

4255456

DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
THE COVE AT HIDDEN VALLEY SUBDIVISION

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (CC&R) (the "Declaration"), is made as of the 30th Day of MAY, 1986, by Phase One Ltd., a Utah Limited Partnership ("Declarant"), with reference to the following facts:

A. Declarant is the owner of real property known as The Cove at Hidden Valley, whose CC&R's were Recorded on the 3rd Day of June, 1986, as entry no. 4255456 in book , page , of official records in the office of the Salt Lake County Recorder.

B. All Lots in The Cove at Hidden Valley Subdivision Phases I-A, I-B, and II-A, a part of Section 22, Township 3 South, Range 1 East, Salt Lake Base and Meridian, according to the plat thereof, recorded in the office of the County Recorder of Salt Lake County, State of Utah, are a part of these CC&R.

C. Salt Lake County Flood Control District, and Sandy City, both political entities, of the State of Utah, are charged with the responsibility of enforcing all laws and regulations pertaining to flood control structures and facilities including construction and maintenance of those facilities,

NOW THEREFORE, in consideration of the promises and as part of the general plan for improvement of said property, the undersigned hereby declares the property herein above described subject to the restrictions and covenants herein recited.

ARTICLE I
DEFINITIONS

Section 1.01: "Property" or "Project" shall mean all the real property described above, consisting of all lots and shall include any and all annexations to The Cove at Hidden Valley Subdivision Phases I-A, I-B & II-A.

Section 1.02: "Lot" shall mean any plot of land or parcel shown upon any recorded subdivision map of the property.

Section 1.03: "Owner" shall mean the record owner of a fee simple title to any lot which is a part of the Property.

Section 1.04: "Mortgage - Mortgagee - Mortgagor". Reference in this Declaration to a mortgage shall be deemed to include a deed of trust; reference to a mortgagee shall be deemed to include the beneficiary of a deed of trust; reference to a mortgagor shall be deemed to include the trustor of the deed of trust.

Section 1.05: "Family" shall mean a group of natural persons

related to each other by blood or legally related to each other by marriage or adoption.

Section 1.06: "Committee" shall mean Declarant.

Section 1.07: Streets shall mean all dedicated streets to Sandy City and does not pertain to the driveway to lots 101 through 104. Said driveway shall be maintained as a driveway as required by Sandy City by the lot owners of lots 101 through 104.

ARTICLE II
GENERAL RESTRICTIONS AND REQUIREMENTS

Section 2.01. Land Use and Building Type. All lots shall be used exclusively for single family residential purposes. Except as may be specifically provided in Article III hereof, no building shall be erected, altered, placed or permitted to remain on any lot other than one detached single family dwelling with enclosed garage for at least two cars and no lot may be divided, subdivided or separated into smaller parcels unless approved in writing by the Architectural Control Committee, which approval shall be granted in accordance with the guidelines found in this Declaration.

Section 2.02. Dwelling Size and Materials. No single story dwelling shall be constructed, altered, placed or permitted to remain on any lot unless the main floor area, exclusive of basement, open porches and garages, is 1,800 square feet or greater. No multi-story dwelling shall be constructed, altered, placed or permitted to remain on any lot unless the main floor and other floors exclusive of basements, open porches and garages is a total of 2,200 square feet or greater. Unless prior written approval is first given by the Architectural Control Committee, no artificial stone or thin brick and no logs may be used in the exterior construction of a dwelling. All dwellings must have at least 50 % of the front elevation in masonry. The Architectural Control Committee may approve a home of a size smaller than as provided in this paragraph only where after considering all relevant factors it is determined to be clearly unreasonable, under the given circumstances, to require the larger size home. But in any event shall the square footage be less than 1500 square feet for the first floor. Written approval by the Committee must be given on the use of any aluminum siding materials.

Section 2.03. Building Location. No building walls or foundation shall be located on any lot nearer to the front lot line or nearer to the side street line than the minimum building set-back described under prevailing zoning. Notwithstanding any zoning requirements to the contrary, except where special, written approval is first given, no building shall be located on any lot nearer than 30 feet to the front line, or nearer than 20 feet to any side street line, or nearer than 8 feet to any interior lot

line, or nearer than 20 feet to the rear lot line.

Section 2.04. Building and Landscaping Time Restrictions. The exterior constructions of all structures shall be completed within a period of one (1) year following commencement of construction. The front yard of each lot shall be landscaped within a period of one (1) year following completion or occupancy of each dwelling, whichever shall occur first. Side and rear yards shall be landscaped within a period of two (2) years following completion or occupancy of each dwelling.

Section 2.05. Fire Protection. Each residence shall have installed surrounding it a sprinkler system for fire protection which may also be used for irrigation. All residents shall strictly comply with all state and city ordinances pertaining to fire hazard control. All stacks and chimneys from fireplaces in which combustibles, other than natural gas are burned shall be fitted with spark arresters. Each residence shall have and maintain in operable condition at least 100 feet of garden hose, readily accessible, connected or immediately adjacent to a year round water source. There shall be no exterior fires whatsoever except barbecue fires contained within appropriate receptacles.

Section 2.06. Nuisances, Unreasonable Annoyance and Noxious Activities. No noxious or offensive activity shall be carried on upon any lot nor shall anything be done thereon which may be or may become an unreasonable annoyance, nuisance or danger to the neighborhood. Except for legitimate construction and maintenance purposes, no excessively loud noises shall be permitted in the project.

Section 2.07. Signs. No signs, posters, displays or other advertising devices of any character shall be erected or maintained on, or shown or displayed to the public view on any lot without written approval having been first obtained from the Architectural Control Committee; provided, however, that the restrictions of this paragraph shall not apply to any sign or notice seven square feet or smaller in size which states that the premises are for rent or sale. The Association may cause all unauthorized signs to be removed. This section shall not apply to any signs used by Declarant or his agents in connection with the original construction and sale of the residence.

Section 2.08. Antennas. All television and radio antennas or other electronic reception devices shall be completely erected, constructed and placed within the enclosed area of the dwelling or garage on the lot. Exceptions must first be approved in writing by the Architectural Control Committee.

Section 2.09. Animals. No horses, fowls or animals, other than ordinary household pets which do not constitute a nuisance, shall be allowed within the subdivision. Dogs and cats belonging

to owners, occupants or their licensees or invitee within the property must be kept within an enclosure (or on a leash being held by a person capable of controlling the animal). The enclosure must be maintained that the animal cannot escape therefrom. Said household pets shall be limited in number to two (2) only of any particular species, except newborns up to the age of four (4) months of age.

Section 2.10. Storage of Vehicles and Materials. No truck larger than 1/2 ton, trailers, recreational vehicles including campers, boats and motor homes and similar equipment shall be permitted to remain upon any lot unless placed or maintained within a garage or carport or located behind the front set-back line of the residence. Recreational and other vehicles not used on a regular basis shall not be parked overnight on the street or in driveways in front of the residence front set-back line, and shall be allowed to remain overnight on the property described only if housed in a garage, carport, or located behind the front set-back line of the residence. Appropriate and reasonable screening may be required by the Architectural Control Committee. Failure to comply with the provisions hereof shall constitute a nuisance. No storage of articles, materials, equipment or vehicles of any nature is permitted in the front portion of any lot except that a reasonable number of regularly used passenger cars can be parked on driveway areas.

Section 2.11. Rubbish and Unsightly Debris, Etc. Notwithstanding any other provision in the Declaration, no owner shall allow his lot to become so physically encumbered with rubbish, unsightly debris, equipment, or other things or materials so as to constitute an eyesore as reasonably determined by the Association. Within 20 days of receipt of written notification by the Association of such failure, the owner shall be responsible to make appropriate corrections.

Section 2.12. Temporary Structures, Etc. No structure of a temporary character, or trailer, camper, tent, shack, garage or other outbuilding shall be used on any lot at any time as a residence either temporarily or permanently, unless first approved in writing by the Architectural Control Committee and Declarant.

Section 2.13. Non-Residential Uses. No part of the property shall be used for any commercial, manufacturing, mercantile, vending, or other such nonresidential purposes. Provided however, that professional and administrative occupations may be carried on within the residence so long as there exists no meaningful external evidence thereof. The Declarant, its successors or assigns may use the property for a model home site, display, and sales office during the construction and sales period.

Section 2.14 Drilling Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operations

of any kind shall be permitted upon any lot nor shall oil wells, tunnels, mineral excavations or shafts be permitted. No derrick or other structure designed for use in boring for oil or natural gas or water shall erected, maintained or permitted upon any lot.

Section 2.15. Fences and Walls, Hedges and Screens. No fence, walls, or non-living screen shall be constructed on any lot without written approval first having been obtained from the Architectural Control Committee and in no event shall approval be given to precast fences or chain link fences which utilize vinyl, wood or metal slats.

Front yard fences, walls and non-living screens are discouraged and require prior approval before construction. Such fences, walls and screens may be approved only following careful scrutiny by Architectural Control Committee. No fence, hedge, wall, landscaping or screen of any kind shall be erected so as to constitute a traffic hazard, particularly near corners and street intersections. No masonry or concrete fence will be allowed within the Salt Lake aqueduct Right-of-Way which crosses various lots in the phases listed above.

Section 2.16. Landscaping and Parking Strip. Only such oak foliage shall be removed from each lot as in necessary for clearing the driveway, excavation for the foundation, and for lawn and patio areas. All front yards, side yards, and rear yards shall be landscaped. Areas covered with scrub oak will be considered landscaped. The parking strip between curb and sidewalk shall be maintained by each lot owner in a uniform manner with other parking strips in the subdivision. Only sod and street trees shall be permitted in the parking strip. Each lot shall be landscaped and maintained in such a manner so as to prevent any erosion thereof upon adjacent streets or adjoining property. Only approved trees will be allowed in the Salt Lake Aqueduct Right-of-WAY. Approval shall be from the Federal Bureau of Reclamation.

Section 2.17. Environmental Concerns.

- Lots along the stream, where possible, shall provide a means for wildlife to traverse from the mountains to areas to the west.

- All lots prior to obtaining a building permit shall have a lot placement plan submitted to Sandy City that addresses soils, seismic conditions, revegetation of natural areas (indicating areas where natural vegetation are to be removed and plans for the replanting of those areas), and grading of the site including cuts and fills.

Section 2.18. Deviations. Deviations from this standard will be allowed by the Architectural Control Committee and Declarant only for good cause shown.

ARTICLE III
ARCHITECTURAL CONTROL COMMITTEE

Section 3.01. Committee appointment and Composition. The Architectural Control Committee shall consist of three members, who may or may not be lot owners within the Project. The Committee shall act by a majority vote of those present in any meeting duly called for conducting the official business of the Committee members. Notwithstanding any thing to the contrary which may appear elsewhere herein, the Committee members shall be appointed only by the Declarant or its successor, which, at its option, may temporarily delegate or forever assign such powers and responsibilities, or other powers and responsibilities given to it by this Declaration, to the assignee. Such assignment shall be express and in writing and until such assignment, the assignee shall not possess any powers or responsibilities with respect to such Committee. No Committee member shall be entitled to any compensation for services performed pursuant to this Declaration. However, the Architectural Control Committee may, at its discretion, employ an outside professional architect or engineer or other consultant or professional to assist it in its functions and a reasonable fee (to be established by the Architectural Control Committee) may be charged to the lot owner for such services, in which event the provisions of Article VII shall be applicable. No member of the Committee shall be liable to any person for his decisions or failure to act in making decisions as a member of said Committee.

Section 3.02. Scope. No building, residence, dwelling, garage, carport, wind generation device, accessory building, or fence, wall, non-living screen or other structure or landscaping shall be commenced, erected, placed or meaningfully altered on any lot until the plans, specifications and plot plans showing the location and nature of such structure, building, landscaping or other improvement or meaningful alteration have been submitted, to and approved in writing by the Architectural Control Committee, which may consider such factors as (but not limited to) the quality of workmanship and materials, design, harmony of external design with existing project structures, location with respect to topography and finish grade elevation, preservation and enhancement of the natural beauty of the area and safety.

The Committee may condition such approval on the lot owner depositing cash in the sum of One Hundred Dollars (\$100.00) with the Architectural Control Committee, the purpose of which shall be to further ensure that the lot owner (1) fulfills his responsibility to keep his lot in a conditions so as to prevent the rubbish and debris which accumulates during the construction process from blowing or collecting on neighboring lots and (2) reasonably cleans up his lot at or near the completion of the construction process. If the lot owner fails in either of these two responsibilities, the \$100.00 deposit may be kept by the Architect-

ural Control Committee as a fine upon such lot owner or as liquidated damages. If any such failure is not remedied within 14 days after written notice thereof, the Architectural Control Committee may remedy such condition itself and in connection therewith it may have reasonable access to the lot and shall charge the lot owner for the cost of the remedy in which event the provisions of Article VII shall be applicable.

Section 3.03. Process of Approval. Plans and resubmittals thereof shall be approved, disapproved or otherwise acted upon in writing within forty-five (45) days. All plans and specifications and other materials shall be submitted in duplicate. One (1) set shall be returned to the lot owner. Failure of the Committee to respond to a submittal or resubmittal of plans or materials within forty-five (45) days shall be deemed to be an approval of plans as submitted or resubmitted.

If, after such plans and specifications have been approved, the improvements are altered, erected, or maintained upon the lot otherwise than as approved by the Committee, such alteration, erection and maintenance shall be deemed to have been undertaken without the approval of the Committee having been obtained as required by this Declaration. After the expiration of one (1) year from the date of completion of any improvement, said improvement shall, in favor of purchasers and encumbrances, in good faith and for value, be deemed to comply with all of the provisions hereof unless a notice of such non-compliance or non-completion, executed by one member or more of the Committee shall appear of record in the office of the County Recorder, or legal proceeding shall have been instituted to enforce compliance with these provisions. The approval of the Committee of any plans or specifications submitted for approval as herein specified for use on any residence shall not be deemed to be a waiver by the Committee of its right object to any of the features or elements embodied in such plans and specifications, if or when the same features or elements are embodied in any subsequent plans and specifications submitted for approval as herein provided for use on other residences. Upon approval of the Committee acting in accordance with the provisions of this declaration it shall be conclusively presumed that the location and height of any improvement do not violate the provisions of this declaration. Until later published, the address of the Committee may be obtained by contacting Development Funding Corporation, 232 West 800 South, Salt Lake City, Utah, 84101, Tel (801) 322-1258.

ARTICLE IV
EASEMENTS, HILLSIDE DISTURBANCE AND FLOOD CONTROL

Section 4.01. Utility Easements. Easements for installations and maintenance of drainage facilities and public utilities are

generally reserved over the front, rear, and side seven feet of each lot. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may reasonably interfere with or damage utilities or drainage facilities. However, the Committee may approve a structure such as a fence or wall or landscaping where constructed at the lot owners risk of having it dismantled, taken out, or destroyed where necessary because of drainage or public utility servicing, installation, alteration or maintenance. 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 to maintain.

Section 4.02. Grading approval. All persons erecting or construction improvements on any lot shall comply with the Sandy City Hillside Ordinance (see Sandy City Hillside Ordinance Section 15-9-6 attached herein requiring among other things grading plans. Any disturbance of a hillside is controlled by the City and a plan for adequately protecting the steeper hillside areas is required.

Section 4.03. Flood control responsibility. Construction of berms, channels or other flood control facilities is the sole responsibility of the lot owner and shall be done in accordance with flood control district plans approved by Sandy City and/or Salt Lake County Flood Control. Such construction shall commence at the time the lot is graded or otherwise altered from its' natural state.

Section 4.04. Setback Requirements along Salt Lake Aqueduct Permanent structures including masonry walls, buildings, garages, swimming pools, patios, and tennis courts may not extend into the easement of the aqueduct as described on the above mentioned recorded plat which runs across lots 107, 108, 127, 235, 236, 237, and 238.

**ARTICLE V
VIOLATIONS**

Section 5.01. Committee's Powers of Enforcement. Enforcement shall be accomplished by any lawful way, including proceeding at law or in equity against any person or persons violating or attempting to violate any provision herein, either to restrain violation of recover damages. To the extent reasonably possible, the violator shall be required to pay the expenses incurred therein. No liability shall attach the Committee in acting pursuant to the provisions of this Declaration.

If after due notice, a lot owner fails to remedy a violation, an owner may (in addition to other lawful remedies available to it) cause such violation or condition to be remedied and the cost

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thereof shall be charged to the owner of the lot in which event such costs shall be deemed a special assessment to such owner and shall attach to his lot, and shall be subject to levy, enforcement and collection by the OWNER in accordance with the assessment lien procedure provided for in this Declaration at Article VII.

Failure to comply with any of the provisions in this Declaration or regulations adopted pursuant thereto shall be grounds for relief which may include, without limiting same, an action to recover sums due for damages, injunctive relief, foreclosure of lien, or any combination thereof, which relief may be sought liberally construed to effectuate its purpose and any violation of this Declaration shall be deemed to be a nuisance or unreasonable annoyance. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce said provision or any other provisions hereof.

Section 5.02. Enforcement by Others. Additionally and after reasonable notice in writing, and owner not at the time in default hereunder, or Declarant, shall have the option of bringing an action for damages, specific performance, of injunctive relief against any defaulting owner, and in addition may sue to have enjoined any violation of this Declaration. Any judgment shall include a reasonable sum for attorney's fees in favor of the prevailing party. Each remedy provided in this Declaration shall be cumulative and not exclusive or exhaustive.

Section 5.03. Rights of Entry. The Committee shall have a limited right of entry in and upon all lots and the exterior of all residences for the purpose of taking whatever corrective action which it deems necessary or proper. Nothing in this Article shall in any manner limit the right of the owner to exclusive control over the interior of his residence.

ARTICLE VI DURATION AND AMENDMENT

Section 6.01. Duration. This Declaration shall continue in full force for a term of fifty (50) years from the date hereof, after which time the same shall be automatically extended for successive periods of ten (10) years, unless a declaration of termination is recorded with the County Recorder meeting the requirements of an amendment to this Declaration as set forth in Section 2 of this Article. There shall be no severance by sale, conveyance, encumbrance or hypothecation of an interest in any lot from membership in the Association as long as this Declaration shall continue in full force and effect.

Section 6.02. Amendment. Notice of the subject matter of a proposed amendment to this Declaration in reasonably detailed form shall be included in the notice of any meeting of the Owners

at which meeting such amendment is to be discussed.

No amendment to Article VI shall be effective unless approved in writing by all of the record holders of all encumbrances on all lots in the Project at the time of such amendment and by not less than seventy-five percent (75%) of the record owners of all lots at the time of such amendment, excluding lots owned by Declarant. All other amendments shall be effective only upon written approval by not less than seventy-five percent (75%) of record owners of all lots in the Project at the time of such amendments.

Nevertheless, Declarant may at any time amend the Declaration to qualify the Project with lending institutions and until the close of the escrow established for the sale by Declarant of its last lot in the Project, (including lots in any annexations thereto), Declarant shall have the sole right to terminate or modify this Declaration by recordation of a supplement hereto setting forth such termination or modification. "The close of escrow" shall be deemed to be the date upon which a deed conveying the lot is recorded.

ARTICLE VII MISCELLANEOUS

Section 7.01. Severability. Invalidation of any one of these covenants, or any portion thereof by judgment or court order shall in no way effect any of the other provisions which shall remain in full force and effect.

Section 7.02. Singular includes plural. Whenever the context of this Declaration requires same, the singular shall include the plural and the masculine shall include feminine.

Section 7.03. Covenants Etc. Shall Run with the Land. All of the limitations, restrictions, easements, conditions and covenants herein shall run with the land and shall be binding on and for the benefit of all the Property and all parties having or acquiring any right, title or interest in the Property or any part thereof and shall inure to the benefit of each owner and are imposed upon said real property as a servitude in favor of each parcel thereof as the dominant tenement or tenements.

Section 7.04. Liability. Neither the Declarant, its assignee, delegatee or the Architectural Control Committee shall be liable to any other person for any action or failure to act hereunder where such action or failure was in good faith.

Section 7.05. Annexation of Additional Property. Any real property may be annexed to the Project in the discretion of the Declarant, without the approval, assent or vote of the Association or its members. Such real property shall be made subject to this

Declaration at the time it is annexed.

IN WITNESS WHEREOF, Declarant has executed this instrument the day and year first hereinabove written.

PHASE ONE LTD.
BY: DEVELOPMENT FUNDING CORPORATION

BY Boyd F. Peterson
President

ATTEST:

BY Colin H. Miller
Secretary

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

On the 20th Day of May 1986, A.D., personally appeared before me, Boyd F. Peterson, and Colin H. Miller, who being by me duly sworn did say for themselves that they are the President and Secretary of Development Funding Corporation, a Utah Corporation and that the foregoing instrument was signed in behalf of said Corporation by authority of the Board of Directors and the said Boyd F. Peterson & Colin H. Miller acknowledged to me that said Corporation executed the same.



My commission expires 4-8-90

Virginia H. Owen
Notary Public
My Residence is Salt Lake Co.

JUN 3 4 23 PM '86
REC'D OF Development Funding Corp.
Katrice Gray
REBECCA GRAY

BOOK 5774 PAGE 1354
KATIE L. DIXON
RECORDER
SALT LAKE COUNTY,
UTAH

233 W. 800 S. SLC, UT 84101