

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF  
CAMEO PARK**

THIS IS A DECLARATION of Covenants, Conditions and Restrictions which establishes a planned unit development as Cameo Park.

**RECITALS**

Declarant is the owner of certain real property (the "properties") in Ivins, Washington County, Utah, which is more particularly described below.

Declarant will convey the properties subject to certain protective covenants, conditions, restrictions, reservations, assessments, charges and liens as hereinafter set forth.

It is the desire and intention of Declarant to construct homes and sell the homes with the lots to various purchasers, and to convey common area to an Association in which the homeowners will be members.

**DECLARATION**

Declarant hereby declares that all of the properties described below shall be held, sold, conveyed and occupied subject to the following covenants, conditions, restrictions, easements, assessments, charges and liens, and to the Map recorded concurrently. This is for the purpose of protecting the value and desirability of the properties. This Declaration and the Map shall be construed as covenants of equitable servitude; shall run with the properties and be binding on all parties having any right, title or interest in the properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

The Properties are located in Ivins, Washington County, Utah, and are described as:

SEE EXHIBIT "A" WHICH IS ATTACHED HERETO AND  
INCORPORATED HEREIN BY THIS REFERENCE

**ARTICLE 1 --DEFINITIONS**

The following definitions control in this Declaration. These terms, though defined, are generally not capitalized in the Declaration.

Section 1.1. Declaration means this instrument, and any amendments.

Section 1.2. Plat or Map means the subdivision plat recorded herewith entitled "Cameo Park Subdivision", consisting of one sheet, prepared and certified by

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BUSH & GUDGELL INC., a Utah Registered Land Surveyor, or any replacements thereof, or additions thereto.

Section 1.3. Property or Properties means that certain real property hereinbefore described, and such additions thereto as may hereafter be subjected to this Declaration.

Section 1.4. Common Area means that portion of property owned by the Association, shown on the plat as common area. Common area is dedicated to the common use and enjoyment of the homeowners.

Section 1.5. Limited Common Area means that portion of property owned by the Association, if any, shown on the plat as limited common area. The owner of the lot to which such limited common area is adjacent and/or appurtenant has the use and enjoyment of that limited common area to the exclusion of other owners. Limited Common Area is subject to rights of the Association set forth in this Declaration.

Section 1.6. Lot means a separately numbered and individually described plot of land shown on the plat designated as a lot for private ownership, but specifically excludes the common and limited common areas.

Section 1.7. Home means a single family dwelling, with or without walls or roofs in common with other single family dwelling lots. When the term "Home" is used, it includes fee title to the real property lying directly beneath the single family dwelling, within lot boundary lines. This, however, is not all the lot in some instances as there may be lot boundary outside the home walls.

Section 1.8. Owner or Homeowner means the entitled, person, or group of persons owning fee simple title to any lot and home which is within the properties. Regardless of the number of parties participating in ownership of each lot, the group of those parties shall be treated as one "owner."

Section 1.9. Association means Cameo Park Homeowners Association, its successor and assigns.

Section 1.10. Member means every person or entity who holds membership in the Association. Every member is a homeowner, and every homeowner is a member.

Section 1.11. Trustees means the governing body of the Association.

Section 1.12. Declarant means MERRILL & ASSOCIATES, L.L.C. and the Declarant's heirs, successors and assigns.

Section 1.13. Mortgage includes "deed of trust" and mortgagee includes "trust deed beneficiary."

## ARTICLE 2 -- PROPERTY RIGHTS

Section 2.1. Title to Common Area. The Declarant will convey fee simple title to the common area and limited common area to the Association, free and clear of all encumbrances and liens, prior to the conveyance of the first lot, but subject to this Declaration, and easements and rights-of-way of record. In accepting the deed, the Association will covenant to fulfill and the terms of this Declaration, to maintain the common area in good repair and condition at all times and to operate the common area at its own expense in accordance with high standards.

Section 2.2. Homeowners' Easements of Enjoyment. Every homeowner has a right and easement of use and enjoyment in and to the common area and limited common area. This easement is appurtenant to and passes with the title to every home and lot, subject to:

- (a) The right of the Association to charge reasonable admission, use, service and other fees for the use of any service of the Association or provided upon the common area.
- (b) The right of the Association to limit the number of guests or members using the common area.
- (c) The right of the Association to suspend the voting rights and/or common utility service of a member for any period during which any assessment or portion thereof against his lot remains unpaid; and for a period of not to exceed sixty (60) days for any infraction of its published rules and regulations.
- (d) The right of the Association to enter into agreements or leases which provide for use of the common areas and facilitate by a similar Association in consideration for use of the common areas and facilities of the other Association, or for cash consideration;
- (e) The right of the Association, with the approval of sixty-seven percent (67%) of each class of owners, to sell, exchange, hypothecate, alienate, mortgage, encumber, dedicate, release or transfer all or part of this common area to any private individual, corporate entity, public agency, authority, or utility.
- (f) The right of the Association to grant easements for public utilities or other public purposes consistent to the intended use of the common area by the Association.
- (g) The right of the Association to take such steps as are reasonably necessary or desirable to protect the common area against foreclosure.
- (h) The terms and conditions of this Declaration.
- (i) The right of the Association, through its Trustees, to adopt rules and regulations concerning use of the common area.
- (j) The right to use of common area of certain owners of any subdivision so designated by Declarant, as outlined in Section 2.6.

Section 2.3. **Limited Common Area.** A homeowner is entitled to use of the limited common area adjacent and appurtenant to the lot, if any, all to the exclusion of other homeowners. The Association, through its Trustees, may adopt rules and regulations concerning use of the limited common area. Limited common area is subject to the rights of the Association set forth in this Declaration.

Section 2.4. **Delegation of Use.** A homeowner or one having a right of use of facilities is deemed to delegate his right of enjoyment to the common area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property. Damage caused to the common area and facilities, including personal property owned by the Association, by a member, or by a person who has been delegated the right to use and enjoy such common area and facilities by the member, shall create a debt to the Association. Debt owed to the Association as a result of damage to the common area and facilities shall be an assessment charged to the homeowner.

Section 2.5. **Rules.** The Board of Trustees shall have the authority to promulgate rules and regulations for the governance of the Properties, and persons within the Properties. These rules of the Association shall be compiled and copies shall be made available for inspection and copying by the Trustees.

### ARTICLE 3 -- MEMBERSHIP AND VOTING RIGHTS

Section 3.1. **Membership.** Every homeowner is a member of the Association. The term "homeowner or owner" includes contract purchasers but does not include persons who hold an interest merely as security for the performance of an obligation unless and until title is acquired by foreclosure or similar proceedings. Membership is appurtenant to and may not be separated from lot and home ownership. Membership in the Association automatically transfers upon transfer of title by the record owner to another person or entity.

Section 3.2. **Voting Rights.** The Association has two classes of voting membership:  
CLASS A. Class A members are all members with the exception of the Declarant, as defined in the Declaration. Class A members are titled to one vote for each lot owned. When more than one person holds an interest in any lot, the group of such persons shall be a member. The vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any lot. A vote cast at any Association meeting by any of the such co-owners, whether in person or by proxy, is conclusively presumed to be the vote attributable to the lot concerned unless written objection is made prior to that meeting, or verbal objection is made at that meeting, by another co-owner of the same lot. In the event an objection is made, the vote involved shall not be counted for any purpose except to determine whether a quorum exists.

CLASS B. The Class B member is the Declarant. The Class B member is entitled to three (3) votes for each Lot owned. The Class B membership will cease and be converted to Class A membership on the happening of one of the following events, whichever occurs earlier:

- (a) the expiration of seven (7) years from the first lot and home conveyance to a purchaser; or
- (b) the surrender of Class B membership status by the express written action of the Declarant in the case of expansion (as provided under the Declaration), the Declarant's memberships appurtenant to the lots in the expansion area shall be Class B memberships.

#### ARTICLE 4 -- FINANCES AND OPERATIONS

Section 4.1. Creation of the Lien and Personal Obligation of Assessments. Each subsequent owner of any lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, covenants and agrees to pay to the Association (1) annual assessments or charges; (2) special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided; (3) any other amount or assessment levied or charged by the Association or Board of Trustees pursuant to this Declaration, and (4) interest, costs of collection and a reasonable attorney's fee, as hereinafter provided. All such amounts shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment or amount is charged. Such assessments and other amounts shall be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. Successors-in-title shall not be personally liable for assessments delinquent at the time they took title unless that obligation is expressly assumed by them.

Section 4.2. Purpose of Assessments. The assessments levied by the Association shall be used (a) for the purpose of promoting the recreation, health, safety, and welfare of the residents of the properties; and (b) for the improvement and maintenance of properties, streets, services, and facilities devoted to this purpose. The assessments must provide for, but are not limited to, the payment of taxes on Association property and insurance maintained by the Association; the payment of the cost of repairing, replacing, maintaining and constructing or acquiring additions to the common and limited common area, including street; the payment of administrative expenses of the Association; insurance deductible amounts; the establishment of a reserve account for repair, maintenance and replacements of those common and limited common areas which must be replaced on a periodic basis; and other amounts required by this Declaration or that the Trustees shall determine to be necessary to meet the primary purposes of the Association. The assessments may provide, at the discretion of the Trustees, for the payment of other charges including (without limitation) maintenance, management, utility, cable television, trash collection, sewer and water changes.

Section 4.3. Maximum Annual Assessment. Until January 1 following recording of this Declaration, the maximum annual assessment shall be \_\_\_\_\_ (\$ \_\_\_\_\_) per lot. This amount shall be the basis of calculation for future maximum annual assessments.

- (a) From and after the date referred to above, the maximum annual assessment shall be increased each year by five percent (5%) above the maximum assessment for the previous year, without a vote of the membership.
- (b) The Association may change the basis and maximum of the assessments fixed by this Section prospectively for any annual period provided that any such change shall have the assent of sixty-seven percent (67%) of the votes of each class of members, voting in person or by proxy, at a meeting duly called for this purpose.

The actual general assessment need not increase annually. The Board shall set the actual general annual assessment on an annual basis. Notice shall be given to each homeowner as provided in Section 8. The Board must set the actual general assessment to be an amount at or less than the Maximum Annual Assessment.

Section 4.4. Special Assessments for Capital Improvements. In addition to the annual assessments, the Association may levy in any assessment year a special assessment, applicable to that year only. Special assessments may only be levied to defray, in whole or in part, the cost of any construction, reconstruction, repair or replacement of common or limited common area structures, fixtures and personal property related thereto. Special assessments must have the assent of sixty-seven percent (67%) of the votes of each class of the members authorized to vote, in person or by proxy, at a meeting duly called for this purpose.

Section 4.5. Notice and Quorum for Any Action Authorized Under Sections 4.3 and 4.4. Written notice of any meeting of members called for the purpose of taking any action authorized under Sections 4.3 or 4.4 shall be sent to all members at least thirty (30) days in advance of said meeting. At the first meeting called, the presence at the meeting of members, or of proxies, entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the quorum requirement is not met at such a meeting, another meeting may be called, on at least thirty (30) days' advance written notice, and the required quorum at any such subsequent meeting shall be one-half of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 4.6. Uniform Rate of Assessment; Periodic Assessment. Both annual and special assessments must be fixed at a uniform rate for all lots; provided, however, that assessments shall not accrue against the Declarant so long as the Declarant has Class B membership.

Annual, special and additional assessments may be collected on a monthly or quarterly basis, as the Trustees determine.

Section 4.7 Date of Commencement of Annual Assessments; Due Dates. The annual assessment provided for herein shall commence to accrue on the first day of the month following conveyance of the common area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year.

At least thirty (30) days prior to the commencement of each new assessment period, the Trustees shall send or cause to be sent a written notice of the annual assessment to each homeowner subject thereto. This notice shall not be a pre-requisite to validity of the assessment.

In the absence of a determination by the Trustee as to the amount of said assessment, the annual assessment shall be an amount equal to 90% of the maximum annual assessment determined as provided above.

The assessment due dates shall be established by the Trustees. The Trustees may provide for the payment of annual and special assessments in equal installments throughout the assessment year.

The Trustees shall prepare a roster of the properties and the assessments applicable thereto at the same time that it shall fix the amount of the annual assessment, which roster shall be kept by the Treasurer of the Association, who shall record payments of assessments and shall allow inspection of the roster by any member at reasonable times.

The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessment on a specified lot has been paid. Such certificates, when properly issued, shall be conclusive evidence of the payment of any assessment or fractional part thereof which is therein shown to have been paid.

Section 4.8. Effect of Non-Payment of Assessment - Remedies of the Association. Any assessment or installment thereof not paid within thirty (30) days after the due date therefor shall be delinquent and shall bear interest from the due date at the rate of eighteen percent (18%) per annum (or such lesser rate as the Trustees shall determine appropriate) until paid. In addition, the Trustees may assess a late fee for each delinquent installment which shall not exceed ten percent (10%) of the installment.

The Trustees may, in the name of the Association, (a) bring an action at law against the homeowner personally obligated to pay any such delinquent assessment without waiving the lien of assessment, or (b) may foreclose the lien against the property in accordance with the laws of the State of Utah applicable to the exercise of powers of sale in deeds of trust or to the foreclosure of mortgages, or in any other manner permitted by law, and/or (c) may restrict, limit, or totally terminate any or all services performed by the Association in behalf of the delinquent member.

There shall be added to the amount of any delinquent assessment the costs and expenses of any action, sale or foreclosure, and a reasonable attorney's fee, together with an account for the reasonable rental for the lot from time to time of commencement of the foreclosure. The Association shall be entitled to the appointment of a receiver to collect the rental income or the reasonable rental without regard to the value of the other security.

A power of sale is hereby conferred upon the Association which it may exercise. Under the power of sale the home of an owner may be sold in the manner provided by Utah law pertaining to deeds of trust as if said Association were beneficiary under a deed of trust. The Association may designate any person or entity qualified by law to serve as Trustee for purposes of power of sale foreclosure.

No homeowner may waive or otherwise escape liability for the assessments provided for herein by non-use of the common area or by abandonment of his lot and home.

Section 4.9 Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage held by an institutional lender if the mortgage was recorded prior to the date the assessment became due. Sale or transfer of a home shall not affect the assessment lien. However, the sale or transfer of any home pursuant to foreclosure of a first mortgage or any proceeding in lieu thereof, shall extinguish the assessment lien as to payments which became due prior to such sale or transfer. No sale or transfer, however, shall relieve a lot or owner from personal liability for assessments coming due after taking title or from the lien of such later assessments.

Section 4.10. Books, Records and Audit. The Association shall maintain current copies of the Declaration, Articles, Bylaws, Rules and other similar documents, as well as its own books, records and financial statements which shall all be available for inspection by homeowners and insurers as well as by holders, insurers and guarantors of first mortgages during normal business hours upon reasonable notice. Charges shall be made for copying, researching or extracting from such documents. A homeowner or holder, insurer or guarantor of a first mortgage may obtain an audit of Association records at its own expense so long as the results of the audit are provided to the Association.

#### ARTICLE 5 -- INSURANCE

Section 5.1. Casualty Insurance on Insurable Common Area. The Trustees shall keep all insurable improvements and fixtures of the common area insured against loss or damage by fire for the full insurance replacement cost thereof, and may obtain insurance against such other hazards and casualties as the Association may deem desirable. The Association may also insure any other property, whether real or personal, owned by the Association, against loss or damage by fire and such other hazards as the Association may deem desirable, with the Association as the owner and beneficiary of such insurance. The insurance coverage with respect to the common area shall be written in the name of, and the proceeds thereof shall be payable to, the Association. Insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried. Premiums for all insurance carried by the Association are common expenses which shall be included in the regular annual assessments made by the Association.

Section 5.2. Replacement or Repair of Property. In the event of damage to or destruction of any part of the common area improvements, the Association shall repair or replace the same from the insurance proceeds available. If such insurance proceeds are insufficient to cover the costs of repair or replacement of the property damaged or destroyed, the Association may make a reconstruction assessment against all homeowners to cover the additional cost of repair or replacement not covered by the insurance proceeds, in addition to any other common assessments made against such homeowner.

In the event of damage or destruction by fire or other casualty to any portion of the development covered by insurance written in the name of the Association, the Trustees are

empowered to and shall represent the members in any proceedings, negotiations, settlements or agreements. The Association is appointed attorney-in-fact of each homeowner for this purpose.

Section 5.3. Liability Insurance. The Trustees shall obtain a comprehensive policy of public liability insurance covering all of the common and limited common property for at least \$1,000,000.00 per occurrence for personal or bodily injury and property damage that results from the operation, maintenance or use of the common areas. Liability insurance policies obtained by the Association shall contain a "severability of interest" clause or endorsement which shall preclude the insurer from denying the claim of a homeowner because of negligent acts of the Association or other homeowners.

Section 5.4. Fidelity Insurance. The Trustees may elect to obtain fidelity coverage against dishonest acts on the part of managers, Trustees, officers, employees, volunteers, management agents or others responsible for handling funds held and collected for the benefit of the homeowners or members. In procuring fidelity insurance the Trustees shall seek a policy which shall (1) name the Association as obligee or beneficiary, plus (2) be written in an amount not less than the sum of (i) three months' operating expenses and (ii) the maximum reserves of the Association which may be on deposit at any time, and (3) contain waivers of any defense based on the exclusion of persons who serve without compensation from any definition of "employee."

Section 5.5. Annual Review of Policies. All insurance policies shall be reviewed at least annually by the Trustees in order to ascertain whether the coverage contained in the policies is sufficient to make any necessary repairs or replacements of the property which may be damaged or destroyed.

Section 5.6. Insurance on Lots and Homes. The Association shall have no duty or responsibility to procure or maintain any fire, liability, flood, earthquake or similar casualty coverage for Lots of homes, or for the contents of any home. The Association also shall have no duty to insure against any negligent acts or events occurring at or on Lots or in the homes.

#### ARTICLE 6 -- ARCHITECTURAL CONTROL COMMITTEE

Prior to the commencement of any excavation, construction or remodeling of any structure or of any addition to any structure, or modification of the natural topography of any Lot, or installment of fences or landscaping elements, approval of the Architectural Control Committee is required.

- a. Two (2) complete sets of building plans and specifications shall be filed with the Architectural Control Committee, together with a site or plot plan showing grading, landscaping and all lighting, indicating the exact part of the building site which the improvements will cover, with such a fee as the Architectural Control Committee may determine from time to time, and an application and such supporting material, such as samples of building materials, as the Architectural

Control Committee deems necessary. No work shall commence unless and until the Architectural Control Committee shall endorse on both sets of such plans its written approval that such plans are in compliance with the covenants herein set forth and with the standards herein or hereafter established by said Architectural Control Committee pursuant hereto. The second set of such plans shall be filed as a permanent record with the Architectural Control Committee.

- b. Said Architectural Control Committee shall have the right to refuse to approve any such plans and specifications and shall have the right, in so doing, to take into consideration the suitability of the proposed building, the materials of which it is to be built, the site upon which it is proposed to be erected, the harmony thereof with the surroundings, and the effect of said building, or other structure so planned, on the outlook from adjacent or neighboring property.
- c. The Architectural Control Committee shall promulgate and maintain a list of standards for guidance in approving or disapproving plans and specifications pursuant to this Article.
- d. In the event said Architectural Control Committee fails to approve or disapprove in writing any such plans within sixty (60) days after the submission thereof to the Architectural Control Committee, then approval shall be deemed to have been given.
- e. The Architectural Control Committee shall not be held liable for damages by reason of any action, inaction, approval, or disapproval by it with respect to any request made pursuant to this Article. Any errors or omissions in the design of any building, other improvement or landscaping and any violation of any governmental ordinance are the sole responsibility of the homeowner and the homeowner's designer, architect, or contract. The Architectural Control Committee's review of plans shall in no way be concerned with structural or mechanical integrity or soundness.
- f. The approval of the Architectural Control Committee of any plans and specifications for any work done or proposed shall not constitute a waiver of any right of the Architectural Control Committee to disapprove any similar plans and specifications subsequently submitted.
- g. Until every Lot subject to the covenants has been transferred to a bona fide purchaser, Developer, or any other person appointed in writing by Developer, shall be the Architectural Control Committee. Thereafter, the Architectural Control Committee shall consist of the Board of the Association or of three (3) persons appointed by that Board. When title to all of the Lots in said development has been transferred by the Developer, a majority of the owners of Lots, parts or portions of the Property subject to these covenants shall elect and appoint members of the Board, which shall thereafter be vested with the powers described herein and shall have jurisdiction over all of the property subject to these restrictions, covenants and conditions.
- h. The Architectural Control Committee shall adopt reasonable rules and regulations for the conduct of its proceedings and to carry out its duties and may fix the time

and place of its regular meetings and such extraordinary meetings as may be necessary, and shall keep written minutes of its meetings, which shall be open for inspection upon request. The Architectural Control Committee shall, by majority vote, elect one of its members as chairman and one of its members as secretary and the duties of each will be such as usually appertain to such offices. Notice of meetings shall be given to members who have made application to the Architectural Control Committee for approval of plans.

- i. Unless authorized by resolution of the Board, the members of the Architectural Control Committee shall not receive any compensation for services rendered. Members shall be entitled to reimbursement for reasonable expenses incurred by them in connection with the performance of any Committee function or duty. Professional consultants retained by the Architectural Control Committee shall be paid such compensation as the Architectural Control Committee determines.
- j. Developer shall be exempt from the provisions, restrictions, and requirements of this Article, as the same exists or as it may be amended, supplemented, or replaced in accordance with other provisions of the Declaration.

Without the prior written approval of at least sixty-seven percent (67%) of each of owners, neither the Association nor the Architectural Control Committee shall have the power, by act or omission, to change, waive or abandon any land, scheme or regulations pertaining to the architectural design or the exterior appearance or maintenance of homes and lots, and the maintenance of the common and limited common areas, including walls, fences, driveways, lawns and plantings.

No living unit, accessory or addition to a living unit, other structure or building shall be constructed or maintained, and no grading or removal of natural or approved drainage patterns or installation of fencing or landscaping elements shall occur on a Lot until any required permit or required approval therefor is obtained from the appropriate governmental entity following submission to the appropriate governmental entity of such information as it may reasonably require. The granting of a permit or approval by any governmental entity with respect to any matter shall not bind or otherwise affect the power of the Architectural Control Committee to refuse to approve any such matter.

#### ARTICLE 7 -- DESIGN RESTRICTIONS

In order to promote a harmonious community development and protect the character of the Properties, the following guidelines, together with any guidelines hereafter established by the Architectural Control Committee, are applicable to the Property:

- (a) Purpose and Intent. The intent of these Architectural Guidelines is to encourage a blending of styles within the Property with the natural surroundings and prevailing architecture of the created environment of the project. These standards allow

design latitude and flexibility, while ensuring that the value of the property will be enhanced through the control of site planning, architecture and landscape elements.

The Architectural Guidelines serve as an evaluative aid to homeowners, builders, project developers, design professionals, City staff, the Planning Commission, City Council and the Architectural Control Committee in the design review of individual, private and public developments within Cameo Park.

The City of Ivins Zoning Regulations will apply for any area of design not addressed in these guidelines.

- (b) **Permitted Structures.** The only building or structure permitted to be erected, placed or permitted to be located on any Lot within the subdivision shall be a single level, detached single family dwelling placed within the building envelope for each lot and not to exceed the height requirements found in this section; and must include a minimum of two-car and no more than three-car, private, enclosed garage. No carports or partially enclosed garages will be allowed. All construction shall be of new materials. All structures shall be constructed in accordance with the zoning and building ordinances of Ivins, Utah, in effect from time to time.
- (c) **Setbacks.** The following minimum setback standards apply to the Lot. All measurements shall be made from the applicable Lot line to the foundation, porch or other extension of such building, whichever is nearer to such Lot line.
- Front - Minimum of 18 feet from Lot line to structure.
- Side - Minimum of 10 feet from Lot line to structure.
- Rear - Minimum of 10 feet from Lot line to structure.
- For purposes of this covenants, eaves, steps and open porches shall not be considered as part of the building for the purpose of determining such distances, provided, however, that this shall not be construed to permit any portion of a building, including such eaves, steps or open porches, to encroach upon another Lot.
- (d) **Building Height.** Maximum building height shall be 18 feet. Height is measured from a base line parallel to the existing lot grade to a parallel line intersecting the highest point of any roof element.
- (e) **Dwelling.** Elevations should be consistent with the intended architectural style of the residence and carried around all four elevations of the structure.

- (f) **Facades.** Facades shall be predominately stucco, with accents of brick, stone, or such other material as approved by the Architectural Control Committee.
- (g) **Roof Materials.** Roof material shall be limited to \_\_\_\_\_ or flat clay or flat concrete tiles. Colors shall be subdued earth tones to complement the natural beauty of Padre Canyon selected from or in harmony with approved samples, or in such other colors as may be allowed by the Architectural Control Committee.
- (h) **Sheet metal,** flashing, vents and pipes must be colored or painted to match the material to which they are attached or from which they project. No reflective exterior surfaces or materials shall be used.
- (i) **Colors.** Base building colors shall be in subdued earth tones to complement the natural surroundings and conform to or be in harmony with approved samples. White is prohibited. Pastels or high gloss finishes may not be used. Complementary accent colors can be used on window trim, shutters and doors.
- (j) **Prohibited structures.** Dome structures, log homes, re-located homes, and earth or berm homes of any type are not allowed.
- (k) **Temporary or Other Structures.** No structure of a temporary nature, and no trailer, bus, basement, outhouse, tent, shack, garage, or other outbuilding shall be used at any time as a residence either temporarily or permanently, nor shall any such structures be erected or placed on said property at any time. No old or second-hand structures shall be moved onto any of said Lots. It is the Developer's intention that all dwellings and other buildings to be erected within the subdivision be new construction, of good quality, workmanship, and materials.
- (l) **Accessory Buildings.** No storage or utility buildings are allowed. All such structures intended for such uses must be built so as to be part of the house.
- (m) **Driveways and Parking.** There shall be area on the driveway (excluding sidewalk areas) to park not less than two vehicles per Lot. Each driveway on a Lot shall be constructed out of cement, brick, concrete or interlocking pavers. Cinders, sand, gravel, asphalt or dirt shall not be permitted for driveway material in the front and side yard area of any Lot. The driveway in the front and side yard areas of each Lot shall be in a color which blends with the exterior of the structure located on such Lot.
- (n) **Fences and Sight Obstructions.** No structure, fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at

points forty (40) feet from the intersection of the street lines or, in the case of a rounded property corner, from the intersection of the street property lines extended. The same sight line limitations shall apply on any Lot within the (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at such height to prevent obstruction of such sight lines. No fence, wall, hedge, shrub or other structure shall be placed along any front property line. No fence, wall, hedge, tree, plant, shrub or foliage shall be planted, kept or maintained in such manner as, in the opinion of the Architectural Control Committee, shall create a serious potential hazard or an aesthetically unpleasant appearance to the other residents of the area.

- (o) Fences, walls and other barriers shall be constructed of material in a color and appearing consistent with the wall along the perimeter of the Property. No fences shall be constructed around the patio only.
- (p) Retaining Walls. Retaining walls are restricted to a maximum height of five (5) feet, unless otherwise approved by the Architectural Control Committee. In the event approval is given for a retaining wall higher than five (5) feet, the retaining wall must be tiered and landscaping must be installed to hide the retaining wall.
- (q) Light used to illuminate garages, patios, parking areas or for any other purposes, shall be so arranged as to reflect light away from adjacent residences and away from the vision of passing motorists. Low level outdoor illumination may be used for particular landscape features (trees, rock formations, etc.). All light sources must be shaded. No exposed bulbs are permitted.
- (r) Antennas for radio, television, or device for the reception or transmission of radio, microwaves or other similar signals are restricted to the attic or interior of the residence. It is mandatory that all homes be pre-wired for cable reception. Satellite dish antennas shall be allowed provided they are located in such areas as may be designated by the Architectural Control Committee. In no event shall satellite dish antennas be visible from neighboring property or exceed 20 inches in diameter or width.
- (s) Air conditioning, heating equipment, and soft water tanks must be screened from view so as not to be visible from neighboring property or from the streets of the development, and shall be insulated for sound attenuation. Air conditioning units are not permitted on roofs or through windows.
- (t) Utility meters must be screened from view from neighboring property. Exposed piping should be painted to match exterior colors of the dwelling structure. The area immediately around the meters should be cleared to allow for access.

- (u) Mailboxes. Cluster mailboxes shall be installed by Developer and are the only allowed mail receptacles.
- (v) External Apparatus. No homeowner shall cause or permit anything (including, without limitation, awnings, canopies or shutters) to hang, be displayed or otherwise affixed to or placed on the exterior walls or roof or any part thereof, or on the outside of windows or doors, without the prior written consent of the Architectural Control Committee.
- (w) Landscaping. Landscaping shall be completed in accordance with the Landscape plan submitted to and approved by the Architectural Control Committee prior to construction of the home, and may include but shall not be limited to the preparation for the planting of lawn, grass or other appropriate ground cover, and appropriate shrubbery. At least thirty percent (30%) of the front yard landscaping shall be lawn. Front yard landscaping must be completed within 30 days of completion of construction of the home, and all landscaping must be completed within 180 days of completion of construction of the home.

Any portion of the lot not used for structures, driveways, walks, or other such site improvements shall be landscaped. The front yard landscaping shall have a minimum of 20% to a maximum of 70% lawn. The remaining area shall be landscaped incorporating a drought tolerant, desert theme. If the rear yard is not walled on all sides by the homeowner, it shall be landscaped by the homeowner, using a minimum of one shrub per 80 square feet and at least two (2) fifteen gallon trees. The ground surface must be mulched using decorative gravel to prevent weed growth. If the homeowner installs a wall, the rear yard landscaping shall be at the homeowner's discretion.

- (x) Planting and Gardening. No planting or gardening shall be done, and no fences, hedges or walls shall be erected or maintained upon any property except such as are installed in accordance with the initial construction of the buildings located thereon or as approved by the Architectural Control Committee.
- (y) Slope and Drainage Control. No structure, planting or other material shall be placed or permitted to remain or other activities undertaken which may damage or interfere with established slope ratios, create erosion or sliding problems, or which may change the direction of flow of drainage channels. The slope control areas of each Lot and all improvements in them shall be maintained continuously by the owner of the Lot, except for those improvements for which a public authority or utility company is responsible. Homeowners are responsible to see that no nuisance or damage is created by drainage location or flow to any adjacent property.

- (z) **Easements.** Easements for installation and maintenance of utilities, drainage facilities and ingress and egress are reserved as shown upon the recorded plat. Within these easements no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow or drainage channels in the easements or which may impede ingress and egress. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the Lot, except for those improvements for which a public authority or utility company is responsible.
- (aa) **Lateral and Subjacent Support and Drainage.** A homeowner's activities which affect the lateral or subjacent support, or both, of adjacent homeowners shall be responsible for damages proximately caused by such activities. Homeowners shall be responsible for all damage proximately caused by drainage from their lot(s) to adjacent homeowners.

#### ARTICLE 8 -- CONSTRUCTION AND CONTRACTOR PROVISIONS

In order to promote a harmonious community development and protect the character of the neighborhood, the following guidelines are applicable to the properties:

- (a) **Building Material Storage.** No Lot, part or portion of the Property shall be used or maintained as a storage for building materials except during a construction phase. Once a dwelling is occupied or made available for sale, all building materials shall be removed or stored inside such dwelling, out of public sight.
- (b) **Landscaping.** Landscaping shall be complete within 180 days of completion of construction.
- (c) **Damages.** Any damage inflicted on existing improvements such as curbs, gutters, streets, concrete sidewalks and such, by the owner and/or their agents of any particular Lot in the subdivision must be repaired within thirty (30) days after such damage is discovered, and the expense of such repair shall be borne by the purchaser or owner.
- (d) **Maintenance of Lot During Landscaping, Improvements and Maintenance.** Contractors, subcontractors, agents or owners are required to clean up the site daily to maintain a clean work site during landscaping, improvements and maintenance. Dirt or mud from such improvements dispersed, directly or indirectly, on the public streets within the project must be cleaned up within twenty-four (24) hours by the contractor, subcontractor, agent or owner. the Architectural Control Committee may levy up to a Five Hundred Dollar (\$500)

fine against a violator of this requirement and/or the homeowner for each day of a continuing violation. The fine shall be a charge on the land and shall be a continuing lien on the Lot.

#### ARTICLE 9 -- EXTERIOR MAINTENANCE

Section 9.1. Exterior Maintenance. Each homeowner shall provide exterior maintenance upon the owner's home and lot, including, but not limited to the following: paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces, glass, doors, screens, fences, street signs, lights, mailboxes, trees, shrubs, grass, walks, driveways and other exterior improvements.

Section 9.2. Failure to Maintain. In the event a homeowner shall fail to perform any maintenance in a manner satisfactory to the Trustees, as determined by a 2/3 vote, they shall have the right to have such maintenance performed. The cost of such maintenance shall be added to and become part of the assessment to which such lot is subject.

Section 9.3. Access at Reasonable Hours. For the purpose solely of performing the maintenance required by this article, the Association, through its duly authorized agent or employees, shall have the right, after reasonable notice to the homeowner, to enter upon any lot or limited common area at reasonable hours.

#### ARTICLE 10 -- USE RESTRICTIONS

Section 10.1. Construction, Business and Sales. Notwithstanding any provisions to the contrary herein contained, it shall be expressly permissible for Declarant to maintain such facilities and conduct such activities as in the sole opinion of Declarant may be reasonably required, convenient or incidental to the construction and sale of homes during the period of construction and sale of said homes and upon such portion of the premises as Declarant deems necessary including but not limited to a business office, storage areas, construction yard, signs, model units and sales offices. As part of the overall program of development of the properties into a residential community and to encourage the marketing thereof, the Declarant shall have the right of use of the common area and facilities thereon, if any, without charge during the sale and construction period to aid in its marketing activities.

Section 10.2. General Use Restrictions. All of the properties which are subject to this declaration are hereby restricted to residential dwellings, and building in connection therewith, including but not limited to community buildings on the common property. All buildings or structures erected in the properties shall be of new construction and no buildings or structures shall be removed from other locations to the properties. After the initial construction on a lot, no subsequent building or structure dissimilar to that initially constructed shall be built on that lot.

No building or structure of a temporary character, trailer, basement, tent, camper, shack, garage, barn or other outbuilding shall be placed or used on any lot at any time.

Section 10.3. Signs, Commercial Activity. Except for one "For Rent" or "For Sale" sign of not more than two (2) square feet, no advertising signs, billboards, objects or unsightly appearance, or nuisances shall be erected, placed or permitted to remain on any lot or any portion of the properties. No commercial activities of any kind whatever shall be conducted in any building or on any portion of the properties. The foregoing restrictions shall not apply to the commercial activities, signs and billboards, if any, of the Declarant or its agents during the construction and sales period or by the Association in furtherance of its powers and purposes set forth hereinafter and in its Articles of Incorporation, Bylaws and Rules and Regulations, as the same may be amended from time to time.

Section 10.4. Quiet Enjoyment. No noxious or offensive activity shall be carried on upon any part of the properties nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood, or which shall in any way interfere with the quiet enjoyment of each of the homeowners or which shall in any way increase the rate of insurance.

Section 10.5. Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any of said lots, except that dogs, cats or other household pets, two or less in total number, may be kept provided that they are not kept, bred or maintained for any commercial purpose. Notwithstanding the foregoing, no animals or fowl may be kept on the property which result in an annoyance or are obnoxious, by noise, smell or otherwise, to homeowners. All pets must be kept in the lots or on a leash when in the common areas. This provision may be made more restrictive by rule of the Association.

Section 10.6. Use of Common Area. Except for the rights of ingress and egress, homeowners are hereby prohibited and restricted from using any of said common area, other than as permitted in this declaration of covenants or as may be allowed by the Trustees. It is expressly acknowledged and agreed by all parties concerned that this restriction is for the mutual benefit of all homeowners in the properties and is necessary for the protection of the interests of all said owners in and to the common area.

As part of the overall program of development of the properties into a residential community and to encourage the marketing thereof, the Declarant shall have the right of use of the common area and facilities thereon, including any community buildings, without charge during the sales and construction period to aid in its marketing activities.

Section 10.7. Parking. No motor vehicle which is inoperable shall be allowed within the Properties, and any motor vehicle which remains parked over 72 hours shall be subject to removal by the Association, at the owner's expense. If parking spaces are designated on the plat with numbers corresponding to Lot numbers, each such space is for the exclusive use of the homeowner with the corresponding number. If parking areas are not designated on the plat with lot numbers, the Trustees may assign vehicle parking space for each lot. Parking spaces within

the Properties shall be used for parking of motor vehicles actually used by the owner or his immediate family or guests for personal use and not for commercial use, and for guest parking. Recreational vehicles, boats, travel trailers and similar property may not be parked within the Properties unless permitted by rule of the Association.

Unless permitted by rule of the Association, no boats, trailers, buses, motor homes, campers, recreational vehicles, or other such vehicles, shall be parked or stored upon any Lot except within an enclosed garage or on a cement pad behind the required front Lot line set-back area. No such vehicles shall be parked overnight on any street located within the subdivision. Trailers, motor homes, and trucks over 9,000 pounds GVW are not allowed to be stored upon any vacant lot or street or road area adjacent to the Property.

The streets within Cameo Park shall have sidewalk on one side. Street parking shall be allowed only on the side of the street which has no sidewalk. No parking is allowed on the side of the street next to the sidewalk. Signs restricting the parking shall be posted. Violation of the parking restrictions may be enforced by the City of Ivins.

Section 10.8. Garbage Removal. All rubbish, trash and garbage shall be regularly removed from the lots and shall not be allowed to accumulate thereon. Garbage should be placed in proper containers.

Section 10.9. Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in the properties of any lot. No derrick, lift, shaft or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon the properties or any lot.

Section 10.10. Interior Utilities. All utilities, fixtures and equipment installed within a lot, commencing at a point where the utility lines, pipes, wires, conduits or systems enter boundaries of a lot, shall be maintained and kept in repair by the owner thereof. A homeowner shall do no act nor any work that will impair any easement or hereditament nor do any act nor allow any condition to exist which will adversely affect the other lots or owners.

Section 10.11. Leases. Any lease or rental agreement shall be in writing and shall provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration, the Articles of Incorporation, Bylaws and Rules and Regulations of the Association and that any failure by lessee to comply with the terms of such documents shall be a default under the lease.

Section 10.12. Nuisances. No noxious or offensive activity shall be carried on upon any Lot, part or portion of the Property, nor shall anything be done thereon which may be or may become an annoyance to the neighborhood. No clothes drying or storage of any articles which are visible from any public street shall be permitted. No clutter, debris, or other such materials shall be permitted which are visible from any public street.

## ARTICLE 12 -- EASEMENTS

Section 12.1 Encroachments. Each lot and the property included in the common and limited common areas shall be subject to an easement for encroachments created by construction, settling and overhangs, as designed or constructed by the Declarant. A valid easement for said encroachments and for the maintenance of same, so long as it stands, shall and does exist. In the event the structure containing lots is partially or totally destroyed, and then rebuilt, the owners of the lots so affected agree that minor encroachments of parts of the adjacent lots or common or limited common areas due to construction shall be permitted and that a valid easement for said encroachment and the maintenance thereof shall exist.

Section 12.2 Utilities. There is hereby created a blanket easement upon, across, over and under all of the properties for public utility purposes. By virtue of this easement, it shall be expressly permissible for all public utilities serving the properties to lay, construct, renew, operate and maintain conduits, cables, pipes, mains, ducts, wires and other necessary equipment on the properties, provided that all such services shall be placed underground, except that said public utilities may affix and maintain electrical and/or telephone wires, circuits and conduits on, above, across and under roofs and exterior walls. Notwithstanding anything to the contrary contained in this section, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on the properties in such a way as to unreasonably encroach upon or limit the use of the common area or limited common area or any structure thereon. In the initial exercise of easement rights under this Section, a utility shall make reasonable efforts to occupy and use the same physical location or lane as other utilities. After a utility service has initially exercised its easement rights under this Section, the utility shall make reasonable efforts to occupy and use the same physical location as its prior installments. Should any utility furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, Declarant or the Association shall have the right to grant such easement on said property without conflicting with the terms hereof.

Declarant reserves the right to convey to itself and to other adjoining landowners, easements for roadway and utility use in the common and limited common areas, and the right to connect to and use roadways and utilities owned or controlled by the Association or serving the Properties. The Declarant reserves the right to execute agreement(s) which may confer on itself or adjacent landowners or owners Association the right to use common and limited common areas and common facilities, including (without limitation) recreational facilities.

Section 12.3. Police, Fire and Ambulance Service. An easement is hereby granted to all police, fire protection, ambulance services and all similar persons to enter upon the streets and common and limited common area in the performance of their duties.

Section 12.4. Maintenance by Association. An easement is hereby granted to the Association, its officers, agents, employees and to any maintenance company selected by the Association to enter in or to cross over the common and limited common areas and any lot to perform the duties of maintenance and repair.

Section 12.5. Other Easements. The easements provided for in this Article shall in no way affect any other recorded easement.

#### ARTICLE 13 -- GENERAL PROVISIONS

Section 13.1. Enforcement. The Association, the Declarant or any homeowner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration, or any rule of the Association, including but not limited to any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction herein contained or any rule of the Association shall in no event be deemed a waiver of the right of the Association or any homeowner to do so thereafter. In the event action, with or without suit, is undertaken to enforce any provision hereof or any rule of the Association, the party against whom enforcement is sought shall pay to the Association or enforcing homeowner a reasonable attorney's fee. The Trustees may levy a lien or penalty not to exceed 10% of the amount of the maximum annual assessment against any homeowner who fails to refrain from violation of these covenants or a rule of the Association, after three (3) days written notice, and opportunity for hearing.

Section 13.2. Severability. All of said conditions, covenants and reservations contained in this Declaration shall be construed together, but if any one of said conditions, covenants or reservations, or any part thereof, shall at any time be held invalid, or for any reason become unenforceable, no other condition, covenant, or reservation, or any part thereof, shall be thereby affected or impaired; and the Declarant, Association and homeowners, their successors, heirs and assigns shall be bound by each article, section, subsection, paragraph, sentence, clause and phrase of this Declaration, irrespective of the invalidity or unenforceability of any other article, section, subsection, paragraph, sentence, clause or phrase.

Section 13.3. Duration. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the owner of any lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns for a term of twenty (20) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years.

Section 13.4. Amendment. The covenants, conditions and restrictions of this Declaration may be amended by an instrument signed by not less than sixty-seven percent (67%) of the homeowners. Any amendment must be properly recorded in the records of Washington County, Utah, to become effective.

Notwithstanding the foregoing, the Declarant reserves the right, for so long as it shall have Class B membership status, to unilaterally amend the Declaration and/or the Plat.

Section 13.5. Notices. Any notice required to be sent under the provisions of this Declaration shall be deemed to have been properly sent when deposited in the U.S. Mail, postpaid, to the last known address of the person who is entitled to receive it.

Section 13.6. Gender and Grammar. The singular, wherever used herein, shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

Section 13.7. Waivers. No provision contained in the Declaration shall be deemed to have been waived by reason or any failure to enforce it, irrespective of the number of violations which may occur.

Section 13.8. Topical Headings. The topical headings contained in this Declaration are for convenience only and do not define, limit or construe the contents of the Declaration.

#### ARTICLE 14 -- ASSIGNMENT OF POWERS

Any and all rights and powers of Declarant herein contained may be delegated, transferred or assigned.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 14th day of October, 1998.

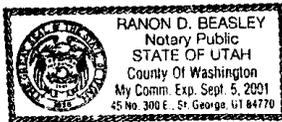
DECLARANT:  
Merrill & Associates L.L.C.

By Richard L. Merrill  
Its Agent Manager

STATE OF UTAH )  
 ) :ss  
COUNTY OF WASHINGTON )

On this 14th day of October, 1998, before me personally appeared Richard L. Merrill, whose identity is personally known to me or provided to me on the basis of satisfactory evidence, and who, being by me duly sworn (or affirmed), did say that he is the Manager of Merrill & Associates LLC, a \_\_\_\_\_, and that the foregoing document was signed by him on behalf of that Company by proper authority and he acknowledged before me that the Company executed the document and the document was the act of the Company for its stated purpose.

[Seal]



Ranon D. Beasley  
NOTARY PUBLIC

## EXHIBIT A

BEGINNING at a point which lies S.  $01^{\circ}28'21''$  W. 1345.90 feet along the Center Section line from the North  $\frac{1}{4}$  corner of Section 5, Township 42 South, Range 16 West, Salt Lake Base and Meridian and running thence S.  $01^{\circ}28'21''$  W. 106.03 feet along the Center Section line; thence N.  $89^{\circ}46'04''$  W. 355.88 feet; thence N.  $01^{\circ}19'50''$  E. 106.02 feet; thence S.  $89^{\circ}46'04''$  E. 356.14 feet to the point of beginning.

Containing 0.866 acres