

After recording Return to:  
LAYTON CITY PLANNING DEPT.  
437 WASATCH DRIVE  
LAYTON, UTAH 84041

2127649  
BK 3924 PG 417

E 2127649 B 3924 P 417-446  
RICHARD T. MAUGHAN  
DAVIS COUNTY, UTAH RECORDER  
12/05/2005 09:20 AM  
FEE \$110.00 Pgs: 30  
DEP RTT REC'D FOR GREEN & GREEN LC

**DECLARATION OF PROTECTIVE COVENANTS**  
**ROBERTS FARMS SUBDIVISION**  
**NO. 5**

This DECLARATION OF PROTECTIVE COVENANTS FOR THE ROBERTS FARMS SUBDIVISION is made and executed by GREEN AND GREEN LC, of 2150 North Valley View Dr., Layton, Utah 84040 (hereinafter referred to as the "Declarant").

**RECITALS**

- A. This Declaration of Protective Covenants affects that certain real property located in the City of Layton, County of Davis, State of Utah described with particularity in Article II set forth below (the "Tract").
- B. Declarant is the owner of the Tract.
- C. The Property is an area of unique natural beauty, featuring distinctive terrain;
- D. By subjecting the Property to this Declaration, it is the desire, intent and purpose of Declarant to create a community in which beauty shall be substantially preserved, which will enhance the desirability of living on that real estate subject to this Declaration, and which will increase and preserve the attractiveness, quality and value of the lands and improvements therein.
- E. Declarant has constructed, or is in the process of constructing, a residential subdivision upon the Tract.
- F. There is a unique Landscape Easement, which requires or will require common care, management, and control.
- G. All of such construction has been, or is to be, performed in accordance with the plans contained in the Record of Survey Map to be recorded concurrently herewith.
- H. Declarant intends to sell to various purchasers the fee title to the individual Lots contained in the subdivision.
- I. The Declarant desires that the subdivision be known as ROBERTS FARMS.
- J. The streets in the subdivision shall be dedicated to Layton City.

- K. The Declarant desires that the Tract shall be subject to the protective covenants herein recited.
- L. The Declarant desires, by filing this Declaration of Protective Covenants, to submit the ROBERTS FARMS SUBDIVISION and all improvements now or hereafter constructed thereon to the terms, covenants, conditions and restrictions set forth below, which shall constitute equitable servitudes and shall run with the land.

#### AGREEMENT

Now, therefore, THE Declarant does hereby establish the nature of the use and enjoyment of all Lots in the subdivision and does hereby declare that the conveyances of said Lots shall be made subject to the following conditions, restrictions, stipulations, and provisions:

#### ARTICLE I. DEFINITIONS

When used in this Declaration (including in that portion hereof entitled "Recitals"), each of the following terms shall have the meaning indicated.

- 1. Assessment shall mean and refer the allocation of Common Expenses among the Lot Owners or maintenance charge which each Lot or Lot Owner, by virtue of his acceptance of a deed or other document or conveyance thereto, is obligated to pay.
- 2. Association shall mean and refer to the association of all of the Lot Owners taken ask or acting as, a group I accordance with this Declaration.
- 3. Board of Trustees shall mean and refer to the group of neighbors who own Lots in the Subdivision and volunteer and are elected or appointed to (a) administer the Declaration, (b) manage the Common Elements (including the Landscape Easement and Entry Monument), and (c) operate the Association.
- 4. Business and Trade are terms which shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (a) such activity is engaged in full or part-time; (b) such activity is intended to or does generate a profit; or (c) a license is required therefore.

Notwithstanding the above, the leasing of a Lot or Dwelling Unit shall not be considered a trade or business within the meaning of this subsection.

5. Common Elements shall mean and refer to all common features and elements in the Community, including by way of illustration but not limitation the Landscape Easement, Entry Monument, power pedestal, and other common improvements of a less significant nature.
6. Common Expense shall mean and refer to: (as) All sums lawfully assessed against the Lot Owners; (b) Expenses of administration, maintenance, repair, or replacement of the Common Elements; (c) Expenses agreed upon as 'common expenses' by the Association; and (d) Expenses declared 'common expenses' by the Project Documents.
7. Community shall mean and refer to the ROBERTS FARMS SUBDIVISION.
8. Declaration shall mean and refer to DECLARATION OF PROTECTIVE COVENANTS FOR ROBERTS FARMS SUBDIVISION.
9. Entry Monument shall mean and refer to the entry monument at the entrance to ROBERTS FARMS.
10. Landscape Easement shall mean and refer to the strip of land within the Community between the sidewalk and fence running parallel to 750 South Street, described with particularity on Exhibit 'B' attached hereto and incorporated herein by this reference.
11. Lot shall mean and refer to a portion of the Property, other than the Common Elements, intended for any type of independent ownership and use as may be set out in this Declaration and as shall be shown on the Plats or Surveys filed with this Declaration. Where the context indicates or requires, the term Lot includes any structure constructed or located on the Lot.
12. Lot Owner shall mean and refer to the person who is the owner of record (in the office of the County Recorder of Davis County, Utah) of a fee or undivided fee interest in a Lot. The term Lot Owner does not mean or include a Mortgagee or a beneficiary or trustee under a deed of trust unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.
13. Majority shall mean and refer to those eligible persons or votes of Owners or other groups as the

context may indicate totaling more than fifty (50%\_ percent of the total eligible number.

14. Map shall mean and refer to the Record of Survey Map.
15. Member shall mean and refer to each Lot Owner who, by virtue of his acceptance of a deed or other document of conveyance to a Lot, is a member of the Association, unless the context clearly required otherwise.
16. Owner shall mean and refer to a Lot Owner.
17. Project shall mean and refer ROBERTS FARMS SUBDIVISION.
18. Project Documents shall mean and refer jointly and severally to this Declaration, By-Laws, Record of Survey Map, Rules and Regulations, and Articles of Incorporation as they may be adopted and/or modified by the Association from time to time.
19. Property shall mean and refer to the Land, real estate, or real property which is submitted to this Declaration.
20. Record of Survey Map shall mean and refer to the record of survey map or maps of this subdivision on file with the Davis County Recorder. The Map will show the location of the Lots, Landscape Easement, Entry Monument, and other Common Elements.
21. Street or Streets shall mean and refer to the roads within ROBERTS FARMS SUBDIVISION, which are or will be dedicated to Layton City.
22. Survey Map shall mean and refer to the Record of Survey Map.
23. Tract shall mean and refer to the real property subject to the protective covenants of this Declaration.

## ARTICLE II. SUBMISSION

The Land described with particularity below is hereby made subject to these protective covenants, conditions and restrictions: See Exhibit "A," attached hereto and incorporated herein by this reference;

SUBJECT TO the described easements and rights of way;

TOGETHER WITH all easements, rights-of-way, and other appurtenances and rights incident to, appurtenant to, or accompanying the above-described parcel of real property; and

ALL OF THE FOREGOING IS SUBJECT TO: All liens for current and future taxes, assessments, and charges imposed or levied by governmental or quasi-governmental authorities; all Patent reservations and exclusions; any mineral reservations of record and rights incident thereto; all instruments of record which affect the above-described Tract or any portion thereof including, without limitation, any mortgage or deed of trust; all visible and necessary easements and rights-of-way; all easements and rights-of-way of record; any easements, rights-of-way, encroachments, or discrepancies shown on or revealed by the Survey Maps or otherwise existing; an easement for each and every Common Elements improvement, equipment, pipes, lines, cables, wires, utility systems, or similar facilities which traverse or partially occupy the above-described Tract; and all easements necessary for servicing, repairing, ingress to, egress from, maintenance of, and replacement of all such Common Elements improvements, equipment, pipes, lines, cables, wires, utility systems, and similar facilities.

#### **ARTICLE III. AREA OF APPLICATION AND EXPANSION OF PROJECT**

1. This Declaration shall apply to all lots from 501 to 540 of the Property and to any other real estate in the Roberts Farms Subdivision. There are forty (40) lots in Phase I.

#### **ARTICLE IV. RESIDENTIAL AREA COVENANTS**

- 1 Land Use and Building Type. This s a residential subdivision and all Lots must be used exclusively for residential purposes which includes both the architecture and appearance of the buildings and the nature of their use. , Lot 502 and 503 will be permitted to have livestock on the rear portion of the lots and shall meet the intent of Layton City ordinances with regard to number of animals and nuisances. No large animals will be allowed to pasture closer than 150 feet from the front line of any building lot. No trailers, haystacks, sheds, barns, corrals, walkers or arenas will be allowed to be placed behind the adjacent lots. All such uses must be contained within the 100 foot width of the lot, south or north of the property line between lot 502 and 503. All fences, outbuildings and parking areas are to be maintained as to not detract from the value

of the adjacent property owners. The owners of these lots 502 and 503 will make reasonable effort to control flies and dust from their lots. No building shall be erected, altered, placed or permitted to remain on any lot other than one detached single-family dwelling. All building plans and specifications must be approved by the Declarant in writing. The front exterior elevations of all buildings shall be maintenance free stucco, brick or rock. Siding, wood, or other construction materials are not allowed on the front exterior elevations.

2. Architectural Control. No building shall be erected, placed or altered on any lot until the construction plans and specifications and a plan showing the location of the structure have been approved by the Declarant as to the quality of workmanship and materials, harmony of external design with existing structures, and as to location with respect to topography and finish grade elevation. No fence or wall shall be erected, placed or altered on any lot nearer to any street than the front building setback line unless similarly approved.
3. Dwelling Cost, Quality and Size. No dwelling shall be permitted on any lot with the finished ground floor area of the main floor, exclusive of open porches and garages, of less than 1450 sq. feet, and not less than 1800 sq. feet finished living space above ground for a two story. All structures shall have a brick or rock front with stucco accents and three (3) feet of brick on each side of the main floor. Multi level dwelling not mentioned above must be reviewed for approval and acceptance by the architectural control committee. Used brick may only be used with approval of the architectural control committee. All roofs shall have a minimum of 6/12 pitch roof, unless reviewed and approved. The construction materials for each home and or detached building shall be of quality equal to or superior to FHA or VA requirements. Concrete tilt up walls, steel framed buildings, log homes and other non conventional type building systems will not be allowed unless such structure can be deemed in harmony with adjacent homes by the architectural control committee. No swamp cooler or window mount coolers are allowed.
4. Location of Dwelling. The Declarant shall determine the location of a home upon a lot, which must be within the Buildable Area designated on the Map.

5. Easement. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded Plat and over the rear ten (10) feet of each lot. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance 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.
6. Prohibited Activities. No noxious or offensive activity shall be carried on in, on or about any lot. Nothing shall be done or omitted on a lot or the Common Elements, which may be or may become an annoyance or nuisance to the neighborhood. The following acts or activities shall be deemed to constitute a nuisance:
  - a. The development of any unclean, unhealthy, unsightly, or unkempt condition on, in or about a lot or the Common Elements, including the Landscape Easement;
  - b. The storage of any item, property or thing that will cause any lot or the Common Elements to appear to be in an unsightly, unclean, unhealthy, or untidy condition or that will be noxious to the senses;
  - c. The storage of any substance, toxin, hazardous waste, pollutant, thing or material in, on or about any lot or the common elements that do or are likely to emit any foul, unpleasant or noxious odors, or that do or are likely to cause any unreasonable amount of noise or other condition that does or is likely to disturb the peace, quiet, safety, comfort, or serenity of the other residents at the Project;
  - d. Actions or activities tending to cause embarrassment, discomfort, annoyance, distress or a disturbance to any other residents, or their guests or invitees, particularly if the local law enforcement agencies must be called to restore order; and

- e. The maintenance of any plants, animals, devices or things of any sort whose activities or existence in any way is illegal, noxious, dangerous, unsightly, unpleasant, or of any nature as may diminish or destroy the enjoyment of the neighborhood by or their residents, their guests, visitors or invitees.
  - f. The drying of clothes or storage of any articles which are unsightly (in the sole opinion of the Declarant and the Association) will not be permitted unless in enclosed areas designed for such purposes.
7. Temporary Structures. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other out-buildings shall be used on any lot at any time as a residence either temporarily or permanently. No Mobile Homes, pre-fabricated homes, or homes built off the Property are permitted.
8. Signs. No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than one (1) square foot, one sign of not more than 2'x 2' square feet advertising the proper "For Sale" or "For Rent", except signs used by the Declarant to advertise the property during the construction and sales period may be as large as deemed appropriate by the Declarant.
9. Pets, Animals, Livestock and Poultry. No pets, animals, livestock or poultry of any kind shall be bred in, on or about the project, lot 502 and 503 will be allowed large animals, with no more than two(2) per acre. Up to two (2) domestic pets per unit are allowed; provided however pets must be properly licensed and registered (if required) with the appropriate governmental agencies owners may be required to pay a pet deposit to the Board of Trustees obtain a certificate of registration from the Association and abide by all local ordinances and pet rules and regulations adopted from time to time. Pets may not create a nuisance. The following acts may constitute a nuisance: (a) causing damage to the property of anyone other than the pet owner; (b) causing unreasonable fouling of the air by odors; (c) causing unsanitary conditions; (d) defecating on any common area when the feces are not immediately cleaned up by the responsible party; (e) barking, howling, whining or making other disturbing noises in an



excessive continuous or untimely fashion; (f) molesting or harassing passersby by lunging at them or chasing passing vehicles; (g) attacking or threatening to attack people or other domestic animals; (h) otherwise acting so as to bother annoy or disturb other reasonable residents or interfering with their right to the peaceful and quiet enjoyment of their property; or (i) the mere number of pets maintained creates an offensive or dangerous condition to the health, welfare or safety of other residents. Pets in the Common Element area must be in a cage or on a leash and under the control of a responsible person. Per Layton City ordinance.

10. Garbage and Refuse Disposal. No lot shall be used or maintained as a dumping ground for rubbish, trash, refuse garbage or other waste, which shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. Each lot and its abutting street are to be kept free of rubbish, trash, refuse, garbage, waste, litter, weeds, mud and dirt and other similar items by the lot owner, or builder.
11. Unsightly Materials and Objects. No unsightly materials, items, objects or things that impair the aesthetics or value or use or utility of the project are to be stored on any lot in view of the general public.
12. Sight Distance at Intersections. No fences, wall, hedge, or shrub planting which obstructs sight lies at elevations between two (2') and six (6') above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points twenty five (25') feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. The same sight-line limitations shall apply on a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at a sufficient height to prevent obstruction of such sight lines. Subject to Layton City ordinance.
13. 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 nor shall oil wells, tanks, tunnels,

mineral excavations or shafts be permitted upon or in any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot.

14. 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 or flow of drainage channels or obstruct or retard the flow of water through 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.
15. Fencing. No fence or other similar structure shall be erected in any required front yard of a dwelling to a height in excess of three and one-half (3.5') feet; nor shall any fence or other similar structure be erected in any side or rear yard to a height in excess of six (6') feet. On corner lots, no fence or other similar structure shall be erected in any yard bordering a street or front yard of an adjoining lot to a height in excess of three and one-half (3.5') feet.
16. Parking and Storage. All motor vehicles driven on or transported into the Project shall be subject to the following restrictions:
  - a. No damaged (in excess of \$1000.00) or inoperative motor vehicle or transportation device of any kind shall be placed or remain on any lot or adjacent street for more than forth-eight (48) hours.
  - b. No recreational, oversized, or commercial type vehicles and no tractor-trailer trucks shall be parked on the front yard setback of any lot, or within the side yard building setback on the street side of a corner lot, or on the residential street except while loading or unloading (no more than forth-eight (48) hours or more than one (1) time during any seven (7) day period or engaged in transportation
  - c. No pads used for the storage of vehicles or other materials either temporarily or permanently shall be constructed or installed, nor shall any

trailers, mobile homes, trucks other three (3) quarter ton capacity boats and watercraft, campers not on a truck bed, motor homes, buses, tractors, commercial, oversized or recreational vehicles, or maintenance and commercial equipment of any kind be parked or stored in the Project unless it is behind the front yard setback and without the side yard building setback on the street side of a corner lot.

- d. No motor vehicle or any other transportation device of any kind may be parked or stationed in a fire lane or in a red zone, in an unsafe or dangerous manner, or so as to obstruct or block access to any lot, driveway, street, or other transportation device.
  - e. The storage or accumulation of junk, trash, manure or other offensive or commercial materials is prohibited.
  - f. Facilities for hanging, drying or airing clothing or household fabrics shall be appropriately screened from view.
  - g. Open yard space shall remain unoccupied and unobstructed by buildings, vehicles, and/or hard surfaces such as asphalt, cement and packed surface from this time henceforth and forever.
  - h. Any violations of Layton City ordinances are expressly prohibited.
17. Pools, Spas, Game Courts and Batting Cages. Pools, spas, game courts and batting cages shall be located so as to avoid unreasonably impacting adjacent properties with balls, light or sound. Pool heaters and pumps must be screened from view from the street.
  18. Unsightly Work, Hobbies or Unkempt Condition. The pursuit of hobbies or other activities, including but not limited to the assembly and disassembly of motor vehicles and other mechanical devices that might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Project.
  19. Business Use. No commercial trade or business may be conducted in or from any lot unless (a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Lot; (b) the business activity conforms to all

zoning requirements for the Project; (c) the business activity doesn't involve persons coming onto the project who do not reside in the Project or door-to-door solicitation of residents of the Project; and (d) the business activity is consistent with the residential character of the Project and doesn't constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Project, as may be determined in the sole discretion of the Declarant and/or Association.

20. Insurance. Nothing shall be done or kept in, on or about any Lot or the Common Elements, which may result in the cancellation of or increase the premium (over what the Association would have paid but for such activity) for the insurance on the Property.
21. Laws. Nothing shall be done or kept in, on or about any lot or the Common Elements, or any part thereof, which would be a violation of any statute, rule, law, ordinance, regulation, permit or other validly imposed requirement of any governmental body.
22. Damage or Waste. No damage to or waste of the Common elements shall be committed by any Lot Owner, his family members, friends, guests, visitors or invitees. Each Lot Owner shall indemnify and hold the Association, Board of Trustees, and other Owners harmless against all loss resulting from any such damage or waste caused by that Lot Owner or his family members, guests, visitors or invitees; provided, however, that any invitee, guest or visitor of the Declarant shall not under any circumstances be deemed to be an invitee of any other Owner.
23. Maintenance. The Lots and Common elements, including without limitation, the Landscaping Easement and Entry Monument, shall be maintained in a usable, clean, functional, aesthetic, attractive and good condition.
24. Landscaping. Each Lot Owner is responsible for the landscaping and maintenance of the landscaping on his Lot. The Association is responsible for the landscaping and maintenance of the Common elements, including without limitation, the Landscaping Easement and Entry Monument. All demolition, clearing, grubbing, stripping of soil, excavation, compaction and grading must be performed within the confines of the Lot. All landscaping in the Project shall be maintained and cared for in a manner consistent with the standards of design and quality originally established by Declarant and in accordance with

community standards, as determined by the Association. The Board of Trustees may establish specific guidelines and restrictions on landscaping from time to time. All landscaping shall be maintained in an aesthetic, tasteful, clean, safe, sanitary, neat and orderly fashion. Any weeds or diseased or dead lawn, trees, ground cover or shrubbery shall be removed and replaced. All lawn areas shall be neatly mowed and trees, shrubs and bushes shall be neatly trimmed. Aesthetic considerations are important and all landscaping shall be tasteful, so as not to affect adversely the value or use of any other Lot or the Common elements, or to detract from the uniform design and appearance of the Project.

25. Default in Fulfillment of Landscaping Obligation. If any lot owner fails to fulfill his landscaping obligations, including without limitation the Common Elements and fail to cure the default within thirty (30) days after written notice the Board of Trustees shall have the right but not the duty, without further notice or warning to perform the maintenance and the cost thereof shall constitute the Individual Assessment of that Lot Owner.
26. Storage of Commercial Equipment. No lot shall be used or maintained as a storage area for commercial equipment of any kind for use in a trade or business except as permitted by county codes for a residential area and then it should be stored out of the general view.
27. Subdivision of Lots. No Lot Owner shall at any time be permitted to subdivide or attempt to subdivide his Lot.

#### **ARTICLE V. ARCHITECTURAL CONTROL COMMITTEE**

1. Membership. The Architectural control Committee (the "ACC" shall consist of the Declarant, so long as it shall own any of the Lots in the subdivision. Thereafter the Board of Trustees or its designees shall constitute the ACC. No member of the ACC shall be entitled to any compensation for services provided.
2. Procedure. The ACC's approval or disapproval as required in these covenants shall be in writing. In the event the ACC, or its designated representative fails to approve or disapprove within thirty (30) days after plans and specifications have been submitted to it, the request shall be deemed to have been approved and the related covenants shall be deemed to have been fully complied with.

**ARTICLE VI. RIGHT OF ENTRY**

1. Right of Entry. Wherever sanitary sewer connections, water connections, electricity, gas, telephone or drainage facilities are installed within the subject property, the owners of any Lot or Lots served by said connections, lines or facilities shall have the right and hereby granted an easement to the full extent necessary therefore, to enter upon the Lots owned by others, or to have utility companies enter upon the Lots owned by others, in or upon which said connections, lines or facilities, or any portion thereof lie, to repair, replace and generally maintain said connections as and when the same may be necessary as set forth as set forth below. Any premises so entered shall be restored by those entering to as near its original condition as is reasonably possible. Nothing in this section can be construed to grant any new easement without the express written authorization of the Lot Owner.
2. Maintenance Costs. The cost of maintenance of the Common elements shall be shared equally between all Lot Owners.
3. By-laws of Property Owners Association. The procedure for the administration and management of the Association and the subject property shall be governed by the following By-Laws attached hereto as Exhibit "B" and incorporated herein by this reference.
4. Payment of Common Expenses. In addition, each Lot Owner hereby agrees to pay to the Board of Trustees promptly his portion of all Common Expenses, including but not limited to the cost of maintaining, repairing and replacing the entryway and street lights, the operation of all machinery and equipment related thereto, the cost of the power and electricity to operate the street lights, and all other related expenses, debts, obligations, and liabilities incurred by the Association hereunder.
  - a. Purpose of Assessments. The Assessments provided for herein shall be used for the general purpose of operating the Project, promoting the recreation, health, safety, welfare, common benefit and enjoyment of the Lot Owners.
  - b. Budget. Before the annual Meeting of the Association each year, the Board of Trustees shall prepare a budget which shall set forth an

itemization the anticipated Common Expenses for the twelve (12) month calendar year, commencing with the following January 1. The budget shall be based upon advance estimates of each requirement by the Board of Trustees to provide for the payment of all estimated expenses growing out of or connected with the maintenance and operation of the Common Elements, which estimates shall include but are not limited to expenses of management, grounds maintenance and repair of the entry way and the street lights premiums, for all insurance which the Board of Trustees is required or permitted to maintain, wages for employees, legal and accounting fees, any deficit remaining from a previous period; the creating of a reasonable contingency reserve, surplus or sinking fund, capital improvement reserve, and other expenses and liabilities which may be incurred by said Association for the benefit of the Owners under and by reason of this Declaration.

- c. Approval of Budget and Assessments. The proposed budget and the Assessments shall become effective unless disapproved at the Annual Meeting by a vote of at least a Majority of the Members of the Association. Notwithstanding the foregoing, however, if the Membership disapproves the proposed budget and Assessments or the Board of Trustees fails for any reason to establish the budget and Common Elements Assessments for the succeeding year, then and until such time as a new budget and new Assessment schedule shall have been established, the budget and the Common Elements Assessments in affect for the then current year shall continue for the succeeding year.
  - d. Method of Payment. The Board of Trustees has the sole authority and discretion to determine how and when the Assessments are to be paid.
  - e. Equitable Changes. If the aggregate of all payments on all of the Lots is too large or too small as a result of unanticipated income or expenses, the Board of Trustees may from time to time effect an equitable change in the amount of said payments. Owners shall be given at least thirty (30) days prior written notice of any proposed change before it becomes effective.
5. Personal Obligation of Owner. Lot Owners are jointly and severally liable to pay all Assessments and Additional Charges; provided, however no first

mortgagee or beneficiary under a first deed of trust, who obtains title to a Lot pursuant to the remedies provided in the mortgage or trusts deed shall be liable for unpaid Assessments which accrued prior to the acquisition of title.

6. Declarants Rights. Declarant is not obligated to pay for any Common Expenses on any Lots it may own until the following events have occurred; (a) a home has been constructed on the lot, (b) a permanent certificate of occupancy has been issued, and (c) the home has been sold or rented.
7. Superiority of Assessments. All Assessments and liens created to secure the obligation to pay Assessments are superior to any homestead exemptions to which an Owner may be otherwise entitled under Utah law, and to that extent the Owner, by accepting a deed to the Lot or as a party to any other type of conveyance, waives his right to claim the priority thereof.
8. Individual Assessments. In addition, individual assessments may be levied by the Board of Trustees against a lot and its owner to pay or reimburse the Association for (a) Documents; (b) costs associated with the maintenance, repair or replacement of common elements for which the Lot owner is responsible; (c) any other charge, fee, due, expense or cost designated as an Individual Assessment in the Project documents; and (d) attorneys fees interest, and other charges relating thereto as provided in this Declaration.
9. Lien. If any Unit Owner fails or refuses to make any payment of his portion of the Common Expenses when due, in whole or in part, that amount constitutes a lien on the interest of the lot owner in the property, and upon the recording of a notice of lien upon the lot owner's interest in the property prior to all other liens and encumbrances, recorded or unrecorded, except; (1) tax and special assessment liens on the unit in favor of any assessing unit or special improvement district; and (2) encumbrances on the interest of the unit owner recorded prior to the date such notice is recorded which by law would be a line prior to subsequently recorded encumbrances.
10. Late Fees and Default Interest. Any Assessments delinquent for a period of more than ten (10) days shall incur a late charge of Twenty Five and No/100 Dollars (\$25.00) or five percent (5%) of the delinquent amount, whichever is greater. Interest at the rate of



One and one half percent (1.5%) per month shall accrue on the outstanding balance of all delinquent accounts.

11. Remedies. If any Assessments remain unpaid, the Board of Trustees may elect to institute a lawsuit to obtain a judgment or foreclose the lien, or both.
12. Duty to Pay Independent. The duty to pay Assessments is independent of the duty of the Association to maintain the Common Elements.
13. Foreclosure of Lien as Mortgage or Trust Deed. The lien for nonpayment of Assessments may be enforced by sale or foreclosure of the Owners interest therein by the Board of Trustees. The sale or foreclosure shall be conducted in the same manner as foreclosures on deeds of trust or mortgages or in any other manner permitted by law. In any foreclosure or sale, the owner shall pay the costs and expenses of such proceedings, including but not limited to the cost of a foreclosure report, reasonable attorney's assessments and a reasonable rental for the lot during the pendency of the foreclosure action. The Board of Trustees in the foreclosure action may require the appointment of a receiver to collect the rental without regard to the value of the mortgage security. The Association may bid for the lot at foreclosure or other sale and hold, lease, mortgage, or convey the same. If the Board of Trustees elects to foreclose the lien in the same manner as foreclosures on deeds of trust, then the owner by accepting a deed to the lot or otherwise accepting conveyance of an interest in the property; hereby irrevocably appoints the attorney of the Association (provided he is a member of the Utah State Bar) as Trustee, and hereby confers upon said Trustee the power of sale set forth with particularity in Utah Code Annotated, Section 57-1-23(1953), as amended. In addition, Owner hereby transfers in trust to said Trustee all of his right, title and interest in and to the real property for the purpose of securing his performance of the obligations set forth herein.
14. Indemnity. The Association and each lot owner, by acceptance of a deed to a lot or other document of conveyance, agrees to and shall indemnify every officer of the Association and Member of the Board of Trustees against any and all expenses, including but not limited to attorney's fees reasonably incurred by or imposed upon any officer or member of the Board in connection with any action suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then said Board of Directors) to which he may be a

party by reason of being or having been an officer of the Association or Member of the said Board. The officers and members of the Board of Trustees shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers of the Association and Members of said Board shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of said Association (except to the extent that such officers or Members of said Board may also be members of said Association), and said Association shall indemnify and forever hold each such officer and member of said Board of Trustees free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall be exclusive of any other rights to which any officer or member of the said Board, or former officer or Member of the said Board, may be entitled.

#### ARTICLE VIII. INSURANCE

1. Insurance. The Association shall if reasonably available purchase and maintain adequate property insurance, public liability insurance, directors and officers insurance, and a fidelity bond.
2. Deductible. The party responsible for the loss covered by the claim shall pay for the deductible on a claim made against the property insurance policy of the Association. If multiple parties are responsible then each shall pay his proportionate share and if no party or parties are clearly responsible, then said Association shall pay the deductible.
3. Individual Insurance. Each owner and resident shall purchase and maintain adequate liability and property insurance on his lot dwelling unit, personal property and contents; provided however, no owner shall be entitled to exercise his right to maintain insurance coverage in such a way as to decrease the amount which the Association.
4. Priority of Coverage. In the event of duplicate coverage of a claim or loss the owner's insurance shall be primary and the insurance of the Association shall be secondary.

**ARTICLE IX. DURATION, ENFORCEMENT AND AMENDMENT**

1. Duration of Restrictions. These covenants are to run with the land and shall be binding upon all lot owners and all persons claiming any right, title or interest in or to the property by, through or under them for a period of forty (40) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by at least a majority of the then Lot Owners has been recorded, agreeing to change said covenants in whole or in part.
2. Perpetuities. If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or avoidable for violation of the rule against perpetuities, then such provisions shall only continue until twenty-one (21) years after the death of all lives in being on the date this instrument is recorded, at which time they shall automatically terminate or be terminated.
3. Binding Effect of Covenants. All Lot Owners shall, at all times, obey all such rules covenants, conditions and restrictions, and see that the same are faithfully observed by those persons over whom they have or exercise control and supervision. It is understood and agreed that such rules, covenants, conditions and restrictions shall run with the land, and shall inure to the benefit of be binding upon all Lot owners and their heirs, successors and assigns.
4. Severability. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the above provisions, which shall remain in full force and effect.
5. Effective Date. This Declaration of Protective Covenants shall become effective the date it is recorded in the Office of the County Recorder of Davis County, Utah.

IN WITNESS WHEREOF, the undersigned have executed these covenants and restrictions the 24 day of November, 2005.

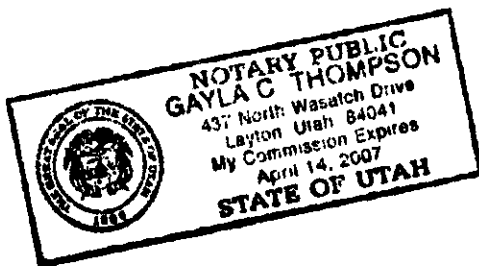
GREEN AND GREEN LC

By: Edward D. Green  
Edward D. Green, Partner

By: L. Dale Green  
L. Dale Green, Partner

STATE OF UTAH )  
 ) ss  
COUNTY OF DAVIS )

On the 24 day of November, 2005, personally appeared before me Edward D. Green & L. Dale Green, who by me being duly sworn, did say that they are equal partners of GREEN AND GREEN LC, a Utah corporation, and that the within and foregoing instrument was signed behalf of said corporation by authority of its By Laws or a resolution of its Board of Directors, and said Edward D. Green and L. Dale Green, duly acknowledged to me that said Corporation executed the same.



Gayla C. Thompson  
NOTARY PUBLIC  
Residing At:  
Commission Expires:

**EXHIBIT "A"** The Land described in the foregoing document is located in Davis County, Utah and is described more particularly as follows:

Attached Exhibit "A"

Exhibit "A"

**Boundary Description**

PART OF THE SOUTH HALF OF SECTION 30 AND THE NORTHEAST QUARTER OF SECTION 31, T.4N., R.1W., S.L.B.&M., U.S. SURVEY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTH QUARTER CORNER OF SAID SECTION 30 AND AT A POINT ON THE BOUNDARY OF WEST SIDE ESTATES (BASIS OF BEARINGS BEING ALONG THE QUARTER SECTION LINE BETWEEN SAID SOUTH QUARTER CORNER AND THE CENTER OF SAID SECTION 30, SHOWN HEREON AS: N00°12'50"E); THENCE NORTH ALONG SAID BOUNDARY 85.86 FEET; THENCE S36°41'00"E 0.53 FEET TO THE QUARTER SECTION LINE; THENCE N00°12'50"E ALONG SAID QUARTER SECTION LINE 1234.63 FEET; THENCE N89°57'50"E 700.32 FEET; THENCE S00°02'10"E 42.00 FEET; THENCE S36°25'28"E 238.08 FEET; THENCE S10°08'50"E 66.91 FEET; THENCE S36°25'28"E 125.00 FEET; THENCE S53°34'32"W 354.39 FEET; THENCE S37°12'37"E 335.03 FEET TO THE BOUNDARY OF ROBERTS FARMS NO. 3; THENCE ALONG SAID BOUNDARY THE FOLLOWING **FOUR** (4) COURSES: (1) S53°34'32"W 376.49 FEET, (2) N36°25'28"W 94.18 FEET, (3) S53°34'32"W 210.00 FEET, AND (4) S36°25'28"E 91.71 FEET; THENCE S49°18'00"W 104.98 FEET; THENCE N36°24'36"W 59.32 FEET; THENCE S49°18'00"W 345.48 FEET TO SAID BOUNDARY OF WEST SIDE ESTATES; THENCE NORTH ALONG SAID BOUNDARY 149.01 FEET TO THE POINT OF BEGINNING.

CONTAINS: 21.11 ACRES

**BY-LAWS**

The administration of ROBERTS FARMS (THE "PROPERTY") AND THE Roberts Farm Homeowners Association. (THE "association") shall be governed by these By-laws.

1. Application of By-laws.

All present and future unit owners, mortgages, lessees and occupants of units and their employees, and any other persons who may use the facilities of the property in any manner are subject to the Declaration, these By-laws and all rules made pursuant hereto and any amendment thereof. The acceptance of a deed or conveyance or the entering into of a lease or the act of occupancy of a unit shall constitute an agreement that the provisions of the Declaration and these By-laws (and any rules and regulations made pursuant thereto), as they may be amended from time to time, are accepted, ratified and will be complied with.

2. Board of Trustees.

a). The Administration of the property on behalf of the Association shall be conducted by a Board of Trustees of three (3) to nine (9) natural individuals.

b). Until all of the lots in the subdivision have been sold, the Declarant shall appoint all of the members of the Board of Trustees. At each annual meeting of the Association thereafter, the unit owners shall elect the members of the Board of Trustees for the forthcoming year. At least thirty (30) days prior to any annual meeting of the Association, the Board of Trustees shall elect from the unit owners a nominating committee of not less than three (3) members (none of whom shall be members of the then Board of Trustees) who shall recommend to owners present at the annual meeting one nominee for each position on the Board of Trustees to be filled at that particular annual meeting. Nominations for positions on the Board of Trustees may also be made by petition filed with the secretary of the Association at least seven (7) days prior to the annual meeting of the Association, which petition shall be signed by ten (10) or more unit owners and signed by the nominee named therein indicating is willingness to serve as a member of the Board of Trustees, if elected. Members of the Board of Trustees shall be required to be unit owners, and must be natural individuals and residents of the State of Utah.

c). Members of the Board of Trustees shall serve for a term of two (2) years. The terms of no more than three (3) members will end each year. The members of the Board of Trustees shall serve until their respective successors are elected, or until their death, resignation removal. Any member of the Board of Trustees who fails to attend three (3) consecutive Board of Trustees meetings or fails to attend at least 25% of the Board of Trustees meetings held during any calendar year shall forfeit his membership on the Board of Trustees.

d). Any member of the Board of Trustees may resign at any time by giving written notice to the president of the Association, or the remaining Board of Trustees members. Any member of the Board of Trustees may be removed from membership on the Board of Trustees by a two-thirds majority vote of the Association. Whenever there shall occur a vacancy on the Board of Trustees due to death, resignation, removal or any other cause, the remaining members shall elect a successor member to serve until the next annual meeting of the Association, at which time said vacancy shall be filled by the Association for the unexpired term, if any.

e). The members of the Board of Trustees shall receive no compensation for their services unless expressly approved by a majority of the Association; provided, however, that any member of the Board of Trustees may be employed by the Association in another capacity and receive compensation for such employment.

f). The Board of Trustees, for the benefit of the property and the Association, shall manage the business, property and affairs of the p property and the Association and enforce the provisions of the Declaration, these Bylaws, the house rules and the administrative rules and regulations governing the property. The Board of Trustees shall have the powers, duties and responsibilities with respect to the property as contained in the act, the Declaration and these Bylaws.

g). The meetings of the Board of Trustees shall be held at such places within the State of Utah as the Board of Trustees shall determine. A majority of the members of the Board of Trustees shall constitute a quorum, and if a quorum is present, the decision of a majority of those present shall be the act of the Board of Trustees. The Board of Trustees shall annually elect all of the officers of the Association. The meeting for the election of the offices shall be

held at the first meeting of the Board of Trustees immediately following the annual meeting of the Association.

h). Special meetings of the Board of Trustees may be called by the president or by any two (2) Board of Trustees members.

i). Regular meetings of the Board of Trustees may be held without call or notice. The person or persons calling a special meeting of the Board of Trustees shall, at least ten (10) days before the meeting, give notice thereof by any usual means of communication. Such notice need not specify the purpose for which the meeting is called; if an agenda is prepared for such a meeting, the meeting need not be restricted to discussions of those items listed on the agenda.

j). Any member of the Board of Trustees may, at any time, waive notice of any meeting of the Board of Trustees in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member of the Board of Trustees at a meeting shall constitute a waiver of notice of such meeting except if a Board of Trustees member attends the meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called. If all the members of the Board of Trustees are present at any meeting of the Board of Trustees, no notice shall be required and any business may be transacted at such meeting.

k). The fiscal year shall be determined by the Board of Trustees.

l). Because service on the Board of Trustees is voluntary and in the interest of being sensitive to time and commitments, it is proposed that the Committee may hold meetings via telephone, so long as all members have no difficulty hearing each other. Members of the Board of Trustees or any subcommittee designated by the Board of Trustees may participate in a meeting of the Board of Trustees or subcommittee by means of conference telephone or other similar communications equipment, by means of which all persons participating in the meeting can hear each other. Participation in a meeting pursuant hereto shall constitute presence in person at such meeting.

m). All Board of Trustees meetings shall be open to all voting members, but attendees other than members of the Board of Trustees may not participate in any



discussion or deliberation unless a majority of a quorum requests that they be granted permission to speak. In such, case, the President may limit the time any such individual may speak.

n). Any action to be taken at the meeting of the Board of Trustees or any action that be taken at a meeting of the Board of Trustees may be taken without a meeting if a consent in writing, setting for the action so taken, shall be signed by all the members of the Board of Trustees. An explanation of the action taken shall be posted at a prominent place or places within the common areas within three (3) days after the written consents of all of the members of the Board of Trustees have been obtained.

o). The Board of Trustees, with approval of a majority of a quorum, adjourn a meeting and reconvene an executive session to discuss and vote upon personnel matters, litigation or threatened litigation in which the Association is or may become involved, and orders of business of a privileged, confidential, sensitive or similar nature. The nature of any and all business to be considered in an executive session shall first be announced in open session.

3. Meetings of the Association.

a). The presence in person or by proxy at any meeting of the Association of fifty percent (50%) of the unit owners in response to notice of all unit owners of record properly given shall constitute a quorum. In the event that fifty percent (50%) of the unit owners are not present in person or by proxy, the meeting shall be adjourned for twenty-four (24) hours, at which time it shall reconvene and any number of unit owners present at such subsequent meeting shall constitute a quorum. Unless otherwise expressly provided in the Declaration, any action may be taken at any meeting of the unit owners upon a majority vote of the unit owners who are present in person or by proxy and who are voting.

b). Unless otherwise determined by the Board of Trustees, the annual meeting of the Association shall be held on the first Thursday of June at 7:00 p.m. at the property or at such other reasonable date, time and place (not more than sixty (60) days before or after such date) as may be designated by written notice by the Board of Trustees delivered to the unit owners not less than fifteen (25) days prior to the date fixed for said meeting. At or prior to an annual

meeting the Board of Trustees shall furnish to the unit owners; (a) a budget for the coming fiscal year that shall itemize the estimated common expenses of the coming fiscal year with the estimated allocation thereof to each unit owner; and (b) a statement of the common expenses itemizing the receipts and disbursements for the previous and current fiscal year, together with the allocation thereof to each unit owner. Within ten (10) days after the annual meeting, that budget statement shall be delivered to the unit owners who were not present at the annual meeting.

c). Special meetings of the Association may be held at any time at the property or at such other reasonable place to consider matters which, by the terms of the Declaration, require the approval of all or some of the unit owners, or for any other reasonable purpose. Special meetings shall be called by written notice, signed by a majority of the Board of Trustees, or by unit owners representing at least one-third (1/3) in interest of the undivided ownership of the common areas and facilities and delivered to all unit owners not less than fifteen (15) days prior to the date fixed for said meeting. The notices shall specify the date, time and place of the meeting, and the matters to be considered.

d). Robert's Rules of Order (latest edition) shall govern the conduct of the Association's meeting when not in conflict with the Declaration or these bylaws.

#### 4. Officers.

a). All officers and employees of the Association shall serve at the will of the Board of Trustees. The officers shall be a president, secretary and treasurer. The Board of Trustees may appoint such other assistant officers, as the Board of Trustees may deem necessary. No officer shall be required to be a unit owner but the president must be a member of the Board of Trustees. No officer shall receive compensation for serving as such. Officers shall be annually elected by the Board of Trustees and may be removed and replaced by the Board of Trustees.

b). The president shall be the chief executive of the Board of Trustees and shall preside at all meetings of the unit owners and of the Board of Trustees and may exercise the powers ordinarily allocable to the presiding officer of an Association, including the appointment of committees. The president shall

exercise general supervision over the property and its affairs. He shall sign on behalf of the Association all conveyances, mortgages and contracts of material importance to its business. He shall do and perform all acts that the Board of Trustees may require.

c). The secretary shall keep minutes of all proceedings of the Board of Trustees and of the meeting of the Association and shall keep such books and records as may be necessary and appropriate for the records of the unit owners and the Board of Trustees. In the absence or inability of the president the secretary shall perform the functions of the president.

d). The treasurer shall be responsible for the fiscal affairs of the Association, but may delegate the daily handling of funds and the keeping of records to a manager or managing company.

#### 5. Litigation.

a). If any action is brought by one or more but less than all unit owners on behalf of the Association and recovery is had, the plaintiffs expenses, including reasonable counsel's fees, shall be a common expense; provided, however, that if such action is brought against the unit owners or against the Board of Trustees, the officers, employees, or agents thereof, in their capacities as such, with the result that the ultimate liability asserted would, if proved, be bourn by all the unit owners. The plaintiffs expenses, including counsel fees, shall not be charged to or borne by the other unit owners, as a common expense or otherwise.

b). Complaints brought against the Association, the Board of Trustees or the officers, employees or agents thereof in their respective capacities as such or the property as a whole, shall be directed to the Board of Trustees, which shall promptly give written notice thereof to the unit owners and any mortgagees and shall be defended by the Board of Trustees and the unit owners and mortgagees shall have no right to participate other than through the Board of Trustees in such defense. Complaints against one or more, but less than all unit owners shall be directed to such unit owners who shall promptly give written notice thereof to the Board of Trustees and to the mortgagees affecting such units and shall be defended by such unit owners.

6. Abatement and Enjoinment of Violations by Unit Owners.

The violation of any house rules or administrative rules or regulations adopted by the Board of Trustees or the breach of any provision contained herein or the breach of any provision of the Declaration shall give the Board of Trustees the right in addition to any other rights set forth in these Bylaws:

a). To enter the unit in which or as to which such violation or breach exists and to similarly abate and remove, at the expense of the defaulting unit owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions hereof and the Board of Trustees shall not thereby be deemed guilty in any manner of trespass; or

b). To enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach.

7. Accounting.

a). The books and accounts of the Association shall be kept in accordance with generally accepted accounting procedures under the direction of the treasurer.

b). At the close of each fiscal year the books and records of the Board of Trustees shall be audited by a certified public accountant approved by the Association.

c). The books and accounts of the Association shall be available for inspection at the office of the Association by any unit owner or his authorized representative during regular business hours.

8. Special Committees.

The Board of Trustees by resolution may designate one or more special committees, each committee to consist of two (2) or more unit owners, which to the extent provided in said resolution, shall have and may exercise the powers set forth in said resolution. Such special committee or committees shall have such name or names as may be determined from time to time by the Board of Trustees. Such special committees shall keep regular minutes of their proceedings and report the same to the Board of Trustees when required. The members of such special committee or committees designated shall be appointed by the Board of Trustees or the president. The Board of Trustees or the president may appoint unit owners to fill

vacancies on each of said special committees occasioned by death, resignation, removal or inability to act for any extended period of time.

9. Amendment of Bylaws.

These Bylaws may be amended by a majority affirmative vote of the Association at a meeting duly called for such purposes. Any material amendment to these Bylaws must be approved in writing by all mortgagees as defined in the Declaration. Upon such an affirmative vote, the Board of Trustees shall acknowledge the amended Byelaws, setting forth the fact of the required affirmative vote of the unit owners and mortgagees where necessary and the amendment shall be effective upon recording.

10. Severability.

The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion hereof shall not affect the validity or enforceability of any other provision hereof.

11. Captions.

The captions herein are inserted only as a matter of convenience and for the reference and in no way to define, limit or describe the scope of these Bylaws nor the intent of any provision hereof.

12. Effective Date.

These Bylaws shall take effect upon recording of the Declaration of which they are a part.

IN WITNESS WHEREOF, the undersigned have executed these covenants and restrictions the 24 day of November, 2005

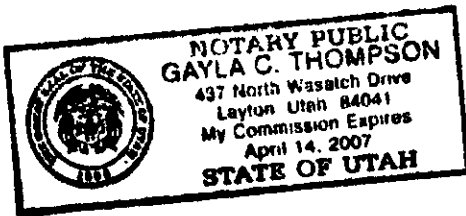
GREEN AND GREEN LC

By: Edward D. Green  
Edward D. Green, Partner

By: L. Dale Green  
L. Dale Green, Partner

STATE OF UTAH                    )  
   ) ss  
 COUNTY OF DAVIS                )

On the 2<sup>d</sup> day of November, 2005,  
 personally appeared before me Edward D Green & L. Dale Green who by  
 me being duly sworn, did say they are equal partners of  
 GREEN AND GREEN LC, a Utah corporation, and that the  
 within and foregoing instrument was signed in behalf of  
 said corporation by authority of its By Laws or a  
 resolution of its Board of Directors, and said  
Edward D. Green and L. Dale Green  
 did duly acknowledged to me that said Corporation executed  
 the same.



Gayla C. Thompson  
 NOTARY PUBLIC  
 Residing At:  
 Commission Expires: