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Leann H. Kilts, WEBER COUNTY RECORDER
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REC FOR: SMITH KNOWLES PC
ELECTRONICALLY RECORDED

**SECOND AMENDED & RESTATED
DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS**

For

HERITAGE COVE P.R.U.D.

(Doing Business as The Crest Homeowners Association, Inc.)

In Weber County, Utah

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THIS SECOND AMENDED & RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR HERITAGE COVE P.R.U.D. (Doing Business as The Crest Homeowners Association, Inc., a Utah non-profit corporation) (this "Declaration") is hereby adopted by The Crest Homeowners Association, Inc. ("Association"); for and on behalf of its Members, and made effective as of the date recorded in the Weber County Recorder's Office.

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RECITALS:

(A) This Declaration affects and concerns the real property located in Weber County, Utah and more particularly described as follows ("Property"):

ALL OF LOTS 1 THROUGH 17, CONTAINED WITHIN HERITAGE COVE P.R.U.D., PLAT A, AS THE SAME IS IDENTIFIED IN THE PLAT RECORDED AS ENTRY NO. 1508351, IN BOOK 45 AT PAGE 86 OF THE OFFICIAL RECORDS OF THE WEBER COUNTY RECORDER.

SERIAL NOS. 08-296-0001-0017 DB ds

ALL OF LOT 18 THROUGH 45, CONTAINED WITHIN HERITAGE COVE P.R.U.D., PLAT B, AS THE SAME IS IDENTIFIED IN THE PLAT RECORDED AS ENTRY NO. 1508352, IN BOOK 45 AT PAGE 87 OF THE OFFICIAL RECORDS OF THE WEBER COUNTY RECORDER.

SERIAL NOS. 08-297-0001-0028 DB

ALL OF LOTS 46 THROUGH 76, CONTAINED WITHIN HERITAGE COVE P.R.U.D., PLAT C, AS THE SAME IS IDENTIFIED IN THE PLAT RECORDED AS ENTRY NO. 1508353, IN BOOK 45 AT PAGE 88 OF THE OFFICIAL RECORDS OF THE WEBER COUNTY RECORDER.

SERIAL NOS. 08-298-0001-0031 DB

Recreational Vehicle Storage Area – Serial No. 08-298-0032**Retention Pond Common Area –Serial No. 08-298-0033**

(B) On or about May 5, 1998, a Declaration of Covenants, Conditions and Restrictions of Heritage Cove P.R.U.D. (An Expandable Planned Residential Unit Development) (“Enabling Declaration”) was recorded in the Weber County Recorder’s Office, as Entry No. 6953154. Said Enabling Declaration was re-recorded on July 15, 1998 as Entry No. 1559824.

(C) On or about June 13, 2006, an Amended and Restated Declaration of Covenants, Conditions and Restrictions of Heritage Cove P.R.U.D. (Also Doing Business As The Crest P.R.U.D.) (“Amended & Restated Declaration”) was recorded in the Weber County Recorder’s Office as Entry No. 2186392. The Amended & Restated Declaration asserts to both “supersede and replace” and “incorporate and supplement” the Enabling Declaration.

(D) On or about January 3, 2013, an Amendment of the Covenants, Conditions and restrictions for Heritage Cove P.R.U.D. (The Crest Homeowner’s Association) (“Rental Amendment”) was recorded in the Weber County Recorder’s Office as Entry No. 2613891. The Members of the Association previously and properly adopted and approved this rental restriction or prohibition on January 3, 2013, and the Association specifically, pursuant to Utah Code § 57-8a-(6)(c), does not desire to modify, adopt or amend a different rental restriction or prohibition. Instead, the Rental Amendment will continue in full force and effect and is not affected by this Declaration. A copy of the Rental Amendment is attached hereto as Exhibit “A”.

(E) The Association and its Members, consistent with the Enabling Declaration, the Amended & Restated Declaration, hereby adopt this Declaration. This Declaration hereby amends, replaces and supersedes the Enabling Declaration and the Amended & Restated Declaration. However, this Declaration DOES NOT ALTER, AMEND, or MODIFY THE RENTAL AMENDMENT, as set forth in Recital (D). This Declaration AND THE RENTAL AMENDMENT, along with any future amendment(s), shall govern the Property.

(F) The Property is subject to certain protective covenants, conditions, restrictions and easements, as set forth in this Declaration, as amended from time to time, which are deemed to be covenants running with the land mutually burdening and benefitting each of the Lots within the Project. Common Areas are those areas that are depicted as Common Areas in the recorded Plat Map(s), as well as any future recorded Plat Map(s), or as described in this Declaration. Plat Map(s) for the Property are attached hereto as Exhibit “B.”

(G) The Association and its Members desire that the Board amend the existing Articles of Incorporation with the Utah Department of Commerce contemporaneously with the recording of this Declaration. The Association and its Members hereby authorize and approve filing the Amended & Restated Articles of Incorporation of The Crest Homeowners Association, Inc. (“Articles”) with the State of Utah, a copy of which has been previously provided to and

approved by the Owners.

(H) The Association and its Members desire that the Board amend the Bylaws for the Association which were recorded on June 13, 2006 in the Weber County Recorder's Office as Entry No. 2186392, and hereby authorize and approve the recording of the Amended & Restated Bylaws of The Crest Homeowners Association, Inc., a copy of which is attached hereto as Exhibit "C" ("Bylaws"), which shall be recorded in the Weber County Recorder's Office contemporaneously with the recording of this Declaration. The Association and its Members, consistent with any prior, existing bylaws and any subsequent amendments thereto (including any not referenced herein), hereby adopt the Bylaws attached hereto as Exhibit "C". These Bylaws hereby amend, replace and supersedes all prior bylaws and amendments, rendering the prior bylaws and amendments of no further force and effect. These Bylaws, along with any future amendment(s), shall be the sole Bylaws for the Property.

(I) By signing below, the Board hereby certifies that Owners of record, holding not less than sixty-seven percent (67%) of the total voting power of the Association provided their written consent approving and consenting to the recording of this Declaration, the attached Bylaws, and filing of the Articles, as well as not less than sixty-seven percent (67%) of mortgagees casting their vote, or approving through implication, consenting and approving the recording of this Declaration, Bylaws and filing the Articles.

(J) The Association and its Members desire to subject the Property to the terms and conditions of this Declaration, the Utah Community Association Act, Utah Code Ann. § 57-8a-101 *et. seq.*, and the Utah Revised Nonprofit Corporation Act, Utah Code Ann. § 16-6a-101 *et. seq.* The Property does not constitute a cooperative.

(K) 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, 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 the Association and its members, and its successors in interest; and may be enforced by the Association, any Member, and their successors in interest.

(L) These Recitals are made a part of this Declaration.

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 Control Committee" or "ACC" shall mean the Architectural Control Committee created by this Declaration, the Bylaws, and/or Articles of Incorporation.

(C) "Assessment" shall mean any monetary charge, fine or fee imposed or levied against an Owner by the Association, as provided in the Governing Documents, regardless of whether said assessment is identified as a regular assessment, special assessment, individual assessment, reserve assessment, capital improvement assessment, fine, late fee or other charge.

(D) "Articles" shall mean the Articles of Incorporation for the Association, as amended from time to time.

(E) "Association" shall mean THE CREST HOMEOWNERS ASSOCIATION, INC., and as the context requires, the officers or Board of Directors of that Association.

(F) "Board" or "Board of Directors" shall mean the duly elected and acting Board of Directors of THE CREST HOMEOWNERS ASSOCIATION, INC.

(G) "Bylaws" shall mean the Amended & Restated Bylaws of the Association, as amended from time to time, a copy of which is attached hereto as Exhibit B. No amendment to the Bylaws shall be effective until it is duly approved and recorded.

(H) "City" shall mean Roy City, Utah and its appropriate departments, officials and committees.

(I) "County" shall mean Weber County, Utah and its appropriate departments, officials and committees.

(J) "Common Area(s)" shall mean all property designated on the recorded Plat(s) as Common Area(s) or described within this Declaration as Common Area(s), being owned or intended ultimately to be owned by the Association for the common use and enjoyment of all Owners, together with all improvements or structures thereon and all of the easements appurtenant thereto, including, but not limited to: private streets, gates, sidewalks, curbing, open space, tennis courts, pool area, kids' play area, and RV parking lot. The Association shall

maintain the Common Area(s).

(K) "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; (C) administering and enforcing the covenants, conditions, restrictions, reservations and easements created hereby; (D) levying, collecting and enforcing the assessments; (F) operating the Association; and (G) creating reserves for any such costs, expenses and liability as required by this Declaration or the Act

(L) "Declaration" shall mean this Second Amended & Restated Declaration of Covenants, Conditions and Restrictions for Heritage Cove P.R.U.D., together with any subsequent amendments or additions through subsequent recording amendments or supplements.

(M) "Dwelling" shall mean a structure which is designed and intended for use and occupancy as a single family residence, whether attached or detached from other residences, together with all improvements located on the same Lot and used in conjunction with such residence.

(N) "Governing Documents" shall mean this Declaration, Bylaws, Articles, Rules, and any other documents or agreements binding upon an Owner.

(O) "Improvement" shall mean all structures and appurtenances of every type and kind, including but not limited to buildings, single family homes, townhomes, dwellings, residences, 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.

(P) "Landscape Easement" shall mean those areas of each Lot, other than the area of the Dwelling, for which the Association retains an easement to approve, control, and maintain landscaping for the benefit of all Owners. Maintenance of the landscaping and sprinklers within the Landscape Easement are divided between the Owners and the Association as detailed further in this Declaration. Approval of the Architectural Control Committee is required to make landscaping changes within the Landscape Easements, except that Owners do not need approval to plant flowers and/or vegetables within the three-foot area immediately adjacent to the Dwelling or patio.

(Q) "Lot" shall mean any numbered building lot shown on any official and recorded Plat(s), including all Improvement located thereon.

(R) "Manager" shall mean any entity or person engaged by the Board of Directors to manage the Project.

(S) "Owner" shall mean and refer to the Person or Persons who are vested with record title to a Lot, and whose interest in the Lot is held (in whole or in part) in fee simple, according to the records of the Weber County Recorder's Office, including buyers under any contract for deed. However, Owner shall exclude any person or entity holding title solely for purposes of securing performance of any obligations, including the trustee and/or beneficiary under a deed of trust or mortgagee under a mortgage. Membership in the Association is appurtenant to each Lot and an Owner shall be deemed a "Member" of the Association.

(T) "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.

(U) "Plat(s)" or "Plat Map(s)" shall mean an official and recorded plat of Heritage Cove P.R.U.D. in the Weber County Recorder's Office, as it may be amended from time to time.

(V) "Private Streets" shall mean and refer to all of the roads and streets within the Project that are designated on the Plat(s) as private streets. Private Streets shall for all purposes be deemed to be Common Areas.

(W) "Project" shall mean all phases of Heritage Cove P.R.U.D. and all Lots, Common Areas, and other property within the subdivision, as shown on the Plat(s) and any future Plat(s) covering the Property.

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

(Y) "Rules" mean any instrument adopted by the Board for the regulation and management of the Association as provided in the Governing Documents.

ARTICLE II EASEMENTS

2.1 Easement Concerning Common Area. Each Owner shall have a nonexclusive right and easement of use and enjoyment in and to the Common Area. Such right and easement shall be appurtenant to and shall pass with title to each Lot and in no event shall be separated therefrom, or encumbered, pledged, assigned or otherwise alienated by an Owner. Use of Common Areas by Owners, or delegation of use by Owners to family members, guests, tenants, lessee, contract purchaser, or other person who legally resides on such Owner's Lot is controlled by the rules and regulations in effect at the time. Notwithstanding the foregoing, no Owner shall have any right or interest in any easements forming a portion of the Common Area except for the necessary parking, access, and utility easements for use in common with others.

2.2 Limitation on Easement. An Owner's right and easement of use and enjoyment concerning the Common Area shall be subject to the following:

(a) The right of the Association to govern by Rules the use of the Common Area for the Owners so as to provide for the enjoyment of said Common Areas by every Owner in a manner consistent with the preservation of quiet enjoyment of the Lots by every Owner, including the right of the Association to impose reasonable limitations on the number of guests per Owner who at any given time are permitted to use the Common Area;

(b) The right of the Association to suspend an Owner's right to the use of the Common Areas, or any amenities included therein, for any period during which an Owner is in violation of the terms and conditions of the Governing Documents or delinquent in the payment of a levied assessment or fee.

(c) The right of the City, County, and any other governmental or quasi-governmental body having jurisdiction over the Property, to enjoy access and rights of ingress and egress over and across any street, parking area, walkway, or open area contained within the Common Areas for the purpose of providing police and fire protection, transporting school children, utility access/installation, and providing any other governmental or municipal service; and

(d) The right of the Association to dedicate or transfer any part of the Common Areas to any public agency or authority for such purposes and subject to such conditions as may be agreed to by the Association, provided that such dedication or transfer must first be assented to in writing by the Owners of at least sixty-seven percent (67%) of the Lots. No such dedication or transfer, however, may take place without the Association first receiving written approval from City and/or County pursuant to all applicable state and city laws, rules and ordinances in effect at the time of such proposed dedication or transfer.

2.3 Reservation of Access and Utility Easements. The Association hereby reserves an easement for access and utilities (including but not limited to: electrical, gas, communication, phone, internet, cable, sewer, drainage and water facilities) over, under, along, across and through the Property, together with the right to grant to a City and County, or any other appropriate governmental agency, public utility or other utility corporation or association, easements for such purposes over, under, across, along and through the Property upon the usual terms and conditions required by the grantee thereof for such easement rights, provided, however, that such easement rights must be exercised in such manner as not to interfere unreasonably with the use of the Property by the Owners and the Association and those claiming by, through or under the Owners or the Association; and in connection with the installation, maintenance or repair of any facilities as provided for in any of such easements, the Property shall be promptly restored by and at the expense of the person owning and exercising such easement rights to the approximate condition of the Property immediately prior to the exercise thereof. Each Owner in accepting the deed to a Lot expressly consents to such easements and rights-of-way and authorizes and appoints the Association as attorney-in-fact for such Owner to execute any and all instruments conveying or creating such easements or rights-of-way.

2.4 Easements for Encroachments. If any part of the Common Area now existing upon any Lot or hereinafter constructed by Association encroaches upon a Lot, a valid easement for such encroachment and the maintenance thereof, so long as it continues, shall exist. If any Common Area improvement on any Lot shall be partially or totally destroyed and then rebuilt in a manner intended to duplicate the structure so destroyed, minor encroachments of such structure upon a Lot or upon any portion of the Common Area due to such reconstruction shall be permitted; and valid easements for such encroachments and the maintenance thereof, so long as they continue, shall exist.

- (a) The Board shall have the authority to negotiate and resolve, including boundary line, easement, and license agreements, related to alleged encroachment/boundary disputes.

2.5 Easement in Favor of Association. The Lots and Common Area are hereby made subject to the following easements in favor of the Association and its directors, officers, agents, employees and independent contractors:

(a) "Landscape Easement" shall mean those areas of each Lot, other than the area of the Dwelling, for which the Association retains an easement to approve, control, and maintain landscaping for the benefit of all Owners. Maintenance of the landscaping and sprinklers within the Landscape Easement are divided between the Owners and the Association as further detailed this Declaration. Approval of the Architectural Control Committee is required to make landscaping changes within the Landscape Easements, except that Owners do not need approval to plant flowers and/or vegetables within the three-foot area immediately adjacent to the Dwelling or patio.

(b) For inspection during reasonable hours of the Lots, Common Area in order to verify the performance by Owners or other persons of all items of maintenance and repair for which they are responsible;

(c) For inspection, maintenance, repair and replacement of portions of the Common Area;

(d) For correction of emergency conditions on one or more Lots or on portions of the Common Area;

(e) For the purpose of enabling the Association, the Architectural Control Committee or any other committees appointed by the Association to exercise and discharge during reasonable hours their respective rights, powers and duties;

(f) For inspection during reasonable hours of the Lots, Common Area in order to verify that the Owners and occupants, and their guests, tenants and invitees, are complying with the provisions of the Governing Documents.

ARTICLE III
COMMON AREAS & MAINTENANCE RESPONSIBILITIES

3.1 The Common Areas shall be and are hereby conveyed to the Association, a Utah non-profit corporation, subject to this Declaration and subject to all easements as set forth in this Declaration. The Common Areas consist of areas designated as Common Areas on the recorded Plat(s), including any structures related to the operation or maintenance of the Common Areas, together with any rights or way and utilities, as shown on the recorded Plat(s) or described herein including, but not limited to: private streets, gates, sidewalks, curbing, open space, tennis courts, pool area, kids' play area, and RV parking lot. The Association shall maintain, repair and replace the Common Areas.

3.2 Snow Removal. The Association shall make reasonable and prudent efforts to contract with a third party (non-related, independent contractor) for the removal of snow from sidewalks, driveways and other relevant Common Areas within the Project. Owners shall be responsible for removing snow from entryways, porches, patio areas, and other applicable areas on their Lot. Owners shall be responsible and take reasonable precautions with respect to ice and ice accumulation. The work of removing snow will be delegated to the contractor, who will utilize its discretion in the frequency of the snow removal and the amount of accumulation meriting removal. The Association shall not be responsible or liable for said contractor's discretion and removal of snow. The Board retains the right to request the contractor to add or forgo snow removal as circumstances dictate or as further outlined in the Rules.

3.3 Owner's Maintenance Responsibilities. It is the obligation of each Owner to maintain his Lot at all times in order to preserve and enhance the enjoyment of the Project. Owners shall maintain and repair their Lots, Dwelling and any Improvements on their Lot, including driveways, porches, any approved fencing, any modified landscaping in rear yards of their Lots or backyards. Owners are responsible for all maintenance in the back yards, including any sprinklers repairs in the back yard. Owners are responsible to maintain any approved modifications to sprinklers or landscaping. Prior written permission must be received from the Board for any modifications or the planting of any trees, shrubs or bushes. Owners do not need approval to plant flowers and/or vegetables within the three (3) foot area immediately adjacent to the Dwelling. Any item within the project that is not specifically maintained by the Association shall be maintained by the Owners.

3.4 Trash Containers and Collection. The Association shall contract for garbage collection paid for by the general assessment as a common expense. All garbage and trash shall be placed and kept in covered containers which shall be approved by the Board and provided by the garbage contractor. Insofar as possible, such containers shall be maintained as not be visible from neighboring Lots except to make them available for collection and then only for the shortest time necessary to affect such collection. The Association may adopt Rules further delineating requirements with respect to the storage, collection and disposal of garbage, rubbish and trash.

3.5 Association Maintenance Responsibilities. It is the obligation of the Association to maintain private streets, gates, sidewalks, curbing, open space, tennis courts, pool area, kids' play area, and RV parking lot. The Association shall maintain, repair and replace and perform general landscaping maintenance within the Common Areas, which shall include mowing, edging and blowing of grass in the Common Areas and front and side yards of the Units. The Association shall maintain the original sprinkler system in the front and side yard.

With the exception of an approximately three (3) foot area, extending from the patio or foundation of the Dwelling that has been modified by an Owner upon the prior, written approval of the Association, the Association shall maintain the landscaping within the Project. If an Owner, following this approval, has modified this three (3) foot area, such Owner or successor in interest shall be responsible to maintain such area, including any sprinkler maintenance or modification. Unless an Owner returns this area to grass prior to selling his/her Dwelling, such Owner shall notify a purchaser or successor in interest of this responsibility. Notwithstanding, any failure to notify does not alter the maintenance obligations of a purchaser or successor in interest.

3.6 Repairs 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 thirty (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 may bear interest from the date advanced at the lawful judgment rate under applicable state law.

3.7 Alterations of Exterior Appearance. The Owners will maintain their Lots and Improvements in substantially the same condition and appearance as that approved by the ACC. 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 ACC.

3.8 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 ACC, 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 ACC, 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 IV MEMBERSHIP

4.1 Membership in the Association shall at all times consist exclusively of the Owners. Each Owner shall be a member of the Association so long as such Owner has an ownership interest in a Lot and such membership shall automatically terminate when the Owner ceases to have an ownership interest in the Lot. Upon the transfer of an ownership interest in a Lot the new Owner succeeding to such ownership interest shall likewise succeed to such membership in the Association. If titled ownership to a Lot is held by more than one Person, the membership appurtenant to that Lot shall be shared by all such Person in the same proportional interest and by the same type of tenancy in which title to the Lot is held.

ARTICLE V VOTING

5.1 Only an Owner that is current on all assessments and/or other fees shall be deemed in good standing and entitled to vote at any annual or special meeting.

The Association shall have one class of voting membership, and each Owner shall be entitled to one (1) equal vote for each Lot in which they are an Owner. Since an Owner may be more than one Person, if only one of the Owners is present at the meeting of the Association that Owner shall be entitled to cast all votes appertaining to that Lot. But if more than one Owner of a Lot is present, the votes appertaining to that Lot shall be cast only with the agreement of a majority of them, and such consent shall be conclusively presumed if any one of them purports to cast the votes appertaining to that Lot without protest being made immediately by any of the others to the person presiding over the meeting. The votes appurtenant to any one Lot may not be divided between Owners of such Lot or with respect to matters before the Association, and all such votes appurtenant to any one Lot shall be voted in one block. If the vote of a majority of the owners of a Lot cannot be determined, no vote shall be cast in relation to such Lot.

ARTICLE VI HOMEOWNER ASSOCIATION

6.1 Organization. The Association has been created to effectively enforce the Governing Documents and shall operate as a non-profit corporation. The Association shall be comprised of the Owners within the Project, and is established for the benefit of the Owners and the enforcement of the Governing Documents. 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 serve as the organizational body for all Owners.

6.2 Enforcement Powers. The Association shall have all powers granted to it by the Governing Documents and the Act to enforce these covenants and restrictions by actions in law or equity brought in the name of the Association, and the power to retain professional services needed to the enforcement of the Governing Documents and to incur expenses for that purpose, including but not limited to: (1) record, lien, foreclose and other enforcement and collection actions against an Owner and their Lot; (2) initiate legal or similar proceedings; (3) impose fines; (4) collect any rents directly from tenant for past due assessments; (5) terminate an Owners' right to receive utility service paid as a common expense (with the exception of water, sewer, power and natural gas); (6) terminate an Owner's right to utilize Common Area and/or amenities; and (7) any other action or remedy allowed by the Governing Documents or Utah law.

(a) The Association shall have the exclusive right to initiate enforcement actions in the name of the Association. The Association may appear and represent the interest of the Project at all public meetings concerning zoning, variances, or other matters of general application and interest to the Owners.

(b) The Association shall have the authority to initiate and compromise claims and litigation on behalf of the Association resulting from the enforcement of the Governing Documents. In the event that the Association initiates legal action against a specific Owner or Owners to enforce these Governing Document, whether or not such action results in the commencement of a formal legal proceeding, the Association shall have the right to assess the costs of such litigation, dispute, or enforcement action, including reasonable attorney fees, against the Owner(s) or Lot(s) in question and collect those assessment in any manner authorized in the Governing Documents or Utah law.

(c) The Board shall be afforded discretion to utilize its reasonable judgment to determine whether and how to: impose fines, record liens, pursue legal action; otherwise enforce the Governing Documents; or when and how to settle or compromise claims.

6.3 Budget. In accordance with paragraph 57-8a-215 of the Act, the Board is required to adopt a budget for each fiscal year. The adopted budget shall be presented to the Owners at or before each Annual Meeting. The Board will act in good faith to make reasonable assessments based on historical expense data, known and anticipated cost increases, and the Reserve Study. It is the intent of the Board for Owners to support the adopted budget. A budget may be disapproved if within 45 days after the meeting where the budget is presented, a Special Meeting is properly requested by the Owners and at least 51% of the Owners vote to disapprove the adopted budget. If the budget is disapproved, the last budget not disapproved will continue until or unless the Board presents another budget that is not disapproved.

6.4 Assessments. An Owner shall pay the Owner's proportionate share of the Association expenses and Reserve Fund amounts, as established by the budget. Assessments will

be made to meet the anticipated and recurring costs, expenses and Common Expenses of the Association. The Association has the power to levy Assessments against each Lot, as necessary to carry out its functions. Assessments shall be levied against all Lots in the Property, whether vacant or improved. Each Owner shall, by acquiring or in any way becoming vested with his/her interest in a Lot, be deemed to covenant and agree to pay to the Association the Assessments described in these covenants, together with late payment fees and costs of collection (including reasonable attorney fees), if and when applicable. Assessments shall be due and payable in a manner and on a schedule, as the Board may provide.

(a) All such amounts shall be, constitute and remain: (a) a charge and continuing lien upon the Lot with respect to which such assessment is made until fully paid; and (b) the personal, joint and several obligations of the Owner or Owners of such Lot at the time the Assessment falls due. No Owner may exempt himself or his Lot from liability for payment of assessments by waiver of his rights in the Common Areas or by abandonment of his Lot. In a voluntary conveyance of a Lot, the grantee shall be jointly and severally liable with the grantor for all unpaid assessments, late payment fees, and costs of collection (including reasonable attorney fees) which shall be a charge on the Lot at the time of the conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor.

(b) Types of Assessments.

- (i) Regular assessments are made to meet the anticipated and recurring cost, expenses, and Common Expenses of the Association. These anticipated amounts will be reflected in the budget prepared by the board.
- (ii) The Association may levy special assessments for the purpose of defraying, in whole or in part any expense or expenses not reasonably capable of being fully paid with funds generated by other assessments. A special assessment will not be levied without approval of a majority of a quorum of the Owners at a Special or Regular Meeting, or upon the written consent of a majority of Owners (except for damage of destruction as covered in paragraph 15.1 below).
- (iii) In addition, the Association may levy individual assessments on every Lot, Owner or occupant that shall cause any damage to the Project or otherwise causes the Association to incur any individual expense for maintenance, repairs, or enforcement action taken under the provisions of the Governing Documents. The amount of any such individual assessments shall be determined by the cost of such repairs, maintenance or

enforcement action, including all overhead and administrative costs (including reasonable attorney fees), and shall be allocated among the affected Owner(s) or Lot(s) according to the cause of damage, maintenance, repair work or enforcement action, as the case may be, which individual assessment may be levied in advance of the performance of work.

- (iv) The Association may levy a reserve fund assessment, as set forth in this article and the Act. The Board shall include the Reserve Assessment in the yearly budget it prepares.
- (v) The Association may levy other assessments, fees, or fines, as authorized by the Governing Documents.
- (vi) Assessment on vacant lot. There is currently a single vacant lot in the Association. The Board of Directors may set the amount of assessment for said vacant lot, which does not have to be equal to the assessments for the rest of the Project.

6.5 Reserve Fund Analysis. The Act requires that the Board shall cause a reserve analysis to be conducted no less frequently than every six (6) years to analyze the cost of repairing, replacing or restoring Common Area that have a useful life of three years or more and a remaining useful life of less than 30 years. This reserve analysis should be reviewed no less frequently than every three (3) years and updated if necessary. 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, unless a majority of the Owners vote to approve the alternate purpose; or
 - (iii) In the event that the Association experiences a surplus in any fiscal year, the Board may elect to place said surplus in the reserve fund account.

6.6 Reserve Fund Account Creation. The Board shall create a reserve fund account that is separate and distinct from the Association's general account, which account shall be funded from the reserve fund assessments. The amount of the reserve fund assessment shall be a

separate line item in the approved budget. The Board shall cause an assessment to be made against all Owners in an amount sufficient, within the Board's discretion, to fund the reserve account. As noted above in paragraphs 6.4 (b) (iv) and 6.5 this is a requirement of Utah law. Movement, transfer, or expenditure of funds from the reserve account must meet the criteria set forth in paragraph 6.5 and be authorized by the Board President and Treasurer (by signature or email). Any board decision to temporarily suspend allocation of the monthly assessment to avoid financial shortfalls must be documented, approved, and authorized by the President and Treasurer (by signature or email).

6.7 Reinvestment Fee. The Board shall have power to levy a one-time reinvestment fee when a change in ownership of a Lot occurs. The new and prior owner(s) of the Lot are both jointly and severally liable for the reinvestment fee, which amount may be established by the Board of Directors, not to exceed .5% of the value of the Lot. The Rules in affect at the time of change of ownership determine the amount. The Board shall be contacted for the exact amount.

6.8 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 the effective date of the first budget. Assessments shall be due and payable in a manner and on a schedule, as the Board may provide.

6.9 Fines. Following notice as required by the Act, the Association shall have the power to assess a fine against an Owner and/or their Lot for a violation of the terms and conditions of the Governing Documents in an amount set by the Board.

6.10 Hearing Process. The Board shall have authority to create a reasonable hearing process applicable when the Association takes an adverse action related to any particular Owner(s) in accordance with the Act. The hearing process is an appendix to the rules.

6.11 Association Rules. The Board from time to time and subject to the provisions of the Governing Documents, may adopt, amend, repeal and enforce Rules governing: (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 in the Project; (e) collection policies and procedures; and (f) other matters concerning the use and enjoyment of the Property and the conduct of residents, as deemed necessary by the Board. The Rules may supplement, clarify and add detail to issues addressed in Governing Documents. However, the Rules may not contradict the Governing Documents.

6.12 Statement of Account & Payoff Information. Upon a written request from an Owner that the Association provide the Owner with a statement of his/her account, the Association may charge a fee, not to exceed \$10.00, for providing such statements. In addition, when a request is made to the Association to provide payoff information needed in connection with the financing, refinancing, or closing of a Lot Owner's sale of his/her Lot, the Association may charge a fee not to exceed \$50.

6.13 Availability of Documents. The Association shall make appropriate documents available to Owners (and their lenders, insurers and/or authorized agents) consistent with the Act and the Utah Revised Non-Profit Act. The Board may adopt a record retention policy to govern its record retention procedures.

6.14 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 the Governing Documents.

6.15 Election, Notice of Election, Notice of Meeting and Special Meetings. Election procedures and notice of any meeting shall be conducted as set forth in the Articles of Incorporation and Bylaws of the Association.

6.16 Number of Board, Term of Office. The appointment, election and term of the Members of the Board are set forth in the Bylaws and Articles. Members of the Board of Directors may serve consecutive terms, and may also serve as officers of the Association.

6.17 Independent Accountant/Bookkeeper. The Association may retain the services of an independent accountant or bookkeeper to assist the Board of Directors and officers to maintain accurate financial records of the Association.

6.18 Borrowing. Borrowing to meet emergency or special needs is not anticipated. However, the Association could find it needs the authority to do so at some future date for reasons that cannot be anticipated. Such an action would require approval of at least 67% of the Owners during a regular or special meeting by vote, proxy, or written consent. Any such approval would necessarily include a special assessment to repay the loan.

ARTICLE VII

NONPAYMENT OF ASSESSMENTS & THE APPOINTMENT OF TRUSTEE

7.1 Delinquent Assessment. Any assessment not timely paid shall be delinquent, and the Association may invoke any and all remedies to recover said delinquent assessments including by suit, judgment, lien, foreclosure, or other remedy authorized by the Governing Documents or the Act.

7.2 Due Date & Late Charges. Unless otherwise established by the Board, monthly assessments shall be due and payable on the first of each month and late if not received by the 10th of each month. The Board may charge late fees, as established by rule or policy, for each unpaid or late assessment. The Board may also impose other reasonable charges imposed by a Manager or attorney related to collections.

7.3 Lien. 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 made in good faith and for value recorded prior to a recorded notice of lien by the Association.

7.4 Foreclosure. The Association 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 assessments and attorney fees shall be maintainable without foreclosing or waiving the lien securing the same.

7.5 Other Remedies. 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. The Association may elect to bring an action to recover for a delinquent Assessment against the Owner or other obligee personally. Any attorney fees or costs incurred in these efforts shall also be assessed against the Owner(s), their Lot(s), and/or other obligees jointly and severally.

7.6 Payment by Tenant. The Association shall be entitled to demand and collect from a tenant of any Lot, the amount of any assessment that is more than sixty (60) days past due.

7.7 Attorney Fees. In addition to the recovery of costs and attorney fees as provided herein, the Association shall be entitled to recover all reasonable attorney fees and costs incurred as a result of an Owner breach of the Governing Documents, including meetings, research, memoranda, monitoring and other legal work incurred in response to an Owner breach or violation of the Governing Documents. These fees may be collected by special or individual assessment against the subject Owner(s) or Lot(s).

7.8 Appointment of Trustee. The Association hereby conveys and warrants pursuant to U.C.A. Sections 57-1-20 and 57-8a-402 to appoint a licensed member of the Utah State Bar, as trustee with power of sale, for the Lot and all Improvements to the Lot or Unit for the purpose of securing payment of assessments under the terms of this Declaration in the event that foreclosure proceedings are necessary.

ARTICLE VIII
SUBORDINATION OF LIEN TO INSTITUTIONAL
FIRST AND SECOND MORTGAGES

8.1 The lien of assessments and 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 of record made in good faith and for value, recorded prior

to a recorded notice of lien by the Association. 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 IX
USE LIMITATIONS & RESTRICTIONS

9.1 **Single Family Use.** The Dwelling, Project and Common Area are open to all ages and are for single family use and not for transient lodging purposes, boarding house, a bed and breakfast, or other commercial uses. "Single Family", as defined in the Roy City Zoning Ordinance, Chapter 31, Section 3101 requires as follows: A person living alone, or any of the following groups living together as a single nonprofit housekeeping unit and sharing common living, sleeping, cooking and eating facilities: (a) Any number of people who are related by blood, marriage adoption, or court sanctioned guardianship together with any incidental domestic or support staff who may or may not reside on the premises; or (b) four (4) unrelated people; or (c) two unrelated people and any children related to either of them. "Family" does not include any group of individuals whose association is temporary or seasonal in nature or who are in a group living arrangement because of criminal offenses.

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

9.3 **Licensed Contractor.** Unless the Architectural Control Committee gives a written waiver of approval to an Owner, no Improvement may be constructed, remodeled or altered on any Lot except by a licensed contractor, duly qualified and licensed by the appropriate governmental authorities.

9.4 **No Business or Commercial Uses.** No portion of the Project may be used for any commercial business use, provided, however, that nothing in this provision is intended to prevent the use by any Owner of his Lot for a home occupation pursuant to City or County ordinance. Businesses, professions or trades may not require heavy equipment or create a nuisance within the Project, and may not noticeably increase the traffic flow to the Project.

9.5 **Restriction on Signs.** No signs will be permitted on any Lot or within the Project, without the approval of the ACC. Signs indicating the Lot is for sale may be placed in accordance with City/County sign regulations.

9.6 **Underground Utilities.** All gas, electrical, telephone, television, and any other utility lines in the Project are to be underground, including lines within any Lot which service installations entirely within that Lot.

9.7 **No Re-Subdivision.** No Lot may be re-subdivided.

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

9.9 Construction. No Improvement shall be permitted to remain incomplete for a period in excess of one (1) year from the date of commencement of construction, re-construction or remodeling unless any delays are approved in writing by the ACC.

9.10 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.

9.11 No Noxious or Offensive Activity. No noxious or offensive activity shall be carried out on any Lot or the Project, including the creation of loud or offensive noises or odors that detract from the reasonable enjoyment of nearby Lots. No Owner or occupant shall engage in activity within the Project in violation of any law, ordinance, statute, rule or regulation of any local, county, state or federal body.

9.12 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).

9.13 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 an Improvement); open storage or parking of construction equipment; open storage or parking of vehicles, trailers or other pieces of equipment that are unusable, in poor condition or unsightly; accumulations of lawn or tree clippings or trimmings; accumulations of construction debris or waste; and the storage or accumulation of any other material that is unsightly.

9.14 No Annoying Lights. No outdoor lighting shall be permitted except for lighting that is designed to aim downward and reasonably 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 and/or County. Holiday or seasonal decorative lights, that otherwise comply with the terms of the Governing Documents, are permitted. Specifically, the Board is allowed to adopt further Rules with respect to lighting and holiday decorations.

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

9.16 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 (maximum of two) may be kept provided that they are not kept, bred or maintained for any commercial purpose and are restricted to the owner's control. "Control" for the above purposes shall only mean on a leash or lead, within a vehicle, within the Dwelling of the Owner, or within confines on the premises of the Owner. Pet owners shall promptly remove and dispose of all excrement emitted by their pets. Fierce, dangerous or vicious animals or animals that cause a nuisance by barking or other offensive activity shall not be permitted. Failure to abide by these conditions shall result in fines as authorized by the Board. All restrictions and rules as set forth by Roy City with respect to animals are hereby incorporated by this reference. The Association may also defer to Roy City for enforcement of violations of animals rules where appropriate.

9.17 Fencing. Only the Association may approve fencing within the Project. Any approved fencing within Lot must receive written approval from the ACC, including approval of a licensed contractor.

9.18 Vehicles & Parking. All vehicles in the Project shall be in running condition, properly licensed and in compliance with City and/or County ordinances. No recreational vehicles, campers, motorcycles, atvs, trailers, boats, or similar vehicles may be parked or stored in the driveways or streets. Recreational vehicles, campers, motorcycles, ATVs, trailers, boats, and similar vehicles must be parked or stored in a garage or RV Lot within the Project, except temporary parking not to exceed forty-eight (48) hours.

(a) No resident shall repair or restore any vehicles of any kind in, on or about any Lot, Common Areas, or elsewhere in the Project except for emergency repairs, and then only to the extent necessary to enable movement thereof to a proper repair facility or location.

(b) Owners may only park in garages or in driveways. Owners may not park on the street, grass, elsewhere on their Lot within designated fire zones or no parking zones, or other areas marked for no parking. Visitors may park on the street except where in areas designated as no parking. Visitor parking should not be of a permanent nature and the Board reserves the right to adopt further rules with respect to parking generally and visitor parking.

(c) Pool parking area. During the months of May through September, during the pool operating hours, the pool parking area may only be utilized by vehicles accessing the pool. During the months of October through April, the pool parking area may be utilized as visitor parking and resident overflow parking. However, during visitor parking months, no car should remain in the pool parking area for more than 48 hours. The Board reserves the right to publish additional rules in the Rules and Regulations.

(d) The Association reserves the right to adopt Rules relating to the parking of vehicles within the Project including, without limitation, (1) the right to immediately remove

or cause to be removed any vehicles that are improperly parked, (2) restrictions on the time period and duration that any guest or visitor parking may be utilized; (3) restrictions or bans on vehicles without Department of Transportation compliant mufflers and exhaust systems, and (4) the assessment of fines to Owners and occupants who violate such Rules.

9.19 Exterior Antennas and Satellite Dishes. An Owner is first required to utilize existing cables, satellite dishes, antennas and related structures before installing any new hardware to the exterior of the Dwelling or Lot.

9.20 Firearms, Incendiary Devices and Graffiti. The use of firearms and incendiary devices or the painting or graffiti, within the Project is prohibited. The terms firearms, including but is not limited to all guns, pistols, handguns, rifles, automatic weapons, semi-automatic weapons, BB guns, pellet guns, sling shots, wrist-rockets, blow-dart guns, and other firearms of all types, regardless of size. All firearms are prohibited from the Common Area unless the owner possesses a concealed carry or other permit and the firearm is concealed. All applicable city, state, and federal firearms laws apply and all violations will be reported to Roy City for investigation.

9.21 Outdoor Clothes, Washing and Drying. No exterior clotheslines shall be erected or maintained, and there shall be no outside drying or laundering of clothes.

9.22 Energy Conservation Equipment. Solar energy device, solar energy collector panels, other energy conservation equipment or attendant hardware shall be constructed or installed within the Project without the prior written consent of the Board of Directors. Any approved solar panels must be integrated into the roof design, as approved by the ACC.

9.23 Mailboxes. Owners shall maintain and replace the mailboxes for their Lots. Notwithstanding, Owners must receive prior written approval from the ACC to modify the appearance or install a replacement mailbox that is not identical to the existing mailbox.

9.24 Paving. Driveway and other flat paved areas may be concrete, exposed aggregate concrete, stamped concrete or other materials approved by the ACC.

9.25 Sheet Metal, Flashing and Vents. All sheet metal, flashing, vents and pipes must be colored to match the material to which they are attached or from which they project, with the exception of copper. Metal Awnings, metal lean-tos, or metal patio covers shall not be permitted on any Lot, without the prior written consent of the ACC.

9.26 Mechanical Equipment. Air conditioning units and swamp coolers are not permitted on roofs or through windows unless screened from view and approved by the ACC.

9.27 Garage Doors. Garage doors should be in good working condition and should be closed at all times when not being presently utilized to access vehicles or other items from the garage. Inoperable or damaged garage doors shall be repaired within 30 days of the damage or interruption in its operation. Garage doors may be left open up to 12 inches in height from the cement driveway in order to allow airflow to the area.

ARTICLE X
RENTAL/LEASE RESTRICTIONS

10.1 The Association does not adopt, modify, alter or amend the existing Rental Amendment that is attached hereto as Exhibit "A." The Rental Amendment shall continue in full force and effect independent of the adoption of this Declaration.

ARTICLE XI
ARCHITECTURAL CONTROL COMMITTEE

11.1 Architectural Control Committee ("ACC"). An Architectural Control Committee may be appointed by the Board in accordance with the Bylaws and Articles of the Association to oversee any construction, re-construction, remodeling or altering of exterior Improvements. If no ACC is appointed, the Board will assume the duties and responsibilities of the ACC. At least three members of the Board must act as the ACC and a majority of these must approve the plans before any action can be taken by an Owner.

11.2 Approval by Board or ACC Required. No exterior Improvement of any kind will be constructed or commenced on any Lot(s) without the prior, written approval of the ACC. Approval of the Committee will be sought in the following manner:

(a) Plans Submitted. The ACC at its discretion may request a written rendering, prepared by a licensed contractor, architect or engineer, of the proposed remodeling or construction be submitted. The Plans shall also include: (1) a description of how debris will be removed; (2) name, address and phone number of contractor(s) performing the work; (3) when construction or remodeling will begin and conclude; and (4) proposal to mitigate any nuisance to other Owner(s). For simpler improvements the ACC may accept other plans or documentation submitted by the Owner.

(b) Review. Within 30 days from receipt of the submitted plans, the ACC will review the plans and respond in writing to the Owner determining whether or not the plans comply with the conditions imposed by the Declaration and are consistent with and in architectural harmony with other Improvements within the Project. The Board or ACC may: (1) approve the plans; (2) reject the plans; (3) request additional information; or (4) require that certain conditions be met.

(c) Failure to Act. If the ACC fails to respond, the Owner may complete the

construction in accordance with the submitted plans. Notwithstanding the Improvement(s) shall not violate the terms and condition of the Declaration and shall be in architectural harmony with the other Improvements in the Project.

11.3 Variances. The ACC cannot grant any variance that has the effect of modifying applicable zoning or building code regulations or directly violates the Governing Documents. The burden of obtaining a variance is entirely on the applicant.

11.4 Board and ACC Not Liable. The Board, ACC and its members shall not be liable to the applicant for any damages, or to the Owners of any Lots within the Project for their actions, inactions, or approval or disapproval of any set of plans submitted for review. The Owners' shall have no claim against the Board or ACC 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 Board or ACC has acted improperly.

11.5 Limitations on Review. The ACC's review is limited to those matters expressly granted in this Declaration. The ACC 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 ACC prior to construction.

ARTICLE XII INSURANCE

12.1 Insurance Requirement. The Association shall obtain insurance as required in this Declaration and as required by applicable law. The Association may obtain insurance that provides more or additional coverage than the insurance required in this Declaration. Different policies may be obtained from different insurance carriers and standalone policies may be purchased instead of or in addition to embedded, included coverage, or endorsements to other policies. Policies should be written by a company with a rating of "AA" or better from Best's Insurance Rating.

12.2 Property Insurance.

- (a) Blanket Policy of Property Insurance. The Association shall maintain a blanket policy of property insurance covering all Common Areas.
 - (i) At a minimum, any required blanket policy shall afford protection against loss or damage by: (1) fire, windstorm, hail, riot, aircraft, vehicles, vandalism, smoke, and theft; and (2) all perils normally covered by "special form" property coverage.
 - (ii) Any blanket policy shall be in an amount not less than one-

hundred percent (100%) of current replacement cost of all property covered by such policy (including the Dwellings if applicable) at the time the insurance is purchased and at each renewal date. The actual replacement cost of the property shall be determined by using methods generally accepted in the insurance industry.

(iii) A blanket policy shall include either of the following endorsements to assure full insurable value replacement cost coverage: (1) a Guaranteed Replacement Cost Endorsement under which the insurer agrees to replace the insurable property regardless of the cost; or (2) a Replacement Cost Endorsement under which the insurer agrees to pay up to one-hundred percent (100%) of the Property's insurable replacement cost but not more. If the policy includes a coinsurance clause, it must include an Agreed Amount Endorsement which must waive or eliminate the requirement for coinsurance.

(iv) Each property policy that the Association is required to maintain shall also contain or provide for the following: (i) "Inflation Guard Endorsement," if available (ii) "Equipment Breakdown," if the project has central heating or cooling or other equipment or other applicable fixtures, equipment, or installations, which shall provide that the insurer's minimum liability per accident at least equals the lesser of one million dollars (\$1,000,000) or the insurable value of the building containing the equipment.

(b) Owner Responsibility to Obtain Insurance. Each Owner shall obtain and maintain policies of fire and casualty insurance and a policy or policies covering against liability incident to the ownership of your own separate home and home site and all improvements.

(c) Owner Responsibility for Payment of Deductible. If a loss occurs that is covered by a property insurance policy in the name of the Association and another property insurance policy in the name of an Owner:

(i) The Association's policy provides primary insurance coverage;

(ii) The Owner is responsible for the Association's policy deductible;

(iii) The Owner's policy, if any, applies to that portion of the loss attributable to the Association's policy deductible, and the Association may levy an assessment against the Owner for that amount.

(d) Earthquake Insurance. The Association may nonetheless, if approved by a majority of Owners, purchase earthquake insurance to cover earthquakes

not otherwise covered by blanket property insurance.

- (e) Property Insurance Deductible. The Association shall keep an amount equal to the Association's property insurance policy deductible or \$10,000, whichever is less. This requirement shall not apply to any earthquake or flood insurance deductible. If the amount held in this account is used to pay any deductible, it shall be replenished within twelve (12) months.
- (f) Association's Right to Not Tender Claims that are Under the Deductible. If, in the exercise of its business judgment, the Board of Directors determines that a claim is likely not to exceed the Association's property insurance policy deductible: (a) the Owner's policy is considered the policy for primary coverage to the amount of the Association's policy deductible; (b) an owner who does not have a policy to cover the Association's property insurance policy deductible is responsible for the loss to the amount of the Association's policy deductible; and (c) the Association need not tender the claim to the Association's insurer.
- (g) Notice Requirement for Deductible. The Association shall provide notice to each Owner of the Owner's obligation for the Association's policy deductible and of any change in the amount of the deductible.

12.3 Comprehensive General Liability (CGL) Insurance. The Association shall obtain CGL Insurance insuring the Association, the agents and employees of the Association, and the Owner, against liability incident to the use, ownership or maintenance of the Common Area, or membership in the Association. The coverage limits under such policy shall not be less than one million dollars (\$1,000,000) covering all claims for death of or injury to any one person or property damage in any single occurrence. Such insurance shall contain a Severability of Interest Endorsement or equivalent coverage which would preclude the insurer from denying the claim of an Owner because of the negligent acts of the Association or another Owner.

12.4 Directors and Officers Insurance. The Association shall obtain Directors and Officers liability insurance protecting the Board of Directors, the Officers, and the Association against claims of wrongful acts, mismanagement, failure to maintain adequate reserves, failure to maintain books and records, failure to enforce the Governing Documents, and breach of contract (if available). The policy shall:

- (a) Include coverage for volunteers and employees;
- (b) Include coverage for monetary and non-monetary claims;
- (c) Provide for the coverage of claims made under any fair housing act or similar statute or that are based on any form of discrimination or civil rights claims; and

- (d) Provide coverage for defamation. In the discretion of the Board of Directors, the policy may also include coverage for any manager and any employees of the manager and may provide that such coverage is secondary to any other policy that covers the manager or any employees of the manager.

12.5 Insurance Coverage for Theft and Embezzlement of Association Funds. The Association may obtain insurance covering the theft or embezzlement of funds that shall:

- (e) Provide coverage for an amount of not less than the sum of three months regular assessment in addition to the prior calendar year's highest monthly balance on all operating and reserve funds; and
- (f) Provide coverage for theft or embezzlement of funds by:
 - (i) Officers, Board of Directors, or Members of the Association;
 - (ii) Employees and volunteers of the Association;
 - (iii) Any manager of the Association; and
 - (iv) Officers, directors and employees of any manager of the Association.

12.6 Certificates. Any insurer that has issued an insurance policy to the Association shall issue a certificate of insurance to the Association and upon written request, to any Owner or Lender.

12.7 Named Insured. The named insured under any policy of insurance shall be the Association. Each Owner shall also be an insured under all property and CGL insurance policies.

12.8 Association's Right to Negotiate All Claims and Losses and Receive Proceeds. Insurance proceeds for a loss under the Association's property insurance policy shall be payable the Association, and shall not be payable to a holder of a security interest. Insurance proceeds shall be disbursed first for the repair or restoration of the damaged property, if the property is to be repaired and restored as provided for in this Declaration. After any repair or restoration is complete and, if the damaged property has been completely repaired or restored, any remaining proceeds shall be paid to the Association. If the property is not to be repaired or restored, then any proceeds remaining after such action as is necessary related to the property has been paid for, shall be distributed to the Owners and lien holders, as their interests remain with regard to the Dwellings. Each Owner hereby appoints the Association, as attorney-in-fact for the purpose of negotiating all losses related thereto, including: the collection, receipt of, and the execution of releases of liability, and the execution of all documents and the performance of all other acts necessary to administer such insurance and any claim. This power-of-attorney is coupled with an interest, shall be irrevocable, and shall be binding on any heirs, personal representative, successors or assigns of an Owner.

12.9 Owner Act Cannot Void Coverage under Any Policy. Unless an Owner is acting

within the scope of the Owner's authority on behalf of the Association and under direct authorization of the Association, an Owner's act or omission may not void an insurance policy or be a condition to recovery under a policy.

12.10 Waiver of Subrogation against Owners and Association. All property and CGL policies must contain a waiver of subrogation by the insurer as to any claims against the Association and the Owners and their respective agents and employees.

ARTICLE XIII DAMAGE & DESTRUCTION

13.1 Immediately after damage or destruction by fire or other casualty to all or any part of the Common Areas covered by insurance written in the name of the Association, the Board, 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. Repair or reconstruction, as used in this paragraph, means repairing or restoring the 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.

13.2 Any damage or destruction to the Common Areas shall be repaired or reconstructed unless Owners representing at least seventy-five (75%) 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.

13.3 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 XIV DISBURSEMENT OF PROCEEDS

14.1 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 shall be retained by and for the benefit of the Association and placed in a capital improvements and/or reserve 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(s) shall be retained by and for the benefit of the Association and placed in a capital improvements and/or reserve account.

ARTICLE XV
REPAIR AND RECONSTRUCTION

15.1 If the damage or destruction to the 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 shall, without the necessity of a vote of the members, levy a special assessment against all Owners as provided in the Governing Documents. NOTE: Paragraph 13.2 above provides the procedure by which the Owners may decide to not repair or reconstruct.

ARTICLE XVI
CONDEMNATION

16.1 Whenever all or any part of the Common Areas shall be taken or condemned by any authority having the power of condemnation or eminent domain (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of members representing at least sixty-seven percent (67%) of the total Association), 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 the Owners 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 Directors of the Association. If the taking does not involve any improvements of the 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 shall determine.

ARTICLE XVII
MISCELLANEOUS PROVISIONS

17.1 Violation Deemed a Nuisance. Any violation of these covenants that 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 an Owner or by the Association. 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 reasonable attorney fees and court costs.

(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.

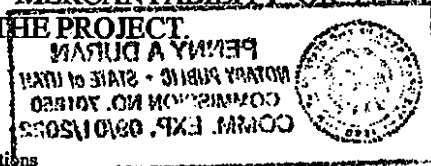
(c) The remedies available under this Declaration and at law or equity generally are not to be considered as exclusive, but rather as cumulative.

(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.

17.2 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.

17.3 Consent, Power of Attorney, Waiver. By acceptance of a deed, lease, or other conveyance of an interest in Dwelling, each Owner or Occupant consents to the rights reserved to the Association in this Declaration, including but not limited to, the right to prepare, execute, file, process, and record necessary and appropriated documents and other items to establish and grant easements and to make necessary and appropriate amendments of this Declaration, the Plat and Bylaws. By such acceptance, each Owner or Occupant agrees to execute all documents and to do all other things as may be necessary or convenient to effect the same; and such acceptance shall be deemed an appointment of the Association, with full right of substitution, as the attorney-in-fact of such Owner or Occupant to execute such documents and to do such things on Owner's or Occupant's behalf; and such appointment, being coupled with an interest, shall be irrevocable for the specific period of the Association's reserved rights as set forth in this Declaration and shall not be affected by the disability of any such Owner or Occupant.

17.4 No Representations and Warranties. EACH OWNER AND OCCUPANT UNDERSTANDS, AGREES, AND ACKNOWLEDGES THROUGH TAKING TITLE OR RESIDING IN THE PROJECT THAT THE ASSOCIATION AND THE BOARD OF DIRECTORS HAVE NOT MADE ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND RELATED TO THE PROJECT AND THAT EACH OWNER OR OCCUPANT HAS NOT RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO THE PROJECT.



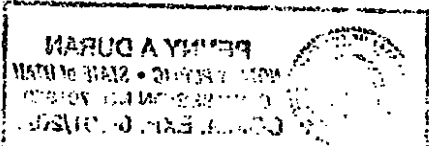
THE CREST HOMEOWNERS ASSOCIATION, INC.

Penny A Duran
By: Penny Duran
Its: Board Member

STATE OF UTAH)
)
) : SS
COUNTY OF Wenner)

On this 12 day of March, 2018, personally appeared before me Penny Duran, who being by me duly sworn, did say that he/she is a Board Member of The Crest Homeowners Association, Inc., a Utah non-profit corporation and that the within and foregoing instrument was signed on behalf of said corporation by authority and said individual duly acknowledged to me that said corporation approved the same.

Keelie Wheeler
Notary Public



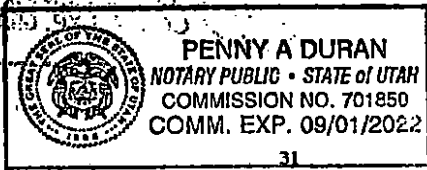
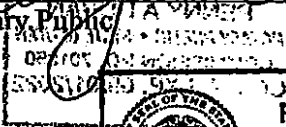
THE CREST HOMEOWNERS ASSOCIATION, INC.

Michael Kuculyn
By: Mike Kuculyn
Its: Board Member

STATE OF UTAH)
)
) : SS
COUNTY OF Weber)

On this 12th day of March, 2018, personally appeared before me Mike Kuculyn, who being by me duly sworn, did say that he/she is a Board Member of The Crest Homeowners Association, Inc., a Utah non-profit corporation and that the within and foregoing instrument was signed on behalf of said corporation by authority and said individual duly acknowledged to me that said corporation approved the same.

Penny A Duran
Notary Public



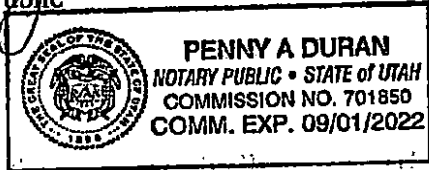
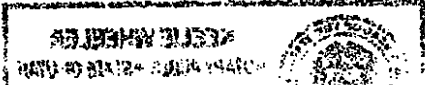
THE CREST HOMEOWNERS ASSOCIATION, INC.

Vern Blair
By: Vern Blair
Its: Board Member

STATE OF UTAH)
)
) : SS
COUNTY OF Weber)

On this 12th day of March, 2018, personally appeared before me Vern Blair, who being by me duly sworn, did say that he/she is a Board Member of The Crest Homeowners Association, Inc., a Utah non-profit corporation and that the within and foregoing instrument was signed on behalf of said corporation by authority and said individual duly acknowledged to me that said corporation approved the same.

Penny A Duran
Notary Public



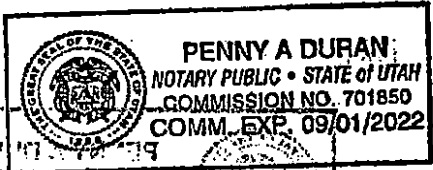
THE CREST HOMEOWNERS ASSOCIATION, INC.

Pauline Smith
By: Pauline Smith
Its: Board Member

STATE OF UTAH)
)
) : SS
COUNTY OF Weber)

On this 11th day of March, 2018, personally appeared before me Pauline Smith, who being by me duly sworn, did say that he/she is a Board Member of The Crest Homeowners Association, Inc., a Utah non-profit corporation and that the within and foregoing instrument was signed on behalf of said corporation by authority and said individual duly acknowledged to me that said corporation approved the same.

Penny A Duran
Notary Public



"W2813891"

EH 2613891 PG 1 OF 2
ERNEST D ROWLEY, WEBER COUNTY RECORDER
03-JAN-13 11:37 AM FEE 989.00 DEP SGC
REC FOR: CREST HOA ASSOCIATION

**Amendment of the Covenants, Conditions and Restriction's for Heritage Cove P.R.U.D.
(The Crest Homeowner's Association)**

10.4 Lease Restrictions and Limitations of Unit Ownership. In order for the Association to protect the equity of the individual property owners within the Project; carry out the purpose for which the Project was formed by preserving the character of the Project as a homogenous residential community of predominantly owner-occupied complex; and to comply with the eligibility requirements for financing in the primary and secondary mortgage market insofar as such criteria provide that the Project be substantially owner-occupied, the following leasing and ownership restriction shall apply to all Units:

(a) No more than one point thirty-three percent (1.33%) of the units in the Project may be leased or occupied by non-Owner residents. Any Owner who intends to lease his Unit shall submit a written application to the Management Committee (the "Committee") requesting permission to do so, which consent shall not be unreasonably withheld, delayed or conditioned so long as at least ninety-eight point sixty-six percent (98.66%) of the Units in the Project are Owner-occupied. For purposes of this section, the term "Owner-occupied" shall mean and refer to a Unit occupied by one of the following:

- (1) the owner of record, or
- (2) the owner of record and/or his spouse, children, or parents, or
- (3) the shareholder, partner, member, trustor, beneficiary or legal representative of an institutional owner of record (provided, such person holds a beneficial interest in such legal entity of at least 50% and/or his spouse, children or parents.

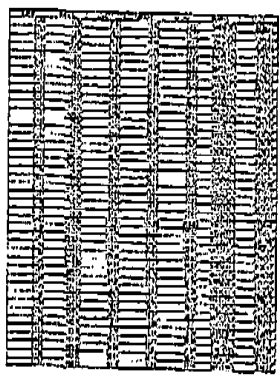
No Unit may be leased without the prior written consent of the Committee. Any transaction that does not comply with this Section shall be voidable at the option of the Committee.

This covers the following described property:

PG 37 OF 48
E# 2978130

HERFORDSHIRE SUBDIVISION

HERITAGE COVE P.R.U.D. PLAT C A DIVISION OF LOTZ ORCHARD COVE SUBDIVISION AMENDED PLAT

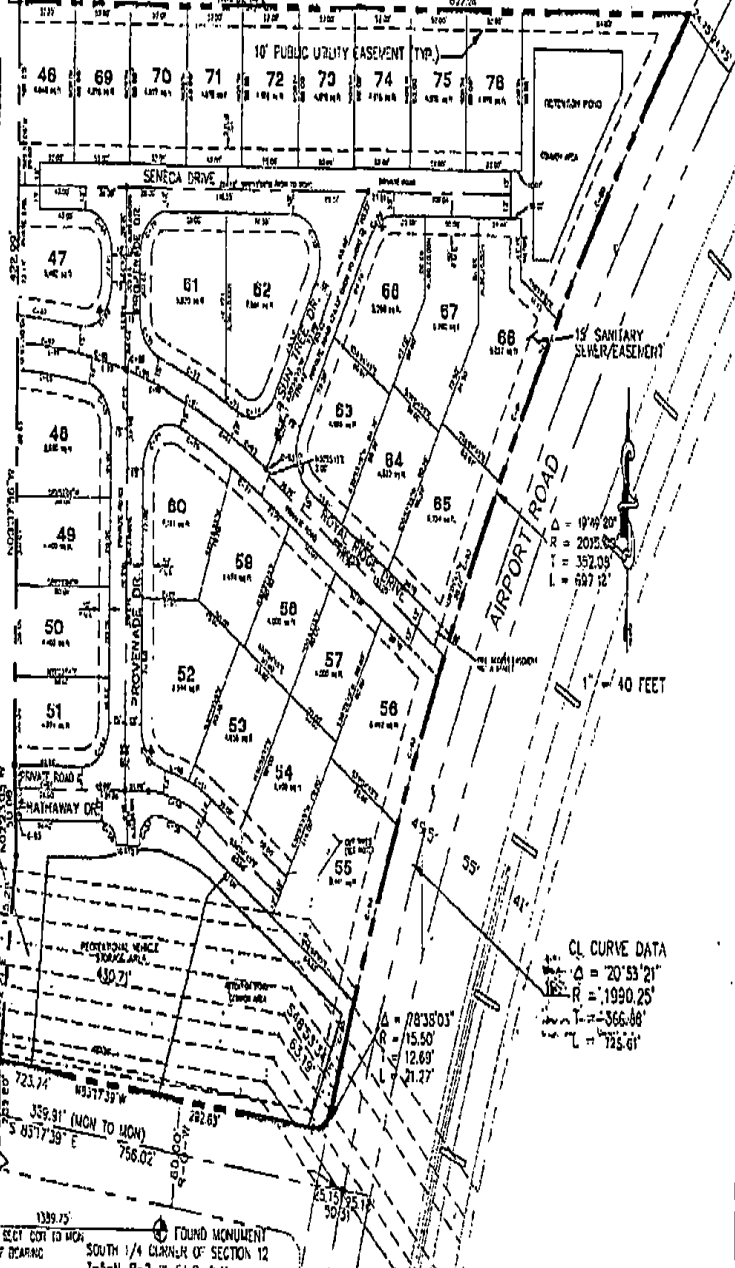


NOTE: ALL STREETS WITHIN THIS PLAT ARE PRIVATE AND FAIL WITHIN THE COMMON AREA DESIGNATION.
NOTE: LOT 55 CANNOT BE DEVELOPED UNTIL CITY WIRES ARE RELOCATED OR REMOVED

- LEGEND**
- SEARCH CODE
 - ADJACENT PLAT NO.
 - 10' PUBLIC UTILITY EASEMENT
 - COMMON AREA
 - SEPARATE CHAIN TO BE BY THE CITY OF SALT LAKE
 - PLANNING DEPARTMENT
 - PROPOSED NEW EASEMENT
 - RELOCATED TO BE BY THE CITY OF SALT LAKE

PLAT B

UPPL EASEMENT RECORDED JULY 21, 1943 AS ENTRY 77470, BK/PG 178/12, ENTRY 77472, BK/PG 178/15, ENTRY 77473, BK/PG 178/16, ENTRY 77474, BK/PG 178/17
UPPL EASEMENT RECORDED MAY 28, 1953 AS ENTRY 205153, BK/PG 418/213, ENTRY 205155, BK/PG 418/217



CL CURVE DATA

Δ = 19°49'20"
R = 2012.30'
L = 392.09'
L = 687.12'
Δ = 78°38'03"
R = 15.50'
L = 12.69'
L = 21.27'
L = 725.61'

SURVEYOR'S CERTIFICATE

I, Kenneth W. Nelson, do hereby certify that I am a Registered Civil Engineer, and Licensed Surveyor, and that I have personally supervised and participated in the making of this plat of land shown on this plat and described here, insofar as the same is not HERITAGE COVE P.R.U.D. AMENDED PLAT C.

BOUNDARY DESCRIPTION

Beginning at a point in 575420' E, 122143' S and north 728.63 feet from the Southwest Corner of Section 12, Township 5 North, Range 2 West, 501' Lake Basin and thence north 81.23' E, 115.15' feet, thence in 02°23'00" N, 501.08 feet, thence in 02°07'30" N, 422.97 feet, thence in 85°52'00" E, 422.36 feet to a point on a 200' 00' wide right-of-way line (center bears S 54°02'15" E, 200' 00' feet); thence along said line 100' 00' feet to a point on a 10' 00' wide easement corner to the right (center bears S 77°52'42" E, 10' 00' feet), thence along said line 21.27' feet, thence in 23°17'31" N, 292.83 feet to the point of BEGINNING, area containing 8.10 acres.

Block of building along the South line of 800' Section 12, from the Southwest corner to the South quarter corner of Section 12, being a bearing of N 23°24'20" E.



OWNER'S DECLARATION

I, the undersigned owner of the above described tract of land, hereby set apart and dedicate the same into public streets as shown on this plat and hereby dedicate said streets to the City of Salt Lake County, Utah, all those parts or portions of said tract of land not designated as public streets, the same to be used as public thoroughfares, and also to be used as public utility easements, sewer, storm and water lines, and also for irrigation, maintenance and collection of public utility services, sewer and storm drainage facilities or for the convenient transportation of water, drainage structures in the nature of which it is applicable as may be determined by any City, Utah, with no buildings or structures being erected on said such easements.

Record this 17 day of August, 1997.
The undersigned hereby certifies that this dedication has met all the requirements of the City Ordinance.

Deeded Co. I.C. Title Insurance Co. (Special parties)
Zal Ray
Joseph D. Davis and Veda S. Denson, Family Trust
Joseph D. Davis, Veda S. Denson
CORPORATE ACKNOWLEDGMENT

STATE OF UTAH
COUNTY OF
On the 17 day of August, 1997, I, Kenneth W. Nelson, Surveyor, do hereby certify that I am a Registered Civil Engineer, and Licensed Surveyor, and that I have personally supervised and participated in the making of this plat of land shown on this plat and described here, insofar as the same is not HERITAGE COVE P.R.U.D. AMENDED PLAT C.

ACKNOWLEDGMENT
STATE OF UTAH
COUNTY OF
On the 17 day of August, 1997, I, Kenneth W. Nelson, Surveyor, do hereby certify that I am a Registered Civil Engineer, and Licensed Surveyor, and that I have personally supervised and participated in the making of this plat of land shown on this plat and described here, insofar as the same is not HERITAGE COVE P.R.U.D. AMENDED PLAT C.

HERITAGE COVE P.R.U.D. PLAT C
LOCATED IN THE SOUTHWEST QUARTER OF SECTION 12, T-5-N, R-2-W, S.L.B. & M
R.S. 1714

<p>ROY CITY PLANNING COMMISSION</p> <p>APPROVED BY THE ROY CITY PLANNING COMMISSION ON THE <u>17</u> DAY OF <u>August</u>, 1997.</p> <p><i>Thomas Smith</i> Chair</p>	<p>ROY CITY APPROVAL</p> <p>THIS IS TO CERTIFY THAT THIS PLAT AND DEDICATION IS PLAT HERE DAILY APPROVED AND ACCEPTED BY THE CITY COUNCIL OF ROY CITY, UTAH THIS <u>17</u> DAY OF <u>August</u>, 1997.</p> <p>ATTEST: <i>Thomas Smith</i> CITY CLERK</p>	<p>ROY CITY ENGINEER</p> <p>I HEREBY CERTIFY THAT I HAVE CAREFULLY INVESTIGATED THE LINES OF SURVEY OF THE FOREGOING PLAT AND LEGAL DESCRIPTION OF THE LAND DESCRIBED THEREIN AND FIND THEM TO BE CORRECT AND TO AGREE WITH THE LINES AND BOUNDARIES ON RECORD IN THIS OFFICE AND IN CONFORMANCE WITH THE REQUIREMENTS OF ROY CITY ORDINANCES.</p> <p>9 Sept 98 DAY SIGNATURE</p>	<p>ROY CITY ATTORNEY</p> <p>APPROVED BY THE ROY CITY ATTORNEY ON THE <u>17</u> DAY OF <u>August</u>, 1997.</p> <p><i>Christina Dennis</i> ATTORNEY</p>	<p>UTAH POWER & LIGHT COMPANY</p> <p>APPROVED BY THE UTAH POWER & LIGHT CO. ON THIS <u>17</u> DAY OF <u>Sept</u>, 1997.</p> <p><i>Ray B. Baber</i> UTAH POWER & LIGHT COMPANY REPRESENTATIVE</p>	<p>WEBER COUNTY RECORDER</p> <p>ENTRY NO. <u>58577</u> FILED FOR RECORD AND RECORDED <u>17</u> DAY OF <u>August</u>, 1997, AT <u>SALT LAKE</u> IN BOOK <u>500</u> OF THE OFFICIAL RECORDS, PAGE <u>88</u>.</p> <p>RECORDED FOR <u>58577</u> PLAT CLERK WEBER COUNTY RECORDER BY <i>Paul Merrill</i> DEPUTY</p>
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Exhibit C
Bylaws

Amended & Restated Bylaws
of The Crest Homeowners Association, Inc.

The following are the Amended & Restated Bylaws of The Crest Homeowners Association, Inc. ("Bylaws"), a Utah nonprofit corporation (the "Association"). These Bylaws shall replace any prior bylaws, whether or not recorded, and any amendments thereto, through the date these Bylaws are recorded. Upon recordation of these Bylaws, they are binding upon the Association and all present and future Owners and/or occupants.

ARTICLE I
DEFINITIONS

Section 1.1 Definitions. All terms used but not defined herein shall have the meanings given them under that certain Second Amended & Restated Declaration of Covenants, Conditions & Restrictions for Heritage Cove P.R.U.D. (Doing Business as The Crest Homeowners Association, Inc.), of even date and recorded in the Official Records of the Weber County Recorder's Office (hereinafter referred to as the "Declaration"), 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 "Owner" shall mean and refer to those persons entitled to membership in the Association, as provided in the Declaration and Amended & Restated Articles of Incorporation.

ARTICLE II
MEETINGS OF OWNERS

Section 2.1 Annual Meetings. An annual meeting of the Owners shall be held no less than once each calendar year at a location and time designated by the Board. The Board may set the date, time and location of the annual meeting in accordance with Section 2.3 below.

Section 2.2 Special Meetings. Special meetings of the Owners may be called at the request of the Board, or upon written request of the Owners holding at least twenty-five percent (25%) of the total membership, as defined in the Declaration. Notwithstanding, the Board remains the only authorized body to act for and in behalf of the Association.

Section 2.3 Notice of Meetings. Unless an Owner requests in writing that all notices be provided to said Owner by U.S. mail, all notices (and delivery of any related documents) shall be given by, or at the direction of, the Board via: (1) email or other electronic communication; or (2) via hand-delivery, including affixing to the front door of the Dwelling. Notices may also be posted as a courtesy on community gates. Notice, shall be provided at least ten (10) days before a meeting, but no more than thirty (30) days, to each Owner entitled to vote at the email or electronic address provided by the Owner to the Board. Said notice is effective upon sending the email or electronic communication.

Such notice shall specify the location, day and time of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Upon becoming a Member of the Association or upon the written request by the Association, Owners shall provide a valid email address for purpose of notification related to the Association unless the Owner has opted out by providing a written request for notice by U.S. mail.

Section 2.4 Quorum. The quorum required for any action by the Owners hereunder, unless otherwise specifically set forth in the Declaration, shall be as follows: at each scheduled meeting called, the presence of Owners holding, or holders of proxies entitled to cast, at least fifty-one percent (51%) of all outstanding votes shall constitute a quorum for the transaction of business. If a quorum is not met, the meeting shall be postponed to a date of not more than thirty (30) days and not less than twenty-four (24) hours at which time the Owners and proxies present shall constitute a quorum for transacting business. In the case of any postponement, no notice of such rescheduled meeting shall be required except an announcement thereof at the original meeting and an electronic notification with the new meeting time, date and location to those Owners who have previously provided an email or other electronic means to the Association for notice purposes.

Section 2.5 Proxies. At all meetings of Owners, each Owner may vote in person or by proxy. All proxies shall be in writing, signed by the Owner, and filed with the Board at or before said meeting. Notwithstanding, any proxy delivered to the Board at the meeting must be provided no later than any point in the meeting announced as the final time to deliver proxies. The notice of meeting and/or the proxy form provided with any notice of meeting may also provide a deadline to return proxies, after which time further proxies will not be received. Every proxy shall be revocable and shall automatically terminate upon conveyance by the Owner of his Lot. If conflicting proxy votes for an Owner or Lot exist, said proxy votes will not be counted. The proxies form may allow the Owner to give written consent for an specific issue, or to allow the proxy to generally vote for the Owner.

Section 2.6 Conduct of Meetings. The President, or in his absence the Vice President, shall preside over all meetings. The Secretary or other authorized person shall keep minutes of all meetings and maintain a record of the minutes including, but not limited to: election of directors, adopted resolutions, adopted Rules and other matters coming before the Owners.

Section 2.7 Action Taken Without a Meeting. Any action that may be taken at any annual or special meeting of members may be taken without a meeting and without prior notice, if one or more consents in writing, setting forth the action taken, are signed by the members having not less than the minimum voting power that would be necessary to authorize or take the action at a meeting at which all members entitled to vote on the action were present and voted.

In addition, the Board may obtain approvals and conduct business through mail or email/electronic ballots. The ballot must set forth each proposed action and provide the option of voting for or against each proposed action with the requisite number of members approving the action that would be necessary to authorize or take the action at a meeting at which all members entitled to vote on the action were present and voted. The ballot must specify the period during which the Association shall accept written ballots for counting. Following this period, the Association shall provide notice of whether such action was or was not approved.

Section 2.8 Voting. Only an Owner that is current on all assessments and charges due and owing shall be deemed in good standing and entitled to vote at any annual or special meeting.

The Association shall have one class of voting membership, and each Owner shall be entitled to one equal vote for each Lot in which they are an Owner. There shall only be one vote for each Lot in the Project. Since an Owner may be more than one Person, if only one of such Person(s) is present at the meeting of the Association, that Owner shall be entitled to cast the vote appertaining to that Lot. But if more than one Owner of Lot is present, the vote appertaining to that Lot shall be cast only with the agreement of a majority of them, and such consent shall be conclusively presumed if any one of them purports to cast the vote appertaining to that Lot without protest being made immediately by any of the others to the person presiding over the meeting. The vote appurtenant to any one Lot may not be divided between Owners of such Lot. If the vote of a majority of the Owners of a Lot cannot be determined, no vote shall be cast in relation to such Lot.

The Association shall honor: the vote of a trustee or successor trustee of any trust that is an Owner on the real property records; the vote of an individual that is a holder of a Limited or General Durable Power of Attorney with respect to an Owner who is disabled; and the vote of the authorized representative of any legally organized and existing entity, that is an Owner on the real property records.

ARTICLE III BOARD, SELECTION AND TERM OF OFFICE

Section 3.1 Number & Tenure. The affairs of the Association shall be managed by a Board of Directors composed of five (5) individuals ("Board"). Members of the Board of Directors shall serve for a term of two years. The members of the Board of Directors shall serve until their respective successors are elected, or until their death, resignation or removal. Any change in the number of Directors may be made only by amendment of these Bylaws.

Section 3.2 Eligibility. All members of the Board shall be an Owner or an Owner's spouse or legal partner, with only one member from a single household serving as a Director at any one time. Notwithstanding, if there are insufficient candidates or volunteers to fill open positions on the Board and, if disclosed by the candidate at the

time of election, Owners may elect up to two Directors from the same household to serve concurrently on the Board.

Section 3.3 Resignation & Removal. A Director may resign at any time by delivering a written resignation to either the President or the Board. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any Director may be removed from the Board, with or without cause, by a vote of at least (51%) of the Owners 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 3.4 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 3.5 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 a majority of Directors. Any action so approved shall have the same effect as though taken at a meeting of the Board.

Section 3.6 No Estoppel or Reliance. No one may rely upon any authorization (from the Board or otherwise) contrary to the terms and conditions of the Governing Documents regardless of circumstances. No claim of estoppel, waiver or similar equitable claims or defense may be raised by anyone related to any alleged reliance.

Section 3.7 Records Retention. The Board may take appropriate action to develop, implement and update procedures for record retention. The Board should maintain documents in a manner that is reasonably accessible. The Board may budget specifically for this expense and may seek the advice of consultants in developing retention procedures.

ARTICLE IV
NOMINATION AND ELECTION OF DIRECTORS

Section 4.1 Nomination. Nomination for election to the Board may be made by the Board or by Owners prior to the meeting or from the floor at the annual meeting.

Section 4.2 Election. The election of Directors may be by written ballot, which need not be secret, as determined at the discretion of the Board. The persons receiving the largest number of votes shall be elected. Cumulative voting is not authorized.

ARTICLE V MEETINGS OF THE BOARD

Section 5.1 Regular Meetings. Regular meetings of the Board should be held quarterly, or more frequently as determined by the Board. All notices shall be provided by email or other electronic means for Members of the Board of Directors. Notice of board meetings to the community at large may be provided by posting on any community bulletin board, except for those Owners that have provided a written request to the Association to receive notice of board meetings via email. Directors are required to provide an email or electronic address for purposes of notice of Board meetings. Notice shall be provided at least five (5) days before a meeting, but no more than thirty (30) days.

Owners may attend regular board meetings. Notwithstanding, the Board may limit Owners' comments and/or questions to a specific period of time within the meeting and may exclude Owners when in executive session. The Act allows the Board to close the meeting for specific reasons including (but not limited to) consulting with an attorney, litigation, personnel matters, or sensitive or private matters that involve an individual, consistent with the Act. The Board shall provide email notice in accordance with the Act to Owners that have requested, in writing, to be notified of Board Meetings and have provided an email address.

Section 5.2 Special Meetings. When, in the discretion of the President or two members of the Board, circumstances require that a meeting be held sooner than the required five (5) days' notice for a regular meeting, a special meeting may be called by the President or by any two (2) Directors, after not less than twenty-four (24) hours' notice to each Director.

Section 5.3 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.

Section 5.4 Conduct of Meetings. The President, or in his absence the Vice President, shall preside over all meetings. The Secretary or other authorized person shall keep minutes of all meetings and maintain a record of the minutes including, but not limited to: election of Officers, adopted resolutions, adopted Rules and other non-privileged matters coming before the Directors. The Board shall keep a copy of all approved minutes and make them reasonably available to Owners upon their written request. Corrections and/or changes to the minutes shall be made at the next meeting of the Board

ARTICLE VI POWERS AND DUTIES OF THE BOARD

Section 6.1 Powers and Duties. The Board shall have all of the powers and duties necessary for the administration of the affairs of the Association in accordance with the provisions of the Declaration and as outlined below. The Board may delegate its authority

to a Manager or Managers, subject to any limitations or provisions contained in the Declaration, the Board shall be responsible for a number of activities including, but not limited to the following:

- (a) Management of the Association;
- (b) Preparation of annual assessments and budget;
- (c) Collection of assessments;
- (d) Maintenance of a bank account for the Association and designating required signatories;
- (e) Maintenance of the Common Areas and community facilities;
- (f) Maintenance of private roadways and gates;
- (g) Maintenance of any private water system or other private utility;
- (h) Adoption and amendment of rules and regulations;
- (i) Enforcement of the Declaration, including the retention of legal counsel;
- (j) Commencement of legal action when necessary;
- (k) Imposition of fines, sanctions and citations;
- (l) Payment of any amount necessary to discharge any mechanic's or materialman's lien or other encumbrance levied against the Common Area or Facilities;
- (m) Purchase of and maintenance of insurance;
- (n) Maintenance of books and records of the Association;
- (o) Emergency repairs;
- (p) Maintenance of parking;
- (q) Adoption of reasonable pet restrictions; and
- (r) Performance of other actions and duties to enforce the terms and conditions of the Declaration and effectively manage the Association.
- (s) Sign contracts, pay debts, secure loans, and act in matters of law.

ARTICLE VII OFFICERS AND THEIR DUTIES

Section 7.1 Enumeration of Officers. The officers of this Association shall be a president, vice-president, secretary, treasurer and such other office as designated by the Board, who shall at all times be members of the Board, and such other officer as the Board may from time to time, by resolution, create.

Section 7.2 Election of Officers. The election of officers shall take place at the first Board meeting following the annual meeting of the Owners. Elected officers shall serve in their office for a period of one (1) year. Notwithstanding, nothing in these Bylaws prevent an officer or directors from being re-elected to their respective positions.

Section 7.3 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. Appointed officers, which do not include the elected or appointed Board of

Directors, must be: Owners; may not vote; and may be removed by the Board at any time, with or without cause.

Section 7.4 Resignation and Removal. Any officer may resign at any time by delivering a written resignation to any Director or to any Manager. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any officer may be removed and replaced by a majority of the Board of Directors at any time, with or without cause. In the event of death, resignation or removal of an officer, his successor shall be selected by the Board and shall serve for the unexpired term of his predecessor.

Section 7.5 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 temporarily in the case of special offices created pursuant to Section 7.3 of this Article or the death, resignation or removal of an officer.

Section 7.6 Duties. Unless modified by resolution of the Board, the duties of the officers are as follows, which duties may be delegated to a Manager(s):

President: The president shall preside at all meetings of the Board and shall see that orders and resolutions of the Board and/or the Owners are carried out.

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 Owners; keep appropriate current records showing the Owners of the Association together with their addresses and shall perform such other duties as required by the Board.

Treasurer: The secretary/treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by the Board; keep proper books of account; if the Board deems appropriate, cause an annual audit or other review 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 Owners.

Member at Large: This member shall have the duties and obligations as set by the Board.

Other Officers: Other officers shall have the duties and obligations as set by the Board.

ARTICLE VIII CONDUCT AT ASSOCIATION MEETINGS

Section 8.1 Weapons. No person, whether an Owner, occupant, owner representative, or other third party is permitted to bring (whether concealed or open) any firearm, knife, aerosol, weapon, or similar item to any Association or Board meeting, work session, event, get-together, or similar event regardless of the location of such event. All firearms are prohibited from the Common Area unless the Owner possesses a concealed carry or other permit and the firearm is concealed. All applicable city, state, and federal firearms laws apply and all violations will be reported to Roy City for investigation.

Section 8.2 Recording. No person, whether an Owner, occupant, owner representative, or other third party is permitted to record (whether audio, video, transcription or combination) any Association or Board meeting, work session, event, get-together, or similar event regardless of the location of such event, except for the Board making official recordings for the purpose of accurate minutes.

ARTICLE IX COMMITTEES

Section 9.1 Committees. The Board may, if it elects, appoint such committees as deemed appropriate in carrying out its purposes, including appointment of an Architectural Review Board. A committee shall not have any powers, duties, or responsibilities beyond those specifically assigned by the Board. The Board may terminate any committee at any time.

ARTICLE X INVESTMENT

Section 10.1 Investment. Association funds may only be deposited into institutions that are federally insured. The Board may deposit Association funds into savings accounts, money market accounts, or purchase certificates of deposits. Other investment options that may pose additional risks must be approved by at least 51% of the total membership prior to the investment.

ARTICLE XI INDEMNIFICATION

Section 11.1 Indemnification. No Director, officer, or member of a committee shall be personally liable for any obligations of the Association or for any duties or obligations arising out of any acts or conduct of said Director, officer, or committee member performed for or on behalf of the Association. The Association shall and does hereby indemnify and hold harmless each person who shall serve at any time as a Director, officer of the Association, or a member of a duly formed committee, as well as such person's heirs and administrators, from and against any and all claims, judgments, and liabilities to which such persons shall become subject, by reason of that person having

heretofore or hereafter been a Director, officer of the Association, or member of a committee or by reason of any action alleged to have been heretofore or hereafter taken or omitted to have been taken by him/her as such Director, officer, or committee member, and shall advance and reimburse any such person for all legal and other expenses reasonably incurred in connection with any such claim or liability; provided that the Association shall have the right, in its sole discretion, to defend such person from all suits or claims. However, that no such person shall be indemnified against or be reimbursed for or be defended against any expense or liability incurred in connection with any claim or action arising out of such person's intentional misconduct. The rights accruing to any person under the foregoing provisions of this section shall not exclude any other right to which such person may lawfully be entitled, nor shall anything herein contained restrict the right of the Association to indemnify or reimburse such person in any proper case, even though not specifically provided for herein or otherwise permitted.

Section 11.2 Settlement of Association. The right of any person to be indemnified shall be subject always to the right of the Association by the Board of Directors, in lieu of such indemnity, to settle any such claim, action, suit, or proceeding at the expense of the Association by the payment of the amount of such settlement and the costs and expenses incurred in connection therewith.

ARTICLE XII WAIVER OF PROCEDURAL IRREGULARITIES

Section 12.1 Waiver of Procedural Irregularities. All inaccuracies and irregularities in calls or notices of meetings, in the manner of voting, in the form of proxies, in the method of asserting persons present, in the method of making decisions, or in the method of accepting or counting votes shall be deemed waived under the following circumstances:

- (a) If the objecting person was in attendance at the meeting -- they are waived if the issue upon which the objection was based was perceptible and no objection to the particular procedural issue is made at the meeting; or
- (b) If the objecting person was not in attendance at the meeting but has proper notice of the meeting, they are waived; or
- (c) If the objecting person was not in attendance at a meeting, did not have proper notice of the meeting, but had actual notice of the meeting before it occurred, they are waived; or
- (d) If the objecting person was not in attendance at the meeting and did not have actual and proper notice of the meeting before it occurred, within 30 days of receiving actual notice of the occurrence of the meeting or of any decision that was made at the meeting; or
- (e) For any action, vote, or decision that occurred without a meeting, within 30 days of receiving actual notice of the occurrence of the action, vote, or decision.

Section 12.2 Requirements for Objections. All objections except those made at a meeting shall be in writing. Whenever made, objections must be specific and shall

include identification of the specific provision of the Governing Documents or other law that is alleged to have been violated and a brief statement of the facts supporting the claimed violation.

Section 12.3 Irregularities that Cannot Be Waived. The following irregularities cannot be waived under the prior subsection:

- (a) Any failure to comply with the provisions of the Declaration;
- (b) Any failure to obtain the proper number of votes required to pass a particular measure; or
- (c) Any irregularity that is the result of fraud or that was done knowingly and intentionally in violation the applicable standards.

**ARTICLE XIII
AMENDMENTS/ ORDER OF PRECEDENCE**

Section 13.1 Amendment. These Bylaws can only be modified by Owners holding at least sixty-seven percent (67%) of the total membership of the Association. An amendment to these Bylaws shall be effective immediately upon recordation in the Office of the Weber County Recorder, State of Utah. 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 XIV
FISCAL YEAR**

Section 14.1 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 recordation in the Office of the Weber County Recorder, State of Utah.

The Crest Homeowners Association, Inc.

A Utah non-profit corporation

By:



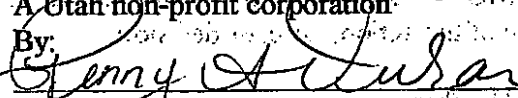
Dale Smith

Its: Board Member

The Crest Homeowners Association, Inc.

A Utah non-profit corporation

By:



Penny Duran

Its: Board Member

The Crest Homeowners Association, Inc.
A Utah non-profit corporation

By: Michael Kuculyn Jr
Mike Kuculyn
Its: Board Member

The Crest Homeowners Association, Inc.
A Utah non-profit corporation

By: Vern C. Blair
Vern Blair
Its: Board Member

The Crest Homeowners Association, Inc.
A Utah non-profit corporation

By: Pauline Smith
Pauline Smith
Its: Board Member