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**PROTECTIVE COVENANTS FOR  
TENAYA SANDS SUBDIVISION**

A RESIDENTIAL SUBDIVISION LOCATED IN  
IVINS CITY, UTAH

00969351 Bk 1786 Pg 2625  
RUSSELL SHIRTS \* WASHINGTON CO RECORDER  
2005 SEP 06 14:10 PM FEE \$40.00 BY SW  
FOR: FIRST AMERICAN TITLE CO

Tenaya Sands, LLC, hereinafter referred to as the "Developer," is the owner 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 THIS REFERENCE

Developer hereby includes all of the Property in the plats recorded herewith of Tenaya Sands Subdivision, Phase 1, and divides the Property into Lots as shown on said plat(s) and dedicates the streets shown on said plat(s) to the public. The easements indicated on said plats 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 Lot, part or portion thereof. The acceptance of any deed to or conveyance of any Lot, 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 covenants, conditions, and restrictions. These covenants, conditions, and restrictions shall run with the land.

**ARTICLE 1**  
**USE RESTRICTIONS**

**1.1 Land Use and Building Type.** All Lots shall be used only for detached single family residential purposes. As used herein, the term "family" is defined to mean persons related by blood or marriage, by legal adoption, or by operation of law. No professional, business or commercial use shall be made of the same, or any portion thereof; provided, however, that the Lot 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 or accounts therein; or (c) handling personal, business or professional telephone calls or correspondence therefrom.

**1.2. Lot Size.** Lot sizes as described on the recorded plat of subdivision are considered minimum Lot sizes and no person shall further subdivide any Lot other than as shown

on the recorded plat of said subdivision. Lots may not be combined for construction of a single home.

**1.3. Care and Maintenance of Lots.** The owner of each Lot shall keep the same free from rubbish, litter and noxious weeds. All structures, landscaping and improvements shall be maintained in good condition and repair at all times. Each Lot shall be subject to an easement for access to make repairs upon adjoining Lots 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 Lot; and

(c) In no event shall said easement be deemed to permit entry into the interior portion of any home.

Each owner shall be responsible for maintenance of his Lot. In the event any owner fails to perform this maintenance in a manner so as not to detract from the appearance of the property, or affect adversely the value or use of any other lot, the Architectural Control Committee shall have the right to have maintenance performed on the Lot and the cost of said maintenance shall be added to and become a lien against such Lot.

**1.4. Care and Maintenance of the Open Space.** The Developer shall install landscaping in the open space areas as shown on the plats. By agreement of Ivins City, upon completion of improvements and landscaping in the open space areas, maintenance of such open space shall be the responsibility of Ivins City.

**1.5. 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 Lot and all improvements in it shall be maintained continuously by the owner of the Lot, except for those improvements for which a public authority or utility company is responsible. The title holder of each Lot shall from time to time as may be reasonably required 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.

**1.6. Hazardous Activities.** No activities shall be conducted on the Property and no improvements shall be constructed on the Property which 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.

**1.7. 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 Property, and are to be used on said streets only for ingress, egress, and access purposes and not for recreational purposes anywhere within the Property.

1.8. **Weed Control.** Each Lot Owner shall, to the extent reasonably feasible, control the growth and proliferation of noxious weeds and flammable materials on his Lot so as to minimize weeds, fire and other hazards to surrounding Lots, Homes, 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 which are injurious to crops, animals, land, or the public health.

1.9. **Pest Control.** No Lot Owner shall permit any thing or condition to exist upon the Lot which would induce, breed, or harbor infectious plant diseases or noxious insects. Each Owner shall perform such pest control activities on his Lot as may be necessary to prevent insects, rodents, and other pests from being present on his Lot.

1.10. **Nuisances.** No noxious or offensive activity shall be carried on upon any Lot, part or portion of the Property, nor shall anything be done thereon which may be or may become an annoyance to the Subdivision. No clothes drying or storage of any articles which are visible from any public street shall be permitted.

1.11. **Safe Condition.** Without limiting any other provision of these covenants, each owner shall maintain and keep such owner's Lot at all times in a safe, sound and sanitary condition and repair and shall correct any condition or refrain from any activity which might endanger the health of or interfere with the safety or reasonable enjoyment of other owners of their respective Lots.

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 Lot, 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 Lot or portion of the Property.

1.13. **Animals, Livestock, Poultry, and Agriculture.** No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot, part or portion of the Property, except that dogs, cats or other domesticated household pets, two (2) or less in total number may be kept in a home constructed on a Lot, provided that 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 home.

1.14. **Garbage and Refuse Disposal.** No Lot or part or portion of the Property shall be used or maintained as a dumping ground for rubbish, rubble, trash, garbage or other waste. Such trash, rubbish, rubble, garbage or other waste as produced within the Property shall be kept in sanitary containers inside a structure except when placed for collection. 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.** Each home shall be connected to and use the municipal culinary water supply. No individual culinary water supply system shall be used or permitted to be used on any Lot, part or portion of the Property.

1.16. **Sewage Disposal.** Each home shall be connected to and use the municipal sewage disposal system. No individual sewage disposal system shall be permitted on any Lot, part or portion of the Property.

1.17. **RVs, Boats, and Vehicles.** No boats, motorcycles, trailers, buses, motor homes, campers, recreational vehicles, or other such vehicles, shall be parked or stored upon any Lot except those belonging to an Owner that are kept within an enclosed garage, or on a cement pad behind a fenced area in the rear yard area of a Lot. No such vehicles shall be parked overnight on any street located within the subdivision. Trailers, motor homes, and trucks over 9,000 pounds GVW are not allowed to be stored upon any vacant lot or street or road area adjacent to the Property.

Motor vehicles that are inoperable shall not be permitted to remain upon any street or lot or road areas adjacent thereto. In the event an inoperable motor vehicle remains upon any Lot or road area for a period exceeding thirty (30) days, the Developer or other Lot owners residing within the Property may remove the inoperable motor vehicle after a ten (10) day written notice. The cost of such removal shall attach to the vehicle and the Lot 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 a period of not less than six (6) weeks.

1.18. **Rules and Regulations.** The Board of Directors shall have the authority to promulgate rules and regulations for the governance of the Property and persons within the Property. These rules of the Association shall be compiled and copies shall be made available by the Directors for inspection and copying at a reasonable cost.

1.19. **Developer Business, Marketing, and Sales.** Notwithstanding any provisions to the contrary herein contained, it shall be expressly permissible for Developer, or its written designee, to maintain such facilities and conduct such activities as in the sole opinion of Developer may be reasonably required, convenient or incidental to the construction of homes and sale of lots during the Development Phase, and upon such portion of the Property including lots or common area, if any, as Developer deems necessary, including but not limited to, a business office, storage areas, construction yard, signs, model units and sales offices. Development Phase is defined as that time period that commences upon recordation of the Plat and these Protective Covenants, and continues until such time as the Developer no longer owns a Lot within the Property. As part of the overall program of development of the Property into a residential community and to encourage the marketing thereof, the Developer shall have the right of use of any lots or any common area and facilities thereon, if any, without charge during the sales and construction period to aid in its marketing activities.

ARTICLE 2  
ARCHITECTURAL CONTROL

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

- (a) Appointment and Membership. The Architectural Control Committee shall consist of three (3) persons. So long as Developer owns a Lot within the Property, including ownership of any Lot in any phase(s) subsequent to the first phase, it shall be entitled to appoint all members of the Architectural Control Committee. Thereafter, the Architectural Control Committee shall consist of the Directors on the Board of the Association or of three (3) persons appointed by the Board.
- (b) Submission of Plans. Two (2) complete sets of building plans and specifications shall be filed with the Architectural Control Committee, together with a site or plot plan showing grading, landscaping and all lighting, indicating the exact part of the building site which the improvements will cover, with such a fee as the Architectural Control Committee may determine from time to time, and an application and such supporting material, such as samples of building materials, as the Architectural Control Committee deems necessary. No work shall commence unless and until the Architectural Control Committee shall endorse on 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 Architectural Control Committee pursuant hereto. The second set of such plans shall be filed as a permanent record with the Architectural Control Committee.
- (c) Rights of Approval. The Architectural Control Committee shall have the right to refuse or approve any plans and specifications and shall have the right, in so doing, to take into consideration the suitability of the proposed building, the materials of which it is to be built, the site upon which it is proposed to be erected, the harmony thereof with the surroundings, and the effect of said building, or other structure so planned, on the outlook from adjacent or neighboring property.
- (d) Architectural Standards. The Architectural Control Committee shall promulgate and maintain a list of standards for guidance in approving or disapproving plans and specifications pursuant to this Article.
- (e) Time Frame for Action. In the event the Architectural Control Committee fails to approve or disapprove in writing any such plans within thirty (30) days after the submission thereof to the Architectural Control Committee, then approval shall be deemed to have been given.
- (f) Non-Liability. The Architectural Control Committee shall not be held liable for damages by reason of any action, inaction, approval, or disapproval by it with respect to any request made pursuant to this Article. Any errors or omissions in the design of any building, other improvement or landscaping and any violation of

any governmental ordinance are the sole responsibility of the Lot Owner and the Lot Owner's designer, architect, or contractor. The Architectural Control Committee's review of plans shall in no way be concerned with structural or mechanical integrity or soundness.

- (g) Waiver. The approval of the Architectural Control Committee of any plans and specifications for any work done or proposed shall not constitute a waiver of any right of the Architectural Control Committee to disapprove any similar plans and specifications subsequently submitted.
- (h) Rules and Regulations. The Architectural Control Committee shall adopt reasonable rules and regulations for the conduct of its proceedings and to carry out its duties and may fix the time and place 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 review and inspection upon request. The Architectural Control Committee shall, by majority vote, elect one of its members as chairman and one of its members as secretary and the duties of each will be such as usually appertain to such offices. Notice of meetings shall be given to owners who have made application to the Architectural Control Committee for approval of plans.
- (i) Compensation. The members of the Architectural Control Committee may receive reasonable compensation for services rendered upon written authorization by resolution of the Board. Members shall be entitled to reimbursement for reasonable expenses incurred by them in connection with the performance of any Committee function or duty. Professional consultants retained by the Architectural Control Committee shall be paid such compensation as the Architectural Control Committee determines.
- (j) Developer Exemption. Developer shall be exempt from the provisions, restrictions, and requirements of this Article, as the same exists or as it may be amended, supplemented, or replaced in accordance with other provisions of the Declaration.

**2.2. Governmental Permit Required.** No home, accessory or addition to a home, 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 or installation of fencing or landscaping elements shall occur on a Lot until any required permit or required approval therefor is obtained from the appropriate governmental entity following submission to the appropriate governmental entity of such information as it may require. The granting of a permit or approval by any governmental entity with respect to any matter shall not bind or otherwise affect the power of the Architectural Control Committee to refuse to approve any such matter.

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

- (a) Purpose and Intent. The intent of these Architectural Guidelines is to encourage a blending of styles within the Property with the natural surroundings and prevailing architecture of the created environment of the Property. These standards allow design latitude and flexibility, while ensuring that the value of the Property will be enhanced through the control of site planning, architecture and landscape elements.

The Architectural Guidelines serve as an evaluative aid to owners, builders, project developers, design professionals, City staff, the Planning Commission, City Council and the Architectural Control Committee in the design review of individual, private and public developments within the Tenaya Sands Subdivision. The Ivins City Zoning Regulations will apply for any area of design not addressed in these guidelines.

- (b) Permitted and Required Structures. The only building or structure permitted to be erected, placed or permitted to be located on any Lot within the subdivision shall be a detached single family home placed within the building envelope for each lot and not to exceed the height requirements found in this section. Each home must include a minimum three car, private, enclosed and attached garage. All construction shall be of new materials. All structures shall be constructed in accordance with the zoning and building ordinances of Ivins City, Utah, in effect from time to time.
- (c) Minimum Area. The minimum total square footage of living area on the ground floor located within the building envelope and foundation for any residential home constructed on any Lot within the Property shall be not less than 2,000 square feet, exclusive of porches, balconies, patios and garages. Two-story above ground homes are not allowed.
- (d) Setbacks. The following minimum setback standards apply to the Lot. All measurements shall be made from the applicable Lot line to the foundation, porch or other extension of such building, whichever is nearer to such Lot line.

Front: Minimum of 25 feet Lot line to structure.

Side: Minimum of 10 feet from Lot line to structure.

Rear: Minimum of 20 feet from Lot line to structure.

- (e) Building Height. Maximum building height shall be 25 feet for all homes. Height is measured from a base line parallel to the existing Lot grade to a parallel line intersecting the highest point of any roof element.
- (f) Home Elevations. Elevations should be consistent with the intended architectural style of the home and carried around all four elevations of the structure.
- (g) Garages. All residences constructed on a Lot in the Property shall include a fully enclosed, private attached garage, built to accommodate not less than three (3) vehicles. Carports are not a substitute for a garage and are not allowed. Garage doors shall be a flat panel type and shall be painted to match the color of stucco on the exterior of the home to which it is attached. An Owner shall use the garage

portion of the Owner's Lot for the storage of motor vehicles. No Owner shall use a garage for any purpose which prevents storing of motor vehicles, unless doing so would not result in additional motor vehicles being stored outside the Owners garage. No Owner shall remodel a garage or use a garage on any Lot for residential purposes.

- (h) Driveways, Parking and Access. There shall be area on the driveway (excluding sidewalk areas) to park not less than two vehicles per Lot. Each driveway on a Lot shall be constructed out of cement, brick, concrete or interlocking pavers. Cinders, sand, gravel, asphalt or dirt shall not be permitted for driveway material in the front and side yard area of any Lot.

Access to Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 33, 34 and 35, which Lots abut Center Street and 400 West, shall only be accessed through the public roads in the Property. There shall be no direct access from Center Street to any Lot in the Property.

- (i) Windows. No white-framed windows are allowed. Colors for windows must be designated on the plans that are submitted to the Architectural Control Committee for approval prior to construction.
- (j) Facades. Facades shall be stucco, masonry, or stone, with accents of stone or such other material as approved by the Architectural Control Committee.
- (k) Roof and Roofing Materials. Flat roofs are not permitted. The maximum roof pitch is 4/12. Roof material shall be limited such materials and colors as may be established and allowed by the Architectural Control Committee.
- (l) Exterior Building Materials. All soffit and fascia materials must be stucco. No wood, vinyl, aluminum, steel or hardboard siding is allowed. All stucco must be of a synthetic type.
- (m) Reflective Exterior Surfaces or Materials. No reflective exterior surfaces or materials shall be used. Sheet metal, flashing, vents and pipes must be colored or painted to match the material to which they are attached or from which they project.
- (n) Colors. Colors shall be limited to those established and approved by the Architectural Control Committee.
- (o) Prohibited Structures. Dome structures, log homes, pre-manufactured homes; re-located homes; and Earth or Berm homes of any type are not allowed.
- (p) 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 home either temporarily or permanently, nor shall any such structures be erected or placed on the Property at any time. No old or second-hand structures shall be moved onto any of said Lots. It is the Developers intention that all homes and other buildings to be erected within the subdivision be new construction, of good quality, workmanship, and materials.



- (q) 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 home.
- (r) Sight Obstructions. No structure, fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points thirty (30) feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street property lines extended. The same sight line limitations shall apply on any Lot within the (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at such height to prevent obstruction of such sight lines. No fence, wall, hedge, shrub or other structure shall be placed along any front property line. No fence, wall, hedge, tree, plant, shrub or foliage shall be planted, kept or maintained in such manner as, in the opinion of the Architectural Control Committee, shall create a serious potential hazard or an aesthetically unpleasant appearance to the other residents of the Subdivision.
- (s) Fencing. Fencing, walls, gates and other barriers shall be approved by the Architectural Control Committee. The Developer will construct a block wall along the perimeter of the project. Any additional walls constructed within the Property shall be constructed with the same block and in the same color of block as the wall constructed by Developer. No fences, walls or other barriers shall be constructed in the front setback area.
- (t) Retaining Walls. Retaining walls are restricted to a maximum height of five (5) feet, unless otherwise approved by the Architectural Control Committee. In the event approval is given for a retaining wall higher than five (5) feet, the retaining wall must be tiered and landscaping must be installed to hide the retaining wall. Retaining walls, due to slope, or at the request of Ivins City, may be required to be professional engineered prior to construction.
- (u) External Illumination. Light used to illuminate garages, patios, parking areas or for any other purposes, shall be recessed canned lights, arranged as to reflect light away from adjacent residences and away from the vision of passing motorists or as otherwise designated by Ivins City. Low-level outdoor illumination may be used for particular landscape features (trees, rock formations, etc.), as approved by the Architectural Control Committee.
- (v) External Television or Other Antennas. Antennas for radio, television, or device for the reception or transmission of radio, microwaves or other similar signals are restricted to the attic or interior of the home. Satellite dishes shall be allowed provided they are located in such areas as may be designated by the Architectural Control Committee. In no event shall a satellite dish be visible from neighboring property or exceed 20 inches in diameter or width.
- (w) Location of Air Conditioning, Heating, and Soft Water 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.

- (x) Utility Meters. Utility meters shall be placed in as inconspicuous a 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 home. 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.
- (y) Mailboxes. Developer shall install cluster mailboxes. Said cluster mailboxes shall be the only allowed mail receptacles.
- (z) External Apparatus. No Lot Owner shall cause or permit anything (including, without limitation, awnings, canopies or shutters) to hang, be displayed or otherwise affixed to or placed on the exterior walls or roof or any part thereof, or on the outside of windows or doors, without the prior written consent of the Architectural Control Committee.
- (aa) Landscaping. Front and side yard landscaping must be completed prior to occupancy of a residence on a Lot. Landscaping shall be completed in accordance with the landscape plan submitted to and approved by the Architectural Control Committee prior to construction of the home, and may include but shall not be limited to the preparation for the planting of lawn, grass or other appropriate ground cover, and appropriate shrubbery. The Architectural Control Committee may establish a list of guidelines and approved plants for use in landscaping of Lots, and will be especially sensitive to the type and location of tree plantings. Landscaping should be planned and installed so as to have as little impact as possible on a neighbor's line of sight and view.
- (bb) Slope and Drainage Control. No structure, planting or other material shall be placed or permitted to remain or other activities undertaken which may damage or interfere with established slope ratios, create erosion or sliding problems, or which may change the direction of flow of drainage channels. The slope control areas of each Lot and all improvements in them shall be maintained continuously by the owner of the Lot, except for those improvements for which a public authority or utility company is responsible. Lot owners are responsible to see that no nuisance or damage is created by drainage location or flow to any adjacent property.
- (cc) Easements. Easements for installation and maintenance of utilities, drainage facilities and ingress and egress are reserved as shown upon the recorded plat. Within these easements no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow or drainage channels in the easements or which may impede ingress and egress. The easement area of each lot and all improvements in it shall be maintained continuously by the

owner of the Lot, except for those improvements for which a public authority or utility company is responsible.

- (dd) Lateral and Subjacent Support and Drainage. An owner's activities which affect the lateral or subjacent support, or both, of adjacent landowners shall be responsible for damages proximately caused by such activities. Owners shall be responsible for all damage proximately caused by drainage from their lot(s) to adjacent landowners.
- (ee) Signs; Commercial Activity. Except for one "For Rent" or "For Sale" sign of not more than two (2) square feet, no advertising signs, billboards, objects of unsightly appearance, or nuisances shall be erected, placed, or permitted to remain on any Lot or any portion of the properties. No commercial activities of any kind whatever shall be conducted in any building or on any portion of the properties. The foregoing restrictions shall not apply to the commercial activities, signs and billboards, if any, of the Developer or its agents during the construction and sales period.

**2.4. Construction and Contractor Provisions.** In order to promote a harmonious community development and protect the character of the Subdivision, the following guidelines which are applicable to the Property:

- (a) Exclusive Contractor. Construction of all residences on the Lots within the Property shall be done by C. F. Rice Construction or Jon Crockett Construction, LLC. Notwithstanding the foregoing, other contractors may be allowed to build on Lots within the Property only after the Architectural Control Committee has approved the same by a majority vote and provided a written authorization. Any vote and/or approval for other contractors to be allowed to construct residences within the Property shall be done on a lot by lot basis.
- (b) Completion of Construction. The construction of any building 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 twelve (12) months after such commencement.
- (c) Building Materials Storage. No Lot, part or portion of the Property shall be used or maintained as a storage for building materials except during a construction phase. Once a home is occupied or made available for sale all building materials shall be removed or stored inside such home, out of public sight.
- (d) Landscaping. Front and side yard landscaping shall be complete prior to occupancy.
- (e) Soils Test. The Lot purchaser is required to obtain a soils test and recommendation on foundation from a Utah registered engineer prior to construction, and may condition final approval of plans following the recommendations set forth in the soils test document. By approving the commencement of construction after review of any soils test and recommendation, the Architectural Control Committee is not warranting and shall not be deemed to have warranted the results of such test or recommendation.

- (f) Termites. No residence accessory or addition to a residence, other structure or building shall be commenced, constructed or maintained on any Lot until the Lot is first pre-treated for termites, and a certificate of treatment has been provided to the Developer.
- (g) Damages. Any damage inflicted on existing improvements such as curbs, gutters, streets, concrete sidewalks and such, by the owner and/or their agents of any particular Lot in the subdivision must be repaired within thirty (30) days after such damage is discovered, and the expense of such repair shall be borne by the purchaser or owner.
- (h) Maintenance of Lot During Construction. Lot Owners or their general contractor must deposit with the Architectural Control Committee One Thousand Dollars (\$1,000.00) prior to commencement of construction upon a Lot. Upon issuance by Ivins City of a certificate of occupancy for a home on a Lot, the Architectural Control Committee shall inspect the Lot and surrounding area, and shall return to the Owner the entire deposit, so long as all of the provisions of these Protective Covenants are complied with. The Architectural Control Committee may deduct from the deposits any amounts needed to pay for damages sustained to surrounding property as a result of contractor's work, or any other damages or costs or expenses, including attorneys fees, arising out of the Lot Owner's or the contractor's failure to comply with any of the provisions of these Protective Covenants. Contractors, subcontractors and/or owner/builders must provide on-site dumpsters during construction and are required to clean up the site daily to maintain a clean work site during construction. Dirt or mud from the construction site or elsewhere, dispersed, directly or indirectly, on the public streets within the Property must be cleaned up within twenty-four (24) hours by the contractor, subcontractor, and/or owner/builder. The Architectural Control Committee may levy up to a Five Hundred Dollar (\$500) fine against a violator of this subsection (f) and/or the Owner of the Lot for each day of a continuing violation. The fine shall be a charge on the land and shall be a continuing lien on the Lot. The amount of the fine may be deducted from the deposit on file with the Architectural Control Committee, and any unpaid balance shall be a continuing lien on the Lot.

### ARTICLE 3 ENFORCEMENT

3.1. **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, the Association, or a Lot owner or owners. The remedies provided for hereunder shall be deemed cumulative and not exclusive.

3.2. **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 Lot owner or owners from time to time of any Lot, part or portion of the Property. Each such restrictive covenant and condition shall inure to the benefit of and pass with each and every Lot, 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 of

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 a Lot owner or owners; 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 Lot, 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. The Architectural Control Committee may levy a fine or penalty in the amount of \$50.00 against any owner who fails to refrain from violation of these covenants or a rule of the Association, after three (3) days written notice, and opportunity for hearing. A fine may be levied for each day of a continuing violation. All attorneys fees and costs incurred in any such action, and all expenses incurred and any fines levied, shall constitute a lien on such Lot owner's Lot, and shall also be a personal obligation of said Lot owner, enforceable at law, until such payment therefore is made.

3.3. **Right to Enforce.** The provisions contained in these covenants shall bind and inure to the benefit of and be enforceable by the Developer or a Lot owner or owners, and each of their legal representative, heirs, successors and assigns, and failure to enforce any of said restrictions, covenants, or conditions shall in no event be deemed a waiver of the right to do so thereafter.

#### ARTICLE 4 AMENDMENT AND EXPANSION

4.1. **Amendment.** During the Development Phase, Developer may unilaterally amend these Protective Covenants. 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 owners of seventy-five percent (75%) of the number of Lots, provided that all signatures must be notarized and obtained within a 180 day period. After the Developer or its designee ceases to act as the Architectural Control Committee, written notice of any such proposed amendment shall be sent to every owner of any Lot, part or portion of the Property at least 30 days in advance.

4.2. **Additional Property.** Additional property may be subjected to these covenants, conditions and restrictions by the Developer. This right of the Developer shall be assignable to one or more assignees.

Expansion shall occur by the Developer filing:

1. an additional subdivision plat or plats creating additional Lots, stating on each plat the intention to have the property described on said plat bound by the terms, covenants and conditions of these Protective Covenants upon the recording of a Declaration of Annexation; and
2. a Declaration of Annexation (after satisfying conditions hereafter stated), which shall state the Developer's intention to have the area described therein subject to these Protective Covenants. Upon the recording of such a Declaration of Annexation the property described therein shall be subject to these Protective Covenants.

Any additional properties annexed hereto by the Developer shall be exclusively for residential single-family dwellings, architecturally compatible to the existing homes, constructed out of similar materials, with similar Lot size and Lots therein shall constitute Lots under these Protective Covenants.

ARTICLE 5  
GENERAL PROVISIONS

5.1. **Duration of Covenants.** The covenants, conditions, 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. Until the Developer or its designee ceases to act as the Architectural Control Committee, 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.

5.2. **Notices.** Any notice required under the provisions of this document to be sent to any Lot owner shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of such owner.

5.3. **Construction and Severability.** All of the covenants, conditions, and restrictions contained in this document shall be construed together. Invalidation of any one of said restrictions, covenants or conditions, or any part thereof, shall not affect the enforceability or applicability any of the remaining restrictions, covenants or conditions, or parts thereof.

5.4. **Assignment of Powers.** Any and all rights and power 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.

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

5.7. **Waivers.** No provision contained herein shall be deemed to have been waived by reason of any failure to enforce it, irrespective of the number of violations that may occur.

5.8. **Topical Headings.** The topical headings contained herein are for convenience only and do not define, limit, or construe the contents of these covenants.

\*\*\*\*\*

IN WITNESS WHEREOF, the undersigned has hereunto executed this document this  
1 day of SEPT., 2005.

**DEVELOPER:**  
TENAYA SANDS, LLC

By: Val D. Walton, Manager

By: Margie R. Walton  
Margie R. Walton, Manager

STATE OF UTAH )  
 ) ss.  
COUNTY OF WASHINGTON )

On this 1 day of September, 2005, before me personally appeared Val D. Walton and Margie R. Walton whose identities are personally known to me or proved to me on the basis of satisfactory evidence, and who, being by me duly sworn (or affirmed), did say that they are the Managers of Tenaya Sands, LLC, a Utah limited liability company and that the foregoing document was signed by them on behalf of that Company by proper authority and they acknowledged before me that the Company executed the document and the document was the act of the Company for its stated purpose.

Toni A. Fabio  
NOTARY PUBLIC



**"Exhibit A"****BOUNDARY DESCRIPTION**

LAND LYING IN LOT 1 & THE S. 1/2 OF LOT 8, BLOCK 6, ST. GEORGE AND SANTA CLARA BENCH IRRIGATION COMPANY SURVEY IN THE SOUTHWEST QUARTER OF SECTION 31, TOWNSHIP 41 SOUTH, RANGE 16 WEST, SALT LAKE BASE AND MERIDIAN, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTH 1/4 CORNER OF SECTION 6 (BRASS CAP IN IRON RING AND LID), TOWNSHIP 42 SOUTH, RANGE 16 WEST, SALT LAKE BASE AND MERIDIAN AND RUNNING THENCE N89°24'17"W 629.68 FEET ALONG THE TOWNSHIP LINE; THENCE N01°16'13"E 40.00 FEET; THENCE N13°51'37"E 41.31 FEET; THENCE S89°24'17"E 22.78 FEET; THENCE N10°35'43"E 34.635 FEET TO THE POINT OF A 200.00 FOOT RADIUS CURVE TO THE LEFT; THENCE NORTHERLY 34.91 FEET ALONG THE ARC OF SAID CURVE TO THE POINT OF TANGENCY; THENCE N00°35'43"E 46.16 FEET TO THE POINT OF A 25.00 FOOT RADIUS CURVE TO THE LEFT; THENCE NORTHWESTERLY 39.27 FEET ALONG THE ARC OF SAID CURVE; THENCE N14°44'24"E 51.56 FEET; THENCE N01°19'45"E 240.99 FEET; THENCE N19°21'13"W 51.54 FEET; THENCE N00°36'11"E 129.54 FEET; THENCE S89°23'49"E 293.81 FEET; THENCE N00°36'11"E 129.025 FEET; THENCE N15°50'20"W 52.13 FEET; THENCE N00°36'11"E 135.00 FEET TO THE SOUTH BOUNDARY OF THE NORTH 1/2 OF LOT 8, AS SURVEYED BY L.R. POPE (DOC # 738738); THENCE RUNNING S89°23'49"E 349.33 FEET ALONG SAID BOUNDARY AND AN EASTERLY EXTENSION THEREOF TO THE CENTERLINE OF A 49.50 FOOT ROADWAY, AS PLATTED BY THE ST. GEORGE AND SANTA CLARA BENCH IRRIGATION COMPANY SURVEY; THENCE S01°22'31"W 1003.20 FEET ALONG SAID CENTERLINE OF ROADWAY TO THE POINT OF BEGINNING. CONTAINING 12.088 ACRES MORE OR LESS.