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GARY W. OTT
RECORDER, SALT LAKE COUNTY, UTAH
GUARDIAN TITLE
BY: SBM, DEPUTY - WI 11 P.
Guardian
SBM

**DECLARATION OF
COVENANTS, CONDITIONS AND
RESTRICTIONS OF
THE SCENIC RIDGE ESTATES PHASE II
SUBDIVISION**

This Declaration of Covenants, Conditions and Restrictions of The Scenic Ridge Estates Phase II Subdivision is made this 1st day of June 2004 by Scenic Development, Inc., a Utah Corporation (hereinafter the "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of a certain tract of land situated in Bluffdale City, Salt Lake County, State of Utah, more particularly described as follows (hereinafter the "Project"):

The Scenic Ridge Estates Phase II, according to the official plat thereof as recorded in the Office of the Salt Lake County Recorder (hereinafter the "Lots").

WHEREAS, Declarant intends that the Lots, and each of them, shall hereafter be subject to the covenants, conditions, restrictions, reservations, easements, assessments, charges and liens (the "CC&R's") hereinafter set forth.

NOW, THEREFORE, Declarant hereby declares, for the purpose of protecting the value and desirability of the Lots, that all of the Lots shall be held, sold and conveyed subject to the following CC&R's, which shall run with the Lots, and be binding on all parties having any right, title or interest in the Lots or any part thereof, their heirs, successors and assigns, and shall insure to benefit of each owner thereof (hereinafter individually, a "Lot Owner" and collectively, the "Lot Owners").

**ARTICLE I
ARCHITECTURAL CONTROL**

SECTION 1. ESTABLISHMENT OF ARCHITECTURAL CONTROL COMMITTEE. The Architectural Control Committee (hereinafter the "Architectural Committee") shall be composed of up to five (5) persons, who need not be Lot Owners. The Architectural Committee shall be composed of the President of Scenic Development, Inc. and other members as appointed by Declarant, in its sole discretion. At such time as Declarant is not a Lot Owner, the HOA Committee (as defined below) shall succeed to Declarant's right to appoint the members of the Architectural Committee. A majority of the members of the Architectural Committee may designate a representative to act for it. In the event of death, removal or resignation of any member of the Architectural Committee, the

remaining members of the Architectural Committee shall have full authority to select a successor. A majority of the members of the Architectural Committee may remove a member who routinely fails to fulfill his obligations as a member of the Architectural Committee; provided, however, that the members cannot vote to remove Declarant. Neither members of the Architectural Committee nor its designated representative shall be entitled to any compensation for services performed pursuant to this Declaration.

SECTION 2. APPROVAL REQUIRED FOR NEW CONSTRUCTION. A Lot Owner must obtain the Architectural Committee's approval prior to obtaining any building permit from Bluffdale City. The Architectural Committee's approval shall be in writing. In that connection, the Lot Owner must submit a set of formal plans, specifications, and site plan to the Architectural Committee for review. The Architectural Committee shall date stamp the plans and specifications submitted by a Lot Owner at the time of receipt. In the event the Architectural Committee, or its designated representative(s), fails to approve or disapprove submitted plans within thirty (30) days after plans and specifications have been received and dated by the Architectural Committee, approval will not be required and the related covenants shall be deemed to have been fully complied with.

SECTION 3. APPROVAL REQUIRED FOR ALTERATIONS. No building, fence, wall or other structure shall be commenced, erected or maintained upon the Project, nor shall any exterior addition or change of alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to the harmony of external design and location in relation to surrounding structures and topography by the Architectural Committee.

ARTICLE II RESIDENTIAL AREA COVENANTS

SECTION 1. HOMEOWNER'S ASSOCIATION. The Lot Owners (hereinafter "Members") agree to form the Scenic Ridge Estates Phase II Homeowners Association (hereinafter the "HOA"). The HOA shall be a Utah non-profit corporation and shall be charged with the duties and vested with the powers prescribed by Utah law, the Articles of Incorporation and Bylaws for the HOA, and this Declaration. Such duties and powers shall include, without limitation, (i) the ownership of the Water Shares (as defined below) servicing the Project, (ii) the ownership and governance of the private Irrigation Facilities (as defined below) servicing the Project, and (iii) the enforcement of the CC&R's. In the event of any conflict between the Articles of Organization, Bylaws and this Declaration, this Declaration shall control. Only Lot Owners can become Members of the HOA. Each Lot Owner shall automatically become a Member of the HOA upon obtaining title to a Lot, and cannot refuse to become a Member. Each Member shall be entitled to one (1) vote for each Lot owned by such Member on matters before the HOA. The HOA shall hold regular annual meetings and special meetings, as needed. Written notice will be given to each Member at least two weeks prior to the date of each regular annual meeting. A Member must be present at any meeting of the HOA to cast his vote, unless the HOA Committee adopts rules with regard to voting by proxy.

SECTION 2. OWNERSHIP OF WATER SHARES; COMMON IMPROVEMENTS; ASSESSMENTS.

The HOA shall own and hold the Water Shares and Irrigation Facilities for the benefit of all Members. For purposes of this Declaration, "Water Shares" means the Thirty Seven (37) shares of water in the Welby Jacob Canal Irrigation Company, and "Irrigation Facilities" means all underground or surface improvements (i.e. piping, valves, valve boxes etc.) Under no circumstances will the Water Shares, Irrigation Facilities or other improvements that are attached to the Lots and owned by the HOA be sold separately by the Members. They are considered to be part of the Project and must remain with the Project and the Lots for current and future Members' protection. Solely for the purpose of ensuring that ownership of the Water Shares and Irrigation Facilities remains with the HOA, no Water Shares or Irrigation Facilities shall be transferred or sold without express authorization from Bluffdale City and the HOA. An initial fee of \$150.00 will be collected at the closing of each Lot (the "Initial Assessment"). Subsequent annual assessments will be set by the HOA and presented to the Members for a majority vote at the annual meeting and will be collected from each Member, whether they utilize the Irrigation Facilities or not (the "Annual Assessment"). These Annual Assessments will be used by the HOA to pay the annual assessment on Water Shares, as well as any maintenance, repairs or improvements on the Irrigation Facilities and any power usage to operate the pressurized irrigation system. Members hereby acknowledge that non-payment of Annual Assessments will result in the placement of lien(s) on their Lots and agree to pay for any legal costs associated with said lien(s). All Annual Assessments shall be due as determined pursuant to the Bylaws. Annual Assessments not paid on or before ten (10) days after the date when due shall bear interest at the rate of eighteen percent (18%) per annum, or at such lower rate of interest as may be set by the HOA Committee, from the date when due until paid. All payments of Annual Assessments shall be first applied to accrued interest and late fees, costs of collection, and then to the Annual Assessment payment due. There shall be a lien upon the applicable Lot for all unpaid Annual Assessments, together with interest and costs (including attorneys' fees) charged pursuant to the Declaration. The lien for unpaid Annual Assessments and related charges shall be effective upon recordation in the Office of the Salt Lake County Recorder of a written notice of lien by the HOA Committee. The written notice of lien shall set forth the amount of the Annual Assessment, the date(s) due, the amount remaining unpaid, and the name of the Lot Owner of the Lot. No notice of lien shall be recorded until there is a delinquency in payment of the Annual Assessment. Such lien may be enforced by sale or foreclosure conducted in accordance with the provisions of law applicable to the exercise of powers of sale or foreclosure in deeds of trust or mortgages or in any other manner permitted by law including specifically, but without limitation, the method recognized under the laws of the state of Utah for the enforcement of a mechanics lien which has been established in accordance with the provisions of Chapter 1, Title 38, Utah Code Annotated, as amended from time to time. In any such foreclosure, the Lot Owner shall be required to pay the costs and expenses of such proceeding (including reasonable attorneys' fees), and such costs and expenses shall be secured by the lien being foreclosed. The Lot Owner shall also be required to pay to the HOA any Annual Assessments against the Lot that shall become due during the period of foreclosure, and all such Annual Assessments shall be secured by the lien being foreclosed. The lien of the HOA shall be superior (prior) to all other liens and encumbrances except liens and encumbrances recorded before recordation of this Declaration, a first mortgage on the Lot and assessments, liens and charges in favor of the state or any political subdivision thereof, for taxes and other governmental assessments or charges past due and unpaid on the Lot. The HOA may elect a HOA Committee, as set forth in the Bylaws. A four-member HOA Committee consisting of a president, vice president, secretary and water master will oversee the operations of the HOA. This HOA Committee shall initially be appointed by the Architectural Committee and future members of the HOA Committee shall be

appointed by a majority vote of the Members. HOA Committee members shall serve for a two-year term, and may serve more than one successive term.

SECTION 3. RESIDENCES. No dwelling shall be erected, altered, placed or permitted to remain on any Lot other than one detached single-family dwelling not to exceed two stories in height, and attached private garages for not more than four vehicles. All construction shall be comprised of new materials, except used brick and rock may be used with prior written approval of the Architectural Committee. A Lot Owner is required to have a residence constructed within 18 months of closing on the initial sale of the Lot from Declarant. If a residence is not constructed within 18 months of the original Lot closing, and the HOA is required to perform maintenance on the Lot (*i.e. removal of debris and weeds etc.*) as a result of the Lot Owner's failure to do so, to comply with the requirements of Bluffdale City or the rules and regulations established by the HOA, then the HOA shall have the authority to place a lien on said Lot to cover any expense for lot maintenance.

SECTION 4. QUALITY AND DWELLING SIZE. Plans and specifications for construction on each Lot shall be submitted to the Architectural Committee for review and approval. Any plans and specifications that fail to meet the minimum standards set forth in this Section shall be rejected by the Architectural Committee. No prefabricated or manufactured homes will be allowed in the Project. Each dwelling must have an attached garage for a minimum of 3 cars. Each dwelling must have an exterior covered with all brick, rock or stucco, or a combination of brick, rock or stucco, and aluminum soffit and fascia as approved by the Architectural Committee. No dwelling shall exceed 2/3 stucco. Finished square footage shall not include open porches and garages. Each dwelling must have a brick or rock mailbox. Finished square footage minimums are as follows:

- Rambler > The main level floor area shall be a minimum of 2200 Sq. Ft. finished.

- Two-story > The main level floor area shall be a minimum of 2000 Sq. Ft. finished and the second level floor area must equal at least 50% of the main level floor area. However, if the main level floor area is 2200 Sq. Ft. finished, there shall be no minimum requirement for the second level floor area.

- Multi-level > The main level and upper level floor area shall be a minimum of 2000 Sq. Ft. finished. (*Family room, half bath and laundry room behind garage shall not be counted as finished Sq. footage.*)

SECTION 5. OUTBUILDINGS. Any and all outbuildings must be approved by the Architectural Committee prior to Bluffdale City issuing a building permit. The exterior of all out buildings must match the exterior design of the adjoining dwelling.

SECTION 6. FENCING. Any fencing installed must be a non-maintenance type and must be approved by the Architectural Committee and must meet Bluffdale City's height and setback requirements. No chain link or wood fences of any type are allowed.

SECTION 7. CITY ORDINANCES. All improvements on a Lot shall be made, constructed and maintained, and all activities on a Lot shall be undertaken, in conformity with all laws and ordinances of Bluffdale City, Salt Lake County, and the State of Utah which may apply, including, without limiting the generality of the foregoing, all zoning and land use ordinances. Any business operated out of the home must be in strict compliance with the zoning and ordinances adopted by Bluffdale City, including, without limitation, conditional use permit and other requirements imposed by Bluffdale City.

SECTION 8. EASEMENTS. Easements for the installation, erection, construction, maintenance and operation of utilities, drainage and Irrigation 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 on or around said easements which may damage or interfere with the installation, maintenance and operation of utilities, drainage and irrigation, or which may change the direction, obstruct or retard the flow of storm drainage or irrigation water in the buried utility lines or open channels within said easements. These easements may be used by Declarant or other utility companies to provide services to properties other than the Project.

SECTION 9. NUISANCES. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. No commercial vehicles shall be parked on the road or in front of a dwelling, but must be kept in a garage on the Lot. No repairs to vehicles to be done on driveways or on the road. All repairs must be done in a garage. Also, no semi-trucks or trailers will be allowed to be parked in the Project at any time, and no curb-side parking of any vehicle will be allowed in the street which may pose as a safety concern for (*children playing near or around a parked vehicle*) or a maintenance issue (*i.e. snow removal etc.*).

SECTION 10. TEMPORARY STRUCTURES. No structure of a temporary character, trailer, tent, shack, garage, barn or other outbuildings shall be used on any Lot at any time as a residence, either temporarily or permanently.

SECTION 11. GARBAGE AND REFUSE DISPOSAL. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept, except in sanitary containers. All such containers must be kept clean and in good sanitary condition. Each Lot and its abutting street are to be kept free of trash, weeds, and other refuse by the Lot Owner. No unsightly materials or other objects are to be stored on any Lot in view of the general public, including (but not limited to) old vehicles. No burning of garbage.

SECTION 12. LANDSCAPING. All front and side yards must be landscaped within one (1) year after issuance of an occupancy permit for a dwelling. Rear yards must be landscaped within two (2) years after issuance of an occupancy permit for a dwelling. All park strips must be planted in grass and trees (*type and size shall be specified by the Architectural Committee*). Trees must be planted every 40' and, initially, will be purchased by the HOA for planting by the Lot Owner (*see Article II, Section 15*). Each Lot Owner shall not remove or relocate trees in the park strip. If any tree in park strip dies, due to circumstances beyond a Lot Owner's control, the HOA will purchase a new tree of equivalent size for replacement and the Lot Owner shall install the replacement tree within 48 hours of the delivery of said tree. If any tree dies as a result of a Lot Owner's negligence, then the replacement

tree must be planted and purchased at Lot Owner's expense within fourteen (14) days of written notice by the HOA. Any section of a Lot that is used for pasture must be well maintained and not over grazed by livestock. All Lots and contiguous fence lines must be kept free of noxious weeds and must maintain a pleasant appearance.

SECTION 13. LIVESTOCK AND POULTRY. The only animals, livestock, or poultry raised, bred or kept on any Lot will be those permitted by Bluffdale City ordinances, which ordinances will also govern the quantity of such animals. However, swine or goats of any kind will not be allowed under any circumstances. Lot Owners must control any flies created by their livestock to the best of their ability. Any manure resulting from livestock must be spread or hauled away and cannot be stockpiled. All animals must be kept on the Lot and not allowed to run at large. Animals that are or become nuisances to neighboring Lot Owners, because of the noise they create, such as peacocks or barking dogs etc., or animals that consistently run at large, must be controlled by Lot Owners within ten days of written notice by the HOA. If a Lot Owner cannot resolve complaints of neighboring Lot Owners to the reasonable satisfaction of such neighboring Lot Owners, the HOA can require the Lot Owner to remove the offending animals.

SECTION 14. OWNERSHIP. This Section serves to preserve the rights of ownership by making specific regulations that will protect the integrity of the Lots. Lot Owners are responsible for any and all water retention and run off from irrigation or other water sources, natural or man made, initiated at or pertaining to their Lots, which could affect or damage other property or properties. Lot Owners are not allowed to remove, restrict or disassemble any drainage or irrigation system put in place by Declarant unless found to be defective and replaced by equal or greater system. Due to the nature of the Project's pressurized irrigation system, and the need to maintain equal pressure throughout the Project, there will be no flood irrigation allowed of any type. Any and all irrigation will be controlled by sprinkling systems, which shall not exceed more than four (4) rainbirds or rotating sprinklers per station.

SECTION 15. ADDITIONAL DEPOSITS. At the initial closing of each Lot, the Lot Owner will need to deposit money with Declarant for the following three (3) items: **\$1,000.00** warranty escrow; **\$125.00** landscape fee for every 40 feet of frontage (rounded up) for parkstrip landscaping trees as outlined in Article II Section 12 and **\$150.00** for the HOA Initial Assessment. *The warranty escrow* is to cover any costs associated with damage caused by the Lot Owner to improvements that Declarant has installed (i.e. curb and gutter, sidewalk, meter and valve boxes etc.) during the construction of personal dwelling or landscaping of Lot during the warranty period of the Project. Once the warranty period has expired with Bluffdale City and no repairs are necessary on Lot Owner's Lot, and the Lot Owner's landscaping is complete (*as specified in Section 12 above*) whichever occurs last, the \$1,000.00 deposit (or any unused portion) will be returned to the Lot Owner. However, if the Lot Owner has not complied with other terms of the CC&R's as contained herein, the \$1,000.00 deposit (or any unused portion) will be transferred to, and retained by, the HOA until such time as the Lot Owner complies with said CCR's. *The landscape fee* will be based on the amount of frontage that each Lot has. For example, if a Lot has 150' of improved frontage, there will be an assessment of \$500.00 (150' / 40' x \$125.00 (*rounded up*)) to be deposited with the HOA to purchase trees for the park strip so that all trees are uniform and of the same variety and size. *The HOA Initial Assessment* will be for the first year assessment only. Future assessments will be determined at the HOA annual meeting, as outlined in Article II Section 1 above.

**ARTICLE III
GENERAL PROVISIONS**

SECTION 1. ENFORCEMENT. Violation of any of the CC&R's herein contained shall give the HOA, the right but not the obligation, to enter upon the Lot to which said violation or breach exists, and to summarily abate and remove at the expense of the Lot Owner, any erection, thing or condition that may be or exist thereon contrary to the provisions hereof, without being deemed guilty of trespass. The result of every action or omission whereby any restriction, conditions, covenant or agreement is violated, in whole or in part, is hereby declared to be a nuisance and every remedy allowed by law against a nuisance, either public or private, shall be applicable against such result. Such remedy shall be cumulative and not exclusive. To the extent the HOA or any Lot Owner is required to expend any funds to correct any violation or breach which exists with respect to the Lot (including legal costs and attorneys' fees incurred for such purpose), the HOA may file a statement of lien by recording with the office of the Salt Lake County Recorder, a written statement with respect to the Lot, setting forth the name of the Lot Owner, the legal description of the Lot, the amount expended on behalf of the Lot Owner committing the breach, and which shall be served upon the Lot Owner of the Lot by mail to the address of the Lot. Thirty (30) days following the mailing of such notice, HOA on behalf of all of the other Lot Owners may proceed to foreclose the statement of lien in the same manner as provided for the foreclosure of mortgages, deeds of trust or mechanics liens under the laws of the State of Utah. Such lien shall be in favor of the HOA. In either a personal or foreclosure action, the HOA shall be entitled to recover as part of the action, the interest, costs and reasonable attorneys' fees with respect to the action. The remedies herein provided shall not be exclusive and the HOA and Lot Owners may enforce any other remedies as may be provided by law. The lien provided for in this Declaration shall be subordinate to the lien of any first mortgage or first deed of trust with respect to the Lot.

SECTION 2. SEVERABILITY. Invalidation of any one of these CC&R's by judgment or court order shall in no wise affect any other provision which shall remain in full force effect.

SECTION 3. CARRYOVER. By agreeing to be bound by all of the provisions of this Declaration, the Lot Owner does also hereby agree that he will be responsible to carryover to any sale, gift, pass through to heirs, divorce or exchange of any kind involving his Lot, these CC&R's, and will not be released therefrom or any financial obligation agreed to herein unless or until the new Lot Owner has satisfied such financial obligations. [Note: I don't like this provision. As a practical matter, subsequent purchasers are bound by the terms of the Declaration without signing anything. If the HOA is owed some money and a lien is in place, it would be paid at the closing.]

SECTION 4. AMENDMENT. The CC&R's of this Declaration shall run with and bind the Lots, for a term of forty (40) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended or terminated by a vote of at least seventy-five percent (75%) of the total votes of all Lot Owners, which vote shall be taken at a duly called meeting. Any approved amendment shall be reduced to writing, signed, and recorded against the Lots or the Project at the Salt Lake County Recorder's Office.

SECTION 5. RESERVATION OF EASEMENT. All Lot Owners shall by acceptance of contracts or deeds for Lots be conclusively deemed to have granted an easement to Declarant to permit the development of each and every part or parcel of adjoining land within the Project owned or held by Declarant.

1. **SECTION 6. ACCEPTANCE OF RESTRICTIONS.** All Lot Owners shall by acceptance of contracts or deeds for Lots be conclusively deemed to have consented and agreed to all CC&R's set forth in this Declaration.

2.
3. **SECTION 7. MUTUAL AND RECIPROCAL BENEFITS.** All of the CC&R's shall be made for the direct and mutual and reciprocal benefit of each and every Lot created in the Project and shall be intended to create a mutual and equitable servitude upon each of said Lots in favor of each other Lot created in the Project and to create reciprocal rights and obligations between the respective Lot Owners and to create a privity of contract and estate between the grantees of said Lots, their heirs, successors and assigns, and shall, as to the Lot Owners of each Lot, their heirs, successors and assigns, operate as covenants running with the land for the benefit of all other Lots in the Project.

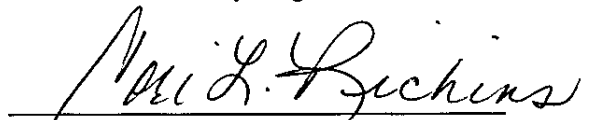
IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand this 30th day of June, 2004.

DECLARANT
Scenic Development, Inc.

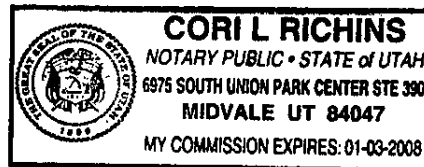

Kim Rindlisbacher, President

State of Utah, Salt Lake County

On June 30, 2004, personally appeared before me Kim Rindlisbacher, President, representing Scenic Development, Inc., a Utah Corporation, who upon being duly sworn (or affirmed) upon oath that he did sign the foregoing instrument with authority as granted.


Notary Public

My Commission Expires: 01/03/08
Residing at: Salt Lake County, Utah



LOT OWNERS:

Name: Lot No. Date

Name: _____

Lot No. _____

Date _____

RXLP SCENIC RIDGE EST PH 2		BLK, LOT-QUAR			
B FLG	BLK/BLDG	IND FLG	LOT/QUAR	PARCEL NUMBER	OBSOLETE?
		L	1	33-16-176-009-0000	NO
		L	2	33-16-176-002-0000	NO
		L	3	33-16-176-003-0000	NO
		L	4	33-16-176-004-0000	NO
		L	5	33-16-176-005-0000	NO
		L	6	33-16-176-006-0000	NO
		L	7	33-16-176-007-0000	NO
		L	8	33-16-176-008-0000	NO
		L	9	33-16-177-010-0000	NO
		L	10	33-16-177-011-0000	NO
		L	11	33-16-177-012-0000	NO
		L	12	33-16-177-013-0000	NO
		L	13	33-16-177-009-0000	NO
		L	14	33-16-177-008-0000	NO
		L	15	33-16-177-007-0000	NO
		L	16	33-16-177-006-0000	NO
		L	17	33-16-177-005-0000	NO
		L	18	33-16-177-004-0000	NO
		L	19	33-16-177-003-0000	NO

PF1=VTDI PF5=RXKP PF7=RXAB LIST PF04=PREV ENTER=NEXT CURSOR DOWN AND ENTER=RXPN
 PF12=RXEN

RXLP SCENIC RIDGE EST PH 2	BLK, LOT-QUAR	OBSOLETE?
B FLG · BLK/BLDG IND FLG	PARCEL NUMBER	
LOT/QUAR		
L 20	33-16-177-002-0000	NO
L TRAIL	33-16-177-001-0000	NO

PF1=VTDI PF5=RXKP PF7=RXAB LIST PF04=PREV ENTER=NEXT CURSOR DOWN AND ENTER=RXPN
 PF12=RXEN