

48 Robert Thurgood  
165 E. 1550 S  
Perry

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LuAnn Adams - Filed By nm  
Box Elder Co., UT  
For ROBERT THURGOOD  
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DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS OF  
QUAIL POINTE  
PERRY CITY, BOX ELDER COUNTY, UTAH

DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS OF  
QUAIL POINTE PHASE II

THIS declaration is made and executed this \_\_\_\_\_ day of September, 2005, by Robert L. Thurgood Family Trust created 8-20-96, Robert L. Thurgood, Trustee (the "Declarant")

RECITALS:

A. Declarant is the owner of the following described real property located in Box Elder County, State of Utah:

A PART OF THE SOUTH HALF OF SECTION 25 AND THE NORTH HALF OF SECTION 36, TOWNSHIP 9 NORTH, RANGE 2 WEST OF THE SALT LAKE BASE AND MERIDIAN. BEGINNING AT THE NORTHEAST CORNER OF LOT 22, QUAIL POINTE PHASE 2 SUBDIVISION, SAID POINT BEING LOCATED NORTH 89°00'30" EAST 2280.37 FEET AND SOUTH 00°00'00" EAST 170.78 FEET FROM THE SOUTHWEST CORNER OF SAID SECTION 25; RUNNING THENCE ALONG THE EASTERLY BOUNDARY OF SAID QUAIL POINTE PHASE 2 SUBDIVISION THE FOLLOWING FOUR COURSES: (1) NORTH 88°36'14" EAST 0.93 FEET; \*2) TO THE RIGHT ALONG THE ARC OF A 220.00 FOOT RADIUS CURVE A DISTANCE OF 54.36 FEET, CHORD BEARS SOUTH 84°19'04" EAST 54.22 FEET; (3) NORTH 12°45'45" EAST 60.00 FEET; (4) NORTH 06°46'42" EAST 131.28 FEET TO THE SOUTHWEST CORNER OF LOT 9, QUAIL POINTE PHASE 1 SUBDIVISION; THENCE ALONG THE EASTERLY LINE OF SAID QUAIL POINTE PHASE I SUBDIVISION THE FOLLOWING FOUR COURSES: (1) NORTH 60°34'07" EAST 111.56 FEET; (2) NORTH 10°52'18" EAST 91.32 FEET; (3) TO THE RIGHT ALONG THE ARC OF A 220.00 FOOT RADIUS CURVE A DISTANCE OF 52.07 FEET, CHORD BEARS SOUTH 72°20'51" EAST 51.95 FEET; (4) NORTH 24°26'01" EAST 236.27 FEET TO THE NORTHEAST CORNER OF SAID QUAIL POINTE PHASE I SUBDIVISION; THENCE ALONG THE SOUTH BOUNDARY OF NIELSON ESTATES PHASE 2 AND NIELSON ESTATES SUBDIVISION THE FOLLOWING 2 COURSES: (1) NORTH 88°59'07" EAST 30.07 FEET; (2) NORTH 88°40'04" EAST 359.71 FEET; THENCE SOUTH 24°18'45" WEST 160.24 FEET; THENCE SOUTH 36°58'22" WEST 522.75 FEET, THENCE NORTH 88°36'14" EAST 146.47 FEET; THENCE SOUTH 01°23'46" EAST 101.73 FEET TO THE GRANTORS SOUTH PROPERTY LINE; THENCE SOUTH 88°38'03" WEST (SOUTH 88°36'14" WEST BY RECORD) 500.25 FEET ALONG SAID SOUTH PROPERTY LINE TO THE SOUTHEAST CORNER OF LOT 22, QUAIL POINTE PHASE 2 SUBDIVISION; THENCE NORTH 01°23'46" WEST 137.47 FEET ALONG THE EAST LINE OF SAID LOT 22 TO THE POINT OF BEGINNING. CONTAINING 6.11 ACRES AND 13 LOTS. PHASE III

B. The Declarant intends to develop a residential subdivision on the Property. Declarant will develop and convey all of the Lots within the Subdivision subject to a general plan of development and subject to certain protective covenants, conditions and restrictions all as set forth in this "Declaration" and which are deemed to be covenants running with the land mutually burdening and benefiting each of the Lots within the Subdivision. Declarant further intends to create a community in which the living conditions and desirability of living on that real estate is enhanced and where the attractiveness, quality and value is preserved. Declarant intends to sell to various purchasers the fee title to individual lots in the subdivision.

C. Declarant desire to provide for the preservation of the values and amenities of the Property. To this end and for the benefit of the Property and the Owners thereof, Declarant hereby subjects the property to the covenants, conditions, restrictions, easements, charges and liens set forth in this Declaration, which shall be recorded in the official records of Box Elder County, State of Utah.

D. Notwithstanding the foregoing, no provision of this Declaration shall prevent the Declarant from doing any of the following, which shall be deemed to be among Declarant's reserved rights in addition to such rights as may be described elsewhere in this Declaration.

1. Installation and completion of the Subdivision improvements.
2. Use of any Lot owned by the Declarant as a model home or for the placement of a temporary construction or sales office.
3. Installation and maintenance of signs incidental to sales or construction which are in compliance with City ordinances.
4. Assignment of Declarant's rights under this Declaration in whole or in part to one or more builders intending to construct homes within the subdivision.
5. Retention of Declarant's rights with respect to subsequent phases of the subdivision.

E. Declarant further declares that the streets in the subdivision shall be dedicated to Perry City.

#### ARTICLE I - DEFINITIONS

When used in this Declaration (including in that portion hereof headed "Recitals") the following terms shall have the meaning indicated:

1.01 Introduction Unless the context clearly requires the application of a more general meaning, the following terms, when used in this Declaration, shall have the following meanings

1.02 Design Committee shall mean the committee created under Article IV of this Declaration.

1.03 City shall mean Perry City, Box Elder County, State of Utah, and its appropriate departments, officials, and boards.

1.04 Declarant shall mean and refer to Quail Pointe, a Utah company having its principal place of business in Perry, Utah.

1.05 Declaration shall mean this Declaration of covenants, conditions and restrictions, together with any subsequent amendments or additions. The Subdivision Plat for Quail Pointe Subdivision, and the easements and other matters shown on the Plat, are also incorporated into this Declaration by reference.

1.06 Dwelling shall mean the single family residence built or to be built on any Lot, including the attached garage.

1.07 Family shall mean one household of persons related to each other by blood, adoption or marriage, or one group of people of not more than five not so related living together as a unit who maintain a common household.

1.08 Improvement shall mean all structures and appurtenances of every type and kinds, including but not limited to buildings, Dwellings, garages, storage buildings, walkways, retaining walls, sprinklers, pipes, driveways, landscaping, pools, decks, stairs, poles, lighting, signs, satellite dishes or other antennas, and any mechanical equipment located on the exterior of any building.

1.09 Lot shall mean any numbered building Lot shown on the official plat of the Quail Pointe.

1.10 Owner shall mean the person holding fee simple title, including the Declarant, and buyers under any contract for deed, but shall exclude any person or entity holding title for purposes of securing performance of an obligation. If there are multiple persons comprising the Owner of any Lot, their liability for performance of Owner obligations pursuant hereto shall be joint and several.

1.11 Person shall mean a natural person or any legal entity with a right to hold title to real property in its own name in the State of Utah.

1.12 Plat shall mean an official ownership plat of any phase of Quail Pointe as approved by Box Elder County and the City of Perry and recorded in the office of the Box Elder County Recorder as it may be amended from time to time.

1.13 Subdivision shall mean the Quail Pointe , and all Lots, reserved open space, and other property within the Subdivision as shown on the Plat.

## ARTICLE II - RESTRICTIONS ON ALL LOTS

The following restrictions on use apply to all Lots within the Subdivision:

2.01 Zoning Regulations. The lawfully enacted zoning regulations of Perry City and any building, fire, and health codes are in full force and effect in the Subdivision as they may be from time to time hereafter amended, and no Lot may be occupied in a manner that is in violation of any statute, law, or ordinance.

2.02 No Business or Commercial Uses. This is a residential Subdivision and all Lots must be used exclusively for residential purposes. No business, profession or trade which disturbs or annoys any Owner in their enjoyment of their Lots shall be operated or maintained on any Lot or in any structure

thereon except that a home occupation not requiring significant parking and consistent with Perry City ordinances is permitted.

2.03 No Drilling or Mining. The property within the Subdivision shall be used for residential purposes only, and no mining, drilling, prospecting, mineral exploration or quarrying activity is allowed.

2.04 Restrictions on Signs. No signs whatsoever shall be erected or maintained upon any Lot except such signs as Declarant may erect or maintain on a Lot prior to sale and conveyance and further except one for sale "or" "for rent" sign having a maximum face area of 15 square feet and referring only to the premises on which it is situated or such signs as may be required by legal proceedings.

2.05 Animals. No livestock of any kind, including but not limited to pigs, cows, goats, sheep, horses, etc. may be kept or maintained on any Lot. No dangerous or nuisance animals may be maintained or kept on any Lot. The area of any Lot occupied by a household animal shall be properly maintained so as not to create any noxious or offensive odors or conditions which is or may become a nuisance or may cause disturbance or annoyance to the other Owners in the Subdivision. Household pets may be kept provided that they are not bred or maintained for any commercial purposes and are restricted to the Owner's control. Fierce, dangerous or vicious animals, or animals that cause a nuisance by barking or other offensive activities shall not be permitted.

2.06 No Annoying Sounds. No exterior speakers, horns, whistles, bells, or other sound devices may be used or maintained on any Lot which create noise that might reasonably be expected to be unreasonably or annoying loud to adjoining Lots. An exception to this restriction is provided for security devices used exclusively to protect the security of the Lot and structures thereon.

2.07 Restrictions on Storage. No furniture, fixtures, appliances or other goods and chattels shall be stored in such a manner as to be visible from neighboring Lots and roads within the Subdivision. Moreover, no open storage of any building materials (except during construction), inoperable motor vehicles, accumulations or construction debris or waste, household refuse or garbage, except as stored in tight containers, farm or construction equipment shall be stored in such a manner as to be visible from neighboring Lots or the public road. No fuel oil, gasoline, propane or other fuel storage tanks may be installed or maintained on the property. Dwellings shall be heated with natural gas, solar or electric heat. Propane or other such containerized fuel may be used only during construction of the Dwelling until the permanent heating system is installed and operational. No Lot shall be used or maintained as a dumping ground for rubbish, trash, refuse, garbage or other waste, which shall not be stored, except in sanitary conditions.

2.08 Good Condition. Each Lot and all improvements located thereon shall be maintained by the Owner thereof in good condition and repair, and in such manner as not to create a fire hazard all at the Owner's expense. All walls and fences on common boundary lines or corners separating Lots shall be maintained jointly in equal shares by the Owners of the Lots abutting such fence or a wall and each Owner

shall be responsible for painting the side of any party wall or fence facing his Lot. All fences constructed on Lots shall be constructed of materials suitable for the purpose for which the fence is constructed and are subject to approval by the Design Committee. The Design Committee shall have the authority to create architectural standards for the construction of fences, including height limitations, setback requirements, and construction materials.

2.09 No re subdivision No Lot shall be re-subdivided

2.10 No annoying lights. No outdoor lighting shall be permitted except for lighting that is designed to aim downward and limit the field of light to the confines of the Lot on which it is installed. This shall not apply to street lighting maintained by Perry City.

2.11 Height. No dwelling shall have a height of more than 35 feet on any Lot.

2.12 Square FOOTAGE No dwelling shall be permitted on any Lot with the ground floor area of the main structure, exclusive of open porches and garages, of less than **1800** square feet for one story dwellings and no less than a combined square footage of at least 2600 on the main and second level for a dwelling of more than one story. Dwellings in all residential Lots shall have a minimum of a **two car attached garage.**

2.13 NO HAZARDOUS ACTIVITY. No activity may be conducted on any Lot that is, or would be considered by a reasonable person, to be unreasonably dangerous or hazardous. Any activity that would cause the cancellation of conventional homeowner's insurance policy shall be considered unreasonably dangerous. This includes, without limitation, the storage of toxic, flammable, explosive or hazardous materials in excess of those reasonable and customary for household uses.

2.14 NO ALTERATION OF DRAINAGE. No owner shall alter the direction of natural drainage on his Lot, nor shall an Owner permit accelerated storm runoff to leave his Lot without first using reasonable means to dissipate the flow of energy.

2.15 No transient lodging uses. Lots are to be used for residential housing purposes only and shall not be rented in whole or in part for transient lodging purposes, boarding houses, bed and breakfast, or other uses for providing accommodations to travelers. No dwelling on the Lot shall be subject to time interval ownership.

2.16 Restrictions on Antenna. No exterior antenna of any sort shall be installed or maintained on any Lot except of a height, size and type approved by the Design Committee. No activity shall be conducted within the property which interferes with television or radio reception of the other Owners.

2.17 No Outside Clothes Lines. No outside clothes lines and other outside clothes drying or airing facilities shall be maintained without prior approval of the Design Committee.

2.18 No Hunting or Camping. There shall be no camping upon any Lot and there shall be no hunting or discharge of firearms on any Lot.

2.19 Roof Pitch. The roof pitch shall be 8/12 or greater.

2.20 Restrictions on Types of Homes. No log dwelling, modular home or mobile home shall be allowed in the subdivision.

### ARTICLE III - OWNER MAINTENANCE OBLIGATIONS

It is the obligation of each Owner to maintain his Lot at all times in order to preserve and enhance the enjoyment of the Subdivision. In furtherance hereof the following are adopted:

3.01 Duty to Maintain. It is the obligation of the Owner of each Lot to maintain his Lot and the improvements to the Lot in a good state of repair and in an attractive, safe and healthy condition.

3.02 Maintenance of Property. All Lots and the improvements thereon shall be maintained in a clean, sanitary, attractive and marketable condition at all times. No Owner shall permit his Lot, or Dwelling thereon and any improvements thereon to fall into disrepair.

3.03 Repair Following Damage. In the event of damage or loss as a result of casualty to a Dwelling or Improvements, the Owner shall reconstruct the same as they existed prior to the damage or loss without review by the Design Committee, provided however that alternations or deviations from the original approved plans will require review. No damaged structure will be permitted to remain on any Lot for more than 90 days without repairs commencing and any damaged structure which does remain unrepaired after 90 days following in the occurrence of damage is deemed a nuisance which may be abated by the Design Committee.

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

3.05 Landscaping Required. As soon as practical following completion of the construction of the Dwelling, but in no event later than the summer immediately following completion of construction, or not later than 18 months from the issuance of a building permit, whichever first occurs, each Owner is required to fully landscape his or her Lot. The Owner may plant lawns, sod, gardens, plants, shrubbery, trees or other ornamental plantings or replace natural species. Front yard landscaping shall include a balance of turf, ground covers, shrubs and trees. Provision should be made for spring and summer season

color in the ground cover shrubs and trees. The use of rock and stone as part of the landscaping is encouraged but not to be overused.

3.06 Parkway Street Trees. At least two trees shall be located in the parkway strip for all Lots except corner Lots which shall require four street trees. Said trees shall be two-inch caliper and should be staked to minimize wind damage and shall be common species obtainable from local nurseries.

3.07 Subsequent Alterations of Exterior Appearance. The Owners shall maintain their Lots and Dwellings in substantially the same condition and appearance as that approved by the Design Committee. No subsequent exterior alterations, improvements or remodeling structural or in landscaping, paint, color or materials will be made without the advance consent of the Design Committee.

#### ARTICLE IV - ARCHITECTURAL CONTROL

4.01 Organization of the Design Committee. There shall be a Design Committee consisting of not fewer than three (3) members. The members of the Design Committee need not be Owners. Declarant shall have the right to appoint, remove and increase the number of members of the Design Committee; provided that such right shall vest in the Owners upon the expiration of any continuous period of eighteen (18) months during which Declarant at all times owns less than ten percent (10%) of the residential Lots then covered by this Declaration. Declarant may voluntarily relinquish control of the Design Committee to the Owners at any time. Unless authorized by the Owners, the members of the Design Committee shall not receive any compensation, but all members shall be entitled to reimbursement from the Owners for reasonable expenses incurred in the performance of any Design Committee function. Once the Design Committee is fully controlled by the Owners, the Owners shall hold a meeting to elect Design Committee members as needed.

4.02 Actions Requiring Approval. No fence, wall, Dwelling, accessory or addition to a Living Unit visible from the Common Areas or public streets within the property, or landscaping or other improvement of a residential Lot visible from the Common Areas or public streets within the property shall be constructed or performed, nor shall any alteration of any structure on any residential Lot, including a change in exterior color, be made, unless complete plans and specifications showing the nature, color, kind, shape, height, materials and location of the same shall first be submitted to and approved by the Design Committee.

4.03 Standard of Design Review. Before granting any approval of plans and specifications, the Design Committee shall determine to its reasonable satisfaction that such plans and specifications (a) conform to all architectural standards contained in this Declaration and all further architectural standards promulgated from time to time by the Design Committee and (b) provide for a structure, alteration, landscaping or other improvements in harmony as to external design, color and location with surrounding structures and topography.



4.04 Design Committee Rules and Architectural Standards. The Owners, in accordance with the amendment provisions of this instrument, may adopt and file as a matter of public record reasonable rules related to the efficient review of plans and specifications including requirements as to the number of sets of plans and specifications to be submitted, the fixing of a review or variance request fee not exceeding Fifty Dollars (\$50.00) per review or variance request, the details to be shown on plans and specifications, and design guidelines consistent with this Declaration and covering such matters as setbacks, height limitations, restrictions on minimum or maximum size and quality of structures.

4.05 Approval Procedure. The Design Committee and any subcommittees thereof shall meet from time to time as necessary to perform the duties of the Design Committee. The vote or written consent of a majority of the Design Committee or any authorized subcommittee shall constitute the act of the Design Committee. Any plans and specifications submitted to the Design Committee shall be approved or disapproved within thirty (30) days after receipt by the Design Committee. If the Design Committee fails to take action within such period, the plans and specifications shall be deemed to be approved as submitted.

4.06 Variance Procedure. If plans and specifications submitted to the Design Committee are disapproved because such plans and specifications are not in conformity with applicable architectural standards, the party or parties making such submission may submit a request for variance to the Design Committee who shall approve or disapprove the request for variance in writing.

4.07 Nonwaiver. The approval by the Design Committee of any plans and specifications for any work done or proposed shall not constitute a waiver of any right of the Design Committee to disapprove any similar plans and specifications.

4.08 Completion of Construction. Once begun, any improvements, construction, landscaping or alterations approved by the Design Committee shall be diligently prosecuted to completion in strict accordance with the plans and specifications approved by the Design Committee.

4.09 Estoppel Certificate. Within thirty (30) days after written demand therefor is delivered to the Design Committee by any Owner, the Design Committee shall issue an estoppel certificate in recordable form executed by any two of its members, certifying with respect to any residential Lot of such Owner that as of the date thereof either (a) all improvements and other work made or done upon or within such residential Lot by the Owner, or otherwise, comply with this Declaration, or (b) such improvements or work do not so comply, in which event the certificate shall also (i) identify the nonconforming improvements or work, and (ii) set forth the nature of such noncompliance. Any mortgagee or purchaser from the Owner shall be entitled to rely on such certificate with respect to the matters therein set forth.

4.10 Multiple Lot Ownership. Only one Dwelling may be constructed on any Lot. No other storage building, outbuilding, or habitable structure may be permitted on any Lot unless specifically approved by the Design Committee.

4.11 Disclaimer of Liability. Neither the Design Committee, nor any member thereof acting in good faith shall be liable to the Owners or to any Owner for any damage, loss, or prejudice suffered or claimed on account of (a) the approval or rejection of, or the failure to approve or reject, any plans, drawings and specifications, (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications, (c) the development or manner of development of any of the Property; or (d) any engineering or other defect in approved plans and specifications.

## ARTICLE V - CONSTRUCTION COVENANTS

The following construction regulations shall be enforced and shall be made a part of the construction contract between the Owner and the builder of each Dwelling or other improvement on a Lot. An Owner shall be bound by these regulations, and violations committed by the Builder or its employees, subcontractors or others shall be deemed a violation by the Owner for which the Owner is liable.

5.01 Zoning Ordinances. All improvements shall be constructed in accordance with applicable building line and setback provisions of zoning ordinances.

5.02 Materials. All structures constructed on any Lot shall be constructed with new materials unless otherwise permitted by the Design Committee. No used structure shall be relocated or placed on any Lot.

5.03 Mailboxes. The Design Committee shall have the authority to establish architectural and design standards for the construction and installation of mail boxes to be installed by each owner.

5.04 Roofing. Materials shall be cedar shaped, tile or architectural-grade asphalt shingle (at least 30 year type) or other high quality roofing materials which are prior approved by the Design Committee. No steel roofs or shake shingles will be allowed.

5.05 Exterior Building Materials. Each Dwelling shall be constructed with a minimum of brick or ornate stone/rock as set forth in this Declaration. If brick is selected, the Dwelling shall have no less than 70% brick on the front of the Dwelling and 30% on the sides. If rock is selected, the Dwelling shall have no less than 50% rock on the front of the Dwelling and 30% rock on the sides. The balance of the materials may consist of stucco. In no event shall siding be allowed on any Dwelling.

5.06 Time Commencement of Construction. Construction of a Dwelling upon a Lot must commence within one year from the date of sale of any Lot. No Dwelling shall be permitted to remain incomplete for a period in excess of one year from commencement of construction unless are approved by the Design Committee.

5.07 Accessory Buildings. All accessory buildings built on any Lot shall conform to the following limitations:

- i. No accessory building shall exceed a frontage of 40 feet and a length of 60 feet.
- ii. The exterior building materials must be the same type, grade and quality as the materials used in constructing the Dwelling situated upon the Lot; and
- iii. The maximum heights of any accessory building shall be 12 feet from the ground to the eve of the building.

5.08 Occupancy. No structure shall be occupied until:

- i. The same is substantially completed in accordance with plans and specifications previously approved by the Design Committee, and
- ii. The City of Perry has properly issues a Certificate of Occupancy.

5.09 No Outside Toilet. No outside toilet(s) other than self contained portable toilet units used during construction shall be placed or constructed on any Lot. All plumbing, fixtures, dishwashers, garbage disposals, toilets and sinks shall be connected to a public sewage system.

5.10 Appearance. The Lot must be maintained in a reasonably organized and neat condition at all times during construction of the Dwelling or improvements. Once the Dwelling is enclosed, materials shall be stored inside, and out of sight, whenever practical and possible.

5.11 Hours of Work. Daily working hours on the site shall be limited to the period beginning one-half hour after sunrise and ending one-half hour before sunset. The builder is responsible for controlling noise emanating from the site.

5.12 Landscaping. No Lot shall remain without full landscaping (front and back) for a period in excess of one year from the date the city issues the applicable occupancy permits.

5.13 Fencing. No fence shall be constructed unless consistent with the building materials used in the subdivision and must be pre-approved by the Design Committee. No fence shall extend closer to any street than the corner of each Dwelling constructed on the Lot.

## ARTICLE VI - GENERAL

6.01 Notices. Any notice required or permitted to be given to any Owner under the provisions of this Declaration shall be deemed to have been properly furnished if delivered or mailed, postage prepaid, to the person named as the Owner, at the latest address for such person as reflected in the public property records at the time of delivery or mailing. Any notice required or permitted to be given to the Design Committee may be given by delivering or mailing the same to the managing agent of the Design Committee. Any notice required or permitted to be given to the Design Committee may be given by delivering or mailing the same to the managing agent or any member of the Design Committee.

6.02 Amendment. Except as provided below in this Section 6.02 or in Section 6.08 of Article XII, this Declaration may be amended by:

- (a) the affirmative vote of a majority of the Owners, and
- (b) the written consent of Declarant, if such amendment is adopted any time when Declarant holds title to any Lot.

Until all portions of the undeveloped land are annexed to the Property or until Declarant's right to annex land to the Property otherwise terminates, Declarant reserves the right to amend this Declaration insofar as it applies to any land annexed at or after the date of such amendment, provided that (a) any such amendment shall be set forth in a supplemental declaration annexing land to the Property, (b) no such amendment may affect the voting rights of Owners (other than the inclusion of additional Owners entitled to vote). Declarant may at any time amend this Declaration so as to limit, diminish or eliminate all or any of the reserved rights or benefits of Declarant herein, provided that any such amendment shall be effective only after being filed of record in the office of the County Recorder of Box Elder County, Utah.

6.03 Consent in Lieu of Vote. In any case in which this Declaration requires authorization or approval of a transaction the assent or affirmative vote of a stated percentage of the Owners, whether present or represented at a meeting, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Owners entitled to cast at least the stated percentage of all membership votes outstanding in connection with the class of membership concerned. The following additional provisions shall govern any application of this Section 6.03:

- (a) All necessary consents must be obtained prior to the expiration of ninety (90) days after the first consent is given by any Owner.
- (b) The total number of votes required for the applicable authorization or approval shall be determined as of the date on which the last consent is signed.
- (c) Except as provided in the following sentence any change in ownership of a residential Lot which occurs after a consent has been obtained from the Owner thereof shall not be considered or taken into account for any purpose. A change in ownership which would increase the total number of votes outstanding shall, however, be effective in that regard and shall entitle the new Owner to give or withhold his consent.
- (d) Unless the consent of all Owners whose memberships are appurtenant to the same residential Lot are secured, the consent of none of such Owners shall be effective.

6.04 Declarant's Rights Assignable. All or any portion of the rights of Declarant under this Declaration or in any way relating to the Property may be assigned.

6.05 Interpretation. The captions which precede the Articles and Sections of this Declaration are for convenience only and shall in no way affect the manner in which any provision herein is construed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, and any gender shall include both other genders. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof, which shall remain in full force and effect. The laws of the State of Utah shall govern the validity, construction and enforcement of this Declaration.

6.06 Covenants to Run With Land. This Declaration and all the provisions hereof shall constitute covenants to run with the land or equitable servitudes, as the case may be, and shall be binding upon and all inure to the benefit of Declarant, the Owners, all parties who hereafter acquire any interest in a residential Lot, and their respective grantees, transferees, heirs, devisees, personal representatives, successors, and assigns. Each Owner or occupant of a residential Lot or shall comply with, and all interests in all residential Lots shall be subject to, the terms of this Declaration and the provisions of any rules, regulations, agreements, instruments, and determinations contemplated by this Declaration. By acquiring any interest in a residential Lot the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

6.07 Duration. The covenants and restrictions of this Declaration shall remain in effect until the expiration of twenty-one (21) years after the death of the last survivor of the now living lawful descendants of George W. Bush, the President of the United States at the time this Declaration was recorded.

6.08 Declarant's Right to Amend. Until all portions of the undeveloped land are included in the Development, or until the right to expand the Development through the annexation of all or part of the lands constituting the undeveloped land terminates, whichever event first occurs, Declarant shall have, and is hereby vested with, the right to unilaterally amend this Declaration as may be reasonably necessary or desirable: (a) to more accurately express and intent of any provisions of this Declaration in light of then existing circumstances or information; (b) to better insure, in light of then existing circumstances or information, workability of the arrangement which is contemplated by this Declaration; or (c) to facilitate the practical, technical, administrative, or functional annexation of any undeveloped land to the Property.

6.09 Effective Date. This Declaration and any amendment hereof shall take effect upon its being filed for record in the office of the County Recorder of Box Elder County, Utah.

6.10 Severability. Each of the covenants contained in this Declaration shall be independent of the others, and in the event that any one is found to be invalid, unenforceable, or illegal by a court of competent jurisdiction, the remaining covenants shall remain in full force and effect.

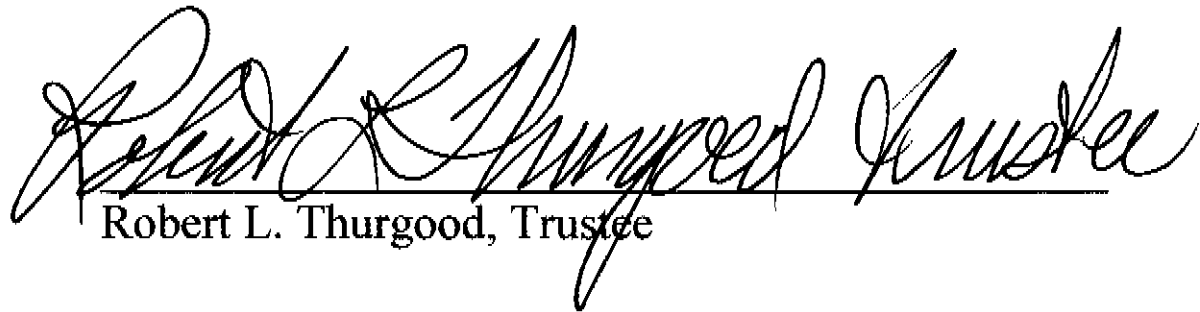
6.11 Mortgagee Protection Provision. The breach of any of the foregoing covenants shall not defeat or render invalid the lien of any mortgage or Deed of Trust lien on the Property that is made in good faith and for value.

6.12 Enforcement of Restrictions. The following shall have the right to exercise or seek any remedy at law or in equity to enforce compliance with this Declaration (a) Declarant so long as it has any interest in any of the property or Lots or (b) and Owner. The prevailing party in an action for the enforcement of any provision of this Declaration shall be entitled to collect court costs and reasonable attorney fees.

6.13 Limited Liability. Neither the Declarant nor the Design Committee of its individual members nor any other Owner shall have personal liability to any other Owner for actions or inactions taken under these covenants provided that any such actions or inactions are the result of the good faith exercise of their judgment under these covenants.

Dated this 9 day of ~~April~~<sup>May</sup>, 2006

ROBERT L. THURGOOD FAMILY TRUST  
CREATED 8-20-96

  
Robert L. Thurgood, Trustee

VERIFICATION

STATE OF UTAH )  
Box Elder :ss  
COUNTY OF ~~WEBER~~ )

On the 9 of ~~April~~<sup>May</sup>, 2006, personally appeared before me, Robert Thurgood, who, being by me duly sworn, declared that he is the Trustee of the Robert L. Thurgood Family Trust created 8-20-96, that he signed the foregoing Declaration, and that the statements therein contained are true and correct.

~~April~~<sup>May</sup> IN WITNESS WHEREOF, I have hereunto set my hand this 9 day of ~~April~~<sup>May</sup>, 2006.

  
NOTARY PUBLIC

