

10085172

10085172

05/01/2007 04:36 PM \$50.00

Book - 9458 Pg - 3508-3528

GARY W. OTT

RECORDER, SALT LAKE COUNTY, UTAH
TALON GROUP

BY: NEH, DEPUTY - WI 21 P.

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Freeman, Freeman & Smiley, LLP
3415 Sepulveda Boulevard
Suite 1200
Los Angeles, CA 90034
Attn: Glenn T. Sherman, Esq.

PLS 2729-377-002-0000

RESTRICTIVE COVENANT

THE TALON GROUP

JB#

26856

613148.5
19203-944

BK 9458 PG 3508

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Freeman, Freeman & Smiley, LLP
3415 Sepulveda Boulevard
Suite 1200
Los Angeles, CA 90034
Attn: Glenn T. Sherman, Esq.

RESTRICTIVE COVENANT

THIS RESTRICTIVE COVENANT (the "Covenant") is made this 26th day of April, 2007, by and between RIVERTON MEADOWS PARTNERS, LLC, a Nevada limited liability company ("Riverton"), and GRANITE FEDERAL CREDIT UNION, a federal credit union ("Purchaser").

RECITALS

- A. Riverton is the owner of that certain real property situated in Salt Lake County, State of Utah, more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference (the "Property").
- B. Riverton and Purchaser have entered into an agreement whereby Riverton has agreed to sell, and Purchaser has agreed to purchase, the portion of the Property more particularly described on Exhibit "B" attached hereto and incorporated herein by this reference (the "Restricted Parcel"), consisting of approximately 37,944+/- square feet. The portion of the Property remaining after sale of the Restricted Parcel is more particularly described on Exhibit "C" attached hereto and incorporated herein by this reference (the "Remaining Property").
- C. The Property, Restricted Parcel and Remaining Property are depicted on Exhibit "D" attached hereto and made a part hereof.
- D. As a material part of the consideration to Riverton for the sale of the Restricted Parcel to Purchaser, Riverton and Purchaser hereby agree that the Restricted Parcel shall be held and conveyed and is hereby made subject to all of the provisions of this Covenant for the benefit of the Remaining Property.

AGREEMENTS

Section I.

1. Definitions. For purposes hereof:

1.1 The following persons and entities shall be individually referred to as a "Restricted Parcel Owner" and collectively as the "Restricted Parcel Owners": The record fee owner of the Restricted Parcel and any and all successors or assigns of such persons or entities as the record owner or owners of fee title to all or any portion of the Restricted Parcel, whether by sale, assignment, inheritance, operation of law, trustee's sale, foreclosure, or otherwise, but not including the holder of any lien or encumbrance on such Restricted Parcel.

1.2 The following persons or entities shall be individually referred to as a "Remaining Property Owner" and collectively as the "Remaining Property Owners": The record fee owner of the Remaining Property and any and all successors or assigns of such persons or entities as the record owner or owners of

fee title to all or any portion of the Remaining Property, whether by sale, assignment, inheritance, operation of law, trustee's sale, foreclosure, or otherwise, but not including the holder of any lien or encumbrance on such Remaining Property.

1.3 The term "Restricted Parcel Owner's Permittees" shall mean the tenant(s) or occupant(s) of the Restricted Parcel, and the respective agents, employees, contractors, customers, invitees, licensees and concessionaires of (i) the Restricted Parcel Owners, and/or (ii) such tenant(s) or occupant(s).

1.4 The term "Remaining Property Owner's Permittees" shall mean the tenant(s) or occupant(s) of the Remaining Property, and the respective agents, employees, contractors, customers, invitees, licensees and concessionaires of (i) the Remaining Property Owners, and/or (ii) such tenant(s) or occupant(s).

1.5 The term "Restricted Parcel" means the property described on Exhibit "B" attached hereto and made a part hereof, and if the Restricted Parcel is subdivided or modified pursuant to a lot line adjustment, then each of the resulting legal parcel(s) created as a result thereof shall be a "Restricted Parcel" hereunder.

1.6 The term "Remaining Property" shall mean each of the separately identified parcels of real property now constituting the Remaining Property as described on Exhibit "C" attached hereto and made a part hereof, any additional parcels annexed into the Remaining Property as allowed under this Covenant, and if the Remaining Property is subdivided or modified pursuant to a lot line adjustment, then each of the resulting legal parcel(s) created as a result thereof shall remain part of the Remaining Property hereunder.

1.7 The term "Annexed Parcel" shall mean all or any portion of the property or properties adjacent to the Remaining Property that Declarant (as defined in the Declaration) elects to annex into the Remaining Property at any time and from time to time. If Declarant ever elects to annex such adjacent property or properties into the Remaining Property such that same become an Annexed Parcel, then the Annexed Parcel shall be included in the definition of the Remaining Property under this Covenant. Until Declarant elects to annex the Annexed Parcel into the Remaining Property, such Annexed Parcel shall not be considered a part of the Remaining Property. If Declarant elects to annex the Annexed Parcel into the Remaining Property, as a condition thereto, the Annexed Parcel shall be subject to this Covenant,

1.8 The term "Holder" shall mean Riverton or its successors and assigns duly authorized under this Covenant. Any right hereunder granted to or reserved in favor of Holder also runs in favor of the agents, employees and contractors of Holder designated by Holder. If Riverton transfers its fee simple interest in any portion of the Remaining Property and concurrently therewith expressly assigns its interest as Holder to a transferee pursuant to a document recorded in the Official Records, then the term "Holder" shall thereafter mean both Riverton (for so long as Riverton owns any portion of the Remaining Property) and such transferee. Any Remaining Property Owner who is expressly assigned Holder's interests as Holder hereunder pursuant to a document recorded in the Official Records, in accordance with the terms and conditions of this Covenant, shall also have the right to assign its interest as Holder to any subsequent transferee of its fee interest in the Remaining Property or portion thereof if done expressly and concurrently with the transfer of such fee interest pursuant to a document recorded in the Official Records. If the approval or consent of Holder is required hereunder at any time that Holder consists of more than one Remaining Property Owner, then unless the Remaining Property Owners constituting Holder otherwise agree in writing, such approval or consent shall require the approval or consent of both (i) Riverton, for so long as Riverton owns any portion of the Remaining Property, and (ii) a majority of the Remaining Property Owners (other than Riverton) then constituting Holder. Any Remaining Property Owner constituting Holder shall have the rights of Holder hereunder only for so long as such Remaining Property Owner continues to own a fee interest in a portion of the Remaining Property. If there is no longer a "Holder" of the "Remaining Property," then any matters to be approved by Holder shall then require the approval of a majority of the Remaining Property Owners.

1.9 The terms "ECC&Rs" shall mean that certain Easements, Covenants, Conditions and Restrictions dated July 29, 2005, entered into by and between Riverton and Lowe's HIW, Inc., a Washington

corporation ("Lowe's"), and recorded on July 29, 2005, in the Official Records of the County Recorder of Salt Lake County, Utah (the "Official Records") as Instrument No. 944-6111, in Book 9166, Pages 4403-4467, inclusive, as it may hereafter be amended. References herein to "Lowe's" shall include the successors and assigns of Lowe's ownership of the "Lowe's Parcel" under the ECC&Rs, as defined in the ECC&Rs.

1.10 The term "Declaration" shall mean that certain Declaration of Covenants, Conditions and Restrictions dated 4/23, 2007, and recorded on 5/1, 2007 in the Official Records as Entry No. 10008574 in Book 9458, Pages 3297, inclusive, as it may hereafter be amended.

2. Owner Construction Obligations. Restricted Parcel Owner at its sole cost and expense shall construct or cause to be constructed the Common Area contained within the Restricted Parcel and a building of not more than 4,900 square feet and other improvements on the Restricted Parcel as provided herein, and shall perform any and all work required on the Restricted Parcel to comply with the ECC&Rs, the Declaration, this Covenant, all currently existing and future covenants, conditions, restrictions, easements, agreements, encumbrances and other matters now or hereafter recorded against the Restricted Parcel, including without limitation the ECC&Rs, Declaration and this Covenant (collectively, the "Record Documents"), and all applicable governmental laws, rules, regulations, ordinances, entitlements (including without limitation any conditions of approval applicable to the Property) and valid permits (collectively, "Laws"), but expressly excluding the work described in Exhibit "D" attached hereto and incorporated herein by this reference.

2.1 The design and construction by Restricted Parcel Owner of the Common Area within the Restricted Parcel and the building and other improvements (including without limitation all signage) on the Restricted Parcel shall be in conformance with the ECC&Rs, the Declaration (including without limitation, the Design Guidelines (as defined in the Declaration), and Site Plan (as defined in the Declaration) then in effect under the Declaration, as contained therein), all Record Documents, all applicable Laws, and the Approved Plans (as defined in the Declaration), and such construction shall be completed no later than twelve (12) months after the latest to occur of (i) Restricted Parcel Owner's acquisition of the Restricted Parcel, or (ii) approval by Declarant (as defined in the Declaration) of Plans, as defined and provided in the Declaration, subject to extension as provided herein (the "Completion Date") (provided, however, that any work required to be performed by Restricted Parcel Owner under the ECC&Rs shall be completed as and when required under the ECC&Rs, and nothing herein shall extend any time period applicable to Restricted Parcel Owner's obligations under the ECC&Rs, including without limitation the provisions of Paragraph 4.2(C) of the ECC&Rs with respect to construction timing). All work to be performed by Restricted Parcel Owner is referred to herein as "Restricted Parcel Owner's Work."

2.2 Restricted Parcel Owner shall commence construction of Restricted Parcel Owner's Work within sixty (60) days following the later of (i) Restricted Parcel Owner's acquisition of the Restricted Parcel, or (ii) Declarant's approval of Plans as provided in the Declaration (the "Work Commencement Date"). Restricted Parcel Owner's failure to submit Plans for approval within the time frame and as provided in the Declaration shall constitute a default of Restricted Parcel Owner under this Covenant.

2.3 Holder may, at its sole discretion and option, elect to perform the Restricted Parcel Owner's Work, as described above (excluding the construction of a building or other such structure on the Restricted Parcel in compliance with Restricted Parcel Owner's obligations hereunder), on the Restricted Parcel as necessary to comply with Restricted Parcel Owner's obligations hereunder, including, without limitation, grading, paving, landscaping, hardscape, utilities, striping, items required as a condition for approval for any certificate of occupancy or final sign-off of any other permit, and other such work as may be required under the ECC&Rs, the Declaration or this Covenant. In the event Holder elects to perform Restricted Parcel Owner's Work, Restricted Parcel Owner shall reimburse Holder for the cost of such work, as reasonably determined by Holder, within thirty (30) days of Holder providing written notice and demand of such payment to Restricted Parcel Owner.

3. Completion of Restricted Parcel Owner's Work; Operating Covenants. Restricted Parcel Owner shall complete Restricted Parcel Owner's Work and, notwithstanding anything to the contrary in Section 7.7 of the ECC&Rs, cause a business that complies with all Record Documents, including without limitation the ECC&Rs, the Declaration and this Covenant, and all applicable Laws, to open and operate on the Restricted

Parcel no later than the Completion Date for the following use (the "Permitted Use"): federal credit union, offering such services to members as are offered in other branches of Granite Federal Credit Union existing as of the date hereof in the State of Utah. Thereafter Restricted Parcel Owner shall cause a business that complies with the Record Documents and all applicable Laws to continuously operate on the Restricted Parcel for the Permitted Use during such operating hours as Holder may establish for the Property from time to time. It shall not be deemed a violation of Restricted Parcel Owner's obligation to cause a business to operate continuously for the Permitted Use on the Restricted Parcel if such business on the Restricted Parcel is closed temporarily for remodeling or restoration after casualty or condemnation, provided that (i) Restricted Parcel Owner notifies Holder of its intention to remodel or restore the improvements, (ii) Restricted Parcel Owner promptly commences remodeling or restoration of the improvements in accordance with the Approved Plans and is diligently prosecuting such work, and (iii) such temporary closure for remodeling or restoration does not exceed six (6) months.

4. Holder's Remedies and Enforcement.

4.1 All Legal and Equitable Remedies Available. In the event of a breach or threatened breach by Restricted Parcel Owner or its Permittees of any of the terms, covenants, restrictions or conditions hereof, Holder shall be entitled forthwith to full and adequate relief by injunction and/or all such other available legal and equitable remedies from the consequences of such breach, including payment of any amounts due and/or specific performance.

4.2 Self-Help. In addition to all other remedies available at law or in equity, upon the failure of a Restricted Parcel Owner to cure a breach of this Covenant within thirty (30) days following written notice thereof by Holder (unless, with respect to any such breach the nature of which cannot reasonably be cured within such 30-day period, Restricted Parcel Owner commences such cure within such 30-day period and thereafter diligently prosecutes such cure to completion), Holder shall have the right to perform such obligation contained in this Covenant on behalf of Restricted Parcel Owner and be reimbursed by such Restricted Parcel Owner upon demand for the reasonable costs thereof together with interest at the prime rate charged from time to time by Bank of America, its successors or assigns (or if it no longer exists or is no longer publishing its prime rate, then the prime rate of the largest bank in California), but in no event more than the maximum rate of interest allowed by law (the "Interest Rate"). Notwithstanding anything to the contrary in the foregoing provision, nothing herein is intended to nor shall it be construed to give Holder the right to construct the building on the Restricted Parcel if Restricted Parcel Owner fails to do so within the time period set forth in this Covenant.

4.3 Lien Rights. Any claim for reimbursement, including interest as aforesaid, and all costs and expenses including reasonable attorneys' fees awarded to Holder in enforcing any payment in any suit or proceeding under this Covenant shall be assessed against Restricted Parcel Owner in favor of Holder and shall, to the extent permitted by law, constitute a lien (the "Assessment Lien") against the Restricted Parcel of the Restricted Parcel Owner until paid, effective upon the recording of a notice of lien with respect thereto in the Official Records; provided, however, that any such Assessment Lien shall be subject and subordinate to (i) liens for taxes and other public charges which by applicable law are expressly made superior, (ii) all liens recorded in the Official Records prior to the date of recordation of said notice of lien, and (iii) all leases entered into, whether or not recorded, prior to the date of recordation of said notice of lien. All liens recorded subsequent to the recordation of the notice of lien described herein shall be junior and subordinate to the Assessment Lien. Upon the timely curing by the defaulting Restricted Parcel Owner of any default for which a notice of lien was recorded, the party recording same shall record an appropriate release of such notice of lien and Assessment Lien. Such lien, when delinquent, may be enforced by suit or judicial foreclosure. Any Owner may sue for unpaid amounts and other charges authorized hereunder without foreclosing or waiving the lien securing the same. Sale or transfer of the Parcel of the defaulting Owner shall not affect the lien or relieve the Parcel of the defaulting Owner from the lien for any subsequent costs.

4.4 Remedies Cumulative. The remedies specified herein shall be cumulative and in addition to all other remedies permitted at law or in equity or, to the extent applicable, in the ECC&Rs, Declaration, or any other agreement. The exercise of any one such right or remedy is not a waiver of any other right or

remedy of Holder under this Covenant or, to the extent applicable, under the ECC&Rs, the Declaration or any other agreement, at law or in equity, and shall not preclude the exercise of any such other right or remedy.

4.5 No Termination For Breach. Notwithstanding the foregoing to the contrary, no breach hereunder shall entitle Restricted Parcel Owner to cancel, rescind, or otherwise terminate this Covenant.

4.6 Mortgagee Protection Provision. Restricted Parcel Owner shall have the right to encumber its interest in the Restricted Parcel by either a mortgage or deed of trust, provided such mortgage or deed of trust is subject to and subordinate to this Covenant. Notwithstanding the foregoing, such mortgage or deed of trust, once recorded in the Official Records, shall at all times remain superior to and have priority over any claim of lien thereafter recorded in the Official Records by virtue of or arising out of any breach of this Covenant. The breach of this Covenant, and the existence and enforcement of this Covenant, shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value on any the Restricted Parcel after the date of recording of this Covenant in the Official Records, but the agreements, covenants, conditions, restrictions and obligations hereof shall be binding and effective against any Restricted Parcel Owner whose title is acquired by foreclosure or deed in lieu of foreclosure, trustee's sale or other enforcement of rights under such mortgage or deed of trust.

4.7 Takeover Rights. If either: (i) Restricted Parcel Owner fails to commence construction of Restricted Parcel Owner's Work by the Work Commencement Date, and such failure continues for more than fifteen (15) days after written notice by Holder to Restricted Parcel Owner of such failure, or (ii) Holder determines, in its reasonable and good faith judgment, that the performance of Restricted Parcel Owner's Work is not proceeding so as to be completed by the Completion Date (as such time periods may be extended with the mutual approval of the parties), then Holder may serve written notice thereof on Restricted Parcel Owner; provided, however, that Holder shall have no such right if such delays are due to Force Majeure Delays (as defined in Paragraph 4.10 below), provided that Restricted Parcel Owner has timely notified Holder of the Force Majeure Delay, and in no event shall the Force Majeure Delay exceed 90 days. Thereafter, in the event Restricted Parcel Owner does not present to Holder, within five (5) days of receipt of Holder's notice of Restricted Parcel Owner's non-performance, reasonably satisfactory evidence that Restricted Parcel Owner's Work will be completed as required by this Covenant or that Restricted Parcel Owner is acting diligently in attempting to complete the items of Restricted Parcel Owner's Work, or that Restricted Parcel Owner's Work is delayed by Force Majeure Delays as provided above, then for so long as such evidence has not been provided, Holder shall have the right, but not the obligation, upon three (3) days prior written notice to Restricted Parcel Owner, to assume control of the construction of all or any portion of the Restricted Parcel Owner's Work, excluding the construction of a building or other structure on the Restricted Parcel in conformance with Restricted Parcel Owner's obligations hereunder, and to the extent applicable to the portion of Restricted Parcel Owner's Work which Holder is taking over, Restricted Parcel Owner shall assign to Holder its rights under any construction contract, architectural, engineering and construction documents, and all applicable permits and governmental approvals under any Laws, or private approvals under any other documents, and all other agreements and documents related to such work. Notwithstanding any exercise by Holder of its rights to assume control of Restricted Parcel Owner's Work as provided herein, Restricted Parcel Owner shall remain liable to pay the costs thereof to Holder as provided above, plus interest at the Interest Rate. In the event of conflict between the provisions of Paragraph 4.2 above and the provisions of this Paragraph 4.7, this Paragraph shall govern as to the specific defaults set forth herein.

4.8 Repurchase Rights. If (i) Restricted Parcel Owner fails to commence construction of Restricted Parcel Owner's Work by the Work Commencement Date, or (ii) Restricted Parcel Owner fails to complete Restricted Parcel Owner's Work by the Completion Date, or (iii) if a business for the Permitted Use and otherwise in conformance with Paragraph 3 above does not open on the Restricted Parcel by the Completion Date, or (iv) if after opening, the business for the Permitted Use on the Restricted Parcel fails to continuously remain open for business, except as otherwise provided in Paragraph 3 above, then Holder may serve written notice thereof on Restricted Parcel Owner; provided, however, that Holder shall have no such right if Restricted Parcel Owner's failure to meet its obligations as provided above is due to Force Majeure Delays (provided that Restricted Parcel Owner has timely notified Holder of the Force Majeure Delay, and in no event shall the Force Majeure Delay exceed 90 days) and provided further, with respect to Restricted

Parcel Owner's failure to timely complete Restricted Parcel Owner's Work by the Completion Date, if on the Completion Date the foundation for the building on the Restricted Parcel has been poured and if Restricted Parcel Owner is then diligently proceeding with construction of Restricted Parcel Owner's Work, then Restricted Parcel Owner shall have up to an additional 120 days from the scheduled Completion Date to complete Restricted Parcel Owner's Work. Thereafter, in the event Restricted Parcel Owner does not present to Holder, within five (5) days of receipt of Holder's notice of Restricted Parcel Owner's non-performance, reasonably satisfactory evidence that Restricted Parcel Owner will commence construction of its building or cause a business to open for the Permitted Use in the completed improvements on the Parcel, as the case may be, within thirty (30) days, or that commencement or completion of construction or opening for business is delayed by Force Majeure Delays as provided above, then for so long as such evidence has not been provided, in addition to all other remedies of Holder as provided above in this Section 4, Holder shall have the right, but not the obligation, upon written notice to Restricted Parcel Owner, to exercise its right to repurchase the Restricted Parcel from Restricted Parcel Owner, with the purchase price to be determined as follows: (i) prior to the completion of a building on the Restricted Parcel in accordance with the provisions of Paragraph 3 and prior to issuance of a valid certificate of occupancy for such building, the purchase price shall be the sum of (A) the same purchase price as Restricted Parcel Owner paid for the Restricted Parcel pursuant to its purchase contract with Holder, plus (B) fifty percent (50%) of the actual hard material costs (but not soft costs) of any partially completed building on the Restricted Parcel to the extent such partially completed construction can, in Holder's reasonable judgment, be utilized by Holder; and (ii) after completion of a building on the Restricted Parcel in accordance with the provisions of Paragraph 3 and for which a valid certificate of occupancy has been issued, the purchase price shall be the then fair market value of the Restricted Parcel, as determined by an appraisal process as provided herein. Restricted Parcel Owner and Holder shall each engage an M.A.I. appraiser with not less than fifteen (15) years experience in appraising commercial properties in the area where the Restricted Parcel is located, and having. Each appraiser shall provide an appraisal of the fair market value of the Restricted Parcel as improved with the completed building within thirty (30) days of request therefor, and the average of the two appraisals shall be the purchase price applicable to the Repurchase under subsection (ii) above. Each party shall be responsible for the costs of its own appraiser. Title to the Restricted Parcel shall be conveyed by Restricted Parcel Owner to Holder in the same condition as when the Restricted Parcel was conveyed by Holder to Restricted Parcel Owner, except for such new matters as have been approved by Holder. The repurchase shall be accomplished through an escrow (the "Repurchase Escrow") established with the Talon Group, a division of First American Title Insurance Company, Attention: Jennifer Berriochoa, located at 200 East South Temple, Suite 200, Salt Lake City, Utah 84111 ("Escrow Holder") or, if Escrow Holder is no longer in business at the time of such repurchase, then another nationally recognized escrow company as is reasonably satisfactory to Holder and Restricted Parcel Owner. Escrow Holder shall prepare such reasonable and customary escrow instructions as necessary to accomplish the transaction contemplated herein. Conveyance of the Restricted Parcel shall occur within 90 days of Holder's exercise of its repurchase right hereunder. At the time of the conveyance, Restricted Parcel Owner shall execute an assignment to Holder of its rights under any construction contract, architectural, engineering and construction documents, and all applicable permits and governmental approvals under any Laws, or private approvals under any other documents, and all other agreements and documents related to Restricted Parcel Owner's Work. Holder's rights of repurchase pursuant to this Section 4.8 shall terminate and be of no further force or effect on the date that is twenty-five (25) years after the date on which this Covenant is recorded in the Official Records of the County Recorder of Salt Lake County, Utah.

4.9 Indemnification. Notwithstanding Holder's election to exercise its self-help, takeover or repurchase rights as provided above, Restricted Parcel Owner shall be liable to Holder for all damages proximately caused by Restricted Parcel Owner's failure to timely (i) commence, perform and complete Restricted Parcel Owner's Work as required herein, and/or (ii) cause a business for the Permitted Use to commence and continue operating on the Restricted Parcel, including without limitation, damages arising from the inability of Holder or Lowe's or any other party to obtain sign-offs or certificates of occupancy due to such failure. Restricted Parcel Owner hereby agrees to defend (with counsel reasonably acceptable to Holder), hold harmless and indemnify Holder, its directors, officers, shareholders, members, managers, agents and employees (collectively, "Holder's Affiliates") from and against any and all liabilities, costs, losses, claims, demands, fees, damages, expenses (including, without limitation, attorneys' fees, appellate attorneys' fees and all costs and expenses related thereto), actions and causes of action (collectively, the "Liabilities") which relate to, are connected with or arise out of any breach or default by Restricted Parcel Owner of its

obligations hereunder. It is the intention of the parties that Restricted Parcel Owner's indemnity does not require payment as a condition precedent to recovery by Holder and Holder's Affiliates against Restricted Parcel Owner under this indemnity. The remedies hereunder may be exercised only by Holder or its successor or assignee as Holder, and not by any other Remaining Property Owner, except under the circumstances described in Paragraph 1.8 when there is no longer any "Holder," in which case the rights and remedies hereunder may be exercised upon the consent of a majority of the Remaining Property Owners.

4.10 Force Majeure Delays. "Force Majeure Delays" as used herein shall mean matters beyond the reasonable control of the party claiming such delay, including without limitation any delay caused by fire or other casualty, earthquake, flood, inclement weather, explosion, acts of God or the public enemy, any action, inaction, delay or interference by governmental authorities (including without limitation delays in issuing any permits or approvals), war, invasion, insurrection, rebellion, terrorism, riots, strikes or lockouts, or any other cause, whether similar or dissimilar to the foregoing, which is beyond the reasonable control of the party claiming such delay, but not including delays due to lack of available funds or financing or other financial reasons.

5. Term. The easements, covenants, conditions and restrictions contained in this Covenant shall be effective commencing on the date of recordation of this Covenant in the Official Records and shall remain in full force and effect thereafter in perpetuity, unless this Covenant is modified, amended, canceled or terminated by the written consent of Holder or, if there no longer is a "Holder", by the majority of the Remaining Property Owners.

6. Miscellaneous.

6.1 Attorneys' Fees. In the event either party institutes any legal action or proceeding for the enforcement of any right or obligation herein contained, the prevailing party after a final adjudication shall be entitled to recover its costs and reasonable attorneys' fees incurred in the preparation and prosecution of such action or proceeding.

6.2 Amendment. The parties agree that the provisions of this Covenant may be modified or amended, in whole or in part, or terminated, only by the written consent of Holder or, if there is no longer a "Holder," by the majority of the Remaining Property Owners, evidenced by a document that has been fully executed and acknowledged by all such Remaining Property Owners and recorded in the Official Records.

6.3 Consents. Wherever in this Covenant the consent or approval of Holder or the Remaining Property Owners is required, unless otherwise expressly provided herein, such consent or approval shall not be unreasonably withheld or delayed. Any request for consent or approval shall: (a) be in writing; (b) specify the paragraph hereof which requires that such notice be given or that such consent or approval be obtained; and (c) be accompanied by such background data as is reasonably necessary to make an informed decision thereon. The consent of a Holder or a Remaining Property Owner under this Covenant, to be effective, must be given, denied or conditioned expressly and in writing.

6.4 No Waiver. No waiver of any default of any obligation by any party hereto shall be implied from any omission by the other party to take any action with respect to such default.

6.5 No Agency. Nothing in this Covenant shall be deemed or construed by either party or by any third person to create the relationship of principal and agent or of limited or general partners or of joint venturers or of any other association between the parties.

6.6 Covenants to Run with Land. It is intended that each of the covenants, conditions, restrictions, rights and obligations set forth herein shall run with the land and create equitable servitudes in favor of the Remaining Property Owner, the real property benefited thereby, shall bind every person having any fee, leasehold or other interest therein and shall inure to the benefit of the respective parties and their successors, assigns, heirs, and personal representatives.

6.7 Grantee's Acceptance. Any grantee of the Restricted Parcel or any portion thereof, by acceptance of a deed conveying title thereto or the execution of a contract for the purchase thereof, whether from an original party or from a subsequent Restricted Parcel Owner, shall accept such deed or contract upon and subject to each and all of the covenants, conditions, restrictions and obligations contained herein. By such acceptance, any such grantee shall for himself and his successors, assigns, heirs, and personal representatives, covenant, consent, and agree to and with the other party, to keep, observe, comply with, and perform the obligations and agreements set forth herein with respect to Restricted Parcel during the period of such grantee's ownership of the Restricted Parcel.

6.8 Separability. Each provision of this Covenant and the application thereof to the Restricted Parcel is hereby declared to be independent of and severable from the remainder of this Covenant. If any provision contained herein shall be held to be invalid or to be unenforceable or not to run with the land, such holding shall not affect the validity or enforceability of the remainder of this Covenant, and such provision shall be enforceable only to the extent permitted by law. In the event the validity or enforceability of any provision of this Covenant is held to be dependent upon the existence of a specific legal description, the parties agree to promptly cause such legal description to be prepared. Ownership of the entire Remaining Property and Restricted Parcel by the same person or entity shall not terminate this Covenant nor in any manner affect or impair the validity or enforceability of this Covenant.

6.9 Time of Essence. Time is of the essence of this Covenant.

6.10 Entire Agreement. This Covenant contains the complete understanding and agreement of the parties hereto with respect to all matters referred to herein, and all prior representations, negotiations, and understandings (except those set forth in the Declaration or the ECC&Rs or the Use Covenant between the parties recorded concurrently herewith) are superseded hereby.

6.11 Notices. Notices or other communication hereunder shall be in writing and shall be sent certified or registered mail, return receipt requested, or by other national overnight courier company, or personal delivery. Notice shall be deemed given upon receipt or refusal to accept delivery. Each party may change from time to time its respective address for notice hereunder by like notice to the other party. The notice addresses of the parties hereto is as follows:

Holder: Riverton Meadows Partners, LLC
5850 Canoga Avenue, Suite 650
Woodland Hills, California 91367
Attention: David M. Frank

With a Copy to: Freeman, Freeman & Smiley, LLP
3415 Sepulveda Boulevard, Suite 1200
Los Angeles, California 90034
Attention: Glenn T. Sherman

Restricted
Parcel Owner: Granite Federal Credit Union
3675 South 900 East
Salt Lake City, Utah 84106
Attention: Curtis L. Doman
Facsimile: 801/538-3267

With a copy to: Bruce L. Richards
1805 South Redwood Road
Salt Lake City, Utah 84104
Facsimile: 801/972-0387

6.12 Governing Law. The laws of the State of Utah shall govern the interpretation, validity, performance, and enforcement of this Declaration.

6.13 Estoppel Certificates. Each party shall, within thirty (30) days of its receipt of a written request from any the other party, execute and deliver to the requesting party a certificate in recordable form stating that: (a) this Covenant is unmodified and in full force and effect (or has been modified and identifying the modifications), and (b) whether or not such party has sent any notice of any breach of this Covenant to the other party that has not been cured.

6.14 Bankruptcy. In the event of any bankruptcy affecting any party to this Covenant, their successors or assigns, the parties agree that this Covenant shall, to the maximum extent permitted by law, be considered an agreement that runs with the land and that is not rejectable, in whole or in part, by the bankrupt person or entity.

6.15 Subordinate Covenants. Any Restricted Parcel Owner may record additional easements, covenants, conditions or restrictions applicable to the Restricted Parcel only, so long as the same are subordinate to and not in conflict with this Covenant.

6.16 Restricted Parcel Owner's Right to Pass Through Costs. Nothing herein shall prohibit Restricted Parcel Owner from charging its Permittees any costs which Restricted Parcel Owner is required to incur hereunder.

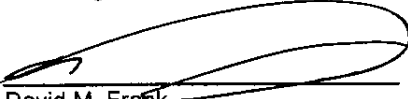
6.17 Counterparts. This Covenant may be executed in counterparts, each of which counterparts shall be deemed an original and all of which, taken together, shall constitute one and the same document.

IN WITNESS WHEREOF, the parties have executed this Covenant as of the date first written above.

HOLDER:

RIVERTON MEADOWS PARTNERS, LLC
a Nevada limited liability company

By: The Merrill Companies, LLC,
a California limited liability company,
Its Co-Manager

By: 
David M. Frank,
Chief Executive Officer

By: Bangerter 126 Real Estate Holdings, LLC,
a Nevada limited liability company,
Its Co-Manager

By: _____
Kevin Golshan, its Manager

[PURCHASER SIGNATURE PAGE FOLLOWS]

6.12 Governing Law. The laws of the State of Utah shall govern the interpretation, validity, performance, and enforcement of this Declaration.

6.13 Estoppel Certificates. Each party shall, within thirty (30) days of its receipt of a written request from any the other party, execute and deliver to the requesting party a certificate in recordable form stating that: (a) this Covenant is unmodified and in full force and effect (or has been modified and identifying the modifications), and (b) whether or not such party has sent any notice of any breach of this Covenant to the other party that has not been cured.

6.14 Bankruptcy. In the event of any bankruptcy affecting any party to this Covenant, their successors or assigns, the parties agree that this Covenant shall, to the maximum extent permitted by law, be considered an agreement that runs with the land and that is not rejectable, in whole or in part, by the bankrupt person or entity.

6.15 Subordinate Covenants. Any Restricted Parcel Owner may record additional easements, covenants, conditions or restrictions applicable to the Restricted Parcel only, so long as the same are subordinate to and not in conflict with this Covenant.

6.16 Restricted Parcel Owner's Right to Pass Through Costs. Nothing herein shall prohibit Restricted Parcel Owner from charging its Permittees any costs which Restricted Parcel Owner is required to incur hereunder.

6.17 Counterparts. This Covenant may be executed in counterparts, each of which counterparts shall be deemed an original and all of which, taken together, shall constitute one and the same document.

IN WITNESS WHEREOF, the parties have executed this Covenant as of the date first written above.

HOLDER:

RIVERTON MEADOWS PARTNERS, LLC
a Nevada limited liability company

By: The Merrill Companies, LLC,
a California limited liability company,
Its Co-Manager

By: _____
David M. Frank,
Chief Executive Officer


By: Bangerter 126 Real Estate Holdings, LLC,
a Nevada limited liability company,
Its Co-Manager

By: _____
Kevin Golshan, its Manager

[PURCHASER SIGNATURE PAGE FOLLOWS]

PURCHASER:

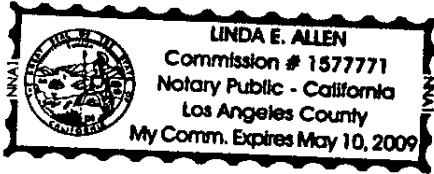
GRANITE FEDERAL CREDIT UNION
a federal credit union

By: 
Name: Julia Brown
Title: President

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES

On APRIL 26, 2007, before me, LINDA E. ALLEN Notary Public, personally appeared DAVID M. FRANK, personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



Linda E. Allen

STATE OF _____)
) ss.
COUNTY OF _____)

On _____, 2007, before me, _____, Notary Public, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

STATE OF _____)
) ss.
COUNTY OF _____)

On _____, 2007, before me, _____, Notary Public, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Los Angeles

On 04/30/07 before me, Ryan Thomas Caskey, Notary Public

Date

Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Kevin Golshan

Name(s) of Signer(s)

personally known to me

(or proved to me on the basis of satisfactory evidence)



to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Place Notary Seal Above

Signature Ryan Caskey
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

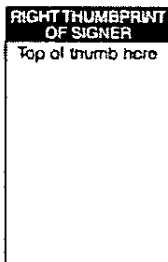
Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

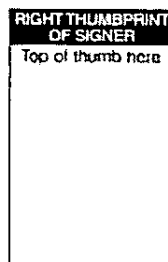
- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer is Representing: _____

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer is Representing: _____

STATE OF _____)
) ss.
COUNTY OF _____)

On _____, 2007, before me, _____, Notary Public, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

STATE OF _____)
) ss.
COUNTY OF _____)

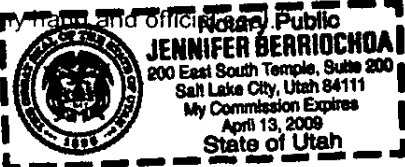
On _____, 2007, before me, _____, Notary Public, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

STATE OF Utah)
) ss.
COUNTY OF Salt Lake)

On April 26, 2007, before me, Jennifer Berriochoa, Notary Public, personally appeared Curt Joman, personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal. Public



Jennifer Berriochoa

613148.5
19203-944

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

IN THE STATE OF UTAH, COUNTY OF SALT LAKE, RIVERTON CITY:

LOTS 1 AND 2, RIVERTON MEADOWS COMM 2, A SUBDIVISION OF LOT 2, RIVERTON MEADOWS COMMERCIAL SUBDIVISION, A PART OF THE SOUTHWEST QUARTER SECTION 29, TOWNSHIP 3 SOUTH, RANGE 1 WEST, SALT LAKE BASE & MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD AS ENTRY NO. 10085141 IN BOOK 9458 AT PAGE 3322, IN THE SALT LAKE COUNTY RECORDER'S OFFICE.

EXHIBIT "B"

LEGAL DESCRIPTION OF RESTRICTED PARCEL

IN THE STATE OF UTAH, COUNTY OF SALT LAKE, RIVERTON CITY:

LOT 2, RIVERTON MEADOWS COMM 2, A SUBDIVISION OF LOT 2, RIVERTON MEADOWS COMMERCIAL SUBDIVISION, A PART OF THE SOUTHWEST QUARTER SECTION 29, TOWNSHIP 3 SOUTH, RANGE 1 WEST, SALT LAKE BASE & MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD AS ENTRY NO. 10085141 IN BOOK 9458 AT PAGE 3322, IN THE SALT LAKE COUNTY RECORDER'S OFFICE.

EXHIBIT C

LEGAL DESCRIPTION OF REMAINING PROPERTY

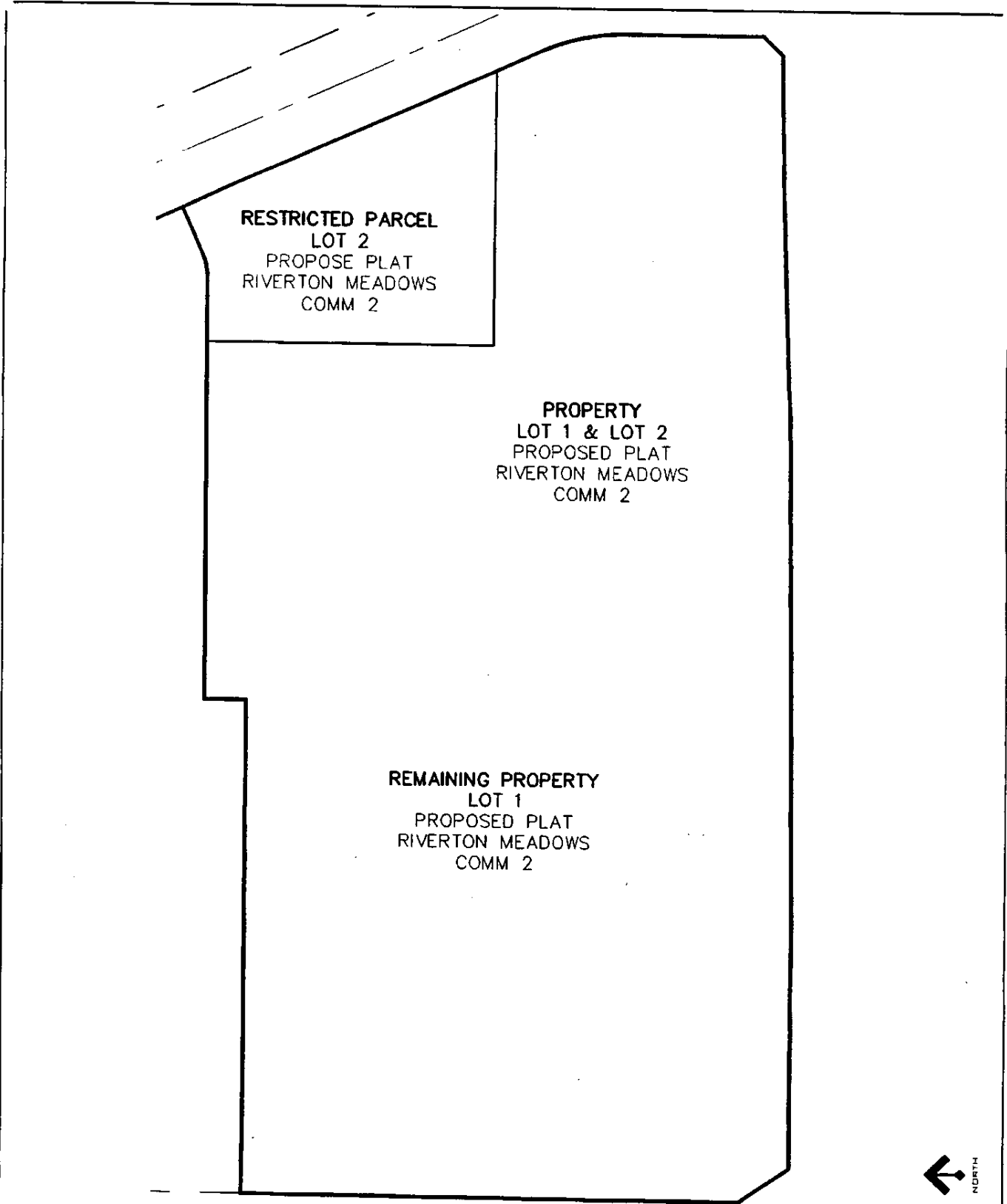
IN THE STATE OF UTAH, COUNTY OF SALT LAKE, RIVERTON CITY:

LOT 1, RIVERTON MEADOWS COMM 2, A SUBDIVISION OF LOT 2, RIVERTON MEADOWS COMMERCIAL SUBDIVISION, A PART OF THE SOUTHWEST QUARTER SECTION 29, TOWNSHIP 3 SOUTH, RANGE 1 WEST, SALT LAKE BASE & MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD AS ENTRY NO. 10085141 IN BOOK 9458 AT PAGE 3322, IN THE SALT LAKE COUNTY RECORDER'S OFFICE.

EXHIBIT "D"

DEPICTION OF PROPERTY, REMAINING PROPERTY AND RESTRICTED PARCEL

[see attached one page]



PROJ #: 05-0010
 DATE: 04/24/07
 REV #: 1
 ASI #: 1
 SCALE: 1" = 100'

DEPICTION OF PROPERTY
LOTS 1 & 2 OF PROPOSED PLAT
RIVERTON MEADOWS COMM 2

RIVERTON, UTAH 84096

CLC ASSOCIATES
 420 EAST SOUTH TEMPLE
 SUITE 300
 SALT LAKE CITY
 UTAH 84111
 P 801 363 5005
 F 801 363 5004
 CLCASSOC.COM
 ARCHITECTURE
 ENGINEERING PLANNING
 LANDSCAPE ARCHITECTURE
 LAND SURVEYING



EXHIBIT "E"

EXCLUSIONS FROM RESTRICTED PARCEL OWNER'S WORK

The following work to be performed in connection with the initial build-out of the Restricted Parcel is excluded from Restricted Parcel Owner's Work and shall be performed by Riverton pursuant to separate agreement between Riverton and the Granite Federal Credit Union:

- (a) Clearing and rough-grading the Restricted Parcel, including any necessary importing and/or exporting of soil, undercutting, dewatering or stabilization of subgrades and rough compaction of soils, in compliance with the Site Development Agreement and the SWPP Requirements. For purposes of this provision, "rough-grading" shall mean rough-graded to approximately ten (10) inches below finish floor, and rough compacted per Riverton's approved project plans and specifications for the Property.
- (b) Providing all utility lines, including, without limitation, water (domestic and fire) mains, sanitary sewer lines, electric, gas and telephone utilities, including appurtenances thereto, stubbed to a point that is within five (5) feet of the Restricted Parcel.