

AFTER RECORDING PLEASE RETURN TO:

Greg R. Nielsen, Esq.
Snell & Wilmer
15 West South Temple, Suite 1200
Salt Lake City, Utah 84101

00774326 BK 1477 Pg 0121
RUSSELL SHIRTS * WASHINGTON CO RECORDER
2002 JUL 23 15:42 PM FEE \$22.00 BY RS
FOR: CORAL CANYON

**FIRST AMENDMENT
TO
AMENDED AND RESTATED
RESIDENTIAL DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR CORAL CANYON**

THIS FIRST AMENDMENT TO AMENDED AND RESTATED RESIDENTIAL DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (the "First Amendment"), dated ~~June~~ July, 2002 and is made by SUNCOR DEVELOPMENT COMPANY, an Arizona corporation ("Declarant"), THE STATE OF UTAH, ACTING THROUGH THE SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION ("SITLA"), and CORAL CANYON MASTER RESIDENTIAL OWNERS ASSOCIATION, a Utah nonprofit corporation (the "Master Residential Association").

RECITALS

A. Declarant previously executed and recorded the Residential Declaration of Covenants, Conditions, and Restrictions for Coral Canyon, dated March 1, 2000 and recorded March 21, 2000, as Entry No. 00679603, Book 1363, beginning at page 1079, records of Washington County, Utah (the "Original Declaration"). The Original Declaration was amended by a First Amendment to Residential Declaration of Covenants, Conditions, and Restrictions for Coral Canyon, dated August 30, 2001 and recorded September 6, 2001, as Entry No. 00734231, Book 1425, beginning at page 1393, records of Washington County, Utah (the "First Amendment"). The Original Declaration, as amended by the First Amendment, was further amended by an Amended and Restated Residential Declaration of Covenants, Conditions, and Restrictions for Coral Canyon, dated February 21, 2002 and recorded April 3, 2002, as Entry No. 00759602, Book 1459, beginning at page 1213, records of Washington County, Utah (the "Restated Declaration"). The Restated Declaration superseded the Original Declaration and the First Amendment in their entirety. Capitalized terms used in this First Amendment and not otherwise defined in this First Amendment shall have the meanings given to such terms in the Restated Declaration. The Restated Declaration, as amended by this First Amendment, is referred to as the "Declaration".

B. As contemplated by Section 3.2 of the Declaration, the following Tract Declarations have been recorded (collectively, the "Existing Tract Declarations"):

1. Tract Declaration, Coral Canyon, Phase 1 (5300 Series), dated March 1, 2000 and recorded March 21, 2000, as Entry No. 00679604, Book 1363, beginning at page 1124, records of Washington County, Utah.

2. Tract Declaration, Coral Canyon, Phase 1 (Non-5300 Series), dated March 1, 2000 and recorded March 21, 2000, as Entry No. 00679605, Book 1363, beginning at page 1149 records of Washington County, Utah.

3. Declaration of Annexation, Petroglyphs of Coral Canyon, dated February 20, 2001 and recorded February 22, 2001, as Entry No. 00711819, Book 1396, beginning at page 1623, records of Washington County, Utah, as amended by an Amendment to the Declaration of Annexation, Petroglyphs of Coral Canyon Phase 1, dated July 25, 2001 and recorded July 25, 2001, as Entry No. 00729062, Book 1418, beginning at page 2768, records of Washington County, Utah, as further amended by the Amended and Restated Tract Declaration Petroglyphs of Coral Canyon, Phase 1, dated August 30, 2001, and recorded September 6, 2001, as Entry No. 00734232, Book 1425, beginning at page 1400, records of Washington County, Utah collectively, the "**Petroglyphs Tract Declaration**").

C. The Petroglyphs Tract Declaration relates to the following described real property (the "**Petroglyphs Property**"):

Lots 368 through 411, inclusive and HOA Tracts "A", "B", and "C", according to the Final Plat of Petroglyphs of Coral Canyon, recorded February 22, 2001, as Entry No. 711818, in Book 1396, page 1622, records of Washington County, Utah, as amended by the Amended Final Plat for Petroglyphs of Coral Canyon, recorded September 5, 2001, as Entry No. 734056, in Book 1425, page 812, records of Washington County, Utah.

Pursuant to the Petroglyphs Tract Declaration, the Petroglyphs Property became Covered Property, subject to the Declaration.

C. Pursuant to a Certificate of De-Annexation, dated December 18, 2001, and recorded December 20, 2001, as Entry No. 00746684, Book 1442, beginning at page 1332, records of Washington County, Utah, HOA Tracts 5, 14, 15, and 16, were de-annexed from the Covered Property and Declarant confirmed that there is no HOA Tract 22 (collectively, the "**De-annexed Property**").

D. The Restated Declaration erroneously included the De-annexed Property in the legal description of Covered Property. The Restated Declaration also erroneously excluded the Petroglyphs Property from the Covered Property. Pursuant to the authority in **Section 11.2** of the Declaration, Declarant is executing this First Amendment to correct these errors, as well as certain other errors contained in the Restated Declaration.

E. Declarant has developed the Petroglyphs Property as a planned unit development that will qualify for Government Backed Financing through the Federal Housing Administration (the "**FHA**") and the Veterans Administration (the "**VA**"). Developer also intends to seek qualification of the balance of the Covered Property for Government Backed Financing through the FHA and the VA. In order to comply with the conditions of FHA and VA approval of the Petroglyphs Property and to qualify the balance of the Covered Property for Government Backed Financing, certain additional amendments are required to the Restated Declaration, and this First Amendment amends the Declaration to satisfy the requirements of the FHA and the VA. In this regard, Declarant is authorized to enter into this First Amendment pursuant to the authority in **Section 11.4** of the Declaration.

F. SITLA is joining in this First Amendment pursuant to **Section 5.8(c)** of the Development Lease and **Section 2.5** of the Declaration.

G. The Master Residential Association is joining in the execution of this First Amendment for the purpose of certifying and ratifying certain matters and consenting to and agreeing to be bound by this First Amendment and the Restated Declaration, as so amended.

NOW, THEREFORE, DECLARANT and SITLA declare, covenant and agree as follows:

- 1. Recitals. The Recitals above are incorporated into and are part of the Declaration.
- 2. Amendments.

(a) **Recital F** of the Restated Declaration is amended to read as follows:

F. As of the date of recordation of the First Amendment to the Amended and Restated Residential Declaration of Covenants, Conditions, and Restrictions for Coral Canyon, the Covered Property, the Covered Property consists of the following:

Lots 1 through 367, inclusive; Parcels C, E, F, H, I, J, K, and L, and HOA Tracts 1-4, 6, 13, 17-21, and 23-34, CORAL CANYON, PHASE 1, recorded in Book 1363, page 1078, records of Washington County, Utah; and

Lots 368 through 411, inclusive and HOA Tracts "A", "B", and "C", according to the Final Plat of Petroglyphs of Coral Canyon, recorded February 22, 2001, as Entry No. 711818, in Book 1396, page 1622, records of Washington County, Utah, as amended by the Amended Final Plat for Petroglyphs of Coral Canyon, recorded September 5, 2001, as Entry No. 734056, in Book 1425, page 812, records of Washington County, Utah.

(b) The following new definition is added to **Article 1** of the Restated Declaration, to read as follows:

"Government Backed Financing" means any financing program provided through or with the backing of either the Federal Housing Administration (the "FHA") or the Veterans Administration (the "VA") or both.

(c) The following is added at the end of **Section 3.9(a)** of the Restated Declaration:

If the Master Residential Association is serving as a Subsidiary Association pursuant to this **Section 3.9(a)**, then, with respect to matters relating to the Subsidiary Common Areas in the property subject to the Tract Declaration providing for the Master Residential Association to so serve, the Tract Declaration may establish separate categories of Membership rights with respect to the Lots and Parcels within the property subject to the Tract Declaration, which Memberships rights shall be appurtenant to, and inseparable from, ownership of the Lots and Parcels in such property and which shall have such rights as are set forth in the Tract Declaration. Any such Membership rights with respect to the property subject to the Tract Declaration is in addition to the Owner's rights of Membership pursuant to this Declaration.

(d) **Section 8.8** of the Restated Declaration is amended by adding the following new paragraph at the end thereof:

Voting by Voting Groups shall not be allowed with respect to any matter that, pursuant to the provisions of this Declaration, the Articles, or the Bylaws, requires a vote by separate Membership classes.

(e) A new **Section 8.9** is added to the Declaration to read as follows:

8.9 Class Voting for Amendments to the Articles. Any vote to amend the Articles shall be by class of Membership, and the amendment shall not be adopted without the requisite number of votes of each class of Membership.

(f) **Section 10.7** of the Restated Declaration is amended in its entirety to read as follows:

10.7 Initiation of Litigation by Association. In addition to compliance with the foregoing alternative dispute resolution procedures, if applicable, the Master Residential Association shall not initiate any judicial or administrative proceeding unless first approved by a vote the Class A Members holding 75% of the total Class A votes in the Master Residential Association, except that no such approval shall be required for actions or proceedings:

- (a) initiated during the Class B Membership;
- (b) initiated to enforce the provisions of this Declaration or for the foreclosure of liens;
- (c) initiated to challenge ad valorem taxation or condemnation proceedings;
- (d) initiated against any contractor, vendor, or supplier of goods or services arising out of a contract for services or supplies; or
- (e) to defend claims filed against the Master Residential Association or to assert counterclaims in proceedings instituted against it.

This Section shall not be amended unless such amendment is approved by the same percentage of votes necessary to institute proceedings.

(g) **Section 11.2** of the Restated Declaration is amended by adding the following to the end of the first Paragraph in **Section 11.2**:

Unless otherwise provided in the Tract Declaration, a Tract Declaration may be amended in the same manner as this Residential Declaration, with the approval of 67% of the votes attributable to the Members owning the Lots and Parcels subject to the Tract Declaration. So long as there is a Class B Membership, any Tract Declaration may be amended or terminated only with the written approval of Declarant. Thereafter, except as otherwise provided herein, any amendment to a Tract Declaration must be approved by the Board.

3. Master Association Certification, Ratification, and Agreement.

(a) Pursuant to **Section 11.2** of the Declaration, the Master Residential Association certifies that the Restated Declaration was approved by the affirmative vote of at least 75% of the authorized votes of each class of Members at a meeting duly called for such purpose, and the Restated Declaration, as recorded, is a full and complete copy of the amendment so adopted. The Master Residential Association ratifies and confirms the terms of the Restated Declaration.

(b) The Master Residential Association acknowledges the terms and conditions of the Restated Declaration and this First Amendment and agrees to be bound thereby.

4. Ratification. As modified by this First Amendment, the Declaration and each Tract Declaration is ratified and confirmed and continues in full force and effect.

5. Counterparts. This First Amendment may be executed in any number of counterparts, each of which will be an original but all of which will constitute one and the same instrument. Signature and acknowledgement pages may be detached from individual counterparts and attached to a single or multiple original(s) in order to form a single or multiple originals of this document.

IN WITNESS WHEREOF, the undersigned has executed this First Amendment as of the day and year first above written.

DECLARANT:

SUNCOR DEVELOPMENT COMPANY,
an Arizona corporation,

By: DSB
Its: V.P.

MASTER RESIDENTIAL ASSOCIATION:

CORAL CANYON MASTER RESIDENTIAL OWNERS ASSOCIATION,
a Utah nonprofit corporation

By: [Signature]
Its: PRESIDENT

Attest: [Signature]
Its: SECRETARY

SITLA:

THE STATE OF UTAH, ACTING THROUGH THE SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION

By: Judith P. [Signature]
Its: Asst Director

Approved as to Form:

Mark L. Shurtleff
Utah Attorney General

By: [Signature]

STATE OF ARIZONA)
)ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 9th day of July, 2002, by Duane S. Back, the Vice President of **SUNCOR DEVELOPMENT COMPANY**, an Arizona corporation, on behalf of the corporation.

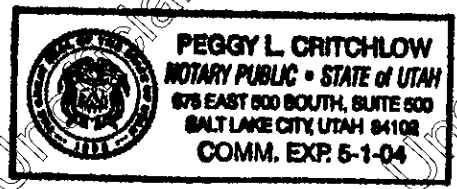
My Commission Expires: 4-30-05
Gail Sanchez
NOTARY PUBLIC
Residing at Phoenix, Arizona



STATE OF UTAH)
)ss.
County of Salt Lake)

The foregoing instrument was acknowledged before me this 16 day of July, 2002, by Frederick P. McBrier, the Assistant Director of the **STATE OF UTAH, ACTING THROUGH THE SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION**, on behalf of the State of Utah, School and Institutional Trust Lands Administration.

My Commission Expires: 5-1-2004
Peggy L. Critchlow
NOTARY PUBLIC
Residing at SLC



STATE OF Utah)
)ss.
County of Washington)

The foregoing instrument was acknowledged before me this 8 day of July, 2002, by Michael T. Gardner, the General Manager of **CORAL CANYON MASTER RESIDENTIAL OWNERS ASSOCIATION**, a Utah non-profit corporation, on behalf of the corporation.

My Commission Expires: 2-23-04
Valerie B. Shaw
NOTARY PUBLIC
Residing at Santa Clara, Utah

