANCE OF 244.40 FEET (CHORD BEARS NORTH 47°39'16" WEST 222.67 FEET); THENCE NORTHERLY THE FOLLOWING 6 CALLS NORTH 08°37'59" EAST 60.42 FEET, NORTH 58°00'44" EAST 96.95 FEET, NORTH 17°29'53" WEST 296.56 FEET, NORTH 69°02'33" EAST 242.49 FEET, NORTH 42°59'58" EAST 115.06 FEET, NORTH 72°52'30" EAST 19.72 FEET; THENCE SOUTH 08°05'37" WEST 68.74 FEET; SOUTH 65°51'32" EAST 574.89 FEET TO A POINT ON THE QUARTER SECTION LINE OF SAID SECTION; THENCE SOUTH 89°55'18" EAST 642.04 FEET ALONG SAID QUARTER SECTION LINE 642.02 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION; THENCE NORTH 00°18'01" EAST ALONG SECTION LINE 2644.11 FEET TO THE POINT OF BEGINNING.

CONTAINS - 10,860,592 SQ. FT. 249.32 ACRES



RR1 (1 ACRE BASIS)

LOTS:	86 71 ACRES	42.1%
ROADWAY:	16 48 ACRES	10.4%
OPEN SPACE:	75 3 ACRES	47.5%
TOTAL AREA:	158 46 ACRES	100.0%
USABLE AREA:	155.11 ACRES	95.3%
UNUSABLE AREA:	23 35 ACRES	14.7%
USABLE OPEN SPACE:	55 18 ACRES	39.4%
NUMBER OF LOTS:	158	
AVERAGE NET LOT SIZE:	18,292 SQ. FT.	

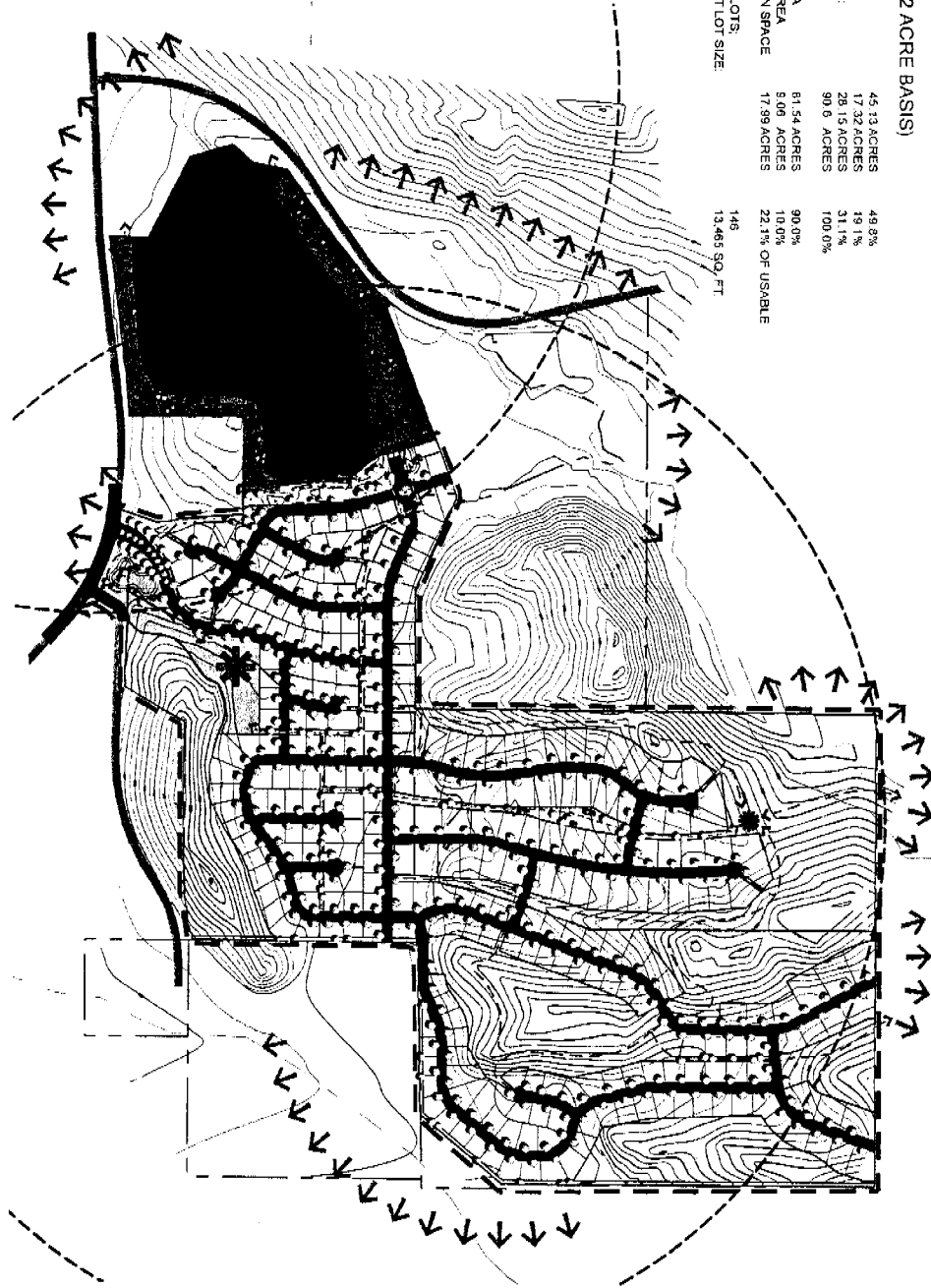
R1-20 (1/2 ACRE BASIS)

LOTS:	45 13 ACRES	49.8%
ROADWAY:	17 32 ACRES	19.1%
OPEN SPACE:	28 15 ACRES	31.1%
TOTAL AREA:	90 6 ACRES	100.0%
USABLE AREA:	81 54 ACRES	90.0%
UNUSABLE AREA:	9 06 ACRES	10.0%
USABLE OPEN SPACE:	17 59 ACRES	22.7%
NUMBER OF LOTS:	146	
AVERAGE NET LOT SIZE:	13,465 SQ. FT.	

COMBINED AREA (RR-1 AND R1-20)

LOTS:	111 84 ACRES	44.9%
ROADWAY:	33 77 ACRES	13.6%
OPEN SPACE:	103 45 ACRES	41.5%
TOTAL AREA:	249 06 ACRES	100.0%
USABLE AREA:	216 65 ACRES	87.0%
UNUSABLE AREA:	32 41 ACRES	13.0%
USABLE OPEN SPACE:	71 17 ACRES	32.9%
NUMBER OF LOTS:	304	
AVERAGE NET LOT SIZE:	18,025 SQUARE FEET	

DEVELOPMENT AGREEMENT  
EXHIBIT "B"  
(Site Plan)



Rollins Ranch  
at Mountain Green  
A Division of The Carolina Land Company

Site Development Information

- RR-1
- R1-20
- COMMERCIAL
- OPEN SPACE
- NEIGHBORHOOD PARK
- PEDESTRIAN TRAIL
- PAVED PEDESTRIAN TRAIL
- TRAIL HEAD
- EXISTING ROADS
- PROPOSED ROADS
- STREAMS
- VIEW SHEDS
- PROJECT LIMITS
- PROPERTY LINES

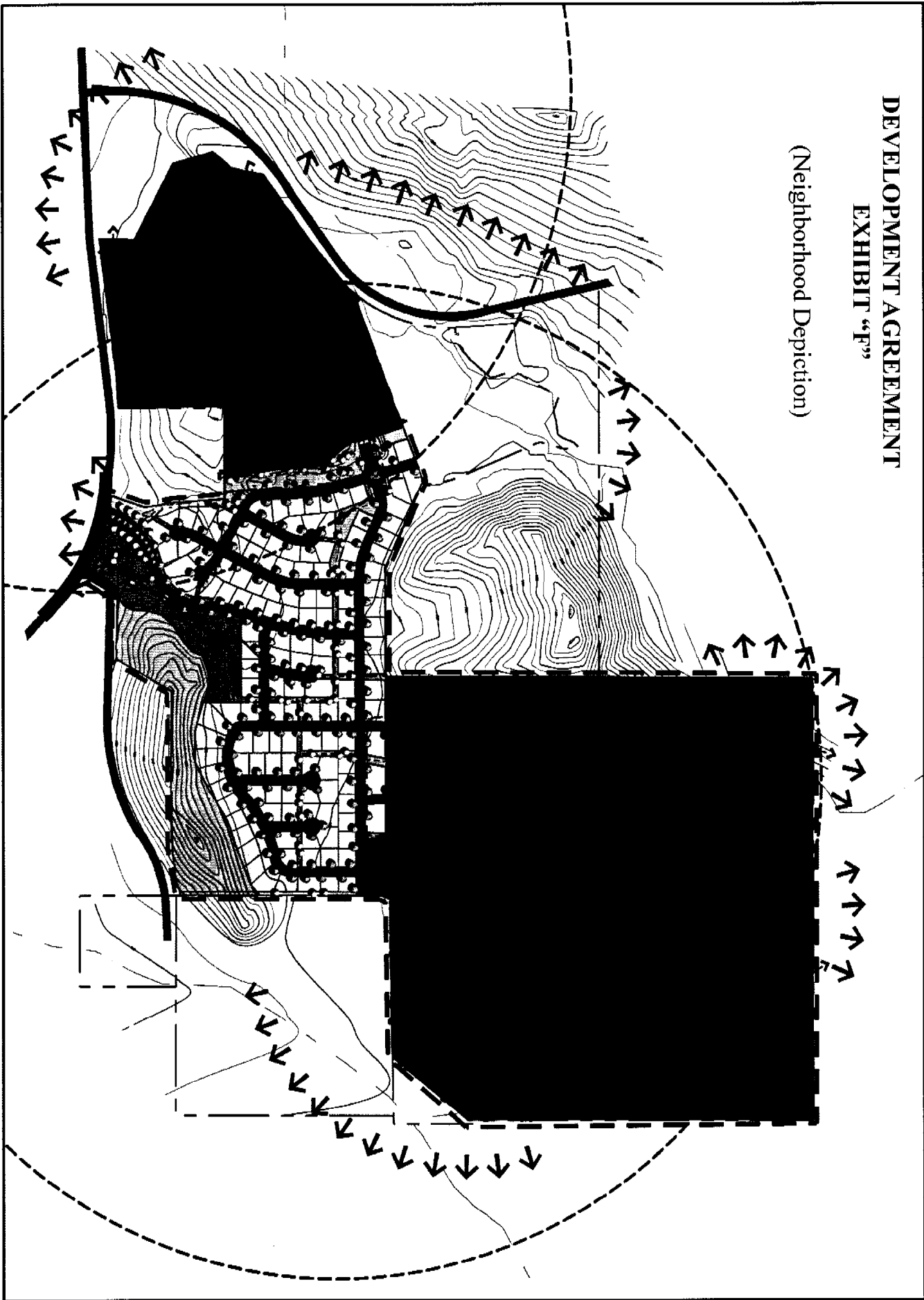
April 6, 2006



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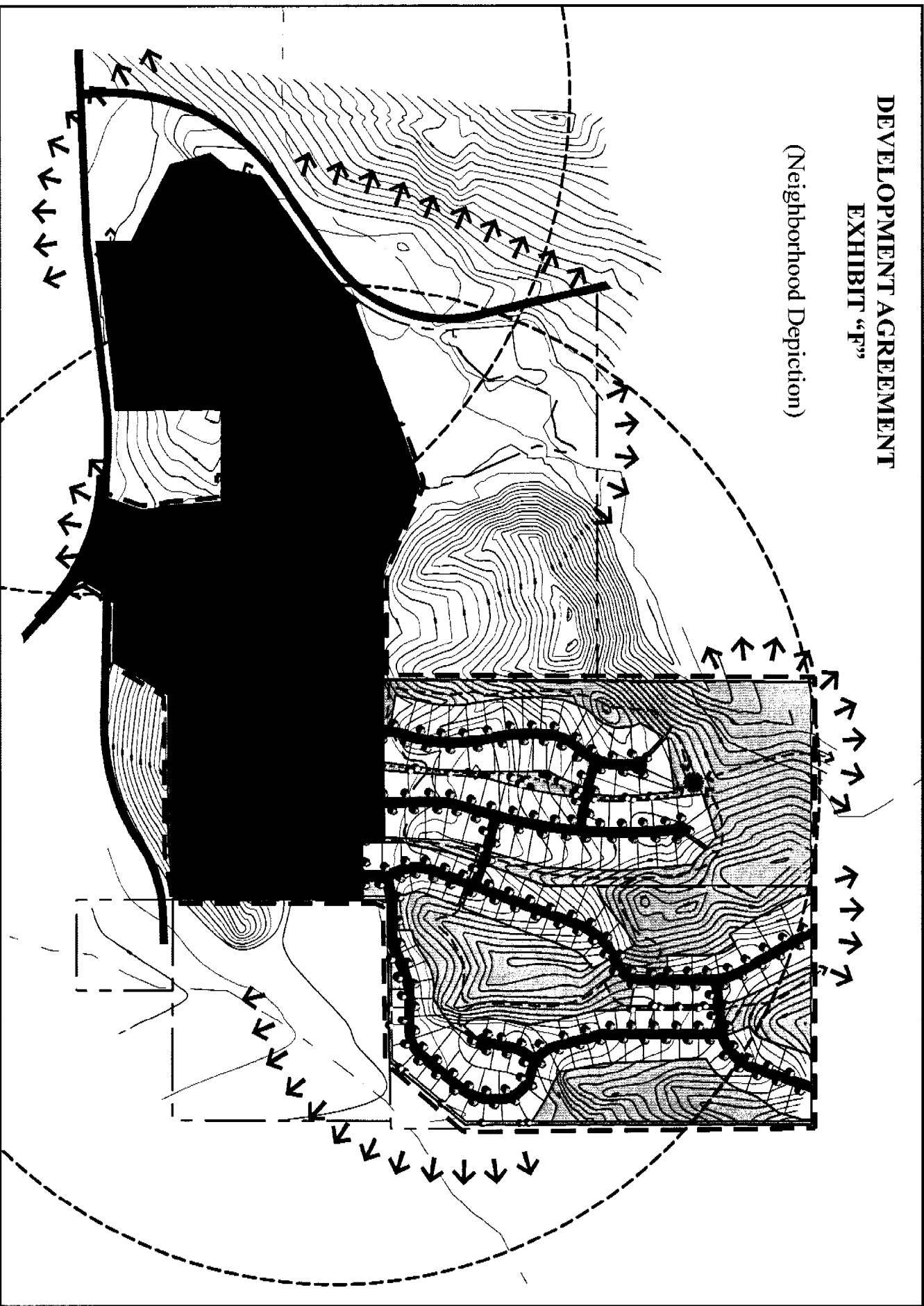
**DEVELOPMENT AGREEMENT  
EXHIBIT "F"**

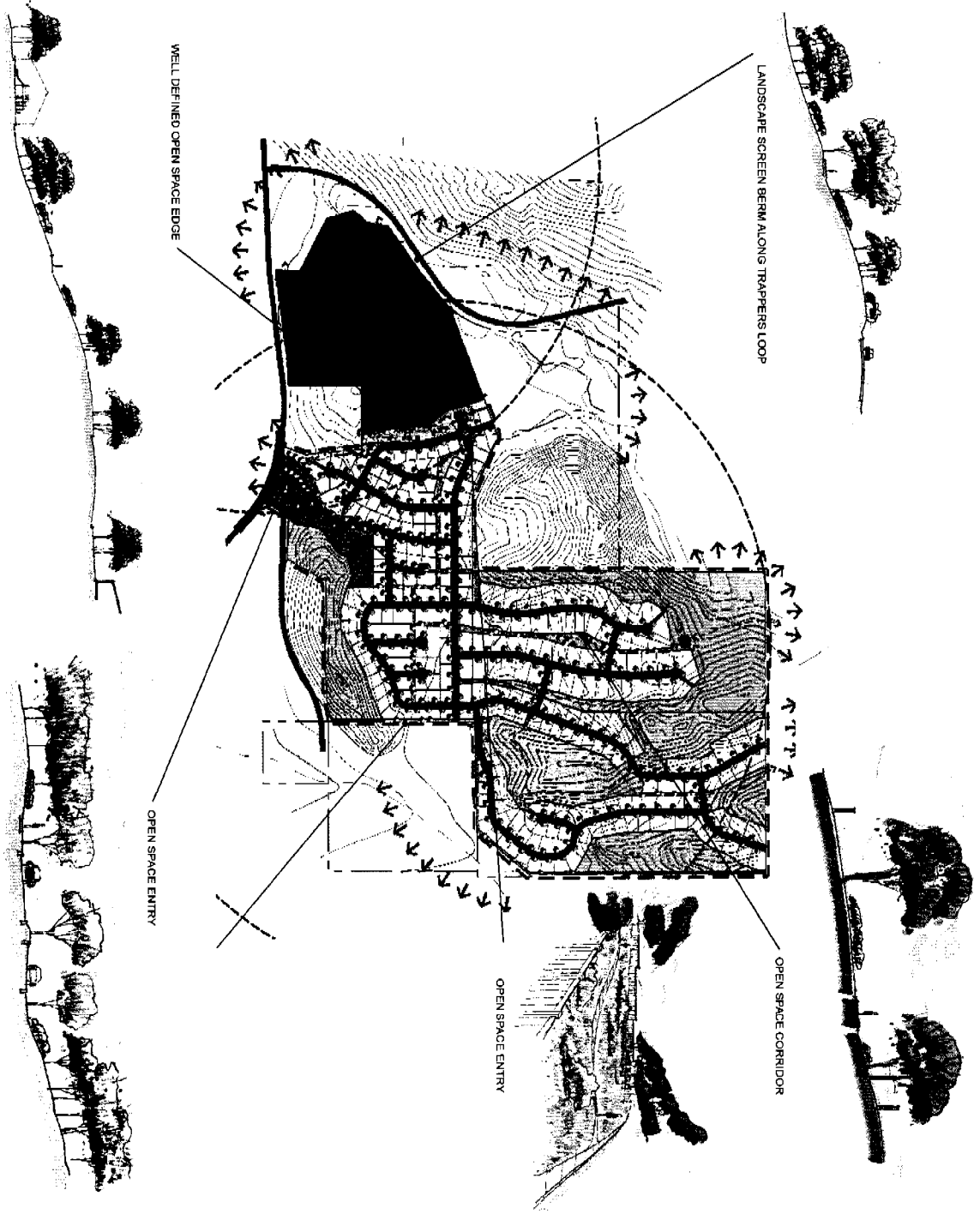
(Neighborhood Depiction)



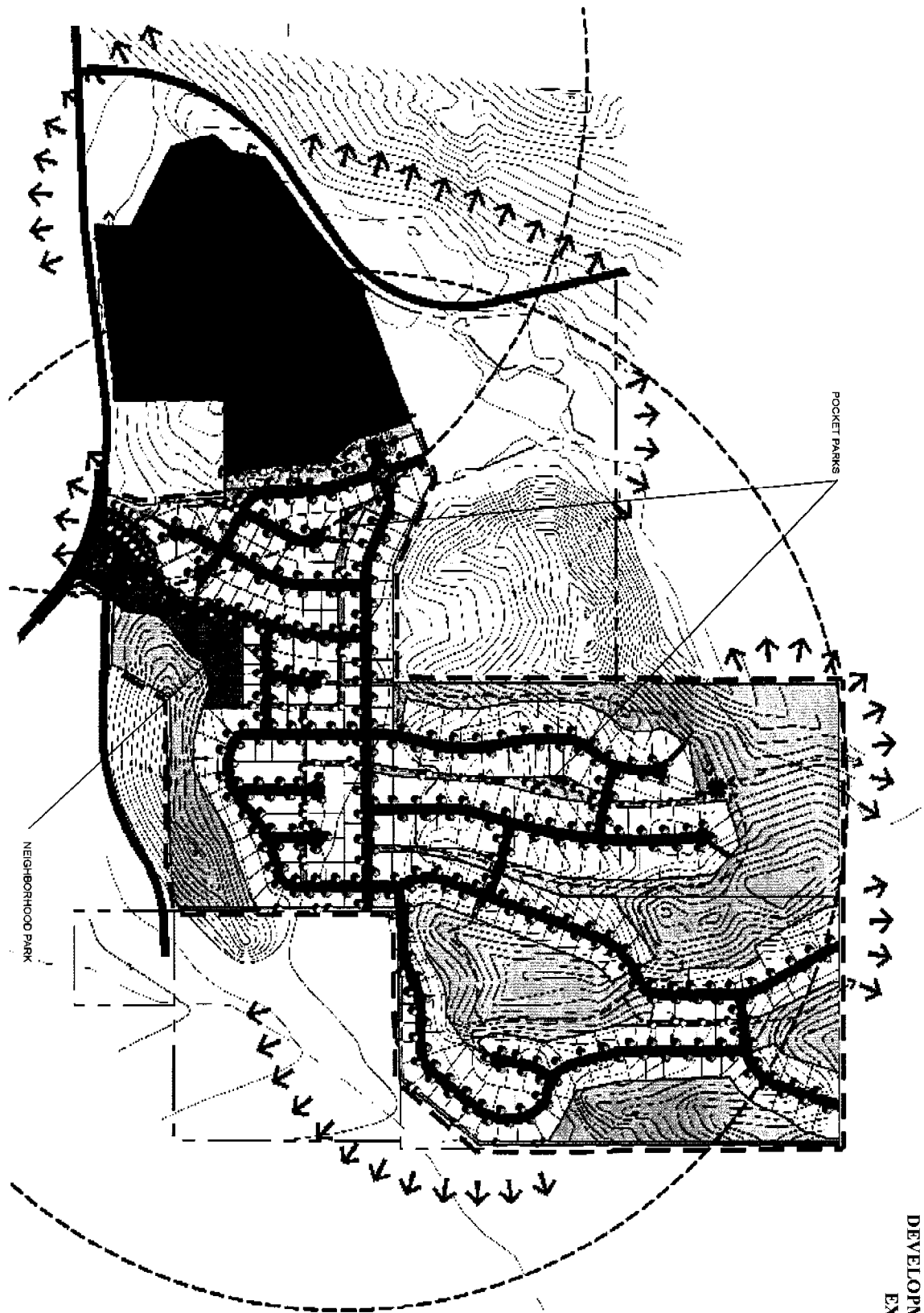
**DEVELOPMENT AGREEMENT  
EXHIBIT "F"**

(Neighborhood Depiction)



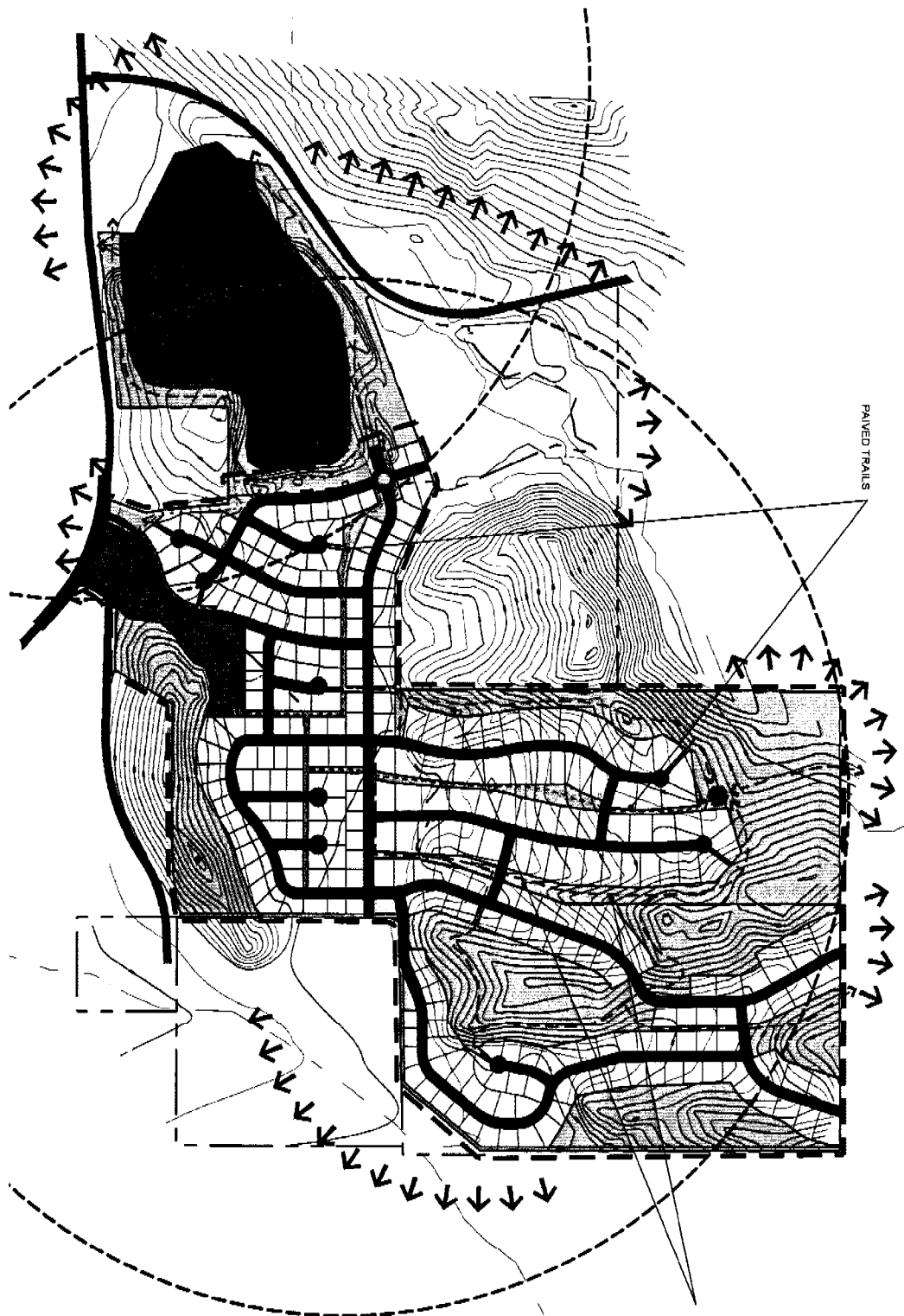


**DEVELOPMENT AGREEMENT**  
**EXHIBIT "C"**  
 (Open Space)



(Parks)

DEVELOPMENT AGREEMENT  
EXHIBIT "H"



PAVED TRAILS

WOODCHIP TRAILS

**DEVELOPMENT AGREEMENT  
EXHIBIT "1"**

(Trails)



**Rollins Ranch**  
 at Mountain Green  
 Preliminary Plan Approval

**DEVELOPMENT AGREEMENT**  
**EXHIBIT "J"**  
 (Native Open Space)

**RR-1 (1 ACRE BASIS)**

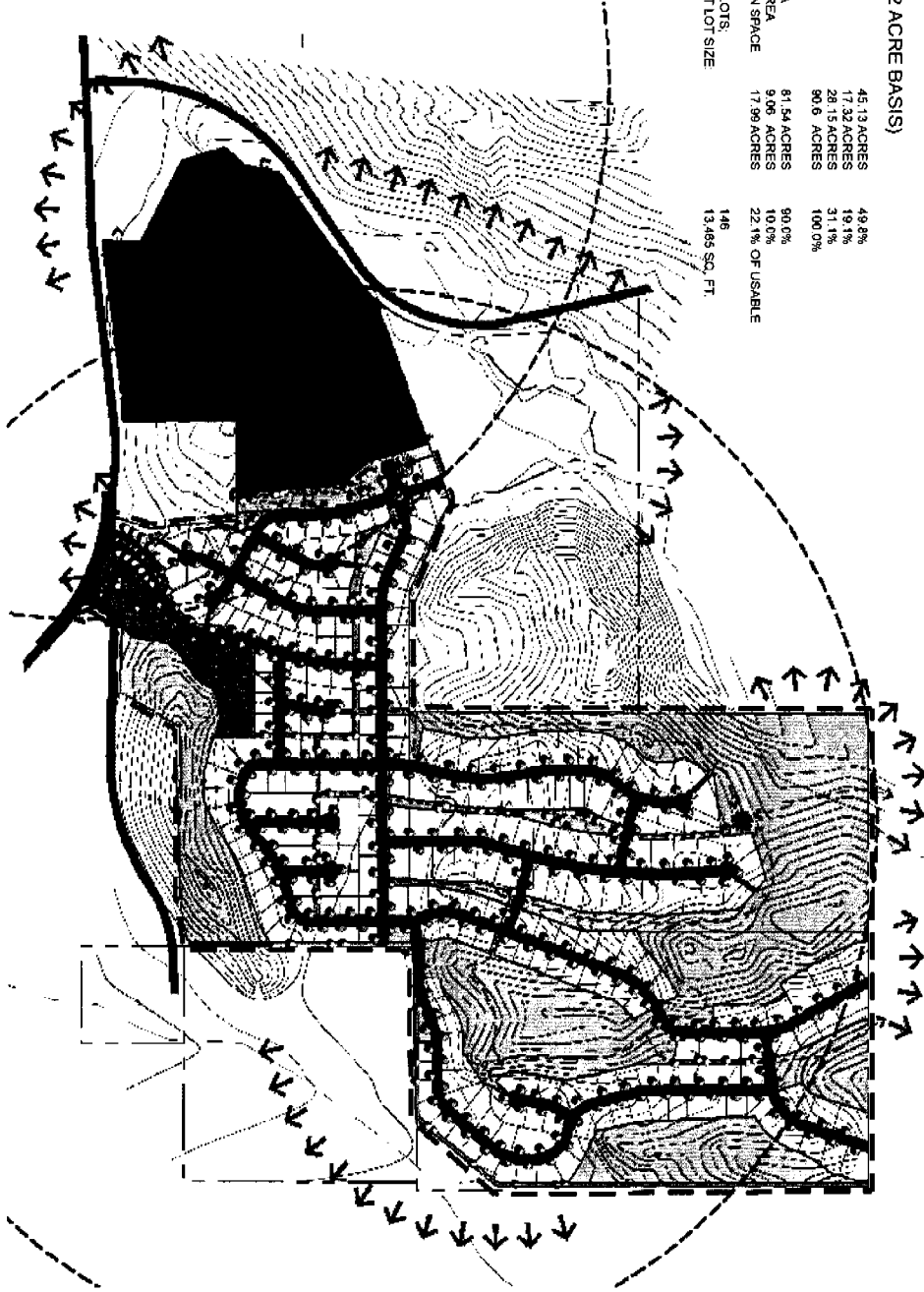
LOTS:	68.71 ACRES	42.1%
ROADWAY:	16.45 ACRES	10.4%
OPEN SPACE:	75.3 ACRES	47.5%
TOTAL AREA:	159.46 ACRES	100.0%
USABLE AREA	135.11 ACRES	85.3%
UNUSABLE AREA	23.35 ACRES	14.7%
USABLE OPEN SPACE	53.18 ACRES	39.4% OF USABLE
NUMBER OF LOTS:	158	
AVERAGE NET LOT SIZE:	18,392 SQ. FT.	

**COMBINED AREA (RR-1 AND R1-20)**

LOTS:	111.84 ACRES	44.9%
ROADWAY:	33.77 ACRES	13.6%
OPEN SPACE:	103.45 ACRES	41.5%
TOTAL AREA:	249.06 ACRES	100.0%
USABLE AREA	216.05 ACRES	87.0%
UNUSABLE AREA	32.41 ACRES	13.0%
USABLE OPEN SPACE	71.17 ACRES	32.9% OF USABLE
NUMBER OF LOTS:	304	
AVERAGE NET LOT SIZE:	18,025 SQUARE FEET	

**R1-20 (1/2 ACRE BASIS)**

LOTS:	45.13 ACRES	49.8%
ROADWAY:	17.32 ACRES	19.1%
OPEN SPACE:	28.15 ACRES	31.1%
TOTAL AREA:	90.6 ACRES	100.0%
USABLE AREA	81.54 ACRES	90.0%
UNUSABLE AREA	9.06 ACRES	10.0%
USABLE OPEN SPACE	17.99 ACRES	22.1% OF USABLE
NUMBER OF LOTS:	146	
AVERAGE NET LOT SIZE:	13,465 SQ. FT.	



**Legend**

- RR-1
- R1-20
- COMMERCIAL
- OPEN SPACE
- NEIGHBORHOOD PARK
- PEDESTRIAN TRAIL
- PAVED PEDESTRIAN TRAIL
- TRAIL HEAD
- EXISTING ROADS
- PROPOSED ROADS
- STREAMS
- VIEW SHEDS
- PROJECT LIMITS
- PROPERTY LINES



**DEVELOPMENT AGREEMENT  
EXHIBIT "K"**

(Air Quality)

## **AIR QUALITY**

Fugitive dust during construction represents the highest potential for a negative impact on air quality. The number one cause of fugitive dust is earth moving equipment and other construction related activities. Minimizing the area of disturbance will also help control fugitive dust as well as erosion control. Until a disturbed site is revegetated, the potential of fugitive dust is high. Therefore, it is important to revegetate disturbed areas as soon as possible following completion of construction activities.

The use of water trucks is the most common BMP implemented during construction to control fugitive dust. Other methods that may be used include capping or covering stock piled materials. The contractor will be required per BMP to control fugitive dust on the project site.

In order to reduce air pollution generated by fireplace emissions we have proposed the following restrictions on fireplaces in all phases of the Cottonwoods as contained in the CCRs:

- Wood stoves must be EPA certified
  - o Older, uncertified fireplaces release 40 to 60 grams of smoke per hour
  - o New, EPA-certified fireplaces produce only 2 to 5 grams of smoke per hour
- No restrictions Gas stoves
  - o Gas stoves emit very little pollution and require little maintenance
- No restrictions on Pellet stoves
  - o Pellet stoves burn a renewable fuel made of ground, dried wood and other biomass wastes and are some the cleanest burning heating appliances available. They do not require EPA certification
- Fireplace inserts must be EPA certified
  - o Fireplace inserts fit within existing fireboxes and can burn wood, pellets or gas
- No restrictions on Decorative Gas Logs
  - o While decorative gas logs provide little heat, they emit little pollution as they typically burn either natural gas or propane



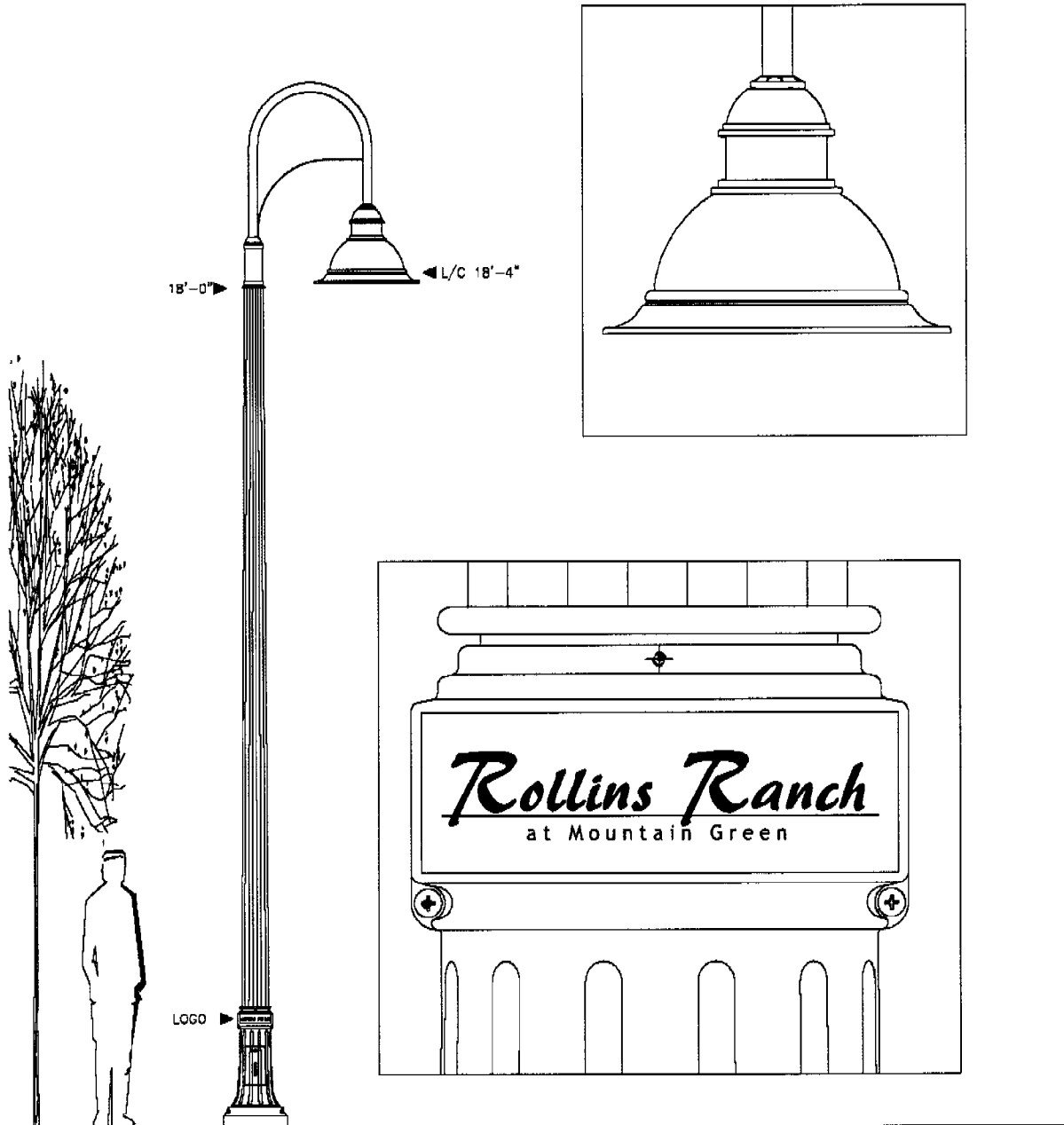
DEVELOPMENT AGREEMENT  
EXHIBIT "L"

(Night Sky)



640, boul. Curé Boivin  
Boisbriand (Qc), Canada, J7G 2A7  
Tel: (450)430-7640  
Fax: (450)430-1488

PRESENTATION



NOTE: Bracket orientation must be determined\_\_\_\_\_

DMS50

1:35

LMS4642DA0-47838A

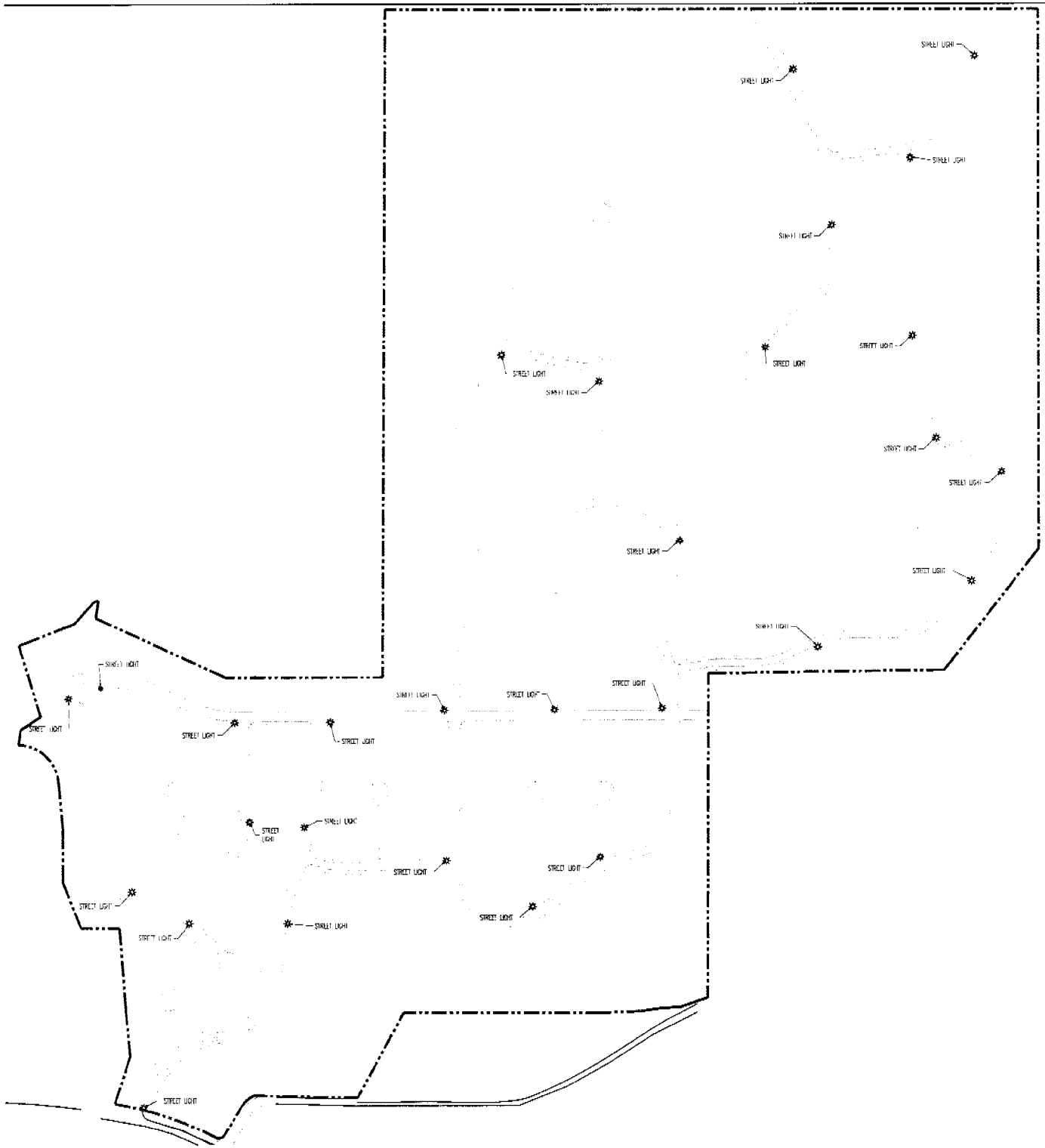


11-04-05

GM

**DEVELOPMENT AGREEMENT  
EXHIBIT "L"**

(Night Sky)



## **Development Agreement “Exhibit M”**

### **Hidden Valley Architectural Guidelines:**

**Architectural Style and Compatibility of Improvements.** The exterior of all Residences must be constructed of brick, stucco, hardboard siding, and/or stone. Log homes and log veneer siding are prohibited. Every Residence shall have a minimum of seventy five percent 75% brick or stone on the front façade and on each the side façades combined for rambler style homes and sixty five percent (65%) of the surface area of the front and side façades combined shall consist of brick or stone for all other style homes. Homes with rear or side façades that face any street shall have a minimum of a 4' of stone or brick trim. Stone and/or Brick needs to wrap the corners a min. 48". Street facing side and back facades on corner Lots shall have the minimums set forth above for front facades. Aluminum soffits and fascia trim is allowed, provided, however, that a minimum width of 6 inches shall be required on the fascia. No aluminum or vinyl exterior siding is permitted in the Neighborhood . Roof surfaces shall slope a minimum of 6:12 pitch and shall be 30-year asphalt architectural shingles, tile or slate shingles unless specific written approval of the Neighborhood Architectural Review Committee is received for the use of other roofing materials. Flat roofs, A-frame, geodesic dome and other irregular roof forms are prohibited. Colors of exterior materials shall be earth tones and grays while allowing accents of white, beige, rust, black or green. Care should be given that each Residence complements those around it, and not detract in design, quality or appearance. All exterior materials and colors must be approved in writing by the Neighborhood Architectural Review Committee. All final decisions with respect to these enumerated standards and their application to a particular proposed structure in the Neighborhood shall be made by the Neighborhood Architectural Review Committee. All exposed metal flues, vents, ventilators, or other metallic rooftop protrusions shall be positioned on the back slope of the roof and shall be coated or painted with tones which complement surrounding structures.

**Individual Architectural Guidelines.** The following architectural guidelines shall apply to all homes, especially lots which have been deemed sensitive or highly visible from major roads and/or other properties. All Dwellings constructed shall be required to incorporate a minimum of two of the structural elements and two of the architectural elements into the design of the rear elevation of the home as follows:

1. Structural Elements
  - a. Hip Roof
  - b. Roof dormers on rear of the roof
  - c. Addition of bay window or other popped out element
  - d. Offset second floor
  - e. First floor roof break
  - f. Second floor deck element
2. Architectural Elements

- a. Soffit lighting
- b. Stucco trim detail around all windows and doors
- c. Window pane detail, i.e. added grid pattern to the window glass
- d. Shutters installed on all second floor windows
- e. Material or color break between the first and second floors. Material breaks could include stucco trim details, brick and/or stone details, or other options approved by the Committee

## **Development Agreement "Exhibit M"**

### **Hollows Architectural Guidelines:**

**Architectural Style and Compatibility of Improvements.** The exterior of all Residences must be constructed of brick, stucco, hardboard siding, and/or stone. Log homes and log veneer siding are prohibited. For each Residence, at least eighty-five percent (85%) of the surface area of the front and side façades combined shall consist of brick or stone for rambler style homes and seventy five percent (75%) of the surface area of the front and side façades combined shall consist of brick or stone for all other style homes. Homes with rear or side façades that face any street shall have a minimum of a 4' of stone or brick trim. Aluminum soffits and fascia trim are allowed, provided, the fascia trim is at least six inches (6") in width. Aluminum or vinyl exterior siding is prohibited. Roof surfaces shall slope a minimum of 6:12 pitch and shall be thirty-year asphalt architectural shingles, tile or slate shingles, unless approval of the Architectural Review Committee is received for the use of other roofing materials. Flat roofs, A-frame, geodesic dome and other irregular roof forms are prohibited. Colors of exterior materials shall be earth tones and grays while allowing accents of white, beige, rust, black or green. Each Residence shall complement surrounding Residences and shall not detract from the design, quality or appearance of the Development. All exterior materials and colors must be approved by the Architectural Review Committee. All exposed metal flues, vents, ventilators, or other metallic rooftop protrusions shall be positioned on the back slope of the roof and shall be coated or painted with tones which complement surrounding structures. All final decisions with respect to these enumerated standards, the additional standards set forth in the Architectural Guidelines and their application to a particular proposed structure in the Development shall be made by the Architectural Review Committee.

**Individual Architectural Guidelines.** The following architectural guidelines shall apply to all homes, especially lots which have been deemed sensitive or highly visible from major roads and/or other properties. All Dwellings constructed shall be required to incorporate a minimum of two of the structural elements and two of the architectural elements into the design of the rear elevation of the home as follows:

1. Structural Elements
  - a. Hip Roof
  - b. Roof dormers on rear of the roof
  - c. Addition of bay window or other popped out element
  - d. Offset second floor
  - e. First floor roof break
  - f. Second floor deck element
2. Architectural Elements
  - a. Soffit lighting
  - b. Stucco trim detail around all windows and doors
  - c. Window pane detail, i.e. added grid pattern to the window glass

- d. Shutters installed on all second floor windows
- e. Material or color break between the first and second floors. Material breaks could include stucco trim details, brick and/or stone details, or other options approved by the Committee.

**Development Agreement**

**“Exhibit N”**

Northwest Irrigation Secondary Water Agreement

The following five (5) pages

# NORTHWEST IRRIGATION COMPANY AND ROLLINS RANCH SECONDARY WATER AGREEMENT

This Agreement is made and entered into by and between Rollins Ranch, LLC, a Utah limited liability company ("**Rollins Ranch**"), and Northwest Irrigation Company, a Utah non-profit corporation ("**Northwest**") concerning the management and operation of a secondary irrigation system.

## RECITALS

A. WHEREAS, Rollins Ranch, a developer of residential homes, intends to develop 304 units in Morgan County, Utah; and *as described in "exhibit A"*

B. WHEREAS, Rollins Ranch desires to develop a pressurized secondary water system sufficient to supply secondary water to its development; and

C. WHEREAS, Northwest holds title to water rights with the right to divert water from Cottonwood Creek and Sulphur Springs located in Morgan County, Utah; and

D. WHEREAS, Rollins Ranch currently owns shares of Northwest and intends to provide its development with water represented by such shares; and

E. WHEREAS, Rollins Ranch and Northwest will benefit from certain improvements to the Northwest facilities necessary for the pressurized secondary irrigation system.

NOW, THEREFORE, for the mutual promises herein contained and other good and valuable consideration herein described, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

## AGREEMENT

1. Rollins Ranch will construct at their sole cost and expense a new pressurized pipeline to replace the existing open ditch from the Northwest Reservoir to the bottom of the Northwest system according to the following specifications:

- The pipe will be sized to accommodate all reasonable uses within the Northwest system.
- Prior to commencing construction on the Pipeline, Rollins Ranch shall submit plans and specifications to Northwest for Northwest's review and approval, which approval shall not be unreasonably withheld, conditioned or delayed. Plans and specifications shall be designed and stamped by a registered professional civil engineer licenced to practice in the state of Utah. All design assumptions, criteria and calculations shall be available for review and approval by Northwest. In the event Northwest has not disapproved of such plans within thirty (30) days of

*Db  
RW*



receipt thereof, such plans shall be deemed approved. If Northwest disapproves of such plans, Northwest shall within such thirty (30) day period give a reasonably detailed written explanation of the reasons for disapproval and the changes which if made would result in Northwest's approval of such plans. If Northwest disapproves of the plans in accordance with the preceding sentence, Rollins shall revise the plans and resubmit such plans to Northwest in accordance with the procedure set forth above. The parties further understand that all such plans and construction are subject to approval by the Dam Safety Section of the Utah Division of Water Rights.

- Construction will be performed by a licensed contractor approved by Northwest. Construction will be completed in accordance with approved plans and specifications discussed here in.
- The construction contract will include a performance bond to ensure proper completion of the project.
- Rollins Ranch will coordinate with Northwest and the contractor on the timing of construction so as not to unduly disrupt ongoing irrigation.
- The contractor will warrant the pipeline against all defects for at least five years and will post a bond to guarantee such repairs if necessary.
- Once installed and approved by Northwest, the main trunk line from point A to point B (see Exhibit A) will be owned by Northwest.
- The pipeline will be designed to allow for sprinkler use by other Northwest stockholders.

2. Rollins Ranch will pay for improvements to the Northwest Upper Ditch to allow all water to be diverted into and through the Northwest Reservoir as follows:

(a) Northwest, in consultation with Rollins Ranch, will identify specific sections of the Upper Ditch which need improvement in order to convey additional flows into the Northwest Reservoir. As to those sections, Rollins Ranch shall pay the full cost of the necessary improvements and will warrant those improvements for one year.

(b) As to any other general improvements to the Upper Ditch, Rollins Ranch shall pay a proportion of such costs, based on its percentage of stock ownership in Northwest.

3. Rollins Ranch will form a new and separate secondary irrigation water company to serve the lot owners of the Rollins Ranch subdivision and the future development directly to the west currently known as Parsons Pit, which will hereafter be known as Rollins Ranch Secondary Water Company, LLC.

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RAW

4. The Northwest shares currently owned or future shares acquired by Rollins Ranch will be the water supply for the Rollins Ranch Secondary Water Company.

5. The Rollins Ranch Secondary Water Company will divert its water from the newly constructed pressurized main trunk line and will be responsible for constructing, operating, repairing and maintaining the secondary water system which will serve the lot owners in the Rollins Ranch subdivision and in the future development directly to the west currently known as Parsons Pit. Northwest will have no responsibility for the new secondary system other than to deliver the appropriate amounts of water from the main pipeline into the lateral pipeline serving the secondary system at point B as seen in Exhibit A.

6. All water diverted from the main pipeline by Northwest will be metered. Once high-water is gone, Northwest stockholders, including the new Rollins Ranch secondary system, will be entitled to their proportionate share of water stored in Northwest Reservoir. Water will begin to be metered each year as determined by the Northwest Water Master when the reservoir water level begins to recede. Northwest will notify its users when it begins to meter their usage.

7. Any State Engineer change applications necessary to accommodate the new secondary system will be evaluated and approved by Northwest. If any such change benefits the company as a whole, the Company will pay all costs associated with the change. If the change is primarily for the benefit of the secondary system, the developers will pay all costs associated with the change.

8. Rollins Ranch and Northwest will enter into a separate easement agreement which will be recorded with the county which will provide an easement over the portion of its property that follows the main trunk for the purpose of maintenance and repairs of such trunk line and will abandon all easements on the Browning and Rollins property which were for the purpose of maintaining the previous water delivery system.

9. Rollins Ranch will pay all of Northwest's reasonable engineering and legal costs incurred in or directly related to implementing this proposal.

10. Scheduling of water use will be accomplished so that all shareholders receive reasonable pressure and flow. All shareholders or their representatives will participate in developing a mutually acceptable Plan of Operation for the system. The Plan of Operation will be incorporated into the design of the system. The Plan of Operation shall address, but not be limited to, both normal and drought related conditions.

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paw

(SIGNATURE PAGE FOLLOWS)

Db  
PSW

DATED this 16 day of Aug, 2006.

ROLLINS RANCH, LLC

By: Danny C. Bridenstine

Danny C. Bridenstine Member  
(printed name & title)

NORTHWEST IRRIGATION COMPANY

By: Paul F. Warner

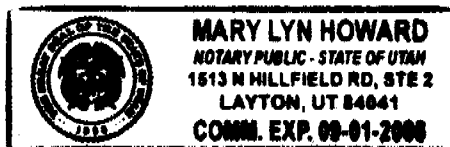
Paul F. Warner. Northwest Irrigation Co. Pres  
(printed name & title)

STATE OF UTAH )  
                              ): ss.  
COUNTY OF Davis )

The foregoing instrument was acknowledged before me this 16<sup>th</sup> day of August, 2006, by Danny C. Bridenstine & Paul F. Warner, an individuals

Mary Lyn Howard  
NOTARY PUBLIC  
Residing at: Layton Davis County Utah

My Commission Expires:  
Sept 1, 2008



*DCB  
RFW*

**DEVELOPMENT AGREEMENT  
EXHIBIT "A"**

(Property Legal Description)

**BOUNDARY DESCRIPTION**

BEGINNING ON THE CENTER OF SECTION 24, TOWNSHIP 5 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN AND RUNNING THENCE NORTH 89°59'51" EAST ALONG SECTION LINE 2655.42 FEET TO THE EAST QUARTER CORNER OF SAID SECTION; THENCE SOUTH 00°00'20" WEST ALONG SECTION LINE 2137.95 FEET; THENCE SOUTH 38°48'52" WEST 615.12 FEET TO A POINT ON THE QUARTER SECTION LINE OF SAID SECTION; THENCE SOUTH 89°19'26" WEST ALONG SAID QUARTER SECTION LINE 959.22 FEET; THENCE WESTERLY THE FOLLOWING 8 CALLS: SOUTH 00°12'44" WEST 1282.86 FEET, SOUTH 71°17'14" WEST 116.13, SOUTH 86°24'00" WEST 78.63 FEET, SOUTH 82°05'18" WEST 83.84 FEET, SOUTH 87°44'45" WEST 177.96 FEET, NORTH 89°49'53" WEST 784.68 FEET, SOUTH 29°32'41" WEST 385.48 FEET, NORTH 88°46'29" WEST 423.53 FEET TO A POINT ON A CURVE; THENCE SOUTHWESTERLY ALONG THE ARC OF A 130.00 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 33°04'22" A DISTANCE OF 75.04 FEET (CHORD BEARS SOUTH 47°15'51" WEST 74.00 FEET); THENCE SOUTH 30°43'41" WEST 125.28 FEET TO A POINT OF CURVATURE; THENCE SOUTH WESTERLY ALONG THE ARC OF A 25.00 FOOT RADIUS CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 87°23'49" A DISTANCE OF 38.13 (CHORD BEARS SOUTH 74°25'35" WEST 34.54 FEET) TO THE NORTH LINE OF THE OLD HIGHWAY (167) AND POINT OF CURVATURE; THENCE NORTHWESTERLY ALONG SAID NORTH LINE AND THE ARC OF A 1336.81 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 18°40'16" A DISTANCE OF 435.63 FEET (CHORD BEARS NORTH 71°38'24" WEST 433.71 FEET); THENCE NORTHERLY THE FOLLOWING 7 CALLS: NORTH 18°25'57" EAST 196.43 FEET, NORTH 05°38'00" WEST 185.45 FEET, NORTH 04°24'38" WEST 322.76 FEET, NORTH 89°17'00" WEST 156.32 FEET, NORTH 22°12'22" WEST 192.73 FEET, NORTH 206.22 FEET, NORTH 05°13'12" WEST 187.43 FEET TO A POINT OF CURVATURE; THENCE NORTHWESTERLY ALONG THE ARC OF A 165.00 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 84°52'08" A DISTANCE OF 244.40 FEET (CHORD BEARS NORTH 47°39'16" WEST 222.67 FEET); THENCE NORTHERLY THE FOLLOWING 6 CALLS: NORTH 08°37'59" EAST 60.42 FEET, NORTH 58°00'44" EAST 96.95 FEET, NORTH 17°29'53" WEST 296.56 FEET, NORTH 69°02'33" EAST 242.49 FEET, NORTH 42°59'58" EAST 115.06 FEET, NORTH 72°52'30" EAST 19.72 FEET; THENCE SOUTH 08°05'37" WEST 68.74 FEET; SOUTH 65°51'32" EAST 574.89 FEET TO A POINT ON THE QUARTER SECTION LINE OF SAID SECTION; THENCE SOUTH 89°55'18" EAST 642.04 FEET ALONG SAID QUARTER SECTION LINE 642.02 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION; THENCE NORTH 00°18'01" EAST ALONG SECTION LINE 2644.11 FEET TO THE POINT OF BEGINNING.

CONTAINS - 10,860,592 SQ. FT. 249.32 ACRES

**Development Agreement**

**“Exhibit O”**

**Browning Agreement**

The following thirteen (13) pages

WHEN RECORDED, RETURN TO:

Parr Waddoups Brown Gee & Loveless  
185 South State Street, Suite 1300  
Salt Lake City, Utah 84111  
Attn: Robert McConnell, Esq.

## RESTRICTIVE COVENANT, EASEMENTS AND AGREEMENT

This Restrictive Covenant, Easement and Agreements (this "Agreement") is entered into this 12 day of Sept., 2006, by and between Rollins Ranch, LLC, a Utah limited liability company ("Owner") and Browning, a Utah corporation ("Browning"), collectively, the "Parties", and individually, a "Party".

### RECITALS

A. Owner owns certain real property located in Morgan County, Utah, and more particularly described on Exhibit B, attached hereto and incorporated herein (the "Property"), and desires to develop the Property and construct certain improvements thereon.

B. Browning or its affiliates owns certain real property also located in Morgan County, Utah, and more particularly described on Exhibit C, attached hereto and incorporated herein (the "Browning Property"), in close proximity to the Property, which Browning uses as its corporate headquarters and to use and test firearms, which includes a firing range located on the Browning Property (the "Firing Range").

C. Because Browning is concerned about the possibility of injury to persons or property, Browning has in the past successfully opposed development of property located adjacent to or near the Browning Property.

D. Browning has agreed not to oppose the development of the Property and the construction of improvements, including residences, thereon, on the condition that Owner enter into this Agreement.

NOW, THEREFORE, in consideration of Browning's agreement not to oppose the development of Property as it is currently proposed in Exhibit D, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Acknowledgment of Firing Range. Owner acknowledges that on the date hereof, Browning uses the Firing Range, which is in close proximity to the Property, as a firing range, and

that Browning engages in the testing of firearms thereon. Owner further acknowledges that Browning has from time to time used, and may in the future continue to use, the Browning Property for hunting purposes.

2. Agreement as to Browning Property. Owner hereby covenants and agrees that so long as Browning uses the Browning Property in accordance with all federal, state and local laws, Owner shall not engage in any action or institute any proceeding the purpose of which is to (a) end the use of the Firing Range as a firing range or firearm testing facility; (b) restrict the hours during which Browning may operate the Firing Range and/or conduct tests of firearms thereon; (c) require that Browning erect fencing or any other physical barrier between the Firing Range and the Property; (d) have Browning's use of the Firing Range declared a public or private nuisance; or (e) otherwise affect, impair, or restrict in any manner the use by Browning of the Browning Property as a firing range or firearms testing facility or for general hunting purposes.

3. Construction of Fence. Before issuance of any residential building permits, the Owner shall commence construction of any of the following on the Property which separates the Property and the Browning Property: a six foot (6') high fence with barbed wire across the top, slanting towards the Rollins Property, or an eight foot (8') high fence, or any other size and style of fence that Browning approves of. Such fence shall be completed before occupancy of any of the residential units. The purpose of the fence shall be to prevent climbing and/or trespassing onto the Browning Property. The fence shall be constructed in accordance with applicable laws and with such materials as Owner and Browning may determine, provided that the fence shall be constructed with materials which are sufficient to prevent cattle from entering onto the Rollins Property from the Browning Property. The fence shall be maintained and repaired by the Owner which maintenance and repair may be delegated by the Owner to a home owners association established by Owner in connection with the development of the Property (the "HOA"), which maintenance includes cleaning any garbage or other debris which homeowners of the Property may throw over the fence onto the Browning Property. In addition, the Owner (or the HOA) shall place clearly visible signage every 250 feet along the Fence which prohibits climbing over the Fence and trespassing onto the Browning Property.

4. Tree Barrier. Owner shall, at Owner's sole cost and expense, plant large evergreen and a variety of other large trees (the "Barrier Trees") along the fence line on both the Property and the Browning Property where residential lots abut the Browning property spaced at a distance agreed upon by both Browning and Rollins Ranch during site visits. The purpose of the Barrier Trees is to limit the noise created by the gun range. The Barrier Trees shall be watered and maintained by the Owner (or the HOA). The Barrier Trees shall be planted for each phase before any homes are occupied.

5. Water Run Off. Owner shall, at Owner's sole cost and expense, construct and maintain a tail water ditch between the Property and the Browning Property for the purposes of preventing the flood irrigation waterflow from the Browning Property and runoff water from entering onto the Property.



6. Easement Burdening Browning. Browning hereby grants to Owner and the HOA (and their employees, agents and contractors) a fifteen foot (15') easement over the portion of the Browning Property adjacent to the Property for the purposes of performing the obligations set forth in Sections 4 and 5 herein. Such easement shall include the right, if elected by the Owner and the HOA, to install underground automatic watering systems for the trees. Notwithstanding the foregoing, neither Owner, the HOA nor any of their employees, agents or contractors shall enter on the Browning Property for purposes of performing the obligations contained under Section 3 and Section 4 hereof, except during times agreed upon by Browning and Owner or the HOA.

7. Access to Browning Property. Owner hereby grants to Browning a permanent twenty foot (20') wide access easement and right of way over the Property to access the upper portion of the Browning Property, access to which is currently obtained by using the existing dirt road across the Property. The twenty foot (20') foot wide point of access of the permanent easement from the Property and onto the Browning Property is shown on Exhibit A, it being understood and agreed that the location of such easement over the Property, may, from time to time, be relocated so long as the easement provides reasonable vehicular access to the access point to the Browning Property shown on Exhibit A. Following completion of construction on the Property, Browning, Owner and the HOA shall enter into a recordable agreement specifically delineating the location of such easement. Conditioned upon the permanent access easement granted to Browning pursuant to this paragraph, Browning hereby abandons any current road or access easements Browning now has on the Property.

8. Easement Burdening Owner. Each Plat submitted to the Morgan County Council in connection with the development of the Property and each individual property plat shall contain the following language: "Browning Arms operates a fire arms test range on nearby property and periodic gun fire will be audible within the boundaries of the Property." In addition, a separate filing shall be attached to each deed which contains the language found in Exhibit E.

9. Pressurized Secondary Water System. Owner shall install (or shall cause the water company which currently owns and operates the secondary water system serving the Property and the Browning Property (the "Water Company")) to install underground a pressurized secondary water system to the multiple farming areas of the Browning Property depicted on Exhibit A attached hereto and made a part hereof. In connection therewith, Browning shall grant to the Owner or Water Company, as applicable, such easements as may be necessary for the installation of the secondary water system and maintenance thereof.

10. Use of Water on Property. Owner shall ensure that the secondary water provided to the Property shall not have a material adverse effect on the amount of secondary water currently being provided to the Browning Property; provided, however, this paragraph shall not be construed to prevent the Property from using its allotted percentage of water provided by the Water Company based upon the number of water shares attributable to the Property from time to time.

11. Restrictions to Run with the Land; Term of Restriction. The foregoing restrictions, covenants, and waivers shall run with the land affected thereby. This Agreement shall remain in effect until such time as Browning ceases its current uses of the Browning Property.

12. General Provisions.

a. Successors. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, legal representatives, successors and assigns.

b. Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Utah.

c. Amendments. This Agreement may be amended or terminated only by agreement of the Parties, which agreement must be in writing and signed by each of the Parties.

13. Non-Pursuit of Claims. In exchange for Owner's agreement as reflected herein, Browning agrees that it will not pursue legal action against Owner in connection with or relating to Owner's use of his Property. Browning hereby agrees to not assert any claims or initiate any action against Owner to prevent Owner from developing the Property in a manner consistent with those development and master plans, subdivisions plats and zoning designations for the Property which have been presented to and approved by an authorized representative of Browning, including as depicted on Exhibit D, and to the extent Owner's use of his Property does not violate any Federal, State or local laws including without limitation Federal Aviation Administration rules or regulations.

IN WITNESS WHEREOF, this Agreement was made and executed as of the date first above written.

OWNER:

ROLLINS RANCH, LLC, a Utah limited liability company

By: Josh Romney  
Name: Josh Romney  
Title: Manager

BROWNING:

BROWNING, a Utah corporation

By: R. Knay Walker  
Name: R. Knay Walker  
Title: CFO

STATE OF UTAH )

: ss.

COUNTY OF Morgan )

The foregoing instrument was acknowledged before me this 13<sup>th</sup> day of September, 2006, by Josh Romney, the Manager of Rollins Ranch, LLC, a Utah limited liability company, by and on behalf of said company.

*Todd R. Skeen*

NOTARY PUBLIC

Residing at: Weber Co., Utah

My Commission Expires:



STATE OF UTAH )

: ss.

COUNTY OF Morgan )

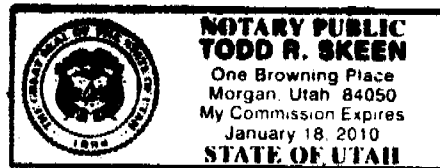
The foregoing instrument was acknowledged before me this 12<sup>th</sup> day of September, 2006, by R. Craig Walker, the CEO of Browning, a Utah corporation, by and on behalf of said corporation.

*Todd R. Skeen*

NOTARY PUBLIC

Residing at: Weber Co., Utah

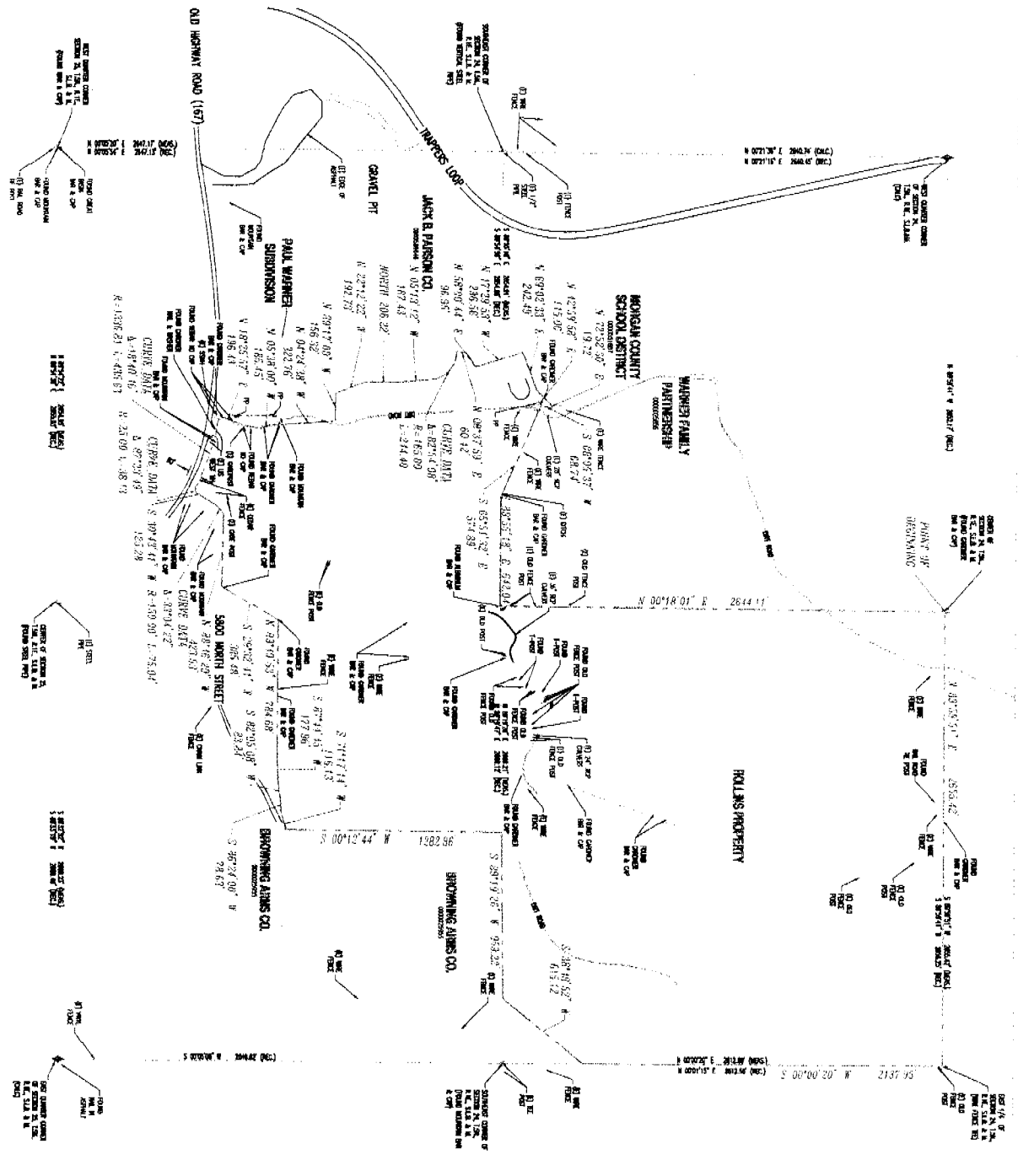
My Commission Expires: 01-18-2010



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Exhibit A

Waterline Agreement and Upper Browning Access Point



# DEVELOPMENT AGREEMENT

## Exhibit B

(Property Legal Description)

### BOUNDARY DESCRIPTION

BEGINNING ON THE CENTER OF SECTION 24, TOWNSHIP 5 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN AND RUNNING THENCE NORTH 89°59'51" EAST ALONG SECTION LINE 2655.42 FEET TO THE EAST QUARTER CORNER OF SAID SECTION; THENCE SOUTH 00°00'20" WEST ALONG SECTION LINE 2137.95 FEET; THENCE SOUTH 38°48'52" WEST 615.12 FEET TO A POINT ON THE QUARTER SECTION LINE OF SAID SECTION; THENCE SOUTH 89°19'26" WEST ALONG SAID QUARTER SECTION LINE 959.22 FEET; THENCE WESTERLY THE FOLLOWING 8 CALLS: SOUTH 00°12'44" WEST 1282.86 FEET, SOUTH 71°17'14" WEST 116.13, SOUTH 86°24'00" WEST 78.63 FEET, SOUTH 82°05'18" WEST 83.84 FEET, SOUTH 87°44'45" WEST 177.96 FEET, NORTH 89°49'53" WEST 784.68 FEET, SOUTH 29°32'41" WEST 385.48 FEET, NORTH 88°46'29" WEST 423.53 FEET TO A POINT ON A CURVE; THENCE SOUTHWESTERLY ALONG THE ARC OF A 130.00 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 33°04'22" A DISTANCE OF 75.04 FEET (CHORD BEARS SOUTH 47°15'51" WEST 74.00 FEET); THENCE SOUTH 30°43'41" WEST 125.28 FEET TO A POINT OF CURVATURE; THENCE SOUTH WESTERLY ALONG THE ARC OF A 25.00 FOOT RADIUS CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 87°23'49" A DISTANCE OF 38.13 (CHORD BEARS SOUTH 74°25'35" WEST 34.54 FEET) TO THE NORTH LINE OF THE OLD HIGHWAY (167) AND POINT OF CURVATURE; THENCE NORTHWESTERLY ALONG SAID NORTH LINE AND THE ARC OF A 1336.81 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 18°40'16" A DISTANCE OF 435.63 FEET (CHORD BEARS NORTH 71°38'24" WEST 433.71 FEET); THENCE NORTHERLY THE FOLLOWING 7 CALLS: NORTH 18°25'57" EAST 196.43 FEET, NORTH 05°38'00" WEST 185.45 FEET, NORTH 04°24'38" WEST 322.76 FEET, NORTH 89°17'00" WEST 156.32 FEET, NORTH 22°12'22" WEST 192.73 FEET, NORTH 206.22 FEET, NORTH 05°13'12" WEST 187.43 FEET TO A POINT OF CURVATURE; THENCE NORTHWESTERLY ALONG THE ARC OF A 165.00 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 84°52'08" A DISTANCE OF 244.40 FEET (CHORD BEARS NORTH 47°39'16" WEST 222.67 FEET); THENCE NORTHERLY THE FOLLOWING 6 CALLS NORTH 08°37'59" EAST 60.42 FEET, NORTH 58°00'44" EAST 96.95 FEET, NORTH 17°29'53" WEST 296.56 FEET, NORTH 69°02'33" EAST 242.49 FEET, NORTH 42°59'58" EAST 115.06 FEET, NORTH 72°52'30" EAST 19.72 FEET; THENCE SOUTH 08°05'37" WEST 68.74 FEET; SOUTH 65°51'32" EAST 574.89 FEET TO A POINT ON THE QUARTER SECTION LINE OF SAID SECTION; THENCE SOUTH 89°55'18" EAST 642.04 FEET ALONG SAID QUARTER SECTION LINE 642.02 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION; THENCE NORTH 00°18'01" EAST ALONG SECTION LINE 2644.11 FEET TO THE POINT OF BEGINNING.

CONTAINS - 10,860,592 SQ. FT. 249.32 ACRES





EXHIBIT E

**RESTRICTIVE COVENANT**

This Restrictive Covenant (this "Agreement") is entered into this 12<sup>th</sup> day of Sept., 2006, by Rollins Ranch LLC. ("Owner") for the benefit of Browning, a Utah corporation ("Browning"), collectively, the "Parties", and individually, a "Party".

RECITALS

A. Owner owns certain real property located in Morgan County, Utah, and more particularly described on Exhibit A, attached hereto and incorporated herein (the "Property"), and desires to develop the Property and construct certain improvements thereon.

B. Browning or its affiliates owns certain real property also located in Morgan County, Utah, and more particularly described on Exhibit "B", attached hereto and incorporated herein (the "Browning Property"), in close proximity to the Property, which Browning uses as its corporate headquarters and to use and test firearms, which includes a firing range located on the Browning Property (the "Firing Range").

C. Because Browning is concerned about the possibility of injury to persons or property, Browning has in the past successfully opposed development of property located adjacent to or near the Browning Property.

D. Browning has agreed not to oppose the development of the Property and the construction of improvements, including residences, thereon, on the condition that Owner enter into this Agreement.

NOW, THEREFORE, in consideration of Browning's agreement not to oppose the development of Owner's property, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Acknowledgment of Firing Range. Owner acknowledges that on the date hereof, Browning uses the Firing Range, which is in close proximity to the Property, as a firing range, and that Browning engages in the testing of firearms thereon. Owner further acknowledges that Browning has from time to time used, and may in the future continue to use, the Browning Property for hunting purposes.
2. Agreement as to Browning Property. Owner hereby covenants and agrees that so long as Browning uses the Browning Property in accordance with all federal, state and local laws,

Owner shall not engage in any action or institute any proceeding the purpose of which is to (i) end the use of the Firing Range as a firing range or firearm testing facility; (ii) restrict the hours during which Browning may operate the Firing Range and/or conduct tests of firearms thereon; (iii) require that Browning erect fencing or any other physical barrier between the Firing Range and the Property; (iv) have Browning's use of the Firing Range declared a public or private nuisance; or (v) otherwise affect, impair, or restrict in any manner the use by Browning of the Browning Property as a firing range or firearms testing facility or for general hunting purposes.

3. Restrictions to Run with the Land; Term of Restriction. The foregoing restrictions, covenants, and waivers shall run with the land affected thereby. This Agreement shall remain in effect until such time as Browning ceases its current uses of the Browning Property.
4. General Provisions.
  - (a) Successors. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, legal representatives, successors and assigns.
  - (b) Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Utah.
  - (c) Amendments. This Agreement may be amended or terminated only by agreement of the Parties, which agreement must be in writing and signed by each of the Parties.
5. Non-Pursuit of Claims. In exchange for Owner's agreement as reflected herein, Browning agrees that it will not pursue legal action against Owner in connection with or relating to Owner's use of his Property. Browning releases Owner and his successors and assigns of any and all claims it has or may have against Owner arising out of or relating in any way to Owner's use of the Property and acknowledges and agrees that Browning has no claims against Owner insofar as and to the extent Owner's use of his Property does not violate any Federal, State or local laws including without limitation Federal Aviation Administration rules or regulations.

IN WITNESS WHEREOF, this Agreement was made and executed as of the date first above written.

OWNER:

Danny C. Bodenstine

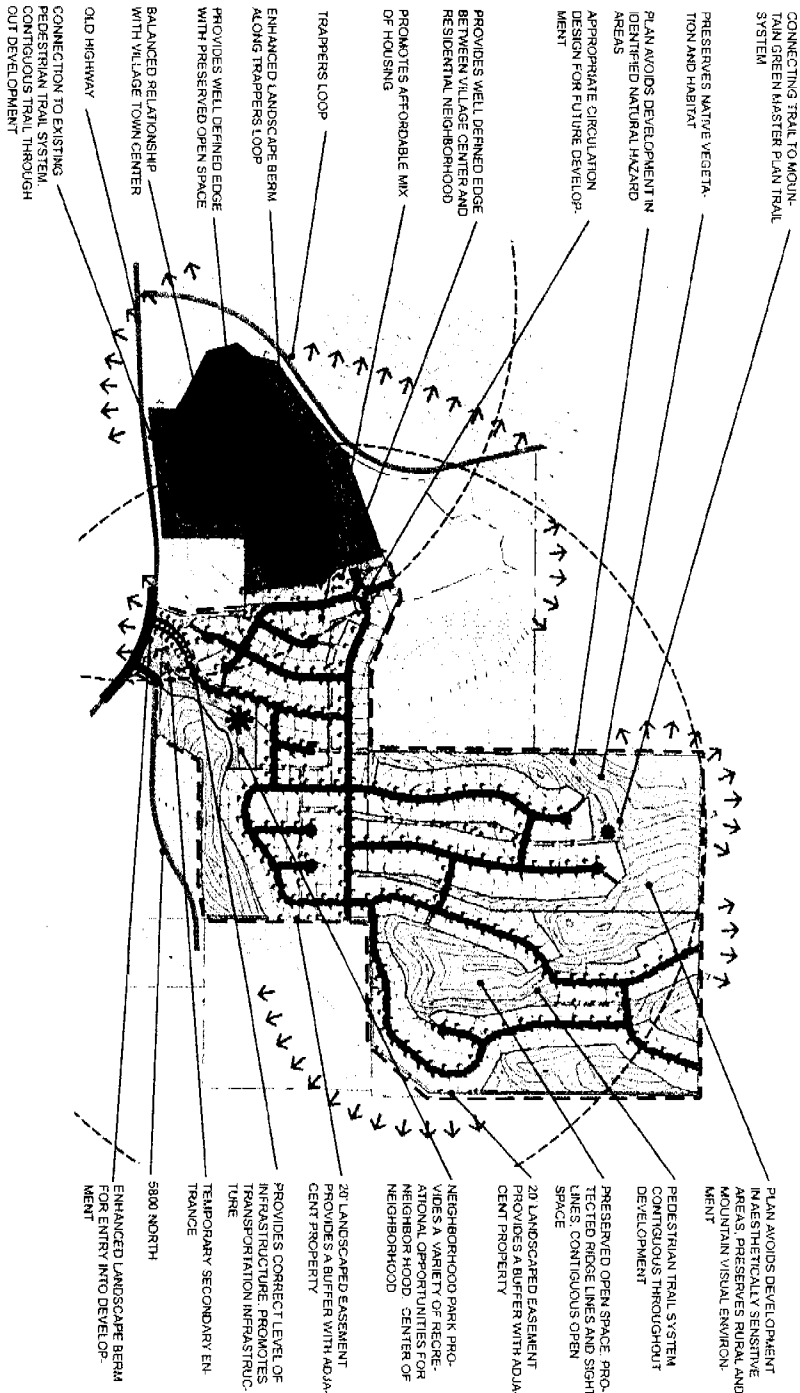
STATE OF UTAH                             )  
  : ss.  
COUNTY OF Davis )

The foregoing instrument was acknowledged before me this 12 day of September, 2006 by Danny C Bodenstine; an individual.

Mary Lyn Howard  
NOTARY PUBLIC  
Residing at: Layton, Davis, Utah

My Commission Expires:



















**Rollins Ranch**  
AT MOUNTAIN GREEN

Concept Master Plan

**Legend**

-  RR-1
-  R1-20
-  COMMERCIAL
-  OPEN SPACE
-  NEIGHBORHOOD PARK
-  PEDESTRIAN TRAIL
-  PAVED PEDESTRIAN TRAIL
-  TRAIL HEAD
-  EXISTING ROADS
-  PROPOSED ROADS
-  STREAMS
-  VIEW SHEDS
-  PROJECT LIMITS
-  PROPERTY LINES

April 6, 2008



00.04