



DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
SUGAR PLUM IN THE FIELDS SUBDIVISION, PHASE 1,  
A RESIDENTIAL SUBDIVISION LOCATED IN  
WASHINGTON CITY, UTAH

RECITALS

PLUMB HOLDINGS, LLC, a Utah limited liability company, JJR Ventures, LTD a Utah Limited Partnership and N. Brockbank Investments, LLC hereinafter referred to as the "Declarant," are the owners of the following described property (hereinafter referred to as "Property"), located in Washington City, Washington County, State of Utah, to-wit:

SEE EXHIBIT "A" WHICH IS ATTACHED HERETO AND INCORPORATED  
HEREIN BY THIS REFERENCE.

Declarant hereby includes all of the Property in the Official Plat of Sugar Plum in the Fields Subdivision (hereinafter, "Sugar Plum", "Subdivision", "Community") recorded herewith, and divides the Property into individual Lots as shown on said Plat. The easements indicated on said Plat 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.

This Subdivision is not a cooperative, as referred to in U.C.A. 57-8a-212.

Declarant 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 Declarant 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, conditions, and restrictions. These covenants, conditions, and restrictions shall run with the land.

During the Development Phase, as defined below, Declarant and/or a BULK LOT PURCHASER(S) as defined herein, if any, shall be exempt from the provisions, restrictions, and requirements of these Covenants, as the same exists or as it may be amended, supplemented, or replaced in accordance with other provisions of the Covenants.

The Declarant hereby conveys and warrants pursuant to U.C.A. Sections 57-1-20 and 57-8a-402 to Sugar Plum Homeowners Association and its Board of Directors, with power of sale the Lots and all improvements to the Lots for the purpose of securing payment of assessments under the terms of this Declaration.

The foregoing Recitals shall be considered a part of the following Declaration, and by this reference made a part thereof.

## DECLARATION

Declarant declares that all of the Property, as described herein, and all expandable property shall be held, sold, and conveyed subject to the provisions of this Declaration and the Official Plat Map of Sugar Plum in the Fields Subdivision, Phase I, consisting of 38-Lots, and any additional land, consisting of additional lots, to be annexed by recordation on a future date. This Declaration is for the purpose of protecting the value and desirability of the Property. This Declaration and the Official Plat of Phases 1 and any subsequent phase(s), if any, shall be construed as covenants of equitable servitude which shall run with the land and shall be binding upon all parties having any right, title, or interest in the described Property, or any part thereof, their heirs, successors and assigns and shall inure to the benefit of each Owner thereof.

The Property is located in Washington City, Washington County, Utah, and is described on Exhibit "A" attached hereto.. The Property, through annexation, may be expanded, according to provisions hereof.

NOW, THEREFORE, Declarant hereby declares that this Declaration of Covenants, Conditions & Restrictions for Sugar Plum in the Fields Subdivision shall provide as follows:

### ARTICLE 1 - DEFINITIONS

The following **definitions** shall control in these Protective Covenants:

1.1. **"Architectural Control Committee"** or **"ACC"** shall mean and refer to a committee whose members are appointed by the Board. Such committee shall be responsible to review, recommend, approve/deny Architectural request application from Members who intend to construct a structure and/or improve/change the exterior of any structure or lot. The Board has the option to appoint themselves as the ACC or appoint one member of the Board as Chairman with a minimum of two committee members from the membership at large.

1.2. **"Articles"** means and refers to the Articles of Incorporation of Sugar Plum Homeowners Association

1.3 **"Association"** shall mean Sugar Plum Homeowners Association ("Association"), a Utah non-profit corporation.

1.4. **"Bylaws"** means and refers to the Bylaws of Sugar Plum Homeowners Association.

1.5. **"Board", "Director(s)", or "Board of Directors"** shall mean the governing body of the Association and its Member-Directors.

1.6. **"Common Area(s)"** means all real property (including the improvements thereto and facilities thereon, if any) owned or hereafter acquired by the Association for the common use and enjoyment of the Members and includes that portion of Property owned by the Association, shown on the Plat as Common Area. Common Area is dedicated to the common use and enjoyment of the Owners, and is not dedicated for the use of the general public, except as specifically determined by the Directors. Specifically exempted from Common Area are Lots that are identified on the Plat. Common Area shall also include all land in which the Association has an easement right.

Declarant shall install landscaping in the Common Areas designated on the Official Plat 1) along 3650 South Street and 2) along Camino Real. Any maintenance of any type whatsoever on this landscaped Common Area shall be the sole responsibility of Sugar Plum Homeowners Association which shall perpetually remain the responsibility of the Association to repair and maintain, unless said provision is modified by Amendment, as provided herein..

1.7. **"Covenants"** or **"Protective Covenants"** shall mean this instrument and any

amendments, restatements, supplements, or annexations thereto, which are recorded in the office of the Washington County Recorder.

1.8. **"Declarant"** shall mean and refer to the individual or entity which executes this Declaration, being PLUMB HOLDINGS, LLC., or its assigns, heirs or successors (hereinafter, r individually as to 'type', referred to as "Assigns"). From time to time, Declarant may also be referred to as "Developer;" in such capacities, Declarant/Developer may elect to sell/transfer fee simple title to Lots to a Bulk Lot Purchaser (hereinafter, "BLP"); if so elected, BLP shall be considered to enjoy certain of the rights and privileges of the Declarant, as outlined herein; notwithstanding, such BLP shall not become or be considered to be the Declarant. For purposes of definition, a BLP shall be a Purchaser, individual or entity, which purchases more than one (1) Lot from Declarant, in a given Phase(s), AND is so designated by Declarant as a BLP. Such BLP shall be considered an exclusive builder within the Project.

1.9. **"Development Phase"** shall mean that time period in which Declarant owns no less than one (1) Lot within the Property. The Development Phase shall end after Declarant has sold 100% of the Lots in the Property and/or annexed Plats to the Property to third-party buyers.

1.10. **"Family" or "Single Family"** shall mean persons related by blood or marriage, by legal adoption, or by operation of law; but in no event more than three (3) unrelated persons. Notwithstanding this definition, such definition under this Declaration shall be consistent with the City definition, as published.

1.11. **"Home", "Residence", "Unit"** shall mean a detached single family dwelling and the Lot upon which it is constructed.

1.12. **"Limited Common Area."** Limited Common area, if any, is that portion of the common area designated on the plat for exclusive use of the lot owner and shall be maintained by the lot owner.

1.13. **"Lot"** shall mean a separately numbered and individually described plot of land shown on the Plat, designated as a Lot for private ownership, but specifically excludes any Common Area or easements or rights-of-way within the Property.

1.14. **"Member", "Membership."** Every Owner of a Lot within the Property subject to these Covenants, including Declarant, shall be a Member of the Association and by being such Member shall hold Membership in the Association. Membership is appurtenant to and may not be separated from Lot ownership.

1.15. **"Mortgage", "Trust Deed", "Mortgagee"** shall mean an instrument of record which indicates evidence of indebtedness on/against a Lot/Home. Mortgage shall include "Deed of Trust;" and, Mortgagee shall be synonymous with "Trust Deed Beneficiary."

1.16. **"Owner", "Lot Owner", "Lot/Home Owner"** shall mean the entity, person, or group of persons owning fee simple title to any Lot that is within the Property, and which may or may not have a Home constructed thereon, at any given point in time. Regardless of the number of parties participating in ownership of each Lot, the group of those parties shall be treated as one "Owner." The term "Owner" includes contract purchasers but does not include persons who hold an interest merely as security for the performance of an obligation unless and until title is acquired by foreclosure or similar proceedings. Membership is appurtenant to and may not be separated from Lot ownership.

1.17. **"Plat", "Official Plat", or "Map"** shall mean the official subdivision Plat recorded herewith entitled "Sugar Plum in the Fields Subdivision" consisting of one or more sheets, prepared and certified by a licensed Utah Registered Land Surveyor, including any replacements thereof, or additions thereto.

1.18. **"Property" or "Project"** shall mean that certain real property described in Exhibit "A:

hereof that is subjected to these Covenants, and such additions thereto as may be brought within the jurisdiction of the Association by annexation and subjected to these Covenants as hereafter provided.

1.19. **"Rules" or "Regulations"** shall mean and refers to any rules or regulations created by the Board of Directors, pursuant to its authority under the Articles, of this Declaration and/or the Bylaws, to govern the Association.

1.20. **"Wall", "Separation Wall", "Fence"** shall mean 1) the walls serving as rear-lot walls and side-lot walls of each Lot in the Project and 2) other yard/privacy walls and fences constructed by Declarant/Owner as part of the individual Home construction.

The Declarant shall not be required to construct a perimeter wall, separating the Project from other developments or land; rather, it shall be the obligation of each Lot Owner to build a rear Separation Wall, or perimeter wall, as the case may be, as part of the initial construction of a Home on a Lot.

## ARTICLE 2 - USE RESTRICTIONS

2.1 **LAND USE AND BUILDING TYPE.** All Lots shall be used only for single-family residential purposes. No professional, business or commercial use shall be made of the same, or any portion thereof. The provisions of this section shall not preclude an occupant who is engaged in individual professional work (e.g. accountant, bookkeeper, among other ACC-approved professional undertakings) without external evidence thereof (such as signage, excessive vehicular or foot-traffic associated with clients or shipping related thereto, so long as: (i) such professional undertaking conducts its activities in conformance with all ordinances (ii) such business activity is merely incidental to the use thereof as a dwelling; (iii) such occupant does not solicit or invite the public to the Lot or Home as part of such business activity; and (iv) the Owner engaging in such activity first informs the Board of such intended activity and the Board approves of such intent

No Owner shall allow or permit any time-share or fractional ownership of a Lot or any of its improvements thereon; nor shall any Owner allow his/her/its Home to be used in any manner similar to a hotel/motel, hort-stay, day-care or

2.2. **SOILS.** The Declarant or its assign has performed a geotechnical/soil test study on the area of the Project in accordance with the Washington City subdivision ordinance. The Declarant has or will improve Lots in accordance with the engineers' recommendations. A Lot purchaser may, at the purchaser's own expense, obtain any additional soils test studies and recommendation on foundation from a Utah registered soils engineer prior to construction. The ACC may require that a Lot Owner obtain a soils test and recommendation on foundation prior to any final approval. Furthermore, the ACC may condition final approval until following review of any recommendations set forth in such soils test document.

2.3. **CARE AND MAINTENANCE OF LOT.** During the Development Phase, and continuing thereafter until changed by a two-thirds (2/3) vote of the Members, the Association shall be responsible for maintenance of landscaping in the front and side-yard areas of each Lot; side-yard landscaping areas shall extend from the front foundation line of the Home to the rear foundation line, on both sides of the Home, OR TO ANY WALL, BARRIER OR GATE enclosing the side-yard(s). An Owner shall be responsible for the maintenance of all other areas of the Owner's Lot, including any walls, fences or other barriers that surround the Home and/or 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 access to the HOA and/or adjacent Owners, or assigns, 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 following proper notification the adjoining Lot Owner(s) and only at reasonable times and with as little inconvenience as possible to the adjoining Lot Owner; and

(C) In no event shall said easement be deemed to permit entry into the interior portion of any Home on said adjoining Lot(s).

In the event any Owner fails to perform any maintenance that is the responsibility of the Owner, 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(s), the Board 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.

2.4. CARE AND MAINTENANCE OF THE COMMON AREA. Sugar Plum Homeowners Association shall be responsible for care and maintenance of any Common Area(s) and improvements thereon, including but not limited to the entryway/Subdivision signage, the landscape areas along 3650 South Street and/or Camino Real Street, as shown on the Official Plat. These Common Areas (and similar Common Areas of future phases, if any) are generally "No-Disturb" or "Non-Use " areas available for the enhancement of Sugar Plum.

Any damage caused to Common Areas of either type and improvements thereon, if any, by any Lot Owner and/or their agents, guests or invitees shall be repaired by the Lot Owner responsible for such damage as soon as possible after such damage is discovered; and, in the event of failure of such Owner to make such timely repairs, the Association may make such repairs and the expense of such repair shall be added to and become part of the assessment to which such Lot is subject.

2.5. 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 or 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.

Notwithstanding the foregoing portion of this Section, in the event the City might allow some form of construction over a specific easement area, the ACC may consider an Owner request for same; however, the ACC shall not be bound to approve an Owner's application, based, either, on City permission or on a previous action of approval by the ACC of another Application.

2.6. 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 any portion of the Property and no open fires shall be lighted or permitted on the Property except, as approved by the ACC, in a contained barbecue grills or fire pit units, while attended, and in use for cooking purposes or within a safe and properly designed fire pit. Interior fireplaces, as approved following ACC review, shall be allowed as part of the Home construction.

2.7. MOTORBIKES, ETC. All motorcycles, trail bikes, three-wheel powered devices, ATV's, scooters, automobiles, and two or four-wheel drive recreational type vehicles are to be operated only by an individual with a current driver's license and only on established streets and parking areas, in keeping with City ordinances and Rules of the Association, as operative from time to time; such 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 Property.

2.8. **WEED CONTROL.** Each Lot Owner shall, to the extent reasonably feasible, control the growth and proliferation of noxious weeds and flammable materials on the Owner's Lot so as to minimize weeds, fire and other hazards to surrounding Lots, Home, the Common Area, 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 that are injurious to crops, livestock, land, or the public health.

Notwithstanding anything to the contrary contained herein, a BLP, if any, shall be solely responsible for the maintenance and satisfactory appearance of any of its Lots, following purchase.

2.9. **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. This includes animals that are not kept within the Lot boundaries of an Owner or which disturb neighboring Lot Owners by barking, whining or growling.

No clothes drying facilities shall be placed outside a Home, nor shall clothes drying or storage of any articles which are visible from any public street be permitted within the Property.

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

2.10. **SAFE CONDITION.** Without limiting any other provision of this Declaration, each Owner shall, at all time, maintain and keep such Owner's Lot a safe, sound and sanitary condition and repair and shall correct any condition or refrain from any activity or behavior which might interfere with the safety or reasonable enjoyment of other Owners of their respective Lots.

2.11. **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 of 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. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot or portion of the Property.

2.12. **DOGS, CATS, PERMITTED PETS, OTHER ANIMALS.** Pets are a privilege in Sugar Plum Subdivision, not a right. No Pet may be kept by a Lot Owner which is not approved by Rules of the Association or permitted by action of the ACC.

A Lot Owner(s) may keep, as a general rule, not more than 2-pets per household. Generally, dogs and cats are approved. An Owner/Member of a dog shall see that their dogs maintain a current license from the City; other pets/animals as required by the City, shall be licensed. All approved pets must also be registered with the Association by using the approved Pet Registration form, which is available from the Association or its designation management agent. Failure to register a pet with the Association shall result in a fine of fifty dollar (\$50.00), which shall be a lien upon such Owner's Lot and shall be added to the Annual Assessment provided in Article 5. A fine of fifty dollars (\$50) will continue to be assessed for each month until such Owner meets the requirements of this Section.

All dogs, while not in a Home or in the enclosed rear-yard area of a Lot, shall be on a leash and shall at no time be allowed to run free or be unattended while not in the Owner's rear-yard. Animal owners shall not allow their pets to defecate or urinate on Common Areas or on any portion of another/other Lot(s) of Sugar Plum. Pet owners shall immediately clean up after their pets. Failing to do so shall be considered a nuisance hereunder.

Owner(s) of a cat(s) shall not allow such pet(s) to roam the neighborhood; particularly during night-time hours, nor shall cats be allowed to roam and cause other disturbances.

Dogs and other pets may be kept in rear-yards provided, however, that a pet owner, being solely responsible for the conduct and actions of his/her pet, shall not allow his/her dog (or other pets) to disturb the peace, quiet and enjoyment of other Owners within Sugar Plum Subdivision.

No animals, livestock or poultry of any kind may be raised, bred, or kept on any Lot or in the Common Areas except that dogs, cats or other ACC-approved household pets, not more than two (2) in total number, as approved by the Directors, may be kept in a Home, or upon any Lot, subject to the rules and regulations adopted by the Board.

2.13. **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 City-approved sanitary containers, except when placed for City-collection. No rubbish, trash, papers, junk or debris shall be burned upon the Property.

Each Lot shall use the standard, approved Washington City trash container for garbage collection, and shall use same in accordance with City policies. Other such containers, as permitted by the City, may be used. All containers that are used shall be kept clean and in repair and shall not be placed on the street for collection in a broken or unsightly condition. All trash collection containers shall be kept neatly by Lot Owner's in the rear yard, the garage, or in a screened side yard area; containers are not to be visible from the street except on collection day. An Owner is responsible to remove empty containers in the day following garbage service, or to arrange removal of same by Owner or by an individual appointed by Owner to assist in removing the empty can(s) from the street.

2.14. **WATER SUPPLY.** Each Home on a Lot 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 of the Property.

2.15. **SEWAGE DISPOSAL.** Each Home on a Lot shall be connected to and use the municipal sewage disposal system. **NO RV DUMPS SHALL BE PERMITTED ON ANY LOT, PART OR PORTION OF THE PROPERTY.**

2.16. **RULES AND REGULATIONS.** The Board of Directors of the Association shall have the authority to promulgate rules and regulations for the governance of the Property and persons within the Property, provided they are not in conflict with this Article 2.

2.17. **BUSINESS AND SALES.** No business or commercial activity shall be conducted on any Lot in Sugar Plum.

Notwithstanding the provision of this Section or any provisions to the contrary herein contained, it shall be expressly permissible for Declarant, or its written designee, to maintain such facilities and conduct such activities as in the sole opinion of Declarant 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 as Declarant deems necessary, including but not limited to, a business office, storage areas, construction yard, signs, model units 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 Declarant shall have the right of use of the Property and any Common Area and or facilities, if any thereon, without charge during the sales and construction period to aid in its marketing activities.

2.18. **OWNERS' EASEMENTS OF ENJOYMENT.** Every Owner has a right and easement of use and enjoyment in and to any Common Area. This easement is appurtenant to and passes with the title to every Lot, subject to:

(A) The right of the Association to charge reasonable admission, use, service and other fees for the use of any service of the Association or provided upon the Common Area, or parking facility situated upon the Common Area. No fees shall be charged for parking specifically designated on the Plat as appurtenant to a Lot.

(B) The right of the Association to limit the number of guests of Members using the Common Area.

(C) The right of the Association to suspend the voting rights and/or common utility service of a Member for any period during which any assessment or portion thereof against the Member's Lot

remains unpaid; and for a period of not to exceed sixty (60) days for any infraction of its published rules and regulations.

(D) The right of the Association to enter into agreements or leases which provide for use of the Common Areas and facilities by a similar Association in consideration for use of the Common Areas and facilities of the other Association, or for cash consideration;

(E) If there is no Class B Membership, the right of the Association, with the approval of sixty-seven percent (67%) of the Members, to sell, exchange, hypothecate, alienate, mortgage, encumber, dedicate, release or transfer all or part of the Common Area to any private individual, corporate entity, public agency, authority, or utility.

(F) The right of the Association to grant easements for public utilities or other public purposes consistent with the intended use of the Common Area by the Association.

(G) The right of the Association to take such steps as is reasonably necessary or desirable to protect the Common Area against foreclosure.

(H) The terms and conditions of these Covenants.

(I) The right of the Association, through its Directors, to adopt rules and regulations concerning use of the Common Area.

(J) The right of the Declarant to take such actions as it may deem necessary so long as the expansion of the Properties shall not be complete, including granting leases, easements, and modifying the improvements and design of the Common Area.

2.19. LEASE/RENTAL OCCUPANCY OR OTHER TEMPORARY OCCUPANCY. No Owner shall lease a Home for transient or hotel purposes. Timeshare is prohibited; no Home shall be made subject to any timeshare program, interval ownership, or similar program whereby the right to exclusive use of the Home rotates among multiple owners or members of such a program on a fixed or floating time schedule over a period of years.

By operation of law, an Owner may rent or lease the Owner's Home to another individual(s). Notwithstanding, any Owner so doing shall comply with the provisions of this Section, being among others:

(A) Any temporary or other occupancy, other than by the titled Owner, the Owner's family, friends, and invited guests, must be for a period of not less than six (6) months in term. No Owner may designate as a tenant a family, friends or invited guests in order to avoid the intent of this Section.

(B) Each such occupancy shall be established between the Owner and the tenant(s) by a written lease/rental/occupancy agreement, a copy of which shall be submitted by the Owner to the Board of Directors, or appointee, together with a signed copy of the Temporary Occupancy Notification Form (available from a Board Member or the designated management agent). Notwithstanding, any occupancy by the same occupant(s) that is for a period of longer than two (2) consecutive weeks must comply with the provisions of this Section.

(C) Any lease/rent agreement between an Owner and a lessee/renter shall provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration, the Bylaws of the Association, and all rules and regulations enacted by the Board and in place at time of lease signing, or as may be adopted or changed during the lease term.



(D) Any lease/rent agreement between an Owner and a lessee/renter shall provide that any failure by lessee/renter to comply with the terms of such documents and rules and regulations shall be a default under the lease. An Owner, as rentor/lessor of his/her Home, notwithstanding the presence of a tenant, shall be responsible for any infraction or violation by his/her tenant, guests and invitees, here under.

(E) Temporary Occupancy shall not be allowed. Violation of this provision shall be considered a nuisance hereunder.

2.20 GARAGE USE. Each Owner shall use the garage portion of the Owner's Lot for the storage of motor vehicles. No Owner shall use a garage for any purpose which prevents storing of motor vehicles, unless doing so would not result in additional motor vehicles being stored outside the Owners garage. No Owner shall remodel a garage or use a garage on any Lot for residential or any other purposes.

2.21 PARKING IN GENERAL, RECREATIONAL AND OTHER VEHICLES PARKING. Other than guests or service vehicles that are parked on a short term basis (no longer than 48 hours in any consecutive seven-day period), there shall be absolutely no parking along any curb on within the Property, notwithstanding the streets are public streets. Any vehicle that is parked in violation of same may be towed without any further notice as soon as reported by any Member of the Association. All parking violations shall be reported to the Association. The owners of the vehicle found to be in violation shall be responsible for all fines and costs associated with such towing as charged by the towing company.

Vehicles parked on a driveway shall not be parked to as to be parked-on or extending over any portion of the sidewalk adjacent to the driveway apron.

Owners shall not park, store, or keep on their driveway or on any street within the Property (i) any large commercial type vehicle (including, but not limited to, any dump truck, cement mixer truck, oil or gas truck, or delivery truck); (ii) any recreational vehicle (including, but not limited to, any camper, travel trailer, or motor home); (iii) any bus, trailer, trailer coach, camp trailer, boat, aircraft or mobile home; or (iv) any inoperable vehicle.

Camper trucks and similar vehicles up to and including one ton when used for everyday-type transportation may be kept on the Property, as set forth herein. Such vehicles, in addition to motorhomes, boats, trailers, campers, and similar recreational vehicles may be parked in the side-yard of a Lot, on a cement pad, behind the front foundation line of the Home, in a fenced area enclosed with a screened gate, or in an enclosed garage. Such cement pad parking area shall not have access to a sewer clean-out or dump facility.

Motorhomes, boats, trailers, campers, and similar recreational vehicles may be parked, in driveways once every thirty (30) days for a maximum twenty-four (24) hour period to allow for loading, unloading, and cleaning, unless permitted otherwise by the Board/ACC. No Owner shall park, store, or keep anywhere within the Property any vehicle or vehicular equipment, mobile or otherwise, deemed to be a nuisance by the Board.

### **ARTICLE 3 - ARCHITECTURAL CONTROL**

3.1 ARCHITECTURAL CONTROL COMMITTEE ("ACC"). Until every Lot subject to this Declaration, including Lots in any phases subsequent to Phase 1 of Sugar Plum, has been transferred by the Declarant to a bona fide third-party purchaser, and a Home is constructed on each Lot, the responsibilities of the ACC shall be managed by the Declarant, or any other person appointed in writing by Declarant. After Homes are built and fee simple title to 100% of the Lots in Sugar Plum has been transferred, a majority of the Owners/Members of Lots/Homes, subject to these Covenants, shall elect members of the Board, which shall thereafter be vested with the powers described herein and shall have jurisdiction over all of the Property subject to these Covenants. Following the Development Phase, said

Board may appoint three (3) members to the ACC, or, the Board may assume the responsibilities otherwise pertaining to an ACC.

Members of the ACC are not required to be Members of the Association, if such is deemed to properly serve and benefit the Board and Members of the Association. Notwithstanding, at least one Member/Owner shall be appointed to the ACC and shall serve as the Chairman thereof.

The ACC shall adopt, subject to Board approval, 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 inspection upon request. The ACC 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 ACC for review of applicant's plans for improvement; application to the ACC does not, in and of its action, guarantee the ACC will approve the application.

Unless authorized by resolution of the Board, the members of the ACC shall not receive any compensation for services rendered, which fee, if any, (i) shall be set by Board action and (ii) shall constitute a fee which shall be required of any Owner who submits an application to the ACC. ACC members shall be entitled to reimbursement, from an applicant, for reasonable expenses incurred by them in connection with the performance of any Committee function or duty. Professional consultants retained by the ACC shall be paid such compensation as the ACC determines, which fees shall be paid by the Member-applicant.

Declarant and a BLP shall be exempt from the provisions, restrictions, and requirements of this Article, as the same exists or as it may be amended, supplemented, or replaced in accordance with other provisions of the Covenants.

**3.2 SUBMISSION AND APPROVAL.** Prior to the commencement of any excavation, construction or remodeling of any structure or of any addition to any structure, or modification of the natural topography of any Lot, or installation of fences or landscaping elements, approval of the ACC shall be required. A member of the Board (or the designated management agent) should be contacted to obtain an application form for submission of plans to the ACC.

Two (2) complete sets of building plans and specifications shall be filed with the ACC (one 2'x3' in size and one in 11"x17" in size), 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 Board may determine from time to time, and an application and such supporting material, such as samples of building materials, as the ACC deems necessary.

No work shall be commenced unless and until the ACC shall approve and provide written approval that such plans are in compliance with the covenants herein set forth and with the standards herein or hereafter established by said ACC. The ACC shall endorse the larger set of plans. The second, smaller, set of plans shall be filed as a permanent record with the ACC.

Said ACC shall have the right to refuse to approve any plans and specifications submitted for review 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.

In the event said ACC fails to approve or disapprove in writing any such plans within thirty (30) days after submission thereof to the ACC, then approval shall be deemed to have been given.

The ACC shall not be held liable for damages 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 ACC's review of plans shall in no way be concerned with structural or mechanical integrity or soundness.

The approval of the ACC of any plans and specifications for any work done or proposed shall not constitute a waiver of any right of the ACC to disapprove any similar plans and specifications subsequently submitted.

Once construction begins on any improvement, landscaping or alterations, which construction has been approved by the ACC, construction shall be diligently pursued to completion over a period not to exceed six (6) months from the issuance of a building permit for same or the beginning of construction activity, whichever first occurs.

In the event work begins and remains uncompleted at the end of such period, the Association may undertake to complete the exterior work of the construction, and the cost of which shall be a lien against the Lot which benefitted from the construction; or the Association may invoke a daily fine of fifty dollars (\$50.00) per day, until completion, which completion shall be evidenced by (i) a Certificate of Occupancy or (ii) the date of completion of all construction activity, including cleanup, (both (i) and (ii) being "Completion").

**3.3 GOVERNMENTAL PERMIT REQUIRED.** No Home, accessory or addition to a Home, 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 therefore 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 intended improvement work shall not bind or otherwise affect the power of the ACC to refuse to approve any such intended improvement.

**3.4. ARCHITECTURAL GUIDELINES AND DESIGN RESTRICTIONS.** The ACC shall promulgate and maintain a list of standards, as approved by the Board, for guidance in approving or disapproving plans and specifications pursuant to this Article.

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 ACC, 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 Property. 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 Architectural Guidelines serve as an evaluative aid to Owners, builders, project Declarants, design professionals, City staff, the Planning Commission, City Council and the ACC in the design review of individual, private and public developments within the Property. The City of Washington Zoning Regulations will apply for any area of design not addressed in these guidelines.

(B) Permitted Structures. The only buildings or structures permitted to be erected, placed or permitted to be located on any Lot within the Property shall be a single family detached dwelling and not to exceed the height requirements found in this Section. All construction shall be of new materials, which materials are utilized on-site to construct said structure. All structures shall be constructed in accordance with the zoning and building ordinances of Washington City, as in effect from time to time.

(C) Minimum Area of Lot and Home. Lot sizes as described on the Official Recorded Plat of Sugar Plum 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 not be combined for construction of a single Home. "Vacant Lot" shall refer to any Lot which has not been improved with the construction of a Home thereon.

Lot/Home shall refer to any Lot which has been improved with construction of a Home thereon. The minimum total square footage of living area on the ground floor located within the building envelope and foundation for any single-story residential home constructed on any Lot within the Property shall be not less than 1,500 square feet, exclusive of porches, balconies, patios and garages. Homes of two-story construction shall have a main floor of not less than 1,500 square feet of living space, together with a second level living space of not less than 600 square feet.

(D) Setbacks. The following minimum setback standards apply to each Lot. All measurements shall be made from the applicable Lot line to the foundation, porch or other extension of such building, whichever is nearer to such Lot line.

Front -	Minimum of 20 feet.
Side-1 -	Minimum of 8 feet from Lot line to the structure.
Side-2 -	Minimum of 10 feet from the Lot line to the structure.
Rear -	Minimum of 10 feet from Lot line to structure, or as otherwise indicated in the Plat Notations.
Corner Lot -	Front and Side Yard Against Public Street; Minimum of 20 feet..

In no event shall any portion of any building, including eaves or steps, encroach upon any other Lot.

(E) Building Height. Building height shall be measured from the footing elevation of the main level to the highest point of the roof line of a Home. Single-Level Homes shall not exceed 25 feet in height. Two-Story Homes shall not exceed 35 feet in height.

(F) Garages. All Homes constructed on a Lot in the Property shall include a fully enclosed, private, attached, garage, built to accommodate not less than two (2) vehicles. All garage door header heights shall be subject to approval of the ACC, following its review of the Home design, on a case by case basis; one such ACC-approval shall not constitute a "precedent."

Carports shall not be permitted. All garages shall be constructed of the same exterior materials and in harmony with and architecturally compatible with the Home constructed on the Lot.

Each garage design shall include provision-for and installation-of 'photo-cell' light fixtures on the exterior of the garage. Such garage lighting shall be maintained in operating order by the Owner and shall not be disabled, except for repair. Such lighting, as to brightness and type may be established by the ACC. Such lighting is considered necessary to help establish a security presence for the Community.

(G) Driveways and Walkways. Any driveways and walkways shall be constructed of concrete, stamped concrete, or other hard materials as approved by the ACC. In no event shall a driveway or walkway be constructed of dirt, sand, cinders, clay or road base material, or asphalt. Any proposed stamped concrete designs and colors must first be submitted and approved by the ACC. Driveways must provide for sufficient parking space so that at least two (2) vehicles may be parked side-by-side on a driveway when necessary, on a temporary basis.

(H) Home Elevations, Soffit and Fascia. Home elevations shall be constructed using a partial synthetic stucco system, masonry, or stone, or a combination of such, as approved by the ACC; accents of stone, brick or rock in combination with the partial synthetic stucco system shall be required on the front elevation. In the event the synthetic stucco elevation is accented with stone, brick or rock; the accent feature(s) to a front elevation may be, at the Owner's election, extended to include side and rear elevations; however, such front elevation accents shall not be required on side and rear elevations.

All fascia and soffit materials shall be of synthetic stucco. No wood, vinyl aluminum, steel or hardboard siding shall be allowed as fascia and soffit material.

(I) Windows. No white-framed windows shall be allowed. Colors for windows shall be designated on the plans that are submitted to the ACC for approval prior to construction.

(J) Exterior Colors. Colors shall be limited to those established or approved by the ACC. Generally, colors shall be of subtle earth-tones and complimentary to previous construction, or as otherwise approved by the ACC. Colors shall not include pastels.

(K) Roof and Roofing Materials. Flat roofs are not permitted. The maximum roof pitch shall be 6/12, or as otherwise approved by the ACC, in consideration of Home design, on a case by case basis.

Roof materials shall be concrete or clay tile, or as otherwise established by ACC Design Guidelines, if any. However, at no time shall roofing be allowed to be constructed of asphalt shingles, asphalt surfacing, wood shakes, or metal shingles; this provision shall not be changed by Amendment or by Vote of the Members at any time.

(L) Sheet Metal, Flashing, Vents and Roof Pipe Vents shall 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.

(M) Sight Obstructions. No structure, fence, wall, hedge or other or landscape plantings shall be allowed which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points thirty (30) feet from the intersection of the street lines, or in the ease 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. Trees shall not be permitted to remain within such distances of such intersections unless the foliage line is maintained at such height such as to prevent obstruction of 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 ACC, shall create a serious potential hazard or an aesthetically unpleasant appearance to the other residents of the subdivision. In all these matters, City ordinances and specifications shall prevail.

(N) Prohibited Structures. Dome structures, log homes, pre-manufactured homes, prefabricated homes, mobile homes, re-located homes, and earth or berm homes of any type shall not be permitted.

(O) Temporary or Other Structures. No structure of a temporary nature, and no trailer, bus, basement, outhouse, tent, shack, garage, or other outbuilding shall be used at any time as a Home either temporarily or permanently, nor shall any such structures be erected or placed on the Property at any time. No old or second-hand structures shall be moved onto any of said Lots. It is the Declarant's intention that all dwellings and other buildings to be erected within the Property be of new construction, of good quality, workmanship, and materials.

(P) Accessory Buildings. No storage or utility buildings shall be allowed unless first submitted to and approved by the ACC. Any approved accessory building must meet Washington City requirements for zoning, size, etc., and must have the appropriate governmental approval or permit before construction commences. Any approved Accessory Buildings must be stick-built with new materials, of a permanent nature, and shall be similar in design, appearance, and materials of the Owner's Home.

(Q) External Lighting and Illumination. Lighting fixtures used to illuminate other areas of a Lot, such as patios, side-yard parking, rear-yard areas or for any other exterior purposes, shall be of such design and installation as to not adversely affect or impact neighboring Owners or streetscapes, and as otherwise required by Washington City. Low-level outdoor illumination may be used for particular landscape features (trees, rock formations, etc.), as approved by the ACC.

(R) Walls. Separation Walls. Shared Walls. The Declarant shall not be required to construct a perimeter Project wall, nor any other Wall within the Property. Construction of all/any wall(s) proposed to be situated on or between any Lot(s) within Sugar Plum shall be the sole responsibility of each Lot Owner to construct, maintain, and repair.

In the event any given Lot Owner determines to build a Wall, Fence or Enclosure, ACC review of such proposal shall first be required; accordingly, a Lot Owner shall submit the plans for same, together with a Review Request Form, to the ACC. A Lot Owner may only proceed with the proposed Wall, Fence or Enclosure following receipt of a written ACC-approval of same.

In such instance, the "sharing" of the cost of construction of a Wall(s), which is common between two Lots, is encouraged but shall not be required of any adjacent Lot Owner(s). The sharing of any cost of construction and/or maintenance and repair, shall solely be based on 'agreement between adjacent Lot Owners; the Association shall bear no responsibility to be involved in such agreement, if any.

Walls of any type over six-feet (6') high shall not be allowed, except as approved by the City and the ACC as being necessary and reasonable due to unique elevational considerations of the Lot.

No Owner shall paint, construct any addition to, color, or otherwise decorate the interior or exterior surface of a Separation Wall. Any Owner found in violation hereof shall bear the entire cost of refurbishing and restoring the affected Separation Wall to its original condition, consistent with other portions of the Separation Walls.

In the event of any dispute arising in connection with a Separation Wall, each party shall choose one arbitrator and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all of the arbitrators.

To the extent not inconsistent with the provisions of this Section, general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply to the Separation Walls.

(S) Addressing. The address numbers for the Lot must be placed on the front of the Home and there must be adequate lighting for address numbers to be seen at night

(T) Antennas. Antennas for radio, television, or devices for the reception or transmission of radio signals, microwaves or other similar signals are restricted to the attic area or interior of the Home. Satellite dishes shall be allowed to the exterior of a home. Satellite dishes, 20-inches or less, may only be installed on the rear fascia of the home, subject to ACC-approval for any dish of greater size. If a signal cannot be obtained from the rear fascia, a side fascia shall be used, setting the satellite dish as far back from the front of the home as possible, that a signal may be received. No antenna of any type or for any use shall be attached to the rooftop of a Home.

The ACC shall have the right to remove or cause removal of any antennas, satellite dishes, or other external antennas incorrectly erected, placed, maintained, or improperly installed, as per this Sub Section.

(U) Air Conditioning Equipment. The condensing unit of any AC System shall not be placed on the roof of a Home; rather, it shall be located in such exterior location of the Home so as to be screened as much as possible from street-view. Such equipment shall be maintained in good repair and operating condition by the Owner, such that noise from such condenser will not be a source of annoying sounds of operation. Such noise may be looked upon as a nuisance, if not eliminated.

Heat pumps and/or air conditioning units shall not be permitted on roofs or through windows. Solar panels may be considered on a c

(V) Utility Meters. All such 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 neighboring view. Exposed piping shall be painted to match exterior colors of the dwelling structure. The area immediately around the meters shall be cleared to allow for necessary access. Electric meters, switches, or circuit breaker boxes are not to be located in the same enclosure with the gas meter and regulator. Enclosures for gas meters and regulators are to be vented in compliance with the Building Code requirements.

(W) Mailboxes. Cluster Mailboxes, already existing, or which are to be installed by Declarant, as approved by USPS, are the only allowed mail receptacles. Each mailbox shall conform to postal regulations as to style and construction as set forth in the plans and specifications maintained at the Association office. Replacement of cluster-type, if necessary, shall be the responsibility of the Association. In the event an exact replacement is not available, the Board shall make provisions for a substitute cluster box.

(X) 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 of a Home or any part thereof, or on the outside of windows or doors of a Home, without the prior written consent of the ACC.

(Y) Landscaping. Front and side-yard landscaping (side-yard shall extend from the front foundation line to the rear foundation line of the Home) shall be installed by Declarant or its agent, as part of the initial construction of a Home on a given Lot; the cost of said landscaping shall be the sole responsibility of the "to-be Owner" of the Lot/Home. Such landscaping shall be completed prior to the issuance of a City Certificate of Occupancy ("CO") or occupancy of a Home on a Lot, whichever first occurs.

Within six (6) months after receipt of a CO, or occupancy of said Home, or the Settlement/Closing on a Home between the to-be Owner and the Declarant/BLP, the Owner must have completed the landscaping of the rear-yard of the Lot, as approved by the ACC.

All rear-yard landscaping shall be installed appropriately, in keeping with standards reflected in the front and side-yard landscaping. Features of rear-yard landscaping may include, among others, xeriscaping to facilitate water conservation, lawn areas or accents, trees, shrubs, and planting beds. All rear-yard landscaping must include a clock-controlled automatic irrigation system; access to such clock shall be located on the exterior of the Home, to facilitate access by the Association during maintenance or emergencies and/or the absence of the Owner. All rear-yard landscaping shall be maintained by each Lot Owner at a reasonable standard compatible with front and side-yard maintenance by the Association, and with other Homes in the Property. Shrub and tree planting on corner Lots shall be located so as not to create a hazard for the movement of vehicles along streets, in accordance with local ordinances. All landscaping installed by any party other than Declarant must be approved by the ACC. In the event a Lot Owner delays the installation of rear-yard landscaping beyond the time the Declarant has landscaped the front and side yard areas, and in the event the Owner's own physical labor or Owner's contractor damages the front or side yard landscaping while completing the rear-yard landscaping, the Lot Owner, at his/her own expense, shall restore the front and/or yard landscaping to its original condition.

Failure by the Lot Owner to complete rear-yard landscaping as provided in this Section may result in the following action. The Association shall notify the Lot Owner that a violation has occurred. This notification shall be in writing and delivered to the Owner by certified mail. The Association may levy a Five Hundred Dollar (\$500.00) fine against a Lot Owner notified of violation of this provision. The fine shall be deemed a Single Lot Assessment and shall be a charge against the Owner and shall be a lien on the Lot as provided herein. The Lot Owner shall

have 45-days from the date of receipt of said Notification to complete the rear-yard landscaping of the Lot. Failure by the Lot Owner to complete the rear-yard landscaping within the allotted 45-days shall result in an additional One Hundred Dollar (\$100.00) fine, to be levied each and every month, or portion thereof, until the landscaping is completed by the Owner. Said fine or fines, as levied, shall be a charge against the Owner's Lot and shall be a continuing lien on the Owner's Lot as provided herein.

Notwithstanding the above provisions, the ACC may extend the time frame an Owner has in which to complete the rear-yard landscaping of a Lot; and any such extension will be determined on a case-by-case basis.

The Association shall maintain the front landscaping and the side-yard landscaping extending from the front foundation line of the Home to the rear foundation line, OR TO ANY WALL, BARRIER OR GATE placed by the Owner, which blocks access to the Association or its agent to perform its work of maintenance/repair of a side-yard(s).

**(Z) SPECIAL LANDSCAPING & WATER USAGE ADVISORY PERTAINING TO THE WASHINGTON COUNTY WATER CONSERVANCY DISTRICT ("WCWCD")**. WCWCD, under provisions of its Water Conservancy Program, impacting all developable land in the County, restricts the landscape area which may be irrigated or make alternative use of water, to a maximum of 10,000 square feet. Lots larger than 10,000 square feet in area may be subject to additional WCWCD Fees by means of a WCWCD Water Conservation Easement which is required of the Declarant to be recorded against Lots exceeding 10,000 sq. ft. in total size. Current WCWCD conservancy provisions provide that Lots in excess of 10,000 sq. ft., will be subject to additional WCWCD Impact Fees, as the 'excess square footage in Lot size is put to use requiring additional water usage for additional landscaped area (or other, alternative uses requiring additional water (than is 'assumed' for a 10,000 square foot Lot usage).

All Lot Owners are bound to observe the WCWCD policies relating to water conservation, as such policies may affect lots in Sugar Plum Subdivision. All landscaping plans as submitted to the ACC shall indicate compliance with such provisions. It shall be each Lot Owner's responsibility to obtain WCWCD Program Guidelines and comply with applicable provisions as published and amended from time to time by WCWCD.

**(AA) 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.

**(BB) Lateral and Subjacent Support and Drainage**. Any Owner who conducts activities that affect the lateral or subjacent support, or both, of adjacent landowners shall be responsible for damages proximately caused by such activities. An Owner shall be solely responsible for all damage proximately caused by drainage from the Owners Lot to adjacent landowners.

**(CC) Signs: Commercial Activity - Signs: Restrictions: Commercial Activity**. Throughout the Development Phase, as defined herein, there shall be a restriction on signage within Sugar Plum.

An Owner, who owns a Lot for the purpose of building a Home or owns a completed Home and desires to re-sell said Lot/Home to a third-party, may not post a sign of any kind anywhere on the Lot or on/in any portion of the Home, or within the Property which advertises the Lot/Home "For Sale."

Such provision shall remain 'in force' for as long as Declarant owns a single Lot in Sugar Plum, as annexed or as may be expanded. Specifically, such Owner **MAY NOT and SHALL NOT** post such a sign on any portion of the Owner's Lot or in a window of the Dwelling thereon.

The purpose of this provision is to provide for an uncluttered streetscape within the



Property, throughout the Development Phase of Sugar Plum. The foregoing provision is not meant to prevent an Owner from selling or renting his/her/its/their Lot/Home.

An Owner may sell or rent the Owner's Residence by making use of any of the follow mediums for promotion and advertising a Home for sale or rent:

- (1) A real estate agent or property management agent of the Owner's choosing.
- (2) A Multiple Listing Service, real estate agency.
- (3) Newspapers, magazines, and other such publications.
- (4) Word of mouth.

After completion of the Development Phase, as it may be expanded or annexed, the foregoing restrictions shall expire; thereafter, signage shall be governed by the following provision:

- (5) Except for one (1) "For Sale" sign of not more than seven (7) square feet, no advertising signs, billboards, advertising objects, shall be installed, erected, placed, or otherwise displayed on any Lot or any portion of the Properties.
- (6) "For Rent" signs of any type shall not be allowed at any time, in any manner, on any portion of the Property or on a Lot or in the window of a Dwelling; advertising of a rental opportunity may only be undertaken as outlined in this Sub Section. This latter provision regarding "For Rent" signage shall not and may not be waived, modified or stricken by action of any future Board or Amendment.
- (7) No commercial activities of any kind whatsoever, nor advertising of same, shall be conducted in any building or on any portion of the Property.

The foregoing restrictions of this sub section shall not apply at any time to the commercial activities, signs and billboards, if any, of the Declarant, its assigns or successors, or its agents during the construction and sales period through to the completion of Treasure Valley in keeping with the City-approved Preliminary Plat, or by the Association in furtherance of its powers and purposes set forth hereinafter and in the Association's Articles of Incorporation, Bylaws and Rules and Regulations, as the same may be amended from time to time.

(DD) **Pools and Spas.** Please note: swimming pools and spas may be subject to policies of the Washington County Water Conservancy District (WCWCD), as noticed in Section 3.4(aa) above.

Swimming pools and spas are allowed only following written approval from Washington City and the prior written approval of the ACC. The ACC shall not consider an application for a pool installation until the Owner presents a soil engineering study indicating 1) the sub-surface soils are suitable for such; 2) such engineering report shall provide for suitable and appropriate drainage from such pool or spa use; and 3) all pool and spa uses will be appropriately fenced for security and safety, according to State, County and City requirements.

An Owner who has received written approval for a pool or spa may not commence construction without, first, providing an indemnification to the Association that will indemnify the Association against all claims, damages, or any other such matters arising from the presence and use of said pool or spa.

#### **ARTICLE 4 – OWNERS ASSOCIATION; MEMBERSHIP AND VOTING RIGHTS**

4.1. **CREATION OF OWNERS ASSOCIATION.** A homeowners association named Sugar Plum\*~~Homeowners Association~~ has been or will be created by Declarant. Every Owner of a Lot within the Property subject to this Declaration, including Declarant, shall be a Member of the Association and by being such Member shall hold Membership in the Association. Each Owner automatically becomes a Member of the Association upon acquisition of fee title to a Lot. Upon disposition of a Lot such Owner's membership automatically terminates and the membership interest is transferred to the new Owner of said Lot. Mortgage holders or other equitable holders of rights shall not be Members of the Association.

4.2. **VOTING RIGHTS.** Each Owner of a Lot within the Property shall be a Member of Sugar

\*HOA

\*HOA

\*  
Plum Homeowners Association (hereinafter the "Association") by virtue of these Covenants.

The Association shall have two classes of voting membership.

(A) CLASS-A. Class-A Members are all Members with the exception of the Declarant, until Declarant's membership converts to Class-A membership as provided for herein. Class-A Members are entitled to one vote for each Lot owned. When more than one person or entity holds an interest in any Lot, the group shall be a Member. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot. A vote cast at any Association meeting by any of such co-owners, whether in person or by proxy, is conclusively presumed to be the vote attributable to the Lot concerned unless written objection is made prior to that meeting, or verbal objection is made at that meeting, by another co-owner of the same Lot. In the event an objection is made, the vote involved shall not be counted for any purpose except to determine whether a quorum exists.

(B) CLASS-B. The Class-B member is the Declarant. The Class-B member is entitled to five (5) votes for each Lot owned. The Class-B membership will cease on the happening of one of the following events, whichever first occurs:

- (1) upon conveyance of all Lots, including those in expansion areas, to third-party purchasers;
- (2) the expiration of seven (7) years from the first Lot conveyance to a third-party purchaser by the Declarant; or
- (3) the voluntary surrender of Class-B membership status by the express written action of the Declarant

If Declarant shall exercise its option to add additional Lots by platting additional phases, as provided in these Covenants, then at such time as additional phase plats are recorded at the County Recorder's office, the voting shall be adjusted accordingly.

4.3. BOARD OF DIRECTORS. The Association shall be governed by a Board of Directors. During the Development Phase, Declarant shall have the right to act as the Board or appoint members of the Board of Directors. As long as Declarant has such right to appoint the Board of Directors, the Board shall consist of three (3) Directors. Declarant's appointees, if any, need not be Members of the Association.

Following the Development Phase, the Board will be selected in accordance with the Bylaws of the Association; such Board shall consist of not less than five (5) directors/members, each of which shall be Member of the Association. All power and authority of the Association is exercisable by the Board of Directors.

4.4. BYLAWS. The Bylaws of the Association may be amended as set forth therein. In the event any provision of the Bylaws are inconsistent with the provisions of this Declaration, the provisions of this Declaration shall control.

4.5. POWERS AND DUTIES OF THE ASSOCIATION. The Association by action of the Board of Directors on behalf of the Association shall have the duties and powers contained in the Bylaws of the Association. The Association shall have the responsibility for operating, maintaining, and replacing all Association property. The Association shall be responsible for adopting rules and regulations governing utilization of the Association property (subject to the limitations contained herein). To the extent deeded to the Association, the Association shall be obligated to accept ownership of all Association property including amenities designated on any recorded Plat of any portion of Sugar Plum Subdivision that is made subject to the terms and provisions of these Covenants. On behalf of itself or its Members, the Association shall not participate in or make any claims or assert any causes of action in a "class action lawsuit" or any legal action alleging construction defect, construction error, or negligence of a builder or

developer, unless the Association first obtains an affirmative vote of not less than eighty percent (80%) of all Members approving the Association's involvement in the proposed legal action. The provision regarding the Association's involvement in a legal action contained in this Article 4.5 may not and shall not be amended, changed or removed by action of the Board or the Members at any time following recordation of this Declaration.

## ARTICLE 5 -- FINANCES AND OPERATIONS

5.1. PERSONAL OBLIGATION OF ASSESSMENT AND CREATION OF LIEN. Each Owner of any Lot, by acceptance of a deed or other conveyance of fee simple interest to such Lot from Declarant, whether or not it shall be so expressed in any such deed or other conveyance, covenants and agrees to pay to the Association, assessments or charges and interest, costs of collection and a reasonable attorney fee, as hereinafter provided.

All such fees/charges/amounts shall be levied against the Lot and shall be a continuing lien upon said Lot against which each such assessment or amount is charged/levied. Such assessments and other amounts shall be the personal obligation of (a) the person who was the Owner of such Lot at the time when the assessment fell due and (b) successors-in-title who took title in a period when assessments were delinquent.

5.2. PURPOSE OF ASSESSMENTS. The assessments levied by the Association shall be used by the Association for the improvement, maintenance, repair and preservation of the landscaping in the front and side-yard areas of each Lot, and any Common Area in the Property, as shown on the Plat.

The assessments must provide for but are not limited to, the payment of taxes on Association, if any, property insurance maintained by the Association; the payment of the cost of repairing, replacing and maintaining the Common Area(s) elements; the payment of the cost of repairing, replacing and maintaining the landscaping in the front and side-yard areas of each Lot/Home; the payment of administrative expenses of the Association; insurance deductible amounts; the establishment of a reserve account for repair, maintenance and replacement of the Common Area(s) elements which must be replaced on a periodic basis; and other amounts that the Directors may determine to be necessary to meet the primary purposes of the Association.

### 5.3. MAXIMUM AND ANNUAL ASSESSMENT.

(A) Maximum Annual Assessment Base ("Base"). Until January 1 following the date of recording of these Covenants, the Maximum Annual Assessment Base (hereinafter, "Base") shall be Nine Hundred Dollars (900.00) per Lot per year. This Base amount shall represent a threshold, above which future Annual Assessments cannot exceed in any given budget-year, in keeping with the following:

(1) From and after the date referred to above, the Base may be increased each budget-year by not more than fifteen percent (15%) above the Base for the previous year, without a vote of the Membership.

(2) The Association may change the Base, as fixed by this Section, in an amount larger than fifteen percent (15%) for any budget-year, provided that any such change shall have the assent of not less than two-thirds (2/3) affirmative votes of Members, voting in person or by proxy, at a meeting duly called by the Board for such purpose.

(3) The purpose of the Base is to provide the Board the flexibility to meet times of unexpected cost impacts upon the Project, such as, but not limited to, economic influences, governmental impacts, and natural disasters. Accordingly, it is not required that the Annual Assessment, as hereafter set forth, as a result of Board action, be equal to the Base; however, it may be lower, by virtue of Board evaluation and determination of expected future costs. In no case, however, shall the Annual Assessment exceed the

**Maximum Annual Assessment Base.**

(B) Annual Assessment, as Set By Board Action. Until January 1 following the date of recordation of this Declaration, the Annual Assessment established by the Declarant or Board shall be Six Hundred Sixty Dollars (\$660.00) per Lot per year and shall remain such until a new budget and new assessment for the subsequent calendar year is approved by the Board.

**5.4. ADDITIONAL ASSESSMENTS.** In addition to the Annual Assessment and Special Assessments for Capital Improvements, as authorized herein, the Board shall levy such additional assessments as may be necessary from time to time to meet the purposes of repairing and restoring the damage or disruption resulting to Common Area(s) from the activities of Washington City or other utility providers in maintaining, repairing or replacing the utility systems in the Property. It is acknowledged that the ownership of said utility lines, underground or otherwise, is in the City or other utility provider up to and including the meters for individual Lot service, and that they are installed and shall be maintained to City or utility provider specifications.

Such Additional Assessment may include, but not be limited to, the following:

(A) **EMERGENCY ASSESSMENTS.** Notwithstanding anything contained in these Protective Covenants, the Board of Directors, without Member approval, may levy Emergency Assessments or increase Annual Assessments or levy Special Assessments for an emergency situation. An emergency situation is one in which the Board finds:

(1) an expenditure, in its discretion, required by an order of a court, or to settle litigation;

(2) an expenditure necessary to repair or maintain the Property or any part of it for which the Association is responsible where a threat to personal safety on the Property is discovered; or

(3) an expenditure necessary to repair, maintain or cover actual Association expenses for the Properties or any part of it that could not have been reasonably foreseen by the Board in preparing and distributing the pro forma operating budget, (for example: increases in utility rates; landscape or maintenance contract services; etc).

Provided, however, that prior to the imposition or collection of any Assessment due to an emergency situation, the Board shall pass a resolution containing the written findings as to the necessity of such expenditure and why the expenditure was not or could not have been reasonably foreseen or accurately predicted in the budgeting process and the resolution shall be distributed to the Members with the notice of the Assessment. If such expenditure was created by an unbudgeted utility maintenance or similar expense, increase, the Assessment created thereby shall be discontinued by the Board by a similar resolution, if such expense is subsequently reduced, or to the extent the next succeeding annual budget incorporates said increase into the Annual Assessment.

(B) **SINGLE LOT ASSESSMENT.** The Association may also levy a special assessment against any Member and Member's Lot to reimburse the Association for costs incurred in bringing a Member and Member's Lot into compliance with the provisions of these Covenants. The single lot assessment may be levied upon the vote of the Board after notice and the opportunity to be heard.

**5.5. UNIFORM RATE OF ASSESSMENT; PERIODIC ASSESSMENT.** All Assessments, except for "Single Lot Assessments," shall be and must be fixed by the Board at a uniform rate for all Lots.

5.6. EXEMPT PROPERTY. The following property subject to these Protective Covenants is exempt from the assessments created herein:

- All property dedicated to and accepted by any local public authority.
- All Common Areas.
- All Lots owned by Declarant
- All Lots sold/transferred by Declarant to a BLP, as so-designated by Declarant..

5.7. DATE OF COMMENCEMENT OF ANNUAL ASSESSMENT; DUE DATES. The Annual Assessment provided for herein shall commence to accrue as of the date of Settlement/Closing on a Lot sale/purchase between the Declarant/BLP and a third-party purchase, with or without a Home thereon. The first assessment shall be adjusted according to the number of months remaining in the calendar year of Settlement. In the absence of a determination of a new budget-year Assessment by the Board, the prior year's Annual Assessment amount shall continue.

At least thirty (30) days prior to the commencement of each new assessment period, the Directors shall send, or cause to be sent, a written notice of the Annual Assessment to each Owner subject thereto. This notice shall not be a pre-requisite to validity of the assessment.

The Annual Assessment shall be payable on an annual, quarterly or monthly basis and the due dates shall be established by the Directors.

The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessment on a specified Lot has been paid. Such certificates, when properly issued, shall be conclusive evidence of the payment of any assessment or fractional part thereof which is therein shown to have been paid.

5.8. EFFECT OF NON-PAYMENT OF ASSESSMENT—REMEDIES OF THE ASSOCIATION. Any assessment or installment thereof not paid within ten (10) days after the due date therefore shall be delinquent and shall bear interest from the due date at the rate of eighteen percent (18%) per annum (or such lesser rate as the Directors shall set by resolution) until paid. In addition, a late fee of \$25.00 for each delinquent installment shall be imposed.

The Directors may, in the name of the Association, (a) bring an action at law against the Owner personally obligated to pay any such delinquent assessment without waiving the lien of assessment, or (b) may foreclose the lien against the Lot in accordance with the laws of the State of Utah applicable to the exercise of powers of sale in deeds of trust or to the foreclosure of mortgages, or in any other manner permitted by law, and/or (c) may restrict, limit, or totally terminate any or all services performed by the Association in behalf of the delinquent Lot Owner.

There shall be added to the amount of any delinquent assessment the costs and expenses of any action, sale or foreclosure, and a reasonable attorney's fee.

A power of sale is hereby conferred upon the Association that it may exercise. Under the power of sale the Lot of an Owner may be sold in the manner provided by Utah law pertaining to deeds of trust as if said Association were beneficiary under a deed of trust. The Association may designate any person or entity qualified by law to serve as Trustee for purposes of power of sale foreclosure.

No Owner, other than the Declarant/BLP, may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas or by abandonment of the Lot.

5.9. WORKING CAPITAL FUND. Upon acquisition of fee simple title to a Lot by the first Owner thereof, other than Declarant or a BLP, a contribution shall be made, at Settlement/ Closing, by or on behalf of the Lot/Home purchaser, to the Working Capital Fund of the Association, in an amount equal to three (3) months of Annual Assessment, currently in effect at the time of the Settlement/Closing of the purchase.

Contribution/Payment to this Fund shall be in addition to, not in lieu of, the regular payment of the Annual Assessment and shall not be considered an advance payment of any portion of the Annual Assessment. These funds may be used to defray operating expenses and/or a portion thereof may contributed to the Reserve Fund of the Association.

Contributions to this Working Capital Fund shall not be refundable to a Lot Owner. Declarant, as the Board, may use any portion of the Working Capital Funds to defray any operational expenses of the Association or to off-set any budget deficits.

5.10. SUBORDINATION OF THE LIEN TO MORTGAGES. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage held by an institutional lender. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to foreclosure of a first mortgage or any proceeding in lieu thereof shall extinguish the assessment lien as to payments that became due prior to such sale or transfer. No sale or transfer, however, shall relieve a Lot or Owner from personal liability for assessments coming due after he takes title or from the lien of such later assessments.

5.11. BOOKS, RECORDS AND AUDIT. The Association shall maintain current copies of the Protective Covenants, Articles, Bylaws, Rules and Regulations, and other similar documents, as well as its own books, records and financial statements which shall all be available for inspection by Lot Owners and insurers as well as by holders, insurers and guarantors of first mortgages during normal business hours upon reasonable notice. Charges shall be made for copying, researching or extracting from such.

Lot Owner or holder, insurer or guarantor of a first mortgage may obtain an audit of Association records at its own expense so long as the results of the audit are provided to the Association.

Each Lot/Home Owner subsequent to the original Owner who purchased a Lot/Home from the Declarant shall pay a Processing Fee in the amount of One-hundred Fifty Dollars (\$150.00) to the Association or its Management Agent. Such Fee shall accommodate the cost of managing changes to the Association records associated with subsequent resales of Lots/Homes.

An ownership holder, an insurer or a guarantor of a first mortgage may obtain an audit of Association records at its own expense so long as the results of the audit are provided to the Association.

5.12. EXEMPTION. Neither the Declarant, nor Declarant's designated BLP, if any, shall be subject to any of the Assessments or Fees of this Article 5

5.13. NOTICE AND QUORUM FOR ANY AUTHORIZED ACTION. Written notice of any meeting called for the purpose of taking any action authorized herein shall be sent to all Members not less than twenty (20) days, no more than sixty (60) days, in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast fifty percent (50%) of all the votes of the Membership shall constitute a quorum. If the required quorum is not present, another meeting shall be called subject to the same notice requirement, and the required quorum of the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

In lieu of the foregoing, mail-in balloting may be used under Board action.

## ARTICLE 6 - INSURANCE

6.1. INSURANCE ON LOTS AND HOMES. THE ASSOCIATION SHALL HAVE NO DUTY OR RESPONSIBILITY TO PROCURE OR MAINTAIN ANY FIRE, LIABILITY, FLOOD, EARTHQUAKE OR SIMILAR CASUALTY OR HAZARD INSURANCE COVERAGE FOR ANY LOT/HOME IN THE PROPERTY, OR FOR THE CONTENTS OF ANY HOME IN THE PROPERTY. THE ASSOCIATION ALSO HAS NO DUTY TO INSURE AGAINST ANY NEGLIGENT, CRIMINAL OR TERRORIST ACTS OR EVENTS OCCURRING AT, IN OR ON ANY LOT OR IN ANY HOME.

6.2. ASSESSMENTS. Funds for insurance, as required to be maintained by the Association shall be provided for from Annual Assessments as set forth herein.

6.3. REQUIRED INSURANCES. The Association shall secure and at all times maintain the following insurance coverages:

(A) Multi-peril Coverage. A multi-peril type policy covering any Common Area and facilities, if any. Such policy shall provide coverage against loss or damage by the standard extended coverage endorsement, debris removal, cost of demolition, vandalism, malicious mischief, windstorm, fire, earthquake, hailstorm, water damage, and such other risks as customarily are covered with respect to projects similar to this Project in its construction, location, and use. As a minimum, such policy shall provide coverage on a replacement cost basis in an amount not less than that necessary to comply with any coinsurance percentage specified in the policy, but not less than 100% of the full insurable value (based upon replacement cost). Such policy shall include an "agreed amount endorsement" or its equivalent, a "demolition endorsement" or its equivalent, an "increased cost of construction endorsement" or its equivalent, and a "contingent liability from operation of building laws endorsement" or its equivalent. In the event the Declarant has not provided any Common Area, this coverage shall not be required.

(B) Broad-form Public Liability Coverage. A comprehensive policy insuring the Owners, the Association, its Directors, officers, agents and employees against all damage or injury caused by their negligence to the public, invitees, tenants or Owners on the Common Area. Limits of the liability under such coverage shall not be less than \$ 1,000,000 for all claims for personal injury or property damage, or both, arising out of a single occurrence. Such policy or policies shall be issued on a comprehensive liability basis, shall provide that cross-insurers as between themselves are not prejudiced, and shall contain "a severability of interest" clause or endorsement to preclude the insurer from denying the claim of an Owner in the development because of negligent acts of the Association or others. In the event the Declarant has not provided any Common Area, this coverage shall not be required.

(C) Fidelity Coverage. A fidelity policy or policies to protect against dishonest acts on the part of any Director, officer, manager, employee of the Association and all others, including volunteers, who handle or are responsible for handling funds of the Association. The fidelity coverage shall name the Association as the obligee or insured and shall be written in an amount sufficient to offer the protection reasonably required, but in no event less than 100% of the reserves. The fidelity bond or insurance shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of employee or similar expression.

6.4. ADDITIONAL PROVISIONS. The following additional provisions shall apply with respect to insurance:

(A) Approval of Policies. All insurance policies shall be written by a reputable company approved by the Board of Directors.

(B) Contribution. Insurance secured and maintained by the Association shall not be brought into contribution with insurance held by any individual Owners or their mortgagees.

(C) Flood Insurance. In the event that some part of the Project is now or may in the future be classified by the Housing and Urban Development as an area having special flood hazards, a blanket policy of flood insurance on the flood areas may, at the election of the Board, be maintained in an amount customarily required in projects of this type to ensure against flood damage.

(D) Premiums Maintained in the Name of the Association as Trustee. Premiums for all insurance coverage obtained by the Association shall be written in the name of the Association as trustee for the Owners.

(E) Review of Insurance Policies. The Board of Directors shall periodically, and whenever demand is made by twenty percent (20%) or more of the Members, review the adequacy of the Association's insurance program and shall report in writing the conclusions and actions of any mortgagee of any Lot who shall have requested a copy of such report. Copies of every policy of

insurance procured by the Board of Directors shall be available for inspection by the Owners.

(F) Re-building After Damage or Destruction. In the event of damage or destruction by fire or other casualty to any Common Area covered by insurance written in the name of the Association as trustee for the Owners, the Board of Directors shall, upon receipt of insurance proceeds, contract to rebuild or repair such damage or destroyed portions of the Property to as good a condition as formerly. All such insurance proceeds shall be deposited in a bank or other financial institution, whose accounts are insured by a federal governmental agency, with the proviso agreed to by said bank or institution that such funds may be withdrawn only by the signatures of at least two (2) members of the Board of Directors. The Board of Directors shall advertise for sealed bids with any licensed contractors. The contractors shall be required to provide a full performance and payment bond for the repair, construction, or rebuilding of destroyed property. In the event the insurance proceeds are insufficient to pay all of the costs of repairing or rebuilding, or both, to the same condition as formerly, the Board of Directors shall levy a special assessment against all Owners in such proportions as the Board of Directors deems fair and equitable in light of the damage sustained.

#### **ARTICLE 7- AIRPORT INFLUENCE AREA DISCLOSURE**

This notice is being provided by the current land owner and Declarant, identified as Plumb Holdings, LLC, herein, for the residential community of Sugar Plum in the Fields Subdivision.

All or a portion of Sugar Plum in the Fields - Phase 1, as recorded in the records of the Washington County Recorder and shown on the attached Exhibit "A" hereof, or as may be expanded with other phases in keeping with the Declaration thereof and the City-approved Preliminary Plat thereof, is located within the designated airport influence area of the St. George Replacement Airport, and may be subject to aircraft over-flight, noise and possible impingement. No development or structure that may compromise airport navigational aids or flight operations will be allowed within the airport influence area and construction within the airport influence area will require compliance with all applicable ordinances, statutes and code regulations, and may include the granting of an aviation easement and/or similar document(s).

In addition to this Notice, the Declarant reserves the right to request a third-party buyer of a Lot/ Home to sign a specific Airport Influence Area Disclosure as part of the REPC between the Declarant/ BLP and buyer.

#### **ARTICLE 8 - DURATION, ENFORCEMENT, AMENDMENT**

8.1. **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 of ten (10) years each, subject to amendment as herein set forth.

8.2. **AMENDMENT.** During the Development Phase, Declarant reserves the right to unilaterally amend this Declaration and its amendments and plats without any vote or approval of Owners/Members. Upon completion of the Development Phase, this Declaration and its amendments may be amended by a recorded instrument signed by no less than the Owners of two-thirds (2/3) of the Lots, provided that all signatures must be notarized and obtained within a 180 day period. After the Declarant or its designee ceases to act as the Board and/or the ACC, written notice of any such proposed amendment shall be sent to every Owner of any Lot, part or portion of the Property at least 30 days in advance.

8.3 **LITIGATION/ARBITRATION.** The Board has the authority to enter into a



contingent fee agreement with an attorney in a matter involving alleged design or construction defects in the Project only as to the facilities or improvements the Association is responsible for maintaining as provided herein, and such authority can only be exercised after the affirmative vote of a majority of the Members other than Declarant in favor of entering such a contingent fee agreement.

8.4. **ANNEXATION OF ADDITIONAL PROPERTY.** Additional property may be annexed in and made subject to these Covenants by the Declarant, without approval of the Members. The Declarant shall indicate its intent to have such property bound by these Covenants on the plat of such property, and by recording Declaration of Annexation and thereafter such additional property shall be considered as part of the Property in all respects, and Lots therein shall constitute Lots under these Covenants. Declarants Class-B Membership shall extend to all Lots in the annexed areas. This right of the Declarant shall be assignable to one or more assignees.

8.5. **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.

8.6. **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 any of the remaining restrictions, covenants or conditions, or parts thereof.

8.7. **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 fine(s) levied by the Association or appropriate legal action by the Declarant, the Association, or a Lot Owner or Owners. Remedies hereunder shall be deemed cumulative and not exclusive.

Notwithstanding any other rights of enforcement under this Declaration, its Amendments, the Bylaws, all rules and regulations enacted by the Board, or by applicable law, the Association may impose a fifty-dollar (\$50.00) on any Owner who is found in violation of any provision of this Declaration or its amendments, the Association Bylaws or rules and regulations enacted by the Board. The Association may impose an additional fifty dollar (\$50.00) fine on the Owner for each day such violation continues after the ten (10) day notice period provided herein, which additional fines shall constitute a lien upon such Owners Lot and shall be added to the Annual Assessment as provided in Article 5.

Violation of provisions of the foregoing documents by an Owner's tenant shall be considered as violation of the Owner; fines levied in consequence of tenant violation shall be levied against the Owner, not the tenant.

8.8. **ENFORCEMENT.** Each and all of the restrictions, covenants and conditions contained in this document is and are for the benefit of the Declarant, the Association 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 Declarant, the 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 ACC may levy a fine or penalty not to exceed 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 Lot Owner's Lot, and shall also be a personal obligation of said Lot Owner, enforceable at law, until such payment therefore is made.

8.9. RIGHT TO ENFORCE. The provisions contained in these Covenants shall bind and inure to the benefit of and be enforceable by the Declarant, the Association or a Lot Owner or Owners, and each of their legal representative, heirs, successors and assigns, 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.

8.10. ASSIGNMENT OF RIGHTS, POWERS. Any and all rights and powers of the Declarant herein contained may be delegated, transferred or assigned. Wherever the term "Declarant," as used herein, includes Declarant and its successors and assigns

#### **ARTICLE 9 - NOTES FROM THE OFFICIAL PLAT**

Included as part of the Official Plat, recorded herewith, is a Section entitled "Notes" which sets forth the following information, which is herein set forth for disclosure purposes. All Lot Owners shall be bound by these "Notes," which read as follows:

1. A 7.50 FOOT WIDE PUBLIC UTILITIES AND DRAINAGE EASEMENT EXISTS ALONG SIDE AND REAR LOT LINES AND A 10.00 FOOT WIDE PUBLIC UTILITIES, MAILBOX, AND DRAINAGE EASEMENT EXISTS ALONG ALL FRONT AND STREETSIDE LOT LINES, UNLESS OTHERWISE NOTED ON THIS PLAT.
2. A GEOTECHNICAL INVESTIGATION WAS PERFORMED BY APPLIED GEOTECHNICAL ENGINEERING CONSULTANTS, INC (A.G.E.C.). THE INVESTIGATION RESULTS AND SPECIFIC RECOMMENDATIONS FOR THE CONSTRUCTION OF FOUNDATIONS AND FLOOR SLABS ARE COMPILED IN A REPORT DATED JANUARY 14, 2015. A COPY OF THIS REPORT IS ON FILE WITH WASHINGTON CITY. OWNERS, BUILDERS, AND CONTRACTORS SHOULD BECOME FAMILIAR WITH THIS REPORT AND SHALL COMPLY WITH ITS RECOMMENDATIONS.
3. ALL SEWER AND WATER IMPROVEMENTS ARE PUBLIC AND MAINTAINED BY WASHINGTON CITY UP TO AND INCLUDING THE METERS. ALL FIRE HYDRANTS AND THE APPURTENANCES WITHIN THE DEVELOPMENT ARE PUBLIC AND ARE MAINTAINED BY WASHINGTON CITY.
4. THE PROPERTY OWNERS AND/OR HOMEOWNERS ASSOCIATION SHALL BE RESPONSIBLE FOR THE MAINTENANCE AND REPAIR OF ALL COMMON AREAS AND OPEN SPACE WITHIN THE DEVELOPMENT, INCLUDING BUT NOT LIMITED TO REMOVAL OF WEEDS AND DEBRIS.

IN WITNESS WHEREOF, the undersigned has hereunto executed this document  
this 29<sup>th</sup> day of September, 2015.

DECLARANT  
PLUMB HOLDINGS, LLC  
N. Brockbank Investments LLC  
JJR Ventures LTD

Walter J. Plumb IV  
By: Walter J. Plumb, IV, Manager

Nathan A. Brockbank  
By: Nathan A. Brockbank

Josh Romney  
By: Josh Romney

ACKNOWLEDGMENT

STATE OF UTAH )  
 ) ss.  
COUNTY OF Salt Lake )

On this 29 day of September, 2015, before me personally appeared before me Walter J. Plumb, IV, whose identity is personally known to me, and who, being by me duly sworn (or affirmed), did say that he is the Manager of PLUMB HOLDINGS, LLC, and that the foregoing instrument was signed by proper authority, and acknowledged before me that he executed the document in the capacity and for the purposes stated in it.

Bryce Abplanalp  
Notary Public,  
Residing in SLC, UT



**ACKNOWLEDGMENT**

STATE OF UTAH )  
 ) ss.  
COUNTY OF Salt Lake )

On this 29 day of September, 2015, before me personally appeared before me Nathan A. Brockbank, whose identity is personally known to me, and who, being by me duly sworn (or affirmed), did say that he is the Manager of N. Brockbank Investments LLC, and that the foregoing instrument was signed by proper authority, and acknowledged before me that he executed the document in the capacity and for the purposes stated in it.

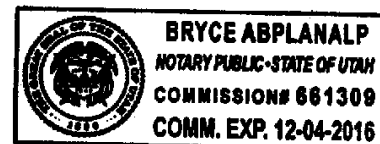
B. Abplanalp  
Notary Public  
Residing in SLC, UT

**ACKNOWLEDGMENT**

STATE OF UTAH )  
 ) ss.  
COUNTY OF Salt Lake )

On this 29 day of September, 2015, before me personally appeared before me Josh Romney, whose identity is personally known to me, and who, being by me duly sworn (or affirmed), did say that he is the Manager of JJR Ventures, LTD, and that the foregoing instrument was signed by proper authority, and acknowledged before me that he executed the document in the capacity and for the purposes stated in it.

B. Abplanalp  
Notary Public,  
Residing in SLC, UT



**EXHIBIT "A"**  
**Legal Description**  
**SUGAR PLUM IN THE FIELDS, PHASE 1**

Parcel No. W-5-3-1-431 (Parent Parcel)

Beginning at the Northwest corner of Section 1, Township 43 South, Range 15 West, Salt Lake Base and Meridian, and running thence S 89°23'42" E 942.00 feet along the North line of said Section; thence S 0°36'18" W 170.00 feet; thence S 89°23'42" E 12.44 feet; thence S 0°36'18" W 300.00 feet; thence N 89°23'42" W 18.30 feet; thence S 0°36'18" W 100.00 feet; thence N 89°23'42" W 780.00 feet; thence N 0°59'39" E 9.86 feet; thence N 89°00'21" W 160.00 feet to the West line of said Section; thence N 0°59'39" E 559.07 feet along Said West line to the point of beginning.

Contains 539,524 sq ft or 12.386 acres more or less.