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**Declaration of Covenants, Conditions, Restrictions and Easements for  
DAYBREAK PARK SUBDIVISION**

**A Subdivision Located in Washington City, Utah**

Daybreak Development Group, LLC., a Utah limited liability company, hereinafter referred to as the "Developer," is the owner of the following described property, hereinafter referred to as the "Property," located in Washington County, State of Utah, to-wit:

(SEE LEGAL DESCRIPTION ATTACHED HERETO AS EXHIBIT "A" AND  
INCORPORATED HEREIN BY THIS REFERENCE)

Developer hereby includes all of the Property in the plats recorded herewith of the Daybreak Park Subdivision, and divides the Property into Lots as shown on said plat(s) and dedicates the streets shown on said plat(s) to the public. The easements indicated on said plats are hereby perpetually reserved for public utilities and for any other uses as designated thereon or set forth herein, and no structures other than for such utility or other indicated purposes are to be erected within the lines of said easements. The real property designated as "Common Areas" on the plat map will be conveyed to the Daybreak Park Homeowners Association ("Homeowners Association") after the plat is approved.

Developer further declares that all of the Property described herein is held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied, and improved subject to the following limitations, restrictions, covenants and conditions, all of which are declared and agreed to be in furtherance of a plan for the subdivision, improvement and sale of the Property, and are established and agreed upon for the purposes of enhancing and protecting the value, desirability and attractiveness of the Property and every Lot, part or portion thereof. The acceptance of any deed to or conveyance of any Lot, part or portion of the Property by the grantees therein named or by their legal representatives, heirs, executors, administrators, successors or assigns, shall constitute their covenant and agreement with the Developer and with each other to accept, hold, improve, use and convey the Property described and conveyed in or by such deed or conveyance subject to said covenants and conditions. These restrictions, covenants and conditions shall run with the land.

**ARTICLE 1 - USE RESTRICTIONS**

1.1 Land Use and Building Type. All Lots shall be used only for detached single family residential purposes. No professional, business or commercial use shall be made of the same, or any portion thereof; provided, however, that the Lot restrictions contained in this Article shall not be construed in such a manner as to prohibit an owner or resident from (a) maintaining a personal professional library therein; (b) keeping personal business or professional records or accounts therein; (c) handling personal, business or professional telephone calls or therefrom; or (d) establishing a valid home occupation approved by the City of Washington, provided that there shall be no retail sales conducted at the Lot, so long as said home occupation is (a) not conducted outside of the residential structure, (b) not a nuisance nor a creator of excessive waste, trash, or garbage

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**DAYBREAK PARK PROTECTIVE COVENANTS  
FOR WASHINGTON CITY**

**A Subdivision Located in Washington County, Utah**

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Developer further declares that all of the Property described herein is held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied, and improved subject to the following limitations, restrictions, covenants and conditions, all of which are declared and agreed to be in furtherance of a plan for the subdivision, improvement and sale of the Property, and are established and agreed upon for the purposes of enhancing and protecting the value, desirability and attractiveness of the Property and every Lot, part or portion thereof. The acceptance of any deed to or conveyance of any Lot, part or portion of the Property by the grantees therein named or by their legal representatives, heirs, executors, administrators, successors or assigns, shall constitute their covenant and agreement with the Developer and with each other to accept, hold, improve, use and convey the Property described and conveyed in or by such deed or conveyance subject to said covenants and conditions. These restrictions, covenants and conditions shall run with the land.

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1.1 Land Use and Building Type. All Lots shall be used only for detached single family residential purposes. No professional, business or commercial use shall be made of the same, or any portion thereof; provided, however, that the Lot restrictions contained in this Article shall not be construed in such a manner as to prohibit an owner or resident from (a) maintaining a personal professional library therein; (b) keeping personal business or professional records or accounts therein; (c) handling personal, business or professional telephone calls or therefrom; or (d) establishing a valid home occupation approved by the City of Washington, provided that there shall be no retail sales conducted at the Lot, so long as said home occupation is (a) not conducted outside of the residential structure, (b) not a nuisance nor a creator of excessive waste, trash, or garbage

beyond that of normal residential family use , (c) does not generate any noise or traffic outside of normal residential family use and (d) is legal and lawful.

"Family" is defined to be persons related by blood or marriage, by legal adoption, or by operation of law.

1.2 Lot Size. Lot sizes as described on the recorded plat of subdivision are considered minimum Lot sizes and no person shall further subdivide any Lot other than as shown on the recorded plat of said subdivision. Lots may be combined for construction of a single residence.

In the event of such combination of adjacent Lots, all easements and rights of the Lot owners and third parties, such as utilities, in the boundary area between such Lots which had been exercised prior to construction of the home on the Lot would remain in place, in perpetuity. However, all easements and other rights in the boundary area between such Lots which had not been used prior to construction of the home could not thereafter be exercised. In the event of such a combination of Lots, the combined Lots shall be assessed as one Lot.

The Lot purchaser is required to obtain a soils test and geotechnical recommendation on foundation/grading from a Utah registered engineer prior to construction. The Architectural Control Committee requires that the Lot owner obtain said information prior to the final approval by the Committee. Furthermore, the Architectural Control Committee may condition final approval following the recommendations set forth in the soils test and recommendation.

1.3 Care and Maintenance of Lot. The owner of each Lot shall keep the same free from rubbish, litter and noxious weeds. All structures, landscaping and improvements shall be maintained in good condition and repair at all times. Each Lot shall be subject to an easement for reasonable and necessary access to make repairs upon adjoining Lots and structures; provided however, that:

(a) Any damage caused by such entry shall be repaired at the expense of the owner whose property was the subject of the repair work which caused the same;

(b) Any such entry shall be made only at reasonable times and with as little inconvenience as possible to the owner of the entered Lot; and

(c) In no event shall said easement be deemed to permit entry into the interior portion of any dwelling.

Each owner shall be responsible for maintenance of his Lot. In the event any owner fails to perform this maintenance in a manner so as not to detract from the appearance of the property, or affect adversely the value or use of any other Lot, the Homeowners Association shall have the right to have maintenance performed on the Lot at the cost of the Lot Owner.

1.4 Easements. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the

installation, maintenance or replacement of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each Lot and all improvements in it shall be maintained continuously by the owner of the Lot, except for those improvements for which a public authority or utility company is responsible. The title holder of each Lot shall from time to time as may be reasonably required grant rights over, across, on, under and upon these easements for such additional uses and services as may be provided from time to time by a public authority or private utility company.

1.5 No Hazardous Activities. No activities shall be conducted on the Property and no improvements shall be constructed on the Property which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon the Property and no open fires shall be lighted or permitted on the Property except in a contained barbecue or fire pit Lot while attended and in use for cooking purposes or within a safe and well-designed interior fireplace.

1.6 Motor Vehicles. All motorcycles, trail bikes, three-wheel powered devices, automobiles, and two or four-wheel drive recreational type vehicles are to be operated only by individuals with driver's licenses and only on established streets and parking areas and are specifically prohibited from all other portions of the Property, and are to be used on said streets only for ingress, egress, and access purposes and not for recreational purposes anywhere within the Project.

1.7 Weed Control. Each Lot Owner shall, to the extent reasonably feasible, control the growth and proliferation of noxious weeds and flammable materials on his Lot so as to minimize weeds, fire and other hazards to surrounding Lots, Living Lots, the Landscape easements, and surrounding properties, and shall otherwise comply with any applicable ordinances, laws, rules, or regulations pertaining to the removal and/or control of noxious weeds. Noxious weeds shall mean and refer to those plants, which are injurious to crops, livestock, land or the public health.

1.8 Nuisances. No noxious or offensive activity shall be carried on upon any Lot, part or portion of the Property, nor shall anything be done thereon which may be or may become an annoyance to the neighborhood.

No clothes drying or storage of any articles, which are visible from any public street, shall be permitted. No clutter, debris, or other such materials shall be permitted which are visible from any public street.

No resident's use of a Lot shall endanger the health or disturb the reasonable enjoyment of any other owner or resident.

1.9 Safe Condition. Without limiting any other provision of these covenants, each owner shall maintain and keep such owner's Lot at all times in a safe, sound and sanitary condition and repair and shall correct any condition or refrain from any activity which might interfere with the safety or reasonable enjoyment of other owners of their respective Lots.

1.10 Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, part or portion or the Property, nor shall any oil well, gas well, tank, tunnel, mineral excavation or shaft be permitted upon or in any such Lot or portion of the Property.

1.11 Animals, Livestock, Poultry, Agriculture. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot, part or portion of the Property, except that dogs, cats or other domesticated household pets, two (2) or less in total number may be kept in a residence constructed on a Lot, provided that they are not kept, bred, or maintained for any commercial purpose. Such animals as are permitted shall be strictly controlled and kept pursuant to all applicable laws and ordinances, and shall be on a leash or inside a fence when outside the owner's residence. No dog runs are allowed.

1.12 Garbage and Refuse Disposal. No Lot or part or portion of the Property, shall be used or maintained as dumping ground for rubbish, rubble, trash, garbage or other waste. Such trash, rubbish, rubble, garbage or other waste as produced within the Property, shall be kept only in sanitary containers inside a structure except when placed for collection. No rubbish, trash, papers, junk or debris shall be burned upon the Property except that trash may be burned in accordance with applicable laws and ordinances inside homes that are properly equipped with inside incinerator Lots.

1.13 Water Supply. Each resident shall be connected to and use the municipal culinary water supply. No individual culinary water supply system shall be used or permitted to be used on any Lot, part or portion or the Property. No wells may be dug or installed on any Lot

1.14 Sewage Disposal. Each residence shall be connected to and use the municipal sewage disposal system. No individual sewage disposal system (e.g. septic systems, etc.) shall be permitted on any Lot, part or portion of the Property.

1.15 RV's, Boats, and Vehicles. No boats, trailers, buses, motor homes, campers, recreational vehicles, or other such vehicles, shall be parked or stored upon any Lot except within an enclosed garage or on a cement pad behind the required front Lot line set-back area. No such vehicles shall be parked overnight on any street located within the subdivision. Trailers, motor homes, and trucks, over 9,000 pounds GVW are not allowed to be stored upon any vacant Lot or street or road area adjacent to the Property.

Motor vehicles that are inoperable shall not be permitted to remain upon any street or Lot or road areas adjacent thereto. In the event an inoperable motor vehicle remains upon any Lot or road area for a period exceeding thirty (30) days, the developer or other Lot owners residing within the Property, the Architectural Control Committee, and/or the Homeowners Association may remove the inoperable motor vehicle after a ten (10) day written notice. The cost of such removal shall attach to the vehicle and the Lot as a valid lien in favor of the persons, entities, or parties causing such removal. For the purpose of this section, "inoperable motor vehicle" shall mean any motor vehicle that is unable to operate in a normal manner upon the streets under its own power, or is unlicensed or unregistered for a period of not less than six (6) weeks.

1.16 Business and Sales. Notwithstanding any provisions to the contrary herein contained, it shall be expressly permissible for Developer, or its written designee, to maintain such facilities and conduct such activities as in the sole opinion of Developer may be reasonably required, convenient or incidental to the construction of homes and sale of Lots during the Development Phase, and upon such portion of the Property including Lots or common area, if any, as Developer deems necessary, including but not limited to, a business office, storage areas, construction yard, signs, model Lots and sales offices. As part of the overall program of development of the Property into a residential community and to encourage the marketing thereof, the Developer shall have the right of use of any Lots or any common area and facilities thereon, including any landscape easement, community buildings, without charge during the sales and construction period to aid in its marketing activities.

## ARTICLE 2 - ARCHITECTURAL CONTROL

2.1 Architectural Control Committee. Prior to the commencement of any excavation, construction, or remodeling of any building or structure or of any addition to any building or structure, or modification of the natural topography of any Lot, or installation of fences or landscaping elements, prior written approval of the Architectural Control Committee is required.

(a) Two (2) complete sets of building plans and specifications shall be filed with the Architectural Control Committee, together with a site or plot plan showing grading, landscaping and all lighting, indicating the exact part of the building site which the improvements will cover, with such a fee as the Architectural Control Committee may determine from time to time, and an application and such supporting material, such as samples of building materials, as the Architectural Control Committee deems necessary. No work shall commence unless and until the Architectural Control Committee shall endorse on both sets of such plans its written approval that such plans are in compliance with the covenants herein set forth and with the standards herein or hereafter established by said Architectural Control Committee pursuant hereto. The second set of such plans shall be filed as a permanent record with the Architectural Control Committee. the plans referred to herein shall include detailed landscaping plans showing plants and materials in detail.

(b) Said Architectural Control Committee shall have the right to refuse to approve any such plans and specifications and shall have the right, in so doing, to take into consideration the suitability of the proposed building, the materials of which it is to be built, the site upon which it is proposed to be erected, the harmony thereof with the surroundings, and the effect of said building, or other structure so planned, on the outlook from adjacent or neighboring property.

(c) The Architectural Control Committee shall promulgate and maintain a list of standards for guidance in approving or disapproving plans and specifications pursuant to this Article.

(d) In the event said Architectural Control Committee fails to approve or disapprove in writing any such plans within sixty (60) days after the submission thereof to the Architectural Control Committee, then approval shall be deemed to have been given.

(e) The Architectural Control Committee shall not be held liable for d by reason of any action, inaction, approval, or disapproval by it with respect to any request made pursuant to this Article. Any errors or omissions in the design of any building, other improvement or landscaping and any violation of any governmental ordinance are the sole responsibility of the Lot Owner and the Lot Owner's designer, architect, or contractor. The Architectural Control Committee's review of plans shall in no way be concerned with structural or mechanical integrity or soundness.

(f) The approval of the Architectural Control Committee of any plans and specifications for any work done or proposed shall not constitute a waiver of any right of the Architectural Control Committee to disapprove any similar plans and specifications subsequently submitted.

(g) The Architectural Control Committee shall consist of three (3) persons appointed by the Developer. Said persons can be replaced according to the sole discretion of the Developer. When the title to all of the Lots in said development has been transferred by the Developer, a majority of the owners of Lots subject to these covenants shall elect and appoint the Architectural Control Committee which shall thereafter be vested with the powers described herein and shall have jurisdiction over all of the property subject to these restrictions, covenants and conditions.

(h) The Architectural Control Committee shall adopt reasonable rules and regulations for the conduct of its proceedings and to carry out its duties and may fix the time and place for its regular meetings and such extraordinary meetings as may be necessary, and shall keep written minutes of its meetings, which shall be open for inspections upon request. The Architectural Control Committee shall, by majority vote, elect one of its members as chairman and one of its members as secretary and the duties of each will be such as usually appertain to such offices. Notice of meetings shall be given to members who have made application to the Architectural Control Committee for approval of plans,

(i) The members of the Architectural Control Committee shall not receive any compensation for services rendered. Members shall be entitled to reimbursement for reasonable expenses incurred by them in connection with the performance of any Committee function or duty. Professional consultants retained by the Architectural Control Committee shall be paid such compensation as the Architectural Control Committee determines.

(j) Developer shall be exempt from the provisions, restrictions, and requirements of this Article, relating to marketing, signage, sales and other such commercial activities, as the same exists or as it may be amended, supplemented, or replaced in accordance with other provisions of the Declaration.

2.2 Washington City Permit Required. No living Lot, accessory or addition to a living Lot, other structure or building shall be constructed or maintained, and no grading or removal of natural vegetation or change in natural or approved drainage patterns or installation of fencing or landscaping elements shall occur on a Lot until any required permit or required approval therefor is

obtained from the appropriate governmental entity following submission to the appropriate governmental entity of such information as it may reasonably require. The granting of a permit or approval by any governmental entity with respect to any matter shall not bind or otherwise affect the power of the Architectural Control Committee to refuse to approve any such matter.

2.3 Design Restrictions. In order to promote a harmonious community development and protect the character of the neighborhood, the following guidelines, together with any guidelines hereafter established by the Architectural Control Committee, are applicable to the Property.

(a) Purpose and Intent. The intent of these Architectural Guidelines is to encourage a blending of styles within the Property with the natural surroundings and prevailing architecture of the created environment of the project. These standards allow design latitude and flexibility, while ensuring that the value of the property will be enhanced through the control of site planning, architecture and landscape elements.

The Architecture Guidelines serve as an evaluative aid to owners, builders, project developers, design professionals, City staff, the Planning Commission, City Council and the Architectural Control Committee in the design review of individual, private and public developments within the Daybreak Park Development. The City of Washington Zoning Regulations will apply for any area of design not addressed in these guidelines.

(b) Permitted Structures. The only building(s) or structure(s) permitted to be erected, placed or permitted to be located on any Lot within the subdivision shall be (i) a detached single family dwelling placed within the building envelope for each Lot and not to exceed the height requirements found in this section; which must include a minimum two car, private, enclosed garage; and (ii) an accessory building such as a tool shed or storage building, not to exceed 100 square feet in the floor space, with a height less than twelve feet. All construction must be of new materials. All structures shall be constructed in accordance with the zoning and building ordinances of Washington, Utah, in effect from time to time.

(c) Minimum Area. The minimum total square footage of living area on the ground floor located within the building envelope and foundation for any single-story residential dwelling constructed on any Lot within the subdivision shall be not less than 1500 square feet, exclusive of porches, balconies, patios, and garages. Two-story homes shall have a minimum of 1500 square feet on the first level, with a total square footage of not less than 2200 square feet, exclusive of porches, balconies, patios and garages.

(d) Setbacks. The setbacks shall be as designated on the recorded plat map.

(e) Building Height. Maximum building heights shall comply with the applicable building codes the time of construction. Height is measured from a base line parallel to the existing Lot grade to a parallel line intersecting the highest point of any roof element.

(f) Dwelling. Elevations should be consistent with the intended architectural style of the residence and carried around all four elevations of the structure.



(g) Facades. Facades shall be stucco, brick or stone, or such other material as approved by the Architectural Control Committee.

(h) Roof Materials. Roof material shall be limited to clay or concrete tiles or slate. Colors shall be subdued earth tones to complement the natural beauty of the area selected from or in harmony with approved samples, or in such other colors as may be allowed by the Architectural Control Committee.

(i) Sheet Metal. Flashing, vents and pipes must be colored or painted to match the material to which they are attached or from which they project. No reflective exterior surfaces or materials shall be used.

(j) Colors. Base building colors shall be in subdued earth tones to complement the natural surroundings and conform to or be in harmony with approved samples. White is prohibited. Pastels or high gloss finishes may not be used. Complementary accent colors can be used on window trim, shutters and doors.

(k) Prohibited Structures. Dome Structures, Log homes, Re-located homes, manufactured homes, mobile homes, and Earth or Berm Homes of any type are not allowed.

(l) Temporary or Other Structures. No trailer, bus, basement, outhouse, tent, shack, garage, or accessory building shall be used at any time as a residence either temporarily or permanently. No old, or second-hand structures shall be moved onto any of said Lots nor shall any such structures be erected or placed on said property at any time. It is the Developer's intention that all dwellings and other buildings be erected within the subdivision be new construction, of good quality, workmanship, and materials.

(m) Accessory Buildings. One storage or utility structure such as a tool or storage shed is allowed on each Lot. Such a building shall be of the same architectural style and constructed of the same materials as the principal dwelling structure. Such building shall not exceed 100 square feet in floor space, and the height shall not exceed twelve feet. No such building or structure shall be used for human habitation nor shall it have plumbing service. All such structures must abide by setback and side yard requirements.

(n) Driveways and Parking. There shall be area on the driveway (excluding sidewalk areas) to park not less than two vehicles per Lot. Each driveway on a Lot shall be constructed out of cement, brick, concrete, or interlocking pavers. Cinders, sand, gravel, asphalt or dirt shall not be permitted for driveway material in the front and side yards areas of each Lot.

(o) Fences and Sight Obstructions. No structure, fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and (6) feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangle area formed by the street property lines and a line connecting them at points forty (40) feet from the intersection of the street, or in the case of a rounded property corner from the intersection

of the street property lines extended. The same sight line limitations shall apply on any Lot within 10 feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at such height to prevent obstruction of such sight lines. No fence, wall, hedge, shrub, or other structure shall be placed along any front property line. No fence, wall, hedge, tree, plant, shrub or foliage shall be planted, kept or maintained in such manner as, in the opinion of the Architectural Control Committee, shall create a serious potential hazard or an aesthetically unpleasant appearance to the other residents of the area.

Fences, walls and other barriers shall be approved by the Architectural Control Committee and constructed of an approved material and color. No fences shall be constructed in the front setback areas.

Individual homeowners may construct walls in the rear and along the side property lines. Walls must harmonize with color and style of project perimeter wall and may not exceed six (6) feet on the highest side.

(p) Retaining Walls. Retaining walls are restricted to a maximum height of six (6) feet, unless otherwise approved by the Architectural Control Committee. In the event approval is given for a retaining wall higher than six (6) feet, the retaining wall must be tiered and landscaping must be installed to hide the retaining wall.

(q) Lights. Lights used to illuminate garages, patios, parking areas or for any other purposes, shall be so arranged as to reflect light away from adjacent residences and away from the vision of passing motorists. Low level outdoor illumination may be used for particular landscape features (trees, rock formations, etc.). All light sources must be shaded. No exposed bulbs are permitted.

(r) Antennas. Antennas for radio, television, or device for the reception or transmission of radio, microwaves or other similar signals are restricted to the attic or interior of the residence. It is mandatory that all homes be pre-wired for cable reception. Satellite dish antennas shall be allowed provided they are located in such areas as may be designated by the Architectural Control Committee. In no event shall satellite dish antennas be visible from neighboring property or exceed 20 inches in diameter or width.

(s) HVAC. Air conditioning, heating equipment and soft water tanks must be screened from view so as not to be visible from neighboring property or from the streets of the development, and shall be insulated for sound attenuation. Air conditioning units are not permitted on roofs or through windows.

(t) Utility Meters. Utility Meters shall be placed in as inconspicuous a location as possible. Locations of meters are to be shown on the plans, and meters must be screened from view from neighboring property. Exposed piping should be painted to match exterior colors of the dwelling structure. The area immediately around the meters should be cleared

to allow for access. Electric meters and regulators are to be vented in compliance with the Uniform Building Code.

(u) Mailboxes. Cluster Mailboxes shall be installed by Developer and are the only allowed mail receptacles.

(v) External Apparatus. No Lot owner shall cause or permit anything (including, without limitation, awnings, canopies or shutters) to hang, be displayed or otherwise affixed to or placed on the exterior walls or roof or any part thereof, or on the outside of windows or doors, without the prior written consent of the Architectural Control Committee.

(w) Landscaping. Landscaping shall be completed in accordance with the Landscape plan submitted to and approved by the Architectural Control Committee prior to construction of the home, and may include but shall not be limited to the preparation for the planting of lawn, grass or other appropriate ground cover, and appropriate shrubbery. The total area of landscaping requiring irrigation on any given lot shall be restricted to a maximum of five thousand (5000) square feet, in order to comply with conservation requirements set by Washington City and Washington County Water Conservatory District.

Each owner shall be responsible for the maintenance of his Lot. In the event that any owner fails to perform this maintenance in a manner so as not to detract from the appearance of the property or affect adversely the value or use of any Lot, the Architectural Control Committee shall have the right to have maintenance performed on the Lot and the cost of said maintenance shall be added to and become part of the assessment to which such Lot is subject.

Any portion of the Lot not used for structures, driveways, walks, or other site improvements, including the shall be landscaped or left in its natural state. The front yard, including the front planting strip, shall have a minimum of 15% to a maximum of 80% lawn. The remaining area shall be left in its natural state or enhanced with additional desert plantings. If the rear yard is not walled on all sides by the owner, it shall conform to these requirements. If the rear yard is walled in, the rear landscaping shall be at the discretion of the owner.

(x) Slope and Drainage Control. No structure, planting or other material shall be placed or permitted to remain or other activities undertaken which may damage or interfere with established slope ratios, create erosion or sliding problems, or which may change the direction of flow of drainage channels. The slope control areas of each Lot and all improvements in them shall be maintained continuously by the owner of the Lot, except for those improvements for which a public authority or utility company is responsible. Lot owners are responsible to see that no nuisance or damage is created by drainage location or flow to any adjacent property.

(y) Easements. Easements for installation and maintenance of utilities, drainage facilities and ingress and egress are reserved as shown upon the recorded plat. Within these easements no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with installation and maintenance of utilities, or which may change the direction of flow or drainage channels in the easement or which may impede ingress and egress. The easement area of each Lot and all improvements in it shall be

maintained continuously by the owner of the Lot, except for those improvements for which a public authority or utility company is responsible.

(z) Lateral and Subjacent Support and Drainage. An owner's activities which affect the lateral or subjacent support, or both, of adjacent landowners shall be responsible for damages proximately caused by such activities. Owners shall be responsible for all damage proximately caused by drainage from their Lot(s) to adjacent landowners.

(aa) Signs; Commercial Activity. Except for one "For Rent" or "For Sale" sign of not more than two (2) square feet, no advertising signs, billboards, objects of unsightly appearance, or nuisances shall be erected, placed, or permitted to remain on any Lot or any portion of the properties. The foregoing restrictions shall not apply to signs and billboards, if any, of the Developer or its agents during the construction and sales period or by the Architectural Control Committee thereafter.

2.4 Construction and Contractor Provisions. In order to promote a harmonious community development and protect the character of the neighborhood, the following guidelines are applicable to the properties:

(a) Completion of Construction. The construction of any building or structure on any portion of the Property shall be continuously and diligently pursued from and after the commencement of such construction, and in any event shall be substantially completed within twelve (12) months after such commencement.

(b) Building Materials Storage. No Lot, part or portion of the Property shall be used or maintained as a storage for building materials except during a construction phase. Once a dwelling is occupied or made available for sale, all building materials shall be removed or stored inside a dwelling, or accessory building out of public sight.

(c) Landscaping. Landscaping shall be complete within 180 days of completion of construction or issuance of the certificate of occupancy, whichever occurs first.

(d) Soils Test. The Lot purchaser is required to obtain a soils test and geotechnical recommendation on foundation from a Utah registered engineer prior to construction. The Architectural Control Committee requires that the Lot owner obtain a soils test and recommendation on foundation prior to the final approval. Furthermore, the Architectural Control Committee may condition final approval following the recommendations set forth in the soils test document and recommendation.

(e) Damages. Any damage inflicted on existing improvements such as curbs, gutters, streets, concrete sidewalks and such, by the owner and/or their agents of any particular Lot in the subdivision must be repaired within thirty (30) days after such damage is discovered, and the expense of such repair shall be borne by the purchaser or owner.

(f) Maintenance of Lot During Construction. Contractors or subcontractors as owner/builders must provide on-site dumpsters during construction and are required to clean up the site daily to maintain a clean work site during construction. Dirt or mud from the

construction site or elsewhere, dispersed, directly or indirectly, on the public streets within the project must be cleaned up within twenty-four (24) hours by the contractor or subcontractor as owner/builder. The Architectural Control Committee may levy up to a Five Hundred Dollar (\$500) fine against a violator of this subparagraph (f) and/or the owner of the Lot for each day of a continuing violation. The fine shall be charged on the land and shall be a continuing lien on the Lot.

### **ARTICLE 3 -DURATION, ENFORCEMENT, AMENDMENT**

3.1 Duration of Restrictions. The covenants and restrictions contained herein shall run with and bind the land for a period of fifty (50) years from the date this document is recorded, after which time said Covenants shall be automatically extended for successive periods often (10) years each, subject to amendment as herein set forth. Until the Developer or its designee ceases to act as the Architectural Control Committee, the covenants and restrictions contained herein may be modified, amended or repealed in whole or in part at any time and from time to time by the Developer or his successor or assigns by recorded instrument.

3.2 Amendment. Upon completion of the Development Phase, the covenants and restrictions contained herein may be amended by a recorded instrument signed by no less than the owners of seventy-five percent (75%) of the number of Lots, provided that all signatures must be notarized and obtained within a 180-day period. After the Developer or its designee ceases to act as the Architectural Control Committee, written notice of any such proposed amendment shall be sent to every owner of any Lot, part or portion of the Property at least thirty (30) days in advance.

3.3 Notices. Any notice required under the provisions of this document to be sent to any Lot owner shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of such owner.

3.4 Construction and Severability. All of the restrictions, covenants and conditions contained in this document shall be construed together. Invalidity of any one of said restrictions, covenants or conditions, or any part thereof, shall not affect the enforceability or applicability of any of the remaining restrictions, covenants or conditions, or parts thereof.

3.5 Violation Constitutes Nuisance. Every act or omission whereby any restriction, covenant or condition in this document set forth is violated in whole or in part, is declared to be and shall constitute a nuisance, and may be abated by appropriate legal action by the Developer, or a Lot owner or owners. Remedies hereunder shall be deemed cumulative and not exclusive.

3.6 Enforcement. Each and all of the restrictions, covenants, and conditions contained in this document is and are for the benefit of the Developer and of the Lot owner or owners from time to time of any Lot, part or portion of the Property. Each such restrictive covenant and condition shall inure to the benefit of and pass with each and every Lot, part or portion of the Property and shall apply to and be binding upon each and every successor in interest. Said restrictions, covenants and conditions are and shall be deemed covenants of equitable servitude, and the actual or threatened breach thereof, or the continuance of any such breach, or compliance therewith, may be enforced, enjoined, abated, or remedied by appropriate proceedings at law or in equity by the Developer, the Homeowners Association, or a Lot owner or owners; provided, however, that no such breach shall

affect or impair the lien of any bona fide mortgage or trust deed which shall have been given in good faith and for value, except that any subsequent owner of said Lot, part or portion of the Property shall be bound and obligated by the said restrictions, covenants and conditions, whether such ownership is obtained by foreclosure, at a trustee's sale, or otherwise. The Architectural Control Committee and/or Homeowners Association may levy a fine or penalty not to exceed fifty percent (50%) of the amount of the maximum annual assessment against any owner who fails to refrain from violation of these covenants or a rule of the Association, after three (3) days written notice, and opportunity for hearing. A fine may be levied for each day of a continuing violation. All attorneys fees and costs incurred in any such action, and all expenses incurred and any fines levied, shall constitute a lien on such a Lot owner's Lot, and shall also be a personal obligation of said Lot owner, enforceable at law, until such payment therefor is made.

3.7 Right to Enforce. The provisions contained in these covenants shall bind and inure to the benefit of and be enforceable by Developer or a Lot owner or owners, and each of their legal representatives, heirs, successors and assigns, and the Homeowners Association, and failure to enforce any of said restrictions, covenants, or conditions shall in no event be deemed a waiver of the right to do so thereafter.

3.8 Assignment of Powers. Any and all rights and power of the Developer herein contained may be delegated, transferred or assigned. Wherever the term "Developer" is used herein, it includes Developer and its successors and assigns, including the Homeowners Association.

#### **ARTICLE 4 - LEASE PROVISIONS**

4.1 Lease Provisions. Any Owner may lease his Lot or Living Lot; provided, however, that any lease agreement between a Lot Owner and a Lessee must be in writing and must provide, inter alia, that;

(a) The terms of the Lease shall in all respects be subject to the provisions of this Declaration; and

(b) Any failure by the Lessee to comply with the terms of such documents shall constitute a default under the lease.

(c) The lease of any Lot shall be limited to a 30-day minimum.

#### **ARTICLE FIVE: PARKS AND COMMON AREAS**

5.1 The real property designated as "Park," "Corner Park," and "Landscape Strip" on the plat map ("Common Areas") shall be owned and governed by the Homeowners Association.

5.2 The Homeowners Association shall procure reasonable insurance for the Common Areas, pay all real estate taxes on said Common Areas, and maintain and govern the Common Areas, including the promulgation of reasonable rules and regulations for the use and enjoyment of said Common Areas by Lot owners and others.

5.2 Owners are permitted to use the Common Areas only pursuant to the rules and regulations promulgated and established by the Homeowners Association. Owners may not use the Common Areas in any way that is not approved by the Homeowners Association, and if a Lot Owner persists in violating rules and regulation pertaining to the Common Areas, the Homeowners Association is hereby authorized to restrict or eliminate the Owners use of and access to the Common Areas.

ARTICLE SIX: HOMEOWNERS ASSOCIATION

6.1 The Daybreak Park Homeowners Association shall be established to own, maintain, and operate the real property designated as "Park," "Corner Park," and "Landscape Strip" on the plat map of the Daybreak Park subdivision, and to enforce these covenants as set forth in this document. The Bylaws of said entity shall be duly recorded.

6.2 The business, property and affairs of the Association shall be managed by a Board of Trustees composed of not less than three members. The Association shall also have one or more officers, who shall serve at the will of the Board of Trustees. The officers may include one or more of the following: the President, the Vice-President, and the Secretary/Treasurer. The President, Vice President and Secretary/Treasurer shall be elected and/or appointed in accordance with the By-Laws. Until the first regular Owners meeting is held pursuant to the By-Laws, the Declarant alone shall be entitled to be the sole Board of Trustee member. Until the first regular meeting of the Owners is held, the sole members of the Board of Trustees shall be Marty Slater, who shall be the sole officer.

6.3 Thereafter, beginning with the first annual meeting of the Association at which members of the Board of Trustees are to be elected by the Owners, and at every annual meeting thereafter, the Owners shall elect the members of the Board of Trustees. Governance of the Homeowners Association shall be as set forth in the By-laws.

6.4 The Board of Trustees may exercise any right or privilege given to it expressly by this Declaration, or by law, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

6.5 The Board of Trustees shall have the rights and obligations set forth in the By-Laws.

6.6 The Board of Trustees shall be responsible for the exclusive management and control of the Common Areas and all improvements thereon, and shall keep the same in good, attractive and sanitary condition, order and repair. The Board of Trustees shall be responsible for maintenance of Common Areas and shall have the exclusive right to contract for all goods, services, and insurance payments which are made for such maintenance. The cost of such management, operation, maintenance, and repair by the Board of Trustees shall be borne by the Lot Owners.

6.7 The Board of Trustees may obtain and pay for the services of any person or entity to manage its affairs, or any part thereof, to the extent it deems advisable, as well as such other personnel as the Board of Trustees shall determine to be necessary or desirable for the proper operation of the Property, whether such personnel are furnished or employed directly by the Board

of Trustees or by any person or entity with whom or which it contracts. The Board of Trustees may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Property, the enforcement of this Declaration, the By-Laws, or any Rules and Regulations. The Board of Trustees may arrange with others to furnish lighting, water, landscaping, grounds maintenance and other common services.

6.8 The Board of Trustees may acquire and hold, for the use and benefit of all Owners, tangible and intangible personal property and may dispose of the same by sale or otherwise, and the beneficial interest in any such property shall be deemed to be owned by the Owners in the same proportion as their respective interests in the Common Areas.

6.9 The Board of Trustees may make Rules and Regulations governing the use of Lots and of the Common Areas, which Rules and Regulations shall be consistent with the rights and duties established in this Declaration.

6.10 The Board of Trustees may suspend an Owner's voting rights for the period during which such Owner fails to comply with the Rules and Regulations, or with the obligations of an Owner under this Declaration, after sending such Owner a notice of non-compliance at least ten (10) days prior to any meeting at which action may be taken by the Owners. The Board of Trustees may also take judicial action against any Owner to enforce compliance with the Rules and Regulations, with other obligations, or to obtain damages for non-compliance, all to the extent permitted by law.

6.11 Assessments.

(a) Declarant, for each Lot owned by it within the Property, hereby covenants, and each Owner of any Lot by the acceptance of a deed therefor, whether or not it be so expressed in the deed, shall hereby covenant and agree with each other and with the Association to pay the Association, for the purposes provided in this Declaration, all assessments, all special assessments, and other fees as provided in this Declaration, the By-Laws, or Rules and Regulations.

(b) The total annual assessments against all Lots shall be based upon advance estimates of cash requirements by the Board of Trustees to provide for the payment of all estimated expenses growing out of or connected with the maintenance and operation of the Common Areas or furnishing, among other things, expenses of management; grounds maintenance; taxes and special assessments levied by governmental; premiums for all insurance which the Board of Trustees is required or permitted to maintain; common lighting and heating; water charges; repairs and maintenance; legal and accounting fees; any deficit remaining from a previous period; the creation of a reasonable contingency reserve, surplus and/or sinking fund; and any other expenses and liabilities which may be incurred by the Board of Trustees for the benefit of the Owners under or by reason of this Declaration.

(c) Expenses attributable to the Common Areas and to the Property as a whole shall be apportioned among all Lots in proportion to their respective undivided interests in the Common Areas. For this purpose Declarant shall be considered to own only the undivided interest in Common Areas based upon Lots not conveyed by Declarant.



(d) Annual assessments shall be made on a calendar year basis. The Board of Trustees shall give written notice of each annual assessment with respect to a Lot not less than thirty (30) days nor more than sixty (60) days prior to the beginning of the next calendar year. The first annual assessment shall be for the balance of the calendar year remaining after the date fixed by the Board of Trustees. Each annual assessment shall be due and payable in monthly installments on the 1st day of each and every month and no separate notice of such monthly installment shall be required. Each monthly assessment shall bear interest at the rate of eighteen (18) percent per annum from the date it becomes due and payable if not paid within thirty (30) days after such date.

(e) In addition to annual assessments, the Board of Trustees may levy in any assessment year a special assessment, payable over such a period as the Board of Trustees may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of the Property or any part thereto or for any other expense incurred or to be incurred as provided in this Declaration. This paragraph shall not be construed as an independent source of authority for the Board of Trustees to incur expenses, but shall be construed to prescribe the manner of assessing for expenses authorized by other paragraphs of this Declaration. Any amounts assessed pursuant hereto shall be assessed to the Owners in proportion to their respective undivided interest in Common Areas. Notice in writing of the amount of such special assessments and the time for their payment shall be given promptly to the Owners. Payment shall be due on the dates and in the manner provided in the notice. Any special assessment or part thereof shall bear interest at the rate of eighteen (18) percent per annum from the date it becomes due and payable if not paid within thirty (30) days after such date.

(f) All sums assessed to any Lot pursuant to this section, together with interest thereon as provided herein shall be secured by a lien on such Lot in favor of the Association. Such lien shall have such properties as established by law.

(g) To establish a lien for any unpaid assessment, the Board of Trustees shall prepare a written notice of lien as set forth by statute. No notice of lien shall be recorded until there is a delinquency in payment of the assessment. Such lien may be enforced by judicial foreclosure by the Board of Trustees as provided by law. The lien shall also secure, and the Owner shall also be required to pay to the Board of Trustees, any assessments against the Lot which shall become due during the period of foreclosure sale or other legal sale. The Board of Trustees may bid on the Lot at foreclosure or other sale and may acquire, hold, convey, lease, rent, encumber, use and otherwise deal with the same as the Owner thereof.

(h) A release of lien shall be executed by the Board of Trustees and recorded in the office of the County Recorder of Utah County, Utah, upon payment of all sums secured by a lien which has been made the subject of a recorded notice of lien.

(i) An encumbrancer holding a lien on a Lot may pay, but shall not be required to pay, any amounts secured by the lien created by this Section, and upon such payment such encumbrancer shall be subrogated to all rights of the Board of Trustees with respect to such lien, including priority.

(j) The Board of Trustees shall report to any encumbrancer of a Lot any unpaid assessments remaining unpaid for longer than ninety (90) days after the same shall have become due;

provided, however, that such encumbrancer first shall have furnished to the Board of Trustees written notice of such encumbrance.

(k) The amount of any annual or special assessment against any Lot shall be the personal obligation of the Owner thereof to the Association. Suit to recover a judgment of such personal obligation shall be maintainable by the Board of Trustees without foreclosing or waiving the lien securing the same. No Owner may void or diminish any personal obligation by waiver of the use and enjoyment of any of the Common Areas or by abandonment of a Lot.

(l) Upon payment of a reasonable fee not to exceed ten dollars (\$10) and upon written request of any Owner, or any Mortgagee, prospective Mortgagee or prospective purchaser of a Lot, the Board of Trustees shall issue a written statement setting forth the amount of unpaid assessments, if any, with respect to such Lot; the amount of the current yearly assessment and the portion thereof which has theretofore been paid; and credit for advanced payments or prepaid items. Such statement shall be conclusive upon the Board of Trustees in favor of persons who rely thereon in good faith. Unless such request for a statement of account shall be complied with within ten (10) days, all unpaid assessments which become due prior to the making of such request shall be subordinate to the lien of a Mortgagee which acquired its interest subsequent to requesting such statement. Where a prospective purchaser makes such a request, both the lien for unpaid assessments and the personal obligations of the purchaser shall be released automatically if the statement is not furnished within ten (10) days, and that purchaser subsequently acquires the Lot.

(m) Subject to the provisions of subparagraph (l), a purchaser of a Lot shall be jointly and severally liable with the seller for all unpaid assessments against the Lot up to the time of the conveyance, without prejudice to the purchaser's right to recover from the seller the amount paid by the purchaser for such assessments.

6.12 Each officer and each member of the Board of Trustees shall be entitled to be indemnified and held harmless by the Lot Owners against all cost, expenses, and liabilities whatsoever, including attorney's fees, reasonably incurred by him in connection with any proceeding to which he may become involved by reason of being or having been an officer of the Association or a member of the Board of Trustees

IN WITNESS WHEREOF, the undersigned has hereunto executed this document this 14<sup>th</sup> day of November, 2006.

DEVELOPER

DAYBREAK DEVELOPMENT GROUP, LLC  
a Utah Limited Liability Company

By: \_\_\_\_\_

  
Martin R. Slater, Manager

by: \_\_\_\_\_

  
A. Lee Black, Manager

STATE OF UTAH )

) ss

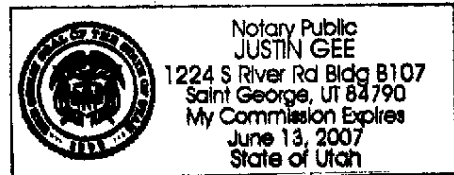
COUNTY OF WASHINGTON )

On this 4th day of January, 2007, before me personally appeared Martin R. Slater and A. Lee Black, whose identity is personally known to me or proved to me on the basis of satisfactory evidence, and who, being by me duly sworn (or affirmed), did say that they are the Managers for Daybreak Development Group, a Utah Limited Liability Company, and that the forgoing document was signed by them on behalf of that Company by proper authority and they acknowledged before me that the Company executed the document and the document was the act of the Company for its stated purpose.

  
\_\_\_\_\_  
NOTARY PUBLIC

Address: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_



December 2006

Sec 34, T42S, R15W, SLB&M

**EXHIBIT A**

**LEGAL DESCRIPTION FOR  
DAYBREAK PARK SUBDIVISION**

Beginning at a point being the intersection of the south right-of-way line of 3090 South Street and the west right-of-way line of 240 West Street and being located South  $0^{\circ}08'57''$  West along the section line and the centerline of said 240 West street, 16.50 feet and North  $89^{\circ}16'03''$  West, 16.50 feet from the east quarter corner of Section 34, Township 42 South, Range 15 West, Salt Lake Base and Meridian, running thence South  $0^{\circ}08'57''$  West along said west right-of-way line, 1251.03 feet; thence leaving said right-of-way line, North  $89^{\circ}17'39''$  West, 647.24 feet; thence North  $0^{\circ}14'41''$  East 1251.31 feet to a point on said south right-of-way line; thence South  $89^{\circ}16'03''$  East along said south right-of-way line, 645.16 feet to the point of beginning.

Contains 18.56 Acres.