

WHEN RECORDED RETURN TO:

Thomas A. Ellison
2257 Country Club Drive
Salt Lake City, Utah 84109

**DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR
PUEBLO BONITO SUBDIVISION
IVINS, UTAH**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR PUEBLO BONITO SUBDIVISION is made as of this 28th day of May, 1996, by WINDOW ROCK DEVELOPMENT PARTNERS I, LTD., a Utah limited partnership, and WILFORD AND JOANNE B. HAFEN, together referred to below as "Declarant."

RECITALS:

A. Window Rock Development Partners I, Ltd. and Wilford and Joanne B. Hafen are the owners of certain real property located in Washington County, Utah, which is more particularly described in Exhibit A (the "Property").

B. Declarant intends to develop a residential subdivision on the Property. Declarant will develop and convey all of the Lots within the Subdivision subject to a general plan of development, and subject to certain protective covenants, conditions and restrictions all as set forth in this Declaration, and which are deemed to be covenants running with the land mutually burdening and benefiting each of the Lots within the Subdivision.

DECLARATION:

DECLARANT HEREBY DECLARES that all of the Lots within the Subdivision shall be held, sold, conveyed, encumbered, leased, used, occupied and improved subject to the protective covenants, conditions, restrictions and equitable servitudes set forth in this Declaration, all of which are created for the mutual benefit of the Owners of the Lots. It is the intention of the Declarant in imposing these covenants, conditions and restrictions to create a generally uniform pattern of development, to

SLC1-21353.1 21943-0002

1

00538742 Bk1020 Pg0011

RUSSELL SHIRTS * WASHINGTON CO RECORDER
1996 JUL 22 09:35 AM FEE \$50.00 BY CB
FOR: SOUTHERN UTAH TITLE CO

protect and enhance the property values and aesthetic values of the Lots by eliminating inconsistent uses or improvements, all for the mutual protection and benefit of the Owners of the Lots. The covenants, conditions and restrictions are intended to, and shall in all cases run with the title of the land, and be binding upon the successors, assigns, heirs, lien holders, and any other person holding any interest in the Lots, and shall inure to the benefit of all other Lots in the Subdivision. The covenants, conditions and restrictions shall be binding upon the Declarant as well as its successors in interest, and may be enforced by the Declarant or by any Owner, of a Lot within the Subdivision.

Notwithstanding the foregoing, no provisions of this Declaration shall prevent the Declarant from doing any of the following, which shall be deemed to be among Declarant's reserved rights in addition to such rights as may be described elsewhere in this Declaration: (1) Installation and completion of the Subdivision Improvements; (2) use of any Lot owned by the Declarant as a model home, or for the placement of a temporary construction or sales office; (3) installation and maintenance of signs incidental to sales or construction which are in compliance with applicable ordinances; and (4) assignment of Declarant's rights under this Declaration in whole or in part to one or more builders intending to construct homes within the Subdivision.

COVENANTS, CONDITIONS AND RESTRICTIONS:

1. **Definitions.** Unless the context clearly requires the application of a more general meaning, the following terms, when used in this Declaration, shall have the following meanings:

1.1 "Architectural Committee" shall mean the committee created under Section 2 of this Declaration.

1.2 "Declarant" shall mean and refer to Window Rock Development Partners I, Ltd., a Utah general partnership, and Wilford and Joanne Hafen and any successor to any of them in the ownership of Lots where ownership is conveyed in connection with a total or limited assignment and assumption of Declarant's rights and obligations under this Declaration.

1.3 "Declaration" shall mean this Declaration of Covenants, Conditions and Restrictions, together with any subsequent amendments or additions. The Subdivision Plat for the Subdivision, and the easements and other matters shown on any such Plat, are also incorporated into this Declaration by reference.

1.4 "Dwelling" shall mean the single family residence built or to be built on any Lot, including the attached garage.

1.5 "Family" shall mean one household of persons related to each other by blood, adoption or marriage, or one group of not more than five people not so related living together as a unit who maintain a common household.

1.6 "Improvement" shall mean all structures and appurtenances of every type and kind, including but not limited to buildings, Dwellings, garages, storage buildings, walkways, retaining walls, sprinklers, pipes, driveways, fences, landscaping, pools, decks, stairs, poles, lighting, signs, satellite dishes or other antennas, and any mechanical equipment located on the exterior of any building.

1.7 "Lot" shall mean any numbered building Lot shown on any official plat of all or a portion of the Subdivision.

1.8 "Owner" shall mean the person or persons having title to any Lot. Owner shall mean the person holding fee simple title, including the Declarant, and buyers under any installment contract entitling the buyer to the delivery of a deed, but shall exclude any person or entity holding title for purposes of securing performance of an obligation.

1.9 "Person" shall mean a natural person or any legal entity with a right to hold title to real property in its own name in the State of Utah.

1.10 "Plat" shall mean an official ownership plat of the Subdivision as approved by the Town of Ivins and recorded in the office of the Washington County Recorder, as it may be amended from time to time.

1.11 "Recreational Equipment" shall mean the following not exceeding six (6) feet in height: boats, camper shells, trailers, camping equipment and other similar small recreational equipment, patio and lawn furniture

1.12 "Recreational Vehicles" shall mean campers, recreational vehicles or other on-road or off-road vehicles in excess of six feet in height.

1.13 "Subdivision" shall mean the Pueblo Bonito Subdivision, and all Lots and other property within the Subdivision as shown on the Plat.

1.14 "Subdivision Improvements" shall mean all subdivision improvements to be installed outside of the boundaries of Lots or within easements as identified on the Plats that are necessary to provide public road access and utility service to the Lots, and

including other construction work required to comply with any conditions of the Town or other governmental agencies to the approval of the Subdivision or any Plat thereof.

1.15 "Town" shall mean the Town of Ivins, Washington County, Utah, and its appropriate departments, officials, and boards.

2. **Architectural Committee.** It is the intention and purpose of these covenants, conditions and restrictions to impose standards on the Improvements to any Lot of a type and nature that result in buildings which are generally compatible and meet certain minimum requirements and that encourage landscaping, while at the same time allowing for a range of acceptable styles, designs, materials and colors. To accomplish this goal, the Declarant hereby establishes the Architectural Committee, which is empowered to oversee and enforce the Architectural Design Standards set forth in this Declaration and in any design guidelines developed pursuant to the terms of this Declaration.

2.1 **Architectural Committee Created.** The Architectural Committee will consist of three members. Declarant reserves the right to appoint the Architectural Committee for the first five (5) years after the recordation of this Declaration. Declarant may waive its exclusive right to appoint members of the Architectural Committee prior to the expiration of the five (5) year period by recording a written supplement to this Declaration. At the time Declarant's exclusive right to appoint the Architectural Committee expires or is waived, the Architectural Committee then in existence shall have the right to remove or replace members of the Architectural Committee, subject to the right of the Owners of 60% of the Lots exercised by a written agreement, to remove and replace one or more members of the Architectural Committee, with or without cause. The initial committee will consist of three people appointed by the Declarant, who do not need to be Owners. At the time 75% of the Lots are sold to persons other than the Declarant, at least one member of the Committee shall be an Owner of a Lot. At the time that 90% of the Lots are sold to persons other than the Declarant, at least two members of the Committee will be Owners.

2.2 **Approval by Committee Required.** No Improvements of any kind, including without limitation the construction of any Dwelling, garage, out-building, parking area, driveway, tennis court, walkway, or other hard surfaced area in excess of 150 square feet, swimming pools, outdoor hot tubs or spas, fences, walls, curbs, poles, trampolines, satellite dishes or antenna, solar panels, or any other permanent structure may be constructed, erected, or installed in the Subdivision without the prior consent of the Architectural Committee. No excavation, grading, filling, draining, landscaping, or installation or removal of existing vegetation shall be made without the advance written

consent of the Architectural Committee. Approval of the Committee will be sought in the following manner:

(a) Plans Submitted. Plans for the construction of any new Dwelling must be submitted to the Committee for review. The plans must be in sufficient detail to show the location on the Lot of the exterior walls of the Dwelling, any decks and other exterior elements and all other structures to be built with it; detailed drawings of all elevations of all buildings showing locations of windows, doors, roof pitches and other design elements; a list of exterior siding and roofing materials and/or a sample, including color samples; and a landscape plan showing the location of landscaped areas, fences (including fence design), driveways, walkways, patios, decks and other hard surfaced or irrigated areas and the areas to be disturbed by construction and the means of restoring those areas. In the case of an addition or modification of an existing Dwelling, the Committee may waive any of the foregoing if it feels are unnecessary to its review of the remodel or addition. The Committee may require up to four copies of the plans to be submitted to facilitate the Committee's review.

(b) Review Fee. The applicant will pay a review fee to the Committee in an amount necessary to cover the costs of review and the administration of the program in an amount to be established from time to time by the Architectural Committee. The initial review fee shall be \$100 for each new Dwelling, \$50 for each addition, remodel or installation of Improvements that cost less than \$1,000, or \$25 for construction that makes no structural changes, whichever is applicable. At the time of submission, the applicant shall also submit the deposit provided in section 7.5 below. In addition, the Architectural Committee may assess a fee for the professional review of the plans in accordance with the provisions of section 2.4 below, which fee would also be payable at the time of submission of the plans. The Committee shall have no obligation to account for the use of any application fees submitted pursuant to this section. No review shall commence until the chair of the Architectural Committee considers the submission complete and all fees are paid. All application and review fees for Improvements designed and constructed by any person or entity affiliated with Declarant shall be waived.

(c) Review. Within 15 days from receipt of a complete submission, the Committee will review plans and make an initial determination whether or not the plans comply with the conditions imposed by the Declaration and the design guidelines developed pursuant to this Declaration. The plans may be approved, approved subject to compliance with modifications or conditions or rejected in the exercise of the discretion of the Architectural Committee. Owners may desire to submit preliminary plans for review. The Committee will review preliminary plans, without fee, and make its comments known to the Owner, provided, however, that no preliminary approval is to be considered a final approval, and no final approval will be granted on less than a

complete submission. Upon approval, the Committee and the Owner will each sign the copy of the plans. Two copies shall be retained by the Committee, and the other two copies shall be returned to the Owner for use in connection with the construction of the Improvements. No construction that is not in strict compliance with the approved plans will be permitted.

(d) Failure to Act. If the Committee has not approved or rejected any submission within 45 days after payment of the review fee and submission of complete plans, the submission is deemed to have been disapproved.

(e) Address for Submission of Plans and Fees. The initial address for submission of the plans and fees shall be in care of Window Rock Development Partners I, Ltd. at 2257 Country Club Drive, Salt Lake City, Utah 84109. Window Rock may designate a different address in an instrument recorded in the Washington County Recorder's Office referencing this Declaration.

2.3 Variances. Variances to the design standards contained in this Declaration may be granted by the Architectural Committee in the discretion of the Committee. No such variance shall be deemed to modify or waive any requirement of this Declaration for any other purpose. No variance, of any kind, may be granted without notice to the Owners of Lots immediately adjacent to and directly across the street from the Lot applying for the variance disclosing the variance and providing an opportunity to make comments on the variance. The Architectural Committee shall have no power to grant any variance that has the effect of modifying applicable zoning or building code regulations. The burden of obtaining a variance is entirely on the applicant, including the costs of notice.

2.4 General Design Review. The Committee will use reasonable efforts to provide consistent application of the standards of this Declaration, subject to its right to grant variances. These standards are, of necessity, general in nature, and it is the Committee's responsibility to apply them in a manner that results in a high quality, attractive, and well designed community.

2.5 Declarant and Committee Not Liable. The Declarant and the Committee and its members and consultants shall not be liable to the applicant for any damages, or to the Owners of any Lots within the Subdivision for their actions, inactions, or approval or disapproval of any set of plans submitted to the Committee for review. The Owners shall have no claim against the Declarant or Committee as a result of the performance or failure to perform the duties created by this Declaration or by reason of any violation of the standards of this Declaration by any Owner. Each Owner has the right to enforce these covenants against every other Owner, and may seek independent

redress if it believes the Committee has acted improperly or has failed to act or if the Owner believes any other Owner is in violation of a requirement of this Declaration.

2.6 Limitations on Review. The Committee's review is limited to those matters expressly granted in this Declaration. The Committee shall have no responsibility to design or review in accordance with, confirm compliance with or enforce building codes, zoning ordinances, or other statutes, laws, or ordinances affecting the development or improvement of real property or building, engineering or soils standards applicable to the proposed construction. Neither the Committee, its members nor its consultants shall have any liability to any Owner whose approved plans included any violation of law or failure to comply with any other applicable standard. Corrections or changes in plans to bring them into conformity with applicable codes must be approved by the Committee prior to construction.

2.7 Design Guidelines. The Architectural Committee may develop specific design guidelines in addition to those standards and restrictions set forth in this Declaration to provide additional design guidance, including guidelines with respect to architectural features, colors and materials. Those design guidelines shall be binding on Owners to the same extent as if set forth in this Declaration.

3. Restrictions. The following restrictions on use apply to all Lots within the Subdivision:

3.1 Zoning Regulations. The lawfully enacted zoning regulations of the Town, and any building, fire, and health codes are in full force and effect in the Subdivision, and no Lot may be occupied in a manner that is in violation of any such statute, law, or ordinance.

3.2 Residential Use; No Mining Uses. The property within the Subdivision shall be used for residential purposes only, and no mining, drilling, prospecting, mineral exploration or quarrying activity will be permitted at any time. Residential purposes shall be deemed to include the use of a Lot or portion thereof for a swimming pool, tennis court or other similar recreational amenity. Further, Declarant reserves the right to designate a portion of the Subdivision, including one or more platted Lots, for recreational uses or for the storage of Recreational Vehicles by filing an amendment to this Declaration designating the area in question. No such amendment shall require the approval of any Owners.

3.3 No Business or Commercial Uses. No portion of the Subdivision may be used for any commercial business use, provided, however, that nothing in this provision is intended to prevent (i) the Declarant from using one or more Lots for

purposes of a construction office or sales office during the actual period of construction of the Subdivision Improvements or until all of the Lots are sold, or (ii) the use by any Owner of a part of a home for a home occupation. No home occupation will be permitted, however, which requires or encourages the Owner's clients, customers, patients or others to come to the home to conduct business, or which requires any employees outside of the Owner's immediate family or household. No retail sales of any kind may be made in the Subdivision.

3.4 Restrictions on Signs. The Subdivision may, at the option of Declarant, be identified on a sign to be permanently maintained at the Project entrance or entrances. No signs will be permitted on any Lot or within the Subdivision, except for traffic control signs placed by the County, temporary signs warning of some immediate danger, or signs not in excess of six square feet identifying the contractor and/or architect of any Dwelling unit while it is under construction. Signs indicating the Lot is for sale may be placed in accordance with applicable sign regulations, and no such sign may exceed six square feet. The Declarant may erect a sign at the entrance or entrances to the Subdivision for a period of no more than two years after the recordation of the last Plat within the Subdivision announcing the availability of Lots and giving sales information. No permanent signs stating the address or the name of the owner of the Lot may be installed without the advance consent of the Architectural Committee.

3.5 Animals. No animals other than not to exceed three ordinary household pets may be kept on any Lot. This restriction specifically excludes keeping horses on any Lot. Each Owner shall be responsible for preventing pets from leaving the Owner's Lot except on a leash or from creating a nuisance or bothering neighbors by reason of noise, odors or other problems. No kennel or dog run may be placed closer than 25 feet to any Dwelling other than that of the Owner of the kennel. No wire fencing shall be allowed which is unscreened from the view of adjoining Lots except as approved elsewhere in this Declaration.

3.6 Underground Utilities. All gas, electrical, telephone, television, and any other utility lines in the Subdivision are to be underground, including lines within any Lot which service installations entirely within that Lot. No propane tanks or oil tanks may be installed on any Lot.

3.7 Maintenance of Property. All Lots, and the Improvements on them, shall be maintained in a clean, sanitary, attractive and marketable condition at all times. No Owner shall permit his Lot or the Improvements on it to fall into disrepair.

3.8 No Noxious or Offensive Activity. No noxious or offensive activity shall be carried out on any Lot, including the creation of loud or offensive noises or odors that detract from the reasonable enjoyment of nearby Lots.

3.9 No Hazardous Activity. No activity may be conducted on any Lot that is, or would be considered by a reasonable person to be unreasonably dangerous or hazardous, or which would cause the cancellation of conventional homeowners insurance policy. This restriction includes, without limitation, the storage of caustic, toxic, flammable, explosive or hazardous materials in excess of those reasonable and customary for household uses, the discharge of firearms or fireworks, and setting open fires (other than properly supervised and contained barbecues).

3.10 No Unsightliness. No unsightliness is permitted on any Lot. Unsightliness shall include, without limitation, the open storage of any building materials (except during the construction of any Dwelling unit or addition); open storage or parking of farm or construction equipment, trucks larger than pick-up trucks (except during periods of actual loading and unloading) or inoperable motor vehicles; accumulations of lawn or tree clippings or trimmings; accumulations of construction debris or waste; household refuse or garbage except as stored in tight containers in an enclosure such as a garage; and the storage or accumulation of any other material, vehicle, or equipment on the Lot in a manner that it is visible from any other Lot or any public street.

3.11 Storage of Recreational Equipment. To the extent permitted by the laws of the Town, the preceding section shall not preclude the use of a portion of the side yard of the Lot immediately adjacent to the garage by an owner for the storage during periods of occasional use of Recreational Equipment and Recreational Vehicles on the following conditions: (a) the portion of the side yard used for storage shall extend only between the point that is two feet behind the front face of the garage and the point that is twenty-five feet behind the front face of the garage, (b) the side yard shall be enclosed on the property line with a solid wall or light proof fence of a style and height not to exceed six feet approved by the Architectural Committee, (c) the side yard shall be screened from the street by a gate made of wood or other materials approved by the Architectural Committee providing a visual screen of the storage area when viewed from the street in a design approved by the Architectural Committee, and screening landscaping including the planting of specimen trees, in the landscaped area between the storage area and the street, and (d) in the case of Recreational Vehicles, the Recreational Vehicle shall be maintain in operating condition and with an attractive exterior appearance. The Architectural Committee shall have the rights (i) to require a solid concrete block or stucco-finished side yard wall as a condition to approving side yard storage in each case, (ii) to review the actual use of the side yard by an Owner and to require supplemental screening and landscaping after the initial approval of side yard storage as a condition to its continued use, and (iii) to prohibit the further use of the side yard for storage of a Recreational Vehicle either generally throughout the Subdivision or on a particular Lot if the appearance of Recreational Vehicles throughout

the Subdivision generally or on a particular Lot is deemed by the Architectural Committee to be harmful to the visual environment of the Subdivision.

3.12 No Annoying Lights. Any outdoor lighting shall be subject to approval by the Architectural Committee, and no outdoor lighting shall be permitted except for lighting that is designed to aim downward and limit the field of light to the confines of the Lot on which it is installed. This shall not apply to street lighting maintained by the Town.

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

3.14 Drainage. No Owner shall alter the direction of natural drainage from his Lot, nor shall any Owner permit accelerated storm run-off to leave the Lot without first using reasonable means to retain the water and dissipate the flow energy of water that leaves the Lot.

3.15 Vehicles Restricted to Roadways. Except during construction, no motor vehicle will be operated on the Subdivision except on improved roads and driveways.

3.16 No Transient Lodging Uses. The Lots are to be used for residential housing purposes only, and shall not be rented in whole or in part for the conduct of a transient lodging business, or the operation of a boarding house, "bed and breakfast," or other uses for providing accommodations to travelers. This section shall not prohibit the rental of a home for vacation purposes.

3.17 No Re-Subdivision. No Lot may be re-subdivided without the consent of the Architectural Committee, and no re-subdivision of any Lot may result in the construction of any additional Dwelling units within the Subdivision.

3.18 Combination of Lots. Subject to the provisions of this Declaration and the limitations set forth in this Section, any Owner may combine two or more adjoining Lots within the Subdivision. The placement of the Dwelling on the combined Lots shall be subject to review and approval of the Architectural Committee. The Architectural Committee may require supplemental landscaping to mitigate the effect of the Lot combination on neighboring properties and the appearance of the neighborhood. The combination of Lots is deemed to be permanent and the Lots may not be independently sold once construction has commenced on the Improvements for the combined Lot. The Owner of any Lots that have been combined will execute and deliver to the Committee a notice in recordable form, containing the name of the Owner and the legal description

of the Lots combined, which Notice will state that the two Lots have been combined and cannot subsequently be subdivided. The Committee shall record this Notice with the Washington County Recorder upon the commencement of construction of the Dwelling on the combined Lots.

4. **Design Standards for Improvements.** All Improvements on any Lot shall be subject to the following restrictions and architectural design standards:

4.1 **Number of Dwellings.** Only one Dwelling may be constructed on any Lot. All Dwellings shall have an attached garage for at least two cars. No other habitable structure may be permitted on any Lot. A separate storage structure may be permitted by the Architectural Committee on a Lot on the conditions that the structure is permitted by the Town. The Architectural Committee may condition such approval on the Owner's compliance with conditions with respect to use, location, height, color, materials, fencing and/or landscaping.

4.2 **Dwelling Size.** The minimum allowable Dwelling size for each Lot in the Subdivision, stated as the square footage of the main floor living area of the Dwelling that is under roof and enclosed by walls (excluding for this purpose the garage and any unfinished storage areas) is 1250 square feet.

4.3 **Dwelling Setback and Placement.** All portions of the Dwelling unit are to be within the minimum front, rear and side yard setbacks as shown on the Plat or as required by the Town.

4.4 **Dwelling Height.** One and two story structures shall be allowed. No structure on any Lot may exceed 30 feet in height as measured at the natural grade on the Lot prior to construction, to the highest point on the ridge line of the roof.

4.5 **Roof Design.** Roof pitches must be at least a 5/12 slope and may not exceed a 10/12 slope. All roofing shall be concrete or similar masonry tile. The following tile colors may be prohibited in sole discretion of the Architectural Committee: black, grey, blue, yellow, or multiple color tiles (excluding from this prohibition minor color variations from the use of a secondary color tone, flashing or other manufacturing processes). The Architectural Committee reserves the right to specify the brand name or color of prohibited tiles. No other roofing of any kind shall be permitted. Mansard, fake mansard, A-frame, gambrel, curvilinear, and domed roof designs are prohibited. Flat roofs for the entire Dwelling are prohibited, but a portion of a Dwelling not exceeding fifty percent of the enclosed area of a Dwelling (including for this purpose the garage area) may be covered with a flat roof with specific Architectural Committee approval.

4.6 Exterior Style, Surface Materials, Accent Materials and Colors. The Architectural Committee may require the use pop-outs or other features providing vertical relief from flat wall surfaces on the front and sides of Dwellings. Stucco, tile, wood, stone or masonry products may be used as the exterior surface material. The Architectural Committee may approve other accent materials. The Architectural Committee shall have the right to approve or disapprove of the color of each structure within the Subdivision in order to encourage and achieve an appropriate mix of colors while promoting and achieving the harmonious development of the streetscape within the Subdivision. The Architectural Committee may prohibit strong or bright colors in the grey, blue, pink, yellow or orange families. Bright or dramatic colors in doors, trellises, tiles or other accent elements may be approved as part of the exterior wall or facade areas, or such colors may be prohibited in the discretion of the Architectural Committee. No reflective materials shall be used on the exterior of any structure. The Architectural Committee may require Improvements to be protected by a concrete or gravel apron to avoid soil staining.

4.7 Chimneys, Vents. Chimneys must be enclosed in an approved material. No exposed metal flues are permitted. All chimney tops on any Dwelling must be of identical design. Vent stacks must be combined to the extent possible to minimize the number of roof penetrations, and should generally not be visible from the street.

4.8 Antennas; Solar Panels; Mechanical Equipment. The Architectural Committee may develop standards for the location on the roof of satellite dishes that do not exceed 24 inches in diameter and standard television antennas. Any satellite dishes larger than 24 inches in diameter must be located on the ground and screened in a manner approved in advance by the Architectural Committee so that they are not directly visible from adjoining Lots. Any other antennas may not be located on a Lot unless specifically approved by the Architectural Committee. Solar panels will be permitted only with the consent of the Architectural Committee, and if permitted at all, must lie flat against the roof and may not differ in pitch or color from the roof surface on which they are mounted. Exterior mechanical equipment must be screened in a manner approved by the Architectural Committee and may not be located on the roof.

4.9 No Used or Temporary Structures. No previously erected, used, or temporary structure, mobile home, trailer house, or any other non-permanent structure may be installed or maintained on any Lot.

5. Landscape Standards. Water is a precious resource in the desert environment, and careful planning should be given to the water demands created by landscaping of Lots. It is the intent of this Declaration to require appropriate landscaping of Lots following construction of any Improvements, and to encourage the

use of appropriate drought tolerant plant materials. The use and Improvement of each Lot is subject to the following Landscape Standards:

5.1 Front and Side Yard Landscaping Required. Each Owner shall be required to submit landscape plans for the front and any unfenced side yard of the Lot to the Architectural Committee with the plans submitted for the construction of the residence and shall complete the installation of front and side yard landscaping within sixty days after completion of construction of the residence on a Lot, weather permitting. The Architectural Committee may require the Owner to provide evidence that the front and side yard landscaping is included in the construction contract for the residence or otherwise provide a bond or deposit to assure the installation of such landscaping. Landscaping may consist of planter areas containing shrubs, plants, ground covers, trees and organic or gravel mulch, lawn areas with grass, graveled areas and areas of native vegetation that are maintained to prevent weed growth. The landscaping plan shall be submitted to the Architectural Committee for approval. The landscaping plan shall generally comply with the following guidelines: The Architectural Committee may establish a general guideline for landscaping limiting the excessive use of grass or gravel or in the landscaping of the front yard (which guideline or limitation shall not count the use of gravel as a mulch in planter areas containing shrubs and plants), or require additional planter areas to provide visual relief from extended flat surfaces. The landscaping plan must also provide for automatic sprinklers to water all planted and grass areas. The colors and style of gravel and stone may be limited by the Architectural Committee.

5.2 Rear Yard Landscaping. Each Owner shall be required to submit landscape plans for the rear yard to the Architectural Committee with the plans submitted for the construction of the residence and shall complete the rear yard landscaping within one year after completion of the construction of the Dwelling on a Lot. The Architectural Committee may require the Owner to provide evidence that the rear yard landscaping is included in the construction contract for the residence or otherwise provide a bond or deposit to assure the installation of such landscaping. The Architectural Committee may establish standards for rear yard landscaping. The Architectural Committee may approve a delay in such installation upon the request of an Owner based on good cause.

5.3 Drought Tolerant Plants Recommended. The use of drought tolerant species of grasses, shrubs, and trees is strongly recommended. The Architectural Committee may maintain a list of drought tolerant species suitable for different exposures within the Washington County area. The majority of the planted area of each Lot is to be planted with species from any list maintained by the Architectural Committee for this purpose.

5.4 Placement of Trees. Planting of one or more trees is encouraged. The location of trees will be subject to review by the Architectural Committee.

5.5 Sprinkler Systems. Permanent underground sprinkler systems with automatic controls are required within any vegetated area.

5.6 Fences and Walls. Fencing or walling of Lots along the Lot line shall be permitted in the Subdivision only as allowed by the Architectural Committee. The area that may be enclosed with a six foot high fence or wall shall be limited to the side yards and rear yards of the Lots, beginning at a point that is at least two (2) feet behind the front face of the structure on the Lot. No fencing or walls shall occur in the front yard area of any Lot except for privacy walls not in excess of four and one half feet in height. Walls consisting of concrete block or concrete with stucco finish and wood fences shall be permitted, although the color and design shall be subject to review. No chain link or other wire fencing is permitted except the Architectural Committee may allow a chain link fence with maintained wood slats either (i) between two Lots sharing side yards, where both Owners of the Lots have consented to the use of chain link in writing or (ii) as a gate providing access to the side yard area on the garage side of the residence. The Architectural Committee may maintain approved fence or wall designs and elevations for use by Owners. Where two or more Lot lines are shared with adjacent Owners, the Architectural Committee may require that permission for the fencing be obtained from the adjacent Owner prior to installation. The Architectural Committee reserves the right to require the installation of walls or fencing at the time of construction of a residence on a Lot.

6. Owners' Maintenance Obligations. It is the obligation of each Owner to maintain his Lot at all times in order to preserve and enhance the enjoyment of the Subdivision:

6.1 Duty to Maintain. It is the obligation of the Owner of each Lot to maintain his Lot and the Improvements to the Lot in a good state of repair and an attractive, safe, and healthy condition. All landscaped areas shall be watered by an automatic sprinkling system as appropriate for the landscaping installed. The Lot shall be maintained by the Owner in a weed free condition.

6.2 Repair by Architectural Committee. In the event that an Owner permits his Lot or Improvements to fall into a state of disrepair that is dangerous, unsafe, unsanitary, or unsightly condition or fails to comply with any other covenant or restriction in violation of this Declaration, the Architectural Committee may give written notice to the Owner describing the condition complained of and demanding that the Owner correct the condition within thirty (30) days or within seven (7) days

with respect to any failure to adequately maintain and water landscaping. If the Owner fails to take corrective action, the Architectural Committee shall have the right, but not the obligation, to enter upon the offending Owner's Lot and take corrective action to abate the condition. All costs of abatement shall be charged to the Owner, who agrees to promptly pay the reasonable costs of any work performed under this provision. In addition, each Owner hereby grants to the Architectural Committee a lien on the Lot and any Improvements to secure repayment of any sums advanced pursuant to this section, which lien may be foreclosed at any time by the Architectural Committee in the manner prescribed in Utah for the foreclosure of mortgages. Alternatively, without requiring foreclosure, the Architectural Committee may seek collection of sums advanced directly from the Owner of the Lot in question. Unpaid amounts will bear interest from the date advanced at the lawful judgment rate under applicable state law. The Architectural Committee is hereby granted the right of access to the Lot and Improvements of the offending Owner to the extent reasonably required to abate any condition covered in a notice given pursuant to this Section.

6.3 Alterations of Exterior Appearance. The Owners will maintain their Lots and improvements in substantially the same condition and appearance as that approved by the Architectural Committee. No subsequent exterior alterations, improvements or remodeling, whether structural or changes in landscaping, paint color or siding or trim materials will be made without the advance consent of the Committee.

6.4 Repair Following Damage. In the event of casualty loss or damage to the Improvements, the Owner will be entitled to reconstruct the Improvements as they existed prior to the damage or loss without review by the Committee, provided however that alterations or deviations from the originally approved plans will require review. Nothing in this Declaration is intended to prevent an Owner who has suffered property damage or loss from taking temporary measures to secure the property and prevent further damage, or to prevent injury or dangerous conditions following loss or damage, before re-construction begins. Such temporary measures may be taken without the consent or approval of the Architectural Committee, provided that any such measures must be of a temporary nature, and repair or reconstruction must begin as soon as circumstances will permit. No damaged structure will be permitted to remain on any Lot for more than 90 days without repairs commencing, and any damaged structure which does remain unrepaired after 90 days following the occurrence of damage is deemed a nuisance which may be abated by the Architectural Committee.

7. Construction Covenants. In order to minimize the inconvenience to adjoining Owners during periods of construction within the Subdivision, the following construction regulations shall be enforced. These regulations shall be made a part of the

construction contract between the Owner and the builder of each Dwelling or other Improvements on a Lot. The Owner shall be bound by these regulations, and violations committed by the builder or its employees, sub-contractors or others shall be deemed a violation by the Owner for which Owner is liable.

7.1 Construction Area Appearance. The Lot must be maintained in a reasonably organized and neat condition at all times during the construction of a Dwelling or other Improvements. Once the Dwelling is enclosed, materials shall be stored inside, and out of sight, whenever practical and possible.

7.2 Construction Debris Removal. Each builder must comply with ordinances requiring the placement and maintenance of a trash container or dumpster on the Lot. Each builder shall collect trash at the end of each work day and depositing construction trash, packing material, unusable scraps, and other debris in a suitable container, protected from the wind, and regularly serviced. No trash may be burned, buried, or otherwise disposed of within the Subdivision. No concrete trucks may be cleaned out on the Lot or elsewhere within the Subdivision.

7.3 Soil Conservation; Dust. At all times when the surface of the Lot is disturbed by construction activity, and re-vegetation has not been completed, each builder shall practice reasonable dust, sedimentation and erosion control measures.

7.4 Removal of Mud. Each builder is responsible for cleaning up and removing mud from the construction site that is deposited on the roadways of the Subdivision.

7.5 Clean-up Deposit. At the time of submission of plans for review by the Architectural Committee, the Owner or builder shall submit to the Architectural Committee a deposit in an amount determined from time to time by the Architectural Committee in excess of \$200. The deposit shall be held by the Architectural Committee without interest in order to provide partial security for the performance of the obligations set forth in sections 7.1 to 7.5. The Architectural Committee may apply such funds to clean-up construction materials, mud or site specific violations of these covenants during construction. In the event responsibility for a problem cannot reasonably be determined, the Architectural Committee may apply the deposits of more than one Owner or builder to remedy the violation of the covenants. The balance of the deposit shall be refunded within thirty (30) days after completion of front yard landscaping in accordance with the requirements of this Declaration. The provisions of this paragraph may be waived by the Architectural Committee in the event the Town does not collect a clean-up deposit at the time a building permit is issued.

7.6 Sanitary Facilities. Each builder is responsible for the installation and maintenance of an approved portable toilet facility during construction. The portable toilet must be located on the Lot at a location approved by the Committee, and removed from the site at such time as the permanent plumbing system is operational.

7.7 Construction Parking and Vehicles. Construction crews must park their vehicles on the Lot on which they are working, and shall not use or park on any other Lot. All vehicles must be parked to allow the free flow of traffic within the Subdivision.

7.8 Construction Sign. During periods of actual construction on the Dwelling, the Owner or builder may install a sign not to exceed twenty square feet in area identifying the Lot and the builder. The sign must be removed upon completion or abandonment of construction.

7.9 Hours of Work. Daily working hours on the site shall be limited to the period beginning one half hour after sunrise and ending one half hour before sunset, unless otherwise restricted by ordinances. Each builder is responsible for controlling noise emanating from the site.

7.10 Duration of Construction. No construction shall be undertaken without a Building Permit and all other necessary permits from the Town and any other governmental entity having jurisdiction over construction on the site. No materials, tools, temporary offices or portable toilets, excavation or construction equipment, or similar materials or equipment may be delivered to this site prior to the issuance of the Permit. It is the obligation of the Owner to proceed with construction with all reasonable speed once construction has commenced, and in any event, all exterior surfaces of the Dwelling shall be substantially complete within a period of six (6) months from commencement.

8. General Provisions. The covenants, conditions, and restrictions contained in this Declaration may be enforced as follows:

8.1 Violation Deemed a Nuisance. Any violation of these Covenants which is permitted to remain on the property is deemed a nuisance, and is subject to abatement by the Architectural Committee or by any other Owner.

8.2 Remedies.

(a) Any single or continuing violation of the covenants contained in this Declaration may be enjoined in an action brought by the Declarant (for so long as the Declarant is the Owner of any Lot), by any other Owner, or by the Architectural

Committee in its own name. In any action brought to enforce these covenants, the prevailing party shall be entitled to recover as part of its judgment the reasonable costs of enforcement, including attorneys fees and costs of court.

(b) Nothing in this Declaration shall be construed as limiting the rights and remedies that may exist at common law or under applicable federal, state or local laws and ordinances for the abatement of nuisances, health and safety, or other matters. these covenants are to be construed as being in addition to those remedies available at law.

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

(d) The failure to take enforcement action shall not be construed as a waiver of the covenants contained in this Declaration in the future or against other similar violations.

8.3 Severability. Each of the covenants contained in this Declaration shall be independent of the others, and in the event that any one is found to be invalid, unenforceable, or illegal by a court of competent jurisdiction, the remaining covenants shall remain in full force and effect.

8.4 Limited Liability. Neither the Declarant or the Architectural Committee or its individual members, nor any other Owner shall have personal liability to any other Owner for actions or inactions taken under these covenants, provided than any such actions or inactions are the result of the good faith exercise of their judgment or authority, under these covenants, and without malice.

8.5 Amendment. At any time while this Declaration is in effect, the Owners of 80% of the Lots may amend the provisions of this Declaration. Any amendment must be in writing and be approved by 80% of such Owners at the time of the amendment. No such amendment will be binding upon the holder of any mortgage or trust deed unless the holder joins in the amendment.

8.6 Constructive Notice. Every person who owns, occupies, or acquires any right, title or interest in any Lot in the Subdivision is conclusively deemed to have notice of this Declaration and its contents, and to have consented to the application and enforcement of each of the covenants, conditions and restrictions against his Lot, whether or not there is any reference to this Declaration in the instrument by which he acquires his interest in any Lot.

8.7 Notices. All notices under this Declaration are deemed effective 72 hours after mailing, whether delivery is proved or not, provided that any mailed notice must have postage pre-paid and be sent to the last known address of the party to receive notice. Notices delivered by hand are effective upon delivery.

8.8 Liberal Interpretation. The provisions of this Declaration shall be interpreted liberally to further the goal of creating a uniform plan for the development of the Subdivision. Paragraph headings are inserted for convenience only and shall not be considered in interpretation of the provisions. Singular will include plural, and gender is intended to include masculine, feminine and neuter as well.

The foregoing instrument was executed as of the date stated above.

Window Rock Development Partners I, Ltd., a Utah
Limited Partnership

By: HomesWest, L.C., a Utah Limited Liability
Company, its General Partner

By: *Thomas A. Ellison*

State of Utah)
) :ss
County of Salt Lake

The foregoing instrument was acknowledged before me on the 7th day of June, 1996 by Thomas A. Ellison, a member of HomesWest, L.C., which is the general partner of Window Rock Development Partners I, Ltd.

Renée M. Esson
Notary Public
Residing at: Sandy, UT.

My Commission Expires:

8-18-97



Wilford Hafen
Wilford Hafen

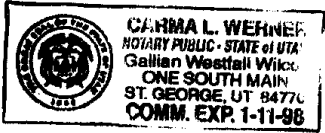
JoAnne B. Hafen
JoAnne B. Hafen

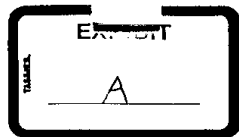
State of Utah)
County of Washington) :ss

The foregoing instrument was acknowledged before me on the 18th day of July, 1996, by Wilford Hafen and JoAnne B. Hafen.

Carma L. Werner
Notary Public
Residing at: St George, UT

My Commission Expires:
1-11-98





A PARCEL OF LAND SITUATED WITHIN LOT 4, BLOCK 12, ST. GEORGE AND SANTA CLARA BENCH IRRIGATION SURVEY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT WHICH LIES S 0°10'03" W 690.80 FEET ALONG THE CENTER SECTION LINE AND EAST 33.00 FEET FROM THE NORTH 1/4 CORNER OF SECTION 5, TOWNSHIP 42 SOUTH, RANGE 16 WEST, SALT LAKE BASE AND MERIDIAN, SAID POINT BEING ALSO ON THE EASTERLY RIGHT OF WAY LINE OF 400 EAST STREET AND ON THE SOUTHERLY BOUNDARY OF STEPHEN GUBLER SUBDIVISION, ACCORDING TO THE OFFICIAL PLAT THEREOF, RECORDS OF WASHINGTON COUNTY AND RUNNING THENCE N 88°30'50" E 611.40 FEET ALONG SAID SOUTHERLY BOUNDARY TO A POINT ON EAST LINE OF SAID LOT 4; THENCE S 0°06'07" E 656.37 FEET TO THE SOUTHEAST CORNER OF SAID LOT 4; THENCE S 88°45'03" W 614.42 FEET ALONG THE SOUTH LINE OF SAID LOT 4 TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF SAID 400 EAST STREET; THENCE N 0°10'03" E 653.91 FEET ALONG SAID EASTERLY RIGHT OF WAY LINE TO THE POINT OF BEGINNING.

CONTAINS 9.215 ACRES.

00538742 Bk1020 Pg0031