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Restrictive Page 1 of 24  
Russell Shirts Washington County Recorder  
05/20/2015 08:27:46 AM Fee \$ 56.00  
By SOUTHERN UTAH TITLE CO



AFTER RECORDING PLEASE RETURN TO:

Brennan Holdings No. 100, LLC

Robert Brennan

205 East Tabernacle, No. 4

St. George, UT 84770

(435) 668-3641

TAX # W-5-2-1-122

NOTE TO RECORDER:

RECORD ONLY AGAINST THE PROPERTY

DESCRIBED IN EXHIBIT "A"

**THE TERRACES AT GREEN SPRING  
PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR WASHINGTON CITY**

**A Subdivision Located in Washington County, Utah**

The State of Utah, through the School and Institutional Trust Lands Administration, herein referred to as "Declarant", owns the property located in Washington County, State of Utah, more particularly described in the attached Exhibit "A" and hereinafter referred to as the "Property". Brennan Holdings No. 100, LLC, a Utah limited liability company, hereinafter referred to as the "Developer," is the holder of a Development Lease on the Property

Declarant and Developer hereby include all of the Property in the plats recorded herewith of The Terraces at Green Spring Subdivision, and divide the Property into Lots as shown on said plat (s) and dedicate the streets shown on said plat(s) to the public. The easements indicated on said plats are hereby perpetually reserved for public utilities and for any other uses as designated thereon or set forth herein, and no structures other than for such utility or other indicated purposes are to be erected within the lines of said easements.

Declarant and Developer further declare that all of the Property described herein is held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied, and improved subject to the following limitations, restrictions, covenants and conditions, all of which are declared and agreed to be in furtherance of a plan for the subdivision, improvement and sale of the Property, and are established and agreed upon for the purposes of enhancing and protecting the value, desirability and attractiveness of the Property and every Lot, part or portion thereof. The acceptance of any deed to or conveyance of any Lot, part or portion of the Property by the grantees therein named or by their legal representatives, heirs, executors, administrators, successors or assigns, shall constitute their covenant and agreement with the Declarant and Developer and with each other to accept, hold, improve, use and convey the Property described and conveyed in or by such deed or conveyance subject to said covenants and conditions. These restrictions, covenants and conditions shall run with the land.

**ARTICLE 1 -USE RESTRICTIONS**

**1.1 Land Use and Building Type.** All Lots shall be used only for detached single family residential purposes. No professional, business or commercial use shall be made of the same, or any portion

thereof; provided, however, that the Lot restrictions contained in this Article shall not be construed in such a manner as to prohibit an owner or resident from (a) maintaining a personal professional library therein; (b) keeping personal business or professional records or accounts therein; (c) handling personal, business or professional telephone calls or correspondence therefrom; or (d) establishing a valid home occupation approved by the City of Washington, provided that there shall be no retail sales conducted at the Lot.

"Family" is defined to be persons related by blood or marriage, by legal adoption, or by operation of law.

**1.2 Lot Size.** Lot sizes as described on the recorded plat of subdivision are considered minimum Lot sizes and no person shall further subdivide any Lot other than as shown on the recorded plat of said subdivision. Lots may be combined for construction of a single residence.

In the event of such combination of adjacent Lots, all easements and rights of the Lot owners and third parties, such as utilities, in the boundary area between such Lots which had been exercised prior to construction of the home on the Lot would remain in place, in perpetuity. However, all easements and other rights in the boundary area between such Lots which had not been used prior to construction of the home could not thereafter be exercised. In the event of such a combination of Lots, the combined Lots shall be assessed as one Lot.

The Lot purchaser is required to obtain a soils test and recommendation on foundation from a Utah registered engineer prior to construction. The Architectural Control Committee requires that the Lot owner obtain a soils test and recommendation on foundation prior to the final approval. Furthermore, the Architectural Control Committee may condition final approval following the recommendations set forth in the soils test document.

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

- (a) Any damage caused by such entry shall be repaired at the expense of the owner whose property was the subject of the repair work which caused the same;
- (b) Any such entry shall be made only at reasonable times and with as little inconvenience as possible to the owner of the entered Lot; and
- (c) In no event shall said easement be deemed to permit entry into the interior portion of any dwelling.

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

**1.4 Easements.** Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements, no structure, planting or other material shall

be placed or permitted to remain which may damage or interfere with the installation, maintenance or replacement of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each Lot and all improvements in it shall be maintained continuously by the owner of the Lot, except for those improvements for which a public authority or utility company is responsible. The title holder of each Lot shall from time to time as may be reasonably required grant rights over, across, on, under and upon these easements for such additional uses and services as may be provided from time to time by a public authority or private utility company.

**1.5 No Hazardous Activities.** No activities shall be conducted on the Property and no improvements shall be constructed on the Property which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon the Property and no open fires shall be lighted or permitted on the Property except in a contained barbecue or fire pit unit while attended and in use for cooking purposes or within a safe and well-designed interior fireplace.

**1.6 Motorbikes.** All motorcycles, trail bikes, three-wheel powered devices, automobiles, and two or four-wheel drive recreational type vehicles are to be operated only by individuals with driver's licenses and only on established streets and parking areas and are specifically prohibited from all other portions of the Property, and are to be used on said streets only for ingress, egress, and access purposes and not for recreational purposes anywhere within the Project.

**1.7 Weed Control.** Each Lot Owner shall, to the extent reasonably feasible, control the growth and proliferation of noxious weeds and flammable materials on his Lot so as to minimize weeds, fire and other hazards to surrounding Lots, Living Units, the Landscape easements, and surrounding properties, and shall otherwise comply with any applicable ordinances, laws, rules, or regulations pertaining to the removal and/or control of noxious weeds. Noxious weeds shall mean and refer to those plants, which are injurious to crops, livestock, land or the public health.

**1.8 Nuisances.** No noxious or offensive activity shall be carried on upon any Lot, part or portion of the Property, nor shall anything be done thereon which may be or may become an annoyance to the neighborhood.

No clothes drying or storage of any articles, which are visible from any public street, shall be permitted. No clutter, debris, or other such materials shall be permitted which are visible from any public street.

No resident's use of a Lot shall endanger the health or disturb the reasonable enjoyment of any other owner or resident.

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

**1.10 Oil and Mining Operations.** No oil or mineral extraction or quarrying of materials shall occur from the surface of any Lot or portion of the Property.

**1.11 Animals, Livestock, Poultry, Agriculture.** No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot, part or portion of the Property, except that dogs, cats or other domesticated

household pets, two (2) or less in total number may be kept in a residence constructed on a Lot, provided that they are not kept, bred, or maintained for any commercial purpose. Such animals as are permitted shall be strictly controlled and kept pursuant to all applicable laws and ordinances, and shall be on a leash or inside a fence when outside the owner's residence. No dog runs are allowed.

**1.12 Garbage and Refuse Disposal.** No Lot or part or portion of the Property, shall be used or maintained as dumping ground for rubbish, rubble, trash, garbage or other waste. Such trash, rubbish, rubble, garbage or other waste as produced within the Property, shall be kept only in sanitary containers inside a structure except when placed for collection. No rubbish, trash, papers, junk or debris shall be burned upon the Property except that trash may be burned in accordance with applicable laws and ordinances inside homes that are properly equipped with inside incinerator units.

**1.13 Water Supply.** Each resident shall be connected to and use the municipal culinary water supply. No individual culinary water supply system shall be used or permitted to be used on any Lot, part or portion or the Property.

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

**1.15 RV's, Boats, and Vehicles.** No boats, trailers, buses, motor homes, campers, recreational vehicles, or other such vehicles, shall be parked or stored upon any Lot except within an enclosed garage or on a cement pad behind the required front Lot line set-back area. No such vehicles shall be parked overnight on any street located within the subdivision. Trailers, motor homes, and trucks, over 9,000 pounds GVW are not allowed to be stored upon any vacant Lot or street or road area adjacent to the Property.

Motor vehicles that are inoperable shall not be permitted to remain upon any street or Lot or road areas adjacent thereto. In the event an inoperable motor vehicle remains upon any Lot or road area for a period exceeding thirty (30) days, the Developer Declarant (during such time as Declarant owns any portion of the Property) or other Lot owners residing within the Property and the Architectural Control Committee may remove the inoperable motor vehicle after a ten (10) day written notice. The cost of such removal shall attach to the vehicle and the Lot as a valid lien in favor of the persons, entities, or parties causing such removal. For the purpose of this section, "inoperable motor vehicle" shall mean any motor vehicle that is unable to operate in a normal manner upon the streets under its own power, or is unlicensed or unregistered for a period of not less than six (6) weeks.

**1.16 Business and Sales.** Notwithstanding any provisions to the contrary herein contained, it shall be expressly permissible for Developer, or its written designee, to maintain such facilities and conduct such activities as in the sole opinion of Developer may be reasonably required, convenient or incidental to the construction of homes and sale of Lots during the Development Phase, and upon such portion of the Property including Lots or common area, if any, as Developer deems necessary, including but not limited to, a business office, storage areas, construction yard, signs, model units and sales offices. As part of the overall program of development of the Property into a residential community and to encourage the marketing thereof, the Developer shall have the right of use of any Lots or any common area and facilities thereon, including any landscape easement, community buildings, without charge during the sales and construction period to aid in its marketing activities.

**ARTICLE 2 -HOME OWNERS ASSOCIATION (HOA)**

**2.1 Description of Improvements.** The improvements contained in The Terraces at Green Springs will consist of certain privately owned residential Lots and Dwelling Units as well as HOA Common Areas. The location and configuration of the improvements referred to in the foregoing sentences are depicted on the Final Plat for each phase of the development.

(a) **Public Utilities and Drainage Easements.** All HOA Common Area, shown on the Final Plat are subject to public utilities and drainage easements for the installation and maintenance of improvements and such easements shall be subject to the right of the City to require the HOA to assess its members to repair streets, HOA Landscaping, etc., where needed to repair or replace the public utilities.

(b) **Rock Walls.** All rock walls will be privately owned, either by the individual property owners or by the HOA Association. Rock wall repair and maintenance shall be the responsibility of the Owner if located upon private property. On the other hand, rock wall repair and maintenance shall be the responsibility of the HOA Association if located upon HOA Common Area. Each Owner and/or the HOA shall indemnify and hold harmless the City, its officers, boards, employees, agents and assigns, from any and all claims, including by way of illustration but not limitation for bodily injury or property damage, maintenance, repair or replacement, resulting from, caused by or related to the rock walls located within this HOA in particular and the Project generally.

(c) **Parking.** Residents may not use any public street or Common area parking spaces for permanent overnight parking. Unauthorized motor vehicles and trailers may be towed automatically without further notice or warning required, and at the owner's full risk and expense.

**2.2 Description and Legal Status of the HOA Property.** The Final Plat for each phase of the development shows the Common Area as well as the location of each Private Lot in the project and its Lot Number. All Lots shall be capable of being independently owned, encumbered, and conveyed, and shall have separate tax identification or parcel numbers.

**2.3 Home Owners Association (HOA).**

(a) **Corporate Status.** The Home Owners Association (HOA) shall have a corporate status and shall register with the State of Utah. The HOA Board is hereby authorized to unilaterally re-file the articles of incorporation of the HOA if its status has been suspended or dissolved for any reason, and to adopt the prior HOA Bylaws without any additional approval required.

(b) **Membership in the Home Owners Association, Classes of Membership and Voting Allocations.** By virtue of his acceptance of a deed or other document of conveyance to a Lot within the development, each Lot Owner shall be a member of a Home Owners Association. Membership in the HOA is mandatory and may not be partitioned from the ownership of a Lot.

**2.4 Conveyancing.** Any deed, lease, Mortgage, deed of trust, or other instrument conveying or encumbering a Lot within the development shall describe the interest or estate of these Protective Covenants and

the rights of the Home Owners Association. Regardless of whether or not the description employed in any such instrument is in the above-specified form, all provisions of this Protective Covenant shall be binding upon and shall inure to the benefit of any party who acquires any interest in a Lot. Neither the membership in the HOA, nor percentage of ownership interest in the HOA Common Area and Facilities, nor the right of non-exclusive use of The Terraces at Green Springs shall be separated from the Project Lot to which it appertains; and, even though not specifically mentioned in the instrument of transfer, such mandatory membership in the HOA and such right of exclusive use shall automatically accompany the transfer of the Lot to which they relate.

**2.5 HOA Common Profits, HOA Common Expenses and Voting Rights.** The common profits of the HOA Property shall be distributed among, the HOA Common Expenses shall be charged to, and the voting rights shall be available to, the Owners according to their respective percentage or fractional undivided interests in the HOA Common Area and Facilities, which shall be uniform and equal, subject only to the rights of the Members set forth herein.

**2.6 District Board of Directors' Rights and Obligations.**

(a) **HOA Board of Directors.** The unique business, property and affairs of the Home Owners Association (HOA) shall be managed by a HOA Board of Directors composed of three (3) individuals. Until the first regular meeting of the Home Owners Association is held pursuant after the termination of the HOA Declarant's Period of Control, the Developer alone shall be entitled to select the three (3) members of the HOA Board of Directors. In the event a seat on the HOA Board of Directors which was filled by Developer becomes vacant, Developer shall have the right to select a replacement member to sit on the HOA Board of Directors for the balance of the term associated with the vacated seat. In all other cases of vacancy the remaining HOA Board of Directors members shall elect a replacement as provided in the HOA Bylaws.

(b) **Right and Privilege.** The HOA Board of Directors may exercise any right or privilege given to it expressly by this Declaration, or by law, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

(c) **Obligations.** The HOA Board of Directors shall have the rights and obligations set forth in the District Bylaws.

(d) **Management.** The HOA Board of Directors shall be responsible for the management and control of the physical improvements unique and common to the HOA, and shall keep the same in good, clean, attractive and sanitary condition, order and repair. The HOA Board of Directors shall be responsible for repair or replacement of such and shall have the right to contract for all goods, services, and insurance payments which are made for such repairs or replacement. The cost of such management, operation, maintenance, and repair by the HOA shall be a HOA Expense.

(e) **HOA Expenses.** The HOA Board of Directors may obtain and pay for the services of any person or entity to manage its affairs, or any part thereof, to the extent it deems advisable, as well as such other personnel as the HOA Board of Directors shall determine to be necessary or desirable for the proper

operation of the HOA Property, whether such personnel are furnished or employed directly by the HOA Board of Directors or by any person or entity with whom or which it contracts. The HOA Board of Directors may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the HOA Property; the enforcement of this HOA Declaration, the HOA Bylaws, or any Rules and Regulations. The cost of unique services provided by the HOA Association shall be a HOA Expense.

(f) **HOA Property, Machinery and Equipment.** The HOA Board of Directors may acquire and hold, for the use and benefit of all Owners, tangible and intangible personal property and may dispose of the same by sale or otherwise, and the beneficial interest in any such property shall be deemed to be owned by the Owners equally.

(g) **Rules and Regulations.** The HOA Board of Directors may make Rules and Regulations governing the use of the HOA Property.

(h) **Suspension of Rights.** The HOA Board of Directors may suspend an Owner's voting rights for the period during which such Owner fails to comply with the HOA Governing Documents. Notice of non-compliance will be sent to an Owner at least ten (10) days prior to any meeting at which action may be taken by the Owners.

(i) **Judicial Action.** The HOA Board of Directors may also take judicial action against any Owner to enforce compliance with the Rules and Regulations, with other obligations, or to obtain damages for non-compliance, all to the extent permitted by law.

## **2.2 HOA Assessments.**

**2.2.1 Budget.** At least thirty (30) days prior to the Annual Meeting of the Home Owners Association, the HOA Board shall prepare and deliver to the HOA Lot Owners a proposed Budget:

(a) **Itemization.** The Budget shall set forth an itemization of the anticipated HOA Common Expenses, including that portion earmarked for the reserve account(s) and the Home Owners Association's proportionate share of the cost of operating the and maintaining the Common Area for the twelve (12) month calendar year, commencing with the following January 1.

(b) **Basis.** The Budget shall be based upon advance estimates of cash requirements by the HOA Board to provide for the payment of all estimated expenses growing out of or connected with the maintenance and operation of the HOA Common Areas, including the Association's proportionate share of the cost of operating and maintaining the Common Area, which estimate shall include but is not limited to expenses of management, grounds maintenance, taxes and special assessments, premiums for all insurance which the HOA Board is required or permitted to maintain, common lighting, common water charges, painting, repairs of signs and monuments and maintenance of the HOA Common Areas, including the Association's proportionate share of the cost of operating and maintaining the Common Area, that must be replaced on a periodic basis, legal and accounting fees, any deficit remaining from a previous period; the creation of a reasonable contingency reserve, surplus or sinking fund, additions, capital improvement reserve, and other expenses and liabilities which

may be incurred by the HOA for the benefit of the HOA Lot Owners under and by reason of this HOA Declaration. Until the HOA is completed, and all phases are added, this estimate may need to be adjusted periodically as each new phase is completed.

(c) The HOA Lot Owners may call a special meeting within forty-five (45) days of the meeting providing the proposed Budget to vote to disapprove the Budget, although to set it aside and to reject a proposed Budget requires the affirmative written consent of at least a majority of total ownership. If the new budget is disapproved, then the prior year's budget continues.

**2.2.2 Independent Duty to Pay HOA Assessments.** Each Owner, by the acceptance of a deed therefore, whether or not it be so expressed in the deed, hereby covenants and agrees with each other and with the HOA to pay to his share of the HOA Expenses and other fees as provided in the HOA Governing Documents.

**2.2.3 Developer Exemption.** The Developer and Declarant, as applicable, are not required to pay HOA Assessments on Lots owned by such entities.

**2.2.4 Basis for Annual HOA Assessments.** The total Annual HOA Assessments against all HOA Lots shall be based upon advance estimates of cash requirements by the HOA Board of Directors to provide for the management of the Association and the maintenance, repair and replacement of physical improvements unique and common to the HOA.

**2.2.5 Apportionment.** HOA Expenses shall be apportioned among all HOA Lots equally.

**2.2.6 Notice of Annual HOA Assessments.** Annual HOA Assessments shall be made on a calendar year basis. The HOA Board of Directors shall give written notice of each Annual HOA Assessment with respect to an HOA Lot, not less than thirty (30) days nor more than sixty (60) days prior to the beginning of the next calendar year. The first Annual HOA Assessment shall be for the balance of the calendar year remaining after the date fixed by the HOA Board of Directors. Each Annual HOA Assessment shall be due and payable in yearly installments on the first day of each and every year. Each HOA Assessment shall bear interest at the rate of eighteen (18) percent per annum from the date it becomes due and payable if not paid within thirty (30) days after such date.

**2.2.7 Special HOA Assessments.** In addition to Annual HOA Assessments, the HOA Board of Directors may levy in any HOA Assessment year a Special HOA Assessment, payable over such a period as the HOA Board of Directors may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of the HOA Property or any part thereof, or for any other expense incurred or to be incurred as provided in this Declaration. This paragraph shall not be construed as an independent source of authority for the HOA Board of Directors to incur expenses, but shall be construed to prescribe the manner of assessing for expenses authorized by other paragraphs of this Declaration. Any amounts assessed pursuant hereto shall be assessed to the Owners in proportion to their respective undivided interest in HOA Common Areas. Notice in writing of the amount of such Special District Assessments and the time for their payment shall be given promptly to the Owners. Payment shall be due on the dates and in the manner provided in the notice. Any Special HOA Assessment or part thereof shall bear interest at the rate of



eighteen (18) percent per annum from the date it becomes due and payable if not paid within thirty (30) days after such date.

**2.2.8 Lien Rights.** All sums assessed to any HOA Lot pursuant to this section, together with interest thereon as provided herein shall be secured by a lien on such HOA Lot in favor of the Home Owners Association (HOA). Such lien shall have such priorities as established by law.

**2.2.9 Notice of Lien.** To establish a lien for any unpaid HOA Assessment, the HOA Board of Directors shall prepare a written notice of lien as set forth by statute. No notice of lien shall be recorded until there is a delinquency in payment of the HOA Assessment. Such lien may be enforced by judicial or non-judicial foreclosure by the HOA Board of Directors as provided by law. The lien shall also secure, and the Owner shall also be required to pay to the HOA Board of Directors any HOA Assessments against the HOA Lot which shall become due during the period of foreclosure sale or other legal sale. The HOA Board of Directors may bid on the HOA Lot at foreclosure or other sale and may acquire, hold, convey, lease, rent, encumber, use and otherwise deal with the same as the Owner thereof.

**2.2.10 Release of Lien.** A release of lien shall be executed by the HOA Board of Directors and recorded in the office of the County Recorder of Washington County, Utah, upon payment of all sums secured by a lien which has been made the subject of a recorded notice of lien.

**2.2.11 Rights of Other Lienholders.** An encumbrancer holding a lien on an HOA Lot may pay, but shall not be required to pay, any amounts secured by the lien created by this Section, and upon such payment such encumbrancer shall be subrogated to all rights of the HOA Board of Directors with respect to such lien, including priority.

**2.2.12 Personal Obligation of Owner.** The amount of any Annual or Special HOA Assessment against any HOA Lot shall be the personal obligation of the Owner thereof to the Association. Suit to recover a judgment of such personal obligation shall be maintainable by the HOA Board of Directors without foreclosing or waiving the lien securing the same. No Owner may void or diminish any personal obligation by waiver of the use and enjoyment of any of the HOA Common Areas or by abandonment of an HOA Lot.

**2.2.13 Statement of District Assessments Due.** Upon payment of a reasonable fee not to exceed ten dollars (\$10) and upon written request of any Owner, or any HOA Mortgagee, prospective HOA Mortgagee or prospective purchaser of an HOA Lot, the HOA Board of Directors shall issue a written statement setting forth the amount of unpaid HOA Assessments, if any, with respect to such HOA Lot; the amount of the current yearly District Assessment and the portion thereof which has theretofore been paid; and credit for advanced payments or prepaid items. Such statement shall be conclusive upon the HOA Board of Directors in favor of persons who rely thereon in good faith. Unless such request for a statement of account shall be complied with within ten (10) days, all unpaid HOA Assessments which become due prior to the making of such request shall be subordinate to the lien of a HOA Mortgagee which acquired its interest subsequent to requesting such statement. Where a prospective purchaser makes such a request, both the lien and unpaid HOA Assessments and the personal obligations of the purchaser shall be released automatically if the statement is not furnished within ten (10) days, and that purchaser subsequently acquires the HOA Lot.

**2.2.14 Liability of Buyers and Sellers.** Subject to the provisions of subparagraph 2.2.13, a purchaser of an HOA Lot shall be jointly and severally liable with the seller for all unpaid HOA Assessments against the HOA Lot up to the time of the conveyance, without prejudice to the purchaser's right to recover from the seller the amount paid by the purchaser for such HOA Assessments.

**2.2.15 Right to Suspend Privilege to Use Recreational Amenities or Voting Rights, and Assignment of Rents.** The HOA Board of Directors may elect to (a) terminate the right to use amenities for non-payment of HOA Assessments and/or (b) collect rents directly from a renter if the HOA Lot Owner who is renting the HOA Lot fails to pay any HOA Assessment for a period of more than 60 days after it is due and payable,

**2.2.16 Foreclosures and Past Due Accounts.** Anything to the contrary notwithstanding, any HOA First Mortgagee who obtains title to a HOA Lot pursuant to the remedies in the HOA Mortgage or trust deed or through foreclosure will not be liable for more than six (6) months of the unpaid regularly budgeted HOA Assessments, dues or charges accrued before acquisition of the title to the property by the HOA Mortgage, although the HOA First Mortgagee will also be liable for any reasonable attorneys fees or costs related to the collection of the unpaid dues. All other grantees who obtain title to a HOA Lot in a voluntary conveyance or pursuant to the remedies in a HOA Mortgage or trust deed or through foreclosure shall be jointly and severally liable with the trustor or mortgagor for all unpaid HOA Assessments, late fees, default interest and collection costs, including a reasonable attorneys fee, against the HOA Lot for its share of the HOA Expenses up to the time of the grant or conveyance, without prejudice to the grantee's rights to recover from the trustor or mortgagor the amounts paid by the grantee.

**2.2.17 Reinvestment Fee.** The Home Owners Association may charge a Reinvestment Fee unless prohibited by statute.

**2.2.18 Reserve Analysis and Reserve Fund.**

(a) As used in this section, the term "reserve analysis" means an analysis to determine: (i) the need for a reserve fund to accumulate money to cover the cost of repairing, replacing, and restoring common areas and facilities that have a useful life of three years or more, but excluding any cost that can reasonably be funded from the general budget or other funds of the Association; and (ii) the appropriate amount of any reserve fund.

(b) After the expiration of the Declarant's Period of Control, the HOA Board of Directors shall cause a reserve analysis to be conducted no less frequently than required by statute; and review and, if necessary, update a previously conducted reserve analysis no less frequently than required by statute.

(c) The HOA Board of Directors may conduct a reserve analysis itself or may engage a reliable person or organization, as determined by the HOA Board of Directors, to conduct the reserve analysis.

(d) The HOA Board of Directors may not use money in a reserve fund: (i) for daily maintenance expenses, unless a majority of the members of the Association vote to approve the use of reserve fund money for that purpose; or (ii) for any purpose other than the purpose for which the reserve fund was established.

(e) The HOA Board of Directors shall maintain a reserve fund separate from other funds of the HOA Association.

(f) This Subsection (4) may not be construed to limit the HOA Board of Directors from prudently investing money in a reserve fund provided it is government insured.

(g) The Home Owners Association shall: (a) annually, at the annual meeting of the Association or at a special meeting of the HOA Association: (i) present the reserve study; and (ii) provide an opportunity for Unit Owners to discuss reserves and to vote on whether to fund a reserve fund and, if so, how to fund it and in what amount; (b) prepare and keep minutes of each meeting so held and indicate in the minutes any decision relating to funding a reserve fund; provided, however, and anything to the contrary notwithstanding, the Association shall fund and maintain a reserve account sufficient to satisfy the needs of the HOA.

(h) The HOA Directors are responsible to present to the HOA Lot Owners each year the amount of money that should be deposited into the reserve account each year to properly or adequately satisfy the recommendations of the plan for deferred maintenance adopted, based, at least in part on the Reserve Study. The contents of the Reserve Study shall be comprehensive, complete and accurate, and must address not only the systems, equipment and facilities but the components effectively. The HOA Directors shall provide a summary of the most recent Reserve Study to the all Owners each year, even if they do not attend the annual meeting. The full Reserve Study (and any updates) must be made available to the HOA Lot Owners upon request. The HOA Association must now include a specific Reserve Fund line item in its annual budget. The HOA Board of Director must establish the amount of the Reserve Fund line item; and set forth the steps for the HOA Lot Owners to veto the Board's Reserve Fund line item in accordance with the statutory requirements.

(i) Anything to the contrary notwithstanding, this subsection (i) does not apply to an HOA Association during the HOA Declarant's Period of Control.

**2.8 Liability Insurance.** The Home Owners Association shall obtain a public liability policy covering the HOA Common Area and Facilities, the Home Owners Association and its members for all damage or injury caused by the negligence of the HOA or any of its members or agents. The public liability policy shall have coverage limits common to this area for this kind of project in the opinion of an independent insurance agent. If possible, the policy should be written on the comprehensive form and shall include non-owned and hired automobile liability protection. Each HOA Lot Owner is an insured person under the Association's liability policy that insures an owner's interest against liability arising from the HOA Common Area or membership in the HOA Association.

**2.9 Damage to a Portion of the Project- Insurance Proceeds.** Repairs must be done within a reasonable amount of time. If the associated expenses to repair are in excess of the insurance proceeds, such costs will be considered a HOA Common Expense

**2.10 Miscellaneous.**

(a) The Home Owners Association may but is not obligated to purchase additional endorsements or coverage, including by way of illustration but not limitation, directors and officers insurance, a fidelity bond, earthquake insurance.

(b) For those rare situations that may occur; such as dealing with a project that is terminated and distributions to lien holders and HOA Owners if the HOA is destroyed, the provisions of the Utah Community Association Act shall in all instances govern and control.

(c) If any provision of this Section is held to be (a) inconsistent, incongruent or in conflict with the insurance requirements as set forth in the Act or (b) illegal, invalid, or unenforceable under any present or future law, then that provision will be fully severable. This Section will be construed and enforced as if the (a) inconsistent, incongruent or in conflict with the insurance requirements as set forth in the Act or (b) illegal, invalid, or unenforceable provision had never comprised a part hereof, and the remaining provisions of this Section will remain in full force and effect and will not be affected by the illegal, invalid, or unenforceable provision or by its severance from this Section. Furthermore, in lieu of each such (a) inconsistent, incongruent or in conflict with the insurance requirements as set forth in the Act or (b) illegal, invalid, or unenforceable provision, there will be added automatically, as a part of this Section, a provision as similar in terms to such (a) inconsistent, incongruent or in conflict with the insurance requirements as set forth in the Act or (b) illegal, invalid, or unenforceable provision as may be possible and be legal, valid and enforceable.

**2.3 Developer's Rights.** No provision of this HOA Declaration reserving or granting to Developer the HOA Developmental Rights shall be amended without the prior express written consent of Developer and Declarant (during such time as Declarant owns any portion of the Property), which consent may be withheld, conditioned or delayed for any reason or for no reason at Developer's and Declarant's (as applicable) sole and exclusive discretion.

### **ARTICLE 3 -ARCHITECTURAL CONTROL**

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

(a) Two (2) complete sets of building plans and specifications shall be filed with the Architectural Control Committee, together with a site or plot plan showing grading, landscaping and all lighting, indicating the exact part of the building site which the improvements will cover, with such a fee as the Architectural Control Committee may determine from time to time, and an application and such supporting material, such as samples of building materials, as the Architectural Control Committee deems necessary. No work shall commence unless and until the Architectural Control Committee shall endorse on both sets of such plans its written approval that such plans are in compliance with the covenants herein set forth and with the standards herein or hereafter established by said Architectural Control Committee pursuant hereto. The second set of such plans shall be filed as a permanent record with the Architectural Control Committee.

(b) Said Architectural Control Committee shall have the right to refuse to approve any such plans and specifications and shall have the right, in so doing, to take into consideration the suitability of the proposed building, the materials of which it is to be built, the site upon which it is proposed to be erected, the harmony thereof with the surroundings, and the effect of said building, or other structure so planned, on the outlook from adjacent or neighboring property.

(c) The Architectural Control Committee shall promulgate and maintain a list of standards for guidance in approving or disapproving plans and specifications pursuant to this Article.

(d) In the event said Architectural Control Committee fails to approve or disapprove in writing any such plans within sixty (60) days after the submission thereof to the Architectural Control Committee,

then approval shall be deemed to have been given.

(e) The Architectural Control Committee shall not be held liable for damages by reason of any action, inaction, approval, or disapproval by it with respect to any request made pursuant to this Article. Any errors or omissions in the design of any building, other improvement or landscaping and any violation of any governmental ordinance are the sole responsibility of the Lot Owner and the Lot Owner's designer, architect, or contractor. The Architectural Control Committee's review of plans shall in no way be concerned with structural or mechanical integrity or soundness.

(f) The approval of the Architectural Control Committee of any plans and specifications for any work done or proposed shall not constitute a waiver of any right of the Architectural Control Committee to disapprove any similar plans and specifications subsequently submitted.

(g) The Architectural Control Committee shall consist of three (3) or more persons appointed by the Developer. When the title to all of the Lots in said development has been transferred by the Developer, the HOA Board of Directors shall appoint the Architectural Control Committee which shall thereafter be vested with the powers described herein. The HOA Board may appoint itself to act as the Architectural Control Committee.

(h) The Architectural Control Committee shall adopt reasonable rules and regulations for the conduct of its proceedings and to carry out its duties and may fix the time and place for its regular meetings and such extraordinary meetings as may be necessary, and shall keep written minutes of its meetings, which shall be open for inspections upon request. The Architectural Control Committee shall, by majority vote, elect one of its members as chairman and one of its members as secretary and the duties of each will be such as usually appertain to such offices. Notice of meetings shall be given to members who have made application to the Architectural Control Committee for approval of plans.

(i) The members of the Architectural Control Committee shall not receive any compensation for services rendered. Members shall be entitled to reimbursement for reasonable expenses incurred by them in connection with the performance of any Committee function or duty. Professional consultants retained by the Architectural Control Committee shall be paid such compensation as the Architectural Control Committee determines.

(j) Developer shall be exempt from the provisions, restrictions, and requirements of this Article, relating to marketing, signage, sales and other such commercial activities, as the same exists or as it may be amended, supplemented, or replaced in accordance with other provisions of the Declaration.

**3.2 Washington City Permit Required.** No living unit, accessory or addition to a living unit, other structure or building shall be constructed or maintained, and no grading or removal of natural vegetation or change in natural or approved drainage patterns or installation of fencing or landscaping elements shall occur on a Lot until any required permit or required approval therefore is obtained from the appropriate governmental entity following submission to the appropriate governmental entity of such information as it may reasonably require. The granting of a permit or approval by any governmental entity with respect to any matter shall not bind or otherwise affect the power of the Architectural Control Committee to refuse to approve any such matter.

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

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

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

(b) Permitted Structures. The only building(s) or structure(s) permitted to be erected, placed or permitted to be located on any Lot within the subdivision shall be (i) a detached single family dwelling placed within the building envelope for each Lot and not to exceed the height requirements found in this section; which must include a minimum two car, private, enclosed garage; and (ii) an accessory building such as a tool shed or storage building, not to exceed 100 square feet in the floor space, with a height less than twelve feet. All construction must be of new materials. All structures shall be constructed in accordance with the zoning and building ordinances of Washington, Utah, in effect from time to time.

(c) Minimum Area. The minimum total square footage of living area on the ground floor located within the building envelope and foundation for any single-story residential dwelling constructed on any Lot within the subdivision shall be not less than 1,700 square feet, exclusive of porches, balconies, patios, and garages. Two-story homes shall have a minimum of 1,400 square feet, with a total square footage of not less than 2,000 square feet, exclusive of porches, balconies, patios and garages.

(d) Setbacks. The following minimum setback standards shall comply with the Washington City Land Use requirements for the zone which applies to this subdivision.

(e) Building Height. Maximum building height shall be 25 feet for a one-story residence. No two-story residences shall be allowed as seen from the public street fronting the lot. Height is measured from a base line parallel to the existing Lot grade to a parallel line intersecting the highest point of any roof element. Walkout basements shall be allowed with a maximum height of 35 feet as measured in the same manner as the one-story residence from the Street with the rear lot grade for the walk out being used.

(f) Dwelling. Elevations should be consistent with the intended architectural style of the residence and carried around all four elevations of the structure.

(g) Facades. Facades shall be stucco, brick or stone, or such other material as approved by the Architectural Control Committee.

(h) Roof Materials. Roof material shall be limited to clay or concrete tiles or slate. Colors shall be subdued earth tones to complement the natural beauty of the area selected from or in harmony with approved samples, or in such other colors as may be allowed by the Architectural Control Committee.

(i) Sheet Metal. Flashing, vents and pipes must be colored or painted to match the material to which they are attached or from which they project. No reflective exterior surfaces or materials shall be used.

(j) Colors. Base building colors shall be in subdued earth tones to complement the natural surroundings and conform to or be in harmony with approved samples. White is prohibited. Pastels or high gloss finishes may not be used. Complementary accent colors can be used on window trim, shutters and doors.

(k) Prohibited Structures. Dome Structures, Log homes, Re-located homes, manufactured homes, and Earth or Berm Homes of any type are not allowed.

(l) Temporary or Other Structures. No trailer, bus, basement, outhouse, tent, shack, garage, or accessory building shall be used at any time as a residence either temporarily or permanently. No old, or second-hand structures shall be moved onto any of said Lots nor shall any such structures be erected or placed on said property at any time. It is the Developer's intention that all dwellings and other buildings be erected within the subdivision be new construction, of good quality, workmanship, and materials.

(m) Accessory Buildings. One storage or utility structure such as a tool or storage shed is allowed on each Lot. Such a building shall be of the same architectural style and constructed of the same materials as the principal dwelling structure. Such building shall not exceed 100 square feet in floor space, and the height shall not exceed twelve feet. No such building or structure shall be used for human habitation nor shall it have plumbing service. All such structures must abide by setback and side yard requirements.

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

(o) Fences and Sight Obstructions. No structure, fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and (6) feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangle area formed by the street property lines and a line connecting them at points forty (40) feet from the intersection of the street, or in the case of a rounded property corner from the intersection of the street property lines extended. The same sight line limitations shall apply on any Lot within 10 feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at such height to prevent obstruction of such sight lines. No fence, wall, hedge, shrub, or other structure shall be placed along any front property line. No fence, wall, hedge, tree, plant, shrub or foliage shall be planted, kept or maintained in such manner as, in the opinion of the Architectural Control Committee, shall create a serious potential hazard or an aesthetically unpleasant appearance to the other residents of the area.

(p) Fences, walls and other barriers shall be approved by the Architectural Control Committee and constructed of an approved material and color. No fences shall be constructed in the front setback areas.

Individual homeowners may construct walls in the rear and along the side property lines. Walls must harmonize with color and style of project perimeter wall and may not exceed six (6) feet on the highest side. No chain link, wooden or vinyl fencing shall be allowed

(q) Retaining Walls. Retaining walls are restricted to a maximum height of six (6) feet, unless otherwise approved by the Architectural Control Committee. In the event approval is given for a retaining wall higher than six (6) feet, the retaining wall must be tiered and landscaping must be installed to hide the retaining wall.

(r) Light used to illuminate garages, patios, parking areas or for any other purposes, shall be so arranged as to reflect light away from adjacent residences and away from the vision of passing motorists. Low level outdoor illumination may be used for particular landscape features (trees, rock formations, etc.). All light

sources must be shaded. No exposed bulbs are permitted.

(s) Antennas for radio, television, or device for the reception or transmission of radio, microwaves or other similar signals are recommended to be located in the attic or interior of the residence. All such devices shall conform with all applicable local, state and federal regulations. It is mandatory that all homes be pre-wired for cable reception. Satellite dish antennas shall be allowed provided they are located in such areas as may be designated by the Architectural Control Committee. Satellite dish antennas shall avoid being visible from neighboring property or shall not exceed 20 inches in diameter or width.

(t) Air conditioning, heating equipment and soft water tanks must be screened from view so as not to be visible from neighboring property or from the streets of the development, and shall be insulated for sound attenuation. Air conditioning units are not permitted on roofs or through windows.

(u) Utility meters shall be placed in as inconspicuous a location as possible. Locations of meters are to be shown on the plans, and meters must be screened from view from neighboring property. Exposed piping should be painted to match exterior colors of the dwelling structure. The area immediately around the meters should be cleared to allow for access. Electric meters and regulators are to be vented in compliance with the Uniform Building Code.

(v) Mailboxes. Cluster Mailboxes shall be installed by Developer and or Post Office and are the only allowed mail receptacles.

(w) External Apparatus. No Lot owner shall cause or permit anything (including, without limitation, awnings, canopies or shutters) to hang, be displayed or otherwise affixed to or placed on the exterior walls or roof or any part thereof, or on the outside of windows or doors, without the prior written consent of the Architectural Control Committee.

(x) Landscaping. Landscaping shall be completed in accordance with the Landscape plan submitted to and approved by the Architectural Control Committee prior to construction of the home, and may include but shall not be limited to the preparation for the planting of lawn, grass or other appropriate ground cover, and appropriate shrubbery. All front yard landscaping must be completed prior to the occupancy of any dwelling.

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

Any portion of the Lot not used for structures, driveways, walks, or other site improvements shall be landscaped or left in its natural state. The front yard landscaping shall have a minimum of 25% to a maximum of 60% lawn. The remaining area shall be enhanced with additional desert plantings. If the rear yard is not walled on all sides by the owner, it shall conform to these requirements. If the rear yard is walled in, the rear landscaping shall be at the discretion of the owner. All rock mulch areas shall include a weed barrier fabric.

(y) Slope and Drainage Control. No structure, planting or other material shall be placed or permitted to remain or other activities undertaken which may damage or interfere with established slope ratios, create erosion or sliding problems, or which may change the direction of flow of drainage channels. The slope control areas of each Lot and all improvements in them shall be maintained continuously by the owner of the Lot, except for those improvements for which a public authority or utility company is responsible. Lot owners are responsible to see that no nuisance or damage is created by drainage location or flow to any adjacent



property.

(z) Easements. Easements for installation and maintenance of utilities, drainage facilities and ingress and egress are reserved as shown upon the recorded plat. Within these easements no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with installation and maintenance of utilities, or which may change the direction of flow or drainage channels in the easement or which may impede ingress and egress. The easement area of each Lot and all improvements in it shall be maintained continuously by the owner of the Lot, except for those improvements for which a public authority or utility company is responsible.

(aa) Lateral and Subjacent Support and Drainage. An owner's activities which affect the lateral or subjacent support, or both, of adjacent landowners shall be responsible for damages proximately caused by such activities. Owners shall be responsible for all damage proximately caused by drainage from their Lot(s) to adjacent landowners.

(bb) Signs: Commercial Activity. Except for one "For Rent" or "For Sale" sign of not more than two (2) square feet, no advertising signs, billboards, objects of unsightly appearance, or nuisances shall be erected, placed, or permitted to remain on any Lot or any portion of the properties. The foregoing restrictions shall not apply to signs and billboards, if any, of the Declarant or its agents during the construction and sales period or by the Architectural Control Committee thereafter.

**3.4 Construction and Contractor Provisions.** In order to promote a harmonious community development and protect the character of the neighborhood, the following guidelines are applicable to the properties:

(a) Completion of Construction. The construction of any building or structure on any portion of the Property shall be continuously and diligently pursued from and after the commencement of such construction, and in any event shall be substantially completed within twelve (12) months after such commencement.

(b) Building Materials Storage. No Lot, part or portion of the Property shall be used or maintained as a storage for building materials except during a construction phase. Once a dwelling is occupied or made available for sale, all building materials shall be removed or stored inside a dwelling, or accessory building out of public sight.

(c) Landscaping. Landscaping shall be complete within 180 days of completion of construction. Front yard landscaping shall be complete prior to occupancy of any dwelling. Failure to complete the required Front Yard Landscaping will result in the HOA filing a lien against the property for the estimated cost of the landscaping together with a bi-monthly fine of \$25.00 for each period the landscaping has not been installed.

(d) Soils Test. The Lot purchaser is required to obtain a soils test and recommendation on foundation from a Utah registered engineer prior to construction. The Architectural Control Committee requires that the Lot owner obtain a soils test and recommendation on foundation prior to the final approval. Furthermore, the Architectural Control Committee may condition final approval following the recommendations set forth in the soils test document.

(e) Damages. Any damage inflicted on existing improvements such as curbs, gutters, streets, concrete sidewalks and such, by the owner and/or their agents of any particular Lot in the subdivision must be repaired within thirty (30) days after such damage is discovered, and the expense of such repair

shall be borne by the purchaser or owner.

(f) **Maintenance of Lot During Construction.** Contractors or subcontractors as owner/builders must provide on-site dumpsters during construction and are required to clean up the site daily to maintain a clean work site during construction. Dirt or mud from the construction site or elsewhere, dispersed, directly or indirectly, on the public streets within the project must be cleaned up within twenty-four (24) hours by the contractor or subcontractor as owner/builder. The Architectural Control Committee may levy up to a Five Hundred Dollar (\$500) fine against a violator of this subparagraph and/or the owner of the Lot for each day of a continuing violation. The fine shall be charged on the land and shall be a continuing lien on the Lot.

#### **ARTICLE 4 -DURATION, ENFORCEMENT, AMENDMENT**

**4.1 Duration of Restrictions.** The covenants and restrictions contained herein shall run with and bind the land for a period of fifty (50) years from the date this document is recorded, after which time said Covenants shall be automatically extended for successive periods of ten (10) years each, subject to amendment as herein set forth. Until the Developer or its designee ceases to act as the Home Owners Association and/or Architectural Control Committee, the covenants and restrictions contained herein may be modified, amended or repealed in whole or in part at any time and from time to time by the Developer or his successor or assigns (with the written consent of Declarant during such time as Declarant owns any portion of the Property subject to this Declaration) by recorded instrument.

**4.2 Amendment.** Upon completion of the Development Phase, the covenants and restrictions contained herein may be amended by a recorded instrument signed by no less than the owners of seventy-five percent (75%) of the number of Lots, provided that all signatures must be notarized and obtained within a 180-day period. After the Developer or its designee ceases to act as the Home Owners Association and/or the Architectural Control Committee, written notice of any such proposed amendment shall be sent to every owner of any Lot, part or portion of the Property at least thirty (30) days in advance.

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

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

**4.5 Violation Constitutes Nuisance.** Every act or omission whereby any restriction, covenant or condition in this document set forth is violated in whole or in part, is declared to be and shall constitute a nuisance, and may be abated by appropriate legal action by the Developer, Declarant (during such time as Declarant owns any portion of the Property) or a Lot owner or owners. Remedies hereunder shall be deemed cumulative and not exclusive.

**4.6 Enforcement.** Each and all of the restrictions, covenants, and conditions contained in this document is and are for the benefit of the Developer and of the Lot owner or owners from time to time of any Lot, part or portion of the Property. Each such restrictive covenant and condition shall inure to the benefit of and pass with each and every Lot, part or portion of the Property and shall apply to and be binding upon each and every successor in interest. Said restrictions, covenants and conditions are and shall be deemed covenants of

equitable servitude, and the actual or threatened breach thereof, or the continuance of any such breach, or compliance therewith, may be enforced, enjoined, abated, or remedied by appropriate proceedings at law or in equity by the Developer, Declarant (during such time as Declarant owns any portion of the Property) or a Lot owner or owners; provided, however, that no such breach shall affect or impair the lien of any bona fide mortgage or trust deed which shall have been given in good faith and for value, except that any subsequent owner of said Lot, part or portion of the Property shall be bound and obligated by the said restrictions, covenants and conditions, whether such ownership is obtained by foreclosure, at a trustee's sale, or otherwise. The Home Owners Association may levy a fine or penalty not to exceed fifty percent (50%) of the amount of the maximum annual assessment against any owner who fails to refrain from violation of these covenants or a rule of the Association, after three (3) days written notice, and opportunity for hearing. A fine may be levied for each day of a continuing violation. All attorneys fees and costs incurred in any such action, and all expenses incurred and any fines levied, shall constitute a lien on such a Lot owner's Lot, and shall also be a personal obligation of said Lot owner, enforceable at law, until such payment therefore is made.

**4.7 Right to Enforce.** The provisions contained in these covenants shall bind and inure to the benefit of and be enforceable by Developer, Declarant (during such time as Declarant owns any portion of the Property), or a Lot owner or owners, and each of their legal representatives, heirs, successors and assigns, and failure to enforce any of said restrictions, covenants, or conditions shall in no event be deemed a waiver of the right to do so thereafter.

**4.8 Assignment of Powers.** Any and all rights and power of the Developer herein contained may be delegated, transferred or assigned. Wherever the term "Developer" is used herein, it includes Developer and its successors and assigns.

#### **ARTICLE 5 -ANNEXATION OF ADDITIONAL LAND**

**5.1 Annexation by Developer.** Developer may (with the written consent of Declarant) expand the Property subject to this Declaration by the annexation of all Future Phase Land (See Exhibit "B" hereto for description of Future Phase land.) The annexation of such land shall become effective and extend the plan of this Declaration to such property upon the recordation in the office of the County Recorder of Washington County, Utah, of a Supplementary Declaration or similar instrument which:

- (i) describes the land to be annexed or incorporated by reference within the description contained in the Future Phase portion of the Plat;
- (ii) declares that the annexed land is to be held, sold, conveyed, encumbered, leased, occupied and improved as part of the Property subject to the Declaration; and
- (iii) sets forth such additional limitations, restrictions, covenants, conditions, complementary additions and modifications of the covenants, conditions and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added property and as are not inconsistent with the plan of this Declaration.

When such annexation becomes effective, said real property shall be subject to this Declaration.

Such annexation may be accomplished in one or more annexations or phases without limitation as to size or location within the Future Phase property.

**5.2 Limitation on Annexation.** Developer's right to annex said land to the Property shall be subject to the following limitations, conditions and rights granted to the Developer.

- (a) The annexed land must be part of the land which is the Future Land as of the date of this Declaration, as described in Exhibit "B" hereto. However, Developer reserves the right to expand the borders of the Future Phase land to contiguous land within 2,000 feet of exterior borders, including additional property now owned by the State of Utah Trust lands, but with no obligation to do so and no claim as to right, title or interest to said land;
- (b) Developer shall not effectuate any annexation of land which would cause the total number of living units existing on, or planned for, the Property to exceed 110 total Lots, or 50 units in Phase II property.
- (c) Developer's right to annex land to the Property shall expire seven (2) years after the last Supplemental Declaration is filed for record in the office of the County Recorder of Washington County, Utah.
- (d) All Lots added shall be for residential purposes as provided for in this Declaration.
- (e) Additional Living Units when constructed shall be consistent with the initial improvements in terms of quality of construction and compatible with existing structures on the Property (with respect to Living Units or common area improvements built by Developer or their assigns), (or as approved by the Architectural Control Committee if not built by Developer or its assigns.)
- (f) The configuration of annexed land as to lot size, common areas and the nature, quantity or quality of improvements shall be in discretion of the Developer or its assigns. Additional amenities may (in the discretion of Developer) be added to future common areas of the Project. No assurances can therefore be given.
- (g) Developer reserves unto itself and its assigns the right to create limited common areas and facilities within any portion of the annexed land. No assurances can therefore be made with respect to such items.

**5.3 Developer's Right to Amend.** Until all portions of the Future Phase Land are included in the Development, or until the right to enlarge the Development through the addition of tracts or subdivisions terminates, whichever event first occurs, Developer shall have (with the written consent of Declarant), and is hereby vested with, the right to unilaterally amend the Declaration and/or the Plat as may be reasonably necessary or desirable:

- (i) to adjust the boundaries of the Lots, including adding or deleting common areas (by filing an appropriate amended Plat) to accommodate design changes or changes in type of units or adjustment to lot configuration;
- (ii) to more accurately express the intent of any provisions of the Declaration in the light of then-existing circumstances or information;
- (iii) to better insure, in light of the existing circumstances or information, workability of the arrangement which is contemplated by the Declaration;
- (iv) to facilitate the practical, technical, administrative or functional integration of any additional tract or subdivision into the Development; or
- (v) to conform to the underwriting guidelines of major secondary market investors in order to facilitate the availability of financing.

**ARTICLE 6 -LEASE PROVISIONS**

**6.1 Lease Provisions.** Any Owner may lease his Lot or Living Unit; provided, however, that any lease agreement between a Lot Owner and a Lessee must be in writing and must provide, inter alia, that:

- (a) The terms of the Lease shall in all respects be subject to the provisions of this Declaration; and
- (b) Any failure by the Lessee to comply with the terms of such documents shall constitute a default under the lease.
- (c) The lease of any Unit shall be limited to a 30-day minimum.

**ARTICLE 7 -COMMON AREA PARKS AND TRAILS**


**7.1 Dedication to the City:** The Declarant, with the written consent of Developer, shall have the right, up to the time it transfers its rights to the Home Owners Association, to dedicate any common area, park areas or trails to Washington City. The dedication of these common areas, parks and trails would incorporate these areas into the Washington City's Public Parks and Trail System and all control and regulations, including but not limited to the maintenance of these facilities shall be held solely by Washington City. Dedication of these areas to the City would remove them from the control of the Developer and the Home Owners Association.

**7.2 Effective Date.** This Declaration, any amendment or supplement hereto, and any amendment or supplement to the Final Plat shall take effect upon its being filed for record in the office of the County Recorder of Washington County, Utah.

IN WITNESS WHEREOF, the undersigned has hereunto executed this document this 12 day of May, 2015.

DECLARANT:

Approved as to Form  
Sean D. Reyes  
ATTORNEY GENERAL  
By: Michelle G. Mitchell

  
STATE OF UTAH, SCHOOL AND INSTITUTIONAL  
TRUST LANDS ADMINISTRATION

DEVELOPER:

Robert M Bowers  
BRENNAN HOLDINGS NO. 100, LLC,  
a Utah limited liability company

State of Utah )  
 : ss.  
County of Salt Lake )

On the 12th day of May 2015, personally appeared before me Rodger Mitchell, who being by me duly sworn did say that he is the Assistant Director of State of Utah, School and Institutional Trust Lands Administration, that the Declaration was signed on behalf of said agency with appropriate authority.



Alan Russell Roe

State of Utah )  
 : ss.  
County of Washington )

On the 13 day of May 2015, personally appeared before me Robert Brennan, who being by me duly sworn did say that he is the Manager of Brennan Holdings No. 100, LLC, a Utah limited liability Company, that the Declaration was signed on behalf of said Company and said persons acknowledged to me that said Company executed the same by authority of a resolution



Brandee Walker  
Notary Public

**EXHIBIT "A" - LEGAL DESCRIPTION**

BEGINNING AT THE NORTHEAST CORNER OF NORTHBRIDGE ESTATES PHASE 3, RECORDED AND ON FILE AT WASHINGTON COUNTY RECORDERS OFFICE, STATE OF UTAH, POINT BEING S 89°02'14" E 376.97 FEET ALONG THE SOUTH SECTION LINE OF SECTION 3, TOWNSHIP 42 SOUTH, RANGE 15 WEST, SALT LAKE BASE AND MERIDIAN, FROM THE SOUTHWEST CORNER OF SAID SECTION 3, AND RUNNING THENCE N 2°42'34" E 1.18 FEET TO A POINT ON A 320.00 FOOT RADIUS CURVE TO THE LEFT; THENCE ALONG THE ARC OF SAID CURVE 121.63 FEET THROUGH A CENTRAL ANGLE OF 21°46'42" TO A POINT ON A 20.00 FOOT RADIUS COMPOUND CURVE TO THE LEFT; THENCE ALONG THE ARC OF SAID CURVE 37.71 FEET THROUGH A CENTRAL ANGLE OF 108°01'46"; THENCE N 17°31'51" W 60.21 FEET TO A POINT ON A 20.00 FOOT RADIUS NON-TANGENT CURVE TO THE LEFT WITH A RADIUS WHICH BEARS N 46°21'23" W; THENCE ALONG THE ARC 25.51 FEET THROUGH A CENTRAL ANGLE OF 73°04'45" TO A POINT ON 680.00 FOOT RADIUS CURVE TO THE RIGHT; THENCE ALONG THE ARC OF SAID CURVE 230.79 FEET THROUGH A CENTRAL ANGLE OF 19°26'46"; THENCE N 9°59'22" W 113.07 FEET TO A POINT ON A 680.00 FOOT RADIUS CURVE TO THE RIGHT; THENCE ALONG THE ARC OF SAID CURVE 74.91 FEET THROUGH A CENTRAL ANGLE 6°18'42"; THENCE N 86°19'19" E 200.00 FEET TO A POINT ON A 480.00 FOOT RADIUS NON-TANGENT CURVE TO THE RIGHT, WITH A RADIUS WHICH BEARS N 86°19'19" E; THENCE ALONG THE ARC OF SAID CURVE 37.77 FEET THROUGH A CENTRAL ANGLE OF 4°30'31"; THENCE N 89°04'14" E 229.40 FEET; THENCE S 83°19'23" E 80.16 FEET; THENCE S 76°11'49" E 80.25 FEET; THENCE S 70°24'17" E 86.37 FEET; THENCE S 74°33'49" E 116.01 FEET; THENCE N 89°16'22" E 176.60 FEET; THENCE N 0°43'38" W 12.02 FEET; THENCE N 89°16'22" E 160.00 FEET TO A POINT ON THE WESTERLY BOUNDARY LINE OF WASHINGTON VISTA PHASE 4, RECORDED AND ON FILE AT WASHINGTON COUNTY RECORDERS OFFICE, STATE OF UTAH; THENCE S 0°43'38" E 611.60 FEET ALONG SAID LINE AND ALSO ALONG A PARCEL MORE PARTICULARLY DESCRIBED IN DOCUMENT NO. 20060054767, RECORDED AND ON FILE AT WASHINGTON COUNTY RECORDERS OFFICE, STATE OF UTAH, TO A POINT ON THE SOUTH LINE OF SAID SECTION 3, POINT ALSO BEING ON THE NORTHERLY LINE OF A PARCEL MORE PARTICULARLY DESCRIBED IN ENTRY NO. 864070, RECORDED AND ON FILE AT WASHINGTON COUNTY RECORDERS OFFICE, STATE OF UTAH; THENCE N 89°02'13" W 953.79 FEET ALONG SAID LINE, ALSO ALONG THE NORTHERLY BOUNDARY LINE OF NORTHBRIDGE PHASE 3 AMENDED & EXTENDED, RECORDED AND ON FILE AT WASHINGTON COUNTY RECORDERS OFFICE, STATE OF UTAH, TO THE POINT OF BEGINNING.

CONTAINS 658,055 SQ FT OR 15.107 ACRES MORE OR LESS

**EXHIBIT "B" - FUTURE PHASE LEGAL DESCRIPTION**

A PARCEL OF LAND COVERING THE TERRACES AT GREEN SPRINGS AND THE RESERVE AT GREEN SPRINGS AS SHOWN ON THE PRELIMINARY PLAT OF BOTH SUBDIVISIONS, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT S 89°02'14" E 406.99 FEET FROM THE SOUTHWEST CORNER OF SECTION 3, TOWNSHIP 42 SOUTH, RANGE 15 WEST, SALT LAKE BASE AND MERIDIAN, SAID POINT ALSO BEING ON THE NORTH BOUNDARY LINE OF NORTHBRIDGE ESTATES PHASES 3 RECORDED AND ON FILE AT THE WASHINGTON COUNTY RECORDERS OFFICE, STATE OF UTAH AND RUNNING THENCE N 2°42'34" E 0.27 FEET TO THE POINT OF A 350.00 FOOT RADIUS CURVE TO THE LEFT; THENCE 211.73 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 34°39'38" TO THE POINT OF A 650.00 FOOT RADIUS REVERSE CURVE TO THE RIGHT; THENCE 249.15 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 21°57'42"; THENCE N 9°59'22" W 113.07 FEET TO THE POINT OF A 650.00 RADIUS CURVE TO THE RIGHT; THENCE 321.28 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 28°19'12"; THENCE N 71°40'10" W 111.28 FEET TO THE POINT OF A 250.00 FOOT RADIUS CURVE TO THE RIGHT; THENCE 154.83 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 35°29'06" TO THE POINT OF A 803.00 FOOT RADIUS REVERSE CURVE TO THE LEFT; THENCE 31.10 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 2°13'08" TO A POINT ON THE WEST LINE OF SAID SECTION 3; THENCE N 1°13'49" E ALONG SAID WEST LINE 901.50 FEET; THENCE N 70°57'14" E 849.23 FEET TO THE POINT OF A NON-TANGENT 1300.00 FOOT RADIUS CURVE TO THE LEFT WHICH RADIUS BEARS N 49°54'47" E; THENCE 489.57 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 21°34'38"; THENCE S 61°39'51" E 353.10 FEET TO THE POINT OF A 800.00 FOOT RADIUS CURVE TO THE LEFT; THENCE 292.76 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 20°58'02"; THENCE S 7°22'07" W 72.15 FEET TO THE POINT OF A NON-TANGENT 760.00 FOOT RADIUS CURVE TO THE LEFT WHICH RADIUS BEARS S 80°50'44" E; THENCE 238.08 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 17°56'54" TO A POINT ON THE BOUNDARY OF THE WASHINGTON CITY GREEN SPRING MINOR SUBDIVISION RECORDED AND ON FILE AT THE WASHINGTON COUNTY RECORDERS OFFICE, STATE OF UTAH; THENCE ALONG SAID BOUNDARY THE FOLLOWING TWO (2) COURSES; (1) N 89°19'59" W 485.57 FEET; (2) S 0°43'38" E 1338.34 FEET TO THE SOUTH LINE OF SAID SECTION 3; THENCE N 89°02'14" W 923.77 FEET ALONG SAID SOUTH LINE TO THE POINT OF BEGINNING.

TOGETHER WITH THE FOLLOWING DESCRIBED PACEL:

BEGINNING AT A POINT N 1°13'49" E 1004.63 FEET FROM THE SOUTHEAST CORNER OF SECTION 4, TOWNSHIP 42 SOUTH, RANGE 15 WEST, SALT LAKE BASE AND MERIDIAN, SAID POINT ALSO BEING ON THE ARC OF A 803.00 FOOT RADIUS CURVE TO THE LEFT WHICH RADIUS BEARS S 51°35'48" W AND RUNNING THENCE 563.70 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 40°13'17" TO THE POINT OF A 150.00 FOOT RADIUS REVERSE CURVE TO THE RIGHT; THENCE 153.85 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 58°45'54"; THENCE N 88°44'18" W 129.16; THENCE N 1°15'42" E 263.69 FEET; THENCE N 70°57'14" E 767.06 FEET TO THE EAST LINE OF SAID SECTION 4; THENCE S 1°13'49" W ALONG SAID EAST LINE 901.50 FEET TO THE POINT OF BEGINNING.

CONTAINS 67.765 ACRES