



RIVER HOLLOW

PROTECTIVE COVENANTS FOR RIVER HOLLOW

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RUSSELL SHIRTS * WASHINGTON CO RECORDER
2004 JUL 27 10:13 AM FEE \$48.00 BY AMH
FOR: SOUTHERN UTAH TITLE CO

MK Cox Development, Inc. and Rand Torgerson, hereinafter referred to collectively as the "Developer" are the owners of the following described property, hereinafter referred to as the "Property", located in Washington County, State of Utah, to-wit:

SEE LEGAL DESCRIPTION ATTACHED HERETO AS EXHIBIT A AND INCORPORATED HEREIN BY REFERENCE.

Developer hereby includes all of the Property in the plats recorded herewith of River Hollow Phase 1 Subdivision, and divides the Property into Homesites as shown on said plats (such Homesites being shown on such plats as Homesites numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36 and 43 and dedicates the streets shown on said plat to the public. The easements indicated on said plat are hereby perpetually reserved for public utilities and for any other uses as designated thereon or set forth herein, and no structures other than for such utility or other indicated purposes are to be erected within the lines of said easements.

Developer further declares that all of the Property described herein is held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved subject to the following limitations, restrictions, covenants and conditions, all of which are declared and agreed to be in furtherance of a plan for the subdivision, improvement and sale of the Property, and are established and agreed upon for the purposes of enhancing and protecting the value, desirability and attractiveness of the Property and every Homesite, part or portion thereof. The acceptance of any deed to or conveyance of any Homesite, part or portion of the Property by the grantees therein named or by their legal representatives, heirs, executors, administrators, successors or assigns, shall constitute their covenant and agreement with the Developer and with each other to accept, hold, improve, use and convey the Property described and conveyed in or by such deed or conveyance subject to said restrictions, covenants and conditions. These restrictions, covenants and conditions shall run with the land.

ARTICLE 1 - USE RESTRICTIONS

- 1.1 **LAND USE AND BUILDING TYPE:** All Homesites shall be used only for single family residential purposes. No professional, business or commercial use shall be made of the same, or any portion thereof, provided, however, that the Homesite restrictions contained in this section shall not be construed in such a manner as to prohibit an owner or resident from (a) maintaining a personal professional library therein; (b) keeping personal business or professional records of accounts therein; (c) handling personal, business or professional telephone calls or correspondence therefrom; or (d) home occupations as permitted by the City of St. George Home Occupation Ordinance.

1.2 **HOMESITE SIZE:** Homesite sizes as described on the recorded plat of subdivision are considered minimum Homesite sizes and no person shall further subdivide any Homesite other than as shown on the recorded plat of said subdivision. Homesites may be combined in use by a single owner of adjacent Homesites, but each Homesite shall remain a separate Homesite.

The Homesite purchaser is encouraged to obtain a soils test and recommendation on foundation from a Utah registered engineer prior to construction. The Design Review Committee (the "Committee") may require that the Homesite owner obtain a soils test and recommendation on foundation prior to the final approval. Furthermore, the Committee may condition final approval following the recommendations set forth in the soils test document.

1.3 **CARE AND MAINTENANCE OF HOMESITE:** The owner of each Homesite shall keep the same free of rubbish, litter and noxious weeds. All structures, landscaping and improvements shall be maintained in good condition and repair at all times. Each Homesite shall be subject to an easement for access to make repairs upon adjoining Homesites and structures, provided however, that:

- (a) Any damage caused by such entry shall be repaired at the expense of the owner whose property was the subject of the repair work which caused the same;
- (b) Any such entry shall be made only at reasonable times and with as little inconvenience as possible to the owner of the entered Homesite; and
- (c) In no event shall said easement be deemed to permit entry into the interior portion of any dwelling.

1.4 **CARE AND MAINTENANCE OF THE COMMON AREA:** The River Hollow Homeowners Association (the "Association") shall be responsible for care and maintenance of the common area and improvements thereon, including the River Hollow Community Park. Any damage caused to the common areas and improvements by any Homesite Owner and/or their agents, guests or invitees must be repaired as soon as possible after such damage is discovered, and the expense of such repair shall be borne by the Homesite Owner.

1.5 **USE OF COMMON AREA.** Every Homesite Owner shall be a member of the River Hollow Homeowner's Association and shall have a right and easement of enjoyment in and to any common areas, including the River Hollow Community Park, and shall have a permanent and perpetual right and easement of enjoyment in and to the property subject to this Declaration, which shall be appurtenant to and shall pass with the title to every Homesite within River Hollow, subject to all of the following:

- (a) All provisions of this Declaration, any plat of all or any part or parts of River Hollow, the Articles of Incorporation and the By-Laws of the Association;
- (b) Rules and regulations adopted by the Association governing the use and enjoyment of the River Hollow Community Park and that portion of the Common Area not intended to be a part of any Homesite;
- (c) The right of the Association to promulgate rules and regulations concerning River Hollow.

1.6 **EASEMENTS:** Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on 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, maintenance or replacement of utilities, or which may change the direction or flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each Homesite and all improvements in it shall be maintained continuously by the Owner of the Homesite, except for those improvements for which a public authority or utility company is responsible. The title holder of each Homesite shall, from time to time, grant rights over, across, on, under and upon these easements for such additional uses and services as may be provided from time to time by a public authority or private utility company.

1.7 **NO HAZARDOUS ACTIVITIES:** No activities shall be conducted on the Property and no improvements shall be constructed on the Property that are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon the Property and no open fires shall be lighted or permitted on the Property except in a contained barbecue or fire pit unit while attended and in use for cooking purposes or within a safe and well-designed interior fireplace.

1.8 **MOTORBIKES:** All motorcycles, trail bikes, three-wheel powered devices, automobiles, and two or four-wheel drive recreational type vehicles are to be operated only by individuals with driver's licenses and only on established streets and parking areas and are specifically prohibited from all other portions of the Common Areas, and surrounding properties, and shall otherwise comply with any applicable ordinances, laws, rules, or regulations.

1.9 **WEED CONTROL:** Each Homesite owner shall, to the extent reasonably feasible, control the growth and proliferation of noxious weeds and other flammable materials on his Homesite so as to minimize fire and other hazards to surrounding Homesites, residences, the Common Areas, and surrounding properties, and shall otherwise comply with any applicable ordinances, laws, rules or regulations pertaining to the removal and/or control of noxious

weeds. Noxious weeds shall mean and refer to those plants that are injurious to crops, livestock, land or the public health.

1.10 **NUISANCES:** No noxious or offensive activity shall be carried on upon any Homesite, 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 that are visible from any public street shall be permitted. **No resident's use of a Homesite shall endanger the health or disturb the reasonable enjoyment of any other owner or resident.**

1.11 **SAFE CONDITION:** Without limiting any other provision of these covenants, each owner shall maintain and keep such owner's Homesite at all times in a safe, sound and sanitary condition and repair and shall correct any condition or refrain from any activity which might interfere with the reasonable enjoyment of other owners of their respective Homesites.

1.12 **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 any Homesite, part or portion of the Property, nor shall any oil well, gas well, tank, tunnel, mineral excavation or shaft be permitted upon or in any such Homesite or portion of the Property.

1.13 **ANIMALS, LIVESTOCK, POULTRY, AGRICULTURE:** No animals, livestock or poultry of any kind shall be raised, bred or kept on any Homesite, part or portion of the Property, except that dogs, cats or other domesticated household pets, two (2) or less in number may be kept in a residence constructed on a Homesite, provided they are not kept, bred or maintained for any commercial purpose. Such animals as are permitted shall be strictly controlled and kept pursuant to all applicable laws and ordinances, and shall be on a leash or inside a fence when outside the Owner's residence.

1.14 **GARBAGE AND REFUSE DISPOSAL:** No Homesite, part or portion of the Property shall be used or maintained as dumping ground for rubbish, rubble, trash, garbage or other waste. Such trash, rubbish, rubble, garbage or other waste produced within the Property, shall be kept only in sanitary containers. No rubbish, trash, papers, junk or debris shall be burned upon the Property except that trash may be burned in accordance with applicable laws and ordinances inside homes that are properly equipped with inside incinerator units.

1.15 **WATER SUPPLY:** No individual culinary water supply system shall be used or permitted to be used on any Homesite, part or portion of the Property.

1.16 **SEWAGE DISPOSAL:** No individual sewage disposal system shall be permitted on any Homesite, part or portion of the Property.

1.17 **CLOTHES DRYING.** No portion of any Homesite shall be used as a drying or hanging area for laundry of any kind, it being the intention hereof that all such facilities be provided within the dwelling to be constructed on each Homesite.

1.18 **RV'S, BOATS AND OTHER VEHICLES.** No boats, trailers, buses, motor homes, campers, recreational vehicles, motorcycles, trail bikes, three-wheel powered devices, automobiles, and two or four wheel drive recreational type vehicles, shall be parked or stored upon any Homesite except within an enclosed garage or on a cement pad behind the required front Homesite set-back area. No such vehicles shall be parked overnight on any street located within the subdivision.

Motor vehicles that are inoperable shall not be permitted to accumulate upon any street or Homesite or road areas adjacent thereto. In the event an inoperable motor vehicle remains upon any Homesite or road area for a period exceeding thirty (30) days, the Developer or any other Homesite Owner may remove the inoperable motor vehicle after a ten (10) day written notice. The cost of such removal shall attach as a valid lien in favor of the persons, entities, or parties causing such removal. For the purpose of this section, "inoperable motor vehicle" shall mean any motor vehicle that is unable to operate in a normal manner upon the streets under its own power, or is unlicensed or unregistered for not less than six (6) weeks.

Trailers, motor homes, and trucks over 9,000 pounds gross volume weight are not allowed to be stored upon any vacant Homesite or street or road areas adjacent to the Property.

ARTICLE 2 - DESIGN CONTROL

2.1 **DESIGN REVIEW 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 Homesite, or installation of fences or landscaping elements, there shall first be filed with the Design Review Committee two (2) complete sets of building plans and specifications, together with a site or plot plan, indicating the exact part of the building site which the improvements will cover, with such a fee as the Design Review Committee may determine from time to time, and an application and such supporting material as the Design Review Committee deems necessary. No such work shall commence unless and until the Design Review Committee shall endorse on one set 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 Design Review Committee pursuant hereto. The second set of such plans shall be filed as a permanent record with the Design Review Committee. Said Design Review

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, and the outlook from adjacent or neighboring property. The Design Review Committee shall promulgate and maintain a list of standards for guidance in approving or disapproving plans and specifications pursuant to this Article. In the event said Design Review Committee fails to approve or disapprove in writing any such plans within sixty (60) days after the submission thereof to the Design Review Committee, then approval shall be deemed to have been given.

Until the last Homesite subject to these Protective Covenants, including Homesites in any phases subsequent to the first phase, has been transferred to a bona fide purchaser, the Developer, or any other person appointed in writing by the Developer, shall be the Design Review Committee. Thereafter, the Design Review Committee shall consist of three (3) persons elected by the members of the River Hollow Homeowner's Association. When title to all of the Homesites in said development has been transferred by the Developer, a majority of the owners of Homesites, part or portions of the Property subject to these covenants shall elect and appoint members of the Design Review Committee, which Committee 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.

The Design Review 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 for 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 Design Review 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.

Unless authorized by the Board, the members of the Design Review 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 Design Review Committee shall be paid such compensation as the Design Review Committee determines.

The Developer shall be exempt from the provisions, restrictions, and requirements of this Article, as the same may be amended, supplemented, or replaced in accordance with other provisions of this Declaration.

- 2.2 **GOVERNMENTAL PERMIT REQUIRED.** 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 vegetation or change in natural or approved drainage patterns shall

occur, on a Homesite until any required permit or required approval thereof is obtained from the City of St. George or Washington County, as appropriate (or any successor municipality), 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 Design Review Committee to refuse to approve any such matter.

2.3 **CONSTRUCTION RESTRICTIONS.** In order to promote a harmonious community development and protect the character of the neighborhood, the following guidelines shall be applied to the Property:

- (a) **Permitted Structures.** The only building or structure permitted to be erected, placed or permitted to be located on any Homesite within the subdivision shall be (i) a detached single family dwelling not to exceed two stories in height which must include an attached enclosed three car minimum private garage; (ii) a pet run. The exposed face of the garage door shall not exceed 10 feet in height. All construction shall be of new materials, except that used brick may be used so long as it conforms to applicable building ordinances of the City of St. George. All structures shall be constructed in accordance with the zoning and building ordinances of the City of St. George, in effect from time to time.
- (b) **Minimum Area.** The minimum total square footage of living area on the living area above ground and located within the area of a foundation for any residential dwelling constructed on any Homesite within the subdivision, exclusive of porches, balconies, patios and garages, shall be not less than 2800 square feet, with a minimum of 2800 square feet on the first level above ground. If the Owner intends to construct a two-story residence, the Owner may petition the Design Review Committee for an exception to the first level square footage requirement, provided that, under no circumstances, shall a residence be approved that fails to meet the minimum total square footage of living area indicated above.
- (c) **Building Location.** No building shall be located on any Homesite nearer than twenty five (25) feet to the front Homesite line; nor nearer than fifteen (15) feet to the rear Homesite line; nor nearer than ten (10) feet on one side Homesite line and eight (8) feet on the other side Homesite line. All of the foregoing measurements shall be made from the applicable Homesite line to the foundation, porch or other extension of such building, whichever is nearer to such Homesite line. For the purpose of this

covenant, eaves and steps shall not be considered as part of a building for the purpose of determining such distance, provided, however, that this shall not be construed to permit any portion of a building, including eaves or steps to encroach upon another Homesite. Any Homesite line fronting a public street shall be considered a front Homesite line.

(d) Dwelling style, design, alterations and additions will conform to standards established by the Design Review Committee.

(e) Exterior Construction Materials. Exterior construction materials will be limited to stone, stone veneer, brick or brick veneer, stucco or other materials approved for use by the Design Review Committee, and shall be in colors and of materials indigenous to the area. Illuminative or reflective colors are prohibited. Specifications regarding the color, texture, finish, and quality for the above will be made available by the Design Review Committee.

(f) Roof Materials. Roof materials will be limited to tile or slate, and shall be in colors which blend with the balance of the exterior of the structure. Roof pitch shall be at least 4/12. Any other roof style or material must be approved by the Design Review Committee.

(g) Dome Structures. Dome structures of any type are not allowed.

(h) 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. No such structure shall be erected or placed on said property at any time. No old or second-hand structures shall be moved onto any of said Homesites. 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.

(i) 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.

(j) Pet Runs. Plans for pet runs must be submitted to the Design Review Committee for approval. The runs should be designed and constructed in a way consistent with the architecture of the house and should be no larger than 150 square feet, nor higher than six feet, nor shall it be located in the front yard or on the side yard against an adjacent Homesite. The fencing and materials shall be limited to the materials designated herein, unless otherwise approved by the Design Review Committee.

- (k) Pools, Spas, Etc. Pools, spas, fountains, and gamecourts shall be approved by the Design Review Committee and shall be located to reasonably minimize impacting adjacent properties with light or sound. Pool heaters and pumps may not be visible from neighboring property and must be sound insulated from neighboring houses. Nothing herein shall be construed as permitting the construction of skateboard areas and/or ramps, which structures shall be prohibited. All exterior lighting shall be designed to minimize the effect of such lighting on other Homesites. Lights for tennis courts or other gamecourts shall be turned off no later than 10:00 PM.
- (l) Driveways. There shall be area on the driveway (excluding sidewalk areas) to park no less than two vehicles per Homesite. Each driveway on a Homesite shall be constructed out of cement or brick. Cinders, sand, gravel, or dirt shall not be permitted for driveway material in the front and side yard areas of any Homesite. Driveways of any other materials in those areas must be approved by the Design Review Committee. The driveway in the front and side yard areas of each Homesite shall be in a color which blends with the exterior of the structure located on such Homesite.
- (m) 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 Homesite within the triangular area formed by the street property lines and a line connecting them at points twenty-five (25) 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 Homesite within ten (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, shrub or foliage shall be planted, kept or maintained in such manner as, in the opinion of the Design Review Committee, shall create a serious potential hazard or an aesthetically unpleasant appearance to the other residents of the area.
- (n) Fences. Fences, walls and other barriers shall be approved by the Design Review Committee.

- (o) Address Monuments. Each homesite shall contain a monument or placard displaying the street address, which shall be illuminated at night. The design, size and font of such shall be approved by the Design Review Committee.
- (p) Lights. 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.
- (q) Antennas. Antennas for radio, television, or any other 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 that they are located in such areas as may be designated by the Design Review Committee. In no event shall satellite dish antennas be visible from neighboring property.
- (r) Chimneys. Chimneys of approved exterior materials may not exceed the height permitted by appropriate governmental agencies. Exposed metal flues must be painted a color which blends with the color of the roof. All stacks and chimneys from fireplaces in which combustibles other than natural gas are burned shall be fitted with spark arresters.
- (s) Solar Panels. Solar panels are to be integrated into the roof design. Panels and frames must be copper or compatible with roof colors and all equipment must be screened so as not to be visible from neighboring property.
- (t) Skylights. Skylights are to be designed as an integral part of the roof. Skylights shall not be reflective. Skylight framing shall be colored to match adjacent roofing materials.
- (u) Matching Colors. Sheet metal, flashing, vents, and pipes must be colored to match the material to which they are attached or from which they project.
- (v) Screening of Equipment. 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 unless they are not visible from neighboring property, and are subject to the approval of the Design Review Committee.
- (w) Utility Meters. Utility meters shall be placed in as inconspicuous location as possible. Locations of meters are to be shown on the plans, and 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. Electric meters, switches, or circuit breaker boxes are not to be located in the same enclosure with the gas meter and regulator. Enclosures for gas meters and regulators are to be vented in compliance with the Uniform Building Code.

- (x) Mailboxes. Mailboxes shall be provided and maintained by each Homesite Owner. Mailbox location, height, design and color must be approved by the Design Review Committee subject to the approval of the United States Post Office.
- (y) Signs. Except for one "For Rent" or "For Sale" sign of not more than four (4) square feet, no advertising signs, billboards, objects of unsightly appearance or nuisances shall be erected, placed, or permitted to remain on any Homesite or any portion of the Property. The foregoing shall not apply to the commercial activities, signs and billboards, if any, of the Developer 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.
- (z) Landscaping. Landscaping shall include, but shall not be limited to, the preparation for the planting of lawn, grass or other appropriate ground cover, appropriate shrubbery, and planting of at least one (1) tree in the front yard. Homesites which are to be decorated in a desert motif must be approved by the Design Review Committee. No cinders shall be used in the landscaping of any Homesite. The planting of trees and shrubs and grass are encouraged and recommended.

No healthy tree shall be removed from any Homesite after the completion of the approved landscaping thereof, nor shall other major landscaping changes be made without the prior written approval of the Design Review Committee. Notwithstanding this section, all diseased trees must be removed by the Homesite Owner within one hundred-twenty (120) days after the diseased condition is discovered or after receipt of notification issued by the Design Review Committee demanding the removal thereof. All diseased and other trees removed from any Homesite, part or portion of the Property shall be replaced by the Homesite Owner by the planting of an equivalent number of trees upon such Homesite.

All trees planted by a Homesite Owner pursuant to the requirements of this paragraph shall be of a minimum size of two and one-half inches (2 ½") caliper measured at a point one foot (1') above ground level.

- (aa) 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 Homesite and all improvements in them shall be maintained continuously by the owner of the Homesite, except for those improvement for which a public authority or utility company is responsible.

2.4 **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 Property:

- (a) Builder Approval. All residential dwellings in the Property shall be constructed by a Preferred Builder or an Approved Builder as those terms are defined in the Design Guidelines adopted by the Design Review Committee. No residential dwelling shall be constructed by a Homesite Owner, his agent or employee, who is not a Preferred Builder or an Approved Builder.
- (b) Commencement of Construction. The construction of the dwelling unit on any Homesite shall be commenced within two (2) years after purchase of a Homesite.
- (c) Construction Hours. No construction shall take place on Sundays or between the hours of 7:00 PM or 6:00 AM.
- (d) Completion of Construction. The construction of any structure on any portion of the Property shall be continuously and diligently pursued from and after the commencement of such construction, and in any event, shall be substantially completed within nine (9) months after such commencement.
- (e) Building Materials Storage. No Homesite, 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.
- (f) Landscaping. Within six (6) months after the completion of construction of any home upon a Homesite, the owner of such Homesite must have

substantially completed the landscaping of such Homesite.

- (g) Excavations. Except for excavations for an approved foundation or basement, no excavations or removal of dirt are permitted on any Homesite below the present grade of such Homesite.
- (h) Soils Test. The Homesite Owner is encouraged to obtain a soils test and recommendation on foundation from a Utah registered engineer prior to construction. The Design Review Committee may require that the Homesite Owner obtain a soils test and recommendation on foundation prior to the final approval. Furthermore, the Design Review Committee may condition final approval following the recommendations set forth in the soils test document.
- (i) Security Deposit/Bond. The Design Review Committee may require that each Homesite Owner and/or Contractor post a bond, cash security deposit or irrevocable letter of credit in a form satisfactory to the Design Review Committee, in an amount not to exceed five thousand dollars (\$5,000.00), in favor of the Association, as a condition to approving any proposed work or improvement. No person shall commence any work or improvement until any and all such bond, security deposit, or letter of credit has been properly posted with the Design Review Committee. The deposit is intended to assure the proper clean-up of dirt and debris and the repair of any damage to the landscaping, streets or other property within the Property caused by the Homesite Owner or his contractors or agents in the construction of improvements.
- (j) Limitation of Liability. The Design Review 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 Homesite Owner and the Homesite Owner's designer, architect, or contractor. The Design Review Committee's review of plans shall in no way be concerned with structural or mechanical integrity or soundness.
- (k) Damages. Any damage inflicted on existing improvements such as curbs, gutters, streets, concrete sidewalks and such, by the Homesite Owner and/or their agents of any particular Homesite in the subdivision must be repaired as soon as possible after such damage is discovered,

and the expense of such repair shall be borne by the Homesite Owner.

ARTICLE 3 - MEMBERSHIP AND VOTING RIGHTS

Each Owner of a Homesite within the Property shall be a member of the River Hollow Homeowner's Association.

The Association shall have one class of voting membership. All members are entitled to one vote for each Homesite owned. When more than one person holds an interest in any Homesite, the group of such persons shall be a member. The vote for such Homesite shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Homesite. In the absence of consent among such persons, the Homesite's vote shall be suspended if more than one person seeks to exercise it.

ARTICLE 4 - FINANCES AND OPERATIONS

4.1 **CREATION OF LIEN AND PERSONAL OBLIGATION OF ASSESSMENT:** The Developer and each subsequent Owner of any Homesite 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 River Hollow Homeowner's Association (hereinafter, the "Association"), assessments or charges and 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 Homesite 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.

4.2 **PURPOSE OF ASSESSMENTS:** The assessments levied by the Association shall be used by the Association for the improvement, maintenance, repair and preservation of all Common Areas, including, but not limited to, the River Hollow Community Park and the landscaping along the roadways and entryways of the Property. 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 and maintaining the Common Areas, including but not limited to, the River Hollow Community Park and the landscaping along the roadways and entryways of the Property; the payment of administrative expenses of the Association; insurance deductible amounts; the establishment of a reserve account for repair, maintenance and replacement of the Common Areas, including but not limited to, the River Hollow Community Park and the landscaping in the roadway and entryway areas which must be replaced on a periodic basis; and other amounts required that the

Trustees shall determine to be necessary to meet the primary purposes of the Association.

4.3 **MAXIMUM ANNUAL ASSESSMENT:** Until January 1 following recording of these Covenants, the maximum annual assessment shall be \$500 per Homesite.

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 the Common Area, including but not limited to, the River Hollow Homeowner's Association Community Park or the roadway or entryway areas. Special assessments must have the assent of sixty-seven percent (67%) of the votes of the members authorized to vote, in person or by proxy, at a meeting duly called for this purpose.

4.5 **ADDITIONAL ASSESSMENTS:** In addition to the annual assessments and special assessments for capital improvements authorized herein, the Association shall levy such assessments as may be necessary from time to time for the purpose of repairing and restoring the damage or disruption resulting to private streets or other common or limited common areas from the activities of St. George in maintaining, repairing or replacing utility lines and facilities thereon, it being acknowledged that the ownership of certain utility lines, underground or otherwise is in the City up to and including the meters for individual units. All utilities shall be installed and maintained to City specifications.

4.6 **UNIFORM RATE OF ASSESSMENT** Assessments must be fixed at a uniform rate for all Homesites; provided, however, that assessments shall not accrue against the Developer so long as the Developer has membership on the condition that the Developer shall fund any fiscal deficiency in the operations of the Association until the termination of Developer control of the Design Review Committee. A Homesite Owner who owns more than one contiguous Homesite upon which a single dwelling is constructed, may petition the Association to have his Homesites assessed as one Homesite.

4.7 **DATE OF COMMENCEMENT OF ANNUAL ASSESSMENTS; DUE DATES:** The assessments provided for herein shall commence to accrue on the first day of the month following conveyance to a Homesite Owner. The first assessment shall be adjusted according to the number of months remaining in the calendar year. In the absence of a determination by the Trustees as to the amount of said assessment, the assessment shall be an amount equal to 90% of the maximum assessment provided above.

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 owner subject thereto. This notice shall not be a prerequisite to the validity of the assessment.

The assessment due dates shall be established by the Trustees. The Trustees may provide for the payment of 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 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 Homesite 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.

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 twelve percent (12%) 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 Owner 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 Homesite from the time of commencement of the foreclosure. The Association shall be entitled to 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 Homesite 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 Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area, including but not limited to, the River Hollow Community Park or the roadway and entryway areas or by abandonment of his Homesite.

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. Sale or transfer of any Homesite shall not affect the assessment lien. However, the sale or transfer of any Homesite 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 Homesite or Owner from personal liability for assessments coming due after he or she takes title or from the lien of such later assessments.

4.10 **INSURANCE AND CASUALTY LOSSES.** The Association shall have the authority to and shall obtain blanket all-risk insurance, if reasonably available, for all insurable improvements in the Common Area. If blanket all-risk coverage is not reasonably available, then at a minimum an insurance policy providing fire and extended coverage shall be obtained. This insurance shall be in an amount sufficient to cover one hundred percent (100%) of the replacement cost of any repair or reconstruction in the event of damage or destruction from any insured hazard. The Association may also obtain a public liability policy covering the Common Area, the River Hollow Community Park, the Association and its Members for all damage or injury caused by the negligence of the Association or any of its Members or agents. Premiums for all such insurance shall be common expenses of the Association and shall be included in the Assessment. All such insurance policies shall be governed by the provisions hereinafter set forth:

- (a) All policies shall be written with a company licensed to do business in Utah with a Best's rating of A or better and which is assigned a financial size category of XI or higher;
- (b) All policies on the Common Area shall be for the benefit of the Association, its Members and their mortgagees;
- (c) Exclusive authority to adjust losses under policies obtained by the Association on the Properties shall be vested in the Association's Board of Directors; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto;

- (d) In no event shall the insurance coverage obtained and maintained by the Association's Board of Directors hereunder be brought into contribution with insurance purchased by individual Owners, occupants, or their mortgagees;
- (e) The Association shall be required to make every reasonable effort to secure insurance policies that provide for (i) a waiver of subrogation by the insurer as to any claims against the Board of Directors, its manager, the Owners, and their respective tenants, servants, agents and guests; (ii) a waiver of the insurer of its rights to repair and reconstruct, instead of paying cash; (iii) a statement that no policy may be canceled, invalidated, suspended, or subject to non-renewal on account of any one or more individual Owners; (iv) a statement that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and (v) that the Association will be given at least thirty (30) days prior written notice of any cancellation, substantial modification, or non-renewal.

4.11 **OTHER INSURANCE.** The Board shall obtain, as a common expense, worker's compensation insurance, if and to the extent required by law, directors and officers' liability coverage, if reasonably available, and a fidelity bond or bonds on directors, officers, employees, and other Persons handling or responsible for the Association's funds, if reasonably available.

4.12 **INDIVIDUAL INSURANCE.** By virtue of taking title to a Homesite subject to the terms of this Declaration, each Owner covenants and agrees with all other Owners and with the Association that each Owner shall carry blanket all-risk casualty insurance on the Owner's Homesite and structures constructed thereon.

4.13 **BOOKS, RECORDS AND AUDIT:** The Association shall maintain current copies of the Protective Covenants, 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 Homesite Owners 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 Homesite Owner 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 - DURATION, ENFORCEMENT, AMENDMENT

5.1 **DURATION OF RESTRICTIONS:** The covenants and restrictions contained herein shall run with and bind the land for a period of fifty (50) years from the date this document is recorded, after which time said covenants shall be automatically extended for successive

periods of ten (10) years each, subject to amendment as herein set forth. During the Development Phase (defined below), the covenants and restrictions contained herein may be modified, amended or repealed in whole or in part at any time and from time to time by the Developer or his successor or assigns by recorded instrument. The Development Phase shall be the time from the date of the recording of the Plat of Subdivision until such time as Developer transfers legal title to more than ninety percent (90%) of the total number of Homesites in River Hollow to bona fide purchasers.

5.2 **AMENDMENT:** Upon completion of the Development Phase, the covenants and restrictions contained herein may be amended by a recorded instrument signed by no less than the owner of seventy five percent (75%) of the number of Homesites, provided that all signatures must be notarized and obtained within a 180 day period. Any amendment after the completion of the Development Phase shall require a thirty (30) day written notice of any such proposed amendment be sent to every owner of any Homesite, part or portion of the Property.

5.3 **ADDITIONAL PROPERTY:** Additional property may be subjected to these covenants, conditions, and restrictions by the Developer. The Developer shall indicate its intent to have such property bound by these covenants, conditions and restrictions on the plat of such property, or by recording an additional set of covenants, and, thereafter, such additional property shall be considered as part of the Property in all respects. This right of the Developer shall be assignable to one or more assignees.

5.4 **NOTICES:** Any notice required under the provisions of this document to be sent to any Homesite Owner shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of such owner.

5.5 **CONSTRUCTION AND SEVERABILITY:** All of the restrictions, covenants and conditions contained in this document shall be construed together. Invalidation of any one of said restrictions, covenants or conditions, or any part thereof, shall in no wise affect the enforceability or applicability of any of the remaining restrictions, covenants or conditions or parts thereof.

5.6 **VIOLATION CONSTITUTES NUISANCE:** Every act or omission whereby any restriction, covenant or condition in this document set forth is violated in whole or in part, is declared to be and shall constitute a nuisance, and may be abated by appropriate legal action by the Developer or any owner or owners from time to time of any Homesite or portion of the property. Remedies hereunder shall be deemed cumulative and not exclusive.

5.7 **DUTY TO REPAIR STRUCTURE.** In the event a structure on a Homesite is damaged, through an act of God or other casualty, the Homesite Owner shall promptly cause the structure to be repaired

or rebuilt substantially in accordance with the original architectural plans and specifications. The Owner shall pay any cost of repair or reconstruction that is not covered by insurance proceeds. It shall be the duty of the Association to enforce such repair and rebuilding of the structures to comply with this responsibility.

- 5.8 **ENFORCEMENT:** Each and all of the restrictions, covenants and conditions contained in this document is and are for the benefit of the Developer, and of the Owner or Owners from time to time of any Homesite, part or portion of the Property. Each such restrictive covenant and condition shall inure to the benefit of and pass with each and every Homesite, part or portion of the Property and shall apply to and be binding upon each and every successor in interest. Said restrictions, covenants and conditions are and shall be deemed covenants or equitable servitude, and the actual or threatened breach thereof, or the continuance of any such breach, or compliance therewith, may be enforced, enjoined, abated, or remedied by appropriate proceedings at law or in equity by the Developer or the Owner or Owners from time to time of any Homesite, part or portion of the Property; provided, however, that no such breach shall affect or impair the lien of any bona fide mortgage or trust deed which shall have been given in good faith and for value, except that any subsequent owner of said Homesite, part or portion of the Property shall be bound and obligated by the said restrictions, covenants and conditions, whether such ownership is obtained by foreclosure, at a trustee's sale, or otherwise. All attorney's fees and costs incurred in any such action, and all expenses incurred in connection with such completion, shall constitute a lien on such Owner's Homesite, and shall also be a personal obligation of said Homesite Owner, enforceable at law, until such payment therefore is made.
- 5.9 **RIGHT TO ENFORCE:** The provisions contained in these covenants shall bind and inure to the benefit of and be enforceable by the Developer, by the Owner or Owners from time to time of any Homesite, part or portion of said Property, their and each of their legal representatives, heirs, successors and assigns. Failure by the Developer or any such Owner, or their respective legal representatives, heirs, successors, or assigns, to enforce any of said restrictions, covenants or conditions shall in no event be deemed a waiver of the right to do so thereafter.
- 5.10 **ASSIGNMENT OF POWERS:** Any and all rights and powers of the Developer herein contained may be delegated, transferred or assigned. Wherever the term "Developer" is used herein, it includes Developer and its successors and assigns.

IN WITNESS WHEREOF, the undersigned has hereunto executed this document this ___ day of _____, 2004.

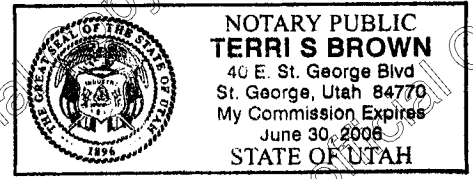
DEVELOPER:
MK COX DEVELOPMENT, INC.
A UTAH CORPORATION

By: *Mervyn K. Cox*
MERVYN K. COX, President

STATE OF UTAH)
) ss.
COUNTY OF WASHINGTON)

On this 5th day of March, 2004, before me personally appeared Mervyn K. Cox, whose identity is personally known to or proved to me on the basis of satisfactory evidence, and who, being by me duly sworn (or affirmed), did say that he is the President of MK Cox Development, Inc., a corporation, and that the foregoing document was signed by him on behalf of that corporation by authority of its bylaws or of a resolution of its board of directors, and he acknowledged before me that the corporation executed the document and the document was the act of the corporation for its stated purpose.

Terris Brown
NOTARY PUBLIC
Address: *St. George, UT*
My Commission Expires: *6-30-06*



"A"
EXHIBIT - LEGAL DESCRIPTION

PROOFREAD

Beginning at the intersection of the Section line and the Northerly right-of-way line of 1450 South Street, an 80.00 foot wide public street, said point lies North $00^{\circ}50'22''$ East, 938.02 feet along the Section line from the Southwest Corner of Section 34, Township 42 South, Range 15 West, Salt Lake Base and Meridian and running thence along said Northerly right-of-way line North $71^{\circ}39'26''$ East 127.16 feet to a point on the boundary of DIAS SUBDIVISION, AMENDED, said point being the point of cusp of a 25.00 foot radius curve concave Northeasterly, the radius point of which bears North $18^{\circ}20'34''$ West; thence coincident with said boundary in the following Five (5) courses: Northwesterly 39.27 feet along the arc of said curve through a central angle of $90^{\circ}00'00''$ to the point of compound curvature of a 274.98 foot radius curve concave Easterly; thence Northerly 92.06 feet along the arc of said curve through a central angle of $19^{\circ}10'56''$ to the point of tangency; thence North $00^{\circ}50'22''$ East, 259.57 feet; thence North $89^{\circ}01'50''$ East, 257.79 feet; thence North $00^{\circ}50'22''$ East, 503.04 feet to the Northeast Corner of said Subdivision; thence leaving said boundary South $89^{\circ}07'52''$ East, 277.95 feet; thence South $84^{\circ}48'07''$ East, 86.11 feet; thence South $89^{\circ}07'52''$ East, 136.10 feet; thence South $00^{\circ}52'08''$ West, 133.50 feet; thence South $02^{\circ}22'52''$ West, 50.02 feet; thence South $00^{\circ}52'08''$ West, 135.00 feet; thence South $89^{\circ}07'52''$ East, 344.88 feet; thence North $00^{\circ}40'53''$ East, 318.50 feet; thence South $89^{\circ}07'52''$ East, 156.00 feet to a point on a parallel to and 2.50 feet East of the West sixteenth line of said Section 34; thence along said parallel line South $00^{\circ}40'53''$ West, 824.40 feet to a point on the centerline of said 1450 South Street; thence along said centerline in the following Five (5) courses: North $88^{\circ}48'10''$ West, 476.95 feet to the point of curvature of a 1000.00 foot radius curve concave Southerly; thence Westerly 103.99 feet along the arc of said curve through a central angle of $05^{\circ}57'30''$ to the point of tangency; thence South $85^{\circ}14'20''$ West, 473.35 feet to the point of curvature of a 540.00 foot radius curve concave Southerly; thence Westerly 128.00 feet along the arc of said curve through a central angle of $13^{\circ}34'54''$ to the point of tangency; thence South $71^{\circ}39'26''$ West, 163.87 feet to a point on said Section line; thence along said Section line North $00^{\circ}50'22''$ East, 42.35 feet to a point on said Northerly right-of-way line and the point of beginning.

* * *