

Recorded at the request of: Sun River Development, L.C.
31 North 700 East #142
St. George, UT 84770

After Recording mail to: Sun River Development, L.C.
31 North 700 East #142
St. George, UT 84770

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RUSSELL SHIRTS * WASHINGTON CO RECORDER
1994 SEP 13 16:09 PM FEE \$26.00 BY RS
FOR: SNOW & JENSEN

**AMENDMENT TO RESTATED AND
AMENDED DECLARATION OF
COVENANTS, CONDITIONS
AND RESTRICTIONS
OF
THE BOULDERS PHASE I SUBDIVISION**

Sun River Development, L.C., Declarant under that certain Declaration of Covenants, Conditions and Restrictions of the Boulders Phase I, Subdivision, recorded on the records of the Washington County Recorder's Office as Entry No. 446598, in Book 764, at pages 150-170 and as restated and amended by that certain Restated and Amended Declaration of Covenants, Conditions and Restrictions of The Boulders Phase I Subdivision, dated December 7, 1993, and recorded on that same day as Entry No. 451526, in Book 777, at pages 719-740, on the Official Records of the Washington County Recorder's Office, and as amended by the Supplementary and Amendatory Declaration to the Restated and Amended Declaration of Covenants, Conditions and Restrictions of The Boulders Phase I Subdivision recorded on May 25, 1994, as Entry No. 468304, in Book 822, at pages 866-871, on the Official Records of the Washington County Recorder's Office, hereby exercises its rights and privileges pursuant to Article XIII, Section 1 of said Restated and Amended Declaration to supplement and amend said Restated and Amended Declaration and said Supplementary and Amendatory Declaration as follows:

1. Declarant hereby amends Article I, Section 9; Article III, Section 2(a); and Article IV sections 1 and 3(a) of the Restated and Amended Declaration of Covenants, Conditions and Restrictions of The Boulders Phase I Subdivision, dated December 7, 1993, and recorded on that same day as Entry No. 451526, in Book 777, at pages 719-740, on the Official Records of the Washington County Recorder's Office.

2. Declarant hereby further amends Article IV, Section 2, subpart (l) of the Restated and Amended Declaration of Covenants, Conditions and Restrictions of The Boulders Phase I Subdivision, dated December 7, 1993, and recorded on that same day as Entry No. 451526, in Book 777, at pages 719-740, on the Official Records of the Washington County Recorder's Office, which subpart (l) has been amended by the Supplementary and Amendatory Declaration to the Restated and Amended Declaration of Covenants, Conditions and Restrictions of The Boulders Phase I Subdivision, recorded as Entry No. 468304, in Book 822, at pages 866-871, on the Official Records of the Washington County Recorder's Office.

AMENDMENT TO ARTICLE I, SECTION 9:

Article I, Section 9 shall be amended and restated as follows:

Section 9. "Lot", unless otherwise defined or provided for herein, shall mean and refer to any plot of land shown upon any recorded subdivision map of the

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Properties and specifically excepting Common Area and areas dedicated to the use of the general public.

AMENDMENT TO ARTICLE III, SECTION 2(a):

Article III, Section 2(a) shall be amended and restated as follows:

(a) **Class A.** Class A member(s) shall be all owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person owns an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot. A vote cast at an Association meeting by any of such co-owners, whether in person or in proxy, shall be conclusively presumed to be both attributable to the Lot concerned unless written objection is made prior to said meeting, or verbal objection at said meeting by another co-owner of the same Lot. In the event objection is made, the vote involved shall not be counted for any purpose except to determine whether a quorum exists. For the purposes of voting pursuant to this Article, Lot shall mean (i) a single Lot and (ii) in such cases where the same owner owns two contiguous Lots upon which a single family residence has been constructed, the two contiguous lots shall be deemed to be one Lot.

AMENDEMENT TO ARTICLE IV, SECTIONS 1 AND 3(a):

Article IV, Section 1 shall be amended and restated as follows:

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant and each subsequent owner of a Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such Deed, is deemed to covenant and agree to pay to the Association: (a) annual assessments, (b) special assessments, (c) insurance assessments, if any, (d) additional assessments, (e) any other amount or assessment levied or charged by the Association or Board of Trustees pursuant to this Declaration, and (f) interest, costs of collection and a reasonable attorney's fee, as hereinafter provided. The assessments shall be a charge on the land and shall be a continuing lien on the Lot against which such assessment is made. Each such assessment shall also be the personal obligation of the person who is owner of such Lot at the time when the assessment became due. The personal obligation for delinquent assessment shall not pass to a Lot owner's successor in Title unless expressly assumed by them. For the purposes of assessment pursuant to this Article, Lot shall mean (i) a single Lot and (ii) in such cases where the same owner owns two contiguous Lots upon which a single family residence has been constructed, the two contiguous lots shall be deemed to be one Lot.

Article IV, Section 3(a) shall be amended and restated as follows:

(a) From and after January 1, 1995, the maximum annual assessment may be increased each year by the Board of Trustees not more than fifteen percent (15%) above the maximum assessment for the previous year without a vote of the membership.

AMENDMENT TO ARTICLE VI, SECTION 2(I):

(I) Residence/minimum square footage and building height:

The minimum total square footage of living area on the first level above ground located within the area of a foundation for any residential dwelling constructed on any lot within the project, exclusive of porches, balconies, patios, decks and garages, shall be not less than one thousand eight hundred (1,800) square feet. Where the home is two (2) stories, then ground level of such home must be a minimum of one thousand two hundred (1,200) square feet and the second story, including over the garage, a maximum of one thousand five hundred (1,500) square feet -- the entire home must be at least two thousand four hundred (2,400) square feet, exclusive of porches, balconies, patios, decks and garages. No home shall consist of more than two stories.

Building height shall be measured from the elevation of the lot to the highest point of the roof line of the home. Single-story homes shall not exceed twenty-five (25) feet in height. Two-story homes shall not exceed thirty-five (35) feet in height. Notwithstanding any other provision herein, the following height restrictions shall be controlling:

(1) In Phase I, Lots 13 through 20 and Lots 27 through 34 shall not exceed twenty-five (25) feet in height; all remaining lots in Phase I shall abide by the thirty-five (35) foot building height restriction; and

(2) In Phase II, homes on Lots 40 through 43 and Lot 45 shall not exceed twenty-two (22) feet in height; the home on Lot 44 shall not exceed twenty-four (24) feet in height; homes on Lots 37 through 39 shall not exceed twenty-six (26) feet in height; homes on Lots 46 through 53 shall not exceed twenty-two (22) feet in height; homes on Lot 54 and Lots 59 through 65 shall not exceed thirty-five (35) feet in height; and homes on Lots 55 through 58 shall not exceed twenty-five (25) feet in height.

3. Declarant continues to reserve (i) all rights as granted in the Restated and Amended Declaration of Covenants and Restrictions of The Boulders Phase I Subdivision, dated December 7, 1993, (ii) all rights conferred by the Supplementary and Amendatory Declaration, and (iii) all rights conferred by this Amendment to the Restated and Amended Declaration of Covenants, Conditions and Restrictions of The Boulders Phase I Subdivision.

4. This Amended to the Restated and Amended Declaration of Covenants, Conditions and Restrictions of The Boulders Phase I Subdivision affects the real property identified as follows: (i) All of Lots 1 through 36 as platted on the Official Map of The Boulders Phase I, recorded on October 15, 1993 on the Official Records of the Washington County Recorder's Office as Entry No. 446597, in Book 764, at page 149, (ii) all of Lots 37 through 65 as platted on the Official Plat of The Boulders Phase II, recorded on May 25, 1994, on the Official Records of the Washington County Recorder's Office as Entry No. 468303, in Book 822, at page 865, (iii) that certain real property described in Exhibit A attached hereto and incorporated herein, and

(iv) that certain real property described in Exhibit B attached hereto and incorporated herein..

DATED this 12 day of Sept, 1994.

SUN RIVER DEVELOPMENT, L.C.
Declarant

By: Darcy A. Stewart
Darcy A. Stewart

Its Manager

STATE OF UTAH,)
: ss.
County of Washington.)

On this 12th day of September 1994, personally appeared before me DARCY A. STEWART, Manager of Sun River Development, L.C., who being duly sworn did say that the foregoing instrument was signed by him on behalf of said company by authority of its Operating Agreement or a resolution of its members, and acknowledged to me that this document was executed on behalf of said company for the purposes stated herein.



Telina Bishop
Notary Public
Residing at: St. George, UT

My Commission Expires
4-17-96

Amendment to Restated and Amended
Declaration of Covenants, Conditions and Restrictions
page 4

00478566 Bk0850 Pg0154

EXHIBIT A TO AMENDMENT

Beginning at a point North 89°40'55" East, 1389.81 feet along the Section line, and South 00°00'00" East, 709.18 feet and North 89°40'55" East, 955.27 feet from the North 1/4 corner of Section 5, Township 43 South, Range 15 West of the Salt Lake Base and Meridian, said point being the Southeast corner of the St. George Valley Irrigation Company Tract as shown on the Official Plat of "The Boulders", Phase 1 Subdivision; Thence North 36°59'05" West, 627.63 feet along the East Boundary Line of said St. George Irrigation Company Tract to a point on the Boundary Line of "The Boulders", Phase 1 Subdivision; Thence following the Boundary Line of said Phase 1 of "The Boulders" Subdivision in the following Eight (8) courses: North 53°00'55" East, 125.00 feet; Thence South 36°59'05" East, 49.05 feet to the point of curvature of a 200.00 foot radius curve; Thence Southeasterly 59.22 feet along the arc of said curve concave to the Northeast through a central angle of 16°57'58" to a point from which the radius point bears North 36°02'57" East; Thence North 36°02'57" East, 86.23 feet along said radial line; Thence North 77°17'24" East, 100.00 feet; Thence North 12°42'36" West, 125.00 feet; Thence South 77°17'24" West, 24.80 feet; Thence North 12°42'36" West, 195.00 feet to the Northeast corner of said Phase 1 of "The Boulders" Subdivision; Thence leaving said Phase 1 Boundary Line North 77°17'24" East, 513.51 feet; Thence South 00°12'16" East, 305.09 feet; Thence South 44°40'55" West, 28.92 feet; Thence South 45°19'05" East, 160.00 feet; Thence South 44°40'55" West, 31.59 feet; Thence South 45°19'05" East, 199.12 feet; Thence South 44°40'55" West, 300.01 feet; Thence South 00°12'16" East, 191.49 feet; Thence South 89°40'55" West 352.07 feet to the point of beginning.

Phase 2 of "The Boulders" Subdivision contains 12.329 acres.

EXHIBIT B TO AMENDMENT

Parcel 1:

Beginning at a point North 89° 40' 55" East 2181.03 feet along the Section line and North 00° 00' 00" East 185.14 feet from the North 1/4 corner of Section 5, Township 43 South, Range 15 West of the Salt Lake Base and Meridian, said point being the Northeast corner of Lot 33 in the proposed "BOULDERS" Phase 1, and running thence North 77° 17' 24" East, 513.51 feet; Thence South 00° 12' 16" East 305.09 feet; Thence South 44° 40' 55" West 28.92 feet; Thence South 45° 19' 05" East 160.00 feet; Thence South 44° 40' 55" West 31.59 feet; Thence 45° 19' 05" East 199.12 feet; Thence South 40° 40' 55" West 300.00 feet; Thence South 00° 12' 16" East 191.49 feet; Thence South 89° 40' 55" West 352.08 feet; Thence North 36° 59' 05" West 627.63 feet; Thence North 53° 00' 55" East 125.00 feet; Thence South 36° 59' 05" East 49.05 feet to the point of curvature of a 200.00 foot radius curve, concave to the Northeast; Thence Southeasterly 59.22 feet along the arc of said curve through a central angle of 16° 57' 58", Thence North 36° 02' 57" East 86.23 feet; Thence North 77° 17' 24" East 100.00 feet; Thence North 12° 42' 36" West 125.00 feet; Thence South 77° 17' 24" West 24.80 feet; Thence North 12° 42' 36" West 195.00 feet to the point of beginning. Contains 12.33 acres.

Parcel 2:

Beginning at a point North 89° 40' 55" East 2681.71 feet along the Section line and North 00° 00' 00" East 295.34 feet from the North 1/4 corner of Section 5, Township 43 South, Range 15 West, of the Salt Lake Base and Meridian, said point being the Northeast corner of lot 55 in the proposed "BOULDERS" Phase 3 and running thence North 59° 58' 44" East 263.80 feet; Thence North 51° 49' 07" East 699.07 feet; Thence North 08° 25' 56" East 231.09 feet to the center line of a proposed 80.00 foot wide road; Thence South 73° 47' 04" East 375.26 feet; Thence South 00° 53' 19" East 703.11 feet; Thence South 50° 36' 34" West 1526.20 feet; Thence North 00° 12' 16" West 169.70 feet; Thence North 44° 40' 55" East 300.00 feet; Thence North 45° 19' 05" West 199.12 feet; Thence North 44° 40' 55" East 31.59 feet; Thence North 45° 19' 05" West 160.00 feet; Thence North 44° 40' 55" East 28.92 feet; Thence North 00° 12' 16" West 305.09 feet to the point of beginning. Contains 23.93 acres.

Parcel 3:

Beginning at a point on the North line of Section 4, South 89° 28' 24" West 1295.27 feet from the North 1/4 corner of Section 4, Township 43 South, Range 15 West, of the Salt Lake Base and Meridian, said point being the Northeast corner of Sectional Lot 4 of said Section 4 and running thence South 00° 57' 50" East 1350.42 feet to the Southeast corner of said Sectional Lot 4; Thence South 89° 02' 52" West 1307.61 feet to the Southwest corner of said Sectional Lot 4; Thence North 00° 26' 33" West 651.26 feet along West line of said Section 4; Thence North 50° 22' 17" East 1123.89 feet to a point of the North line of said Section 4; Thence North 89° 28' 24" East 424.15 feet to the point of beginning. Contains 33.40 acres, more or less.

LESS AND EXCEPTING the following:

Beginning at a point North 89° 40' 55" East, 1389.81 feet along the Section line, and South 00° 00' 00" East, 709.18 feet and North 89° 40' 55" East, 955.27 feet from the North 1/4 corner of Section 5, Township 43 South, Range 15 West of the Salt Lake

Base and Meridian, said point being the Southeast corner of the St. George Valley Irrigation Company Tract as shown on the Official Plat of "The Boulders", Phase 1 Subdivision; Thence North 36°59'05" West, 627.63 feet along the East Boundary Line of said St. George Irrigation Company Tract to a point on the Boundary Line of "The Boulders", Phase 1 Subdivision; Thence following the Boundary Line of said Phase 1 of "The Boulders" Subdivision in the following Eight (8) courses: North 53°00'55" East, 125.00 feet; Thence South 36°59'05" East, 49.05 feet to the point of curvature of a 200.00 foot radius curve; Thence Southeasterly 59.22 feet along the arc of said curve concave to the Northeast through a central angle of 16°57'58" to a point from which the radius point bears North 36°02'57" East; Thence North 36°02'57" East, 86.23 feet along said radial line; Thence North 77°17'24" East, 100.00 feet; Thence North 12°42'36" West, 125.00 feet; Thence South 77°17'24" West, 24.80 feet; Thence North 12°42'36" West, 195.00 feet to the Northeast corner of said Phase 1 of "The Boulders" Subdivision; Thence leaving said Phase 1 Boundary Line North 77°17'24" East, 513.51 feet; Thence South 00°12'16" East, 305.09 feet; Thence South 44°40'55" West, 28.92 feet; Thence South 45°19'05" East, 160.00 feet; Thence South 44°40'55" West, 31.59 feet; Thence South 45°19'05" East, 199.12 feet; Thence South 44°40'55" West, 300.01 feet; Thence South 00°12'16" East, 191.49 feet; Thence South 89°40'55" West 352.07 feet to the point of beginning.

Phase 2 of "The Boulders" Subdivision contains 12.329 acres.