



W2472352

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E# 2472352 PG 1 OF 26
ERNEST D ROWLEY WEBER COUNTY RECORDER
13-MAY-10 3:34 PM FEE \$67.00 DEP SC
REC FOR: BACKMAN OREM
ELECTRONICALLY RECORDED

CORRECTED
**DECLARATION OF PROTECTIVE EASEMENTS,
COVENANTS, CONDITIONS AND RESTRICTIONS**
OF
MIDLAND SQUARE COMMERCIAL

An Expandable Subdivision

THIS CORRECTED DECLARATION OF PROTECTIVE EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS (this "Declaration") is made this ~~30th~~ day of April, 2010, by ALL AMERICAN INVESTMENTS VI, LLC, a Utah limited liability company and SBH MIDLAND MARKET PLACE, LC, a Utah limited liability company (collectively referred to herein as "Declarant"), in its capacity as the owner and developer of the Midland Square Commercial project, a development in Weber County, Utah.

RECITALS

- A. Declarant executed and recorded the original Declaration of Protective Easements, Covenants, Conditions and Restrictions on July 22, 2009 on the records of the Weber County Recorder as Entry 2425489 ("Original Declaration").
- B. The Original Declaration was recorded without Exhibit A and Exhibit B, which contain the legal description of the Property and the legal description of the Additional Land.
- C. Declarant is executing and recording this Declaration with the only change being the insertion of the property legal descriptions for Exhibit A and Exhibit B.
- D. At the time the Original Declaration was recorded, Declarant was the record title owner of the following described parcel of land, referred to hereinafter as the "Land", which is located in Weber County, State of Utah, as more particularly described on Exhibit "A" hereto.

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COURTESY RECORDING
This document is being recorded solely as a courtesy and an accommodation to the parties named therein. Backman Title Services, LTD. hereby expressly disclaims any responsibility or liability for the accuracy, enforceability, legality or content thereof.

- E. Declarant, by recording this Declaration and the Plat, intends to correct the Original Declaration and clarify that the Land, buildings and other improvements presently existing or to be constructed upon the Land are submitted to the mutually beneficial covenants, conditions and restrictions pursuant to a general plan of improvement for the benefit of all Lots in the Project as well as the Owners thereof;
- F. The administration of the Project shall be governed by this Declaration, and the Articles of Incorporation and Bylaws of the Association as from time to time in effect;

NOW, THEREFORE, pursuant to the foregoing, Declarant hereby makes the following Declaration:

ARTICLE I
PURPOSE AND EFFECTUATION

1.01 **Purpose.** The purpose of this instrument is to provide for the preservation of the values of both Lots and Common Maintenance Areas within Midland Square Commercial, a development in Weber County, Utah, (the "Development"), and for the maintenance of the private roads, utility mains and all other Common Maintenance Areas therein.

1.02 **Effectiveness.** From and after the effective date hereof: (a) Each part of the Development and each Lot lying within the boundaries of the Development shall constitute but constituent parts of a single development; (b) The Development shall consist of the Lots and of the Common Maintenance Areas which are described and depicted on the Plat, together with such additional Lots and Common Maintenance Areas as may come into existence pursuant to the provisions hereof relating to annexation, expansion or subdividing of the Development; (c) The Declaration for the Development shall consist of this document as the same may be modified, amended, supplemented, or expanded in accordance with the provisions hereof; and (d) The initial Plat of the Development shall consist of the instrument identified as Midland Square Commercial Final Plat, Weber County, Utah, and thereafter recorded concurrently herewith in the Public Records as the same may thereafter be amended.

ARTICLE II
DEFINITIONS

When used in this Declaration each of the following terms shall have the meaning indicated:

2.01 "Additional Land" means the land described in Exhibit "B," less the land described in Exhibit "A," that may be annexed to the Subdivision in accordance with this Declaration.

2.02 "Articles" shall mean and refer to the Articles of Incorporation of the Association, which are or shall be filed in the Office of the Division of Corporations and Commercial Code, State of Utah, as amended from time to time.

2.03 "Assessment" shall mean the charge which is to be levied and assessed against each Owner and the Owner's Lot and Unit for Association expenses as set forth herein.

2.04 "Association" shall mean Midland Square Commercial Owners Association, a Utah nonprofit corporation, to be established, its successors and assigns.

2.05 "Board" or "Board of Directors" shall mean the Board of Directors of the Association.

2.06 "Bylaws" shall mean and refer to the Bylaws of the Association.

2.07 "Common Maintenance Areas" shall mean and refer to all real property within the Project that is subject to common maintenance hereunder. This area includes the private roads indicated on the Plat, the utility main lines running through the Development, and the perimeter fence. In addition, and as provided herein, the parking lots will be considered a Common Maintenance Area solely for the purposes of snow removal, and all landscaping in the Development will be considered a Common Maintenance Area solely for the purpose of lawn care (grass mowing, trimming and fertilization) and the maintenance and repair of any sprinkler systems. However, the Common Maintenance Area will not include any (i) enclosed areas used to store trash bins and (ii) any area being used as a drive-thru will be considered part of the Unit located on the Lot and will not be part of the Common Maintenance Area.

2.08 "Declarant" shall mean the individuals and entities listed above.

2.09 "Declaration" shall mean this Declaration of Protective Easements, Covenants, Conditions and Restrictions as the same may be supplemented or amended from time to time.

2.10 "Development" shall mean the Midland Square Commercial development as it exists at any given time.

2.11 "Lot" shall mean and refer to any of the separately numbered, individually described lots within the Development as designated on the Plat and intended for commercial use.

2.12 "Managing Agent" shall mean any person or entity appointed or employed as Managing Agent by the Association.

2.13 "Mortgage" shall mean any recorded first mortgage or first deed of trust encumbering a Lot; and Mortgagee shall mean the mortgagee or beneficiary named in a Mortgage.

2.14 "Owner" shall mean any person who is the owner of record (as reflected by the Public Records) of a fee or undivided fee interest in any Lot, and any contract purchaser of any Lot. Notwithstanding any applicable theory relating to mortgages, no Mortgagee nor any trustee or beneficiary of a deed of trust or trust deed shall be an owner of a Lot unless such party acquires fee title thereto pursuant to foreclosure or sale or conveyance in lieu thereof. Declarant shall be an Owner with respect to each Lot owned by it. Multiple owners of a particular Lot shall be jointly and severally liable as to all responsibilities of an Owner.

2.15 "Plat" shall mean the recorded plat map for Midland Square Commercial Final Plat A, recorded contemporaneously with this Declaration, and any supplemental maps pertaining to the Development and recorded or to be recorded in the office of the County Recorder of Weber County, State of Utah.

2.16 "Property" shall mean all land covered by this Declaration, including Common Maintenance Areas and Lots and other land annexed to the Development as provided in this Declaration. The Property shall consist of the land described on Exhibit "A", attached hereto.

2.17 "Project" shall mean the Midland Square Commercial project.

2.18 "Public Records" shall mean the Office of the Weber County Recorder.

2.19 "Special Assessment" shall mean a charge against a particular Owner or his Lot for the purpose of reimbursing the Association for costs incurred in bringing the Owner or his Lot or Unit into compliance with the provisions of this Declaration, the Articles, Bylaws or Rules and Regulations of the Association, or any other charge designated as a Special Assessment in this Declaration, the Articles, Bylaws or Rules and Regulations of the Association, together with costs, interest, attorney's fees and other charges payable by such Owner pursuant to the provisions of this Declaration.

2.20 "Rules and Regulations" shall mean and refer to those Rules and Regulations authorized, adopted and promulgated to the Owners from time to time by the Board.

2.21 "Unit" shall mean an attached structure which is designed, constructed and intended for use or occupancy on a Lot, including anything located within said Unit, whether said Unit currently exists or is built after recordation of this Declaration.

ARTICLE III **PROPERTY DESCRIPTION**

3.01 Submission. The Property which initially is and shall be held, transferred, sold, conveyed, and occupied subject to the provisions of this Declaration consists of the real property described on Exhibit "A", attached hereto and made a part hereof.

3.02 Description of Improvements. The improvements included in this Project are now, or will be, located on the Property.

3.03 Legal Status of Lots. All Lots are capable of being independently owned, encumbered, and conveyed.

3.04 Division into Lots. The Development is hereby divided into eight (8) Lots, as set forth and described on the Plat, with each Lot having appurtenant and proportionate rights and easements of use and enjoyment in and to the Common Maintenance Areas, as well as appurtenant and proportionate obligations pertaining to assessments, maintenance, etc., all as set forth in this Declaration.

ARTICLE IV
DUTIES AND OBLIGATIONS OF OWNERS

4.01 Maintenance and Repairs. Except for the provisions relating to the Common Maintenance Areas, each Owner shall at his own cost maintain his Lot and any improvements constructed thereon in good condition and repair at all times. In the event of the damage or destruction of any Unit, the Owner of the Lot on which such Unit is situated shall either rebuild the same within a reasonable time or shall raze the remains thereof so as to prevent the unsightly appearance and dangerous condition of a partially destroyed building in the Development. No Owner of any Lot in the Development shall openly or wantonly neglect or fail to do everything possible to keep his Lot and Unit in good and attractive condition and repair at all times. Each Owner shall be responsible to install all landscaping (including an adequate sprinkling system), blacktop, parking stall striping, and parking blocks on the Owner's Lot.

4.02 Owners Insurance. Notwithstanding any insurance coverage required to be provided herein by the Association, each Unit Owner shall be responsible to procure and maintain in force at his own cost hazard insurance on his Unit and personal contents and such liability coverage as may be customary in projects such as the Development and which is consistent with each Owner's individual circumstances.

4.03 Assessments and Rules Observance. Each Owner shall be responsible for the prompt payment of any Assessments provided for in this Declaration and for the observance of the Rules and Regulations promulgated by the Association from time to time pursuant to the Bylaws.

4.04 Transfer of Interests. Except for obligations already accrued, an Owner who, for other than purposes of security, transfers all of his interests in his Lot to another, either voluntarily or by operation of law, shall be relieved of all obligations under this Declaration following such transfer.

ARTICLE V
COMMON MAINTENANCE AREA, PROPERTY RIGHTS, AND CONVEYANCES

5.01 Easement Concerning Common Maintenance Areas and Parking. Each Lot shall have appurtenant thereto a nonexclusive right and easement of use and enjoyment in and to the Common Maintenance Areas for their intended purposes. Each Owner shall have a non-exclusive easement for pedestrian and vehicular access, ingress and egress, the parking of motor vehicles in designated areas, and the use of any facilities installed for the comfort and convenience of customers, invitees and employees on the private roads and parking areas in the Development. Such right and easement shall be appurtenant to and shall pass with title to each Lot and shall in no event be separated therefrom.

5.02 Form of Conveyancing; Leases. Any deed, lease, mortgage, deed of trust, purchase contract or other instrument conveying or encumbering title to a Lot shall describe the interest or estate involved substantially as follows:

Lot No. _____ as identified in the Plat recorded in the office of the Weber County Recorder as Entry _____, Map Filing No. _____ contained within Plat _____ of Midland Square Commercial, Weber County, Utah, SUBJECT TO the Declaration of Protective Easements, Covenants, Conditions and Restrictions of Midland Square Commercial, recorded in the office of the Weber County Recorder as Entry _____, Book _____, at Page _____ (as said Declaration may have heretofore been amended or supplemented), TOGETHER WITH a right and easement of use and enjoyment in and to the Common Maintenance Areas described, and as provided for, in said Declaration of Protective Easements, Covenants, Conditions and Restrictions (as said Declaration may have heretofore been amended or supplemented).

Whether or not the description employed in any such instrument is in the above-specified form, however, all provisions of this Declaration shall be binding upon and shall inure to the benefit of any party who acquires any interest in a Lot.

5.03 Title to Common Maintenance Areas; Taxes. Title to any portion of the Common Maintenance Area located on a particular Lot shall remain vested with the Owner of that Lot; however, subject to the terms and conditions contained herein, the other Owners and the Association will have certain rights pertaining to the Common Maintenance Area notwithstanding its private ownership.

5.04 Limitation on Easement. Each Lot's appurtenant right and easement of use and enjoyment concerning the Common Maintenance Areas shall be subject to the following:

- (a) The right of the Association to govern by reasonable Rules and Regulations the use of the Common Maintenance Areas so as to provide for the use of the Common Maintenance Areas in a manner consistent with the collective rights of all of the Owners;

(b) The right of any governmental or quasi-governmental body having jurisdiction over the Property within the Development to enjoy access and rights of ingress and egress over and across any street or driveway, parking area, walkway, or open area contained within the Common Maintenance Areas for the purpose of providing police and fire protection and providing any other governmental or municipal service; and

(c) Any individuals employed by a business located on a Lot are only permitted to park their vehicles in the parking stalls located on the Lot which contains the Unit that has the business that employs the individual.

(d) All of the uses permitted within the Common Maintenance Area shall be used with reason and judgment so as not to interfere with the primary purpose of the Common Maintenance Area which is to provide for parking for the customers, invitees and employees of those businesses conducted within the Project and for the servicing and supplying of such businesses. Persons using the Common Maintenance Area in accordance with this shall not be charged any fee for such use.

5.05 Utility Easements. Each Lot is subject to appurtenant easements for underground lines for utility purposes under and through such portions of the Common Maintenance Areas as are comprised of roads, walkways and landscaped areas. If any Owner utilizes such easement rights with respect to his Lot or Unit, he shall be responsible for the restoration to its former state of any portion of the Common Maintenance Areas which may have been disturbed or damaged as a result.

5.06 Reservation. Declarant reserves for itself such easements and rights of ingress and egress over, across, through, and under the Property and any improvements thereon as may be reasonably necessary for Declarant (in a manner that is reasonable and consistent with the provisions of this Declaration) to complete development of each of the Lots and all of the other improvements described in this Declaration or in the Plat. If, under the foregoing reservations, the Property or any improvement on the Property is traversed or partially occupied by a permanent improvement or utility line, a perpetual easement for such improvement or utility line shall exist. With the exception of such perpetual easements, the reservations provided in this Subsection 5.06 will, unless sooner terminated, expire 10 years after the date on which this Declaration is recorded in the Public Records.

5.07 No Barriers. No walls, fences, or barriers of any kind shall be constructed or maintained on the Common Maintenance Area, or any portion thereof, by any party which shall prevent or impair the use or exercise of any of the easements granted herein, or the free access and movement, including without limitation, of pedestrians and vehicular traffic between the various parcels, except for the perimeter fence that will be installed. The only exceptions to this provision shall be for incidental encroachments upon the Common Maintenance Area which may occur as a result of the use of the ladders, scaffolding, storefront barricades and similar facilities resulting in temporary obstruction of the Common Maintenance Area, all of which are permitted

hereunder so long as their use is kept within reasonable requirements of construction work being expeditiously pursued; for incidental, immaterial and temporary encroachments upon the Common Maintenance Area which may occur in conjunction with the construction, maintenance or repair of buildings and improvements on a Lot, so long as such construction, maintenance or repair is being diligently pursued; or for temporary blockage of certain areas deemed necessary by the parties to prevent a public dedication of an easement or access right. In addition, it is contemplated that a portion of the Land or Additional Land may be used as a storage facility, which if this occurs, will be surrounded by a fence and gate, which will not be considered a violation of this Section 5.07.

5.08 Construction of Improvements to Common Maintenance Area. Each Owner shall be responsible for the construction of any improvements required on their Lot, including any improvements that are part of the Common Maintenance Area. All improvements are subject to the approval of the Association.

5.09 Maintenance of Common Maintenance Area. The maintenance of the Common Maintenance Areas will be administered by the Association, as outlined herein.

5.10 Use of Monument Sign. The Declarant and/or the Association will have the right to install a shared monument sign on Lot 1 and Lot 5 for the use and benefit of all the Owners. Each shared monument sign will have one (1) large panel and the remaining panels will be of substantially equal size. The Owner of Lot 7 will have the right to use the large panel and each of the other Owners will have the right to use one (1) smaller panel. Each Owner is responsible for the cost of their individual sign panels and the cost for the maintenance, operation and upkeep of the sign will be apportioned among the Owners as outlined herein.

ARTICLE VI

USE RESTRICTIONS

6.01 Use of Common Maintenance Area. The Common Maintenance Areas shall be used only in a manner consistent with their community nature and with the use restrictions applicable to Lots and Units set forth herein.

6.02 Commercial Use. The Property is zoned commercial and is restricted to commercial use pursuant to applicable provisions of applicable municipal zoning ordinances. Each Lot, Unit and Owner are subject to the uses and restrictions imposed by such zoning, including parking restrictions, and no Lot or Unit shall be used, occupied, or altered in violation of such ordinances or so as to create a nuisance or to interfere with the rights of any other Owner. All Units are to be used for commercial purposes.

6.03 Prohibited Use and Nuisances. The following uses and practices are specifically prohibited, in addition to any additional prohibitions which may, from time to time, be adopted by the Board in Rules and Regulations pursuant to the Bylaws:

(a) All Units shall be used for first-class retail or office use of the type usually found in the area where the Project is located.

(b) No parking of vehicles of any kind within the Development shall be permitted except as set forth in the Rules and Regulations adopted by the Board pursuant to the Bylaws.

(c) No Unit may be used for detached, single-family residential purposes.

(d) No Owner shall obstruct the Common Maintenance Areas or any part thereof. No Owner shall store or cause to be stored in the Common Maintenance Areas any property whatsoever, unless the Board of Directors shall consent thereto in writing.

(e) No Owner shall, without the prior written consent of the Board in each specific instance, make or cause to be made any alteration, addition, removal, or improvement in or to the Common Maintenance Areas or any part thereof, or do any act that would impair the structural soundness or integrity of the Improvements, or jeopardize the safety of persons or property or impair any easement or hereditament appurtenant to the Project.

6.04 Rules and Regulations. Each Owner shall comply strictly with all rules and regulations adopted by the Association for the governance of the Units, the Common Maintenance Areas, and the Project, as such rules and regulations may be modified, amended, and construed by the Association in the sole discretion of its Board.

6.05 Architectural Control.

(a) To maintain a degree of protection to the investment that other Owners may make, and to maintain consistent of design throughout the Project, all exterior improvements shall be approved by the Board. No exterior resurfacing, awning, building, wall, or other structure, or exterior alteration of any kind, including exterior color scheme, shall be commenced, erected, maintained, improved, altered, or made until the construction plans and specifications have been approved in writing by the Board. All subsequent additions to or changes or alterations in any exterior surface, building, fence, wall, or other structure, including exterior color scheme, shall be subject to the prior written approval of the Board. Once approved by the Board, no changes or deviations in or from the plans and specifications shall be made without the prior written approval of the Board.

(b) The Board shall determine the exterior colors that may be used on any Building so as to maintain a unified theme throughout the Project. The Board shall have final control for approval of all color and material plans and no construction may begin until the color and material plans have been approved. All landscaping plans must be submitted to and approved by the Board.

(c) All signage used in the Project shall be of a uniform theme and style and it must be approved by the Board prior to installation.

(d) No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Unit, and no odors or loud noises shall be permitted to arise or emit therefrom, so as to render any such property or any portion thereof, or activity thereon, unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to the occupants of such other property. No other nuisance shall be permitted to exist or operate upon any Unit so as to be offensive or detrimental to any other property in the vicinity thereof or its occupants. Normal construction activities and parking in connection with the building of improvements on a Unit shall not be considered a nuisance or otherwise prohibited by this Declaration, but Units shall be kept in a neat and tidy condition during construction periods and trash and debris shall not be permitted to accumulate.

(e) Nothing contained in this Declaration shall be construed to prevent the erection or maintenance by Declarant, or its duly authorized agents, of temporary structures, trailers, improvements or signs necessary or convenient to the development, marketing, or sale of property within the Project.

(f) No Unit within the Project shall contain any wood burning fireplace.

6.06 Construction Period Exemption. During the course of actual construction of any permitted structures or improvements within the Project, the provisions, covenants, conditions, and restrictions contained in this Declaration shall be deemed waived to the extent necessary or convenient to permit such construction; provided, however, that during the course of such construction, nothing shall be done which will result in a violation of any said provisions, covenants, conditions, or restrictions upon completion of the construction.

ARTICLE VII THE ASSOCIATION

7.01 Membership. Each Owner shall be entitled and required to be a Member of the Association. Membership shall begin immediately and automatically upon becoming an Owner and shall terminate immediately and automatically upon ceasing to be an Owner. If title to a Lot is held by more than one person, the Memberships appurtenant to the Lot shall be shared by all such persons in the same proportionate interest and by the same type of tenancy in which title to the Lot is held. An Owner shall be entitled to one Membership for each Lot owned by him. Each Membership shall be appurtenant to the Lot to which it relates and shall be transferred automatically by conveyance of that Lot. Ownership of a Lot within the Project cannot be separated from Membership in the Association appurtenant thereto, and any attempted devise, encumbrance, conveyance, or other disposition, respectively, of the Owner's Membership in the Association and rights appurtenant thereto separate to Lot ownership shall be null and void ab initio. No person or entity other than an Owner may be a Member of the Association, and

Membership in the Association may not be transferred except in connection with the transfer of a Lot.

7.02 Board of Directors. Until such time as the responsibility for appointing the Board of Directors of the Association is turned over to the Owners in accordance with this Declaration, Declarant shall have the exclusive right to appoint and to remove all such directors. This exclusive right shall terminate after the first to occur of the following:

- (a) Six (6) years from the date on which the first Lot in the Project is conveyed; or
- (b) The date of the sale of three-fourths (3/4) of the total Lots in the Project.

The termination of the exclusive right shall not, however, affect Declarant's rights, as an Owner, to exercise the votes allocated to Units which Declarant owns.

7.03 Right to Bind Association. Until such time as the responsibility for electing the Board of Directors of the Association is turned over to the Owners in accordance with Section 7.02, the Board of Directors or officers of the Corporation shall not have any authority to enter into any contracts, agreements or leases on behalf of the Association, either directly or indirectly, unless such contracts, agreements or leases may be terminated by the Association at any time without cause or penalty after such transfer of control upon ninety (90) days prior written notice.

7.04 Votes. The number of votes appurtenant to each respective Lot shall be set forth according to the following principles. Each Lot will have one (1) vote, plus one (1) additional vote for each acre, or fraction thereof, contained in the Lot. Based on those principals, each Lot will have the following votes:

Lot 1	2 votes
Lot 2	2 votes
Lot 3	2 votes
Lot 4	2 votes
Lot 5	2 votes
Lot 6	2 votes
Lot 7	7 votes
Lot 8	3 votes

The number of votes appurtenant to the Lots, as set forth in this paragraph, shall have a permanent character and shall not be altered without the unanimous written consent of all Owners expressed in a duly recorded amendment to this Declaration.

7.05 Amplification. The provisions of this Article VII may be amplified by the Articles and Bylaws; provided, however, that no such amplification shall substantially alter or amend any of the rights or obligations of the Owners set forth in this Declaration.

**ARTICLES VIII
CERTAIN RIGHTS AND OBLIGATIONS OF THE ASSOCIATION
AND BOARD OF DIRECTORS**

8.01 The Common Maintenance Areas. The Board of Directors, acting on behalf of the Association and, subject to the rights and duties of the Owners as set forth in the Declaration, shall be responsible for the exclusive management and control of the Common Maintenance Areas and all improvements thereon, and shall keep the same in good, clean, attractive, safe, and sanitary condition, order, and repair. However, with respect to any parking lot areas and landscaping, the Board of Directors' sole responsibility will be to provide snow removal services and landscaping maintenance under a uniform contract. All goods and services procured by the Board of Directors in performing its responsibilities under this Section shall be paid for with funds from the Common Expense Fund.

8.02 Manager. If desired by the Board of Directors, the Board of Directors shall retain the services of an experienced, professional Manager to manage the Project. Appropriate fidelity bond coverage shall be required for any employee of the Manager who handles funds for the Association. The Board of Directors may by written contract delegate in whole or in part to a Manager such of the duties, responsibilities, functions, and powers hereunder of the Board of Directors as are delegable under the Act. The services of any Manager retained by the Board of Directors shall be paid for with funds from the Common Expense Fund. Any management agreement or contract providing for services of Declarant for the Project will be terminable by the Board of Directors for cause upon thirty (30) days written notice thereof, and such Agreement may be terminated by either party without cause and without payment of a termination fee on ninety (90) days written notice. The terms of any such agreement may not exceed one year, renewable by agreement of the parties for successive one-year periods.

8.03 Miscellaneous Goods and Services. The Board of Directors may, on behalf of the Association, obtain and pay for the services of such personnel as the Board of Directors shall determine to be necessary or desirable for the proper operation of the Project, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or which it contracts. The Board of Directors may, on behalf of the Association, obtain and pay for the legal and accounting services necessary or desirable in connection with the operation of the Project or the enforcement of this Declaration.

8.04 Real and Personal Property. The Association may acquire and hold real, personal, and mixed property of all types for the use or benefit of all of the Owners and may dispose of such property by sale or otherwise; provided that any acquisition or disposition of any real, personal or mixed property by the Association wherein the value of such property exceeds \$5,000.00 must be approved by a vote of at least fifty-one percent (51%) of the Total Votes of the Association at a meeting duly called for that purpose. All such property, including Common Facilities, shall be paid for out of the Common Expense Fund and all proceeds from the disposition thereof shall be part of such fund.

8.05 Rules and Regulations. The Board of Directors may make reasonable rules and regulations governing the use of the Common Maintenance Areas, which rules and regulations shall be consistent with the rights and duties established for any Owner to enforce compliance with such rules and regulations or other obligations of such Owner arising hereunder, or to obtain such damages for noncompliance therewith, as permitted by law. In the event of judicial action, the Association shall be entitled to recover its costs, including reasonable attorney's fees, from the offending Owner.

8.06 Granting Easements. The Board of Directors may, without the vote or consent of the owners or of any other person, grant or create, on such terms as it deems advisable, easements, licenses and rights-of-way over, under, across, and through the Common Maintenance Areas for utilities, roads, and other purposes reasonably necessary or useful for the property maintenance or operation of the Project.

8.07 Implied Rights. This Association may exercise any right, power, or privilege given to it expressly by this Declaration or by law, and every other right or privilege reasonably implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

ARTICLE IX **ASSESSMENTS**

9.01 Agreement to Pay Assessments. Declarant, for each Lot owned by it within the Project, and for and as the owner of the Project and every part thereof, hereby covenants and each Owner of any Lot by the acceptance of instruments of conveyance and transfer therefor, whether or not it be so expressed in said instruments, shall be deemed to covenant and agree with each other and with the Association to pay to the Association all assessments made by the Association for the purposes provided in this Declaration. Such assessments shall be fixed, established, and collected from time to time as provided in this Article IX. So long as a Lot shall be owned by Declarant and shall remain vacant and not occupied for actual use by Declarant its guest or invitees, whether for compensation or otherwise, the Association may enter into an agreement with Declarant for the payment of such portion of the costs and expenses actually incurred by the Association in the operation of the Project attributable to the existence of such Lot or Lots owned by Declarant in lieu of payment of assessments for Lots sold to parties other than Declarant.

9.02 Annual Assessments. Annual assessments shall be computed and assessed against all Lots in the Project as follows:

(a) Assessments. Annual assessments shall be based upon advance estimates of the Association's cash requirements to provide for maintenance and operation of the Common Maintenance Area, including the costs of snow removal and the costs for the maintenance of the landscaping (limited to grass mowing, trimming, fertilizing, watering, including any assessments for secondary water, and the costs to repair any sprinkling system). Such estimated expenses will include the costs of snow removal and the costs

for the maintenance of the landscaping (limited to grass mowing, trimming, fertilizing, and the costs to repair any sprinkling system) and may include, without limitation, the following: the expenses of management; all expenses to maintain the Common Maintenance Area; legal and accounting fees; any deficit remaining from a previous period; creation or an adequate contingency reserve, major maintenance reserve, and/or sinking fund; creation of an adequate reserve fund for maintenance repairs, and replacement of those Common Maintenance Areas that must be replaced on a periodic basis, and such reserve shall be funded by monthly payments rather than extraordinary special assessments; and any other expenses and liabilities which may be incurred by the Association for the benefit of all the Owners under or by reason of this Declaration. Such shall constitute the Common Expense, and all funds received from assessments under this Section 9.02 shall be part of the Common Expense Fund.

(b) Apportionment.

(i) Landscape Maintenance Costs. All assessments for landscape maintenance performed on the Common Maintenance Areas will be apportioned among the Lots based on the square feet of landscaping serviced on a given Lot divided by the total amount of landscaping serviced in the Development.

(ii) Snow Removal Costs. All assessments for the costs of snow removal will be apportioned among the Lots based on square feet of parking area cleared on a given Lot divided by the total square feet of parking area cleared in the Development. The portion of the costs for removing the snow on the private roads will be apportioned as provided in section (v) below.

(iii) Shared Monument Sign. The cost for the initial installation of each shared monument sign and all costs for the maintenance, operation and upkeep of each monument sign will be apportioned pro rata among the Lots based on the respective size of each Lot's sign panel when compared to the total size of all sign panels.

(iv) Roy Water Conservancy District. All costs assessed by the Roy Water Conservancy District for secondary water rights will be apportioned among the Lots based on respective size of each Lot.

(v) All Other Costs. All other assessments will be apportioned among the Lots in the same manner that votes are allocated herein.

(c) Annual Budget. Annual assessments shall be determined on the basis of a fiscal year beginning January 1 and ending December 31 next following; provided the first fiscal year shall begin on the date of this Declaration. On or before December 15 of each year thereafter, the Board of Directors shall prepare and furnish to each Owner, or cause to be prepared and furnished to each Owner, an operating budget for the upcoming fiscal year. The budget shall itemize the estimated expenses for such fiscal year,

anticipated receipts (if any), and any deficit or surplus from the prior operating period. The budget shall serve as the supporting document for the annual assessment for the upcoming fiscal year and as the major guideline under which the Project shall be operated during such annual period.

(e) Notice and Payment. Except with respect to the first fiscal year, the Board of Directors shall notify each Owner as to the amount of the annual assessment against his Lot on or before December 31 each year for the fiscal year beginning on January 1 next following. Each annual assessment shall be payable in twelve (12) equal monthly installments, one (1) such installment due on the first day of each calendar month during the fiscal year to which the assessment relates; provided, however, the annual assessment for the first fiscal year shall be based upon such portion of the first fiscal year. The Owners shall commence payment of the full monthly assessments against their respective Lots no later than sixty (60) days after the conveyance of the first Lot in the Project or phase. All unpaid installments of any annual assessment shall bear interest at the rate of eighteen percent (18%) per annum from the date each such installment became due until paid. The failure of the Board of Directors to give timely notice of any annual assessment as provided herein shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, or a release of any Owner from the obligation to pay such assessment or any other assessment; but the date when the payment shall become due in such case shall be deferred to a date fifteen (15) days after notice of such assessment shall have been given to the Owner in the manner provided in this Declaration.

(f) Inadequate Funds. In the event that the Common Expense Fund provides inadequate at any time for whatever reason, including non-payment of any Owner's assessment, the Board of Directors may on behalf of the Association levy additional assessments in accordance with the procedure set forth in Section 9.03. below, except that the vote therein specified shall be unnecessary.

9.03 Special Assessments. In addition to annual assessments authorized by this Article, the Board of Directors may, on behalf of the Association, levy, at any time and from time to time, upon affirmative vote of at least fifty-one percent (51%) of the Total Votes of the Association, Special Assessments, payable over such periods as the Board of Directors may determine for the purpose of defraying, in whole or in part, the cost of any or any part thereof, or of any other expenses incurred or to be incurred as provided in this Declaration (including without limitation Common Expenses). This Section shall not be construed as an independent source of authority for the Association to incur expenses, but shall be construed to prescribe the manner of assessing for expenses authorized by other Sections or Articles hereof. Any amounts assessed pursuant hereto shall be assessed to Owners in proportion to their respective undivided interests in the Common Maintenance Areas. Notice in writing of the amount of each such Special Assessment and the time for payment thereof shall be given promptly to the Owners; no payments shall be due less than thirty (30) days after such notice shall have been given. All unpaid portions of any Special Assessment shall bear interest at the rate of eighteen percent

(18%) per annum from the date such portions become due until paid. All funds received from assessments under this Section shall be part of the Common Expense Fund.

9.04 Lien for Assessments. All sums assessed to Owners of any Lot within the Project pursuant to the provisions of this Article IX, together with penalties and interest thereon as provided herein, shall be secured by a lien on such Lot in favor of the Association. To evidence a lien for sums assessed pursuant to this Article IX, the Board of Directors may prepare a written notice of lien setting forth the amount of the assessment, the date due, the amount remaining unpaid, the name of the Owner of the Lot, and a description of the Lot. Such a notice shall be signed and acknowledged by a duly authorized officer of the Association and may be recorded in the office of the County Recorder of Weber County, State of Utah. No notice of lien shall be recorded until there is a delinquency in payment of the assessment. Such lien may be enforced by sale or foreclosure conducted in accordance with the provisions of law applicable to the exercise of powers of sale or foreclosure in deeds of trust or mortgages or in any other manner permitted by law by the Association in the same manner in which mortgages on real property may be foreclosed under the laws of the State of Utah. In any such foreclosure, the owner shall be required to pay the costs and expenses of such proceedings (including reasonable attorney's fees) and such costs and expenses shall be secured by the lien being foreclosed. The Owner shall also be required to pay to the Association any assessments against the Lot which shall become due during the period of foreclosure, and all such assessments shall be secured by the lien being foreclosed. The Board of Directors shall have the right and power in behalf of the Association to bid in at any foreclosure sale, and to hold, lease, mortgage, or convey the subject Lot in the name of the Association.

9.05 Personal Obligation of Owner. The amount of any annual or special assessment against any Lot shall be the personal obligation of the Owner of such Lot to the Association. Suit to recover a money judgment for such personal obligation shall be maintainable by the Association without foreclosing or waiving the lien securing the same. No owner may avoid or diminish any such personal obligation by waiver of the use and enjoyment of any of the Common Maintenance Areas or by abandonment of his Lot or by waiving any services or amenities provided for in this Declaration. In the event of any suit to recover a money judgment for unpaid assessments hereunder, the involved Owner shall pay the costs and expenses incurred by the Association in connection therewith, including reasonable attorney's fees.

9.06 Statement of Account. Upon payment of a reasonable fee not to exceed \$25.00 and upon written request of any Owner, Mortgagee, or prospective purchaser of a Lot, the Board of Directors shall issue a written statement setting forth the following: The amount of the unpaid assessments, if any, with respect to such Lot; the amount of the current annual assessment and the date or dates upon which installments thereof become due; credit for advanced payments or prepaid items, including without limitation the Owner's share of prepaid insurance premiums. Such statements shall be conclusive upon the Association in favor of persons who rely thereon in good faith. In the event that the Board of Directors fails upon written request to issue such a written statement, any unpaid assessments with respect to such Lot which became due prior to the written receipt of such written request by the Board of Directors shall become subordinate to a lien held by the person or entity requesting such statement.

9.07 Personal Liability of Purchaser. Subject to the provisions of Section 9.06, a purchaser of a Lot shall be jointly and severally liable with the seller thereof for all unpaid assessments against such Lot up to the time of the grant or conveyance; provided, however, that the provisions of this Section shall not prejudice the purchaser's right to recover from the seller the amount paid by the purchaser for such assessments.

9.08 Reserves and Working Capital. The Association shall establish the following funds:

(a) Capital Reserve Fund. The Association may establish and maintain an adequate capital reserve fund for the periodic maintenance, repair and replacement of improvements to the Common Maintenance Areas. The reserve fund shall be maintained out of regular assessments for common expenses. The purpose of the capital reserve fund is to insure that the Association will have cash available to meet unforeseen expenditures, or to pay the cost of periodic anticipated major repairs or improvements due to normal wear and tear to the Common Maintenance Areas and facilities. Amounts paid into the capital reserve fund are not to be considered adverse payment of any regular assessment. Each budget shall disclose that percentage of the annual assessment which shall be added to the capital reserve fund and each owner shall be deemed to make a capital contribution to the Association equal to such percentage multiplied by each installment of the annual assessment paid by such Owner.

(b) Working Expense Fund. The Association shall also establish and maintain for the initial months of the Project, a working expense fund equal to at least two (2) months' Common Maintenance Area charges for each Lot. The purposes of this fund are to provide for the normal day-to-day expenses of operating the Association and the Project. Each Lot's share of the working capital fund must be collected and transferred to the Association at the time of the closing of sale of that Lot. The working expense fund must be budgeted for separately and maintained in a segregated account for the use and benefit of the Association. The contribution to the working expense fund for each unsold Lot in a legal phase of the Project shall be paid to the Association within sixty (60) days after the date of conveyance of the first Lot in such legal phase of the Project.

ARTICLE X INSURANCE

10.01 Liability Insurance. The Board may procure and maintain, or require that each Owner procure and maintain, from a company or companies holding a financial rating of Class A or better from Best's Key Rating Guide, a policy or policies of public liability insurance to insure the Association, the Board, the Managing Agent and employees of the Association and the Owners against claims for bodily injury and property damage arising out of the conditions of the Common Maintenance Areas or activities thereon under a Comprehensive General Liability form. Such insurance shall be for such limits as the Board may decide, but not less than those

limits customarily carried in connection with properties of comparable character and usage in the county in which the Development is located nor less than \$1,000,000 for personal injury and property damage arising out of a single occurrence, such coverage to include protection against water damage liability, liability for non-owned and hired automobile, liability for the property of others and such other risks as shall customarily be covered with respect to property similar in construction, location and use. The policy shall contain a "Severability of Interest" endorsement which shall preclude the insurer from denying the claim of any Owner because of negligent acts of the Association or other Owners and a cross-liability endorsement pursuant to which the rights of the named insureds as between themselves are not prejudiced. The policy shall provide that the policy may not be canceled or substantially modified by the insurer unless it gives at least 30 days' prior written notice thereof to each insured. Any such coverage procured by the Board shall be without prejudice to the right of the Owners to insure their personal liability for their own benefit at their own expense. If the Board has the Owners obtain the insurance, then the Owner may self insure provided that the Owner is capable of providing adequate assurance that the self insurance will cover all possible claims outlined herein.

10.02 Additional Insurance; Further General Requirements. The Board may also procure insurance which shall insure the Common Maintenance Areas and the Association or the Owners and others against such additional risks as the Board may deem advisable. Insurance procured and maintained by the Board shall not require contribution from insurance held by any of the Owners or their Mortgagees. Each policy of insurance obtained by the Board shall, if reasonably possible, provide:

- (a) a waiver of the insurer's right of subrogation against the Association, the Owners and their respective directors, officers, agents, employees, invitees and tenants;
- (b) that it cannot be canceled, suspended or invalidated due to the conduct of any particular Owner or Owners;
- (c) that it cannot be canceled, suspended or invalidated due to the conduct of the Association without a prior written demand that the defect be cured; and
- (d) that any "no other insurance" clause therein shall not apply with respect to insurance maintained individually by any of the Owners.

10.03 Fidelity Coverage. The Association may maintain fidelity coverage to protect against dishonest acts on the part of officers, trustees, managing agents, directors and employees of the Association and all others (including volunteers) who handle, or are responsible for handling, funds of the Association. In that event, such fidelity bonds shall:

- (a) name the Association as an obligee;
- (b) be written in an amount based upon the best business judgment of the Association and shall not be less than the estimated maximum of funds (including reserve funds) in the custody of the Association or the Managing Agent at any given time during

the term of each bond, but in no event be less than a sum equal to three months' assessment on all Lots plus reserve funds;

(c) contain waivers of any defense based upon the exclusion of volunteers or persons who serve without compensation from any definition of "employee" or similar expression; and

(d) provide that they may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least 30 days prior written notice to the insured.

10.04 Review of Insurance. The Board shall periodically, and whenever requested by Owners entitled to exercise at least twenty percent (20%) of the outstanding votes in the Association, review the adequacy of the Association's insurance program and shall report in writing the conclusions and action taken on such review to the Owner of each Lot and to the holder of any Mortgage on any Lot who shall have requested a copy of such report. Copies of every policy of insurance procured by the Board shall be available for inspection by any Owner and any Mortgagee.

10.05 Owners Policies. Each Owner shall be responsible to purchase and maintain in force appropriate hazard, content and liability insurance as such Owner shall determine what is appropriate to the Owner's needs and circumstances. The Association will not be required to file claims on any of its policies for any damage or liability claim that either should or would have been covered under any Owner's policy.

10.06 Other Insurance Provisions. All insurance required pursuant to this Article X shall be written by insurers licensed in the State of Utah. Notwithstanding anything in this Article X to the contrary, any insurance required to be obtained by the Association pursuant to this Article X shall be required only to the extent that such coverage is reasonably obtainable at reasonable rates and is customarily obtained with respect to improvements or facilities having the same or similar characteristics of the Common Maintenance Areas or risks being insured.

ARTICLE XI **RIGHTS OF MORTGAGEES**

11.01 Title and Mortgagee Protection. A breach of any of the covenants, provisions, or requirements of this Declaration shall not result in any forfeiture or reversion of title or of any other interest in a Lot or any other portion of the Property. A breach of any of the covenants, provisions, or requirements of this Declaration shall not defeat, impair, or render invalid the lien of or other rights under any Mortgage. Unless and until it enters into possession or acquires title pursuant to foreclosure or any arrangement or proceeding in lieu thereof, any Mortgagee interested under any Mortgage affecting a Lot or any other portion of the Property shall have no obligation to take any action to comply with, and may not be compelled to take any action to comply with, any of the covenants, provisions, or requirements of this Declaration (other than those, if any, concerning a consent or approval to be given by a Mortgagee, in the event a

Mortgagee's failure to give the same is wrongful). No amendment to this Declaration shall in any way affect the rights of any Mortgagee interested under a Mortgage which is in effect at the time of the amendment concerned or the rights of any successor in interest or title to such Mortgagee, either before or after such Mortgagee or its successor enters into possession or acquires title pursuant to foreclosure, or any arrangement or proceeding in lieu thereof, unless such Mortgagee has consented in writing to such amendment.

11.02 Preservation of Common Maintenance Area. The Common Maintenance Areas shall remain substantially of the same character, type and configuration as when such Common Maintenance Areas became part of the Development. Unless the Association shall receive the prior written approval of (a) all first Mortgagees of Lots and (b) the Owners of all Lots, the Association shall not be entitled by act or omission to abandon, partition, subdivide, encumber, sell, transfer or materially modify the Common Maintenance Areas, except to grant reasonable easements for utilities and similar or related purposes.

11.03 Notice of Matters Affecting Security. The Association shall give written notice to any Mortgagee of a Lot requesting such notice whenever:

(a) there is any material default by the Owner of the Lot subject to the Mortgage in performance of any obligation under this Declaration or the Articles of the Association which is not cured within 60 days after default occurs; or

(b) damage to the Common Maintenance Areas from anyone occurrence exceeds \$10,000; or

(c) there is any condemnation or taking by eminent domain of any material portion of the Common Maintenance Areas.

11.04 Notice of Meetings. The Board shall give to any Mortgagee of a Lot requesting the same, notice of all meetings of the Association; and such Mortgagee shall have the right to designate in writing a representative to attend any or all such meetings.

11.05 Right to Examine Association Records. Any Mortgagee shall, upon request, have the same right to inspect the books and records of the Association and receive financial statements as the Owner of the Lot securing the Mortgage.

11.06 Right to Pay Taxes and Charges. Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may have become a charge against any portion of the Common Maintenance Areas and may pay overdue premiums on insurance policies pertaining to the Common Maintenance Areas, or secure new insurance coverage pertaining to the Common Maintenance Areas on the lapse of a policy; and Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

11.07 No Priority Accorded. No provision of this Declaration gives or may give a Lot Owner or any other party priority over any rights of Mortgagees pursuant to their respective

Mortgages in the case of a distribution to Lot Owners of insurance proceeds or condemnation awards for loss to or taking of Lots and/or the Common Maintenance Areas.

11.08 Construction. In the event another provision or clause of this Declaration deals with the same subject matter as is dealt with in any provision or clause of this Article IX, the provision or clause which results in the greatest protection and security for a Mortgagee shall control the rights, obligations, or limits of authority, as the case may be, applicable to the Association with respect to the subject concerned.

ARTICLE XII
MISCELLANEOUS

12.01 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 records of the Association at the time of delivery or mailing. Any notice required or permitted to be given to the Association may be given by delivering or mailing the same to the Managing Agent or any officer or Trustee of the Association.

12.02 Amendment. This Declaration may be amended (as opposed to terminated) by an instrument recorded in the Public Records, which is executed either by Owners who collectively hold at least sixty percent (60%) of the total outstanding votes in the Association or by the Association which shall certify that the required sixty percent (60%) vote was obtained in a Member meeting or by consent and is so documented in the records of the Association. No amendment to any provision of this Declaration which has the effect of diminishing or impairing any right, power, authority, privilege, protection, or control accorded to Declarant (in its capacity as Declarant), or to a Mortgagee, Owner or the Association shall be accomplished or effective unless the instrument through which such amendment is purported to be accomplished is specifically consented to in writing by Declarant or by such Mortgagee, Owner or the Association, as the case may be.

12.03 Consent in Lieu of Vote. In any case in which this Declaration requires for authorization or approval of a transaction the assent or affirmative vote of a stated percentage or number of votes outstanding in the Association or of the Owners, 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 or number of all membership votes then outstanding in the Association, unless a higher percentage or a greater number is required by law. The following additional provisions shall govern any application of this Section 12.03:

- (a) All necessary consents must be obtained prior to the expiration of 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) Any change in ownership of a Lot which occurs after a consent has been obtained from the Owner thereof shall not be considered or taken into account for any purpose; and

(d) Unless the consent of all Owners whose memberships are appurtenant to the same Lot are secured, the consent of none of such Owners shall be effective.

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

12.05 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 hereof 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.

12.06 Condemnation. If at any time or times an insubstantial or minor part of the Common Maintenance Areas or any part thereof shall be taken or condemned by any authority having the power of eminent domain, all compensation and damages shall be payable to the Association and shall be used by the Association to the extent necessary for restoring or replacing any improvements on the remainder of the Common Maintenance Areas. In the event of any other taking or condemnation, the interests of the Association, the Owners and Mortgagees shall be as they may appear.

12.07 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 shall inure to the benefit of Declarant, all parties who heretofore acquired or hereafter acquire any interest in a Lot, their respective grantees, transferees, heirs, devisees, personal representatives, successors, and assigns. Each Owner or occupant of a Lot shall comply with, and all interests in all Lots or in the Common Maintenance Areas shall be subject to, the terms of this Declaration and the provisions of any Rules and Regulations, agreements, instruments, and determinations contemplated by this Declaration. By acquiring any interest in a Lot, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

12.08 Enforcement of Restrictions. The Association, any Owner or any Mortgagee shall have the right to exercise or seek any remedy at law or in equity to interpret, to enforce compliance with or to obtain redress for violation of this Declaration. The prevailing party in an action for the interpretation of, the enforcement of or to obtain redress for violation of any provisions of this Declaration shall be entitled to collect court costs and reasonable attorney's fees.

12.09 Duration/Termination. This Declaration shall remain in effect until such time as there is recorded in the Public Records, following the approval of the applicable municipalities authorizing such termination, an instrument of termination which is executed by sixty-six percent (66%) of the total outstanding votes of the Association.

12.10 Effective Date. This Declaration, any amendment or supplement hereto, and any amendment or supplement to the Plat shall take effect upon its being filed for record in the Public Records.

[INTENTIONALLY LEFT BLANK; SIGNATURE PAGE TO FOLLOW]

EXECUTED by Declarant on the day and year first above written.

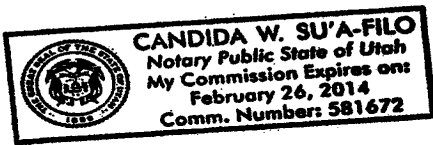
DECLARANT:

ALL AMERICAN INVESTMENTS VI, LLC, a Utah limited liability company

[Signature]
By: _____
Its: MEMBER

STATE OF UTAH)
: ss.
County of Utah)

On the 7th day of April, 2010, personally appeared before me John C. Heiner, the signer of the within instrument, who duly acknowledged to me that he executed the same as a managing member of ALL AMERICAN INVESTMENTS, LLC.



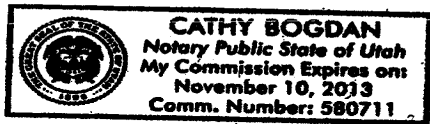
[Signature]
NOTARY PUBLIC

SBH MIDLAND MARKET PLACE, LC, a Utah limited liability company

[Signature]
By: _____
Its: Mg. Member

STATE OF UTAH)
Salt Lake : ss.
County of Utah)

On the 11th day of May, 2010, personally appeared before me Elden V. Haacke, the signer of the within instrument, who duly acknowledged to me that he executed the same as a managing member of SBH MIDLAND MARKET PLACE, LC.



[Signature]
NOTARY PUBLIC

EXHIBIT A

(Legal Description of Land)

Lots 1, 2, 3, 4, 5, and 6, as identified in the Plat recorded in the office of the Weber County recorder as Entry No. 2425488, contained within **Plat "A" of Midland Square Commercial, Weber County, Utah,** Subject to the Declaration of Protective Easements, Covenants, Conditions and Restrictions of Midland Square Commercial, recorded in the office of the Weber County Recorder as Entry no. 2425489, (as said Declaration may have heretofore been amended or supplemented), Together with a right and easement of use and enjoyment in and to the Common Maintenance Areas described, and as provided for, in said Declaration of Protective Easements, Covenants, Conditions and Restrictions (as said Declaration may have heretofore been amended or supplemented).

Parcel No.: ~~08-511-0001~~, ~~08-511-0002~~, ~~08-511-0003~~, ~~08-511-0004~~, ~~08-511-0005~~,
08-511-0006

pd

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EXHIBIT B

(Legal Description of Additional Land)

Lots 7 and 8, as identified in the Plat recorded in the office of the Weber County recorder as Entry No. 2425488, contained within **Plat "A" of Midland Square Commercial**, Weber County, Utah, Subject to the Declaration of Protective Easements, Covenants, Conditions and Restrictions of Midland Square Commercial, recorded in the office of the Weber County Recorder as Entry no. 2425489, (as said Declaration may have heretofore been amended or supplemented), Together with a right and easement of use and enjoyment in and to the Common Maintenance Areas described, and as provided for, in said Declaration of Protective Easements, Covenants, Conditions and Restrictions (as said Declaration may have heretofore been amended or supplemented).

Parcel No.: 08-511-0007, 08-511-0008 *rd*