

RESTRICTIVE COVENANTS AND DECLARATION OF USE  
FOR  
ST. JAMES PLACE SUBDIVISION PHASE V

KNOW ALL MEN BY THESE PRESENTS: That ST. JAMES DEVELOPMENT INC. (doing business in the state of Utah as Sun River Development Inc.), are the owners (also referred to as "Grantors") of the following described property in Washington County, State of Utah, to-wit:

Beginning at a point South 89 degrees 40' 55" West along section line, 2200.86 feet and South 00 degrees 00' 00" East, 149.98 feet from the North Quarter (1/4) Corner of Section 5, Township 43 South, Range 15 West, Salt Lake Base and Meridian and running thence South 04 degrees 49' 43" East, 177.72 feet; thence North 85 degrees 10' 17" East, 46.44 feet; thence south 04 degrees 49' 43" East, 130.21 feet; thence South 01 degrees 41' 25" East, 125.03 feet; thence North 88 degrees 18' 35" East, 65.22 feet; thence South 01 degrees 41' 25" East, 186.35 feet; thence North 88 degrees 52' 46" West, 383.30 feet; thence North 85 degrees 20' 20" West, 340.90 feet to a point on a 350.00 foot radius non-tangent curve, the radius point of said curve bears North 32 degrees 09' 12" West; thence North 78 degrees 56' 40" West, 81.76 feet to a point on a 300.00 foot radius non-tangent curve, the radius of said curve bears North 20 degrees 41' 45" West; thence 50.98 feet along the arc of said curve through a central angle of 9 degrees 44' 08"; thence South 79 degrees 02' 23" West, 330.08 feet; thence North 52 degrees 30' 36" West, 147.87 feet; thence North 41 degrees 36' 18" East, 237.35 feet; thence North 32 degrees 20' 39" East, 174.57 feet; thence North 49 degrees 58' 53" East, 223.98 feet; thence North 83 degrees 46' 29" East, 728.81 feet to the Point of Beginning.

St. James Place Subdivision Phase 5 contains 13.200 acres and the Basis of Bearings for this Subdivision is the North line of Section 5, Township 43 South, Range 15 West, between the North 1/4 Corner of Section 5, which is a Washington County Monument (1985 Aluminum Cap) and the Witness Corner to the Northeast Corner of Section 5, which is a Washington County Monument (Aluminum Cap set in concrete). The bearing is North 89 degrees 40' 55" East and measures 2248.13 feet, 1/4 Corner to Witness Corner.

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FOR: FIRST TITLE OF UTAH

NOW, THEREFORE, said owners hereby subject said premises to the following Covenants, Restrictions and Conditions; and the acceptance of any deed or conveyance thereof by the Grantee or Grantees therein and their, and each of their heirs, executors, administrators, successors and assigns, shall constitute their covenant and agreement with the undersigned and with each other, to accept and hold the property described or conveyed in and by such deed or conveyance, subject to said Covenants, Restrictions and Conditions, as follows, to-wit:

#### ARTICLE 1 - GENERAL RESTRICTIONS

1. USE OF LAND: No lot shall be used except for single family residential purposes, and no lot shall contain more than one habitable structure. No building shall be erected, altered, placed or permitted to remain on any lot other than one detached single-family dwelling not to exceed one level viewed from the street on exterior Lots No. 81, 82, 83, 84, 85, 86, 87, 88, 89 & 90. Two levels are permitted on all interior lots, including exterior lots 91, 92, 93, 109, 110, 111, 112, 113, & 114. Private garage and/or carports for not more than four (4) vehicles. All construction shall be of new materials, except brick may be used so long as it conforms with the building and subdivision ordinance of St. George City. All structures shall be constructed in accordance with the prevailing zoning and building ordinance of St. George City.

1A. SOILS TEST: Portions of the St. James Place Subdivision Phase V may contain expansive or contractive soils. The lot Purchaser is encouraged to obtain a soils test and recommendation on foundation from a Utah registered engineer prior to construction. The Architectural Control Committee may require that the lot owner obtain a soils test and recommendation on foundation prior to the final approval. Furthermore, the Architectural Control Committee may condition final approval following the recommendations set forth in the soils test document.

2. BUILDING LOCATION: No building shall be located on any lot nearer to the front line than 25 feet measured to the foundation of such building; nor nearer than 10 feet to the rear lot line; nor nearer than 10 feet to a side lot. For the purpose on this covenant, eaves, steps, and open porches shall not be considered as part of building for the purpose of determining such distances, provided, however, that this shall not be construed to permit any portion of a building, including such eaves, steps of open porches, to encroach upon another lot.

3. DRIVEWAYS: Driveways shall be constructed out of cement or other approved hard materials approved by the Architectural Control Committee. Driveways consisting of cinder, sand, gravel or dirt shall not be permitted on any lot.

4. EASEMENTS: Easements for installation and maintenance of utilities, drainage facilities and ingress and egress are reserved as shown upon the recorded plat. Within these easements no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow or drainage channels in the easements or which may impede ingress and egress. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.

5. FENCES: Fences shall conform to St. George City ordinance and be constructed of masonry or stucco. No wire or wood fences will be permitted, further, any wall or fence must be approved by the Architectural Control Committee.

6. TEMPORARY AND OTHER STRUCTURES: No structure of a temporary nature; trailer, bus, basement, house, tent, shack, garage, or other outbuilding shall be used at any time as a residence either temporarily or permanently, nor shall any structures be permitted on said property at any time. No old or second-hand structures shall be moved onto any of said lots. It being the intention hereof that all dwellings and other buildings to be erected on said lots, or within said Subdivision, shall be new construction of good quality, workmanship and materials.

7. SITE REVIEW: Prior to the commencement of construction of any dwelling, garage, storage building, fence, wall, pool, or improvements on any lot of this subdivision, plot plans and/or construction drawings shall be submitted and approved by the Architectural Control Committee.

8. LANDSCAPING: Within twelve (12) months of the beginning of construction of any home upon the property, the homeowner must have substantially completed the landscaping of his lot, part or portion of the property. All property shall be landscaped appropriately with lawn, trees, shrubs, etc., and all landscaping shall be maintained at a reasonable standard compatible with other homes in the Subdivision. Shrub and tree planting on corner lots shall be located so as not to create a hazard for the movement of vehicles along streets. No trees or shrubs shall be planted on any corner. Undeveloped lots shall be kept free of all tall weeds by the owner of said lots. Should excessive growth occur, the owner shall be notified of such condition and shall be given thirty (30) days to correct the same, after which time another owner, the Architectural Control Committee, or the Developer may order such correction effected, the expense of which shall be charged to the owner of the undeveloped lot or lots.

9. GARBAGE AND REFUSE DISPOSAL: No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All containers used for the storage or disposal of such materials shall be kept in clean and sanitary condition.

10. SIGNS: No sign of any kind shall be displayed to the public view on any property except (A) one professional sign of not more than one (1) square foot in size; (B) one sign advertising the property for sale or rent of not more than five (5) square feet in size; or (C) signs used by the builder or developer to advertise the property during the construction and sales period.

FOR SALE signs are prohibited on any vacant lot or lots.

11. ARCHITECTURAL CONTROLS: No building shall be erected, placed, or altered on any lot until the construction plans and specifications and plans showing the location of the structure have been approved by the Architectural Control Committee as to quality of workmanship and materials, harmony of external design with existing structures, and as to location with respect to topography and finish grade elevation. No fence or wall shall be erected, placed or altered on any lot nearer to any street than the minimum building setback line unless similarly approved. No single family unit shall have less than one thousand six hundred (1,600) square feet in size on the main level, except where the home is two (2) story, then ground level of home must be one thousand four hundred (1,400) square feet and the entire home must be at least two thousand four hundred (2,400) square feet above ground, exclusive of garages and carports. At least a two car garage shall be required and can either be attached or unattached to each dwelling. Sufficient driveway parking of not less than two vehicles per lot. Roofing materials must be tile. No asphalt shingles, built-up roofs or wood shakes will be allowed. Stucco and brick are acceptable for exterior walls and wall coverings.

12. DAMAGES: Any damage inflicted on existing improvements such as curbs, gutters, streets, concrete sidewalks and such, by the purchaser owner and/or their agents of any particular lot in the subdivision must be repaired as soon as possible after such damage is discovered, and the expense of such repair shall be borne by the purchaser or owner.

13. INOPERABLE MOTOR VEHICLES, TRAILERS, MOTOR HOMES: Motor vehicles that are inoperable shall not be permitted to accumulate upon any street or lot or road areas adjacent thereto. In the event an inoperable motor vehicle remains upon any lot or road area for a period exceeding thirty (30) days, the developer or other lot owners residing on said street or road may remove the inoperable motor vehicle after a ten (10) day written notice. The cost of such removal shall attach as a valid lien in favor of the persons, entities or parties causing such removal. For the purpose of this section "Inoperable Motor Vehicles" shall mean any motor vehicle that is unable to operate in a normal manner upon the streets under its own power, or is unlicensed or unregistered for a period of not less than six (6) weeks. Trailers, Motor Homes, and Trucks over 9,000 pounds GVW are not allowed to be stored upon any vacant lot or street or road areas adjacent to this subdivision.

14. LIVESTOCK-POULTRY AGRICULTURE: No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any lot except that dogs, cats or other household pets may be kept provided that they are not kept, bred, or maintained for any commercial purpose. Dogs, cats and other household pets shall not be allowed to roam unattended throughout the development.

15. NUISANCES: No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood.

16. OIL AND MINING OPERATIONS: No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot.

17. VIOLATION CONSTITUTES NUISANCE: Every act or omission, whereby any restriction, condition or covenant as set forth in this declaration, if violated in whole or in part is declared to be and shall constitute a nuisance, and may be abated by the developer or affected property owners and such remedy shall be deemed to be cumulative and not exclusive.

18. DURATION: All of the Covenants, Conditions and Restrictions set forth in the Declaration shall take effect upon the recording of same, and shall continue and remain in full force and effect at all times against said property and the owners thereof or any subsequent owners thereof, for a period of twenty (20) years from the date of adoption. Said covenants shall then be automatically renewed for successive periods of ten (10) years, except that following the initial twenty (20) year period, said requirements may be altered or changed or modified by a written agreement of not less than three-fourths (3/4) of the lot owners of said subdivision. Such changes shall not include easements or other area dedicated to public use.

19. RIGHTS TO ENFORCE: The provisions contained in this Declaration shall be enforceable by the land developer and its assigns, or by the owner or owners of any lot or portion of property in the subdivision, or by their legal representatives. Failure to enforce any of the restrictions included in this declaration shall in no manner prevent enforcement of any or all of the restrictions contained herein. The declaration of any restriction to be specifically specified by said court. In the event any Covenant, Conditions or Restriction included herein is inconsistent or in conflict with restrictions set forth in the subdivision building, zoning or other ordinances of the City of St. George, the ordinances shall govern so long as the restrictions contained in the ordinances are more restrictive than the terms of this Declaration. However, where the terms of this Declaration are more restrictive than those contained in the ordinances of the City of St. George, owners shall be subject to the enforcement of the terms of this declaration.

20. DEVELOPER'S RIGHT TO AMEND: Until all portions of the Phase V Land are Developed, or until the right to enlarge the Development through the addition of tracts or subdivisions terminates, whichever event first occurs, Developer shall have, and is hereby vested with, the right to unilaterally amend the Declaration and or the Plat as may be reasonably necessary or desirable: (i) to adjust the boundaries of the Lots, including adding or deleting common areas (by filing an appropriate amended plat) to accommodate design changes or changes in type of units or adjustment to lot configuration; (ii) to more accurately express the intent of any provisions of the Restrictive Covenants and Declaration in the light of then existing circumstances or information; (iii) to better insure, in light of the existing circumstances or information, workability of the arrangement which is contemplated by the Restrictive Covenants; (iv) to facilitate the practical, technical, administrative or functional integration of any additional tract or subdivision into the Development; or (v) to conform to the underwriting guidelines of major secondary market investors in order to facilitate the availability of financing.

21. ANTENNAS: No television, radio or other external antennas shall be erected, placed or maintained upon any of the property, or upon any building constructed thereon, without the prior approval of the Architectural Control Committee, and said Committee shall have the right to remove or cause the removal of any antennas erected, placed or maintained without said prior approval.

22. CONTRACTORS: Contractors or Sub-Contractors or Owner/Builders must provide on-site dumpsters during construction and are required to clean up the site daily to maintain a clean worksite during construction.

23. ARCHITECTURAL COMMITTEE: The Architectural Committee which is vested with the powers described herein shall consist of Three (3) persons appointed by the grantors. Prior to the commencement of any excavations, construction or remodeling or adding to any structure, theretofore completed, there shall first be filed with the Architectural Committee two complete sets of building plans and specifications therefore, together with landscaping plans, a block or plot plan indicating the exact part of the building site the improvements will cover and said work shall not commence unless the Architectural Committee shall endorse said plans as being in compliance with these covenants and are otherwise approved by the committee. The second set of said plans be filed as a permanent record with the Architectural Control Committee. In the event said committee fails to approve or disapprove in writing said plans within fifteen (15) days after their submission, then said approval shall not be required. When all lots in said tract have been sold by grantors, said plans and specifications shall be approved by an Architectural Committee approved by a majority of owners of lots in the property herein described and only owners of said lots shall be privileged to vote, one vote per lot, for said Architectural Committee. The grantors shall have the right to appoint members of the Architectural Committee until such time as 75% of all lots in the tract have been sold by the grantors.

24. **ASSIGNMENT OF POWERS:** Any and all rights and powers of the grantor herein contained may be delegated, transferred or assigned.

IN WITNESS WHEREOF, WE HAVE HEREUNTO SET OUR HANDS AND SEAL

THIS 15<sup>th</sup> DAY OF January, ~~1992~~ 1993.

ST. JAMES DEVELOPMENT, INC., doing business in Utah  
as SUN RIVER DEVELOPMENT, INC.

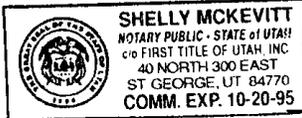
BY: *Darcy Stewart*  
DARCY STEWART, President

STATE OF UTAH

COUNTY OF WASHINGTON

ON THE 15<sup>th</sup> DAY OF January, ~~1992~~ <sup>1993</sup>, PERSONALLY APPEARED BEFORE ME  
DARCY STEWART as President of ST. JAMES DEVELOPMENT, INC., doing  
business in Utah as SUN RIVER DEVELOPMENT, INC.

THE SIGNERS OF THE ABOVE INSTRUMENT, WHO DULY ACKNOWLEDGED TO  
ME THAT THEY EXECUTED THE SAME, FOR AND ON BEHALF OF SAID CORPORATION.



*Shelly McKeivitt*

MY COMMISSION EXPIRES: 10/20/95 NOTARY PUBLIC  
RESIDING AT: ST. GEORGE, UTAH

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