

Millburn Manor Homeowners Association, Inc.

Declaration of Covenants, Conditions and Restrictions

THIS DECLARATION OF COVENANTS, CONDITIONS and RESTRICTIONS (the "Declaration") is made this 2nd day of June, 2008 by MILLBURN MANOR, LLC, a Utah limited liability company (the "Declarant").

RECITALS

A. The Declarant is the owner of certain land located in the City of West Valley, Salt Lake County, State of Utah, as shown on the plat entitled, "Millburn Manor P.U.D. Subdivision", which plat is recorded among the Recorders Office of Salt Lake County, Utah (the "Recorder's Office") in Book No. 2008P, Page 87.

B. It is the intention of the Declarant to develop the land as a residential community, and to insure therefor a uniform plan and scheme of development, and unto that end the Declarant has adopted, imposed, and subjected the property hereinafter described to certain covenants, conditions, restrictions, easements, charges and liens (collectively, the "Covenants"), as set forth herein for the following purposes:

(1) To insure uniformity in the development of the Lots (as hereinafter defined) in the Community (as hereinafter defined).

(2) To facilitate the sale by the Declarant, its successors and assigns, of the land in the Community by reason of its ability to assure such purchasers of uniformity.

(3) To make certain that the Covenants shall apply uniformly to all Lots for the mutual advantage of the Declarant, the Owners and any Mortgagee (as such capitalized terms are defined herein) and to all those who may in the future claim title through any of the above.

(4) To provide for the benefit of the Owners, the preservation of the value and amenities in the Community, and the maintenance of certain reserved open spaces and common areas, including but not limited to easements, charges and liens, herein below set forth, and for the creation of an association to be delegated and assigned the powers of maintaining and administering the Common Area (as hereinafter defined), and enforcing all applicable covenants and restrictions, and collecting and disbursing the assessments and charges hereinafter create; which association shall be incorporated under the laws of the State of Utah, as a nonprofit corporation, for the purpose of exercising the functions as aforesaid.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

THAT the Declarant does hereby establish and impose upon the Property (as hereinafter defined), that Covenants for the benefit of and to be observed and enforced by the Declarant, its successors and assigns, as well as by all purchasers of Lots, to wit:

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Gary W. Ott
Recorder, Salt Lake County, UT
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ARTICLE I
DEFINITIONS

The following words when used in this Declaration (unless the context otherwise requires) shall have the following meanings:

- 1.1 "Association" shall mean and refer to Millburn Manor Homeowners Association, Inc.
- 1.2 "Builder" shall mean Hamlet Homes Corporation, a Utah corporation, and any person or entity other than the Declarant, which shall, in the ordinary course of such person's business, construct a dwelling on a Lot and sell or lease it to another person to occupy as such person's residence.
- 1.3 "Common Areas" shall mean and refer to those areas of land, intended to be devoted to the common use and enjoyment of the Owners of the Lots, including, but not limited to: private streets, entrance monuments, open spaces, maintenance areas, recreational areas with any improvements located thereon, common driveways, sidewalks, fences, guest parking areas, storm water detention facilities, and any other real property or other facilities which the Association owns and/or in which the Association acquires a right of use for the benefit of the Association and its members, saving and excepting, however, so much of the land previously conveyed or to be conveyed to a governmental body.
- 1.4 "Community" shall mean and refer to all of the land hereby made subject to this Declaration by an instrument in writing, duly executed and recorded among the Recorder's Office and any Additional Property (as such term is hereinafter defined) that may hereafter expressly be made subject to this Declaration by an instrument in writing, duly executed and recorded among the Recorder's Office.
- 1.5 "Declarant" shall mean and refer to Millburn Manor, LLC, a Utah limited liability company, and any successor or assign thereof to whom it shall expressly (a) convey or otherwise transfer all of its right, title and interest in the Property as an entirety, without reservation of any kind; or (b) transfer, set over and assign all of its right, title and interest under this Declaration, or any amendment or modification thereof.
- 1.6 "Development Period" shall mean the time between the dates of recordation of this Declaration with the Recorder's Office and the date on which all Lots have been conveyed to Class A members.
- 1.7 "Lot" and/or "Lots" shall mean and refer to those portions of the Property that are subdivided parcels of land shown and defined as lots or plots of ground (exclusive of the Common Areas) and designated by numerals on the Plat, on which a dwelling is proposed to be constructed.
- 1.8 "Mortgage" means any mortgage or deed of trust encumbering any Lot or any or all of the Common Areas, and any other security interest existing by virtue of any other form of security instrument or arrangement, provided that such mortgage, deed of trust or other form of security instrument evidencing any such other form of security arrangement has been recorded among the Recorder's Office.
- 1.9 "Mortgagee" means the person secured by a Mortgage.
- 1.10 "Owner" or "Record Owner" shall mean, refer to, and include the person, firm, corporation, trustee, or legal entity, or the combination thereof, including contract sellers, holding the fee simple record title to a Lot, as said Lot is now or may from time to time hereafter be created or established, either in his, her, or its own name, as joint tenants, tenants in common, tenants by the entireties, or tenants in co-partnership, if the Lot is held in such real property tenancy or partnership relationship. If more than one (1) person, firm, corporation, trustee, or other legal entity, or combination thereof, hold the record title to

any one (1) Lot, whether it is in a real property tenancy, or partnership relationship, or otherwise, all of the same, as a unit, shall be deemed a single Owner and shall be or become a single member of the Association by virtue of ownership of such Lot. The term "Owner", however, shall not mean, refer to or include any contract purchaser nor shall it include a Mortgagee.

1.11 "Plat" shall mean and refer to the plat entitled, "Millburn Manor P.U.D. Subdivision", recorded among the Recorder's Office of Salt Lake County, Utah in Book 2008P, Page 87, and any plats recorded in substitution therefor or amendment thereof, plus any plats hereafter recorded among the Recorder's Office of any Additional Property that may hereafter expressly be made subject to this Declaration by an instrument in writing, duly executed, and recorded among the Recorder's Office.

1.12 "Property" shall mean and refer to all of the real property described in Exhibit "A", attached hereto and made a part hereof, and any additional land at such time as it is hereafter expressly made subject to this Declaration by an instrument in writing, duly executed and recorded among the Recorder's Office.

1.13 "Structure" means any thing or device the placement of which upon the Property (or any part thereof) may affect the appearance of the Property (or any part thereof) including, by way of illustration and not limitation, any building, trailer, garage, porch, shed, greenhouse, coop or cage, covered or uncovered patio, clothesline, radio, television or other antenna or "dish", fence, sign, curbing, paving, wall, roadway, walkway, exterior light, landscape, hedge, trees, shrubbery, planting, signboard, or any temporary or permanent living quarters (including any horse trailer), or any other temporary or permanent improvement made to the Property or any part thereof. "Structure" shall also mean (i) any excavation, fill, ditch, diversion, dam or other thing or device which affects or alters the natural flow of surface waters form, upon or across the Property, or which affects or alters the flow of any waters in any natural or artificial stream, wash or drainage channel from, upon or across the Property, and (ii) any change in the grade of the Property (or any part thereof) of more than six (6) inches from that existing at the time of first ownership by an Owner hereunder other than the Declarant.

ARTICLE II

COVENANTS, CONDITIONS AND RESTRICTIONS

2.1 **Administration: Architectural Review Committee.** The Architectural Review Committee, which initially shall be appointed by the Declarant during the Development Period and thereafter by the Board of Directors of the Association (the Architectural Review Committee"), shall have all of the rights, powers and duties granted to it pursuant to this Declaration. During the Development Period, or until their successors are duly chosen and qualified, the initial members of the Architectural Review Committee shall be John Aldous, David Irwin and Nick Mingo. The Architectural Review Committee shall at all times be comprised of at least three (3) members. At any time, or from time to time, during the Development Period, the initial members of the Architectural Review Committee may be replaced for any reason (including death or resignation) with other individuals selected by the Declarant in its sole discretion. All questions shall be decided by a majority of the members of the Architectural Review Committee, and such majority shall be necessary and sufficient to act in each instance and on all matters. Each member of the Architectural Review Committee, now or hereafter appointed, shall act without compensation for services performed pursuant to this Declaration. The Declarant hereby grants to the Architectural Review Committee, its successors and assigns, the right to establish architectural design criteria for the Community (the "Design Guidelines") which shall be made available to all members, and to waive such portion of portions of the Covenants herein, numbered 2.3 to 2.21 of this Article II, as the Architectural Review Committee, in its sole discretion, may deem advisable and in the best interests of the Community.

2.2 Architectural Review.

(a) No Structure (other than construction or development by, for or under contract with Declarant or Builder) shall be constructed on any Lot nor shall any addition (including awnings and screens), change, or alteration therein or thereto (including any retreatment by painting or otherwise of any exterior part thereof unless the original color and material are use) (collectively, "Alterations") be made to the exterior of any Structure and/or contour of any Lot, nor shall any work be commenced or performed which may result in a change of the exterior appearance of any Structure until the plans and specifications, in duplicate, showing the nature, kind, shape, dimensions, material, floor plans, color scheme, location, proposed topographical changes, together with the estimated costs of said Alterations or construction, the proposed construction schedule, and a designation of the party or parties to perform the work, have been submitted to and approved in writing by the Architectural Review Committee, its successors and assigns, and until all necessary permits and any other governmental or quasi-governmental approvals have been obtained. The approval of the Architectural Review Committee of any Structure or Alterations shall in no way be deemed to relieve the Owner of any Lot from its obligation to obtain any and all permits and approvals necessary for such Structure or Alterations.

(b) The Architectural Review Committee shall consider applications for approval of plans, specifications, etc., upon the basis of conformity with this Declaration, applicable law and the Design Guidelines, if any, and shall be guided by the extent to which such proposal will insure conformity and harmony in exterior design and appearance, based upon, among other things, the following factors: the quality of workmanship; nature and durability of materials; harmony of external design with existing structures; choice of colors; changes in topography, grade elevations and/or drainage; the ability of the party or parties designated by the Owner to complete the Structure or Alterations proposed in accordance with this Declaration, including, without limiting the foregoing, such factors as background, experience, skill, quality of workmanship, financial ability; factors of public health and safety; the effect of the proposed Structure or Alterations on the use, enjoyment and value of other neighboring properties, and/or on the outlook or view from adjacent or neighboring properties; and the suitability of the proposed Structure or Alterations with the general aesthetic appearance of the surrounding area.

(c) The Architectural Review Committee shall have the right to refuse to approve any such plans or specifications, including grading and location plans, which are not suitable or desirable in its opinion, for aesthetic or other considerations. Written requests for approval, accompanied by the foregoing described plans and specifications or other specifications and information as may be required by the Architectural Review Committee from time to time shall be submitted to the Architectural Review Committee by registered or certified mail or in person. In the event the Architectural Review Committee fails to approve or disapprove any plans within sixty (60) days of receipt thereof, such plans shall be deemed approved. Approval of any particular plans and specifications or design shall not be construed as a waiver of the right of the Architectural Review Committee to disapprove such plans and specifications, or any elements or features thereof, in the event such plans and specifications are subsequently submitted for use in any other instance. The Architectural Review Committee shall have the right to charge a processing fee, not in excess of Fifty Dollars (\$50.00) for such requests, which shall be retained by the Association and not the Architectural Review Committee.

(d) Construction of Alterations in accordance with plans and specifications approved by the Architectural Review Committee pursuant to the provisions of this Article shall be commenced within six (6) months following the date of approval and completed within twelve (12) months of commencement of the Alterations, or within such other period as the Architectural Review Committee shall specify in its approval. In the event construction is not commenced within the period aforesaid, then approval of the plans and specifications by the Architectural Review Committee shall be conclusively deemed to have lapsed and compliance with the provisions of this Article shall again be required. After

construction, all Structures and Alterations shall be maintained continuously in strict conformity with the plan and specifications so approved and all applicable laws.

(e) If any Structure is altered, erected, placed or maintained on any Lot other than in accordance with approved plans and specifications therefor and applicable law, such action shall be deemed to be a violation of the provisions of this Declaration and, promptly after the Association gives written notice thereof to its Owner, such Structure shall be removed or restored to its condition prior to such action, and such use shall cease, so as to terminate such violation. If within thirty (30) days after having been given such notice, such Owner has not taken reasonable steps to terminate such violation, any agent of the Association may enter upon such Lot and take such steps as are reasonably necessary to terminate such violation. Such Owner shall be personally liable to the Association for the cost thereof, to the same extent as he is liable for an Assessment levied against such Lot, and, upon the failure of the Owner to pay such cost within ten (10) days after such Owner's receipt of written demand therefor from the Association, the Association may establish a lien therefor upon such Lot in accordance with and subject to the provisions of this Declaration applicable to an assessment lien.

(f) Any member of the Architectural Review Committee, upon the occurrence of a violation of the provisions of this Declaration, and after the Association or the Architectural Review Committee gives written notice thereof to the Owner of the applicable Lot, at any reasonable time, may enter upon and inspect any Lot and the exterior of any Structure thereon to ascertain whether the maintenance, construction or alteration of such Structure or Alteration are in accordance with the provisions hereof.

(g) All Structures on a Lot shall be made, constructed and maintained, and all activities on a Lot shall be undertaken, in conformance with all laws and ordinances of West Valley City, County of Salt Lake, State of Utah, which may apply, including without limiting the generality of the foregoing, all zoning and land use ordinances.

2.3 **Land Use.** The Lots, except as hereinafter provided, shall be used for private and residential purposes only and no dwelling of any kind whatsoever shall be erected, altered or maintained thereon except a private dwelling house for the sole and exclusive use of the Owner or occupant of the Lot. None of the Lots shall at any time be used for apartments or other types of multiple housing units; it being the intention of the Declarant that each and every one of the Lots be used solely for one (1) single-family dwelling, and no other purposes, except such purposes as may be specifically reserved in the succeeding sections of this Declaration. No industry, business, trade or profession of any kind, whether or not for profit, shall be conducted, maintained or permitted on any part of the Property, except that any part of any Structure now or hereafter erected on any Lot may be used as an office or studio, provided that (i) the person using such office or studio actually resides in the Structure in which such office or studio is located, (ii) such office or studio is operated in full compliance with all applicable zoning and other laws, (iii) the operation of such office or studio does not involve the employment of any more than one (1) non-resident employee, (iv) the person owning such Lot has obtained the prior written approval of the Architectural Review Committee, and (v) such office or studio does not occupy more than twenty-five (25%) percent of the total floor area of such Structure.

2.4 **Swimming Pools.** No above-ground or in-ground pools shall be permitted on any Lot; provided, however, that the foregoing shall not apply to spas or Jacuzzis, if all applicable local and state laws have been satisfied, and approval from the Architectural Review Committee has been obtained in advance in accordance with the provisions hereof.

2.5 **Temporary Structures.** No Structure of a temporary character, trailer, basement, tent, shack, garage, or other outbuildings shall be used on any Lot at any time as a residence, either temporarily or permanently. Nothing in this Declaration shall be deemed to prohibit an Owner from placing upon its

Lot reasonably sized garden sheds, greenhouses or other similar accessory structures approved in advance by the Architectural Review Committee.

2.6 **Real Estate Sales or Construction Office.** Notwithstanding anything contained herein to the contrary, a real estate sales or construction office or a trailer and/or model home and related signs, may be erected, maintained and operated on any Lot, or in any Structure now or hereafter located thereon, provided such office or trailer, and signs, are used and operated only in connection with the development and/or initial sale of any Lot or Lots, and/or the initial construction of improvements on any Lot now or hereafter laid out or created in the Community. Nothing herein, however, shall be construed to permit any real estate sales or construction office, trailer, or sign after such initial development, sales, and/or construction is completed. Except as expressly permitted hereinabove, neither any part of any Lot, nor any improvement now or hereafter erected on any Lot, shall be used for any real estate sales or construction office or trailer, nor shall any sign used in conjunction with such uses be erected.

2.7 **Clothes Line.** No exterior clothes dryer, clothes line or pole, or similar equipment shall be erected, installed or maintained on any Lot, nor shall any articles of clothing, bedding or similar items be hung outside.

2.8 **Traffic View.** No Structure, landscaping, shrubbery or any other obstruction shall be placed on any Lot so as to block the clear view of traffic on any streets, nor shall any planting be done on any corner Lots closer than twenty (20) feet from either street line that will exceed three (3) feet in height (except shade trees which shall be trimmed so that a clear view may be maintained to the height of eight (8) feet).

2.9 **Lawn and Landscaping.** The lawn of a dwelling shall be kept only as a lawn for ornamental or decorative planting of grass, trees and shrubbery, and shall be maintained by the Association. Each Owner must obtain the prior written approval of the Architectural Review Committee before installing any additional landscaping.

In addition, to the extent any approved modification of landscaping results in a relocation of the sprinkler heads, then such Owner shall be responsible for the relocation performed in a workmanlike manner at the sole cost of the Owner. If any Owner does not relocate the sprinkler heads properly and promptly, then such Owner shall be personally liable to the Association for any resulting harm to the Lot or any portion of the Property, including, but not limited to damages, interest, costs of collection, and attorney's fees. Further, the Association may, without notice to the Owner, repair the affected sprinkler heads and charge the Owner accordingly.

2.10 **Fences and Walls.** Other than fences and walls initially constructed by Declarant or Builder or specifically approved and shown on the attached Exhibit "D," no fence, wall or similar enclosure may be built on any Lot. All fencing built in accordance with Exhibit "C" must be white ivnyl and conform to the same materials, height, and design as the perimeter fence initially constructed by Declarant or Builder. Owners of Lots specifically shown as eligible for fencing by the attached Exhibit "C" or whose lots were initially constructed by Declarant or Builder with fencing, must obtain prior written approval of the Architectural Review Committee before installing any fence.

2.11 **Neat Appearance.** Except for any maintenance and repair which the Association may be obligated to perform hereunder, Owner shall at all times maintain their Lots and all appurtenances thereto in good repair and in a state of neat appearance, including but not limited to the painting (or other appropriate external care) of all Structures on the Lot, all in a manner and with such frequency as is consistent with good property management and maintenance; provided, however, that the Association shall perform maintenance, including, but not limited to, the seeding, watering and mowing of all lawns and yards, landscaping and maintenance of lawns and yards, keeping all sidewalks neat, clean and in good

repair, and free of ice and snow, and the pruning and cutting of all trees and shrubbery in accordance with Article 6.4 of this Declaration. If in the opinion of the Architectural Review Committee, any Owner fails to perform the duties imposed hereunder, the Association, on affirmative action of a majority of the Board of Directors, after fifteen (15) days written notice to such Owner to remedy the condition in question, and upon failure of the Owner to remedy the condition, shall have the right (but not the obligation), through its agents and employees, to enter upon the Lot in question and to repair, maintain, repaint and restore the Lot and the improvements or Structures thereon, and the cost thereof shall be a binding, personal obligation of such Owner, as an additional assessment on the Lot.

2.12 **Nuisances.** No noxious or offensive trade or activity shall be carried on upon any Lot, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood or any adjoining property owners. Without limiting the generality of the foregoing, no speaker, horn, whistle, siren, bell, amplifier, or other sound devise, except such properly maintained and operated devices as may be used exclusively for security purposes, shall be located, installed or maintained upon the exterior or any dwelling or upon the exterior of any other Structure constructed upon the Lot. No snowmobiles, go-carts, motorbikes, trail bikes, other loud-engine recreational vehicles or skateboard ramps shall be run or operated upon any Lot or upon any roadways serving the Property.

2.13 **Animals.** No animals, livestock, or poultry of any kind, including pigeons, shall be raised, bred or kept on any Lot, except that no more than two dogs and/or two cats, may be kept, provided that they are not kept, bred or maintained for any commercial purpose, and provided that they are kept so as to avoid becoming a nuisance to the neighborhood or to any adjoining property owners, and do not roam unattended on the Property. Household pets shall not include miniature pigs, horses or other hybrid livestock or farm animals. Pets shall be registered, licensed and inoculated as required by law and maintained within each Owner's Lot. Owner shall walk their dogs on a leash, and be responsible for the immediate clean up and removal of their pets' waste from any other Lot and the Common Areas.

2.14 **Vehicles.**

(a) As used herein,

(i) "Vehicle" means a Commercial Vehicle, Motor Vehicle, Recreational Vehicle, automobile, Large Truck, other truck or van, trailer, motorcycle, bicycle, mo-ped, or other powered or unpowered vehicle.

(ii) "Commercial Vehicle" means any (1) automobile, truck or van used or designed principally for commercial, business or industrial use, or (2) taxicab or other Vehicle displaying a commercial logo, message or identification.

(iii) "Inoperable Vehicle" means any Commercial, Recreational or other Vehicle which is a junk Vehicle, or is inoperable, or lacks current, valid registration plates, or would not pass applicable state vehicular inspection criteria.

(iv) "Large Truck" means any truck or van or self-propelled farm or construction vehicle, which is more than 24 feet long, or has a capacity exceeding three quarters (3/4) ton.

(v) "Motor Vehicle" means a vehicle required by law to be registered with a governmental authority or entity, or propelled by a motor.

(vi) "Recreational Vehicle" means any (1) boat, boat trailer, camp truck, camp trailer, golf cart, house trailer, personal watercraft, snowmobile, recreational bus or similar vehicle, motor

home, camper or all-terrain vehicle, or (2) other powered or unpowered vehicles designed primarily for use for sports or recreational purposes.

(b) No Vehicle shall be parked or stored in the Community other than in accordance with the provisions hereof.

(c) Unless permitted by any other provision of this Declaration, no Large Truck or Inoperable Vehicle shall be parked or stored anywhere in the Community.

(d) Recreational Vehicles may not be kept on the Property, unless stored in a garage.

(e) Commercial Vehicles and regular passenger automobiles may be kept on a Lot, other than Inoperable Vehicles.

(f) No automobile or other Vehicle shall be constructed, restored or repaired on a Lot or in the Common Areas at a location visible from outside a garage or other building thereon, other than minor repairs such as oil, filter, battery, belt, wiper, light and tire changes, or emergency repairs which cannot reasonably be performed elsewhere, in each case if performed (1) on a Vehicle owned by an Owner of, and customarily kept on, such Lot or Common Areas, (2) using all appropriate environmental safeguards, and (3) in a continuous and timely manner.

(g) No person shall operate a Vehicle in the Community other than in a safe and quiet manner and with due consideration for the rights of all Owners and occupants, or without holding a valid driver's license.

(h) Nothing in this Declaration shall prohibit or restrict the Declarant or Builder during the Development Period from operating, parking, maintaining or otherwise using a Vehicle anywhere in the Community.

2.15 **Lighting and Wiring.** The exterior lighting on Lots shall be directed downward and shall not be directed outward from, or extend beyond, the boundaries of any Lot. All wiring on any Lot shall be underground.

2.16 **Antennae.** No radio aerial, antenna or satellite or other signal receiving dish, or other aerial or antenna for reception or transmission, shall be placed on kept on a Lot outside of a dwelling, except on the following terms:

(a) An Owner may install, maintain and use on its Lot one (or, if approved, more than one) Small Antenna (as hereinafter defined) in the rear yard of a dwelling on the Lot, at such location, and screened from view from adjacent dwellings in such a manner and using such trees, landscaping or other screening material, as are approved by the Architectural Review Committee, in accordance with Article II. Notwithstanding the foregoing terms of this subsection, (i) if the requirement that a Small Antenna installed on a Lot be placed in the rear yard of a dwelling would impair such Small Antenna's installation, maintenance or use, then it may be installed, maintained and used at another approved location on such Lot where such installation, maintenance or use would not be impaired; (ii) if and to the extent that the requirement that such Small Antenna be screened would result in any such impairment, such approval shall be on terms not requiring such screening; and (iii) if the prohibition against installing, maintaining and using more than one (1) Small Antenna on a Lot would result in any such impairment, then such Owner may install on such Lot additional Small Antenna as are needed to prevent such impairment (but such installation shall otherwise be made in accordance with this subsection).

(b) In determining whether to grant any approval pursuant to this Section, neither Declarant, the Architectural Review Committee or the Board of Directors shall withhold such approval, or grant it subject to any condition, if and to the extent that doing so would result in an impairment; provided however, that any Small Antenna shall be placed in the rear of each dwelling, notwithstanding any other provision in this Section 2.16.

(c) As used herein, (1) "impair" has the meaning given it in 47 Code of Federal Regulations Part 1, Section 1.4000, as hereafter amended; and (ii) "Small Antenna" means any antenna (and accompanying mast, if any) of a type, the impairment of the installation, maintenance or use of which is the subject of such regulation. Such antenna are currently defined thereunder as, generally, being one (1) meter or less in diameter or diagonal measurement and designed to receive certain types of broadcast or other distribution services or programming.

2.17 **Subdivision.** No Lot shall be divided or subdivided and no portion of any Lot (other than the entire Lot) shall be transferred or conveyed for any purpose; provided, however, this shall not prohibit transfers of parts of Lots between adjoining Lot owners where the transfer is not for the purpose of creating a new building Lot. The provisions of this subsection shall not apply to the Declarant and, further, the provisions hereof shall not be construed to prohibit the granting of any easement or right-of-way to any person for any purpose.

2.18 **Signage.** Except for entrance signs, directional signs, signs for traffic control or safety, community "theme areas" or "For Sale" signs (not larger than 2 feet by 3 feet), and except as provided herein, no signs (including "For Rent" signs) or advertising devices of any character shall be erected, posted or displayed upon, in or about any Lot or Structure. The provisions and limitations of this section shall not apply to any institutional first Mortgagee of any Lot who comes into possession of the Lot by reason of any proceeding, arrangement, assignment or deed in lieu of foreclosure.

2.19 **Lease Agreements.** All lease agreements with respect to any Lot or any Structure located thereon shall be in writing and submitted to the Board of Directors of the Association for approval. The minimum term of all lease agreements shall be for one (1) year, and shall state that the lease agreement shall be subject to this Declaration. Record Owners who do not reside on their Lot must provide a current address and phone number(s) to the Association.

2.20 **Trash and Other Materials.** No lumber, metals, bulk materials, refuse or trash shall be kept, stored or allowed to accumulate on any Lot, except (a) building materials used during the course of construction of any approved dwelling or other permitted Structure, and (b) firewood, which shall be cut and neatly stored at least six (6) inches off the ground and twelve (12) inches away from any wooden structure. No burning of trash shall be permitted on any Lot. Trash removal is provided by the Association by means of the Association's private contractor. All Owners shall place trash or other refuse into refuse containers provided by the Association or its private contractor. Owners may not place any trash outside of such refuse containers or in any other location or container, except as designated by the Association, if any. All trash/refuse containers shall be stored out of sight or in the garage. Trash/refuse containers will only be acceptable in sight in the front of the home on trash pick-up day.

2.21 **Non-Interference with Utilities.** No Structure, plating or other material shall be placed or permitted to remain upon any Lot which may damage or interfere with any easement for the installation or maintenance of utilities, or which may unreasonably change, obstruct or retard direction or flow of any drainage channels. No poles and wires for the transmission of electricity, telephone and the like shall be placed or maintained above the surface of the ground on any Lot.

2.22 **Water Service.** Domestic water and sewer will be provided via a master water meter by the Association.

ARTICLE III
PROPERTY SUBJECT TO THIS DECLARATION; ADDITIONAL PROPERTY

3.1 **Property.** The real property which is, and shall be, transferred, held, sold, conveyed and occupied subject to this Declaration is located in the Community, and is described on Exhibit "A" attached hereto, all of which real property is referred to herein as the "Property."

3.2 **Additions to Property.**

(a) The Declarant, its successors and assigns, shall have the right for seven (7) years from the date hereof to bring within the scheme of this Declaration, Additional Property within the Community (the "Additional Property") without the consent of the Class A members of the Association, provided that the annexation is in accordance with the general plan heretofore approved. The general plan of development is shown on the Plat, but the plan shall not bind the Declarant, its successors or assigns, to make the proposed additions, or to adhere to the plan in any subsequent development of the land shown thereon.

(b) The additions authorized under this subsection, described in Exhibit "B", shall be made by filing a supplemental declaration of record with respect to the Additional Property which shall extend the scheme of the Declaration to such Additional Property, and which Additional Property shall thereupon become part of the Property. Upon the filing of any supplemental declaration, Owners of Additional Property shall be subject to the same obligations and entitled to the same privileges as apply to the Owners of the Property. Such supplemental declaration may contain such complementary additions and modifications to the Declaration as may be necessary to reflect the different character, if any, of the Additional Property not inconsistent with the scheme of this Declaration. In no event, however, shall such supplemental declaration revoke, modify or add to the Covenants established by this Declaration for the Property as of the date hereof.

ARTICLE IV
MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

4.1 **Membership.** Every Owner of a Lot that is subject to assessment shall become and be a member of the Association. Membership shall be appurtenant to, and may not be separated from ownership of any Lot that is subject to assessment.

4.2 **Classes of Membership.**

(a) The Association shall have two (2) classes of voting membership:

(i) **Class A.** Except for the Declarant and Builder, who shall initially be the Class B members, the Class A members shall be all Owners holding title to one (1) or more Lots; provided, however, that any Mortgagee or any other person or entity who holds such interest solely as security for performance of an obligation, shall not be a Class A member solely on account of such interest. Each Class A member shall be entitled to one (1) vote per Lot, for each Lot owned by it, in all proceedings in which action shall be taken by members of the Association.

(ii) **Class B.** The Class B members shall be the Declarant and Builder. The Class B members shall be entitled to three (3) votes per Lot for each Lot owned by them, in all proceedings in which actions shall be taken by members of the Association. Notwithstanding anything contained herein to the contrary, each Builder shall be conclusively deemed during the Development Period:

(A) To have given the Declarant an irrevocable and exclusive proxy entitling the Declarant, at each meeting of the Membership held while such Builder holds such title, to cast the votes in the Association's affairs, which such Builder holds under the foregoing provisions of this section on each question which comes before such meeting;

(B) To have agreed with the Declarant that such proxy is given to and relied upon by the Declarant in connection with the Declarant's development, construction, marketing, sale and leasing of any or all of the Property and is coupled with an interest; and

(C) Such proxy shall cease with respect to the votes appurtenant to a Lot when a dwelling has been constructed on such Lot and legal title to such Lot is conveyed to a person who intends to occupy such dwelling as a residence.

(b) If more than one (1) person, firm, corporation, trustee, or other legal entity, or any combination thereof, holds the record title to any Lot, all of the same, as a unit, and not otherwise, they shall be deemed a single member of the Association. The vote of any member comprised of two (2) or more persons, firms, corporations, trustees, or other legal entities, or any other combination thereof, shall be cast in the manner provided for in the Articles of Incorporation and/or By-Laws of the Association, or as the several constituents may determine, but in no event shall all such constituents cast more than one (1) vote per Lot for each Lot owned by them.

4.3 **Conversion.** The Class B membership in the Association shall cease and be converted to Class A membership in the Association subject to being revived upon Additional Property being annexed to the Property pursuant to this Declaration, upon the earlier to occur of (i) December 31, 2012; or (ii) at such time as the total number of votes entitled to be cast by Class A members of the Association equals or exceeds the total number of votes entitled to be cast by the Class B members of the Association. If after such conversion Additional Property is made subject to the Declaration, then the Class B membership shall be reinstated until December 31, 2015; or such earlier time as the total number of votes entitled to be cast by Class A members again equals or exceeds the total number of votes entitled to be cast by Class B members. The Declarant and Builder shall thereafter remain Class A members of the Association as to each and every Lot from time to time subject to the terms and provisions of this Declaration in which the Declarant or the Builder then holds the interest otherwise required for Class A membership.

ARTICLE V
DECLARANT'S RESERVED RIGHTS AND OBLIGATIONS

5.1 **Reserved Rights of Declarant.** The Association shall hold the Common Areas conveyed to it pursuant to Article VI hereof, and each Owner shall own its Lot subject to the following:

(a) The reservation to Declarant, its successors and assigns, of non-exclusive easements and rights-of-way over those strips or parcels of land designated or to be designated on the Plat as "Drainage and Utility Easement," "Sewer Easement," "Drainage and Sewage Easement," and "Open Space," or otherwise designated as an easement area over any road or Common Areas on the Property, and over those strips of land running along the front, rear, side or other Lot lines of each Lot shown on the Plat, except for the common side lines on the Lots, for the purposes of proper surface water drainage, for ingress and egress, for the installation, construction, maintenance, reconstruction and repair of public and private utilities to serve the Property and the Lots therein, including but not limited to the mains, conduits, lines, meters and other facilities for water, storm sewer, sanitary sewer, gas, electric, telephone, cable television, and other public or private services or utilities deemed by Declarant necessary or advisable to provide service to any Lot, or in the area or on the area in which the same is located, together with the right and privilege of entering upon the Common Areas for such purposes and making openings and excavations thereon, which openings and excavations shall be restored in a reasonable period of time, and for such

alterations of the contour of the land as may be necessary or desirable to effect such purposes. Within the aforesaid easement areas, 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 change the direction of the flow of drainage channels or obstruct or retard the flow of water through drainage channels. The reserved easement areas of each Lot and all improvements therein, except improvements for which a public authority or utility company is responsible, shall be maintained continuously by the Owner of the Lot.

(b) The reservation to Declarant and its successors and assigns, of a non-exclusive easement and right-of-way in, through, over and across the Common Areas for the purpose of the storage of building supplies and materials, and for all other purposes reasonably related to the completion of construction.

(c) The designation of streets, avenues, roads, courts and places upon the Plat is for the purpose of description only and not dedication, and the rights of the Declarant in and to the same are specifically reserved, and the Declarant hereby reserves unto itself, and its successors or assigns, the right to grade, regrade and improve the streets, avenues, roads, courts and places as the same may be located on the Plat, including the creation of extension of slopes, banks, or excavation in connection therewith and in the construction of and installation of drainage structures therein. The Declarant further reserves unto itself, and its successors and assigns, the bed, in fee, of all streets, avenues and public highways in the Community, as shown on the Plat.

(d) The Declarant further reserves unto itself, and its successors and assigns, the right to grant easements, rights-of-way and licenses to any person, individual, corporate body or municipality, to install and maintain pipelines, underground or above-ground lines, with the appurtenances necessary thereto for public utilities, or quasi-public utilities or to grant such other licenses or permits as the Declarant may deem necessary for the improvement of the Community in, over, through, upon and across any and all of the roads, streets, avenues, alleys, and open space and in, over, through, upon and across each and every Lot in any easement area set forth in this Declaration or as shown on the Plat.

(e) The Declarant further reserves unto itself and its successors and assigns, the right to dedicate all of said roads, streets, alleys, rights-of-way or easements, including easements in the areas designated as "open space" and stormwater management reservation, to public use all as shown on the Plat. No road, street, avenue, alley, right-of-way or easement shall be laid out or constructed through or across any Lot or Lots in the Community except as set forth in this Declaration, or as laid down and shown on the Plat, without the prior written approval of the Architectural Review Committee.

(f) Declarant further reserves unto itself and its successors and assigns, the right at or after the time of grading of any street or any part thereof for any purpose, to enter upon any abutting Lot and grade a portion of such Lot adjacent to such street, provided such grading does not materially interfere with the use or occupancy of any Structure built on such Lot, but Declarant shall not be under any obligation or duty to do such grading or to maintain any slope. Similarly, Declarant reserves the right unto itself, and its successors or assigns, and, without limitation, the Association, to enter on any Lot during normal business hours for the purpose of performing the maintenance obligations of the Association, as more particularly described in Section 6.4: provided, however, that Declarant shall have no obligation to perform such maintenance. No right shall be conferred upon any Owner by the recording of any plat relating to the development of the Property in accordance with such plat, Declarant expressly reserving unto itself the right to make such amendments to any such plat or plats as shall be advisable in its best judgment and as shall be acceptable to public authorities having the right to approval thereof.

(g) Declarant further reserves unto itself, for itself and Builder, and their successors and assigns, the right, notwithstanding any other provisions of the Declaration, to use any and all portions of

the Property other than those Lots conveyed to Owners, including any Common Areas which may have previously been conveyed to the Association, for all purposes necessary or appropriate to the full and final completion of construction of the Community. Specifically, none of the provisions of Article II concerning architectural control or use restrictions shall in any way apply to any aspect of the Declarant's or Builder's activities or construction, and notwithstanding any provisions of this Declaration, none of the Declarant's or Builder's construction activities or any other activities associated with the development, marketing, construction, sales management or administration of the Community shall be deemed noxious, offensive or a nuisance. The Declarant reserves the right for itself and Builder, and their successors and assigns, to store materials, construction debris and trash during the construction period on the Property without keeping same in containers. The Declarant will take reasonable steps, and will ensure that Builder takes reasonable steps, to avoid unduly interfering with the beneficial use of the Lots by Owners.

5.2 **Incorporation by Reference: Further Assurances.** Any and all grants made to the Association with respect to any of the Common Areas and all grants made with respect to any Lots shall be conclusively deemed to incorporate the foregoing reservations, whether or not specifically set forth in such instruments. At the request in writing of any party hereto, any other party shall from time to time execute, acknowledge and deliver such further assurances of such reservations as may be necessary.

ARTICLE VI COMMON AREAS

6.1 **Grant of Common Areas.** The Association shall take title to the Common Areas that are part of the Property, free and clear of all encumbrances, except non-monetary title exceptions and this Declaration. The Covenants are hereby imposed upon the Common Areas for the benefit of the Declarant, the Builder, the Association and the Owners, and their respective personal representatives, successors and assigns, to the end and intent that the Association shall have and hold the said Common Area subject to the reservations set forth in Article V hereof, and to the Covenants herein set forth.

6.2 **Member's Right of Enjoyment.** Every member of the Association shall have a non-exclusive right and easement for the use, benefit and enjoyment, in common with others, in and to the Common Areas and such non-exclusive right and easement shall be appurtenant to and shall pass with the title to every Lot, subject to the restrictions herein set forth. Except as otherwise permitted by the provisions of this Declaration, the Common Areas shall be retained in their natural state, and no Structure or improvement of any kind shall be erected, placed or maintained thereon. Structures or improvements designed exclusively for community use, including shelters, benches, chairs (or other seating facilities), fences and walls, walkways, playground equipment, game facilities, drainage and utility structures, grading and planting, may be erected, placed and maintained thereon for the use, comfort and enjoyment of the members of the Association, or the establishment, retention or preservation of the natural growth or topography of the area, or for aesthetic reasons. No portion of the Common Area may be used exclusively by any Owner or Owners for personal vegetable gardens, storage facilities or other private uses.

6.3 **Nuisance.** No noxious or offensive activity shall be carried on upon the Common Area nor shall anything be done thereon which will become an annoyance or nuisance to the Community.

6.4 **Maintenance Obligations of the Association.** The Association shall improve, develop, supervise, manage, operate, examine, insure, inspect, care for, repair, replace, restore and maintain the Common Areas; the installation, maintenance and repair or replacement of all landscaping, lawns and sprinkler systems of all Lots and any area dedicated to a public or governmental entity if such entity fails to properly maintain such area, as from time to time improved, all at its own cost and expense, and shall levy against each member of the Association a proportionate share of the aggregate cost and expense required for the care, maintenance and improvement of the Common Areas, which proportionate share shall be determined based on the ratio which the number of Lots owned by the members bears to the total number

of Lots then laid out or established on the Property. The Association shall be responsible for snow removal of the private streets and common driveway, trash removal within the community, and cost of irrigation and domestic water to the Lots. The primary entrance to the community, Millburn Manor Drive, is an easement through the adjacent property. The Association shall be responsible for the installation, maintenance and repair, including snow removal, of this roadway. The easement is attached as Exhibit "D". Additionally, the Association is responsible for the repair and maintenance of a crash gate located at the west end of Kenloch Way. The emergency access easement is described in Exhibit "E".

6.5 **Restrictions.** The right of each member of the Association to use the Common Areas shall be subject to the following:

(a) any rule or regulation now or hereafter set forth in this Declaration and, further, shall be subject to any rule or regulation now or hereafter adopted by the Association for the safety, care, maintenance, good order and cleanliness of the Common Areas;

(b) the right of the Association, in accordance with its Articles of Incorporation and By-Laws, to borrow money for the purpose of improving the Common Areas in a manner designed to promote the enjoyment and welfare of the members, and in aid thereof to mortgage any of the Common Areas;

(c) the right of the Association to take such steps as are reasonably necessary to protect the property of the Association against mortgage default and foreclosure;

(d) the right of the Association to suspend the voting rights and the rights to use of the Common Areas after notice and a hearing for any period not to exceed sixty (60) days for any infraction of any of the published rules and regulations of the Association or of this Declaration;

(e) the right of the Association to dedicate or transfer all or any part of the Common Area to any public or municipal agency, authority or utility for purposes consistent with the purpose of this Declaration and subject to such conditions as may be agreed to by the members; and further subject to the written consent of Salt Lake County; provided, however, that no dedication, transfer, mortgage or determination as to the purposes or as to the conditions thereof, shall be effective unless two-thirds (2/3) of the Class A members (excluding the Declarant and Builder, if the Declarant and Builder are Class A members) of the Association consent to such dedication, transfer, purpose and conditions; and

(f) the right of the Association, acting by and through its Board of Directors, to grant licenses, rights-of-way and easements for access or for the construction, reconstruction, maintenance and repair of any utility lines or appurtenances, whether public or private, to any municipal agency, public utility, the Declarant or any other person; provided, however, that no such license, right-of-way or easement shall be unreasonably and permanently inconsistent with the rights of the members to the use and enjoyment of the Common Areas.

(g) All of the foregoing shall inure to the benefit of and be enforceable by the Association and the Declarant, or either of them, their respective successors and assigns, against any member of the Association, or any other person, violating or attempting to violate any of the same, either by action at law for damages or suit in equity to enjoin a breach or violation, or enforce performance of any term, condition, provision, rule or regulation. Further, the Association and the Declarant shall each have the right to abate summarily and remove any such breach or violation by any member at the cost of expense of such member.

6.6 **Delegation of Right of Use.** Any member of the Association may delegate its rights to the use and enjoyment of the Common Area to family members who reside permanently with such member

and to its tenants, contract-purchasers, invitees and guests, all subject to such reasonable rules and regulations which the Association may adopt and uniformly apply and enforce.

6.7 **Rules and Regulations.** Each Owner shall fully and faithfully comply with the rules, regulations and restrictions applicable to use of the Common Areas, as such rules, regulations and restrictions are from time to time adopted by the Association for the safety, care, maintenance, good order and cleanliness of the Common Areas. Further, each Owner shall comply with the Covenants imposed by this Declaration on the use and enjoyment of the Common Areas.

**ARTICLE VII
ENCROACHMENTS**

If any Structure or any part thereof, now or at any time hereafter, encroaches upon an adjoining Lot or any Structure encroaches upon any Common Areas, whether such encroachment is attributable to construction, settlement or shifting of the Structure or any other reason whatsoever beyond the control of the Board of Directors or any Owner, there shall forthwith arise, without the necessity of any further or additional act or instrument, a good and valid easement for the maintenance of such encroachment, for the benefit of the Owner, its heirs, personal representatives and assigns, to provide for the encroachment and non disturbance of the Structure. Such easement shall remain in full force and effect so long as the encroachment shall continue. The conveyance or other disposition of a Lot shall be deemed to include and convey, or be subject to, any easements arising under the provisions of this Article without specific or particular reference to such easement.

**ARTICLE VIII
COVENANT FOR ASSESSMENT**

8.1 **Covenant for Assessment.** The Declarant, for each Lot owned by it within the Property, hereby covenants, and each Owner, by acceptance of a deed hereafter conveying any such Lot to it, whether or not so expressed in such deed or other conveyance, shall be deemed to have covenanted and agreed to pay the Association (a) in advance, an annual assessment (the "Annual Assessment") equal to the member's proportionate share of the sum required by the Association, as estimated by the Board of Directors, for Annual Assessments or charges, and (b) Special Assessments (as hereinafter defined) or charges, or capital improvements, such annual and special assessments and charges to be established and collected as hereinafter provided. The Annual and Special Assessments or charges shall be a charge and continuing lien upon each of the Lots against which the assessment is made in accordance with the terms and provisions of this Article VIII and shall be construed as a real covenant running with the land. Such assessments or charges, together with interest at a rate of twelve (12%) percent per annum, and costs and reasonable attorneys' fees incurred or expended by the Association in collection thereof, shall also be the personal obligation of the Owner holding title to any Lot at the time when the assessment fell due or was payable. The personal obligation for any delinquent assessment or charge, together with interest, costs and reasonable attorneys' fees, however shall not pass to the Owner's successor or successors in title unless expressly assumed by such successor or successors.

8.2 **Use of Assessments.** The assessments and charges levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents of the Community, and in particular for (a) the improvement and maintenance, operation, care, services and facilities related to the use and enjoyment of the Common Areas as well as fees paid to a management agent, if any; (b) the payment of taxes on the Common Areas (except to the extent that proportionate shares of such public charges and assessments on the Common Areas may be levied against all Lots laid out on the Property by the tax collecting authority so that the same is payable directly by the Owners thereof, in the same manner as real property taxes are assessed or assessable against the Lots); (c) the payment of insurance premiums on the Common Areas; (d) the costs of repair, replacement and additions to the

Common Areas and improvements thereon; (e) the cost of obtaining, planting and thereafter maintaining street trees throughout the Community if required by Salt Lake County, whether or not such street trees are located in the Common Areas; (f) the costs of utilities and other services which may be provided by the Association for the Community as may be approved from time to time by a majority of the members of the Association; (g) the cost of labor, equipment, insurance, materials, management and supervision incurred or expended in performing all of the foregoing; (h) the cost of irrigation, sewer and culinary water for the Lots; (i) the cost of maintenance and replacement of any common driveways, sidewalks or private streets; (j) the cost of maintenance, repair, or replacement of landscaping on the Common Areas as well as for the Lots; (k) the cost of funding all reserves established by the Association, including a general operating excess and a reserve for replacements; (l) any costs relating to the easements described in this Declaration which the Association is responsible for maintaining; (m) the cost of high-speed internet access and television service provided to the Lots or Structures (as more fully provided by separate written agreement between the provider and the Association); and (n) the cost of private trash collection.

8.3 Maximum Annual Assessment.

(a) Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, other than the Declarant or Builder, the Maximum Annual Assessment as to each Lot shall be Two Thousand Eighty Seven Dollars and 40/100 (\$2,087.40) per year, payable monthly at a rate of One Hundred Seventy Three Dollars and 95/100 (\$173.95) per month.

(b) From and after such date, the Maximum Annual Assessment may be increased each year by not more than ten percent (10%) of the Maximum Annual Assessment for the previous year without a vote of the membership of the Association.

(c) From and after such date, the Maximum Annual Assessment may be increased above the ten percent (10%) limitation specified in the preceding sentence only by a vote of two-thirds (2/3) of each class of members of the Association, voting in person or by proxy, at a meeting duly called for such purpose.

(d) The Board of Directors of the Association may fix the Annual Assessment or charges against each Lot at an amount not in excess of the maximum. Subject to the limitations set forth in this Section 8.3, and for the periods therein specified, the Association may change the maximum and the basis of the assessments fixed by this Section 8.3, prospectively for any period, provided that any such change shall have the assent of two-thirds (2/3) of each class of members of the Association, voting in person or by proxy, at a meeting duly called for such purposes.

8.4 Special Assessments. In addition to the Annual Assessments authorized herein, the Association may levy in any assessment year, a special assessment ("Special Assessment"), applicable for that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of any capital improvement located on the Common Areas, including fixtures and personal property related thereto, and/or to meet any other deficit of the Association, or any emergency or unforeseen expenses of the Association; provided that such assessment shall first be approved by two-thirds (2/3) of the votes of each class of the members of the Association, voting in person or by proxy at a meeting duly called for such purpose.

8.5 Notice and Quorum for Any Action Authorized Under Articles 8.3 & 8.4. Written notice of any meetings of members of the Association called for the purpose of taking any action authorized under Sections 8.3 and 8.4 hereof, shall be sent to all members not less than thirty (30) days, nor more than sixty (60) days, in advance of the meeting. At the first such meeting called, the presence at the meeting of members or of proxies, entitled to cast sixty (60%) percent of all of the votes of each class of members entitled to be cast at such a meeting shall be necessary and sufficient to constitute a quorum. If the required quorum is not present, another meeting may be called to the same notice requirements, and the

required quorum at any subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting, provided that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

8.6 Commencement Date of Annual Assessments.

(a) The Annual Assessments as to any Lot shall commence on the date that such Lot is conveyed to any person other than the Declarant or Builder.

(b) Declarant and Builder, and any Lot which Declarant or Builder owns, shall not be subject to any type of assessment.

(c) The Annual Assessments shall be due and payable on a monthly basis, on the first (1st) calendar day of each month, subject to the other provisions in this Declaration.

(d) The due date of any Special Assessment under Section 8.4 hereof, shall be fixed in the resolution authorizing such Special Assessment.

8.7 Duties of the Board of Directors.

(a) The Board of Directors shall determine the amount of the maintenance assessments annually, but may do so at more frequent intervals should circumstances so require. Upon resolution of the Board of Directors, installments of Annual Assessments may be levied and collected on a monthly, quarterly, semi-annual or annual basis. Any member may prepay one or more installments of any maintenance assessment levied by the Association without premium or penalty.

(b) The Board of Directors shall prepare, or cause the preparation of any annual operating budget for the Association, which shall provide, without limitation, for the management, operation and maintenance of the Common Area. The Board of Directors of the Association shall make reasonable efforts to fix the amount of the annual maintenance assessment against each Lot for each assessment period at least 30 days in advance of the beginning of such period and shall, at that time, prepare a roster of the Lots and the annual maintenance assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner upon reasonable notice to the Board of Directors. Written notice of the annual maintenance assessments shall thereupon be sent to all members of the Association. The omission by the Board of Directors, before the expiration of any assessment period, to fix the amount of the annual maintenance assessment hereunder for that or the next period, shall not be deemed a waiver or modification in any respect of the provisions of this Article or a release of any member from the obligation to pay the annual maintenance assessment, or any installment thereof, for that or any subsequent assessment period; but the annual maintenance assessment fixed for the preceding period shall continue until a new maintenance assessment is fixed. No member may exempt itself from liability for maintenance assessments by abandonment of any Lot owned by such member or by the abandonment of such member's right to use and enjoyment of the Common Areas.

(c) The Association shall, upon demand at any time, furnish to any Owner liable for assessment a certificate in writing signed by an officer of the Association setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated as having been paid. A charge not to exceed Ten Dollars (\$10.00) may be levied in advance by the Association for each certificate so delivered.

8.8 Additional Assessments. Additional assessments may be fixed against any Lot only as provided for in this Declaration. Any such assessments shall be due as provided by the Board of Directors in making such assessment.

8.9 **Nonpayment of Assessments.** Any assessment or portion thereof not paid within thirty (30) days after the due date thereof shall be delinquent and shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum, and shall be subject to a late charge of Ten Dollars (\$10.00) per month until paid, or ten percent (10%) of the assessment, whichever is greater, and the Board of Directors shall have the right to declare the entire balance of the assessment and accrued interest thereon to be immediately due and payable. The Association may bring an action at law against the Owner personally obligated to pay the same, and /or without waiving any other right, at equity, to foreclose the lien against the Lot in the same manner and subject to the same requirements as are specified by the laws of Utah for the foreclosure of mortgages or deeds of trust containing a power of sale or an assent to a decree, and there shall be added to the amount of such assessment the reasonable costs of preparing and filing the complaint of such action, and in the event that judgment is obtained, such judgment shall include interest on the assessment as above provided, late fees and reasonable attorneys' fees to be fixed by the court together with the cost of the action. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas or abandonment of such Owner's Lot.

8.10 **Subordination of Lien to Mortgage.** The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage(s) or deed(s) of trust now or hereafter placed upon the Lot subject to assessment; provided, however, that the sale or transfer of any Lot pursuant to mortgage deed of trust foreclosure, or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. Such sale or transfer shall not relieve such Lot from liability for any assessments thereafter becoming due, nor from the lien of any such future assessment.

8.11 **Enforcement of Lien.** The Association may establish and enforce the lien for any assessment, annual, special or otherwise, pursuant to the provisions of this Declaration. The lien is imposed upon the Lot against which such assessment is made. The lien may be established and enforced for damages, interest, costs of collection, late charges permitted by law, and reasonable attorneys' fees provided for herein or awarded by a court for breach of any of the covenants herein.

8.12 **Exempt Property.** The Common Areas and all Lots owned by the Association, or dedicated to and accepted by a public authority, and all property owned by a charitable or non-profit organization exempt from taxation by the laws of the State of Utah, shall be exempt from the assessments created herein.

8.13 **Reserves for Replacements.**

(a) The Association shall establish and maintain a reserve fund for repairs and replacements of the Common Areas by the allocation and payment monthly to such reserve fund of an amount to be designated from time to time by the Board of Directors. Such fund shall be conclusively deemed to be a common expense of the Association and may be deposited with any banking institution, the accounts of which are insured by an agency of the United States of America or may, in the discretion of the Board of Directors, be invested in obligations of, or fully guaranteed as to principal by, the United States of America.

(b) The Association may establish such other reserves for such other purposes as the Board of Directors may from time to time consider necessary or appropriate. The proportional interest of any member of the Association in any such reserves shall be considered an appurtenance of such Owner's Lot and shall not be separated from the Lot to which is appertains, and shall be deemed to be transferred with such Lot.

8.14 **Working Capital Fund.** Working capital fund shall be established by the Declarant to fund the operation of the Association, meet unforeseen expenditures or to purchase any additional equipment or

services. The initial working capital fund shall be in an amount equal to two (2) months of estimated common assessments for each Lot. Each Lot's share of the working capital fund shall be collected either at the time the sale of any Lot is closed or when control of the Project is transferred to the Lot Owners, whichever first occurs. Any amounts paid into the working capital fund shall not be considered as advance payments of regular monthly assessments. The working capital fund shall be transferred to the Association for disposition to a segregated fund when control of the Association is transferred to the Lot Owners. The Declarant is prohibited from using the working capital fund to defray any of its expenses, reserve contributions, or construction costs or to make up any budget deficits while it is in control of the Association. When a Lot is sold, however, the Declarant may reimburse itself for monies it has paid the Association for an unsold Lot's share of the working capital fund by using funds collected at closing when the Lot is sold.

ARTICLE IX INSURANCE AND CASUALTY LOSSES

9.1 **Types of Insurance Maintained by the Association.** During the Development Period, the Association may obtain the following types of insurance:

(a) insurance on all insurable improvements on the Common Areas against loss or damage by fire or other hazards, including extended coverage, vandalism, and malicious mischief in an amount sufficient to cover the full replacement cost of such improvements in the event of damage or destruction;

(b) a public liability insurance policy covering the Association, its officers, directors and managing agents, having at least a Five Hundred Thousand Dollar (\$500,000) limit per total claims that arise from the same occurrence, including but not limited to liability insurance for the recreational facilities located in the Community, or in an amount not less than the minimum amount required by applicable law, ordinance or regulation;

(c) worker's compensation insurance, if and to the extent required by law; and

(d) fidelity bond or bonds covering all Directors, officers, employees and other persons handling or responsible for the funds of the Association, in such amounts as the Board of Directors deems appropriate.

After the conclusion of the Development Period, the Board of Directors shall have the authority to, and shall obtain, the insurance described above.

9.2 **Premiums for Insurance Maintain by Association.** Premiums for all insurance and bonds which are required to be carried under Article 9.1 hereof, or otherwise obtained by the Association on the Common Areas, shall be an expense of the Association, and shall be included in the Annual Assessments. Premiums on any fidelity bond maintained by a third party manager shall not be an expense of the Association.

9.3 **Damage and Destruction of Common Areas.**

(a) Immediately after any damage or destruction by fire or other casualty to all or any part of the insurable improvements on any of the Common Areas, the Board of Directors, or its agent, shall proceed with the filing and adjustment of all claims arising under the fire and extended coverage insurance maintained by the Association and obtain reliable estimates of the cost of repair or reconstruction of the damage or destroyed improvements. Repair or reconstruction means repairing or restoring the improvements to substantially the same condition in which they existed prior to the fire or other casualty.

(b) Any damage or destruction to insurable improvements on the Common Areas shall be repaired or reconstructed unless at least seventy-five percent (75%) of the members present at a meeting of the membership held within ninety (90) days after the casualty shall decide not to repair or reconstruct.

(c) If, in accordance with subsection (b) hereof, the improvements are not to be repaired or reconstructed and no alternative improvements are authorized by the members, then and in that event, the damaged Common Areas shall be restored to their natural state and maintained as an undeveloped portion of the Common Areas by the Association in a neat and attractive condition. In such event, any excess insurance proceeds shall be paid over to the Association for the benefit of the Property, which proceeds may be used and/or distributed as determined by the Board of Directors, in its discretion, or as otherwise provided in the Articles of Incorporation and/or the By-Laws of the Association.

9.4 **Repair and Reconstruction of Common Areas.** If any improvements on any of the Common Areas are damaged or destroyed, and the proceeds of insurance received by the Association are not sufficient to pay in full the cost of the repair or reconstruction of the improvements, the Board of Directors shall, without the necessity of a vote of the members, levy a Special Assessment against all Owners in order to cover the deficiency in the manner provided in Article VIII hereof. If the proceeds of insurance exceed the cost of repair, such excess shall be retained by the Association and used for such purposes as the Board of Directors shall determine.

9.5 **Hazard Insurance on Improved Lots.** Each Owner of an improved Lot at all times shall maintain fire and extended coverage insurance or other appropriate damage and physical loss insurance, in an amount equal to not less than one hundred percent (100%) of the current replacement value of the improvements on the Lot.

9.6 **Obligation of Lot Owner to Repair and Restore.**

(a) In the event of any damage or destruction of the improvements on a Lot, the insurance proceeds from any insurance policy on an improved Lot, unless retained by a Mortgagee of a Lot, shall be applied first to the repair, restoration or replacement of the damaged or destroyed improvements. Any such repair, restoration or replacement shall be done in accordance with the plans and specifications for such improvements originally approved by the Declarant or the Architectural Review Committee; unless the Owner desires to construct improvements differing from those so approved, in which event the Owner shall submit plans and specifications for the improvements to the Architectural Review Committee and obtain its approval prior to commencing the repair, restoration or replacement.

(b) If any Owner of an improved Lot fails to maintain the insurance required by Section 9.5 of this Article, the Association may, but shall not be obligated to, obtain such insurance and pay any premiums required in connection with obtaining such insurance. Such Owner shall be personally liable to the Association for any costs incurred by the Association in obtaining such insurance, to the same extent as such Owner is liable for assessments levied against its Lot, and, upon the failure of the Owner to pay such costs within ten (10) days after Owner's receipt of a written demand therefor from the Association, the Association may establish a lien therefor upon the Owner's Lot in accordance with and subject to the provisions of this Declaration applicable to an assessment lien.

ARTICLE X
RIGHTS OF MORTGAGEES

10.1 **General.**

- (a) inspect the Association's books and records during normal business hours;
- (b) receive an annual financial statement of the Association within ninety (90) days after the end of any fiscal year of the Association;
- (c) be given timely written notice of all meetings of the Membership, and designate a representative to attend all such meetings;
- (d) be given timely written notice of the occurrence of any substantial damage to or destruction of the Common Areas, or if the Common Areas are made the subject of any condemnation or eminent domain proceeding or the acquisition thereof is otherwise sought by any condemning authority; and
- (e) be given timely written notice by the Association of failure to pay assessments by the Owner of such Mortgagee's Lot which is not cured within thirty (30) days after such default commences, but the failure to give such notice shall not affect the validity of the lien for any assessments levied pursuant to this Declaration.

10.2 **Approval by Federal Mortgage Agencies.** Unit the Class B membership terminates pursuant to the provisions in Article 4.3 of this Declaration, the consent or approval of the Federal Housing Administration, the Veterans Administration, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation, shall be obtained with respect to any of the following actions taken while a Mortgage is in effect which is insured by such entity:

- (a) a dedication of any portion of the Common Area to public use;
- (b) an amendment of this Declaration; and
- (c) annexation of additional properties

ARTICLE XI
MISCELLANEOUS

11.1 **Term.** This Declaration shall run with the land and shall be binding for a period of thirty (30) years from the date this Declaration is recorded, after which time this Declaration shall automatically be extended for successive periods of ten (10) years each unless and until an instrument has been recorded, by which this Declaration, in whole or in part, is amended, modified or revoked pursuant to the provisions of Section 11.9 of this Article.

11.2 **Enforcement.**

(a) Enforcement of this Declaration shall be by proceedings at law or in equity against any person or person violating or attempting to violate any covenant, either to restrain the violation or to recover damages, or both. In acquiring title to any Lot in the Community, the purchaser or purchasers violating or attempting to violate any covenant, agreed to reimburse the Association and/or any Owners for all costs and expenses for which it or they may be put as a result of the said violation or attempted violation, including but not limited to, court costs and attorney's fees.

(b) These Covenants shall inure to the benefit of and be enforceable by the Association or by the Owner(s) of any land included in the Community and their respective legal representatives, successors and assigns, and all persons claiming by, through or under them.

(c) Notwithstanding the foregoing, neither the Association or any person acting or purporting to act on its behalf shall (a) file or otherwise commence, or prosecute, in any jurisdiction whatsoever, any (i) civil, criminal or administrative proceeding in or with any court or administrative body or officer, or (ii) appeal of or objection to any decision or other action made or taken by any court or administrative body or officer, in any judicial or administrative proceeding, or (b) testify or submit evidence (except where required by law, subpoena or formal order of such court, administrative body or officer), or otherwise take a formal position on any issue under consideration, in any such proceeding or appeal, in all cases until such action is approved in writing by, or by the vote of, both (x) members entitled to cast at least seventy-five percent (75%) of the votes held by all Owners other than Class B Members, and (y) (if such action would be taken during the Development Period), the votes of Class B Owners holding at least seventy-five percent (75%) of the votes held by all Class B Owners. Nothing in this subsection shall apply to a civil or administrative proceeding which the Association commences or prosecutes with a court or administrative body or officer (a) to collect an Assessment, or enforce or foreclose a lien securing an Assessment, or (b) otherwise to enforce the Association's rights or another person's obligations under the Declaration, By-Laws or Articles of Incorporation on account of a default or otherwise.

11.3 **No Waiver.** The failure or forbearance by the Association to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

11.4 **Incorporation by reference on Resale.** In the event any Owner sells or otherwise transfers any Lot, any deed purporting to effect such transfer shall be deemed to contain a provision incorporating by reference the covenants, restrictions, servitudes, easements, charges and liens set forth in this Declaration, whether or not the deed actually so states.

11.5 **Notices.** Any notice required to be sent to any member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, but ordinary mail, postage paid, to the last known address of the person who appears as member or Owner on the records of the Association at the time of such mailing.

11.6 **No Dedication to Public Use.** Nothing herein contained shall be construed as a dedication to public use or as an acceptance for maintenance of any Common Areas by any public or municipal agency, authority or utility and no public or municipal agency, authority, or utility shall have any responsibility or liability for the maintenance or operation of any of the Common Areas.

11.7 **Severability.** Invalidation of any one of these covenants or restrictions by judgment, decree or order shall in no way affect any other provisions hereof, each of which shall remain in full force and effect.

11.8 **Captions and Genders.** The captions contained in this Declaration are for convenience only and are not a part of this Declaration and are not intended in any way to limit or enlarge the terms and provisions of this Declaration. Whenever the context so requires, the male shall include all genders and the singular shall include the plural.

11.9 **Amendment.**

(a) While there is a Class B membership of the Association, this Declaration may be amended by an instrument in writing, signed and acknowledged by the Declarant, and by the President or

Vice President and Secretary or Assistant Secretary of the Association after approval of the amendment at a meeting of the Association duly called for such purpose; provided, however, that Declarant shall have the absolute unilateral right, power and authority to amend, modify, revise or change any of the terms or provisions of this Declaration during the Development Period to amend, modify, revise or change any of the terms or provisions of this Declaration, and in order to accomplish any such amendment, each Owner appoints Declarant as his/her power of attorney to execute any such amendment. THIS SPECIAL POWER OF ATTORNEY SHALL BE IRREVOCABLE AND COUPLED WITH AN INTEREST.

(b) The vote (in person or by proxy) or written consent of (i) at least two-thirds (2/3) of the Class A members of the Association, if any, and (ii) the Declarant shall be required to add to, amend, revise or modify this Declaration. Following the lapse of the Class B membership in the Association, as provided in Article IV hereof, this Declaration may be amended by an instrument in writing, signed and acknowledged by the President or Vice President and Secretary or Assistant Secretary of the Association with the approval, in the manner set forth above, of at least two-thirds (2/3) of the Class A members of the Association at a meeting of the Association duly called for such purpose.

(c) An amendment or modification shall be effective when executed by the President or Vice President and Secretary or Assistant Secretary of the Association who shall certify that the amendment or modification has been approved as herein above provided. The amendment shall be recorded with the Recorder's Office of the County. Unless a later date is specified in any such instrument, any amendment to this Declaration shall become effective on the date of recording. For the purpose of recording such instrument, each Record Owner, other than the Declarant, hereby grants to the President or Vice President and Secretary or Assistant Secretary of the Association an irrevocable power of attorney to act for and on behalf of each and every Record Owner in certifying, executing and recording said instrument. Notwithstanding anything to the contrary contained herein, in no event may any of Declarant's rights or privileges under the Articles of Incorporation or By-Laws of the Association or this Declaration be terminated, altered or amended without Declarant's prior consent.

(d) Declarant may at any time during the Development Period, acting in its sole discretion and without the consent or joinder by the Association, Owner, Mortgagee or other person, (i) amend or supplement the Plat if and to the extent that the Declarant, in its sole discretion, deems necessary or desirable in connection with development of the Community (including, but not limited to, altering the locations, boundaries or property-type designation of any Lots, open spaces, Common Areas or similar areas, easement areas and setback or building restriction lines set forth thereon), or (ii) amend or supplement this Declaration to reflect any such alteration previously made by an amendment, revision or supplement of the Plat under the preceding clause, or release from the legal effect of this Declaration all or part of the real property then subject thereto. Any such amendment, revision or supplement of the Plat shall become effective for purposes of this Declaration on being signed by Declarant any other person whose approval thereof is required by law as a condition thereto, and recorded.

(e) An amendment may not modify a right expressly reserved in this Declaration for Declarant's or Builder's benefit or which affects any obligations of the Declarant or Builder, without the Declarant's or Builder's prior written consent or approval.

(f) Nothing in this Section shall be construed in derogation of any requirement in this Declaration that all or a specified number of Mortgagees approve specified actions of the Association.

11.10 **Rules and Regulations.**

(a) The Board of Directors shall have the power to adopt and amend rules and regulations ("Rules and Regulations" regarding the use of the Common Areas or regarding other matters as to which the Board of Directors is expressly granted such power by this Declaration, which shall be binding

on each Owner, provided such Rules and Regulations are adopted in accordance with the provisions of this Section 11.10.

(b) The Board of Directors shall mail written notice to each of the members of the Association setting forth the proposed Rules or Regulation at least twenty (20) days prior to its adoption. Such notices shall be mailed to the address of each member as shown on the most current membership roster of the Association.

(c) The adoption or amendment of Rules and Regulations shall require the vote of two-thirds (2/3) of the Directors present at a meeting of the Board of Directors.

WITNESS the hand and seal of the Declarant hereto on the day herein above first written.

WITNESS/ATTEST:

DECLARANT:

Millburn Manor, LLC
A Utah limited liability company

[Signature]

[Signature]
John H. Aldous, Member

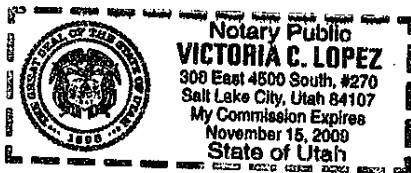
STATE OF UTAH, CITY/COUNTY OF Salt Lake, to wit:

I HEREBY CERTIFY that on this 29th day of May, 2008, before me, the subscriber, a Notary Public of the State of Utah, personally appeared John H. Aldous, known to me or suitably proven to be the person who acknowledged himself to be a Member of Millburn Manor, LLC, a Utah limited liability company, the Declarant named in the foregoing Declaration of Covenants, Conditions and Restrictions, and who, being authorized to do so, in my presence, signed and sealed the same and acknowledged the same to be the act and deed of the Declarant.

AS WITNESS my hand and seal.

[Signature]
Notary Public

My Commission Expires: 11/15/09



CONSENT AND AGREEMENT OF TRUSTEE AND BENEFICIARY

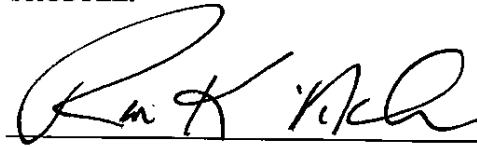
Ron K. Nichols and Washington Trust Bank, are, respectively, the Trustee and the Beneficiary under that certain Deed of Trust dated 8-7-07 and recorded as Entry No. 10193271 in Book 9530 at Pages 3967-3974 of the Official Records of Salt Lake County, Utah hereby join in the foregoing Declaration of Covenants, Conditions and Restrictions for the express purpose of subordinating all of their respective right, title and interest under such Deed of Trust in and to the real property described in Exhibit A such to the operation and effect of such Declaration.

Nothing in the foregoing provisions of this Consent and Agreement of Trustee and Beneficiary shall be deemed in any way to create between the person named in such Declaration as "the Declarant" and any of the undersigned any relationship of partnership or joint venture, or to impose upon any of the undersigned any liability, duty or obligation whatsoever.

IN WITNESS WHEREOF, the Trustee and Beneficiary have executed and sealed this Consent and Agreement of Trustee and Beneficiary or caused it to be executed and sealed on its behalf by its duly authorized representatives, this 2nd day of JUNE 2008.

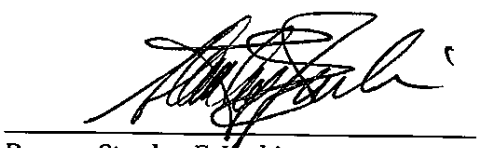
WITNESS/ATTEST:

TRUSTEE:

 (SEAL)
By: Ron K. Nichols
Its: Attorney -

WITNESS/ATTEST:

BENEFICIARY:

 (SEAL)
By: Stanley F. Jenkins
Its: Vice President

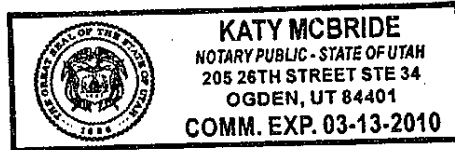
STATE OF UTAH: COUNTY OF Wasatch: TO WIT:

I HEREBY CERTIFY that on this 2 day of June, 2008, before me, a Notary Public for the state aforesaid, personally appeared Ron K. Nichols, Trustee, known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument, who acknowledged that he has executed it on behalf of the Trustee for the purposes therein set forth, and that it is his act and deed.

IN WITNESS WHEREOF, I have set my hand and Notarial Seal, the day and year first above written.

Katy McBride
Notary Public

My commission expires on 3-13-2010



STATE OF UTAH, COUNTY OF Utah: TO WIT:

I HEREBY CERTIFY that on this 2nd day of June, 2008, before me, a Notary Public for the state aforesaid, personally appeared Stanley F. Jenkins, the Vice President of Washington Trust Bank, Beneficiary, known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument, who acknowledged that he/she has executed it as Beneficiary for the purposes therein set forth, and that it is his/her act and deed.

IN WITNESS WHEREOF, I have set my hand and Notarial Seal, the day and year first above written.

Margaret J. Van Winkle
Notary Public

My commission expires on 4-28-2012



EXHIBIT A

**Description of the Property Subjected to the
Declaration of Covenants, Conditions & Restrictions**

All of that real property situate and lying in the City of West Valley City, Salt Lake County, Utah and more fully described as follows:

Being a portion of the Northeast one-quarter of Section 34, Township 1 South, Range 1 West, Salt Lake Base and Meridian within West Valley City, County of Salt Lake, State of Utah, more particularly described as follows:

Beginning at a point on the Easterly Right of Way line of Redwood Road said point also being S00°01'15"E 1023.00 feet along the Section line and N89°58'45"E 53.00 feet from the North Quarter Corner of Section 34, Township 1 South, Range 1 West, Salt Lake Base and Meridian; and running thence N89°58'45"E 1268.87 feet along the southerly line of that certain parcel described by Entry No. 9843142 recorded September 13, 2006 in Book 9350, pages 1617-1619 to a point on the westerly boundary line of Kingspointe Phase 7 Subdivision Recorded on November 19, 1997 as Entry No.6795486 in Book 97-11P at Page 351; thence S00°04'07"E 422.85 feet along said subdivision lots 702 and 701, and the westerly boundary line of Kingspointe Phase 6 Subdivision Recorded on June 12, 1997 as Entry No.6666762 in Book 97-6P at Page 176, lots 609, 608, 602 and 601; thence S89°58'45"W 1064.22 feet along the northerly line of that certain parcel described by Entry No. 9265335 recorded January 3, 2005 in Book 9080, page 2868-2872 to the easterly line of that certain parcel described by Entry No. 9733791 recorded May 25, 2006 in Book 9298, page 8459; thence N00°01'15"W 3.35 feet along said easterly line to the northerly line of said parcel; thence S89°58'45"W 205.00 feet along said northerly line to said Easterly Right of Way line of Redwood Road; thence along said Easterly Right of Way line N00°01'15"W 419.50 feet to the point of beginning.

Contains 535930 square feet or 12.30 acres, and for the purpose of this subdivision, consists of 57 lots, streets, and open-space as shown hereon.

Lots:

Lots 1 through 56 as shown on the Millburn Manor P.U.D. Subdivision plat as recorded in the County of Salt Lake, State of Utah.

Common Areas:

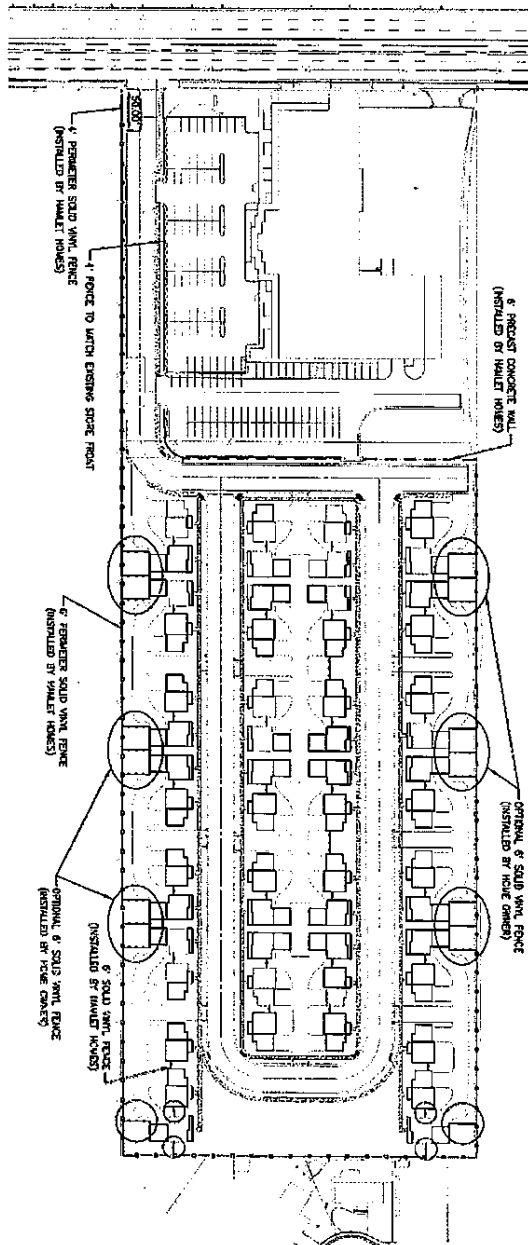
As shown on the Millburn Manor P.U.D. Subdivision plat as recorded in the County of Salt Lake, State of Utah.

EXHIBIT B

Description of the Additional Property

Such additional property as may be added by the Declarant from time to time.

EXHIBIT C Fencing Plan



SCHEMATIC

Approved for the City of Hamlet, North Carolina
 1000 S. HAMLET AVENUE, SUITE 100
 HAMLET, NC 28540
 PHONE: 919.741.1111
 FAX: 919.741.1112
 WWW.HAMLETHOMES.COM

SCHEMATIC

Approved for the City of Hamlet, North Carolina
 1000 S. HAMLET AVENUE, SUITE 100
 HAMLET, NC 28540
 PHONE: 919.741.1111
 FAX: 919.741.1112
 WWW.HAMLETHOMES.COM

PROPERTY INFORMATION

PROJECT NAME: **WALLET HOMES**

PROJECT ADDRESS: **WALLET HOMES, 1000 S. HAMLET AVENUE, SUITE 100, HAMLET, NC 28540**

OWNER: **WALLET HOMES, 1000 S. HAMLET AVENUE, SUITE 100, HAMLET, NC 28540**

DESIGNER: **WALLET HOMES, 1000 S. HAMLET AVENUE, SUITE 100, HAMLET, NC 28540**

DATE: **10/1/2011**

SCALE: **AS SHOWN**

PROJECT NO.: **1000 S. HAMLET AVENUE, SUITE 100, HAMLET, NC 28540**

DATE: **10/1/2011**

SCALE: **AS SHOWN**

PROJECT NO.: **1000 S. HAMLET AVENUE, SUITE 100, HAMLET, NC 28540**

EXHIBIT D
Access Easement

When recorded return to:
Millburn Manor LLC
c/o Hamlet Companies
308 East 4500 So., Ste 200
Murray, Ut 84107

~~This document has been recorded electronically.
Please see the attached copy to view the County
Recorder's stamp as it now appears in the public record.~~

Date: 8/14/07 Entry: 10193273
Submitted by: USP

ACCESS EASEMENT

This ACCESS EASEMENT is entered into this 13th day of August, 2007 by and between the Grantor, The Arthur A. Callister Family Limited Partnership, a Utah limited partnership (the "Landowner") and the Grantee, Millburn Manor LLC (the "Easement Holder").

RECITALS

- A. The Landowner is the sole owner of certain real estate in the City of West Valley, Salt Lake County, Utah which is also known as parcel numbers 15-34-201-014 & 15-34-201-015 (the "Landowner's Property").
- B. The Easement Holder has entered into a purchase and sale agreement with the Landowner to purchase a parcel of land from the Landowner that is adjacent to the Landowner's Property. This parcel of land is proposed to be subdivided into a subdivision know as Millburn Manor (the "Subject Property").
- C. In connection with the Easement Holder's purchase of the Subject Property, the Landowner has agreed to convey to the Easement Holder, an access easement across the Landowner's Property.

GRANT OF ACCESS EASEMENT

In consideration of the facts recited above, the Landowner and Easement Holder agree as follows:

- Grant of Easement.** The Landowner hereby grants and conveys to the Easement Holder a perpetual, nonexclusive, rent-free, easement (the "Access Easement") for ingress and egress to the Subject Property from Redwood Road on, over and through that portion of the Landowner's Property described in Exhibit A, which is incorporated herein by this reference (the "Easement Property"). The location of the Easement Property is shown on the Access Easement Map on Exhibit B.
- Use of Access Easement.** The purpose of the Access Easement is to provide year-round pedestrian and vehicular access to and from the Protected Property by the Easement Holder, its agents and personnel and year-round pedestrian and vehicular access for ingress and egress for the general public. Nothing in this Access Easement is intended to prohibit use of the Access Easement by the Landowner, provided such use does not interfere with the use of the Access Easement by the Easement Holder and the general public.
- ~~3. Improvements.~~ The Easement Holder shall have the right, but not the obligation, to construct, at its sole expense, improvements upon the Easement Property to make the Easement Property suitable for vehicular and pedestrian use; provided that such improvements do not interfere with Landowner's access to the Easement Property. The Landowner shall not be obligated to install any of these improvements. Any improvements on the Easement Property made by the Landowner shall be subject to the prior written approval of the Easement Holder.
- Maintenance.** The Easement Holder shall be responsible for maintaining the Easement Property to the extent necessary for the uses described in this Access Easement, including snow removal.

5. **Damage to Easement Property.** The Landowner and Easement Holder shall be responsible for any damage they may cause to the Easement Property. The party responsible for such damage shall promptly make all needed repairs, restoring the Easement Property to its condition prior to the damage.

6. **Obstructions to Use of the Easement Property.** Neither the Landowner, Easement Holder nor any person permitted to use the Easement Property under the terms of this Access Easement may utilize the Easement Property in a way that interferes with its use by any other person permitted to use it. Any obstructions or impediments to the use of the Easement Property may be removed, without notice, by the Landowner or Easement Holder and the cost of such removal shall be borne by the party causing or responsible for such obstruction.

7. **Enforcement of Agreement.** The Landowner and Easement Holder shall have the right to legally enforce this Access Easement and the covenants, conditions and restrictions set forth herein, by whatever action or actions are legally available, including, without limitation, enjoining any violation or threatened violation hereof.

8. **Amendments.** This Access Easement may not be modified, amended or terminated except by execution and recording of a written instrument signed by both the Landowner and Easement Holder.

9. **Successors.** All of the terms, covenants, conditions, and obligations set forth in this Access Easement shall inure to the benefit of and bind the Landowner and Easement Holder, and their respective personal representatives, heirs, successors, transferees and assigns, and shall continue as a servitude running in perpetuity with the Landowner's Property. If Easement Holder forms a homeowners association with respect to the subdivision it is creating on the Subject Property, Easement Holder may assign its obligations hereunder and its right to exercise power hereunder as "Easement Holder" to said homeowners association.

10. **Severability.** If any provision or specific application of this Access Easement is found to be invalid by a court of competent jurisdiction, the remaining provisions or specific applications of this Access Easement shall remain valid and binding.

11. **Governing Law.** This Access Easement shall be governed by and construed under the laws of the State of Utah.

IN WITNESS WHEREOF, Arthur A. Callister Family Limited Partnership, has agreed to and executed this Access Easement this 3rd day of August, 2007.

GRANTOR:

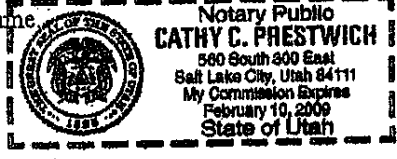
~~THE ARTHUR A. CALLISTER FAMILY LIMITED PARTNERSHIP~~, a Utah limited partnership
By: M&N CALLISTER, LLC, a Utah limited liability company

By: 
Mary Ann Callister Day, Manager

By: 
Edward F. Callister, Manager

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

On this 13th day of August, 2007, personally appeared before me, Mary Ann Callister Day and Edward F. Callister, who being duly sworn did say, for themselves that they are the managers of M&N Callister, LLC which is the general partner of The Arthur A. Callister Family Limited Partnership, a Utah limited partnership and that the foregoing instrument was signed on behalf of said Partnership by authority of its partnership agreement and the said Mary Ann Callister Day and Edward F. Callister duly acknowledged to me that said partnership executed the same.



Cathy C. Prestwich
NOTARY PUBLIC
Residing at: Salt Lake City, Utah

My Commission Expires:
02/10/2009

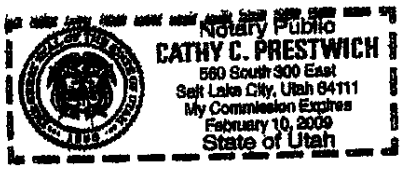
ACCEPTANCE OF EASEMENT HOLDER'S INTEREST

The foregoing Access Easement is hereby duly accepted by Millburn Manor LLC this 13th day of August, 2007.

By: [Signature]
Michael Brodsky
Its: Managing Member

STATE OF UTAH)
)ss.
SALT LAKE COUNTY)

Personally came before me this 13th day of August, 2007, the above named Michael Brodsky to me known to be the person who executed the foregoing instrument and acknowledge the same.



Cathy C. Prestwich
Signature of Notary Public
Cathy C. Prestwich
Typed or Printed Name of Notary Public
Notary Public, State of Utah
My Commission (expires) (is) 02/10/2009

When Recorded Mail To:
U.S. Title of Utah
370 East 4500 South # 270
Murray, Utah 84107

~~10286370
11/28/2007 2:09:00 PM \$16.00
Book - 9641 Pg - 8848-8851
Gary W. Ott
Recorder, Salt Lake County, UT
US TITLE OF UTAH
BY: eCASH, DEPUTY - EF 4 P.~~

[PARCEL ID#...15-34-201-014-0000]
15-34-201-015-0000

AFFIDAVIT

The undersigned, having been duly sworn, hereby deposes and says as follows:

1. I am a resident of Salt Lake County, State of Utah, over the age of twenty-one years and in all respects competent to testify to the matters contained herein.
2. I am currently employed by U.S. Title of Utah, and my job responsibilities include escrow processing and recordings.

I am familiar with that certain Access Easement Recorded August 14, 2007, as Entry No: 10193273, as shown and filed in the Salt Lake County Recorders office.

3. Due to a clerical error, the Exhibit "B"-Access Easement Plat Map was not attached to the document as referenced therein. A copy of EXHIBIT "B" is attached hereto for informational purposes only.

LEGAL DESCRIPTION AS FOLLOWS:

See EXHIBIT "A" attached hereto and made a part thereof.

4. Further affiant sayeth not.

DATED: November 28, 2007

Robert E. Wilson
BY:

STATE OF UTAH }
 } SS:
COUNTY OF Salt Lake }

On the 28th day of Nov, 2007, personally appeared
before me Robert E. Wilson, the signer of the foregoing
instrument who duly acknowledged to me that she executed the same.

[Signature]
Notary Public
Residing at: Salt Lake
Commission Expires: 11/15/09

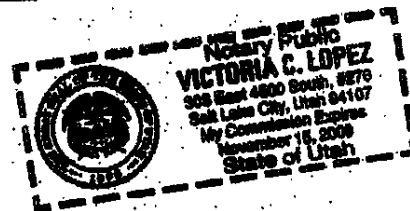


EXHIBIT A
Access Easement
Legal Description

Beginning at a point on the Easterly Right of Way line of Redwood Road, point also being S01°01'15"E 1391.57 feet along the Section line and N89°58'45"E 53.00 from the North Quarter Corner of Section 34, Township 1 South, Range 1 West, Salt Lake Base and Meridian; and running thence southeasterly 5.97 feet along the arc of a 8.89 foot radius curve to the left, chord bears S70°45'58"E 5.86 feet; thence N89°58'45"E 74.47 feet; thence southeasterly 14.80 feet along the arc of a 36.00 foot radius curve to the right, chord bears S78°14'33"E 14.70 feet; thence southeasterly 9.87 feet along the arc of a 24.00 foot radius reverse curve to the left, chord bears S78°14'33"E 9.80 feet; thence N89°58'45"E 308.02 feet; thence northeasterly 42.41 feet along the arc of a 27.00 foot radius curve to the left, chord bears N44°58'45"E 38.18 feet; thence N89°58'45"E 5.00 feet; thence S00°01'15"E 71.00 feet; S89°58'45"W 444.00 feet to a point on the Easterly Right of Way line of Redwood Road; thence along said Right of Way line N00°01'15"W 50.93 feet to the point of beginning. Contains 20,295 square feet or 0.47 acres.

EXHIBIT B Access Easement Map

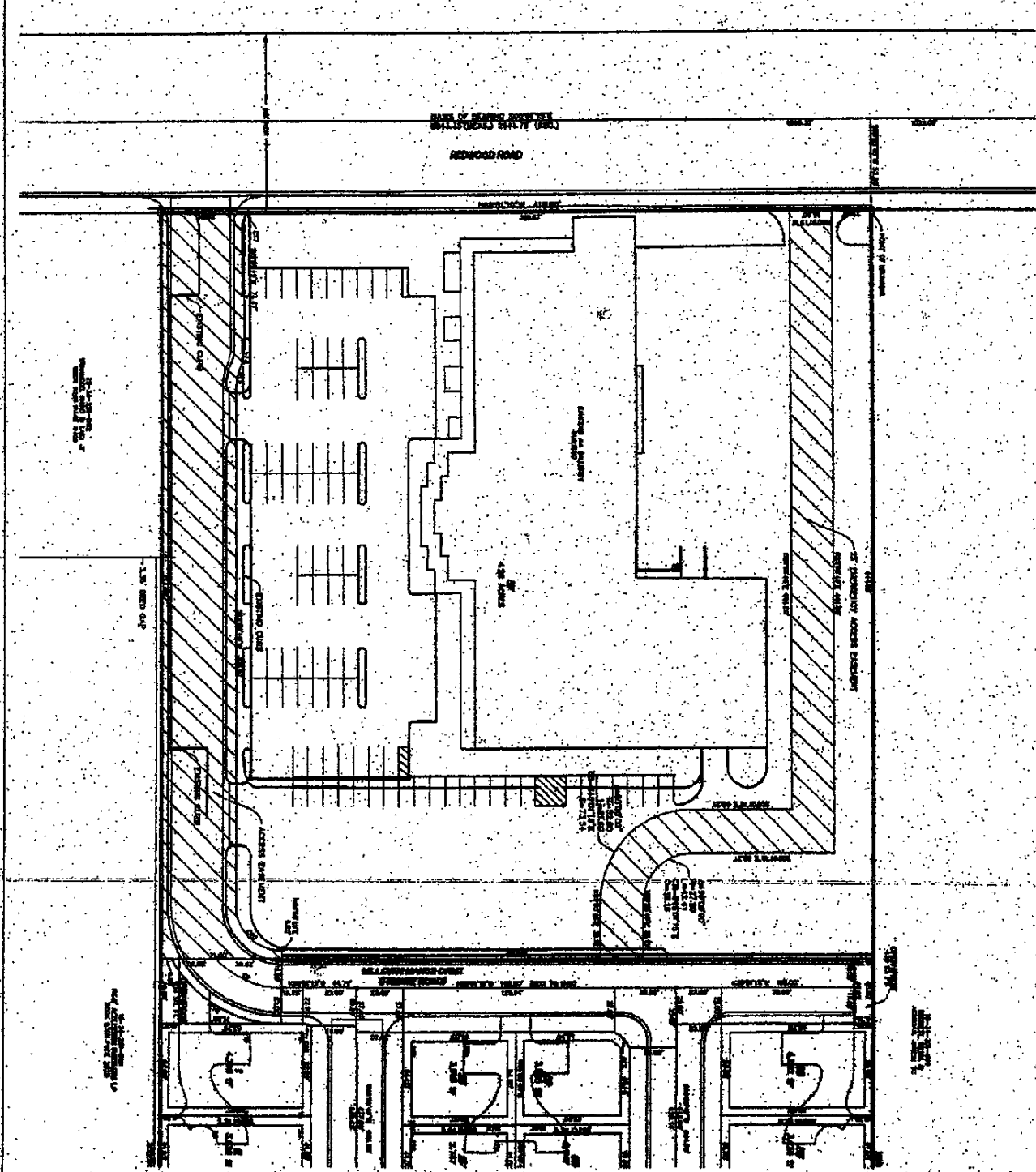


EXHIBIT E
Emergency Access Easement

When recorded return to:
Millburn Manor LLC
c/o Hamlet Companies
308 East 4500 So. Ste 200
Murray, Ut 84107

This document has been recorded electronically.
Please see the attached copy to view the County
Recorder's stamp as it now appears in the public record.

Date: 8/14/07 Entry: 10193274
Submitted by: US 7740

EMERGENCY ACCESS EASEMENT

This EMERGENCY ACCESS EASEMENT is entered into this 13th day of August, 2007 by and between the Grantor, The Arthur A. Callister Family Limited Partnership, a Utah limited partnership (the "Landowner") and the Grantee, Millburn Manor LLC (the "Easement Holder").

RECITALS

- A. The Landowner is the sole owner of certain real estate in the City of West Valley, Salt Lake County, Utah which is also known as parcel numbers 15-34-201-014 & 15-34-201-015 (the "Landowner's Property").
- B. The Easement Holder has entered into a purchase and sale agreement with the Landowner to purchase a parcel of land from the Landowner that is adjacent to the Landowner's Property. This parcel of land is proposed to be subdivided into a subdivision know as Millburn Manor (the "Subject Property").
- C. In connection with the Easement Holder's purchase of the Subject Property, the Landowner has agreed to convey to the Easement Holder, an emergency access easement across the Landowner's Property.

GRANT OF ACCESS EASEMENT

In consideration of the facts recited above, the Landowner and Easement Holder agree as follows:

- Grant of Easement.** The Landowner hereby grants and conveys to the Easement Holder a perpetual, nonexclusive, rent-free, easement (the "Emergency Access Easement") for ingress and egress to the Subject Property from Redwood Road on, over and through that portion of the Landowner's Property described in Exhibit A, which is incorporated herein by this reference (the "Easement Property") for the limited use and purpose set forth in Paragraph 2. The location of the Easement Property is shown on the Access Easement Map on Exhibit B.
- Use of Emergency Access Easement.** The sole and exclusive purpose of the Emergency Access Easement is to provide year-round pedestrian and vehicular access to and from the Protected Property by emergency service providers, its agents and personnel. Nothing in this Emergency Access Easement is intended to prohibit use of the Emergency Access Easement by the Landowner, provided such use does not interfere with the use of the Emergency Access Easement by such emergency service providers, its agents and personnel.
- ~~3. **Improvements.** The Easement Holder shall have the right, but not the obligation, to construct, at its sole expense, improvements upon the Easement Property to make the Easement Property suitable for vehicular and pedestrian use for the limited purpose set forth in Paragraph 2; provided that the Easement Holder obtains the Landowner's prior written consent. The Landowner shall not be obligated to install any of these improvements. Any improvements on the Easement Property made by the Landowner shall be subject to the prior written approval of the Easement Holder, which approval shall not be denied or delayed if the proposed improvements do not unreasonably interfere with the purpose of the easement.~~
- Maintenance.** The Easement Holder shall be responsible for maintaining the Easement Property to the extent necessary for the uses described in this Emergency Access Easement.

5. **Damage to Easement Property.** The Landowner and Easement Holder shall be responsible for any damage they may cause to the Easement Property. The party responsible for such damage shall promptly make all needed repairs, restoring the Easement Property to its condition prior to the damage.
6. **Obstructions to Use of the Easement Property.** Neither the Landowner, Easement Holder nor any person permitted to use the Easement Property under the terms of this Emergency Access Easement may utilize the Easement Property in a way that interferes with its use by any other person permitted to use it. Any obstructions or impediments to the use of the Easement Property may be removed, without notice, by the Landowner or Easement Holder and the cost of such removal shall be borne by the party causing or responsible for such obstruction. Notwithstanding the above, the access between the Easement Property and the Subject Property shall be closed by a gate which may be opened only by emergency service providers in the course of their duties, which gate shall be maintained by the Easement Holder.
7. **Right to Relocate Easement.** Landowner retains the right to modify and relocate the Emergency Access Easement from time to time as it may reconfigure the uses of the Landowner's Property so long as such modification or relocation continues to provide access to the Subject Property for the purposes set forth herein. Upon presentation to Easement Holder of a survey of any of such relocated easement, Easement Holder shall, upon the request of Landowner, join with Landowner in amending this Agreement to reflect the new description of the relocated portions of the Emergency Access Easement and to relinquish all of Easement Holder's right, title, and interest in and to those portions of the Landowner's Property which after any such relocation by Landowner are no longer being used as the Emergency Access Easement. Landowner will be responsible to obtain any necessary consents from West Valley City for any relocation of the Emergency Access Easement.
8. **Enforcement of Agreement.** The Landowner and Easement Holder shall have the right to legally enforce this Emergency Access Easement and the covenants, conditions and restrictions set forth herein, by whatever action or actions are legally available, including, without limitation, enjoining any violation or threatened violation hereof.
9. **Amendments.** This Emergency Access Easement may not be modified, amended or terminated except by execution and recording of a written instrument signed by both the Landowner and Easement Holder.
10. **Successors.** All of the terms, covenants, conditions, and obligations set forth in this Emergency Access Easement shall inure to the benefit of and bind the Landowner and Easement Holder, and their respective personal representatives, heirs, successors, transferees and assigns, and shall continue as a servitude running in perpetuity with the Landowner's Property. If Easement Holder forms a homeowners association with respect to the subdivision it is creating on the Subject Property, Easement Holder may assign its obligations hereunder and its right to exercise power hereunder as "Easement Holder" to said homeowners association.
11. **Severability.** If any provision or specific application of this Emergency Access Easement is found to be invalid by a court of competent jurisdiction, the remaining provisions or specific applications of this Emergency Access Easement shall remain valid and binding.
12. **Governing Law.** This Emergency Access Easement shall be governed by and construed under the laws of the State of Utah.

IN WITNESS WHEREOF, Arthur A. Callister Family Limited Partnership, has agreed to and executed this Emergency Access Easement this 13th day of August, 2007.

GRANTOR:

THE ARTHUR A. CALLISTER FAMILY LIMITED PARTNERSHIP, a Utah limited partnership

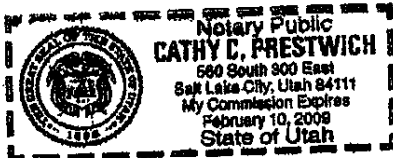
By: M&N CALLISTER, LLC, a Utah limited liability company

By: Mary Ann Callister Day
Mary Ann Callister Day, Manager

By: Edward F. Callister
Edward F. Callister, Manager

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

On this 13th day of August, 2007, personally appeared before me, Mary Ann Callister Day and Edward F. Callister, who being duly sworn did say, for themselves that they are the managers of M&N Callister, LLC which is the general partner of The Arthur A. Callister Family Limited Partnership, a Utah limited partnership and that the foregoing instrument was signed on behalf of said Partnership by authority of its partnership agreement and the said Mary Ann Callister Day and Edward F. Callister duly acknowledged to me that said partnership executed the same.



Cathy C. Prestwich
NOTARY PUBLIC
Residing at: Salt Lake City, UT

My Commission Expires:

02/10/09

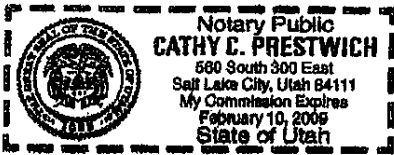
ACCEPTANCE OF EASEMENT HOLDER'S INTEREST

The foregoing Emergency Access Easement is hereby duly accepted by Millburn Manor LLC this 13th day of August, 2007.

By: Michael Brodsky
Michael Brodsky
Its: Managing Member

STATE OF UTAH)
)ss.
SALT LAKE COUNTY)

Personally came before me this 13th day of August, 2007, the above named
Michael Bradsky to me known to be the person who
executed the foregoing instrument and acknowledge the same.



Cathy C. Prestwich
Signature of Notary Public
Cathy C. Prestwich
Typed or Printed Name of Notary Public
Notary Public, State of Utah
My Commission (expires) (is) 02/10/2009

When Recorded Mail To:
U.S. Title of Utah
370 East 4500 South # 270
Murray, Utah 84107

~~10286371
11/28/2007 2:09:00 PM \$18.00
Book - 9541 Pg - 8852-8855
Gary W. Ott
Recorder, Salt Lake County, UT
US TITLE OF UTAH
BY: eCASH, DEPUTY - EF 4 P.~~

[PARCEL ID#...15-34-201-014-0000]
15-34-201-015-0000

AFFIDAVIT

The undersigned, having been duly sworn, hereby deposes and says as follows:

1. I am a resident of Salt Lake County, State of Utah, over the age of twenty-one years and in all respects competent to testify to the matters contained herein.
2. I am currently employed by U.S. Title of Utah, and my job responsibilities include escrow processing and recordings.

I am familiar with that certain **Emergency Access Easement Recorded August 14, 2007, as Entry No: 10193274**, as shown and filed in the Salt Lake County Recorders office.

3. Due to a clerical error, the **Exhibit "B"-Access Easement Plat Map** was not attached to the document as referenced therein. A copy of **EXHIBIT "B"** is attached hereto for informational purposes only.

LEGAL DESCRIPTION AS FOLLOWS:

See **EXHIBIT "A"** attached hereto and made a part thereof.

4. Further affiant sayeth not.

DATED: November 28, 2007

Roberta E. Wilson
BY:

STATE OF UTAH }
 SS:
COUNTY OF Salt Lake }

On the 28th day of November, 2007, personally appeared before me Roberta Wilson, the signer of the foregoing instrument who duly acknowledged to me that she executed the same.

Victoria C. Lopez

Notary Public
Residing at: Salt Lake
Commission Expires: 11/15/09

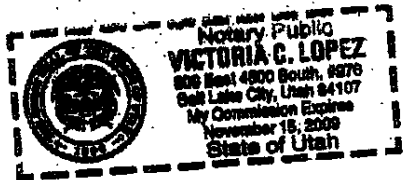


EXHIBIT A
Emergency Access Easement
Legal Description

Beginning at a point on the Easterly Right of Way line of Redwood Road; point also being S01°01'15"E 1045.89 feet along the Section line and N89°58'45"E 53.00 from the North Quarter Corner of Section 34, Township 1 South, Range 1 West, Salt Lake Base and Meridian; and running thence N89°58'45"E 381.88 feet; thence S00°01'15"E 85.21 feet; thence 42.41 feet along the arc of a 27.00 foot radius curve to the left, chord bears S45°01'15"E 38.18 feet; thence N89°58'45"E 36.12 feet; thence S00°01'15"E 25.00 feet; thence S89°58'45"W 36.12 feet; thence 81.68 feet along the arc of a 52.00 foot radius curve to the right, chord bears N45°01'15"W 73.54 feet; thence N00°01'15"W 60.21 feet; thence S89°58'45"W 356.88 feet to a point on the Easterly Right of Way line of Redwood Road; thence along said Right of Way line N00°01'15"W 25.00 feet to the point of beginning.
Easement Contains 13,506 square feet or 0.31 acres.

EXHIBIT B
Access Easement Map

