

**RETURNED**

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JUL 21 2006

WHEN RECORDED, PLEASE RETURN TO:

Robert A. McConnell, Esq.  
Parr, Waddoups, Brown, Gee & Loveless  
185 South State Street, Suite 1300  
Salt Lake City, Utah 84111

E 2186538 B 4081 P 1198-1204  
RICHARD T. MAUGHAN  
DAVIS COUNTY, UTAH RECORDER  
07/21/2006 02:33 PM  
FEE \$24.00 Pgs: 7  
DEP RT REC'D FOR GARDNER DEVELOPME  
NT

6, Westwood Est 1  
NE 3-4n-2w

2, 3 - Donald F Brown

Space above for Recorder's use

**DECLARATION OF EASEMENTS,  
COVENANTS AND RESTRICTIONS**

12-029-0006  
12-024-0015  
12-334-0002, 0003

THIS DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS (this "Declaration") is executed as of this 20<sup>th</sup> day of July, 2006, by Robin L. Layman ("Grantor"), whose address for the purpose hereof is 234 North 1200 West, Clearfield, Utah 84015, in favor of Gardner Park Village, LLC, a Utah limited liability company, whose address for the purpose hereof is 12 South 400 West, Salt Lake City, Utah 84094 ("Grantee").

**RECITALS**

A. Grantor owns a parcel of real property located in Davis County, Utah, more particularly described on the attached Exhibit A (the "Burdened Parcel"). Grantee owns a parcel of real property located in Davis County, Utah, more particularly described on the attached Exhibit B (the "Benefitted Parcel"). As used in this Declaration, the term "Parcels" shall mean and refer to the Burdened Parcel and the Benefitted Parcel, collectively.

B. Grantor and Grantee desire to create certain rights-of-way, easements and restrictions among the Parcels.

**AGREEMENT**

NOW, THEREFORE, for the foregoing purposes and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in consideration of the reciprocal benefits to be derived from the rights-of-way, easements and restrictions described herein, Grantor and Grantee agree as follows:

1. Grant of Easements.

a) Access Right-of-Way and Easement. The Benefitted Parcel shall have appurtenant thereto and shall be benefitted by, and the Burdened Parcel shall be subject to and burdened by, a perpetual, non-exclusive right-of-way and easement twenty (20) feet in width, described on the attached Exhibit C (the "Easement Area"), for the purpose of vehicular and

pedestrian ingress and egress in connection with the use of the Utility Easement granted below, all to the extent reasonably deemed necessary by Grantee (the "Access Easement"). The Access Easement shall include, without limitation, the right of Grantee to move and transport personnel and construction equipment and materials across the Easement Area in connection with the laying, construction, installation, operation, inspection, servicing, maintenance, repair, removal, alteration and replacement of utility improvements pursuant to the Utility Easement provided below.

b) Utilities Right-of Way and Easement. The Benefitted Parcel shall have appurtenant thereto and shall be benefitted by, and the Burdened Parcel shall be subject to and shall be burdened by, a perpetual, non-exclusive right-of-way and easement upon, under, through and across the Easement Area for the laying, construction, installation, operation, inspection, servicing, maintenance, repair, removal, alteration, and replacement of underground utility pipes, lines, wires, conduits, and related facilities (including, without limitation, pipes, lines, wires, conduits, and related facilities for electricity, natural gas, other fuels or power sources, telephone, sewage, storm drainage, and all types of water) (the "Utility Easement") (the Access Easement and the Utility Easement collectively, the "Easements").

2. Exercise of Utility Easement. The owner of the Benefitted Parcel or the appropriate public utility may (a) enter on any portion of the Easement Area as may be necessary or appropriate in order to accomplish the laying, construction, installation, operation, inspection, servicing, maintenance, repair, removal, alteration, enlargement, relocation and replacement of the utilities and facilities referred to in Section 1(a) and 1(b) in connection with such utilities and facilities, excavate or conduct construction activities within the Easement Area, so long as such excavation or construction activities are performed in a good and workmanlike manner and are prosecuted diligently to completion. On completion of such excavation or construction activities, the person or entity which has caused such construction activities to take place shall immediately restore any affected portion of the Easement Area to the same condition as existed prior to the commencement of such excavation or construction activities, using the same type and quality of materials previously used.

3. Modification. This Declaration and any right-of-way, easement, or restriction contained herein may be terminated, extended, modified, or amended as to the whole of the Parcels or any portion thereof upon proper recordation in the Office of the County Recorder in the County where the Burdened Property is located of a written document evidencing the same, executed and acknowledged by Grantor and Grantee.

4. Not a Public Dedication. Nothing contained in this Declaration shall be deemed to be a gift or dedication of fee title to any portion of the Parcels to or for the general public or for any public purposes whatsoever, it being the intention of Grantor and Grantee that this Declaration be strictly limited to granting the rights-of-way and easements for the purposes expressed herein.

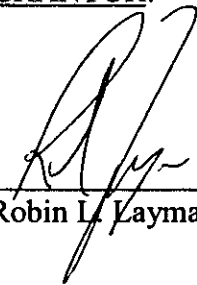
5. Appurtenances to Parcels; Covenants Run with Land. The rights-of-way, easements, and restrictions granted or created hereby are appurtenances to the Benefitted Parcel

and covenants running with the land, and such rights-of-way, easements, or restrictions may not be transferred, assigned, or encumbered except as an appurtenance to such Benefitted Parcel.

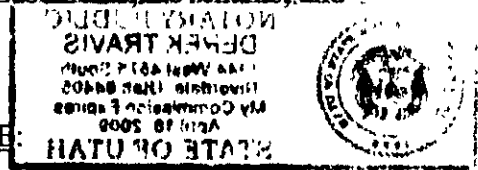
6. Severability. In the event that any provision herein contained is held to be invalid or void by any court of competent jurisdiction, the same shall be deemed severable from the remainder of this Declaration and shall in no way affect any other provision herein contained. If such provision shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.

IN WITNESS WHEREOF, this Declaration of Easements, Covenants, and Restrictions is executed as of the date first above written.

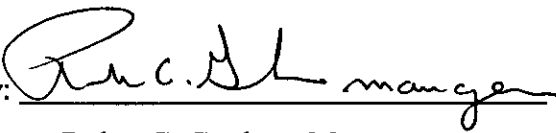
GRANTOR:

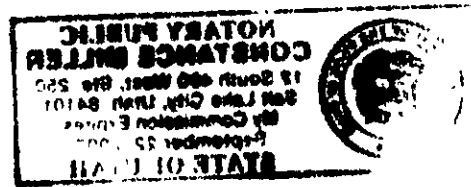
  
\_\_\_\_\_  
Robin L. Layman

GRANTEE:



Gardner Park Village, LLC.  
a Utah limited liability company,  
by its Manager,

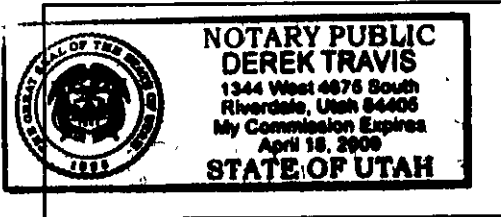
By:   
\_\_\_\_\_  
Rulon C. Gardner, Manager



ACKNOWLEDGEMENT OF GRANTOR

STATE OF UTAH )  
 )  
 ) :SS.  
COUNTY OF Davis )

The foregoing instrument was acknowledged before me this 14<sup>th</sup> day of July 2006, by Robin L. Layman.



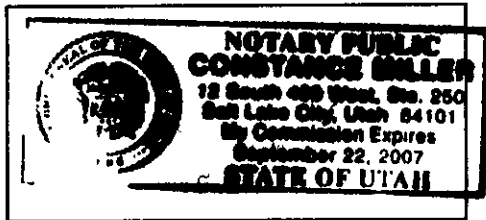
[SEAL]

*[Handwritten Signature]*  
\_\_\_\_\_  
Notary Public

ACKNOWLEDGEMENT OF GRANTEE

STATE OF UTAH )  
 )  
 ) :SS.  
COUNTY OF SALT LAKE )

The foregoing instrument was acknowledged before me this 20<sup>th</sup> day of July 2006, by Rulon C. Gardner, manager of Gardner Park Village, LLC, on behalf of said company.



[SEAL]

*[Handwritten Signature]*  
\_\_\_\_\_  
Notary Public

**EXHIBIT A**  
**TO**  
**EASEMENT AGREEMENT**

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**Legal Description of Burdened Parcel**

The "Burdened Parcel" referred to in this Declaration is located in Davis County, Utah and is more particularly described as follows:

All of Lot 6, Westwood Estates Subdivision #1, as shown on the official plat thereof recorded in the office of the Davis County Recorder, containing 0.341 acres.

**EXHIBIT B**  
**TO**  
**EASEMENT AGREEMENT**

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**Legal Description of Benefitted Parcel**

The "Benefitted Parcel" referred to in this Declaration is located in Davis County, Utah and is more particularly described as follows:

A parcel of ground located in the Northeast corner of Section 3, Township 4 North, Range 2 West, Salt Lake Base and Meridian more particularly described as follows:

Beginning at a point which is North 89°56'05" West along the North Section line of Section 3 300.09 feet and South 00°07'00" West 33.00 feet to the South Right of Way line of 300 North Street from the Northeast corner of Section 3;  
thence North 89°56'05" West 540.95 feet;  
thence South 00°03'55" West 462.13 feet;  
thence South 89°56'05" East 330.50 feet;  
thence South 89°58'13" East 210.26 feet;  
thence South 89°56'05" East 266.77 feet;  
thence North 00°07'00" East 248.78 feet;  
thence North 89°56'05" West 266.77 feet;  
thence North 00°07'00" East 213.22 feet;  
to the point of beginning.

The above described parcel of land contains 316,355 square feet or 7.26 acres in area, more or less.

**EXHIBIT C**  
**TO**  
**EASEMENT AGREEMENT**

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**Easement Area**

The "Easement Area" referred to in this Declaration is located in Davis County, State of Utah, and is more particularly described as follows:

A parcel of land situate in the NE¼ of Section 3, Township 4 North, Range 2 West, Salt Lake Base and Meridian, in Davis County, Utah. The Boundaries of said parcel of land are described as follows.

Beginning at the Southeast corner of Lot 6 of the Westwood Estates Subdivision #1, said point being 840.88 feet N.89°56'05"W. along the said northerly section line and S.00°03'55"W. 495.13 feet from the found Davis County brass cap marking the Northeast Corner of said Section 3 and running thence N.89°56'00"W. 172.49; thence along an arc to the right with an arc length of 20.12 feet and an arc radius of 2527.67 feet, the total central angle of which is 00°31'4.4"; thence S.89°56'00"E. 170.33 feet; thence S.00°04'00"W. 20.00 feet to the point of beginning.

The above described parcel of land contains 3,428.22 square feet or 0.078 acres in area, more or less.