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RAC INC  
C/M/6 ENGEL  
1 1267 N. 1390 W.  
ST. GEO. 84770

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Restrictive Page 1 of 18  
Gary Christensen Washington County Recorder  
08/09/2023 03:02:59 PM Fee \$ 40.00  
By RAC INC



DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS OF  
MOUNTAIN VIEW ESTATES,

THIS DECLARATION of Covenants Conditions and Restrictions for Mountain View Estates, Phase 1 at Hurricane is made by RAC Inc. DEVELOPMENT, a corporation (hereafter "Declarant or "RAC") and is executed in Hurricane, Washington County, State of Utah on this first day of January, 2023, by RAC. RAC hereby undertakes the recordation of this Declaration for Mountain View Estates, Phase 1 at Hurricane (hereinafter "Declaration"). This Declaration affects every portion of Mountain View Estates, Phase 1 at Hurricane, as further identified by legal description set forth in Exhibit "A" and other phases as may be annexed in the future.

RECITALS

Declarant is the record Owner of that certain parcel of real property described in Exhibit "A" of this Declaration (the "Property"). This Property, as developed and improved, shall be established as a residential subdivision as permitted under Zoning Ordinances of Hurricane, Utah. The Project shall be named Mountain View Estates and shall be located in the County of Washington, State of Utah; the Official Plat thereof shall be recorded, simultaneously herewith, in the Office of the Washington County Recorder, State of Utah.

This Project is not a cooperative, under definition of the State of Utah. No portion of this Property is intended to be for condominium use.

This Declarant, at the time of the recordation hereof, does not intend for these CC&Rs of Mountain View Estates to be governed by a homeowner's association. Notwithstanding, an Architectural Control Committee shall be empowered to see to the matters outlined in Article 2 hereof.

Declarant will convey the property subject to certain protective covenants, conditions, restrictions and reservation as provided hereafter.

Declarant may annex additional land at a future date, in keeping with provisions hereof. By such annexation, said land shall become subject to this Declaration and shall be entitled and subject to all terms herein including all rights, powers, privileges, covenants, restrictions, and easements hereinafter set forth. With each annexation, the property annexed shall be included in the definition of "Property" set forth herein.

NOW, THEREFORE, Declarant hereby declares that the Declaration of Covenants, Conditions & Restrictions for the property shall provide as follows:

DECLARATION

Declarant declares that all of the property described below and all expandable property shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, conditions, and reservations to the Official Plat Map of Mountain View Estates, Phase 1 at Hurricane, consisting of 16-Lots, recorded

concurrently and additional land, consisting of additional lots, to be recorded upon a future date. This Declaration is for the purpose of protecting the value and desirability of said property. This Declaration and the Official Plat Maps of Phase 1 and subsequent phase(s) shall be construed as covenants of equitable servitude which shall run with the land and shall be binding upon all parties having any right, title, or interest in the described property, or any part thereof, their heirs, successors and assigns and shall inure to the benefit of each Owner thereof.

The property is located in the City of Hurricane UT, Washington County, Utah, and is described on Exhibit 'IA' attached hereto. The Property, through annexation, may be expanded, according to provisions hereof.

#### ARTICLE 1- DEFINITIONS

When used in this Declaration (including in that portion hereof under "RECITALS") the following terms shall have the meaning indicated.

1.1 Declarant shall mean and refer to RAC DEVELOPMENT, LLC, its successors and assigns.

1.2 Declaration shall mean and refer to this instrument as the same may hereafter be modified, amended, supplemented, or expanded in accordance with the provisions hereof, in particular with the provisions of Article 7, concerning amendments or supplements to this Declaration.

1.3 Development Project Community shall mean and refer to the Mountain View Estates, Phase 1 at Hurricane and annexed expansions thereto, created by this Declaration as it exists at any given time. Development shall also refer to that period of time in which Declarant undertakes the physical horizontal and vertical improvements to the Development Land. Such Development time frame shall extend until the Declarant no longer owns a Lot in Mountain View Estates and all of its anticipated phases in the expandable property.

1.4 Development Activity shall mean those activities of the Declarant to develop the land of the Property by 'horizontal activities' such as grading and installation of infrastructure, among others, in preparation of build-ready Lots within the Project. Development may be undertaken by Declarant or by Declarant's agents. Declarant may undertake the development or may accomplish the work through agents or assigns.

1.5 Development Phase shall mean that period of time extending from the issuance of a City grading permit to the Declarant to the ending of such period as marked by the Declarant no longer owning fee interest to any Lot within the Project, including any expandable and annexed property, i.e., when 100% of the Lots within the Project have been sold and conveyed to third-parties other than the Declarant or its related enterprises.

1.6 Home, Living Unit, Residence shall mean a residential structure which has been constructed on a Lot. Such shall also mean a structure which is designed and intended for use and occupancy as a single-family residence, together with all improvements located on the Lot concerned, which are used in conjunction with such residence.

1.7 Lot, Lot/Home shall mean and refer to any of the separately numbered and individually described plots of land. Lot may refer to a Lot which has not had a Home constructed thereon; or, Lot

may refer to a Lot with a Home constructed thereon ("Lot/Home"), depending on context. Vacant Lot shall mean any Lot which exists unimproved with no construction of a Home thereon.

1.8 Mortgage Holder shall mean any person or entity named as a first mortgagee or beneficiary under or holder of a first deed of trust.

1.9 Owner Lot Owner shall mean and refer to the person or entity which is the Owner of record (in the office of the Washington County Recorder, Utah) of a fee interest or an undivided fee interest in a Lot or Lot/Home. Notwithstanding an applicable theory relating to a mortgage, deed of trust, or like instrument, the term Owner shall not mean or include a Mortgagee or a beneficiary or trustee under a deed of trust unless and until such party has acquired title pursuant to foreclosure of any arrangement or proceeding in lieu thereof.

1.10 Expansion Land shall mean and refer to those portions of land which are adjacent to Mountain View Estates, Phase 1 at Hurricane.

1.11 Plat shall mean and refer to the Official Plat of the "Mountain View Estates, Phase 1 at Hurricane", executed and acknowledged by Declarant, prepared and certified by a registered Utah Land Surveyor with Brown Consulting Engineering, Inc. and recorded in the Office of Washington County Recorder, State of Utah, concurrently herewith, also as the same may hereafter be modified, amended, supplemented or expanded in accordance with the provisions of Article 4 concerning amendment or supplement to the Declaration which are to occur in conjunction with the expansion of Mountain View Estates as herein provided. Upon supplement and expansion, Plat shall mean and refer to each plat for each subsequent expansion and phase that adopts this Declaration.

1.12 Property, Project, Community, Subdivision shall mean and refer to all of the real property which is identified on the Official Plat for Mountain View Estates, Phase 1 at Hurricane, a description of which is set forth in Exhibit "A" of this Declaration together with all expandable property anticipated to be annexed and included within Mountain View Estates.

1.13 Common Area shall not exist in Mountain View Estates. However, a park will be constructed and dedicated to the city.

1.14 Amended, Supplemental Declaration Annexation Amendment shall mean and refer to any supplementary declaration of covenants, conditions, and restrictions of similar instrument, which modifies, clarifies, or amends the provisions of this Declaration or extends such to any annexations of adjacent land parcels, as additional phases, if any.

1.15 Fence, Wall\* or Separation Wall shall mean (1) the walls serving as rear-lot walls and side-lot walls of each Lot in the Project and (2) other yard/privacy walls and fences constructed by Declarant or Owner. The Declarant shall not be required to construct a perimeter wall, separating the Project from other developments or land; rather, it shall be the obligation of each Lot Owner to build a rear wall, or perimeter wall at the time of and as part of the initial construction of a Home on a Lot.

1.16 Architectural Control Committee ACC shall mean the Declarant acting as such Committee or Owners acting as such Committee, as outlined in Article 2 hereof.

## ARTICLE 2 - ARCHITECTURAL CONTROL AND BUILDING RESTRICTIONS

2.1 Architectural Control Committee. The Declarant shall appoint a three (3) member committee (hereinafter "ACC" or "Committee"), the function of which shall be to ensure that all exteriors of Homes and landscaping of all Lots within the Property harmonize with other surroundings and structures within the Mountain View Estates. The Committee need not be composed of Owners; however, members must be appointed by Declarant, until the conclusion of the Development Phase, after which members must be appointed by Owners by election. After the Development Phase, members shall be appointed for 2-year terms. To facilitate transition, in the initial appointment or election of an Owner-Committee, one member shall be appointed or elected for a one-year term. Thereafter, all terms shall be two-years.

The Declarant reserves the right, during the Development Phase, to function as the ACC. If such election is made by the Declarant, at any time during the Development Phase, the Declarant shall perform the duties required of the Committee herein. Under such Declarant-election, the Declarant shall have the right to appoint members of the ACC until the happening of either of the following events, whichever last occurs: 1) upon the completion of the Development Phase; or 2) the voluntary yielding of such right by the Declarant to the Owners. Thereafter, a majority of the Owners of Lots in Phase 1, or as expanded thereto, shall appoint members of the ACC, which committee shall thereafter be vested with the powers described herein and shall have jurisdiction over all of the Lots subject to this Declaration.

1) Submission to Committee: No Home, accessory, addition, or modification to the exterior of a Home, its landscaping, or other improvements of or to a Lot shall be constructed, until 1) an ACC Request Form is submitted to the ACC and 2) said Form is accompanied by a complete set of plans, or to-scale drawings, and specifications pertaining to the intended work and 3) a written letter of approval has been issued by the ACC and delivered to the Owner. In the event of ACC-denial, no such intended work shall be undertaken by the Lot Owner.

2) Meetings of Committee: The ACC shall meet from time to time as may be necessary to perform its duties hereunder. Any action taken by the ACC shall require the written approval of a majority of its members.

3) Standards: In deciding whether to approve or disapprove plans and specifications submitted to it, the ACC shall use its best judgment to ensure that all improvements, construction, landscaping, and alterations on Lots conform to the provisions hereof and harmonize with existing surroundings and structures with the Project. The ACC may formulate general guidelines and procedures pertaining to this Article. The adopted guidelines and procedures shall be incorporated as ACC Guidelines.

4) Approval Procedure: Any Request Form, including plans and specifications attached thereto, which is submitted to the Committee shall be approved or disapproved by the Committee, in writing, within thirty (30) days after the submission date of the Request Form. In the event the Committee fails to take appropriate action within such period, the Request shall be deemed to have been approved as submitted. All Request Form submittals shall include color samples, type samples and materials samples, as the case may apply.

5) Disclaimer of Liability: Neither the ACC, nor any member thereof acting in good faith, shall be liable to the Owner for any damage, loss, or prejudice suffered or claimed on account of:

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- a) The approval or rejection of, or the failure to approve or reject, any plans, drawings or specifications.
- b) The development or manner of development of any of the property, or
- c) Any engineering or other defect in approved plans and specifications.

6) Non-Waiver: The approval of the ACC of any Request, with its plans and specifications, for any work done or proposed on a Lot/Home shall not constitute a waiver of any right of the ACC to disapprove any subsequently submitted similar Requests, including its plans and specifications.

7) Exception for Declarant: The provisions of this Article 2 shall not apply to any improvement, construction, landscaping, or alteration which is carried out by Declarant or Declarant's assignee of this right on any Lot.

8) Violations: Failure to obtain written approval of the ACC of any plans affecting the exterior of a Home or the Lot itself shall be considered a violation of this Declaration and shall be subject to rule of law through civil action. Any failure on the part of an Owner to obtain ACC approval prior to start of construction improvements may result in the ACC seeking intervention on the part of the City with regard to permits that may or may not have been issued or through court intervention.

9) Interior Home Improvements: Interior improvements to a Home shall not be subject to ACC review, unless said improvements in any way require modification to the exterior of a home; in such instances, interior improvements shall require prior written approval of the ACC of an Owner's Request Form submittal.

## 2.2 Building Restrictions.

1) Building Type: All Lots shall be used for single-family residential purposes. No professional or commercial use shall be made of the same, nor any portion thereof.

Nor shall any Owner's or resident's use of a Lot endanger the health or disturb the reasonable enjoyment of any other Owner or resident.

The building or structure permitted to be placed and erected on any Lot within the Project shall be a detached single-family dwelling with not less than a two-car garage. Carports and other outdoor or partially enclosed parking facility shall not be permitted. All structures shall be constructed in accordance with the zoning and building ordinances of the City of Hurricane UT. Detached garages or outbuildings are not permitted except by approval of the ACC.

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

2) Building Setbacks: Setback requirements set forth in the Hurricane UT City Zoning Ordinance shall be controlling. For the purpose of this covenant, eaves, steps and open porches shall not be considered as part of building for the purpose of determining appropriate setbacks; provided, however, that this shall not be construed to permit any portion of a building, including such eaves and steps and open porches, to encroach upon another Lot. At the time of recordation hereof, minimum setbacks are:

Non-Corner, Standard Lots:

Front	25 Feet
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Side Yard, A	10 Feet
Side Yard, B	10 Feet
Rear Yard	10 Feet

3) Driveways: Driveways shall be constructed out of concrete, pavers, brick or other similar material if approved by the ACC. Driveways of cinders, sand, gravel, asphalt, or dirt shall not be allowed. There shall be sufficient driveway parking area as to allow the parking of not less than two (2) vehicles per Lot. Notwithstanding, provision for such does not serve to replace the intent that an Owner's or resident's vehicles shall be parked in the attached garage.

4) Walls, Fences, Separation Walls, Shared Walls. Walls, fencing, gates, front court-yard walls and other barriers shall be approved by the ACC prior to construction. It is the purpose and intentions of this and other provisions within this Declaration to preserve views from lots to surrounding area and the views from property outside of the Project into the Project. The Project is uniquely situated above a majority of the surrounding property and the views into and out of the Project will be preserved. The Declarant shall not be required to construct a wall of any kind. All walls constructed within the Property shall be the sole responsibility of Lot Owners to CONSTRUCT, MAINTAIN AND REPAIR. The following provisions shall guide the construction and maintenance of all walls:

a) Required Wall Type. Only masonry block walls and wrought iron of a color and type as approved by the Declarant or ACC shall be permitted on the Property. Vinyl, wood, and chain-link fencing shall not be permitted.

b) Required Walls. Retaining walls shall be required where necessary. Walls of any type, including privacy and retaining walls, of any type, shall not be allowed, except as approved by the ACC; approval by the City shall not constitute a demand for approval by the ACC.

c) Side Walls. Side Wall construction and its maintenance and repair shall be the sole responsibility of a Lot Owner(s) choosing to install such a Wall(s). Side-Walls may be installed together with the initial construction of the rear-wall of a Lot or may be installed at a later date, at the sole election of the Lot Owner(s) subject to obtaining approval of the ACC.

d) Sharing of Side Walls. The "sharing" of the cost of construction and maintenance of Side Walls is encouraged but shall not be required of adjacent Lot Owners.

e) Walls Over 6'. Walls over six-feet (6') high, of any type, shall not be allowed, except as approved by the City and the ACC as being necessary and reasonable due to unique topographical considerations of the Lot(s); approval by the City shall not constitute a demand for approval by the ACC.

f) Completion Requirements. Rear Walls and Perimeter Side Walls shall be completed prior to the issuance of a CO by the City. Side Walls, once construction has started, shall be completed within three (3) months from such start date.

g) Wall Returns. Wall returns from the Side-Wall to the exterior of the Home shall comply with the requirements set forth herein.

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h) Condition of Walls. No Owner shall paint, construct, any addition to, color, or otherwise decorate the Walls within Mountain View Estates without ACC approval. Any Owner found in violation of this provision shall bear the entire cost of refurbishing and restoring the affected Wall to its original condition, consistent with other Walls in the Property.

i) Wall Dispute. In the event of any dispute arising in connection with a Separation Wall, each party shall choose one arbitrator and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority vote of all of the arbitrators. The cost of arbitration shall be the sole responsibility of the 'disputing Owners' and none else.

j) General Rule of Law. Notwithstanding "h)" above, to the extent not inconsistent with the provisions of this Section, general rules of law regarding separation walls and liability for property damage thereof, due to negligence of willful acts or omissions, shall apply.

5) Satellite Dishes and other External Apparatuses, Antennas, Clotheslines: No antennas or satellite dishes shall be allowed to be affixed to any rooftop. Radio and shortwave antennas shall not be allowed, except as may be contained solely in the space of a roof attic. Satellite dishes may be mounted under the roof eave on the side of a Home, near the rear of the house. All satellite dish installations shall require the approval of the ACC as to type, size, and installation location prior to installation. No outside clotheslines or other outside clothes drying or airing facilities shall be allowed on any Lot, unless the ACC finds such facilities to be adequately concealed so as not to be seen from any adjacent Lot.

6) Temporary and Other Structures and Out-Buildings: No structure of a temporary nature; trailer, bus, house, tent, shack, garage, or other outbuilding 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 the Lots, it being the intent of the Declarant, as herein described, that all dwellings and other buildings be erected on any given Lot, using only new materials. Any ACC approved out-buildings shall be constructed to appear similar to the Home, i.e., stucco exteriors and tile roofing.

7) Landscaping: All landscaping, front side, and rear-yard, whether at the time of initial installation or a subsequent-to- occupancy installation or modification shall require approval of the ACC, following Owner's submittal of an ACC Request for Review Form.

a) Landscape Requirements:

Types of shrubs and trees shall be selected from a) an ACC Plant List Guide, if available, OR, from a list of landscaping plants as recommended by the Hurricane UT Parks Department, as being appropriate to survive and thrive the elements of Hurricane area climate.

b) Landscape Installation: Front Yard landscaping, which includes side-yard landscaping to the rear of the home, shall include a sprinkling system with an electronic clock for automatic operation. Such landscaping shall be completed not later than the date of obtaining a Certificate of Occupancy ("CO") or occupancy of the Home, whichever first occurs.

Within six (6) months after CO or occupancy, whichever first occurs, the rear-yard landscaping shall be completed according to the Owners plan for such, as reviewed and approved by the ACC.

All landscaping schemes and designs, as installed, shall include an automatic watering system. Such systems shall be maintained in good working order, being repaired in a timely

fashion, when necessary, so as to timely provide watering to all landscape feature. In this regard, each Owner or his/her/its resident(s) shall not suffer or allow the automatic watering system to fall into disrepair, nor shall an Owner or his/her/its resident fail to maintain electrical power and water service to said system.

Shrub and tree planting on corner Lots shall be located so as not to create a sight-hazard for the movement of vehicles along streets; no trees or shrubs shall be planted on any corner that will grow in excess of three (3) feet high, or which shall be maintained at such height, perpetually, in keeping with City ordinances.

**c) Landscape Maintenance and Upkeep:** The maintenance, repair, replacement and upkeep of all landscaping features appurtenant to any given Lot, shall be the sole responsibility and expense of each Lot Owner. All landscaping shall be maintained at a reasonable standard of care and presentation which is compatible with other Lots in Mountain View Estates.

8) **Architectural Control:** No building shall be erected, placed, or altered on any Lot until the construction plans and specification and a site plan showing the location of the structure have been approved by the ACC as to the proposed 1) quality of workmanship, 2) quality and type and color of materials, 3) harmony of exterior designs with existing structures, and 4) location with respect to topography and finish grade elevation. Landscaping, initial or subsequent to occupancy is subject to this provision.

9) **Minimum Square Footage:** The minimum total square footage of living area on the first level above ground and located within the area of a foundation for a residential dwelling constructed on any Lot within the Project, exclusive of porches, balconies, patios, decks and garages, shall not be less than 1,800 square feet for one-story homes; Walkout homes shall have a minimum of 1,400 square feet on the main level and not less than 800 square feet on the upper-level.

10) **Building Height:** The ACC will take into consideration the impact upon the entire communities' views. Low build profile of a modern and flat design is desired to minimize visual impacts. Maximum building height shall not exceed eighteen (18') feet from the base elevation. The base elevation is found by projecting a horizontal line perpendicular to the top back of curb (TBC). Any variance to this must be approved by the ACC. The ACC may require that story poles be erected by the builder that represent the building envelope. If the majority of the Lot is higher than the TBC the ACC will establish the base elevation of the home. Walkout homes will be measured from the upper level.

11) **Parking of Vehicles and Equipment:** Notwithstanding the streets of Mountain View Estates are dedicated, public rights-of-way, the following restrictions apply:

a) **Parking of Recreational Vehicles and Equipment:** Camper trucks and similar vehicles up to and including one ton when used for everyday-type transportation may be kept on the Property, as set forth herein. Such vehicles, in addition to motorhomes, boats, trailers, campers, and similar recreational vehicles may be parked in the side-yard of a Lot, on a cement pad, behind the front foundation line of the Home, in a fenced area with a screened, wrought iron access gate, or in an enclosed garage.

Motorhomes, boats, trailers, campers, and similar recreational vehicles may be parked in driveways once every thirty (30) days for a maximum twenty-four (24) hour period to allow



for loading, unloading, and cleaning. No Owner shall park, store, or keep anywhere within the Property any vehicle or vehicular equipment, mobile or otherwise, deemed to be a nuisance by the ACC or board. No such vehicle or equipment shall be occupied or used for residential purposes while parked on an ACC-approved pad, except for loading, unloading, maintenance and repair.

b) Guest, Visitor Parking. In the event an Owner has a family guest for an extended visit, parking shall be encouraged to take place on the driveway.

c) Parking on Driveways. Vehicles parked on a driveway shall not be parked so as to be parked-on or extending over any portion of the sidewalk adjacent to the driveway apron. The purpose of the foregoing restrictions is to safeguard that emergency vehicles and delivery vehicles can easily and effectively negotiate passage through the streets, thereby adding to the safety of the Community. Considerations and actions in this matter should always prevail and govern.

12) Construction Materials: In order to promote a harmonious Community and protect the character of the neighborhood, the following guidelines shall apply:

a) Home Style, Design, Alterations, and Additions shall require approval by the ACC, in keeping with Section 2.1 hereof.

b) Home Exterior Surface shall be a combination of brick and high quality partial synthetic stucco or stone and high quality partial synthetic stucco and shall be in colors indigenous to the area. Any ACC-approved out-buildings shall be of like material. Aluminum siding, Masonite, concrete, or vinyl siding are not permitted. Any other exterior material may only be used upon the express written approval of the ACC.

c) Home Construction and accessory structures, as ACC-approved, shall utilize only new materials, unless otherwise approved in writing by the ACC.

d) Roofing Material shall be concrete tile or slate material. Metal accent treatments may be used as part of the roof construction and finish, subject to the express written approval of the ACC; said approval may dictate type, color, style, etc.

No asphalt shingles, built-up roofs, or wood shakes shall be allowed. No mansard roofs shall be allowed. Dome structures of any type, concrete homes, block homes, or basement homes shall not be allowed.

e) Exterior Construction Materials shall be of Base building colors shall be darker earth tones. Light tones, pastels or high gloss finishes may not be used. Complementary accent colors may be used on facia, window trim, shutters and doors. No exterior finishes may exceed a reflectance of 38%. Exterior building colors shall be harmonious with the mountain surrounding while colors of the hardscape shall be complimentary to the natural desert ground. The primary color of the home must be different than the homes within close proximity. A four foot 4' square area of the wall must be finished for the ACC's approval prior to finishing the entire building.

f) Front Court-yards shall have the same finish as the front exterior of the Home.

13) Lateral and Subjacent Support and Draining: Under the rule of law, an Owner shall be responsible for all damages proximately caused by such Owner upon adjacent Lot Owners, if and when:

a) An Owners activities affect the lateral or subjacent support, or both, of adjacent Owner's Lot;

b) For all damage proximately caused by activities of a Lot Owner upon a neighboring Lot;

c) For all damage proximately caused by an Owner's drainage upon a neighboring Lot;

Structures, plantings or other materials 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 or drainage channels, obstruct or retard the flow of water through drainage channels upon a neighboring Lot.

14) Sight Distance at Intersections shall be governed by Hurricane UT City Ordinance. In general, no structure, wall, hedge or shrub planting which obstructs sight lines at elevation between two and six feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines or in the case of a rounded property corner, from the intersection where the street property lines extended. 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.

15) Roof Mounted Heat Pumps, Swamp Coolers, AC Units: heat pumps, air conditioning units, and swamp coolers of any type shall not be allowed to be mounted on roof surfaces. Solar panel will require a submittal of the ACC.

16) Mobile Modular and Pre-Fab Homes: No mobile, modular or pre-fab home shall be placed on any Lot, part, or portion of the Property. Modular, newly constructed wall panels and trusses shall be allowed, as approved by the ACC.

17) Time of Construction: Once begun, at a beginning date as evidence by the date shown on a Building Permit, which Permit shall be required prior to any construction activity of any kind being undertaken, any improvements or construction approved by the ACC shall be diligently undertaken and pursued to completion, which date of completion shall not be later than twelve (12) months from the date shown on the Building Permit for same.

Any modification or alteration to a Home having previously received a CO, as approved by the ACC, shall be timely undertaken following ACC approval and shall be completed within three (3) months of the date of ACC approval or the Building Permit for same, whichever occurs later. No such work shall begin prior to the ACC-approval of same and/or a Building Permit for same, as issued by the City.

Landscaping, for initial home construction, of the front and side-yards shall be completed prior to receiving a CO. Landscaping of the rear-yard shall be undertaken, following ACC-approval of such, and shall be completed within six (6) months following the receipt of CO for initial home construction.  
(See also Section 2.2(7).)

2.3. **Damages.** Any damage inflicted by a Lot Owner or its guests or agents to existing improvements such as curbs, gutters, streets, concrete sidewalks, or Common Areas, if any, shall be repaired in a timely manner by said Lot Owner after such damage is discovered; the expense and responsibility of such repair shall be borne solely by the Owner or its guests and agents.

#### Article 3- Easements

3.1 **Minor Encroachments.** Each Lot shall be subject to an easement for encroachment created by construction, repair, shifting, settling or movement, and overhangs as designed or constructed by the Declarant. A valid easement for said encroachment and for the maintenance of same, so long as it stands, shall and does exist.

3.2 **Utilities Easements.** There is hereby granted and conveyed to the City of Hurricane UT, cable television companies, natural gas company, telephone companies, and other such governmental or quasi-governmental entities, their successors and assigns, a blanket easement upon, across, over and under all of the Property for ingress, egress, installation, replacing, repairing and maintaining all utilities at such location or locations as deemed appropriate utilities by the provider of the utility.

Within these easements, no structure, plantings or other materials shall be placed or permitted to remain which may damage or interfere with the installation, maintenance, or repair of utilities, or which may change the direction of flow of drainage channels in the easement, 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 to it, as approved by the ACC, in the form of landscaping, shall be continuously maintained, repaired, and serviced by each Lot Owner in Mountain View Estates. Utility entities shall be responsible for the maintenance and the cost thereof for 'elements' constructed/installed by such entities; such Utility entities shall not, however, be responsible to repair or replace any improvements for which a public authority or utility company is not responsible. Any area of installed landscaping or other Lot improvements to a Lot which occupies the easement area referred to herein or on the Official Plat may be subject to damage by those entities seeking to repair utilities which occupy or will occupy the easement areas. Such damage, if any, shall be the sole responsibility of the Lot Owner for all cost and work to repair and/or replace; the beneficiary of the easement areas shall not be so responsible.

An easement is further granted to all police, fire protection, ambulance, trash collection and all similar persons to enter upon the Lots in the performance of their duties. Should any company furnishing a service conveyed by the general easement herein provided request a specific easement by separate recordable document, Declarant shall have the right to grant such easement on said property without conflicting with the terms hereof.

3.3 **Easements for Ingress and Egress by the ACC.** An easement is hereby granted to the ACC to enter in or to cross over any Lot to perform its duties provided for herein.

#### Article 4- Annexation of Additional Properties

4.1 **Annexation by Declarant.** Declarant reserves the right, at its sole discretion, to expand the property to include additional adjacent property for a period terminating December 31, 2030.

The Declarant may, within such time period set forth in this Article, file other plat(s) with the City seeking annexation, create such additional adjacent subdivision phases to Mountain View Estates, in the name and style of Mountain View Estates Subdivision. The intention to have adjacent property annexations subject to this Declaration and its amendments is hereby declared. The terms, covenants and conditions contained herein run not only to, with, and from the Property described herein, but also, by this reference, to, with, and from all adjoining additions thereto annexed pursuant to this Article.

4.2 Limitation on Annexation. Declarant's right to annex any such land (as referenced in Section 4.1) to the Property shall be subject to the following limitations:

- 1) Adjacency of Expansion Land. The annexed land must be adjacent to the Property; and
- 2) Single-Family Use. Any additional subdivision annexed hereto by the Declarant shall be comprised exclusively of Lots intended for the building of detached residential, single-family homes; and
- 3) Self-Same Rights. If additional subdivisions are created by the Declarant pursuant to the terms of this Article, the Lot Owners in said addition(s) shall have the same rights to the use and enjoyment of the property and its improvements, as an Owner in "Mountain View Estates Subdivision," Phase 1 and/or other phases.

#### Article 5 - Use Restrictions

5.1 Residential Uses. No Owner shall occupy or use his/her/its Home, or permit the same, by lease, rental or other occupancy agreement, or any part thereof, to be occupied or used for any purpose other than as a private, single-family residence for the Owner and the Owner's family or the Owner's lessees, tenants, or guests. Accordingly, no Home shall be used for hotel, time share or fractional ownership purposes.

No commercial activities of any kind whatsoever shall be conducted in any residence or on any portion of an Owner's Lot, provided, however, that valid Home occupations which are allowed under Hurricane UT City ordinances, subject to approval of the ACC. Notwithstanding, no 'home occupation' shall be approved or allowed which may result in or necessitate an unacceptable increase in traffic to Mountain View Estates by non-Owners; "unacceptable" shall be determined at the sole discretion of the ACC.

5.2 Conveyance of Fee Interest. Each Lot shall be conveyed as a separately designated and legally described freehold estate, the Owner taking title in fee simple, which shall be subject to the terms, conditions, restrictions, and provisions of this Declaration.

5.3 Uses Permitted by Declarant During Development Phase. Notwithstanding any provisions herein contained to the contrary, it shall be expressly permissible for Declarant, during the Development Phase, to conduct construction and sales activities in promotion of the Lots/Homes to be offered in Mountain View Estates to third-party buyers. Declarant shall be allowed to maintain such construction and sales facilities in a manner solely determined by Declarant as may be reasonably required, convenient or incidental to the construction and sale of Homes within Mountain View Estates, including, but without limitation, a sales office, storage area, construction yard, signs, model home(s). Declarant reserves the right to locate such in whatsoever portion of the Property considered by the Declarant to be appropriate.

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5.4 Permitted Household Pets. No animals, livestock or poultry of any kind shall be raised bred or kept on any Lot. However, not more than two (2) dogs or two (2) cats, or other domesticated household pets, as allowed by the City Ordinances and as approved by the ACC, shall be kept in a Home. No pet shall be allowed 'free roam or access' to the Property, including cats; accordingly, while off the pet-Owner's Lot, a pet shall be on-leash. Owner's of pet's, while such pets are temporally on-leash, shall be responsible to care for said pet's conduct and waste; removing a pet's waste in an immediate and timely manner. Cats shall not be allowed to roam the Property, day or night. All pets shall maintain a current pet license with the City of Hurricane UT, for each approved pet.

5.5 Fires, Outdoor Barbecuing. There shall be no exterior fires on any Lots whatsoever, at any time. However, barbecue grilling in appropriate, well-conditioned and maintained equipment designed for such use shall be permitted. Notwithstanding, a personal, private rear-yard fire pit, professionally designed and installed, may be allowed, subject to City and ACC approval. However, approval by the City does not bind the ACC for approval. Each of the foregoing, as approved, once set to fire, shall not be left unattended and shall be extinguished following use.

5.6 Oil and Mining Operations. No drilling, quarrying or mining operations of any kind shall be permitted upon or in any Lot.

5.7 Leases Rentals Contract Purchasers. An Owner shall be entitled to lease or rent his/her/its Lot/Home, or enter into a contract-purchase agreement for the Owners Lot/Home to a third-party for purposes of residential occupancy. Any such lease, rental or contract-purchase agreement between an Owner and a third-party occupant shall contain a provision which provides that the terms of the lease, rental or contract-purchase agreement shall be subject in all respects to the provisions of this Declaration and that any failure by a lessee, renter, or contract-purchaser to comply with the terms of this Declaration and rules of the ACC, as such may exist, shall be a default under the lease, rental or contract-purchase agreement. Furthermore, all leases, rental and contract-purchase agreements shall be in writing. Default or breach by a lessee, renter, or contract-purchase agreement shall be considered hereunder as breach or default of the Owner.

5.8 Orderly Garages. The primary purpose of a Home's garage shall be for the parking of the Owners, the lessee's, renter's or contract-purchaser's motor vehicles. All other uses shall be secondary. Garage doors shall be kept closed when gaining ingress or egress or the premises are not, otherwise in use.

5.9 Nuisances. No noxious or offensive activities shall be undertaken, encouraged, or allowed on/in any Lot/Home, nor shall anything be done or allowed to occur thereon which may become an annoyance or nuisance to another Owner(s).

5.10 Violation Constitutes a Nuisance. Any act or omission, by an Owner, lessee, renter or contract-purchaser, whereby any restriction, condition, or covenant as set forth in this Declaration, if violated in whole or in part, is declared to be and shall constitute a nuisance by other Owners, may be abated by the Declarant or affected property Owner(s) and such remedy shall be deemed to be cumulative and not exclusive. Such Nuisance(s) may be subject to civil remedies at law.

5.11 Antennas. No antenna of any kind shall be installed or mounted on a rooftop; rather, placement, as approved by the ACC, shall typically be under the eave line as far to the rear of the Home as possible. Installation wiring shall not be attached to the exterior wall surfaces of the Home, rather they shall be conducted through the attic space. No satellite dishes shall be allowed which are larger

than 20-inches in diameter. No radio antennas shall be allowed. No television, radio, satellite dishes, or other external antennas shall be erected, laced, or maintained upon any portion of any Lot, or in front of any Home thereon without the prior written approval of the ACC, as to type, size, and location and manner of installation and mounting. The ACC shall have the right to remove or cause removal of any antenna erected, placed, or maintained on a Lot, without having first obtain ACC written approval. Any such violation shall be considered a Nuisance.

5.12 Signs. An Owner, other than the Declarant during the Development Phase, who desires to re-sell, lease or rent his/her/its Lot/Home to a third-party, MAY NOT and SHALL NOT post a sign anywhere on the Lot or on the Home, or in a window thereof, or within the property, which advertises the Owner's Lot/Home "For Sale," "For Lease" or "For Rent." This provision shall remain in force for so long as Declarant owns a single Lot in Mountain View Estates, as annexed or as may be expanded hereunder.

The purpose of this provision is to provide for an uncluttered, inviting street-scapes within Mountain View Estates, throughout build-out by the Declarant. This provision is not meant to prevent an Owner from selling, leasing or renting his/her/its/their Home to a third-party. An Owner may sell, lease, or rent the Owner's Home by making use of any of the follow mediums for promotion and advertising a Home for sale or rent:

- 1) Real Estate Agent. A real estate agent or property management agent.
- 2) MLS. A Multiple Listing Service available through a licensed real estate agent belonging to such service.
- 3) Advertising. Newspapers, magazines, and other such publications.
- 4) Other. Word of mouth.

5.12.1 AFTER Development Phase of Phase 1, or, as the Development Phase associated with annexed or as expanded hereunder, the foregoing provision shall expire. Following such expiration, any and all restrictions on signage of any type shall be governed by the following provision:

- (1) One "For Sale" Sign. Except for one (1) "For Sale" sign of not more than seven (7) square feet, no advertising signs, billboards, advertising objects, shall be installed, erected, placed, or otherwise displayed on any Lot, Home, or any portion of the Properties.
- 2) "For Rent" or "For Lease" Signs. "For Rent" and "For Lease" signs SHALL NOT be allowed at any time.
- 3) No Commercial Signs. Commercial signs SHALL NOT be allowed at any time.

This Section shall not apply to Declarant so long as Declarant owns one or more Lots in any Phase of the Property, including additional phases as may be annexed into the Project from time to time. Declarant shall be allowed to display signage of any type or style, as considered essential by Declarant to maintain an active marketing, sales, and construction program.

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5.13 Garbage and Refuse Disposal. No Lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste. Such trash, rubbish, garbage or other waste shall not be kept except in sanitary, City-issued trash container. All such containers shall be kept in a screened area, so as not visible to street traffic and pedestrians. Such containers shall be timely retrieved from the street pick-up point, following City garbage collection.

5.14 Water Supply. Individual water supply system shall not be used or permitted on any Lot or group of Lots.

5.15 Inoperable Motor Vehicles. No type of motor vehicle which is inoperable for any reason shall be permitted to be parked upon any street, Lot, or any part or portion of the property, except in an approved, enclosed garage. In the event any inoperable motor vehicle remains outside upon any street, Lot, or any part or portion of the Property for a period exceeding 24-hours, the Declarant, or ACC may remove the inoperable motor vehicle after a 5-day written notice to the Owner. The cost and expense of such removal shall be borne by the Lot Owner on which or in front of which the inoperable vehicle was parked. For the purpose of this section, "inoperable motor vehicle" shall mean any motor vehicle which is unable to be operated in a normal manner upon the streets under its own power, or is unlicensed or unregistered. Such violation shall be considered a nuisance.

#### Article 6 — General Provisions

6.1 Enforcement. The Declarant or its successors in interest, or the ACC, or any Owner, shall have the right to sue for damages, or to enforce by any injunctive proceeding or otherwise, at law or in equity, all covenants, conditions, and restrictions now or hereafter imposed by the provisions of this Declaration. Specifically, the aggrieved party may seek to recover damages and for injunctive relief. In any such action, the prevailing party shall be entitled to reimbursement of their costs and expenses, including all reasonable attorney's fees, with or without litigation. In the event any covenant, condition, or restriction included herein is considered to be in conflict with restrictions set forth in the subdivision building, zoning, or other ordinances of the City of Hurricane UT, the ordinances shall govern so long as the restrictions contained in the ordinances are more restrictive than the terms of this Declaration. However, where the terms of this Declaration are more restrictive than those contained in the ordinances of the City of Hurricane UT, Owners shall be subject to the enforcement of the terms of this Declaration.

6.2 Severability, Construction, and Validity of Restrictions. All of the conditions, covenants and restrictions contained in this Declaration shall be constructed together, but if it shall at any time be held that any one of said conditions, covenants or restrictions, or any part thereof, is invalid, or for any reason becomes unenforceable, no other condition, covenant, or reservation, or any part thereof, shall be thereby affected or impaired; and the Declarant and Lot Owners, their successors, heirs and/or assigns shall be bound by each article, section, subsection, paragraph, sentence, clause and phrase of this Declaration, irrespective of the fact that any article, section, subsection, paragraph, sentence, clause or phrase be declared invalid or inoperative or for any reason becomes unenforceable.

6.3 Duration. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Declarant, or the Owner of any Lot subject to this Declaration, their respective legal representative, heirs, successors, and assigns for a term of twenty (20) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive period of ten (10) years.

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6.4 Gender and Grammar. The singular wherever used in this Declaration shall be construed to mean the plural when applicable and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

6.5 Attorney Review. An Owner, by acceptance of a deed or other instrument of conveyance, acknowledges that he/she/it has had this Declaration provided to him/her/it. An Owner thus accepting fee interest, subject to this Declaration, has had or has taken the opportunity to have this document reviewed by an independent legal counselor; notwithstanding, whether the Owner has had this document reviewed by legal counsel, such Owner understands and accepts to be bound by all the terms contained herein.

#### Article 7 -- Amendment

7.1 Declarant's Right to Amend. During the Development Phase or subsequent Development Phase(s) associated with annexed phases, or until the right to enlarge the Project through the addition of tracts or subdivisions terminates, whichever event last occurs, Declarant shall have, and is hereby vested with, the right to unilaterally amend this Declaration and/or the Plat(s) as Declarant may find necessary or desirable.

7.2 Lot Owners Right to Amend. Following the Development Phase and Subject to Section 7.1, this Declaration may be amended during the first twenty (20) year period by any instrument signed by not less than seventy-five percent (75%) of the Lot Owners and also signed by the Declarant and, thereafter, by an Instrument signed by not less than seventy-five percent (75%) of the Lot Owners. The amendment shall be effective upon recordation in the Office of the Recorder of Washington County, State of Utah.

#### Article 9 - WASHINGTON COUNTY WATER CONSERVANCY DISTRICT

9.1 SPECIAL LANDSCAPING NOTATION PERTAIN TO WCWCD. Washington County Water Conservancy District ("WCWCD") under provisions of its Water Conservancy Program restricts the landscape area which may be irrigated on Lots in Mountain View Estates to a maximum of 5,000 square feet. All Lot Owners are bound to observe the policies relating to water conservancy as they may affect Mountain View Estates. All landscaping plans as submitted to the ACC shall indicate compliance with such provisions. It shall be each Lot Owner's responsibility to obtain and comply with applicable provisions as published and amended from time to time by WCWCD.

The undersigned, being the Declarant hereof, executes this document on the day and year first above written.

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SIGNATURES FOLLOW ON NEXT PAGE.



**SCHEDULE A**

LEGAL DESCRIPTION

*MOUNTAIN VIEW ESTATES AT HURRICANE*

Beginning at a point North  $0^{\circ}11'48''$  East 315.42 feet along the Section line and North  $90^{\circ}00'00''$  West 289.37 feet from the East Quarter Section 4, Township 42, South, Range 13 West, Salt Lake Base and Meridian, said point being on the North boundary corner of that parcel deeded in Document No. 20170002484, in official Washington County records; thence along the North line of said parcel North  $89^{\circ}59'42''$  West 340.57 feet; thence North  $0^{\circ}00'00''$  East 137.30 feet; thence North  $90^{\circ}00'00''$  West 32.71 feet; thence North  $0^{\circ}00'00''$  West 178.46 feet to a point on the South line of that parcel deeded in Document No. 20210041725, in official Washington County records; thence North  $90^{\circ}00'00''$  East 82.31 feet to the Southeast corner of said parcel; thence North  $00^{\circ}06'31''$  East 690.10 feet along the Easterly line of said parcel and the Easterly line of that parcel shown by Tax Id No. H-3-2-4-1204, H-3-2-4-1203 and Document No. 20170014334, of official Washington County records, to the Northeasterly corner of H-3-2-4-1204 parcel; thence North  $0^{\circ}22'27''$  West 49.72 feet; thence North  $89^{\circ}43'30''$  West 264.63 feet to a point of curvature of a 20.00 foot radius curve to the left; thence 31.44 feet along the arc of said curve through a central angle of  $90^{\circ}03'37''$ ; thence South  $00^{\circ}12'53''$  West 30.53 feet; thence North  $89^{\circ}53'29''$  West 60.00 feet; thence North  $00^{\circ}12'53''$  East 30.74 feet to a point of curvature of a 20.00 foot radius curve to the left; thence 31.39 feet along the arc of said curve through a central angle of  $89^{\circ}56'23''$ ; thence North  $89^{\circ}43'30''$  West 121.85 feet; thence North  $00^{\circ}12'38''$  East 10.51 feet to a point on the existing Southerly right of way line of 650 South Street; thence along said existing right of way line South  $89^{\circ}59'16''$  East 486.44 feet; thence South  $00^{\circ}00'00''$  East 12.50 feet; thence North  $90^{\circ}00'00''$  East 156.78 feet to the Northwesterly corner of that parcel deeded in Document No. 20210024540, of official Washington County records; thence South  $00^{\circ}05'54''$  West 209.00 feet to the Southwest corner of said parcel; thence North  $90^{\circ}00'00''$  East 135.00 feet to the Southeast corner of said parcel; thence South  $00^{\circ}05'50''$  West 846.86 feet to the point of beginning.

Part of Parcel No.: **H-3-2-4-124**

Craig Engel

ACKNOWLEDGMENT

STATE OF UTAH

)ss.

COUNTY OF WASHINGTON

On the day of July 25, 2023, personally appeared before me Craig Engel, CEO of RACDEVELOPMENT, LLC., A Utah limited liability company, the signer of the foregoing document, who acknowledged to me that ~~she~~<sup>he</sup> executed the same pursuant to authority of the Board of Members of said Company.

Stacie Peterson

Notary Public, Residing in Washington County, UT

