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1 Dammeron Valley Dr E
Dammeron Valley, UT 84783

**AMENDED
PROTECTIVE COVENANTS AND DECLARATION
OF BUILDING AND USE RESTRICTIONS**

**ARTICLE I
PREAMBLE**

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RUSSELL SHIRTS * WASHINGTON CO RECORDER
2005 MAR 10 16:24 PM FEE \$22.00 BY AMH
FOR: DAMMERON VALLEY CORP

KNOW ALL MEN BY THESE PRESENTS:

THAT WHEREAS, the undersigned, being the President of The Dammeron Corporation which owns the following described real property located in Washington County, State of Utah, and more particularly described as follows:

ALL THAT PORTION OF SECTIONS 19 & 20, TOWNSHIP 40 SOUTH, RANGE 16 WEST, SALT LAKE BASE & MERIDIAN, WASHINGTON COUNTY, UTAH DESCRIBED AS FOLLOWS:

(See full Legal Description of Pinion Hills V attached hereto as Appendix I)

THAT WHEREAS, The Dammeron Corporation, to be referred to also as the Developer, intends to subdivide the land into 25 lots to be known as the PINION HILLS SUBDIVISION, Phase Five, the Developer does hereby establish the nature of the use and enjoyment of said land as described above, and does declare that all conveyances of said land shall be made subject to the following conditions, restrictions and stipulations herein contained.

THAT WHEREAS, The Developer believes the land being subdivided into the Pinion Hills Subdivisions is very special; the Protective Covenants are more comprehensive in spelling out land use than in prior phases of the Dammeron Valley Subdivisions. It is hoped the end result will be the best-planned and finest subdivision in Southern Utah. The Developer is not responsible for locating property corners and surveyed homesites after sale of the lot. Buyers should locate and permanently mark these points at the time of purchase.

**ARTICLE II
RESIDENTIAL AREA COVENANTS**

I. LAND USE: This land is intended primarily for residential use. The Washington County Commission has zoned the land RE-40 which allows no more than one single-family residence on each lot. Horses and other large farm animals are not allowed to be kept on any lot. An exception is made for Lots 86, 87, 88, 90 & 91 which back up to a subdivision zoned for horses. Household pets and large animals must be contained on the lot and their noises and smells strictly controlled.

No natural vegetation or ground cover shall be removed without the replacement of the same with roads, buildings, landscaping, gardens or native ground cover within a one-year period. The landowner shall not cause or allow any undesirable sights, sounds or odors from his lot to disturb his neighbors. Outdoor lighting must be low intensity and kept to a minimum. No light is allowed to glare toward a neighboring home. The view of the night sky is important and no light, indoor or outdoor, is allowed that will diminish that view from neighboring lots. The nature of the terrain in Pinion Hills, the rock formations, the natural flora and the spectacular views are of great intrinsic value. Each landowner is required to protect these features at all times. An attempt must be made to use native materials and plants in all building and landscaping, and to restore the look and feel of the natural terrain following all construction projects. At all times, but especially during construction, no surface area shall be disturbed that will not later be developed into building, driveway or maintained landscaping as approved by the DVLA. Special care should be taken to insure construction materials and waste do not pollute the subdivision or surrounding land with litter or weeds (be especially careful of weed contamination from straw used by cement contractors). Every effort should be made to not obstruct the view from other lots; homesite selection and height restrictions have been made to help achieve this end. A minimum disturbance to the natural flora and rock formations must be achieved. With careful construction and development the lots will be generally maintenance free. Those wishing to do additional landscaping

must control their water over spray and other factors to avoid introducing weeds to the area. The land is relatively weed free and each lot owner is required to totally eradicate any weeds on his lot or around his lot on roadways or easements. RV's, boats, trailers etc must be stored out of the general view of the public. No large trucks or tractors may be stored on any lot except during construction. Portable toilets or other proper sanitary facilities must be provided on all lots during construction. The Board of Trustees of the DAMMERON VALLEY LANDOWNERS ASSOCIATION (DVLA) shall arbitrate any difficulties and can force any landowner in violation to remedy the situation or reimburse the DVLA for doing the same.

2. EASEMENTS AND SETBACKS: Easements for installation and maintenance of utilities, drainage facilities and ingress and egress are reserved as shown upon the recorded plat of the subdivision. All structures must be set back at least fifty (50) feet from the front property lines and ten (10) feet from side and back yard lines. There is an implied 10-foot easement specified by Washington County ordinance along all property lines for future utility installation. Homes on corner lots may be allowed to set back only 25 feet from the secondary street if the house is turned toward the major street.

3. BUILDING TYPE: No building may be less than 1600 square feet on one level excluding garages, or in the case of two level designs where allowed, the lower level may be 1000 square feet minimum with the upper level a minimum of 500 square feet, excluding garages. Second stories may not exceed 70% of ground floor. No building or group of buildings may total more than 8000 square feet on any lot. An enclosed garage no smaller than 12' X 20' must be built at the same time as the home. Garages located closer than 100 feet from a road must not have garage doors facing the road. Western or pueblo style architecture is preferred. Natural wood, brick or stucco in dark, warm earth tones are the recommended materials. Vinyl, aluminum and manufactured wood products are not allowed except for soffits, flashing, rain gutters, doors and windows. Garage doors should be painted the same color as the walls. White, aluminum and pastels are unacceptable colors even on trim or window frames. A color chart of recommended colors can be reviewed by contacting the Architectural Committee of the DVLA. Other dark hues may be approved. Roofs should be in dark earth tone colors; orange or other bright colored roof tile is not allowed. If asphalt shingles are used they must be of a style that yields shadow line texture. Homes must be site built and every effort should be made to soften the visual impact of the homes in Pinion Hills from other homesites and from the rest of Dammeron Valley. Toward this end special attention will be paid to the Northeast elevation, which is the side of the house facing Pine Valley Mountain. High plain walls must be avoided. No gable end walls are allowed to face northeast; i.e., a hip roof should slope toward Pine Valley Mountain. Full hip roofs are recommended for Western style homes or varying height parapets around the flat roofs of pueblo styles. Roof pitches are suggested to be kept under a 4/12 pitch but the height limitation on a lot will dictate this issue. Western style homes must have a pitch on at least 50% of the home, not to exceed a 6/12 pitch. Wide fascias, shadow lines, curves and angles, multiple wall and rooflines, and subdued colors are suggested as methods of softening the visual impact. Nestling the home behind the native trees will also help. The developer has selected the proposed homesite on each lot and marked them on the plat along with the maximum height allowed for any and all structures on that site. Heights designated are 14 or 18 feet and are measured from the homesite stake placed on each lot. An additional two feet may be allowed over these heights on up to 40% of the structure. Chimneys and vents may exceed height limits if required by building codes. If the homesite stake is lost or destroyed the lot owner is responsible for having it resurveyed if it is needed to resolve height or site disputes. Fences are not suggested, but if they are built they must be approved by the DVLA and must be of wood or stone in dark tone natural colors on all sides of the lot. Stone fences or columns are allowed only in native sandstone. No chain link type fencing is allowed. Solid stone walls may not exceed three and one-half feet in height. Wire fencing may be allowed to contain permitted animals, but it must be attached on the inside of a wood or stone fence and it should be kept to a minimum. We encourage protection of the native forest. No trees may be planted that will ever exceed in height the native pinion and juniper trees of Pinion Hills; i.e., approximately 24 feet. If the landowner requests a variance from the covenants of this paragraph, he must, prior to submittal of the plans to the DVLA, obtain the approval of The Dammeron Corporation. The Developer reserves the right to grant a variance regarding the homesite location and height limitation without consulting the DVLA or the neighboring landowners. An attempt will be made to protect neighboring views, but no guarantee is made. If a home is built on a neighboring lot, that homeowner may be consulted prior to granting a variance. Any variance approved by the Developer

regarding site and height will be in accord with the original intent not to have homes protrude above the native trees or skyline, or unduly affect the views from another lot.

4. **PRIVACY, SCREEN AND POOL WALLS:** Privacy, Screen and Pool Walls are allowed, but must meet specific criteria. All walls are to blend architecturally with the primary structure and may not impede the view corridors of adjacent lots. Privacy walls may be used to enclose patios that are adjacent to the primary structure and may not exceed 5' in height. Screenshot walls should be used to screen from view such things as pool equipment, condensers, or other required exposed mechanical units and may not exceed 4' in height. Pool walls may be used to enclose pools and surrounding patio areas and may not exceed 6' in height. No wall may be placed within 15' of property line. Privacy and screen walls may be constructed of either solid or wrought iron materials. Solid pool fences will be allowed only where privacy is determined to be an issue. Materials: Solid walls must be constructed of block, concrete or similar material and must be finished with a plaster material that matches the home finish in texture and color. Wrought iron fences must be finished in a color that blends with the surrounding environment. Stone can be used but must match the native stone and will be limited as a minor architectural feature. Wood slat or solid wood fences are not allowed. All exterior walls must be shown on any plans and must be approved by both the ARB and the developer before being constructed. The developer retains the right to approve or disapprove of any walls and/or to grant variances pertaining to walls.

5. **GARBAGE AND REFUSE DISPOSAL:** No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, rubbish or other waste shall not be kept except in sanitary containers. Each lot and its abutting street are to be kept free of trash, weeds and other refuse by the landowner. No unsightly materials or other objects are to be stored on the land in view of the general public or a neighboring landowner. No activity which may become an annoyance or a nuisance to the neighborhood will be allowed. All outdoor fires, whether for weed burning or cooking, must be contained in a fire pit due to the extreme fire danger in Pinion Hills. The landowner planning a fire must adhere strictly to County regulations and attend the fire at all times. He must also advise the Dammeron Valley Fire Department of his proposed fire and cooperate with their directives. They may ban the burning of weeds and construction debris in Pinion Hills.

6. **TEMPORARY STRUCTURES:** All temporary structures including mobile homes must be approved by the DVLA. Approval will only be given for no greater time than one (1) year for purposes of a temporary residence while a permanent home is being constructed. Water and Sewer hookups are required for any temporary residence. Any construction project undertaken must be completed within one (1) year. During construction the site must be kept neat and must not become a storage area for trailers, RV's, vehicles, boats, etc., that are not needed in the construction project.

7. **UTILITIES:** Power is served by Utah Power and Light Company; they may require a credit deposit and should be given as much advance notice of required service as possible. They will provide the service cable for the first 100 feet from the service point at the front of the lot. The service trench and any line in excess of 100 feet is the responsibility of the homeowner. Telephone service is by Qwest; they currently charge a \$25 hookup fee. Conduit in the streets has been provided for their lines, but there may be some delay in getting the lines installed. Considerable advance notice may be required for telephone service. All service lines must be underground. Water is served by Dammeron Valley Water Works, which is owned by The Dammeron Corporation. A standby water rate (currently \$20.00 per month) is charged each landowner prior to hookup. The hookup fee is currently \$1,500.00 and the rate for water is \$1.50 per 1,000 gallons for up to 24,000 gallons per month; over this amount the charge is \$2.00 per 1,000 gallons. A \$30.00 per month minimum applies to all metered customers. Rates for these utilities are regulated by the Utah Public Service Commission. Natural gas is served by Questar. They currently charge a \$30 connection fee.

Sewer Service is provided by the Dammeron Valley Special Service District (DVSSD), a government entity created for this purpose. Monthly fees are currently \$20 for connected lots and \$10 for unconnected lots. These monthly fees are paid directly to the DVSSD. An impact fee of \$2000 is to be paid prior to beginning construction directly to The Dammeron Corporation to offset their costs in

developing the sewer collection and disposal system. Some homesites in Pinion Hills are below the sewer line in the street. Someday backyard sewer lines may be installed which will accommodate a natural fall to a sewer line from those lots. The developer does not guarantee that these back yard lines will be built, or that a property owner won't have to contribute to their cost. Until such back yard lines are available, ejector pumps, supplied and maintained by the homeowner, must be used to pump sewage from the downhill sites into the sewer collection lines in the street. The developer has donated a 5.888 acre area for sewer disposal systems. It is expected this area will serve the approximate 195 lots planned for Pinion Hills. In the future if the entire parcel is not required for its intended use, because part of the system is moved elsewhere or more land was set aside than was actually needed, the Developer may convert the excess acreage to agricultural, commercial or residential use as long as the use is compatible with the surrounding residential lots.

All costs outlined above are subject to change without notice. All Utility Companies or a "Blue Stake" company must be contacted prior to digging in any roadway or established easement to avoid charge if damage occurs.

8. ROADS: A 50-foot wide right-of-way (ROW) has been dedicated to Washington County for public roads and mainline utilities. Water, power, sewer, gas and phone lines are installed in the ROW with lateral connections to each lot. Fire hydrants are in place within 250 feet of each lot. The location of the service laterals is the proposed entrance to the lot, which will facilitate the homeowner running his service lines to the homesite under the driveway. Driveways must be built as narrow as possible and wind around major trees or rock formations.

The developer believes the Pinion Hills Subdivisions would be better served with private roads and has notified the County Commission that at some future date if a majority of the then current land owners in Pinion Hills want to convert the roads to private, they will petition the County to deed the roads back to the landowners. There is no guarantee the County will cooperate. The advantages of private roads would be our ability to restrict access to residents and their guests, thus enhancing privacy and security. The disadvantages would be the expense of maintaining our own roads (estimated at \$5 per month per lot), doing our own snow removal (minimal in most years) and the hassle and expense of the entrance gates.

Whether the roads are public or private, the hiking and horse trails will be open to the public. The public as well as residents are required to stay on designated roads or trails. No horses or vehicles of any kind (including bicycles) are allowed off the roadways. Residents riding motorbikes must do so slowly and quietly, and keep their activity within Pinion Hills to a minimum. County codes regarding motorbikes will be strictly enforced. We are surrounded by hundreds of miles of back country dirt roads open to the public for this and other off- road vehicle use.

9. SIGNS: No sign of any kind shall be displayed to the public view on the land except (a), one professional sign of not more than one square foot, or (b), one sign of not more than five square feet advertising the property for sale or rent or announcing the contractors during construction.

10. OIL AND MINING OPERATIONS: No oil drilling, oil development operations, oil refining, quarry or mining operations of any kind shall be permitted upon or in any lot.

11. COMMERCIAL ENTERPRISE: No commercial business shall be permitted on the land without prior approval of the DVLA and the Washington County Commission. This does not restrict artists or craftsmen from using their residence as a studio or workshop, as long as it does not disturb their neighbors or break any other laws.

12. GUESTHOUSES: No lot shall be re-subdivided and only one single-family residence may be constructed per lot. A guesthouse or guest quarters of not more than 800 square feet may be allowed if approved by the DVLA and the Washington County Commission. Detached buildings of any kind are discouraged. Add-ons to an existing house will be very critically reviewed and must be approved by the

developer. Guesthouses and other accessory buildings should be approved with the original home plan.

ARTICLE III

GENERAL PROVISIONS

1. **DEVELOPER RIGHT TO DESIGN AND BUILD:** The Developer and its affiliates reserve the right to design and build all homes in Pinion Hills Phase V. In the event the Developer chooses not to design or build the home on any lot, he still retains the right to approve the design. Buyers may negotiate design and building fees prior to closing on their lot purchase. Design fees including construction drawings, are currently a minimum of \$3.50 per square foot. Building fees are currently a minimum of 15% of building hard costs.

2. **ARCHITECTURAL CONTROL:** No building, fence or wall shall be erected, placed or altered on the land without the approval of the Board of Trustees of the DAMMERON VALLEY LANDOWNER'S ASSOCIATION, INC. The Board of Trustees may use a consulting architect and an Architectural Review Board, and will review all plans in an attempt to maintain consistency of style and design within the Dammeron Valley Subdivisions. A \$275.00 fee must be paid with the submittal of plans to cover the architect and other expenses. Approval or disapproval will be made in writing within thirty days after complete plans and specifications have been submitted. Additional architectural guidelines enacted by the DVLA from time to time are binding if in place prior to a landowner getting plan approval. It is important to contact the DVLA for their complete guidelines and procedures prior to beginning design of any building or fence. A refundable building deposit may be required by the DVLA to insure completion of the home according to the approved plans. The deposit is currently \$3000.

3. **ENFORCEMENT:** These covenants shall be binding and inure to the benefit of all present and future owners of the property and they may be enforced by the Board of Trustees or by appropriate action in a Court of Law. If it becomes necessary for an owner or the DVLA to enforce these covenants, the party in violation of these covenants shall be responsible for paying all costs of enforcement including a reasonable attorney's fee incurred by the enforcing party. At some time in the future, the Pinion Hills landowners from all Pinion Hill's subdivisions may wish to establish their own Owners and Architectural Board for purposes of controlling architecture and managing other issues unique to the Pinion Hills Subdivisions. It is proposed that the name of this committee will be the "Pinion Hills Landowners Association" (PHLA) or Pinion Hills Control Board (PHCB). If formed by the majority vote of the then current landowners of the Pinion Hills Subdivisions, it will take over authority from the DVLA for architectural control in Pinion Hills and have the right to collect the architectural fee and building deposit outlined in paragraph 2I Article III. The PHCB will then be the entity which can deal with roads, sewer, and other issues pertinent to Pinion Hills. This will not release Pinion Hills landowners from being full-fledged dues paying members of the DAMMERON VALLEY LANDOWNERS ASSOCIATION, and being bound by its general authority and guidelines. If the home is designed or built by The Dammeron Corporation or its affiliates no fees or deposits are required. This document supercedes any previous documents.

4. **TERMS OF COVENANTS:** These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of forty (40) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a majority of the then owners of all the lots in the Dammeron Valley and Pinion Hills Subdivisions has been recorded agreeing to change the covenants in whole or in part.

5. **SEVERABILITY:** Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions which all remain in full force and effect.


6. **ASSIGNMENT OF POWERS:** Any and all rights and powers of the Developer herein contained may be delegated, transferred or assigned.

7. MEMBERSHIP IN DAMMERON VALLEY LANDOWNERS ASSOCIATION: Membership in the Dammeron Valley Landowner's Association, Inc. is appurtenant to and shall be an incident of ownership of any land as described above. A \$200.00 initiation fee must be paid by each lot owner at the time a lot is initially purchased from The Dammeron Corporation. This fee serves as a catch-up assessment to equalize the prior investment made by existing landowners in fire protection equipment, parks, etc. Monthly dues and assessments will be levied by DVLA; these currently total \$15.00 per month. Additional rules, guidelines and covenants, as well as a change in the dues and assessments, may be enacted from time to time by a majority vote of a duly constituted quorum of the dues paying members of the DVLA.

8. DUES, FEES AND ASSESSMENTS AN AUTOMATIC LIEN: All dues, fees and assessments outlined in paragraph 6 above and in paragraph 6 of Article II are an automatic lien against the landowner's lot from the time they are due and payable. There is no responsibility of the assessing body to record an additional lien even though they may do so. It is the responsibility of anyone buying a lot from anyone except the Developer to assure themselves that there are no dues, fees or assessments payable, in that the same are payable by the current landowner whether or not he owned the lot when the costs were incurred. None of the dues, fees and assessments referred to in the referenced paragraphs are payable by the Developer while he holds the lots prior to their initial sale (or if repossessed prior to payoff), and therefore a lot bought from the Developer can be considered free from these potential liens.

These protective covenants and declaration of building and use restrictions have been amended to include Article III Section 1, which had been omitted from the original filing.

IN WITNESS WHEREOF, I have here unto set my hand and seal this 7th day of March 2005.

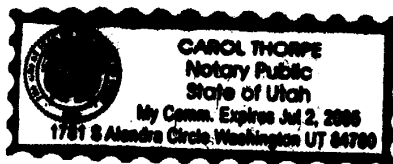

Brooks Pace, President
The Dammeron Corporation

Notary Public

State of Utah
County of Washington

On the 7th day of March two thousand five, personally appeared before me Brooks Pace. Who being by me did say that he is the President of The Dammeron Corporation, a Utah corporation, and that the within and foregoing instrument was signed in behalf of said corporation by authority of a resolution of its board of directors the signer of the within instrument who duly acknowledged to me that he executed the same.


Notary Public



APPENDIX I

**LEGAL DESCRIPTION FOR
PINION HILLS PHASE V
(October 24, 2004)**

ALL THAT PORTION OF SECTIONS 19 & 20, TOWNSHIP 40 SOUTH, RANGE 16 WEST, SALT LAKE BASE AND MERIDIAN, WASHINGTON COUNTY, UTAH DESCRIBED AS FOLLOWS:

. Beginning at a point being on the westerly line of Pinion Hills Phase 1, said point being South 00°07'41" West 5,269.23 feet along the section line and East 1,120.37 feet from the North Quarter Corner of Section 18, Township 40 South, Range 16 West, Salt Lake Base & Meridian, and running

thence South 73°48'34" East 208.37 feet;
 thence North 37°19'54" East 618.99 feet to the southwesterly line of Dammeron Valley Homesteads;
 thence South 36°00'00" East 1,000.00 feet along the southwesterly line of said Dammeron Valley Homesteads;
 thence South 81°00'00" East 220.00 feet along the southwesterly line of said Dammeron Valley Homesteads;
 thence South 54°00'00" East 87.90 feet along the southwesterly line of said Dammeron Valley Homesteads to the Westerly line of Pinion hills Phase 4;
 thence southwesterly the following (13) courses along the westerly line of said Pinion Hills Phase 4;
 thence South 30°30'29" West 187.24 feet;
 thence northwesterly 11.38 feet along an arc of a 475.00 feet radius curve to the right (center bears North 29°07'36" East long chord bears North 60°11'13" West 11.38 feet with a central angle of 01°22'22");
 thence North 59°29'58" West 71.09 feet;
 thence South 30°30'02" West 50.00 feet;
 thence North 59°29'58" West 45.84 feet;
 thence westerly 46.90 feet along an arc of a 124.98 feet radius curve to the left (center bears South 30°30'02" West long chord bears North 70°15'01" West 46.63 feet with a central angle of 21°30'05");
 thence North 80°59'56" West 80.09 feet;
 thence South 26°43'54" West 263.61 feet;
 thence South 21°44'26" West 272.82 feet;
 thence South 01°21'45" West 256.58 feet;
 thence South 31°39'54" East 169.36 feet;
 thence South 13°12'06" East 144.93 feet;
 thence South 50°59'17" West 165.21 feet to the Northeasterly line of Pinion Hills Phase 3;
 thence North 27°53'10" West 364.73 feet along the northeasterly line of said Pinion Hills Phase 3;
 thence North 35°14'55" West 197.87 feet along the northeasterly line of said Pinion Hills Phase 3;
 thence North 35°14'55" West 236.42 feet along the northeasterly line of said Pinion Hills Phase 3;
 thence North 49°13'08" West 200.44 feet;
 thence North 80°56'28" West 192.59 feet to the northerly corner of said Pinion Hills Phase 3, said point also being on the easterly line of Pinion Hills Phase 2;
 thence North 04°38'11" West 201.81 feet along the easterly line of said Pinion Hills Phase 2;
 thence North 10°54'50" West 404.60 feet along the easterly line of said Pinion Hills Phase 2 to the southeast corner of said Pinion Hills Phase 1;
 thence North 01°59'58" West 270.17 feet along the easterly line of said Pinion Hills Phase 1 to the Point of Beginning.
 Containing 1,323,420 square feet or 30.382 acres.