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RICHARD T. MAUGHAN
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When recorded return to:
Melven E. Smith, Esq.
SMITH KNOWLES, P.C.
4723 Harrison Boulevard
Ogden, Utah 84403

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SEP 13 2012

**AMENDED & RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND
RESERVATION OF EASEMENTS FOR TRAILSIDE PARK**

THIS AMENDED & RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND RESERVATION OF EASEMENTS FOR TRAILSIDE PARK (hereinafter this "Declaration") is made and executed on this ____ day of _____, 2012, by Colonial Builders Group, LLC, a Utah limited liability company (hereinafter "Declarant").

12-105-0115, 0116, 0118 & 0119 pt

RECITALS:

A. On June 29, 2007, that certain Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Trailside Park was recorded as Entry No. 2284453, in Book 4315, at Page 1627, in the recorder's office of Davis County, State of Utah, affecting the following real property:

All of Trailside park Phase 1, a cluster subdivision, Syracuse City, Davis County, Utah, according to the official plat thereof. Parcel No.: 12-625-0001 thru 0011

(~~Future subdivision to be recorded~~) All of Trailside park Phase 2, a ~~cluster~~ ^{2nd Amendment} subdivision, Syracuse City, Davis County, Utah, according to the official plat thereof. Parcel No.:
____ thru 31. 12-758-0010 thru 12-758-0032

B. On August 14, 2007, that certain Supplemental Declaration and Addendum to the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Trailside Park was recorded as Entry No. 2297380, in Book 4345, at Page 1043-1044, in the recorder's office of Davis County, State of Utah.

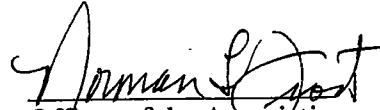
C. Pursuant to ¶ 13.2 of Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Trailside Park, following proper notice, a meeting was held on or about June 7, 2012, wherein a vote was cast by the Owners representing at least 67% of the total ownership of the Subdivision, approving and accepting the conditions and restrictions set forth in this Declaration.

Brad Frost and Norm Frost, officers of the Association, hereby certify and swear that the above described meeting was held and that the requisite number of votes were cast accepting and approving of the recording of this Declaration.

Brad Frost


Officer of the Association

Norm Frost


Officer of the Association

D. This Declaration will take effect on the date recorded at the office of the Davis County Recorder's Office (the "Effective Date").

E. Declarant, together with others, are the Owners of certain real property located in Davis County, Utah and more particularly described as follows (the "Property"):

[LEGAL DESCRIPTION]

Phase 1: Recorded 11-18-05, as Entry No. 2123687, in Book 3915 at Page 755
Phase 2: Recorded 3-29-12, as Entry No. 2651989 in Book 5489 at Page 449

F. Declarant desires to subject the Property, to the terms of this Declaration, to the terms and conditions of this Declaration. The Common Areas are those areas that are depicted as Common Areas in the recorded Plat(s), as well as future Common Areas depicted on future recorded Plat(s). Common Areas shall include any Detention Basin(s) depicted on the official and recorded Plat(s) for the Subdivision, including any structures related to the operation or maintenance of the Detention basin(s), and will serve as detention basins for the Subdivision, including subsequent phases of Trailside Park that will be located within the Undeveloped Land, and upon the recording of a Plat(s) depicting said detention basins, said detention basins, including any structures related to the operation or maintenance of the Detention basin(s), shall be conveyed to the Association upon the recording of the Plat(s) depicting said detention basin(s).

G. Declarant reserves the right to develop additional phases within the Undeveloped Area of the Property pursuant to the Community Association Act, Utah Code Sections 57-8a-101, *et seq.*, as amended from time to time, which Subdivision does not constitute a cooperative. 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 desires to provide for preservation of the values and amenities of the Property and for maintenance of the Common Areas, as established in the official real property records of Davis County, State of Utah.

H. Declarant has deemed it desirable, for the efficient preservation of the values and amenities of the Property, to create an entity which possesses the powers to maintain and administer the Common Areas and collect and disburse the assessments and charges provided for in this Declaration and otherwise administer and enforce the provisions of this Declaration. For such purposes, contemporaneously with the recording of this Declaration, Declarant will register with the Utah Department of Commerce Trailside Park II Owners Association (the "Association").

I. The Association is governed by the terms of this Declaration, the Articles of Incorporation for Trailside Park II Owners Association and the Bylaws for Trailside Park II Owners Association, which is attached hereto as Exhibit "A" and shall be recorded in the Davis County Recorder's Office contemporaneously with the recording of this Declaration.

J. Declarant declares that the Property shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied, and improved, subject to the following easements, restrictions, covenants, conditions and equitable servitudes, all of which are for the purpose of uniformly enhancing and protecting the value, attractiveness and desirability of the Property, in furtherance of a general plan for the protection, maintenance, subdivision, improvement and sale of the Property or any portion thereof. The covenants, conditions, restrictions, reservations, easements and equitable servitudes set forth herein shall run with each Lot located on the Property, including any additions thereto, and shall be binding upon all persons having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns and shall inure to the benefit of every portion of the Property and any interest therein; and shall inure to the benefit of and be binding upon Declarant, and its successors in interest; and may be enforced by any Owner and its successors in interest and by the Association.

K. 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, including development of the Detention Basin(s), including any structures related to the operation or maintenance of the Detention basin(s); (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 applicable City ordinances; (4) assignment of Declarant's rights under this Declaration in whole or part to one or more builders intending to construct homes or model homes within the Subdivision; and (5) retention of Declarant's rights with respect to subsequent phases of the Subdivision. This Declaration shall be binding upon the Declarant as well as its successors in interest, and may be enforced by the Declarant, the Association, or by any Owner of a Lot within the subdivision on the Property. A supplemental declaration, with such modifications or supplemental provisions as may be deemed appropriate by Declarant on a phase-by-phase basis to address differences in the circumstances

affecting Lots to be constructed after the initial phase, shall be recorded against the Undeveloped Land, or any portion thereof, to create subsequent phases of the Subdivision.

COVENANTS, CONDITIONS AND RESTRICTIONS

ARTICLE I

DEFINITIONS

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

(A) "Act" means the Community Association Act, Utah Code Ann. Sections 57-8a-101 *et. seq.*

(B) "Architectural Committee" shall mean the architectural committee created by this Declaration.

(C) "Association" shall mean save TRAILSIDE PARK II OWNERS ASSOCIATION, and as the context requires, the officers and directors of that Association.

(D) "Board", "Board of Trustees", or "Board of the Association" shall mean the duly elected and acting Board of Trustees of TRAILSIDE PARK II HOMEOWNERS ASSOCIATION.

(E) "City" shall mean Syracuse City, Utah and its appropriate departments, officials and boards.

(F) "Common Areas" shall mean all property, including the Detention Basin(s) designated on the recorded Plat(s), including any structures related to the operation or maintenance of the Detention basin(s), as being intended ultimately to be owned by the Association for the common use and enjoyment of the Owners, together with all improvements thereon and all of the easements appurtenant thereto, but specifically excepting therefrom any private lane for the limited use of ingress and egress for those Lots appurtenant thereto. The Association shall maintain the Common Areas.

(G) "Common Expenses" means any and all costs, expenses and liabilities incurred by or on behalf of the Association, including, without limitation, costs, expenses and liabilities for (A) managing, operating, insuring, improving, repairing, replacing and maintaining the Common Areas; (B) providing facilities, services and other benefits to Owners as set forth in this Declaration (including snow removal on the sidewalks and private lanes in the Subdivision; (C) administering and enforcing the covenants, conditions, restrictions, reservations and easements created hereby; (D) levying, collecting and enforcing the Assessments, charges, fines, penalties

and liens imposed pursuant hereto; (E) operating the Association; and (F) creating reserves for any such costs, expenses and liability as required by this Declaration.

(H) "Declarant" shall mean and refer to Colonial Builders Group, LLC, a Utah limited liability company, and to its assigns.

(I) "Declaration" shall mean this AMENDED & RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND RESERVATION OF EASEMENTS FOR TRAILSIDE PARK, together with any subsequent amendments or additions through supplemental declarations. The Subdivision Plat(s) for TRAILSIDE PARK and future phases of TRAILSIDE PARK (which Declarant intends, but is not obligated, to record in the future), and the easements and other matters shown on any such Plat(s) are also incorporated into this Declaration by reference.

(J) "Dwelling" shall mean the single family residence built or to be built on any Lots, including the attached garage.

(K) "Family" shall mean one household of persons related to each other by blood, adoption or marriage of not more than three persons in a two bedroom dwelling and not more than four persons in a three bedroom dwelling.

(L) "Improvement" shall mean all structures and appurtenances of every type and kind, including but not limited to buildings, dwellings, garages, walkways, retaining walls, driveways, fences, landscaping, decks, stairs, poles, lighting, signs, satellite dishes or other antennas, and any mechanical equipment located on the exterior of any building.

(M) "Lot" shall mean any numbered building Lot shown on any official and recorded Plat(s) of all or a portion of the Subdivision.

(N) "Owner" shall mean the person or persons having title to any Lot. 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 any obligations, including the trustee and/or beneficiary under a Deed of Trust or mortgagee under a mortgage.

(O) "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.

(P) "Plat(s)" shall mean an official and recorded plat of Trailside Park, including all subsequent phases of Trailside Park when recorded, as approved by the City and recorded in the office of the Davis County Recorder, as it may be amended from time to time.

(Q) "Property" shall have the meaning set forth in the recitals.

(R) "Subdivision" shall mean all phases of Trailside Park and all Lots, and other property within the Subdivision as shown on the Plat(s) covering the Property.

(S) "Subdivision Improvements" shall mean all subdivision improvements to be installed outside the boundaries of Lots or within easements as identified on the Plats that are necessary to provide public road access and/or private road access and utility service to the Lots, and including other construction work required to comply with any conditions of City or County or other governmental agencies to the approval of the Subdivision or any Plat(s) thereof.

(T) "Undeveloped Land" shall, at any point in time, mean all of the land more particularly described in Exhibit "B" attached hereto and made a part hereof. Declarant's determination as to when any of the land described in Exhibit "B" ceases to be Undeveloped Land shall be conclusive.

ARTICLE II

COMMON AREAS

2.1 The Common Areas shall be and are hereby conveyed to the Association, a Utah non-profit corporation, subject to this Declaration and subject to appropriate access by governmental, including all law enforcement and fire protection authorities.

2.2 The Common Areas consist of areas designated on the recorded Plat(s), including the Detention Basin(s) designated on the recorded Plat(s), including any structures related to the operation or maintenance of the Detention basin(s), together with any rights or way and utilities, as shown on the recorded Plat(s).

2.3 Notwithstanding anything contained in this Declaration to the contrary, all Common Areas appurtenant to each recorded Plat of the Subdivision shall be conveyed to the Association upon recordation of a Plat depicting such Common Areas, reserving a perpetual, nonexclusive easement for ingress and egress and development access across, under, over and upon such roads, rights of way and utilities located on the Property to and from any real property both (i) owned by the Declarant and (ii) located adjacent to or in the same area of the Property. Said easement being reserved to the Declarant, its successors and assigns, is intended hereby to run with the land in perpetuity to burden the Property for the benefit of Declarant's real property located near or adjacent to the Property, subject to the payment of a prorata share of the costs of maintenance thereof. The Association shall maintain the Common Areas.

ARTICLE III

OWNERS

3.1 Owner shall mean and refer to one (1) or more Persons who hold the record title to any Lot which is part of the Property, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Lot is sold under a recorded contract of sale and the contract specifically so provides, then the purchaser (rather than the fee Owner) will be considered the Owner. If a Lot is subject to a written lease with a term in excess of one (1) year and the lease specifically so provides, then upon filing a copy of the lease with the Board of Trustees, the lessee (rather than the fee owner) will be considered the Owner.

ARTICLE IV

MEMBERSHIP

4.1 One (1) membership in the Association shall be granted per Lot. No Owner, whether one (1) or more Persons, shall have more than one (1) membership in the Association per Lot owned. In the event the Owner of a Lot is more than one (1) Person, voting rights and rights of use and enjoyment shall be exercised as provided by this Declaration and as agreed amongst such interest holders. The rights and privileges of membership may be exercised by a Member or the Member's spouse, subject to the provisions of this Declaration and the Bylaws. The membership rights of a Lot owned by a corporation, partnership or other legal entity shall be exercised by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association, subject to the provisions of this Declaration and the Bylaws. Notwithstanding the foregoing, the Declarant, as owner of the Undeveloped Land, shall also be granted voting rights as a Class "B" member, as defined below.

ARTICLE V

VOTING

5.1 The Association shall have two (2) classes of voting membership, Class "A" and Class "B", as follows:

- (A) Class "A". Class "A" Members shall be all Owners with the exception of Class "B" membership, if any. Class "A" membership shall be entitled to one (1) equal vote for each Lot in which they are an Owner. There shall be only one (1) vote per Lot. In any situation where an Owner is entitled personally to exercise the vote for his Lot and more than one (1) Person holds the interest in such Lot required for membership, the vote for such Lot shall be exercised as those Persons determine among themselves and advise the Board, in writing, prior to any meeting. In the absence of such

advice, the Lot's vote shall be suspended if more than one (1) Person seeks to exercise it.

- (B) Class "B". The Class "B" Member shall be Declarant. In all matters requiring a vote, the Class "B" membership shall receive five (5) votes for each recorded Lot owned by Declarant and five (5) votes for each acre of property owned by Declarant within the Undeveloped Land but not yet a recorded Plat. The Class "B" membership shall also be entitled to appoint the members of the Board of Trustees during the Class "B" Control Period.

ARTICLE VI

CONTROL PERIOD

6.1 The Class "B" Member Control Period runs until the first to occur of the following:

- (A) When the total number of votes for the Class B Member is less than the total number of votes for the Class A Members; or
- (B) When, at its discretion, the Class B member so determines.

ARTICLE VII

HOMEOWNERS ASSOCIATION

7.1 To effectively enforce this Declaration, the Declarant has created an Association called TRAILSIDE PARK II HOMEOWNERS ASSOCIATION. The Association shall be comprised of the Owners of Lots within all phases of the Trailside Park, and is established to perform the following functions and exercise the following rights and powers for the benefit of the Owners and the enforcement of these covenants. Membership in the Association is deemed an appurtenance to the Lot, and is transferable only in conjunction with the transfer of the title to the Lot. The Association shall have and exercise, as necessary, the following powers:

7.2 Enforcement Powers. The Association shall have the power to enforce these covenants by actions in law or equity brought in the name of the Association, the power to retain professional services needed to the enforcement of these covenants and to incur expenses for that purpose. The officers of the Association shall have the authority to compromise claims and litigation on behalf of the Association resulting from the enforcement of these covenants. In the event that the Board of the Association initiates legal action against a specific lot owner or owners to enforce these covenants, and the Association prevails in a court of law, then the Board of the Association shall have the right to assess the costs of such litigation against the lot or lots

in question. The Board of the Association may file against such lot or lots with the amount involved to carry interest at the current statutory rate for judgments unpaid paid. The Board is further authorized to take whatever reasonable action is necessary to obtain payment including, but not limited to, foreclosure of the lien. The Board of the Association shall have the exclusive right to initiate enforcement actions in the name of the Association, however this shall not limit the individual right of Lot Owners to personally enforce these covenants in their own name. The Association may appear and represent the interest of the Subdivision at all public meetings concerning zoning, variances, or other matters of general application and interest to the Owners. Owners may appear individually.

7.3 Maintenance of Yard, Common Areas by the Association. The Association shall (i) maintain the front yard areas (excluding driveways) and the side yard areas adjacent to dedicated streets in the Subdivision and (ii) maintain and operate the Detention Basin(s), including any structures related to the operation or maintenance of the Detention basin(s), and any other Common Areas shown on the Plat or acquired by the Association. The Association shall have the authority to assess its members for the costs of said maintenance and for restoring any damage to any such property owned by the Association.

- (A) Snow Removal. The maintenance performed by the Association shall include the removal of snow from all sidewalks and driveways within the Subdivision and any other Common Area requiring snow removal. The costs for said snow removal shall be a common expense and borne by all Lot Owners.

7.4 Assessments. The Association has the power to levy assessments against each Lot as necessary to carry out these functions. An equal assessment shall be levied against all Lots, whether vacant or improved. In addition, a separate assessment shall be levied equally against all Lots that are appurtenant to Limited Common Areas. Assessments will be made annually to meet the anticipated and recurring costs, expenses and other expenditures of the Association including, but not limited to, the costs of litigation, maintenance, acquisition, repair and replacement of capital facilities, liability insurance, any water for irrigation of areas within the control of the Association, reimbursement of expenses incurred by the Board and Architectural Committee in performance of their obligations, the costs of complying with and enforcing rights under these covenants, and working capital, capital improvements and contingency reserves. Notice of the assessment and the proposed amount of the annual assessment will be given in advance along with the notice of the annual meeting of the Association, provided that the amount of the proposed assessment may be increased or decreased at the meeting in which it is approved by the Owners. The Association may also levy special assessments to cover unanticipated expenses or shortfalls. No special assessment will be levied without approval of a majority of a quorum of the Owners in attendance in person or by proxy at a meeting called for that purpose.

7.5 Reserve Fund Analysis. The Board of Trustees shall cause a reserve analysis to be conducted no less frequently than every five (5) years, separately for the Common Areas. The Board shall thereafter review and, if necessary, update a previously conducted reserve analysis no less frequently than every three (3) years. The Board may conduct a reserve analysis itself or may engage a reliable person or organization, as determined by the Board, to conduct the reserve analysis.

- (A) The Board may not use money in a reserve fund:
 - (i) For daily maintenance expenses unless a majority of the Owners vote to approve the use of reserve fund money for that purpose;
 - (ii) For any purpose other than the purpose for which the reserve fund was established;

7.6 Reserve Fund Creation. Based on the results of the reserve analysis, the Board shall create a reserve fund into which the Board shall cause to be deposited those Common Area assessments collected from Owners for the purpose of funding a separate reserve fund for Common Areas and Limited Common Areas. The Board shall cause an assessment to be made against all Owners, which assessment shall be collected on the same terms and conditions as other common expenses, in an amount sufficient to fund the reserve fund according to the findings of the reserve analysis. The Board shall maintain a reserve fund separate from other funds of the Association. This Article may not be construed to limit the Board from prudently investing money in a reserve fund account.

7.7 As used herein "reserve analysis" means an analysis to determine:

- (A) The need for a reserve fund to accumulate money to cover the cost of repairing, replacing, and restoring Common Areas and facilities that have a useful life of three (3) years or more, but excluding any cost that can reasonably be funded from the general budget or other funds of the Association;
- (B) The appropriate amount of any reserve fund.

7.8 Date of Commencement of Assessments. The assessments provided for herein shall commence as to each Lot on the first day of the first month following: (i) the date of conveyance of the Lot by Declarant; or (ii) the effective date of the first budget, whichever is later. Assessments shall be due and payable in a manner and on a schedule as the Board of Trustees may provide. The first annual assessment shall be adjusted according to the number of days remaining in the fiscal year at the time assessments commence on the Lot.

7.9 Association Rules. The Board from time to time and subject to the provisions of this Declaration may adopt, amend, repeal and enforce rules and regulations governing, among other things, (a) the use of the Common Areas; (b) the use of any facilities owned by the Association; (c) the collection and disposal of refuse; (d) the maintenance of animals on the Property; (e) other matters concerning the use and enjoyment of the Property and the conduct of residents; and additional architectural guidelines, as deemed necessary by the Board.

7.10 Statement of Account. Any Owner may request the Association to provide a statement of his account to any lender or prospective buyer of that Lot showing the assessments to be paid in full, or the amount of any past due assessments. The Buyer or Lender for whom such statement was prepared will be entitled to rely on its accuracy, and will not be held liable for any amounts now shown on the statement. The Association may charge a transfer fee, not to exceed \$50.00 for providing such statements and for changing its records to reflect the name of the new Owner. Those individuals selling Lots and those individuals buying Lots subject to these covenants agree to share that cost equally.

7.11 Indemnity of Association Board and Officers. The Association will indemnify the officers, agents and Board of the Association against any and all claims arising against them personally which are a result of the good faith exercise of the powers, duties and responsibilities of their office under this Declaration.

7.12 Election. The elections for members of the Board of Trustees, or any other matter which is presented to the Association, each Owner, including the Declarant, shall be entitled to cast one vote for each Lot he or she owns. In the case of a Lot with multiple Owners, the Owners will agree among themselves how the vote applicable to that Lot will be cast, and if no agreement can be reached, no vote will be received from that Lot. Any of the multiple Owners appearing at the meeting in person or by proxy is deemed to be acting with proper authority for all the other Owners of that Lot unless the other Owners are also present or have filed written objections to that Owner's representation of the other Owners of the Lot in question.

7.13 Notice of Election, Notice of Meeting. Notice of any meeting for the election of members to the Board of Trustees or for any other purpose shall be sent to the Owners at their last known address (which may be determined from the most recent property tax assessment if no other address is known). Notice will be mailed not less than 21 days, nor more than 60 days in advance of the meeting. Any notice will state the purpose of the meeting, and the time, date and place of the meeting. At any such meeting, a quorum will exist if the Owners of 51% of Lots are present. Those present at the meeting may vote to continue the meeting to any date within 30 days. Notice of the continued meeting will be given by mail, and at the subsequent continued meeting, a quorum will consist of those members present. The Chairman of the Board of Trustees will give notice of any meetings, and will chair meetings of the Owners.

7.14 Special Meeting. When circumstances warrant, a special meeting of the Owners may be called by the Board of Trustees or by 10% of the Lot owners in the Subdivision. No

business may be conducted at a special meeting without a full quorum of the Owners of 51% of the Lots being present in person or by written proxy.

7.15 Number of Board, Term of Office. Unless otherwise provided in the By-Laws of the Association, there shall be three numbers of the Board of Trustees, who will serve for terms of three years, or until their successors have been elected. At such time as the first Board of Trustees is named, whether by appointment by the Declarant or by election from among the Members, the Trustees will draw lots to divide themselves into terms of one, two and three years. Members of the Board of Trustees may serve consecutive terms, and may also serve as officers of the Association.

7.16 Independent Accountant. The Association may retain the services of an independent accountant to assist the Board of Trustees and Officers to maintain accurate financial records of the Association.

ARTICLE VIII

LIEN FOR ASSESSMENTS & THE APPOINTMENT OF TRUSTEE

8.1 Upon recording of a notice of lien on any Lot, there shall exist a perfected lien for unpaid assessments prior to all other liens, except: (1) all taxes, bonds, assessments, and other levies which by law would be superior thereto; and (2) the lien or charge of any first or second Mortgage of record (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value.

8.2 Such lien, when delinquent, may be enforced by suit, judgment, and foreclosure.

8.3 The Association, acting on behalf of the Owners, shall have the power to bid for the Lot at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. During the period in which a Lot is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be charged or levied on it; and (c) each other Lot shall be charged, in addition to its usual assessment, its equal pro rata share of the assessment that would have been charged had such Lot not been acquired by the Association as a result of foreclosure. Suit to recover a money judgment for unpaid Common Expenses and attorney fees shall be maintainable without foreclosing or waiving the lien securing the same.

8.4 The Declarant hereby conveys and warrants pursuant to U.C.A. Sections 57-1-20 and 57-8a- 4022 to Melven E. Smith, Esq., a licensed member of the Utah State Bar, with power of sale, any Lot and all improvements thereon for the purpose of securing payment of Assessments under the terms of this Declaration.

8.5 All rights and remedies of the Association shall be cumulative and the exercise of one right or remedy shall not preclude the exercise of any other right or remedy. The "One

Action Rule” shall not be a defense to the enforcement of all rights and remedies of the Association.

ARTICLE IX

SUBORDINATION OF THE LIEN TO INSTITUTIONAL FIRST AND SECOND MORTGAGES

9.1 The lien of assessments, including interest, late charges (subject to the limitations of Utah law), and costs (including attorney fees) provided for herein, shall be subordinate to the lien of any institutional first or second Mortgage upon any Lot. The sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to foreclosure of an institutional first or second Mortgage, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer; provided, that to the extent there are any proceeds of the sale on foreclosure of such Mortgage or by exercise of such power of sale in excess of all amounts necessary to satisfy all indebtedness secured by and owed to the holder of such Mortgage, the lien shall apply to such excess. No sale or transfer shall relieve such Lot from lien rights for any assessments thereafter becoming due. Where the Mortgagee holding an institutional first or second Mortgage of record or other purchaser of a Lot obtains title pursuant to remedies under the Mortgage, its successors and assigns shall not be liable for the share of the Common Expenses or assessments by the Association chargeable to such Lot which became due prior to the acquisition of title to such Lot by such acquirer. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from Owners of all the Lots, including such acquirer, its successors and assigns. No foreclosure, sale or transfer shall relieve any Owner who was the Owner prior to such foreclosure, sale or transfer from personal liability for any assessments due and owing prior to such foreclosure, sale or transfer.

ARTICLE X

OWNERS' MAINTENANCE OBLIGATIONS

10.1 Duty to Maintain. 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. The Owner of each Lot shall maintain his Lot, including the rear yards, those side yards that are not adjacent to a street or private lane, and the driveway to each such Lot, and the improvements on the Lot in a good state of repair and in an attractive, safe and healthy condition.

10.2 Repair by Association. In the event that an Owner permits his Lot or Improvements to fall into a state of disrepair that is dangerous, unsafe, unsanitary or unsightly condition or fails to comply with any other covenant or restriction in violation of this Declaration, the Association may give written notice to the Owner describing the condition complained of and demand that the Owner correct the condition within 30 days. If the Owner

fails to take corrective action, the Association shall have the right, but not the obligation, to enter upon the offending Owner's Lot and take corrective action to abate the condition. All costs of abatement shall be charged to the Owner, who agrees to promptly pay the reasonable costs of any work performed under this provision. In addition, each Owner hereby grants to the Association a lien on the Lot and any improvements to secure repayment of any sums advanced pursuant to this section, which lien may be foreclosed at any time by the Association in the manner prescribed in Utah for the foreclosure of mortgages. Alternatively, without requiring foreclosure, the Association may seek collection of sums advanced directly from the Owner of the Lot in question. Unpaid amounts will bear interest from the date advanced at the lawful judgment rate under applicable state law.

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

10.4. Repair Following Damage. In the event of casualty loss or damage to the improvements, the Owner will be entitled to reconstruct the Improvements as they existed prior to the damage or loss without review by the Architectural Committee, provided however that alterations or deviations from the original approved plans will require review. Nothing in this Declaration is intended to prevent an Owner who has suffered property damage or loss from taking temporary measures to secure the property and prevent injury or dangerous conditions following loss or damage, before re-construction begins. Such temporary measures may be taken without the consent or approval of the Architectural Committee, provided that any such measure must be of a temporary nature, and repair or reconstruction must begin as soon as circumstances will permit. 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 the occurrence of damage is deemed a nuisance which may be abated by the Association.

ARTICLE XI

INSURANCE

11.1 Casualty Insurance. The Board, or its duly authorized agent, shall have the authority to and shall obtain blanket all-risk casualty insurance, if reasonably available, for all insurable improvements on the Common Areas. If blanket all-risk coverage is not available, then at a minimum, an insurance policy providing fire and extended coverage shall be obtained. This insurance shall be in an amount sufficient to cover one hundred (100%) percent of the replacement cost of any repair or reconstruction in the event of damage or destruction to the Common Areas and Limited Common Areas from any insured hazard.

11.2 Liability Insurance. The Board, or its duly authorized agent, shall also obtain a public liability policy covering the Common Areas and Limited Common Areas, the Association, and its Members for all damage or injury caused by the negligence of the Association or any of its Members or agents, their invitees, guest, successor or assigns. The public liability policy shall be in an adequate amount as determined by the Board from time to time.

11.3 Premiums. Premiums for all insurance on the Common Areas and Limited Common Areas shall be Common Expenses of the Association and shall be included in the Base Assessment.

11.4 Name of the Association. All insurance coverage obtained by the Board of Trustees shall be written in the name of the Association as trustee for the respective benefited parties, as further identified in below. Such insurance shall be governed by the provisions hereinafter set forth:

(A) All policies shall be written with a company licensed to do business in Utah which holds a Best's rating of A or better and is assigned a financing size category of XI or larger as established by A.M. Best Company, Inc., if reasonably available, or if not available, the most nearly equivalent rating.

(B) All policies on the Common Areas and Limited Common Areas shall be for the benefit of the Association, its Members, and Mortgagees providing construction financing on the Common Areas and Limited Common Areas.

(C) Exclusive authority to adjust losses under policies obtained by the Association on the Property shall be vested in the Association's Board of Trustees; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

(D) In no event shall the insurance coverage obtained and maintained by the Association's Board of Trustees hereunder be brought into contribution with
insurance purchased by individual Owners, occupants, or their Mortgagees.

(E) All casualty insurance policies shall have an inflation guard endorsement, if
reasonably available, and an agreed amount endorsement with an annual review by one or more qualified persons, at least one of whom

must be in the real estate industry and familiar with construction in the Davis County, State of Utah area.

(F) The Association's Board of Trustees shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

(i) a waiver of subrogation by the insurer as to any claims against the Association's Board of Trustees, its manager, the Owners, and their respective tenants, servants, agents, and guests;

(ii) a waiver by the insurer of its rights to repair and reconstruct, instead of paying cash;

(iii) a statement that no policy may be canceled, invalidated, suspended, or subject to non-renewal on account of any one or more individual Owners;

(iv) a statement that no policy may be canceled, subject to non-renewal on account of the conduct of any Trustee, officer, or employee of the Association or its duly authorized manager without prior demand, in writing, delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, its manager, any Owner, or any Mortgagee;

(v) that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and

(vi) that the Association will be given at least thirty (30) days' prior written notice of any cancellation, substantial modification, or non-renewal.

11.5 Worker's Compensation. In addition to the other insurance required by this section, the Board shall obtain, as a Common Expense, worker's compensation insurance, if and to the extent required by law; the Board's and officers' liability coverage, if reasonably available, a fidelity bond or bonds on the Board, officers, employees, and other Persons handling or responsible for the Association's funds, if reasonably available, and flood insurance, if required. The amount of fidelity coverage shall be determined in the Board's best business judgment. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and shall require at least thirty (30) days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal.

ARTICLE XII

DAMAGE & DESTRUCTION

12.1 Immediately after damage or destruction by fire or other casualty to all or any part of the Common Areas and Limited Common Areas covered by insurance written in the name of the Association, the Board of Trustees or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed Common Areas and Limited Common Areas. Repair or reconstruction, as used in this paragraph, means repairing or restoring the Common Areas and Limited Common Areas to substantially the same condition in which they existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes.

12.2 Any damage or destruction to the Common Areas and Limited Common Areas shall be repaired or reconstructed unless the Members representing at least sixty-seven (67%) percent of the total vote of the Association, shall decide within sixty (60) days after the casualty not to repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the costs of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to Common Areas shall be repaired or reconstructed; provided, however, this provision shall not apply to construction Mortgagees providing construction financing for such damaged property.

12.3 In the event, that it should be determined in the manner described above that the damage or destruction to the Common Areas shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the affected portion of the Common Areas shall be restored to their natural state and maintained by the Association, in a neat and attractive condition.

ARTICLE XIII

DISBURSEMENT OF PROCEEDS

13.1 If the damage or destruction for which the proceeds of insurance policies are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repair or reconstruction to the

Common Areas and Limited Common Areas shall be retained by and for the benefit of the Association and placed in a capital improvements account. In the event no repair or reconstruction is made, any proceeds remaining after making such settlement as is necessary and appropriate with the affected Owner or Owners and the Mortgagee(s) as their interest may appear, shall be retained by and for the benefit of the Association and placed in a capital improvements account. This is a covenant for the benefit of any Mortgagee of a Lot and may be enforced by such Mortgagee.

ARTICLE XIV

REPAIR AND RECONSTRUCTION

14.1 If the damage or destruction to the Common Areas and Limited Common Areas for which insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board of Trustees shall, without the necessity of a vote of the Members, levy a Special Assessment against all Owners on the same basis as provided for Base Assessments. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

ARTICLE XV

CONDEMNATION

15.1 Whenever all or any part of the Common Areas and Limited Common Areas shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of Members representing at least two-thirds (2/3) of the total Association vote by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice thereof. The award made for such taking shall be payable to the Association as trustee for all Owners to be disbursed as follows: if the taking involves a portion of the common areas on which improvements have been constructed, then, unless within sixty (60) days after such taking Declarant and Members representing at least sixty-seven percent (67%) of the total vote of the Association shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Areas to the extent lands are available therefor, in accordance with plans approved by the Board of Trustees of the Association. If such improvements are to be repaired shall apply. If the taking does not involved any improvements of the Common Areas and Limited Common Areas, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board of Trustees of the Association shall determine.

ARTICLE XVI

RESTRICTIONS ON ALL LOTS

16.1 Zoning Regulations. The lawfully enacted zoning regulations of the City and any building, fire, and health codes are in full force and effect in the Subdivision. No Lot may be occupied in a manner that is in violation of any statute, law or ordinance.

16.2 Licensed General Contractor. Unless the Architectural Committee gives a written waiver of approval to an Owner, no building shall be erected, altered or placed on any Lot except by a licensed general contractor duly qualified and licensed by the appropriate governmental authorities.

16.3 No Mining Uses. The property within the Subdivision shall be used for residential purposes only, and no mining, drilling, prospecting, mineral exploration or quarrying activity will be permitted.

16.4 No Business or Commercial Uses. No portion of the Subdivision may be used for any commercial business use, provided, however, that nothing in this provision is intended to prevent (a) the Declarant, or other builders, from using one or more Lots for purposes of a construction office or sales office during the actual period of construction of the Subdivision Improvements or until 100% of the Lots are sold in the Subdivision, whichever occurs later, or (b) the use by any Owner of his Lot for a home occupation pursuant to City ordinance.

16.5 Restriction on Signs. The Subdivision may be identified by permanent signs to be installed by Declarant, at Declarant's discretion. No signs will be permitted on any Lot or within the Subdivision, except for traffic control signs placed by the City, temporary signs warning of some immediate danger, or signs not in excess of eight square feet identifying the contractor and/or architect of any Dwelling unit while it is under construction. Signs indicating the Lot is for sale may be placed in accordance with City sign regulations, and no such sign may exceed eight square feet. The Declarant may erect a sign at the entrances to the Subdivision announcing the availability of Lots and giving sales information. No permanent signs stating the address or the name of the owner of any Lot may be installed without the advance consent of the Architectural Committee.

16.6 Completion Required Before Occupancy. No Dwelling may be occupied prior to its completion and the issuance of a certificate of occupancy by the City.

16.7 Dwelling to be Constructed First. No garage or other out building may be constructed prior to the construction of the Dwelling on the Lot.

16.8 Livestock, Poultry and Pets. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purpose and are restricted to the owner's control; provided further that no more than two such household pets shall be kept on any lot. "Control" for the above purposes shall only mean on a leash or lead, within a vehicle, within the residence of the owner, or within fenced confines on the premises of the owner. Fierce, dangerous or vicious animals or animals that cause a nuisance by barking or other offensive activity shall not be permitted.

16.9 Underground Utilities. All gas, electrical, telephone, television, and any other utility lines in the Subdivision are to be underground, including lines within any Lot which service installations entirely within that lot. No propane tanks or oil tanks may be installed on any Lot except for temporary heat during construction.

16.10 Maintenance of Property. All lots, and the Improvements on them, shall be maintained in a clean, sanitary, attractive and marketable condition at all times. No Owner shall permit his Lot or the Improvements on it to fall into a state of disrepair.

16.11 No Noxious or Offensive Activity. No noxious or offensive activity shall be carried out on any Lot, including the creation or loud or offensive noises or odors that detract from the reasonable enjoyment of nearby Lots.

16.12 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, which would cause the cancellation of conventional homeowners' insurance policy. This includes, without limitation, the storage of caustic, toxic, flammable, explosive or hazardous materials in excess of those reasonable and customary for household uses, the discharge of firearms or fireworks, and setting open fires (other than property supervised and contained barbecues).

16.13 Automobiles and Other Vehicles. No automobiles, trailers, boats, R.V.'s, or other vehicles are to be parked or stored on the front street, side street, driveway, or anywhere else on the Lot. With the exception of a single car that may remain in the driveway, any other vehicle must be stored within the garage on the Lot.

16.14 No Unsightliness. No unsightliness is permitted on any Lot. This shall include, without limitation, the open storage of any building materials (except during construction of any Dwelling unit or addition); open storage or construction equipment; accumulations of construction debris or waste; household refuse or garbage except as stored in tight containers in an enclosure such as a garage; lawn or garden furniture except during the season of use; and the storage or accumulation of any other material, vehicle, or equipment on the Lot in a manner that is visible from any other Lot or any public street.

16.15 No Annoying Lights. Any outdoor lighting shall be subject to approval by the Architectural Committee, and 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 the City.

16.16 No Annoying Sounds. No speakers, windbells, windchimes, or other noise making devices may be used or maintained on any Lot which create noise that might reasonably be expected to be unreasonably or annoyingly loud to adjoining Lots, except for security or fire alarms.

16.17 Sewer Connection Required. All Lots are served by sanitary sewer service, and 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.

16.18 No Fuel Storage. No fuel oil, gasoline, propane (except one propane tank that is part of an outdoor gas barbecue grill), 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 fuels may be used only during construction of the Dwelling until the permanent heating system is installed and operational.

16.19 Drainage. No Owner shall alter the direction of natural drainage from his Lot, nor shall any Owner permit accelerated storm run-off to leave his Lot without first using reasonable means to dissipate the flow energy.

16.20 No Transient Lodging Uses. The 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 house, a bed and breakfast, or other uses for providing accommodations to travelers. No leases of any Dwelling on a Lot shall be for a period of less than 30 days. No Dwelling on a Lot shall be subjected to time interval ownership.

16.21 No Re-Subdivision. No Lot may be re-subdivided without the consent of the Architectural Committee, and no re-subdivision of any Lot may result in the construction of any additional Dwelling units within the subdivision.

16.22 Combination of Lots. No Lot may be combined with another Lot without the consent of the Architectural Committee.

ARTICLE XVII

ARCHITECTURAL COMMITTEE

17.1 Purpose. It is the intention and purpose of this Declaration to impose architectural standards on the improvements to any Lot of a type and nature that result in buildings which are

architecturally compatible in terms of lot coverage, proportion, materials, colors and general appearance. To accomplish this goal, the Declarant hereby establishes the Architectural Committee, which is empowered to oversee and enforce the Architectural Design Standards set forth in this Declaration.

17.2 Architectural Committee Created. The Architectural Committee will consist of three members, at least two of whom shall be members of the Board of Trustees of the Association. The initial committee will consist of three people appointment by the Declarant, who do not need to be Owners. At the time that all Lots on the Property have been built on, all of the members of the Architectural Committee will be elected by the Owners; however, the Architectural Committee may wish to retain a qualified planning or architectural professional to handle the day to day work of the committee.

17.3 Approval by Committee Required. No Improvements of any kind will be made on any Lot without the prior written approval of the Architectural Committee. Approval of the Committee will be sought in the following manner:

- (A) Plans Submitted. Two complete sets of the plans for the construction of any new Dwelling or Improvements must be submitted to the Committee for review. In the case of an addition or modification of an existing Dwelling, the Committee may waive any of the foregoing it feels are unnecessary to its review of the remodel or addition.
- (B) Review. Within 30 days from receipt of a complete submission, the committee will review the plans and make an initial determination whether or not the plans comply with the conditions imposed by the Declaration. If they do not, the plans will be rejected. If they are in compliance, the committee will approve the plans. The Committee may also approve the plans subject to specific modifications or conditions. Owners may desire to submit preliminary plans for review. The committee will review preliminary plans, and make its comments known to the Owner provided; however, that no preliminary approval is to be considered a final approval, and no final approval will be granted on less than a complete submission. Upon approval, the Committee will sign a copy of the plans, one of which shall be left with the Committee. No construction that is not in strict compliance with the approved plans will be permitted.
- (C) Failure to Act. If the committee has not approved or rejected any submission within 45 days after submission of complete plans, the submission is deemed to have been disapproved. If the plans are disapproved as a result of the committee's failure to act, then the applicant may send, by certified mail, return receipt requested, notice to any member of the Architectural Committee that if the plans are not either

approved or disapproved, as submitted, within 15 days from the date the notice is MAILED, then the plans will be deemed to be approved. If within such 15 day period, the committee fails to respond to the notice by either approving or disapproving the plans, then the plans will be deemed to have been approved; provided, however, that the submission and Improvements do not, in fact, violate any conditions imposed by this Declaration.

17.4 Variances. Variances to the design standards contained in this Declaration may be granted when strict application would create an unforeseen or unreasonable hardship to the Owner of any Lot; provided, however, that any variance granted pursuant to this Section 3.3 is consistent with the intent of this Declaration. The Architectural Committee cannot grant any variance that has the effect of modifying applicable zoning or building code regulations. The burden of obtaining a variance is entirely on the applicant.

17.5 General Design Review. The Committee will use its best efforts to provide a consistent pattern of development, and consistent application of standards of this Declaration. These standards are, of necessity, general in nature, and it is the Committee's responsibility to apply them in a manner that results in a high quality, attractive and well-designed community.

17.6 Declarant, Board and Committee not Liable. The Declarant, the Board, and the Committee and its members shall not be liable to the applicant for any damages, or to the Owners of any Lots within the Subdivision for their actions, inactions, or approval or disapproval of any set of plans submitted to the Committee for review. The Owners' shall have no claim against the Declarant or Committee as a result of the performance or failure to perform the duties created by this Declaration. Each Owner has an equal duty and right to enforce these covenants against every other Owner, and may seek independent redress if it believes the Committee has acted improperly.

17.7 Limitations on Review. The Committees review is limited to those matters expressly granted in this Declaration. The Committee shall have no authority over the enforcement of building codes, zoning ordinances, or other statutes, laws or ordinances affecting the development or improvement of real property and shall have no liability to any Owner whose plans were approved in a manner that included any such violation. Corrections or changes in plans to bring them into conformity with applicable codes must be approved by the Committee prior to construction.

17.8 Exclusion of Declarants. Neither Declarant nor its assigns are subject to any review or conditions opposed upon other Lot owners by the Architectural Committee. Declarant need not receive any approval from the Architectural Committee.

ARTICLE XVIII

ARCHITECTURAL RESTRICTIONS ON IMPROVEMENTS

18.1 Number of Dwellings. Only one Dwelling may be constructed on any Lot.

18.2 Attached Garage. All Dwellings shall have an attached garage for at least two cars and a maximum of four cars unless prior written approval of the Architectural Committee is first obtained.

18.3 Out Buildings. No storage building, out building, or habitable structure may be permitted on any Lot unless prior written approval of the Architectural Committee is first obtained.

18.4 Construction Completion. When construction has started on any residence or other structure, work thereon must be completed within nine months, weather permitting.

18.5 Windows. All windows must be of at least double pane. No mirrored or reflective glass may be used.

18.6 Antennas. All antennas must be enclosed within the Dwelling. If possible, any satellite dishes must be located and screened in a manner so that they are not directly visible from adjoining Lots or streets. Solar panels will be permitted only with the consent of the Architectural Committee, and if permitted at all, must lie flat against the roof and may not differ in pitch or color from the roof surface on which they are mounted.

18.7 No Used or Temporary or Prefab Structures. No previously erected, used, or temporary structure, mobile home, trailer house, or any other non-permanent structure may be installed or maintained on any Lot. No prefabricated housing may be installed or maintained on any Lot.

18.8 Driveways. Every garage shall be serviced by a driveway, which shall be of sufficient width and depth so as to park two vehicles side by side completely out of the street right of way. However, as required by other sections at this Declaration, only one (1) automobile is allowed to be parked in the driveway. All driveways are to be constructed of concrete. No other driveway materials will be allowed unless prior written approval of the Architectural Committee is first obtained.

18.9 Sewer Connection Required. All Lots are served by sanitary sewer service and 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.

18.10 Finished Lot Grading. Lot owners and builders are responsible to complete the final grading of the entire lot so that the finish grading complies with City ordinance, lender requirements and proper water control.

18.11 All Dwelling Construction is Subject to Prior Approval by the Architectural Committee. Prior to construction all dwelling plans must be reviewed and approved by the Architectural Committee (see Architectural Guidelines attached to these Covenants) and all dwelling construction must meet Architectural restrictions and architectural guidelines and the other requirements of these Covenants.

ARTICLE XIX

ANNEXATION

19.1 Annexation. Additional phases of TRAILSIDE PARK may be added to the Property pursuant to the following procedures, and subject to the limitations as follows:

19.2 Annexation by Declarant. Declarant may from time to time and in its sole discretion expand the Property subject to this Declaration by the annexation of all or part of the lands initially constituting the Undeveloped Land.

19.3 No Obligation to Annex or Develop. Declarant has no obligation hereunder to annex any additional land to the Property or to develop or preserve any portion of the Undeveloped Land in any particular way or according to any particular time schedule. No land other than the Property, as defined on the date hereof and land annexed thereto in accordance with the terms of this Article shall be deemed to be subject to this Declaration, whether or not shown on any subdivision plat or map filed by Declarant or described or referred to in any documents executed or recorded by Declarant.

ARTICLE XX

GENERAL PROVISIONS

20.1 Violation Deemed a Nuisance. Any violation of these Covenants which is permitted to remain on the Property is deemed a nuisance, and is subject to abatement by the Association or by any other Owner.

- (A) Any single or continuing violation of the covenants contained in this Declaration may be enjoined in an action brought by the Declarant (for so long as the Declarant is the Owner of any Lot), by any other Owner, or by the Association as an association of property owners. In any action brought to enforce these Covenants, the prevailing party shall be entitled to recover as part of its judgment the reasonable costs of enforcement, including attorney fees and costs of court.
- (B) Nothing in this Declaration shall be construed as limiting the rights and remedies that may exist at common law or under applicable federal, state or local laws and ordinances for the abatement of nuisances, health and safety, or other matters. This Declaration is to be construed as being in addition to those remedies available at law.
- (C) The remedies available under this Declaration and at law or equity generally are not to be considered as exclusive, but rather as cumulative.
- (D) The failure to take enforcement action shall not be construed as a waiver of the contents contained in this Declaration in the future or against other similar violations.

20.2 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.

20.3 Limited Liability. Neither the Declarant, the Board, or the Architectural Committee or 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 or authority, under these Covenants, and without malice.

20.4 Amendment. At any time while this Declaration is in effect, the covenants herein contained can be modified by the Declarant or Declarant's successors and assigns during the Class B Control Period at the sole discretion of the Declarant.

Amended & Restated Declaration of Covenants, Conditions and
Restrictions and Reservation of Easements for Trailside Park

Thereafter, these covenants can be modified by the affirmative vote of the Members representing sixty-seven (67%) percent of the total votes of the Association.

20.5 Constructive Notice. Every person who owns, occupies or acquires any right, title or interest in any Lot in the Subdivision is conclusively deemed to have notice of this Declaration and its contents, and to have consented to the application and enforcement of each of the Covenants, Conditions and Restrictions against his Lot, whether or not there is any reference to this Declaration in the instrument by which he acquires his interest in any Lot.

20.6 Notices. All notices under this Declaration are deemed effective 72 hours after mailing, whether delivery is proved or not, provided that any mailed notice must be postage pre-paid and be sent to the last known address of the party to receive notice. Notices delivered by hand are effective upon delivery.

20.7 Liberal Interpretation. The provisions of this Declaration shall be interpreted liberally to further the goal of creating a uniform plan for the development of the Subdivision. Paragraph headings are inserted for convenience only and shall not be considered in interpretation of the provisions. Singular will include plural, and gender is intended to include masculine, feminine and neuter as well.

20.8 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; provided, however, that all of the covenants contained herein shall be binding upon and effective against any owner of a Lot whose title thereto is acquired by foreclosure, trustee's sale or other foreclosure proceeding, from and after the date of such foreclosure, trustee's sale or other foreclosure proceeding.

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Executed on the date stated above.

COLONIAL BUILDERS GROUP, LLC
A Utah limited liability company

By: [Signature]
Brad Frost
Its: President

STATE OF UTAH)
): ss
COUNTY OF Davis)

On this 13th day of Sept., 2012, personally appeared before me Brad Frost, who being by me duly sworn, did say that he is the President of COLONIAL BUILDERS GROUP, LLC, a Utah Limited Liability Company, and that the within and foregoing instrument was signed on behalf of said Limited Liability Company by authority and said member duly acknowledged to me that said Limited Liability Company executed the same.

[Signature]
Notary Public



Residing at: 999 N. Hillfield Rd, Layton, UT, 84041

My Commission Expires: 10-26-2015

EXHIBIT "A"

BYLAWS

BYLAWS OF TRAILSIDE PARK II HOMEOWNERS ASSOCIATION

The following are the Bylaws of Trailside Park II Homeowners Association, a Utah non-profit corporation (the "**Association**").

ARTICLE I LOCATION

The initial principal office of the Association shall be located at 893 N. Marshall Way, Unit A, Layton, Utah 84041 but meetings of Members and Directors may be held at such places within the State of Utah as may be designated by the Board (as defined below).

ARTICLE II DEFINITIONS

All terms used but not defined herein shall have the meanings given them under that certain Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Trailside Park dated June 14, 2007, and recorded in the Official Records of the Davis County Recorder on June 29, 2007 as Entry No. 2284453, and that certain Supplemental Declaration recorded in the Official Records of the Davis County Recorder on August 14, 2007, as Entry No. 2297380, (hereinafter referred to as the "**Declaration**"), applicable to the Property, and as the same may be amended from time to time as therein provided, said Declaration being incorporated herein as if set forth herein at length. The term "**Declarant**" shall mean Colonial Builders Group, LLC, a Utah limited liability company, and successor in interest to HT Development, Inc. The term "**Member**" shall mean and refer to those persons entitled to Membership as provided in the Declaration and Articles of Incorporation of the Association.

ARTICLE III MEETINGS OF MEMBERS

Section 3.1 Annual Meetings. Unless otherwise determined by the Association and subject to notice thereof as provided in **Section 3.3** below, annual meetings of the Members shall be held in the first month of each year commencing in the year 2013, and each subsequent regular annual meeting of the Members shall be held on the same day of the same month of each year thereafter, at the hour of 7:00 p.m. If the day for the annual meeting of the Members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

Section 3.2 Special Meetings. Special meetings of the Members may be called by, or at the request of the Board, or upon written request of the Members holding at least twenty-five percent (25%) of the voting power as outlined in the Declaration.

Section 3.3 Notice of Meetings. Written notice of each meeting of the Members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least fifteen (15) days before such meeting but no more than 60 days to each Member entitled to vote thereafter addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 3.4 Quorum. The quorum required for any action by the Members hereunder, unless otherwise specifically set forth in the Declaration, shall be as follows: At each scheduled meeting called, the presence of Members or of proxies entitled to cast at least fifty percent (50%) of all outstanding votes shall constitute a quorum. If a quorum is not present at a scheduled meeting, such meeting may be adjourned pending notice of subsequently scheduled meeting at which a quorum shall be one-half (1/2) of the quorum which was required at the immediately preceding meeting. No such subsequently scheduled meeting shall be held more than forty-five (45) days following the immediately preceding meeting.

Section 3.5 Proxies. At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically terminate upon conveyance by the Member of his Lot.

Section 3.6 Voting. The Association shall have two (2) classes of voting membership, Class "A" and Class "B", as follows:

- (A) Class "A". Class "A" Members shall be all Owners with the exception of Class "B" membership, if any. Class "A" membership shall be entitled to one (1) equal vote for each Lot in which they are an Owner. There shall be only one (1) vote per Lot. In any situation where a Owner is entitled personally to exercise the vote for his Lot and more than one (1) Person holds the interest in such Lot required for membership, the vote for such Lot shall be exercised as those Persons determine among themselves and advise the Board, in writing, prior to any meeting. In the absence of such advice, the Lot's vote shall be suspended if more than one (1) Person seeks to exercise it.
- (B) Class "B". The Class "B" Member shall be Declarant. In all matters requiring a vote, the Class "B" membership shall receive five (5) votes for each recorded Lot owned by Declarant and five (5) votes for each acre of property owned by Declarant within the Undeveloped Land but not yet a recorded Plat. The Class "B"

membership shall also be entitled to appoint the members of the Board of Trustees during the Class "B" Control Period.

3.7 Control Period. The Class "B" Member Control Period runs until the first to occur of the following:

- (A) When the total number of votes for the Class B Member is less than the total number of votes for the Class A Members; or
- (B) When, at its discretion, the Class B member so determines

ARTICLE IV BOARD, SELECTION AND TERM OF OFFICE

Section 4.1 Number, Tenure and Qualifications. Except for the initial Board selected by Declarant which consists of three members who (and their successors) may hold office so long as Class B membership exists, the affairs of the Association shall be managed by a Board of Directors composed of three (3) individuals. At the first meeting of the members at which election of Directors will take place, the candidate who receives the most votes shall serve as a Director for three (3) years. The candidate that receives the second highest number of votes shall serve as a Director for two (2) years, and the third candidate who receives the third highest number of votes shall serve as Director for one (1) year. At each annual election, the successor to the Director whose term shall expire in that year shall be elected to hold office for the term of (3) years. Any change in the number of Directors may be made only by amendment of these Articles. Each Director shall hold office until his term expires and until his successor has been duly elected and qualified.

Section 4.2 Removal. Any Director, except Declarant during his initial term as outlined herein, may be removed from the Board, with or without cause, by a sixty-seven percent (67%) vote of the Members of the Association. In the event of death, resignation or removal of a Director, his successor shall be selected by the remaining Directors and shall serve for the unexpired term of his predecessor.

Section 4.3 Compensation. No Director shall receive compensation for any service he may render to the Association. However, any Director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 4.4 Action Taken Without a Meeting. The Directors may take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all Directors. Any action so approved shall have the same effect as though taken at a meeting of the Board.

**ARTICLE V
NOMINATION AND ELECTION OF DIRECTORS**

Section 5.1 Nomination. Nomination for election to the Board shall be made by the Board. Nominations may also be made from the floor at the annual meeting. The Board shall make as many nominations as it shall in its discretion determine, but not less than the number of vacancies that are to be filled.

Section 5.2 Election. Election to the Board shall be by secret written ballot. At such election the Members or their proxies may cast in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected.

**ARTICLE VI
MEETINGS OF THE BOARD**

Section 6.1 Regular Meetings. Regular meetings of the Board shall be held at least annually, as determined by the Board. Assessments for the upcoming year shall be fixed at the annual meeting held on the first month of each year, or as the Board may determine.

Section 6.2 Special Meetings. Special meetings of the Board shall be held when called by the President of the Association or by any two (2) Directors after not less than ten (10) days notice to each Director.

Section 6.3 Quorum. A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

**ARTICLE VII
POWERS AND DUTIES OF THE BOARD**

Section 7.1 Powers and Duties. The Board shall have all powers and duties as set forth in the Declaration and Articles of Incorporation.

**ARTICLE VIII
OFFICERS AND THEIR DUTIES**

Section 8.1 Enumeration of Officers. The officers of this Association shall be a president and vice-president, who shall at all times be members of the Board, a secretary, and a treasurer, and such other officers as the Board may from time to time, by resolution, create.

Section 8.2 Election of Officers. The election of officers shall take place at each annual meeting of the Members. However, Declarant shall be the initial President of the Association until such time as the Percentage Interest held by other Members of the Association is greater than that held by the Declarant. At such time as the Percentage Interest held by other Members of the Association is greater than that held by the Declarant, the Members, at a special meeting the date, time and place of which shall be announced to each of the Members and be conducted as outlined herein, shall elect another to act as President for the remainder of the current term until the following annual meeting of the Members.

Section 8.3 Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 8.4 Resignation and Removal. Any officer, except Declarant during its initial term as President, may be removed from office with or without cause by the Board. Any officer may resign at any time giving written notice to the Board, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 8.5 Multiple Offices. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to **Section 8.4** of this Article.

Section 8.6 Duties. The duties of the officers are as follows:

President: The president shall preside at all meetings of the Board and shall see that orders and resolutions of the Board and/or the Members are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes on behalf of the Association.

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

Secretary: The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; keep appropriate current records showing the Members of the Association together with their addresses and social security numbers, and shall perform such other duties as required by the Board.

Treasurer: The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board; shall co-sign all checks and promissory notes of the association; keep proper books of account; if the Committee deems appropriate, cause an annual audit of the

Association books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the Membership at its regular annual meeting, and deliver a copy of each to the Members.

**ARTICLE IX
COMMITTEES**

The Board may, if it elects, appoint such committees as deemed appropriate in carrying out its purposes.

**ARTICLE X
AMENDMENTS, ORDER OF PRECEDENCE**

These Bylaws may be amended, at a regular or special meeting of the Members, by Members holding at least sixty-seven percent (67%) of the total ownership. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

**ARTICLE XI
FISCAL YEAR**

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

The foregoing Bylaws are adopted by the Undersigned and made effective upon this ___ day of _____, 2012.

TRAILSIDE PARK II HOMEOWNERS ASSOCIATION
a Utah non-profit corporation

By: _____

Brad Fröst

Its: President

EXHIBIT "B"

UNDEVELOPED LAND

**TRAILSIDE PARK PHASE 3
BOUNDARY DESCRIPTION**

A PART OF THE NW QUARTER OF SECTION 22, TOWNSHIP 4 NORTH, RANGE 2 WEST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SE CORNER OF SHIRLA ACRES SUBDIVISION AS SHOWN ON THE OFFICIAL SURVEY THEREOF RECORDED AS PLAT NO. 002224 IN THE OFFICE OF THE DAVIS COUNTY RECORDER, SAID POINT LIES N00°11'36"E 1320.02 FEET AND S89°48'24"E 435.60 FEET; FROM THE W 1/4 CORNER OF SAID SEC 22 THENCE FOLLOWING SAID SUBDIVISION BOUNDARY N00°11'36"E 200.00 FEET AND N89°48'24"W 402.60 FEET TO THE EAST LINE OF 2000 WEST STREET; THENCE ALONG SAID RIGHT OF WAY N00°11'36"E 343.35 FEET TO THE BOUNDARY OF TRAILSIDE PARK SUBDIVISION PHASE 1; THENCE ALONG SAID BOUNDARY THE FOLLOWING THREE(3) COURSES: (1)S89°48'24"E 293.17 FEET; (2)S00°11'36"W 25.70 FEET; (3)S89°48'24"E 226.95 FEET TO THE WEST LINE OF TRAILSIDE PARK SUBDIVISION PHASE 2; THENCE ALONG SAID SUBDIVISION THE FOLLOWING SEVEN (7) COURSES: (1)S00°09'26"W 293.82; (2)S89°48'24"E 92.26 FEET; (3)S00°09'26"W 46.23 FEET; (4)S89°48'24"E 105.84 FEET; (5)S11°21'46"E 52.10 FEET; (6)S15°35'46"E 43.67 FEET; (7)112.43 FEET; THENCE S00°11'36"W 2.69 FEET TO THE LINE SHOWN ON SHIRLA ACRES SUBDIVISION AS THE SOUTH LINE OF THIS PARCEL; THENCE N89°48'24"W 415.25 FEET TO THE POINT OF BEGINNING.

CONTAINING 5.56 ACRES

12-105-0115, 0116, 0118, pt 0119

* South 43°05' 44" East *nlj*