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AFTER RECORDING PLEASE MAIL COPIES TO:

**JMR Land and Development LLC
c/o Rainey Homes
Attn: Brock Johnston
520 North 900 West
Kaysville, Utah 84037**

12-642-0101 dew
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Wheatfield Estates ^D

**Layton, Utah
A Residential Subdivision & Development**

**DECLARATION OF COVENANTS, CONDITIONS,
AGREEMENTS & RESTRICTIONS**

JMR Land and Development LLC
Developer

**DECLARATION OF COVENANTS, CONDITIONS, AGREEMENTS AND RESTRICTIONS
AFFECTING THE REAL PROPERTY KNOWN AS**

Wheatfield Estates

THIS DECLARATION is made this 6th day of January 2006, JMR Land and Development LLC and Main Line Construction, hereinafter referred to as "Declarant".

WITNESSTH

WHEREAS, the Declarant is a Utah Limited Liability Company and record owner of real property more particularly described as follows:

All of Lots 101 through 145, inclusive, and Common Areas, as Wheatfield Estates, situated in the City of Layton, in the County of Davis, in the State of Utah, according to the official plat thereof recorded as Entry No. _____, in Book _____, Page _____, in the office of the Davis County Recorder; hereinafter referred to as "Property".

WHEREAS, it is the desire and intention of the Declarant to subdivide, dedicate and/or sell the Property described above and to subject the Property to mutually beneficial restrictions under a general plan of improvement for the benefit of all the Property in the subdivision and the future owners of said Property;

THEREFORE, to further the general purposes herein expressed, Declarant, for itself, its successors and assigns, hereby declares that all of the Property shall at all times, be owned, held, used and occupied subject to the provisions of this Declaration and to the covenants, conditions and restrictions herein contained.

The following additional words, phrases or terms used in this Declaration shall have the following meanings:

- **"Board"** shall mean the Board of Directors
- **"Lots"** shall mean any area of real property within the Property designated as an individual lot.
- **"Owner"** (when so capitalized) shall mean the record holder of legal title to the fee simple interest in any lot. If there is more than one record holder of legal title to a lot, each record holder shall be an "Owner."

NOW, THEREFORE, Declarant hereby declares, for the purpose of protecting the value and desirability of the Property, that all of the Lots shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which shall run with the Lots, and be binding on all parties having any right, title or interest in the Lots or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

Mandatory Association – Each purchaser of a Unit, by virtue of accepting a deed or other document of conveyance thereto, shall automatically become a member of the Association.

ARTICLE I - ARCHITECTURAL CONTROL COMMITTEE

- 1.1 **COMMITTEE MEMBERSHIP:** The initial Architectural Control Committee shall consist of the following three members: Fred Bolingbroke, Jeff Cox and Stuart Smith. Action by this committee shall be ratified by at least two members. After the Declarant turns the Homeowner Association over to the owners, the Architectural Control Committee shall be appointed by the Board (and may be the Board). In the event of death or resignation of any member of the committee, the remaining members of the committee shall have full authority to select a successor.

- 1.2 **COMMITTEE DUTIES:** The Committee shall have all authority to interpret the architectural conditions and covenants found herein. Prior to the commencement of construction, the new owner or builder must submit two sets of plans to include all front, side and rear elevations detailing all exterior materials to be used, floor plans (including scale & dimensions of the structure to be erected), material specifications, and site plan before the review process can commence. A landscaping plan is required as specified in Article 2.7 herein, and may be required as part of the initial review if the Committee deems it necessary. The Committee will respond with an approval or disapproval as required in these covenants in writing within fourteen (14) calendar days. In the event the Committee or its designated representative fails to approve or disapprove within fourteen (14) calendar days after plans and specifications have been submitted to it, approval will not be required but all related covenants must be fully complied with. Liability for non-compliance with said restrictions and covenants should not be borne by Committee as a result of misrepresentations by applicant or oversights by Committee.

ARTICLE II - RESIDENTIAL AREA COVENANTS

- 2.1 **DWELLING—SIZE, QUALITY, EXTERIOR MATERIALS:** The following minimum finished square foot living area requirements shall apply. Living areas shall be calculated exclusive of garages, open porches, and basements. The "ground floor," as herein referred, shall be defined as the first floor with a floor elevation extending above the top back of curb at the driveway approach side of the lot.
 - a. **Dwelling Size:**
 - One Story Dwellings (Rambler):** The required minimum above ground floor finished space shall be 1800 square feet with a minimum 3-car garage required.
 - Two Story Dwellings:** The required minimum above ground floor finished space shall be 2300 square feet with a minimum 3-car garage required.

THE ARCHITECTURAL CONTROL COMMITTEE RESERVES THE RIGHT TO GRANT EXCEPTIONS TO THE ABOVE RESTRICTIONS IN ORDER TO PLACE AN APPROPRIATE HOME ON A SPECIFIC LOT DUE TO SLOPE RESTRICTIONS, LOT IRREGULARITY OR FOR ANY OTHER REASON THEY DEEM REASONABLY APPROPRIATE.

- b. **Dwelling Quality:** All construction shall be comprised of new materials, with exception to the use of used brick with prior written approval of the Architectural Control Committee. All improvements on a Lot shall be made, constructed and maintained, and all activities on a Lot shall be undertaken, in compliance and conformity with all laws and ordinances of the city of Layton, Davis County, and the State of Utah which may apply, including without limiting the generality of the foregoing, all zoning and land use ordinances.

- c. **Dwelling Architectural Specifics:** All homes must be constructed with a minimum three-car garage. No garage door(s) may be more than 60% of the front elevation exterior wall space of the home.

Roof pitches shall be a minimum of 7/12 pitch. The Architectural Control Committee must approve in writing any other variation from this specification.

If the Architectural Control Committee permits detached structures, they are to be constructed of identical exterior materials of the primary structure unless otherwise approved by the Architectural Control Committee. All property owners are required to check with the governing municipality for building code requirements and zoning restrictions related to said detached structures.

- d. **Dwelling Exterior Materials:** The dwelling's entire exterior shall be made of brick, cultured or natural rock masonry, stucco, hardiplank or a combination thereof; Cedar lapboard or other types of wood or wood-composite sidings may be allowed by written approval from the Architectural Control Committee. Any of these exterior material requirements may be waived (at the discretion of the Architectural Control Committee) where the historic style will not permit its use. Vinyl or Aluminum siding shall be not allowed except for the soffit, fascia and/or rain gutter areas.

Each dwelling must have at least a 30-year architectural (laminate) asphalt type shingle.

ALL DWELLING SIZES, FLOOR PLANS AND EXTERIOR MATERIALS MUST BE SUBMITTED TO THE ARCHITECTURAL CONTROL COMMITTEE IN WRITING, AS OUTLINED IN ARTICLE 1.2 OF THESE COVENANTS, AND APPROVALS MUST BE OBTAINED IN WRITING PRIOR TO THE BEGINNING OF CONSTRUCTION ON THE HOME. IF SAID APPROVALS ARE NOT OBTAINED AND CONSTRUCTION BEGINS, OWNER SHALL BE SUBJECT TO A \$1000.00 FINE, WHICH MAY BE LEVIED AS A LEIN, AT THE SOLE DISCRETION OF THE ARCHITECTURAL CONTROL COMMITTEE.

- 2.2 **FENCES, WALLS, AND HEDGES:** All fences or walls should be kept to a minimum to encourage the use of the common areas and aesthetics. The use of hedges are encouraged, but are required to be in conformance with the guidelines found in this section as well as any and all landscape requirements found herein. Any fence or wall constructed on any lot shall be approved by the Architectural Control Committee and be constructed in conformity to the following guidelines:

- a. **Material:** All allowed fences or walls shall be of vinyl, brick, stone, or wrought iron. No fence or walls shall be constructed of, chain link (except for that required by Layton City), wire mesh, slump block (painted or unpainted) or concrete block unless approved in writing by the Architectural Control Committee. See Section 2.2c below for fence material requirements and restrictions along common areas / open spaces.

Any and all retaining wall structures shall be of natural rock unless approved in writing by the Architectural Control Committee.

- b. **Height:** Any fence, wall, hedge, or other similar structure (including without limitation, any "topping" on such structures) shall not be erected in a front yard to a height in excess of three (3) feet, nor shall any such structure be erected in any side or rear yard to a height in excess of six (6) feet. Where a retaining wall protects a cut below the natural grade and is located on the line separating Lots, a fence, wall or hedge or similar structure six (6) feet in height may top such retaining wall.
- c. **Location:** Unless approved by the Architectural Control Committee, no fence, wall or hedge more than three (3) feet in height as outlined above, shall be erected, placed, altered, or permitted to remain on any lot closer than four (4) feet back on the residential structure on said lots. Where

said hedge, fence or wall is located along the boundary line between two adjoining lots, it shall be erected no more than four (4) feet back on the residential structure that is furthest from the street.

Fences bordering the common areas/open spaces shall be of the same construction, style, color, and brand as determined by the Architectural Control Committee. Fences along corner property boundaries shall not be permitted to be up against the sidewalk. Said fences shall be at least 1 foot from the sidewalk and shall be located on the Owner's property.

2.3 **DRAINAGE:** Generally, the side and rear property lines are deemed drainage easements, and no lot shall be graded and no structure or other obstacle shall be erected, placed, or permitted to remain thereon in such a way as to interfere with the established drainage structures or drainage pattern over the lot to and from adjoining land. In the event it becomes necessary to change the established drainage over a lot, adequate provision shall be made for proper drainage. Any fence or wall erected along the side or rear property line of any lot shall contain "weep holes" or shall be otherwise constructed so as to not prevent the flow of surface water from adjoining land where such flow is in accord with the established drainage. The owner of the lot shall continuously maintain the sloped areas of each lot and all improvements in them, except for those improvements for which a public authority, utility company is responsible.

2.4 **SPECIAL PROVISIONS:**

Conditions and Disclosures. The provisions, conditions and disclosures addressed by municipalities; professional, civil, soils and geological engineers; and the Declarant prior to the final approval and recordation of the plat of record are on file with the Layton City Community Development and Engineering Departments; The disclosure of these numerous geological reports was required as a condition of such plat approval. It is each Lot owner's responsibility, prior to and in conjunction with the ownership of their Lot, to review any and all supportive documentation including these reports, and that the home building and landscaping recommendations be followed.

2.5 **USE RESTRICTIONS:** The use of the Lots and common areas in the tract are subject to the following use restrictions:

- a. **Land Use.** Each lot shall be used for private residence purposes only, and no pre-existing structure of any kind shall be moved from any other location and placed upon said lot, nor shall any incomplete building be permitted to remain incomplete for a period in excess of one (1) year from the date the building was started, unless approved by the Architectural Control Committee. No Lot shall be subdivided or partitioned.
- b. **Nuisance.** No Owner or resident, or their family members, guests or invitees shall create or maintain a nuisance, or if a nuisance is created, it shall be promptly abated. A nuisance means any condition, activity or behavior which bothers, disturbs or annoys other residents, or interferes with their quiet and peaceful enjoyment of the neighborhood, or the creation or maintenance of any noxious or offensive condition including but not limited to the assembly and disassembly of motor vehicles and other mechanical devices which might tend to cause disorderly, unsightly, or unkempt conditions, and shall not be pursued or undertaken on any part of the Property.
- c. **Temporary Structures.** No Owner or resident shall place upon any part of the Property any temporary structures including but not limited to tents, trailers, or sheds, without the prior written

consent of the Committee, although the Developer may install and use temporary structures in the development of the Property and marketing of the lots or homes.

No structures of a temporary character, trailer, tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time as a residence, either temporarily or permanently.

- d. **Out Buildings.** It is understood that out buildings such as swimming pool dressing facilities, sheds, garages, etc., may be constructed on any lot as long as they are in conformity with the requirements found in Section 2.1c of this Declaration and are approved by the Architectural Control Committee. No detached garage larger than 1300 square feet shall be permitted. The height of any out building shall not exceed the height of the home itself.

Light of said structures must be designed to have the least amount of impact as possible on the surrounding neighbors. All lighting of out building issues shall be addressed at the time the ACC reviews and approves the building plans.

- e. **Energy Conservation Equipment.** No solar energy collector panels, other energy conservation equipment or attendant hardware shall be constructed or installed on the Property without the prior written consent of the Architectural Control Committee.
- f. **Commercial or Business Use.** No commercial trade or business may be conducted in or from any Lot unless: 1) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the residence; 2) the business activity conforms to all zoning requirements for the Property, and the necessary and required permits and licenses are obtained; 3) the business activity does not involve persons coming onto the Property who do not reside in the Property or door-to-door solicitation of residents of the Property; and 4) the business activity is consistent with the residential character of the Property and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Property, as may be determined in the sole discretion of the Committee. The terms "trade or business" shall have their ordinary and generally accepted meanings, which 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 such activity is engaged in full or part-time, such activity is intended to or does generate a profit, or a license is required therefore. The leasing of a Dwelling Unit shall not be considered a trade or business within the meaning of this subsection.
- g. **Storage and Parking of Vehicles.** Motor Vehicles in the Property shall be subject to the parking rules and regulations adopted by the Board from time to time. No automobiles, trailers, boats, racks, snowmobiles, motor homes, recreational vehicles or any other type of vehicles shall be stored on driveways for more than 45 days in a year. Such vehicles that are properly licensed and in running condition may be stored on side of the lot if properly screened from view behind a 6' privacy fence. Unlicensed vehicles or vehicles that are not in running condition must be stored in garages or at locations off the Property. No motor vehicle or trailer, including but not limited to any car, automobile, truck, van, or any other transportation device of any kind may be parked or stationed in such a manner so as to block access to any Lot, building or parking space, or to create an obstacle or potentially dangerous situation. No resident shall repair or restore any vehicle of any kind in, on or about any of the common areas or Public Rights of Way, except for emergency repairs, and then only to the extent necessary to enable movement thereof to a proper repair facility. No garage may be altered in such a manner that the number of motor vehicles that may

reasonably be parked therein after the alteration is less than the number of motor vehicles that could have been reasonably parked in the garage as originally designed and constructed.

- h. **Cooling Units, Aerials, Antennas, and Satellite Systems.** If the home is to have cooling units installed, central air conditioning units shall be required. Under no circumstances shall swamp coolers mounted to roofs, walls or windows be allowed.

No television, ham radio, citizen band or radio antenna or other similar electronic receiving or sending device shall be permitted upon the rooftop or side of any home or elsewhere if exposed to the view from any other lot, unless approved by the Architectural Control Committee. New digital satellite style "mini-dishes" or the like may be excluded from this provision, but Architectural Control Committee approval is still required. In no case will any such receiving or sending antenna or other device be allowed to interfere with the peace and quiet enjoyment of any neighboring lot owner's premises or home entertainment facilities or equipment.

- i. **Signs.** No sign of any kind shall be displayed to the public view on any lot except one sign of not more than five square feet advertising the property for sale; or signs (of any size) used by a builder to advertise the property during the construction and sales period unless otherwise authorized by the Architectural Control Committee in writing.
- j. **Pets.** No more than two (2) domestic pets per Lot are allowed unless the Board grants a variance in writing. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on or about the property. Residents with pet(s) shall abide by the pet rules and regulations adopted by the Board from time to time. No pet may be allowed to create a nuisance. The following activities are deemed to be a nuisance: (1) Pets outside a Dwelling Unit and not in a fenced yard or in a cage or on a leash and under the control of the pet owner or his designee at all times; and (2) Pets in violation of the rules and regulations. Pets, which constitute a nuisance, in the sole opinion of the Board, must be removed from the Property.

No dog will be allowed to roam unattended in the Property. Dogs shall be kept in the house, a non-chain link dog run, kennel, or a fenced yard. All dog runs or kennels shall be screened off and out of the direct view from any street, and should be in the rear yard of the home. At other times, dogs shall be on a leash and under the direct control and supervision of the owner.

- k. **Laws.** Nothing shall be done or kept in, on or about any Lot or common area, or any part thereof, which would be a violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body.
- l. **Damage or Waste.** No damage to, or waste of, the common area shall be committed by any Owner or any invitee of any Owner, and each Owner shall indemnify and hold the Association and the other Owners harmless against all loss resulting from any such damage or waste caused by that Owner or an invitee; provided, however, that any invitee of the Declarant shall not under any circumstances be deemed to be an invitee or any other Owner.
- m. **Common Area Structural Alterations.** No structural alteration to the common area or facilities is allowed without the prior written consent of the Board.
- n. **Repair of Buildings & Improvements.** No building(s) or improvement(s) upon any lot shall be permitted to fall into disrepair, and each such improvement shall at all times be kept in good condition and repair and adequately painted or otherwise finished by the Owner thereof.

- o. **Mail Boxes.** The mailbox location is regulated by the US Postmaster and is restricted by the same. Some restrictions may also be placed by the city. The Owner is solely responsible to obtain instructions for proper mailbox installation and location from said entities. With this said, all mailboxes will be of identical style and architectural design as determined solely by the Architectural Control Committee.
- p. **Refuse & Disposal.** No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste shall not be kept except in the sanitary containers provided by the City of Layton. All containers or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.
- q. **Excavations & Completing Improvements.** No excavation shall be made on any lot except in connection with the erection, alteration, or repair of a dwelling or other improvement thereon. When excavation or the erection, alteration, or repair of a structure or other improvements has once begun, the work must be executed diligently and completed within a reasonable time, which is the sole determination of the Architectural Control Committee and/or the Board.

2.6 OFF-SITE IMPROVEMENTS: Before taking title or possession of any Lot, the Purchaser shall inspect the completed offsite improvements. Except for deficiencies or defects specified by the Purchaser to the developer before ownership is taken, purchaser hereby releases the developer from further obligations or responsibility as to the installation of the off-site improvements.

If the off-site improvements are not complete at the time ownership is taken, the Developer will, upon completion of the uncompleted off-site improvements, give written notice of completion to purchaser and, unless Purchaser notifies the Developer of any deficiencies within seven (7) days after the date of receipt of the notice of completion the off-site improvements shall be deemed acceptable to the Purchaser and the Developer will be released from any further obligations or responsibilities as to the installation of the previously incomplete off-site improvements.

CONDITIONS OF ACCEPTANCE: Upon transfer of title from Developer to Purchaser, Purchaser shall assume full responsibility for accepting property 'AS IS' and to make property inspection of the following prior to closing: 1) Sewer; 2) Water; 3) Gas (if installed); 4) Electric (if installed); 5) Telephone (if installed); 6) Curb & Gutter; 7) Sidewalks; 8) Asphalt roads; 9) Rough Grading; 12) others as applicable

The Property has been developed as a standard subdivision within Layton City and all streets, water, land drain (those found within the public rights-of-way), storm drain improvements and rights-of-way will be dedicated to and maintained by Layton City. Layton City will also be providing water service and garbage removal.

2.7 LANDSCAPING: Initial landscape requirements are as follows: The owner is to initially landscape all front and side yards (to the rear of the home) in a manner prescribed herein and as accepted and approved by the Architectural Control Committee; and, complete said landscaping within 3 months (90 calendar days) of builder's receipt of a Certificate of Occupancy from Layton City (weather permitting), or in the event that weather doesn't permit commencement of landscaping to begin the owner shall begin no later than May 1st. In either case, all of the aforementioned landscaping requirements shall be completed within a ninety-day period. Back yard landscaping shall be completed within 6 months of receipt of certificate of occupancy. Initial landscaping of the common areas shall be exempt from these time restrictions.

- Front and side yards must be sodded, with hydroseed being allowed in the back yard if ACC approved fencing is installed prior to its application. It is strongly recommended that homeowners incorporate the existing vegetation into the overall landscape plan.

On lots that have a parkstrip located in the front or partial front or their lots, landscaping and maintenance of this strip shall be the responsibility of the homeowner. Each homeowner shall be required to plant in the parkstrip street trees 30 feet apart or as per the street tree planting plan as approved by Layton City. Any trees planted within these public rights-of-way shall comply with Layton City's ordinances.

Lots 101-114 and 145 contain a five (5) foot landscape easement as shown on the recorded plat. The landscape buffer will be fully landscaped and maintained by the Home Owner's Association. Layton City is not and will not be required to maintain said buffer should it die or fall into disrepair. Failure by the Home Owners Association to irrigate or maintain said buffer will result in enforcement from Layton City until the landscape buffer is brought into compliance. Layton City will not acquire any debts or make payments for water usage or maintenance fees payable for maintaining the required landscape buffer.

All trees, lawns, shrubs or other plantings shall be properly nurtured and maintained or replaced at the Owner's expense upon request of the Architectural Control Committee.

The Owner is required to submit two sets of plans that include all front and side landscaping plans detailing all trees, plants, and grass locations; planters, rocks, berms, and retaining locations to be used before the review process can commence. The Committee shall have the authority to disapprove any landscape practices including but not limited to extraordinary landscape treatments (i.e. lava rock gardens in park strips or other similar practices). The Committee will respond with an approval or disapproval as required in these covenants in writing within ten (10) calendar days. In the event the Committee or its designated representative fails to approve or disapprove within ten (10) calendar days after plans and specifications have been submitted to it, approval will not be required but all related covenants must be fully complied with. Liability for non-compliance with said restrictions and covenants should not be borne by Committee as a result of misrepresentations by applicant or oversights by Committee. A landscaping plan may be required sooner if the Architectural Control Committee deems necessary as a part of approving the architectural style of the home as found in Section 2.1 above.

ASSOCIATION BYLAWS

THE ASSOCIATION'S BYLAWS ARE HEREBY EMBODIED IN THIS DECLARATION AS ARTICLES 3 THROUGH 11.

ARTICLE III (Bylaws)

3.01 Name. The name of this organization shall be the WHEATFIELD ESTATES HOMEOWNERS ASSOCIATION, hereinafter referred to as the "Association." The WHEATFIELD ESTATES HOMEOWNERS ASSOCIATION shall be a nonprofit corporation.

ARTICLE IV (Bylaws)

OBLIGATIONS OF MEMBERS

4.01 Assessments. Each Member shall pay his or her pro rata share of all assessments imposed by the Association to meet the Common Expenses. Each assessment shall be equally allocated among the Members. If a Lot is owned by two or more Members, each of such co-Members shall be jointly and severally liable for

the portion of the assessment attributable to such Lot. Assessments shall be made on such periodic basis as the Board may determine and shall be due and payable on the date specified in the assessment notice. At the time of the closing of title for the initial or subsequent purchase of a Lot, the purchasing owner shall pay to the Association the assessments attributable to such Lot through the end of the fiscal year plus a one-time Initial Assessment as determined from time to time by the Board.

4.02 Enforcement of Payment; Lien; Priority of Lien. Each assessment and each special assessment of Common Expenses, plus all late fees assessed, applicable interest, costs of action and reasonable attorney's fees, shall be separate, distinct and personal obligations of the Owner(s) of the Unit against which the same is assessed at the time the assessment is made and shall be collectible as such. Suit to recover a money judgment for unpaid Common Expenses, plus all late fees assessed, applicable interest, costs of action and reasonable attorney's fees, may be maintained without foreclosure or waiving the lien (described hereafter) securing the same. If not paid when due, the amount of any assessment, whether regular or special, assessed to a Unit, plus all late charges, interest, costs of action and reasonable attorney's fees, shall become a lien upon such Unit upon recordation of a notice thereof as provided by the Act. The said lien for non-payment of Common Expenses shall have priority over all other liens and encumbrances, recorded or unrecorded, except only:

- (a) tax and special assessment liens on the Unit in favor of any assessing unit, or special district; and
- (b) encumbrances on the interest of the Unit Owner recorded prior to the date such notice is recorded which by law would be a lien prior to subsequently recorded encumbrances.

4.03 Homeowner and Mailing Address Registration. Any person upon becoming Homeowner of a lot, shall notify the secretary or the managing agent within five days of the transfer of title or change of address. If a Lot is owned by two or more Owners, such Co-Owners shall designate one address as the registered address. An Owner or Owners shall notify the secretary or managing agent of his or their registered address within five days after any transfer of title or change of address. Such notice shall be written and signed by all of the Owners to which it relates or by such persons authorized to sign on behalf of such Owners.

4.04 The Association shall have One Class of Voting Membership. Members shall be all owners and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons can be members, but may only cast one vote with respect to any Lot. There can be no split votes.

ARTICLE V (Bylaws)

MEETING OF MEMBERS

5.01 Place of Meetings. Meetings of the members shall be held at any place within Davis County that the Board may from time to time elect.

5.02 Annual Meetings shall be held for the entire Membership during the same month for the purposes of electing the Board, reviewing the past year's financial reports, and reviewing the upcoming year's proposed budget.

5.03 Special Meetings. Special meetings of the members may be called at any time by the President or the Board, or upon written request of fifty percent (50%) of the current members. The call for such meeting shall be in accordance with these bylaws.

5.04 Action Without a Meeting. Any action which may be taken at a regular or special meeting, may be taken without a meeting, if the Association distributes a written ballot to every Member entitled to vote. Such ballot shall set forth the proposed action, provide an opportunity to specify approval or disapproval of any proposal, and provide a reasonable time within which to return the ballot to the Association, which shall be a date not earlier than thirty (30) days after distribution of the written ballot to the Members.

Approval by written ballot shall be valid only when the number of votes cast equals or exceeds the quorum required to be present at a meeting authorizing the action and the number of approvals equals or exceeds the number of votes that would be required to approve the action at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

The ballot solicitation shall identify the number of responses needed to meet the quorum requirement and the percentage of approvals necessary to pass the measure submitted and shall specify the time by which the ballot must be received by the Association in order to be counted.

5.05 Notice of Meetings. Notice of each meeting shall be given by, or at the direction of, the Association Secretary. The notices shall specify the place, day, and hour of the meeting, and in the case of special meetings, the purpose thereof. Notice of any meeting called for the purpose of increasing the annual dues, or requesting a special assessment shall be given to all members not less than twenty (20) days in advance of such meeting.

All inaccuracies and irregularities in calls or notices of meetings and in the manner of voting form of proxies, and method of ascertaining Members present shall be deemed waived if no objection thereto is made before or at the meeting.

5.06 Quorum. At any meeting of the Members duly called and noticed, the Members and proxy holders present shall constitute a quorum for the transaction of business, except where a greater number is required by the Declaration.

5.07 Proxies. A member entitled to vote may vote by proxy executed in writing by the member. All proxies shall be in writing and filed with the Secretary of the Association or Managing Agent. Any proxy given shall be effective only for the specific meeting for which originally given and any lawfully adjourned meeting thereof. In no event shall any proxy be valid for longer than ninety (90) days after the date of the first meeting for which it was given. Every proxy shall be revocable at any time at the pleasure of the member executing it.

5.08 Conduct. All meetings of the Association and its committees shall be conducted in accordance with Robert's Rules of Order and the bylaws of the Association. In the event there are questions as to procedure, the presiding officer shall refer the questions to the Parliamentarian for a ruling thereon. If no Parliamentarian has been appointed, the presiding officer shall make the ruling. Unless authorized by the President, only members in good standing may address the chair.

5.09 Minutes. Minutes of all meetings shall be kept in a businesslike manner and shall be available for inspection by the members or their authorized representatives and board members at reasonable times. The Association shall retain those minutes for a period of not less than seven (7) years.

ARTICLE VI (Bylaws)

BOARD OF DIRECTORS; SELECTION AND TERM OF OFFICE

6.01 The Business and affairs of the Association shall be managed and governed by a Board composed of not less than three, but may be increased to such greater number (by a majority vote of the quorum present at such meeting), not to exceed seven, all of whom must be members in good standing.

6.02 Term At each Annual Meeting of the Association, the Members shall elect the number of Directors necessary to succeed those whose terms are then expiring, for terms of three (3) years each; except in the first year, in which one (1) Director to serve for a term of Three (3) years; one (1) Director to serve for a term of Two (2) years; and one (1) Director to serve for a term of One (1) year. At each Annual Meeting thereafter, the Members shall elect for a term of Three (3) years one Director to fill the vacancy created by the expiring term of a Director. A Director shall continue in office until his/her successor shall be elected and qualified, unless he or she sooner dies, resigns or is otherwise disqualified to serve.

6.03 Removal and Vacancies. Any Director may be removed from the board, with or without cause, by a majority vote of the members of the Association at any regular or special meeting provided thirty (30) days

advance notice has been provided or by a unanimous vote of the remaining Directors if the Director in question has missed three consecutive Board meetings. Any vacancy in the Board for any reason shall be filled by the remaining members of the board and shall serve the remaining term of the Director.

6.04 Compensation. No Director shall receive compensation for services he or she may render to the Association. However, any Director may be reimbursed for actual expenses incurred in the performance of his or her duties.

6.05 Manager. The Board of Directors may carry out through a Manager any of its functions which are properly the subject of delegation. Any Manager so engaged shall be responsible for managing the Project for the benefit of the Association and the Unit Owners, and shall, to the extent permitted by law and the terms of the agreement with the Association, be authorized to perform any of the functions or acts required or permitted to be performed by the Board of Directors itself. Any agreement for professional management of the Project, and any management contract, employment contract or lease of recreational or parking areas or facilities, and any other contract providing for services of the Declarant, and any lease to which Declarant is a party which may be entered into by the Board of Directors or the Association shall call for a term not exceeding two (2) years and shall provide that such agreement or lease may be terminated by either party thereto without cause with at least ninety (90) days written notice.

6.06 Nomination. Nominations for election to the Board of Directors will be accepted from the floor at the Annual Meeting.

6.07 Election. Election to the Board of Directors shall be by secret written ballot unless this method is waived by a majority of the members in attendance at the meeting. At such election the members or their proxies shall cast one (1) vote per each vacancy. The person receiving a plurality of the votes cast for that office shall be elected.

ARTICLE VII (Bylaws)

MEETINGS OF DIRECTORS

7.01 Regular Meetings. Regular meetings of the Board of Directors shall be held as deemed necessary by the Board of Directors at such place, date and time as may be fixed from time to time by the Board.

7.02 Special Meetings. Special meetings of the Board of Directors shall be held when called by the President, or by any two (2) Directors of the Board, after not less than three (3) days notice to each Director.

7.03 Emergency Meetings. Emergency meetings may be held at the request of the President, by telephone or email conference. Members of the Board may be polled over the telephone or email and a majority of affirmative votes which then shall be the action of the Board. Minutes shall be filed by the Secretary.

7.04 Action by Written Agreement. The Board of Directors may act by written agreement without meeting provided the agreement is signed by a majority of the officers and confirmed at the next regular meeting.

7.05 Open Meetings. All regular and special meetings of the Board shall be open to all members of the Association. Any member desiring to address the Board must contact the President, Vice President, or managing agent at least one (1) day in advance of the meeting to make appropriate arrangements.

7.06 Quorum. A majority of the number of Directors shall constitute a quorum for conducting business. Every decision or act made by the majority of the Directors present at a meeting at which a quorum is present will be considered an act of the Board. If at a meeting a quorum is not present, the meeting may be adjourned until a quorum is present. A Director may join in the action of a meeting by signing the minutes thereof and as such constitute the presence of such Director for the purpose of determining a quorum.

7.07 Minutes. Minutes of all meetings of the Board of Directors shall be kept in a businesslike manner and shall be available for inspection by members, or their authorized representatives and Board Members at reasonable times upon appropriate advance notice to the Secretary. The Association shall retain these minutes for a period of not less than seven (7) years.

ARTICLE VIII (Bylaws)

OFFICERS

8.01 Enumeration of Officers. The officers of the Board of Directors and the Association shall be one and the same and shall be a President, Vice President, and Secretary/Treasurer. All officers shall at all times be members of the Board of Directors and no officers may be elected or appointed who are not members of the Board of Directors.

8.02 Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors which shall follow the annual meeting of members.

8.03 Term. The officers shall be elected annually by the Board of Directors and shall hold office for one year unless he or she shall sooner resign, or shall be removed or otherwise disqualified to serve.

8.04 Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine. Such additionally elected officers shall be chosen from the Board of Directors and shall at all times be members of the Board of Directors.

8.05 Committees. The Board may appoint regular and special committees to serve for the purposes designated by the Board and for such terms as determined by the Board.

8.06 Resignation and Removal. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at such later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

8.07 Vacancies. A vacancy in any office may be filled by appointment by a majority vote of the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he or she replaces.

8.08 Multiple Offices. The offices of President and Secretary may not be held by the same person. The offices of President and Vice President may not be held by the same person. Otherwise, the same person may hold multiple offices.

8.09 Duties. Duties of the officers are as follows:

A. President. The President shall preside at all meetings of the Board of Directors; see that orders and resolutions of the Board are carried out, and shall have all of the powers and duties which are normally vested in the office of the President of a corporation.

B. Vice President. The Vice President shall act in the place and stead of the President in the event of his or her absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him or her by the Board of Directors.

C. Secretary. The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board of Directors and of the members; serve notice of meetings of the Board of Directors and of the members; keep appropriate current records showing the members of the Association together with their addresses; and shall perform such other duties as may be required by the Board of Directors.

D. Treasurer. The Treasurer shall receive and deposit in appropriate bank accounts all moneys of the Association and shall disburse such funds as directed by resolution of the Board of Directors; keep proper

books of account; if determined by resolution of the Board, shall cause an annual review of the Association books to be made at the completion of each fiscal year; and shall prepare a statement of income and expenditures to be presented to the membership at its regular annual meeting, and provide a copy of the statement to any member who requests it.

Customary Duties. The officers, in addition to the duties specifically set forth herein, shall perform the duties of those offices customarily performed by officers of corporations.

In the event that "Community Management" is hired, the Treasurer's duty is to make certain that Community Management carries out the duties.

8.10 Compensation. The officers shall serve without compensation.

ARTICLE IX (Bylaws)

ACCOUNTING RECORDS; FISCAL MANAGEMENT; ASSESSMENTS

9.01 Books and Records. The Association shall keep correct and complete books and records of account including all receipts and expenditures. The books and records of the Association shall be open to inspection by members or their authorized representatives at reasonable times upon appropriate advance notice to the Board of Directors. Such authorization as a representative of a member must be in writing and signed by the person giving the authorization and dated within thirty (30) days of the date of the inspection. Written summaries of the accounting records may be made available to the members. Such records if made available shall include a record of all receipts and expenditures.

9.02 Fiscal Year. In administering the finances of the Association, the following procedures shall govern:

A. The fiscal year shall be fixed by the Board.

B. Any moneys received by the Association in any fiscal year may be used by the Association to pay expenses incurred in the same calendar year subject to the provisions for excess revenues as described in the Association's documents.

C. The Association will operate on a modified-accrual basis accounting system.

9.03 Annual Dues. Annual Dues are established annually by the Board of Directors in accordance with Declaration.

9.04 Depository. The depository of the Association shall be such bank or banks as shall be designated from time to time by the Board of Directors in which the moneys of the Association shall be deposited. Withdrawal of moneys from such account shall be only by checks signed by such persons as are authorized by the Board.

9.05 Fiduciary Relationship. The officers and Directors of the Association shall have a fiduciary relationship to the members.

ARTICLE X (Bylaws)

INDEMNIFICATION

10.01 Indemnification: Association Actions. The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action or suit by or in the right of the Association to procure a judgment in its favor by reason of the fact that he is or was a Director or officer of the Association, or is or was serving at the request of the Association as a director, Director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise against expenses (including attorney's fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit, if he acted in good faith and in a manner he reasonably believed

to be in or not opposed to the best interests of the Association and except that no indemnification shall be made in respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable for gross negligence or willful misconduct in the performance of his duty to the Association, unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

10.02 Determinations. To the extent that a person has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in Section 13.01 hereof, or in defense of any claim, issue, or matter therein, he shall be indemnified against expenses (including attorney's fees) actually and reasonably incurred by him in connection therewith. Any other indemnification under Section 13.01 hereof shall be made by the Association only upon a determination that indemnification of the person is proper in the circumstances because he has met the applicable standard of conduct set forth respectively in Section 13.01 hereof. Such determination shall be made either (i) by the Board of Directors by a majority vote of disinterested Directors or (ii) by independent legal counsel in a written opinion, or (iii) by the Members by the affirmative vote of at least fifty percent (50%) of the voting power of the Members of the Association at any meeting duly called for such purpose.

10.03 Advances. Expenses incurred in defending a civil or criminal action, suit, or proceeding as contemplated in this Article may be paid by the Association in advance of the final disposition of such action, suit, or proceeding upon a majority vote of a quorum of the Board of Directors and upon receipt of an undertaking by or on behalf of the person to repay such amount or amounts unless it ultimately be determined that he is entitled to be indemnified by the Association as authorized by this Article or otherwise.

10.04 Scope of Indemnification. The indemnification provided for by this Article shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any provision in the Association's Articles of Incorporation, Bylaws, agreements, vote of disinterested Members or Directors, or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office. The indemnification authorized by this Article shall apply to all present and future Directors, officers, employees, and agents of the Association and shall continue as to such persons who cease to be Directors, officers, employees, or agents of the Association and shall inure to the benefit of the heirs and personal representatives of all such persons and shall be in addition to all other rights to which such persons may be entitled as a matter of law.

10.05 Insurance. The Association may purchase and maintain insurance on behalf of any person who was or is a Director, officer, employee, or agent or was or is serving at the request of the Association as a Director, director, officer, employee, or agent of another corporation, entity, or enterprise (whether for profit or not for profit).

10.06 Payments and Premiums. All indemnification payments made, and all insurance premiums for insurance maintained, pursuant to this Article shall constitute expense of the Association and shall be paid with funds from the Assessments referred to in these Documents.

ARTICLE XI (Bylaws)

RULES AND REGULATIONS

11.01 Rules and Regulations. The Board of Directors may from time to time adopt, amend, repeal; and enforce reasonable rules and regulations governing the use and operation of the Project, to the extent that such rules and regulations are not inconsistent with the rights and duties set forth in the Articles of Incorporation, the Declaration, or these Bylaws. The Members shall be provided with copies of all rules and

regulations adopted by the Board of Directors, and with copies of all amendments and revisions thereof.

ARTICLE XII - GENERAL PROVISIONS

12.1 ENFORCEMENT: Any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by any Owner to enforce any covenants or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

12.2 SEVERABILITY: Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provision, which shall remain in full force and effect.


12.3 Interpretation of the Declaration, Bylaws, & Articles of Incorporation. Except for judicial construction, the Directors shall have the exclusive right to construe and interpret the provisions of the Declaration, Bylaws, & Articles of Incorporation. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Directors construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all persons and property benefited or bound by these documents and the provisions hereof.

12.4 AMENDMENT: Exceptions to the strict interpretation of these guidelines that would cause undo hardship serving no public purpose may be appealed to the Architectural Control Committee. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of sixty (60) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended or terminated by a vote of at least sixty-six and two-thirds percent (66-2/3rd%) of the total allowable votes of all Lots except common area lots, which vote may be taken at a duly called meeting, or individually in person. Any amendment approved shall be written, signed, and recorded against the Lots.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, have hereunto set their hand this 19th day of April, 2006.

DECLARANT:

by JMR Land and Development LLC, a Utah Limited Liability Company

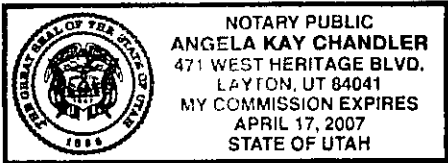


by Joe Rainey

a Member Manager.

On the 19 day of April, 2006, personally appeared before me Joe Rainey, who being by me duly sworn did say that he a Member Manager of JMR Land and Development LLC, that he signed the foregoing instrument by proper authority, both in its capacity as a Limited Liability Company and in its capacity as a manager member of the said Limited Liability Company, and said Joe Rainey, duly acknowledged to me that said Limited Liability Company executed the same.

Signed: _____
NOTARY PUBLIC
Residing at _____
My commission expires _____



DECLARANT:

by Mainline Construction

by Stuart Smith

a Member Manager.

On the 28th day of April, 2006, personally appeared before me Stuart Smith, who being by me duly sworn did say that he a Member Manager of Mainline Construction, that he signed the foregoing instrument by proper authority, both in its capacity as a Limited Liability Company and in its capacity as a manager member of the said Limited Liability Company, and said Stuart Smith, duly acknowledged to me that said Limited Liability Company executed the same.



Signed: _____
NOTARY PUBLIC
Residing at Clearfield, UT
My commission expires 10-13-06