

AFTER RECORDING, PLEASE RETURN TO:

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Ent 326815 Bk 951 Pg 172-184  
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ELIZABETH PALMIER, Recorder  
WASATCH COUNTY CORPORATION  
For: WATTS ENTERPRISES

### DECLARATION OF MUTUAL EASEMENTS

THIS DECLARATION OF MUTUAL EASEMENTS (the "Declaration"), dated as of the 1st day of October, 2007, is executed by RKW 2006, LLC, a Utah limited liability company, whose address for purposes hereof is 5200 South Highland Drive, Suite 101, Salt Lake City, Utah 84117 (herein referred to as "Declarant").

#### RECITALS:

A. Declarant is the owner of certain real property ("Residential Condominium Parcel") located in Heber City, Wasatch County, Utah, more particularly described on the attached Exhibit "A", incorporated by this reference, and all improvements now or hereafter located thereon. A portion of the Residential Condominium Parcel know as the First Phase is being or has been subjected to the terms and conditions of Condominium Declaration under the name "The Lookout at Ranch Landing Condominiums" which Declaration is to be recorded in the office of the Wasatch County Recorder, State of Utah.

B. Declarant is also the owner of certain real property ("Residential Townhome Parcel") located in Heber City, Wasatch County, Utah, more particularly described on the attached Exhibit "B", incorporated by this reference, and all improvements now or hereafter located thereon.

C. Declarant is also the owner of certain real property ("Commercial Parcel") located in Heber City, Wasatch County, Utah, more particularly described on the attached Exhibit "C", incorporated by this reference, and all improvements now or hereafter located thereon.

D. It is anticipated that with respect to the development of the Residential Condominium Parcel, the Residential Townhome Parcel and the Commercial Parcel (collectively the "Parcels"), or portions thereof, Declarant will be required to construct a common sidewalk system which is intended to be used by the users of all Parcels for recreational purposes (the "Sidewalk System").

E. Declarant desires to establish with respect to the Parcels, as they are developed, certain covenants and restrictions with respect to the Sidewalk System, all on the terms and conditions set forth in this Declaration.

F. Declarant also desires to create and reserve an easement for pedestrian and vehicular traffic across the Residential Townhome Parcel for ingress to and egress from a publicly dedicated street to the Residential Condominium Parcel, according to the terms herein after set forth.

NOW, THEREFORE, for the foregoing purposes, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Declarant makes the following declarations, creates the following easements and establishes the following covenants and restrictions, all of which apply to, bind, affect and run with title to each Parcel.

1. Definitions. Certain terms which are used in this Declaration are defined in this Declaration prior to this Section. In addition to those previously-defined terms, the following terms shall have the meanings indicated.

1.1 "Benefitted Parties" means, with respect to a Parcel, the Owners and Occupants of that Parcel, and their respective employees, customers, guests and invitees.

1.2 "Commercial Parcel" means the real property described on Exhibit "C" , or any portion thereof.

1.3 "Governmental Authorities" means all governmental or quasi-governmental units, commissions, councils, boards, agencies, staffs or similar bodies having jurisdiction over a Parcel or its use, operation, maintenance or development.

1.4 "Improvements" means all improvements, of whatever kind or character, to the Sidewalk System.

1.5 "Mortgage" means a recorded mortgage, deed of trust or other security agreement creating a lien on a Parcel or a portion of a Parcel as security for the payment of indebtedness.

1.6 "Mortgagee" means the mortgagee, beneficiary or other secured party under a Mortgage.

1.7 "Occupant" means any party that, by virtue of a contract to purchase, a lease, a rental arrangement, a license or any other instrument, agreement, contract, document, understanding or arrangement is entitled to or does occupy, possess or use any Parcel or portion of any Parcel or any living unit, office space or other authorized improvement located thereon.

1.8 "Plat", "Plat Map," or "Map" shall mean and refer to any Condominium Plat of a condominium project, a Plat Map of a planned unit development, or a Plat or Map of a subdivision:

- a. which covers a portion of a Parcel;

- b. which describes or creates a condominium project, a planned unit development, or a subdivision;
- c. on which or in which an instrument recorded in conjunction therewith there is expressed the intent that the project created by the Map shall comprise a part of the Ranch Landing Project; and
- d. which is recorded in the office of the County Recorder of Wasatch County, Utah, within 30 years after the date of which this Declaration is so recorded.

Recorded prior hereto or concurrently with this Declaration is (i) a Condominium Plat of "The Lookout at Ranch Landing Condominiums," and (ii) a Condominium Declaration of The Lookout at Ranch Landing Condominiums, executed and acknowledged by the Declarant on the 1st day of October, 2007, and creating a community association for an expandable condominium project consisting, initially of fifty six (56) Living Units. The Lookout at Ranch Landing Condominiums initially covers a portion of the Residential Condominium Parcel.

1.9 "Owner" means the Person that, at the time concerned, is the owner of record in the office of the County Recorder of Wasatch County, Utah, of a fee or an undivided fee interest in any Parcel or portion of any Parcel. Except as set forth below, in the event that, at any time, there is more than one Owner of the Parcel, the liability of each such Owner for performance or compliance with the applicable provisions of this Declaration shall be joint and several. Notwithstanding any applicable theory relating to a mortgage, deed of trust, or like instrument, the term "Owner" shall not mean or include a Mortgagee unless and until such Person has acquired fee title to the Parcel encumbered by a Mortgage pursuant to foreclosure, trustee's sale or any arrangement or proceeding in lieu thereof. Notwithstanding the foregoing, with respect to any portion of a Parcel that becomes part of a condominium project by the recording of a condominium declaration and condominium plat, or a planned unit development with common areas, by the recording of a declaration and plat, the term Owner shall mean solely the association of condominium unit owners or planned unit owners, as applicable, created by the applicable declaration and related documents.

1.10 "Parcel" means a Residential Condominium Parcel, a Residential Townhome Parcel, or a Residential Parcel.

1.11 "Parcels" means the Residential Condominium Parcels, the Residential Townhome Parcels, and the Residential Parcels.

1.12 "Person" means a natural person or a legal entity.

1.13 "Residential Condominium Parcel" means the real property described on Exhibit "A" or any portion thereof.

1.14 "Residential Townhome Parcel" means the real property described on Exhibit "B", or any portion thereof.

1.15 "Sidewalk System" means, any property and the sidewalk improvements designated upon a Plat for a Parcel as "Reciprocal Sidewalk Easement" or similar terms, regardless of which Owner owns the same. The Sidewalk System shall not include those portions of sidewalk systems, steps, landings, porches and/or entrances which are designed to serve only the residents of a particular Parcel.

2. Grant of Easements. Subject to the further conditions herein contained, Declarant hereby creates the following easements which shall be appurtenant to the Parcels for the benefit of the Benefitted Parties and which shall also be appurtenant to each of the other Parcels owned by the Benefitted Parties:

2.1 Sidewalk System. Upon compliance with the provisions of Section 2.1.7 herein below, non-exclusive easements on, over and across the Sidewalk System as identified in a Plat, for the purpose of providing pedestrian ingress and egress to the Benefitted Parties. Such easements shall be subject to the following:

2.1.1 The Owners may jointly establish such reasonable nondiscriminatory rules and regulations as may from time to time be deemed necessary or desirable for the proper and efficient operation of the Sidewalk System, provided such rules and regulations are applicable to Benefitted Parties, and the exercise of the rights, easements and privileges granted herein shall be subject to such rules and regulations;

2.1.2 The Owners of the Sidewalk System, whether included in whole or in part within a Parcel, may not levy any charge for the use of the Sidewalk System;

2.1.3 Each Owner will maintain the Improvements constructed upon the Parcel owned by it and comprising the Sidewalk System in essentially the same condition as the same is initially improved by Declarant, further provided that Declarant will repair the Improvements comprising the Sidewalk System which repairs are attributable to construction activities related to applicable Parcel. Each Owner covenants and agrees that no Owner shall have the right, without obtaining the prior written consent or approval of the other Owners, which shall not be unreasonably withheld, to make changes, modifications or alterations to any Improvements located within the Sidewalk System if the effect of such changes, modifications or alterations result in the material denial or reduction of the benefits of the easements granted herein.

2.1.4 Declarant, if it elects, may install and maintain as part of the Sidewalk System directional signs which indicates the location of the various projects and otherwise directs users, tenants and guests to the respective location of each. To the extent that such directional signs are located on an area not considered part of the

Sidewalk System, an easement shall be deemed granted to the Owners of the Parcels for the purpose of such sign. The Owners of the Parcels upon which signs are located shall be obligated to maintain such directional signs.

2.1.5 The easements, rights and privileges created in this Section 2.1 are not intended, and shall not be construed, as a dedication of any portion of the Sidewalk System for public use, and the Owners shall have the right to take from time to time whatever steps, including temporary closures of such facilities or portions thereof, as may be necessary to avoid such dedication.

2.1.6. The Sidewalk System located upon each Parcel is expressly made available for use by the Benefitted Parties of the other Parcels in accordance with their intended use, subject to reasonable, nondiscriminatory rules and regulations as the Owners may adopt from time to time and subject to applicable requirements and regulations of the County and any other governmental body or agency having jurisdiction. Such uses are restricted to recreational purposes, including but not limited to hiking, walking, nature study, and viewing of scenic areas. Such Sidewalk System upon each Parcel is made available to the Benefitted Parties of the other Parcels with the express understanding that "an owner owes no duty of care to keep the premises safe from entry or use by any person entering or using the premises for any recreation purpose or to give any warning of a dangerous condition, use, structure, or activity on those premises to that person." Any person using such Sidewalk System shall not have the status of an invitee or licensee to whom a duty of care is owed, and the Declarant, and the Owners assume no responsibility for nor shall they incur any liability for any injury to persons or property caused by the act or omission of the person or any other person who enters upon the Sidewalk System. The Declarant and the Owners specifically rely upon the provisions of the "Limitations of Landowner Liability - Public Recreation Act", Section 57-14-1, et. seq., Utah Code Annotated (or any replacement thereof), in providing the use of the Sidewalk Systems to the Benefitted Partners of the other Parcels.

2.1.7 No Parcel shall be burdened by or shall receive the benefit of the easements for the Sidewalk System as provided in this Section 2.1 until such time as the Declarant shall record a Plat for such Parcel and a declaration of condominium and/or covenants, conditions and restrictions, or similar document which recites that the applicable Parcel covered by the Plat and the related declaration subjects its sidewalks to the provisions of this Section 2.1 of this Declaration of Mutual Easements.

2.2. Access Easement. Declarant hereby grants, conveys, transfers and reserves for the benefit of the Owners of the Residential Condominium Parcel, a permanent non-exclusive easement for (a) ingress and egress for pedestrian and vehicular traffic for the benefit of the Residential Condominium Parcel Benefitted Owners, from 1200 north street, a street to be publicly dedicated, over the Residential Townhome Parcel, at a location and with dimensions to be designated on the Plat for the second phase of development of the

Residential Condominium Parcel and on the applicable Plat for all or a portion of the Residential Townhome Parcel, at a location to be determined by Declarant in its sole and absolute discretion; and (b) maintaining, repairing and/or replacing the private road way constructed upon such easement area. The Owners of the Residential Condominium Parcel shall be solely responsible for maintaining the private roadway constituting the access easement; however, the Owners of the Residential Townhome Parcel shall be obligated to reimburse the Owners of the Residential Condominium Parcel for five percent (5%) of the costs of such maintenance, commencing at such time such private road is used by a resident of a town home whose access is through such private road.

2.3. Conditions. The easements granted in Sections 2.1 and 2.2 are subject however to the following:

2.3.1 The initial cost of installing any Sidewalk System or private road shall be paid by Declarant and all such installation shall be pursuant to designs and specifications approved by Heber City.

2.3.2 Any Owner or Owners installing, maintaining, repairing or replacing any portion of the Sidewalk System shall cause the same to be installed, maintained, repaired or replaced in such a manner as to minimize any damage to or disruption of the Benefitted Parties, shall cause such work to be done promptly and diligently in a good and workmanlike manner, and, upon completion thereof, shall immediately cause the improvements, including landscaping to be restored to their former condition.

2.3.3 Each Owner shall execute such documents as may be necessary or appropriate from time to time to effectuate and implement the provisions of this Section 2.

2.4 Emergency Access Easements. Declarant hereby grants, conveys transfers and reserves for the benefit of each Parcel, a non-exclusive right, privilege and easement for ingress and egress to and from each Parcel for such Owners and emergency vehicle operators, for emergency purposes only.

2.5. Limitation upon Use. The non-exclusive easements granted in Sections 2.1, 2.2, and 2.4 may only be used to such extent as may be reasonably related to the use of the Parcels for residential and commercial purposes.

3. Construction of Improvements to the Sidewalk System and Private Road. Declarant shall be solely responsible for the construction of the Sidewalk System, the Improvements constituting the same and any private road contemplated by this Declaration, all of which shall be installed according to the requirements of the applicable Governmental Entities. The exact location of the Sidewalk System and private roads shall be determined by the Declarant as required by the Governmental Agencies. Upon completion of construction of the Sidewalk System, Improvements

and private roads, the same shall be deemed to have been transferred and conveyed to the applicable Owners thereof, subject to the terms and conditions of this Declaration.

4. Maintenance/Insurance. The Improvements which are part of the Sidewalk System and or constitute the private road shall be continuously maintained, including without limitation, with respect to the private road, the resurfacing and resealing of such private road. Each Owner shall be responsible to kept clean and in good order, condition and repair those Improvements located upon its Parcel. Such Owners and only such Owners, shall have the right, power and authority to enter into contracts and agreements with third Persons to provide for such maintenance; provided, except without the written consent of all of the Owners, such agreements and contracts shall not be for longer than a one (1) year term. Each Owner of a Parcel shall maintain in force, for the joint benefit of the Owners of all Parcels and any Mortgagee, a broad form comprehensive coverage policy of public liability insurance issued by a carrier licensed to do business in the State of Utah covering any claims which might occur upon the Sidewalk System. Such insurance policy shall be maintained on the minimum basis of \$1,000,000 per occurrence with respect to bodily injury, death, property damage and personal injury, or such higher amount as may be required by a majority of Owners of a majority of the Parcels (determined by acreage).

5. Arbitration. An Owner may submit a dispute arising with respect to this Declaration to binding arbitration pursuant to Utah Code Annotated, Section 78-31a-1 et seq. at any time following thirty (30) days after such Owner notifies the other Owners of its intent to submit the issue to arbitration. If the Owners cannot resolve the dispute during such thirty (30) day period or agree upon an arbitrator, an arbitrator shall be appointed pursuant to Utah Code Annotated, Section 78-31a-5; provided, the arbitrator so appointed shall, to the extent possible, possess expertise in the subject matter to be arbitrated.

6. Title and Mortgage Protection.

6.1 No amendment to this Declaration shall in any way affect the rights of any Mortgagee pursuant to a Mortgage that is recorded at the time of the recordation of the amendment, or the rights of any successor in interest or title to such Mortgagee, either before or after such Mortgagee or its successor enters into possession or acquires title pursuant to foreclosure, trustee's sale or any arrangement or proceeding in lieu thereof, unless such Mortgagee has consented in writing to such amendment.

6.2 A breach of any of the covenants, provisions, or requirements of this Declaration shall not result in any forfeiture or reversion of title or of any other interest in a Parcel. A breach of any of the covenants, provisions, or requirements of this Declaration shall not defeat, impair or render invalid the lien of or other rights under any Mortgage. Unless and until it enters into possession or acquires title pursuant to foreclosure, trustee's sale or any arrangement or proceeding in lieu thereof, a Mortgagee shall have no obligation to take any action to comply with, and may not be compelled to take any action to comply with, any of the covenants, provisions, or requirements of this Declaration except the obligation to subordinate its lien or security interest to this Declaration.

6.3 This Declaration may be amended or terminated by, but only by, an instrument filed for record in the office of the County Recorder of Wasatch County, Utah, that is executed by all of the Owners of the Parcels. The term of this Declaration is perpetual; this Declaration shall be and remain in force and effect until terminated pursuant to this Section.

7. Covenants to Run with Land. Once submitted to the terms of this Declaration, this Declaration and the easements and covenants created by this Declaration are intended by the Declarant to be and shall constitute covenants running with the land as to each of the Parcels, and shall be binding upon and shall inure to the benefit of each Owner any Person who acquires or comes to have any interest in any Parcel, and their respective grantees, transferees, lessees, heirs, devisees, personal representatives, successors, and assigns. This Declaration and all of the easements, covenants, provisions, and requirements hereof shall also inure to the benefit of each and every Person owning any interest in or occupying any portion of a Parcel. Each Owner shall comply with, and all interests in all Parcels shall be subject to, the terms of this Declaration. By acquiring, in any way coming to have an interest in, or occupying a Parcel, the Person so acquiring, coming to have such interest in, or occupying a Parcel, shall be deemed to have consented to, and shall be bound by, each and every provision of this Declaration. Until the Declaration is recorded in accordance with Section 2, each Owner agrees to cause any Person acquiring any interest in the Owner's Parcel to execute an agreement whereby such Person agrees to be bound by the terms of this Declaration.

8. Enforcement. Subject to the provisions of Section 6 hereof, the Owner of a Parcel or any portion of a Parcel shall have the right to enforce, through any permitted proceeding at law or in equity, the terms, provisions, restrictions and requirements of this Declaration. Any failure to insist upon the strict performance of or compliance with any of the terms, provisions, covenants and requirements of this Declaration shall not result in or be construed to be an abandonment or termination of this Declaration or any waiver of the right to insist upon such performance or compliance with the terms of this Declaration in the future. If any action or proceeding is brought because of a default under, or to enforce or interpret any of the covenants, provisions, or requirements of, this Declaration (including, without limitation, an arbitration pursuant to Section 6, the party prevailing in such action or arbitration shall be entitled to recover from the unsuccessful party reasonable attorneys' fees (including those incurred in connection with any appeal), the amount of which shall be fixed by the court or the arbitrator and made a part of any judgment rendered.

9. Effective Date. Declarant shall record a copy of this Declaration in the office of the County Recorder of Wasatch County, Utah. This Declaration, any amendment or termination hereof, and any supplement hereto shall take effect upon its being filed for record in the office of the County Recorder of Wasatch County, Utah.

10. Titles, Captions and References. All Section titles or captions in this Declaration are for convenience only, shall not be deemed part of this Declaration and in no way define, limit, extend or describe the scope or intent of any provisions of this Declaration. When this Declaration refers to a Section by number or other designation, such reference shall be deemed to be to the correspondingly numbered Section of this Declaration unless the context refers to another agreement, document or instrument.



11. Pronouns and Plurals. Whenever the context may require, any pronoun used in this Declaration shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns, pronouns and verbs shall include the plural and vice versa.

12. Applicable Law. This Declaration shall be construed in accordance with and governed by the laws of the State of Utah, without reference to its choice of law rules.

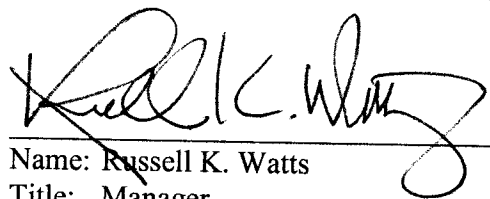
13. Exhibits. All exhibits annexed to this Declaration are expressly made a part of and incorporated in this Declaration as fully as though completely set forth in this Declaration.

14. Time of Essence. Time is of the essence of this Declaration.

15. Lender's Agreement of Subordination. By its execution of this Declaration, Bank of American Fork (hereinafter "Construction Lender"), agrees, covenants and declares that this Declaration shall be senior in priority to a Construction Deed of Trust made as of August 20, 2007, between RKW 2006, LLC, as "Trustor," and Construction Lender, as "Trustee" and Construction Lender as "Beneficiary" (hereinafter "Trust Deed"), which Trust Deed was recorded on August 20, 2007, as Entry No. 324795, in Book 947, beginning at page 2111 of the Official Records of Wasatch County, and that said Trust Deed shall be subordinate to and subject to this Declaration notwithstanding the fact that this Declaration is recorded later in time than the Trust Deed.

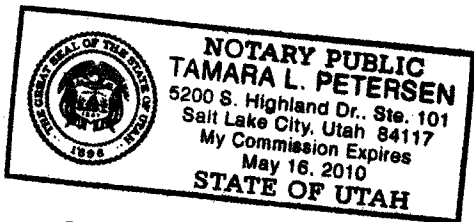
The Parties have executed this instrument to be effective as of the date first set forth above.

RKW 2006, LLC, a Utah limited liability company

By:   
Name: Russell K. Watts  
Title: Manager

STATE OF UTAH                    )  
  : ss.  
COUNTY OF SALT LAKE    )

On the 3 day of October, 2007, personally appeared before me Russell K. Watts, the Manager of RKW 2006, LLC, a Utah limited liability company, who being by me duly sworn did say that he is the signer of the within and foregoing instrument duly acknowledged to me that he executed the same.



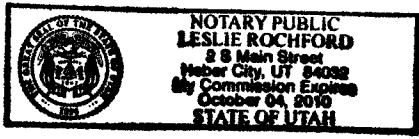
  
NOTARY PUBLIC

BANK OF AMERICAN FORK, a Utah banking institution

By: *Nick Liechty*  
Name: *Nick Liechty*  
Title: *Business Development Rep.*

STATE OF UTAH )  
                  *wasatch* : ss.  
COUNTY OF ~~SALT LAKE~~ )

On the 3 day of October, 2007, personally appeared before me *Nick Liechty*, the *Business Devel. Rep.* of BANK OF AMERICAN FORK, a Utah banking institution, who being by me duly sworn did say that he/she is the signer of the within and foregoing instrument duly acknowledged to me that he/she executed the same.



*Leslie Rochford*  
NOTARY PUBLIC

EXHIBIT "A"

to

Declaration of Covenants, Restrictions and Easements

(Residential Condominium Parcel)

Real Property located in Wasatch County, State of Utah, more particularly described as follows:

Parcel A - First Phase

Beginning at a point which is North 389.85 feet and East 23.69 feet from the South Quarter Corner of Section 5, Township 4 South, Range 5 East, Salt Lake Base and Meridian;

Thence North 00°00'39" West 606.73 feet;  
Thence East 411.58 feet;  
Thence South 148.00 feet;  
Thence West 32.32 feet;  
Thence South 136.04 feet;  
Thence West 32.41 feet;  
Thence South 322.69 feet;  
Thence West 346.73 feet to the point of beginning.

Parcel B - Second Phase

Beginning at a point which is North 389.85 feet and East 370.42 feet from the South Quarter Corner of Section 5, Township 4 South, Range 5 East, Salt Lake Base and Meridian.

Thence North 322.69 feet;  
Thence East 32.41 feet;  
Thence North 136.04 feet;  
Thence East 32.32 feet;  
Thence North 145.87 feet;  
Thence East 241.71 feet;  
Thence South 00°31'26" East 277.43 feet;  
Thence South 00°23'34" East 327.19 feet;  
Thence West 311.23 feet to the point of beginning.

Containing: 3.97 acres

**EXHIBIT "B"**

to

Declaration of Covenants, Restrictions and Easements

(Residential Townhome Parcel)

Real Property located in Wasatch County, State of Utah, more particularly described as follows:

Beginning at a point which is North 994.46 feet and East 23.57 feet from the South Quarter Corner of Section 5, Township 4 South, Range 5 East, Salt Lake Base and Meridian.

Thence North 00°00'39" West 681.62 feet;  
Thence North 89°53'40" East 647.17 feet;  
Thence South 00°31'26" East 682.85 feet;  
Thence West 653.29 feet to the point of beginning.

Containing: 10.18 acres

EXHIBIT "C"

to

Declaration of Covenants, Restrictions and Easements

(Commercial Parcel)

Real Property located in Wasatch County, State of Utah, more particularly described as follows:

Beginning at a point which is North 56.61 feet and East 23.75 feet from the South Quarter Corner of Section 5, Township 4 South, Range 5 East, Salt Lake Base and Meridian.

Thence North 00°00'39" West 333.25 feet;

Thence East 657.96 feet;

Thence South 00°23'34" East 345.21 feet;

Thence South 89°43'55" West 642.16 feet;

Thence along the arc of a 15.00 foot radius curve to the left 23.61 feet (central angle of 90°11'19" and chord of North 45°10'25" West 21.25 feet);

Thence South 89°37'22" East 3.03 feet to the point of beginning.

Containing: 5.24 acres