

WHEN RECORDED MAIL TO:

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BK 6086 PG 701

SLI COMMERCIAL REAL ESTATE CO.

261 EAST 300 SOUTH #350

SALT LAKE CITY, UT 84111

BST #01459-8418

Tax #11-750-0501 thru 11-750-0547, inclusive

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RICHARD T. MAUGHAN

DAVIS COUNTY, UTAH RECORDER

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DEP eCASH REC'D FOR BONNEVILLE SUPERIOR

**DECLARATION OF PROTECTIVE COVENANT AGREEMENTS,
RESTRICTIONS, AND CONDITIONS AFFECTING THE REAL PROPERTY KNOWN AS
ESTATES AT MUTTON HOLLOW PHASE 5**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND RESERVATION OF EASEMENTS FOR MUTTON HOLLOW ESTATES PHASE 5 ("Declaration") is made this 8th day of August, 2014 by MUTTON HOLLOW ESTATES LLC, a Utah limited liability company ("Developer").

RECITALS

WHEREAS Developer is the owner of the following described real property located in Davis County, Utah:

Lots 501 through 547 inclusive of Estates at Mutton Hollow Phase 5, according to the official plat thereof recorded as Entry No. 2817975, in Book 6079, Page 856, in the Office of the Davis County Recorder.

WHEREAS, it is the desire and intention of the Developer to sell the above-described lots (collectively, the "lots" or, individually, a "lot") and to subject the lots to mutually beneficial restrictions under a general plan of improvement for the benefit of all the lots in the subdivision and the future owners of such lots;

NOW, THEREFORE, the Developer hereby declares that all of the lots described above are held and shall be held, conveyed, hypothecated, or encumbered, leased, rented, used, occupied, and improved subject to the following covenants and conditions of this Declaration, all of which are declared and agreed to in furtherance of a plan for improvement and sale of the lots described above and are established and agreed upon for the purpose of enhancing and protecting the value, desirability, and attractiveness of the subdivision and the lots. All of the covenants, restrictions, agreements, and conditions set forth herein shall run with the land and shall be binding on all parties now or hereafter having or acquiring any right, title, or interest in the above-described lots or any part hereof.

1. **LAND USE AND BUILDING TYPE.** No lot shall be used for anything other than private residential purposes. No building shall be erected, altered, placed, or permitted to remain on any lot other than one detached single-family dwelling (individually, a "dwelling" or, collectively, "dwellings") not to exceed two (2) stories in height and an attached garage, or, with the prior written approval of the "Architectural Control Committee" (as such term is hereinafter defined), a detached garage, for not fewer than two (2) cars nor more than four (4) cars; provided however, that the Architectural Control Committee may permit one or more of the lots to be used for school or church purposes or to be used for a swimming pool and other recreational facilities for the benefit of the owners of some or all of the lots described above.

2. **ARCHITECTURAL DESIGN CONTROL.** No dwelling, other structure, or improvement shall be erected, placed, or altered on any lot until the construction plans and specifications and a plan showing the location of the dwelling, other structure, or improvement have been approved by the Architectural Control Committee as to quality of workmanship and materials, harmony of external design with existing structures and improvements, and as to location with respect to topography and finished grade elevation.

No pre-existing building or structure of any kind shall be moved from any other location and placed upon any lot, nor shall any dwelling, other structure, or improvement be permitted to remain incomplete for a period in excess of one (1) year from the date construction with respect to such dwelling, other structure, or improvement was commenced, except with the prior written approval of the Architectural Control Committee.

All construction shall be comprised of new materials, except that used brick may be used with the prior written approval of the Architectural Control Committee.

All of the exterior wall surfaces of each dwelling or other structure within the subdivision shall consist of brick, rock, stucco, cement plank siding (Hardie Board) or a combination of such materials. All roofs in the subdivision shall be of architectural grade asphalt shingles or better. All roofs shall have a pitch of 6-12 or greater (rise over run shall be 6-12 or greater). Other materials may be used with the prior written approval of the Architectural Control Committee.

3. **STORM WATER MATTERS.** The construction of each dwelling, other structure, landscaping, or other improvement shall be in full compliance with all now or hereafter effective federal, state, and local laws, rules, and regulations (collectively, "storm water laws") relating to storm water pollution. Lot owners shall be fully and finally responsible for: (i) becoming apprised of the terms, conditions, and requirements of all storm water laws, (ii) causing their contractors, subcontractors, material suppliers, and other appropriate persons and entities (collectively, "construction parties" or, individually, a "construction party") to become apprised of the terms, conditions, and requirements of all storm water laws, and (iii) strictly complying with, and causing their construction parties to strictly comply with, all storm water laws which are from time to time in effect. Although the terms, conditions, and requirements relating to storm water laws will almost certainly be changed, modified, or replaced, in whole or part, from time to time, it is expected that terms, conditions, and requirements relating to such storm water laws may include, but would not necessarily include or be limited to, the following:

- A. Provisions stipulating that such storm water laws apply to, and must be complied with by, all lot owners, construction parties, and all other persons and entities which are from time to time involved, in any way, with construction upon any lot or associated area.
- B. In order to assure that they are in full compliance with all now or hereafter effective storm water laws, lot owners and all construction parties are directed to contact appropriate federal, state, and local agencies and authorities including, but in no event limited to, the Utah Department Of Environmental Quality, Division of Water Quality or any successor agency or authority (collectively, the "DEQ").
- C. Each lot owner and each construction party shall be required to obtain, prior to the commencement of construction, such permits (collectively, "storm water permits") as are from time to time required by applicable storm water laws. In order to ascertain the requirements for storm water permits, the lot owners and the construction parties should contact the DEQ and other applicable agencies or authorities.
- D. The DEQ and other applicable federal, state, and local agencies and authorities are expected to possess and retain the right to impose significant fines and penalties (collectively "storm water fines") in connection with violations of storm water laws. Except in the event of storm water fines resulting from the negligent actions of the Developer, each applicable lot owner shall be responsible for promptly paying all storm water fines which in any way relate to such owner's lot - regardless of whether such storm water fines arise as a consequence of the actions of the lot owner, any of the construction parties, or third parties - and shall indemnify, defend, and hold harmless the Developer in connection with all matters relating to the violation of storm water laws and the payment of storm water fines.
- E. Current and future storm water laws are expected to prohibit all conditions that do or could result in storm water carrying silt or other materials away from a lot. Examples of such conditions might include, but would not necessarily include or be limited to, dirt or other material located on or near

streets that is not properly contained, the failure to install silt fences, and the non-usage of wattles surrounding drains and drainage areas. The foregoing are examples only, and do not comprise a complete or exhaustive list of conditions which are or might be in violation of storm water laws. Lot owners and construction parties should refer to specific storm water laws in order to ascertain the full range of violative conditions.

4. **DWELLING QUALITY AND SIZE.** The following minimum finished square foot living area requirements shall apply to each dwelling. Living areas shall be calculated exclusive of garages, one-story open porches, and basements.

One-Story Dwellings (Rambler): The minimum square foot living area of a one-story dwelling shall not be less than 1,500 square feet.

Two-Story Dwellings: The combined living area of any dwelling which consists of two (2) stories above curb level shall not be less than 2,000 square feet.

If four (4) feet or more of foundation is above finished grade, then the level qualifies as a 'story.' For the purposes of this Declaration, the basement area shall not be considered a story. The purpose of this Declaration is to assure that all dwellings shall be of a quality of workmanship and materials substantially the same as or better than that which can be produced at the date that this Declaration is recorded.

5. **FENCES.** Fences should be kept to a minimum to encourage the use of natural habitat and aesthetics. No fence on any lot may be constructed without the prior written approval of the Architectural Control Committee, which approval may be granted or withheld in the sole and absolute discretion of the Architectural Control Committee. Any fence which is ultimately approved by the Architectural Control Committee must also be in conformity with the following requirements:

Material: Fences or walls shall be constructed of wood, brick, wrought iron, plastic, vinyl, or stone. No fence or wall shall be constructed of chain link, wire mesh, slump block (painted or unpainted), or concrete block unless first approved by the Architectural Control Committee in writing. In the sole discretion of the Architectural Control Committee, chain link fencing may be permitted, but shall not necessarily be permitted, under the following two conditions: (a) along the back property lot line of a lot, provided that such back lot line is adjacent to non-residential property. Approval of chain link fencing, if any such approval is granted, must be obtained in writing from the Architectural Control Committee prior to installation. Wire agricultural fencing may be allowed in conservation easement areas.

Height: Fences, walls, and hedges shall not exceed six (6) feet above grade in height.

Location: Unless approved by the Architectural Control Committee in writing, no hedge more than three feet high and no fence or wall shall be erected, placed, altered, or permitted to remain on any lot which is closer to the front street than the front of the residential dwelling on said lot. Where a hedge, fence, or wall is located along the boundary line between two adjoining lots, such hedge, fence, or wall shall not be closer to the front street than the front of whichever of the residential dwelling on the two adjoining lots is nearer to the street.

6. **SETBACK LINES.** Unless a written exception is granted by both the Architectural Control Committee (which exception may be granted or denied in the sole discretion of such Architectural Control Committee) and Farmington City, all setback lines, side yards, and back yards shall be in accordance with Farmington City ordinances.

7. **LOT AREA AND WIDTH.** No dwelling shall be erected or placed upon any lot which has a width of less than seventy (70) feet at the point twenty-five (25) feet behind the front lot line, nor shall any dwelling be erected or placed upon any lot which has an area of less than 9,000 square feet.

8. **HEIGHT RESTRICTIONS.** No dwelling shall exceed thirty-five (35) feet in height, nor shall any dwelling be less than twelve (12) feet in height. No accessory structures (if any, and as and if approved by the Architectural Control Committee) shall exceed fifteen (15) feet in height, nor shall any accessory structures be less than six (6) feet in height.
9. **EASEMENTS.** Easements for drainage, landscaping, maintenance, and/or installation and maintenance of utilities are reserved on front and back lot lines and on some side lot lines as shown on the recorded plat relating to the subdivision (the "plat"). Within these easements no dwelling, other structure, improvement, landscaping, or other material shall be placed or permitted to remain which may damage or interfere with the installation or maintenance of utilities. The easement area of each lot and all improvements located on or in such easement area shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.
10. **DRAINAGE.** No lot shall be graded and no dwelling, other structure, improvement, or other obstacle shall be erected, placed, or permitted to remain thereon in such a way as to interfere with the established drainage pattern over the lot to and from adjoining land, or in the event it becomes necessary to change the established drainage over a lot, adequate provision shall be made for proper drainage. Any fence or wall, if any, approved by the Architectural Control Committee and then erected along the side or rear property line of any lot shall contain "weep holes" or shall be otherwise constructed so as not to prevent the flow of surface water from adjoining land where such flow is in accord with the established drainage. The slope control areas of each lot and all improvements relating to such areas shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.
11. **NUISANCES.** No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance to the other lot owners in the subdivision.
12. **USE OF OTHER STRUCTURES AS RESIDENCE.** No trailer, basement, tent, shack, garage, barn, or any structure of a temporary character shall be used on any lot at any time as a residence either temporarily or permanently.
13. **SIGNS.** No sign of any kind shall be displayed to the public view on any lot, except one sign of not more than five (5) square feet advertising the property for sale or rent, or signs used by a builder to advertise the lot and the dwelling during the construction and sales period.
14. **ANIMALS.** No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any lot except that dogs, cats, or other household pets may be kept provided that (a) they are not kept, bred, or maintained for any commercial purpose, and (b) they do not become an annoyance or nuisance to the neighborhood.
15. **GARBAGE AND REFUSE DISPOSAL.** No lot shall be used or maintained as a dumping ground for trash, rubbish, garbage, or other waste. Trash, rubbish, garbage, and other waste shall not be kept except in sanitary containers. All containers or other equipment for the storage or disposal of such material shall at all times be kept in a clean and sanitary condition.
16. **EXCAVATIONS AND COMPLETING IMPROVEMENTS.** No excavation shall be made on any lot except in connection with the erection, alteration, or repair of a dwelling, other structure, or improvement thereon. When excavation or the erection, alteration, or repair of a dwelling, other structure, or improvement has once begun, the work must be executed diligently and completed within a reasonable time.
17. **ROOFTOP ANTENNAS.** No television, ham radio, citizen band or radio antenna, or other similar electronic receiving or sending device shall be permitted upon the rooftop or side of any dwelling, other structure, improvement, or elsewhere if exposed to the view of any other lot, unless previously approved by the Architectural Control Committee in writing. In no case will any such receiving or sending antenna or other device be allowed to interfere with the peace and quiet enjoyment of any lot owner's premises or home entertainment facilities or equipment.

18. **OFF-SITE IMPROVEMENTS.** Before taking title to or possession of any lot, the purchaser thereof (individually, a "purchaser" or, collectively, "purchasers") shall inspect the then existing off-site improvements. Except for deficiencies or defects specified by a purchaser to the Developer before ownership is taken, no purchaser shall have the right to assert or require that the Developer has further obligations or responsibilities as to the installation of off-site improvements, and purchaser hereby releases the Developer from such further obligations or responsibility.

If the off-site improvements are not complete at the time ownership of a lot is taken by a purchaser, the Developer will, upon completion of the uncompleted off-site improvements, give written notice of completion to the purchaser and, unless such purchaser notifies the Developer of any deficiencies within seven (7) days after the date of receipt of such notice, the off-site improvements shall be deemed acceptable to the purchaser, and the Developer will be released from any further obligations or responsibilities as to the installation of the previously incomplete off-site improvements.

19. **CONDITION UPON TRANSFER OF TITLE:** Upon transfer of title from Developer to a purchaser, such purchaser shall assume full responsibility for accepting the applicable lot in its then 'AS IS,' 'WHERE IS,' and 'WITH ALL FAULTS' condition, and to make an inspection of all matters relating to such lot prior to closing including, but not limited to, the following: (1) Sewer; (2) Water; (3) Secondary Water; (4) Gas; (5) Electric; (6) Telephone; (7) Land Drain; (8) Curb and Gutter; (9) Sidewalks; (10) Grading; (11) Others as applicable.

Consistent with the foregoing, after the closing of the purchase and sale of the applicable lot, the purchaser thereof shall be responsible for the maintenance, upkeep, and repair of all site improvement fixtures (collectively, "site improvement fixtures") at any time located upon such purchaser's lot including, but in no event limited to, electrical power, gas, cable, telephone utility connections and lines, water and other meters and covers, valve boxes for secondary water, sidewalks, driveway aprons, curbs and gutters, land drains, and sewer lines. Consequently, subsequent to the closing of the lot, the purchaser thereof shall be solely responsible in the event of the malfunction of, discovery of defects relating to, or damage to, the site improvement fixtures, regardless of whether such matters result from inherent defects, the acts or omissions of third party contractors, subcontractors, vendors, and other third parties, or from any other cause. In no event shall Developer have responsibility for any maintenance, upkeep, repair, or other matters, duties, or responsibilities in any way associated with the site improvement fixtures which arise or become known subsequent to the closing of the purchaser's purchase of a lot.

20. **LANDSCAPING.** Simultaneous with the construction of a dwelling upon a lot, and with such work being completed not later than one (1) year subsequent to the occupancy of such dwelling, the lot owner shall landscape all front and side yards in a manner acceptable to the Architectural Control Committee in its discretion. Trees of the same type shall be planted upon parking strips of the same street in order to give an appearance of uniformity. The Architectural Control Committee shall have authority to specify and limit the type and placement of trees and other foliage to preclude and minimize the creation of obstructions to drainage systems and for other reasonable purposes. All trees, lawns, shrubs, or other plantings shall be properly nurtured and maintained or replaced at the lot owner's expense upon request of the Architectural Control Committee.

21. **ARCHITECTURAL CONTROL COMMITTEE.** The Architectural Control Committee shall consist of three (3) members, with the original members being selected by Lodder Homes Inc. Any communication to the Architectural Control Committee shall be addressed to: Architectural Control Committee of Estates at Mutton Hollow Phase 5, 651 Eagle Ridge Drive, Salt Lake City, UT. 84105 unless and until the address is changed by written notice to the lot owners from Lodder Homes Inc. Upon the failure of Lodder Homes Inc to fill any vacancies in the Architectural Control Committee, the remaining members of such committee may do so by a majority vote of their number. So long as it retains the right to select the members of the Architectural Control Committee, Lodder Homes Inc. may, at its sole discretion, remove members thereof and fill vacancies. Said rights of appointment and removal shall, however, be subject to the right of the then record owners of a majority of the lots, through a written instrument filed with Lodder Homes Inc. to change any member of the Architectural Control Committee, except that the Architectural Control Committee shall have at least one (1) member selected by Lodder Homes Inc so long as Lodder Homes Inc. so desires. A majority of the members of the Architectural Control Committee may designate a representative to act for it. Neither the members of the Architectural Control Committee nor any of their designated representatives shall be entitled to any compensation for services performed in such capacity.

The Architectural Control Committee's approval or disapproval on any matter required hereunder shall be in writing. In the event that the Architectural Control Committee or its designated representative fails to approve or disapprove plans and specifications with respect to any dwelling, structure, landscaping, or other improvement within thirty (30) days after plans and specifications have been submitted to it, or in the event that no suit to enjoin construction has been commenced before the completion of any such dwelling, structure, landscaping, or other improvement, approval shall be deemed to have been granted. As of the date of this Declaration, the Architectural Control Committee shall be composed of Pete Lodder.

22. REPAIR OF BUILDINGS AND IMPROVEMENTS. No dwelling, other structure, or improvement upon any lot shall be permitted to fall into disrepair, and each such dwelling, other structure, or improvement shall at all times be kept in good condition and repair and adequately painted or otherwise finished by the lot owner.

23. TERM OF DECLARATION. The protective covenants, agreements, restrictions, and conditions set forth in this Declaration are to run with the land permanently, except that they may be changed, modified, replaced, or canceled, in whole or in part, by a duly recorded instrument signed by the then owners of record of a majority of the lots.

24. SEVERABILITY. Invalidation of any one of the covenants, agreements, restrictions, terms, or conditions contained herein, whether by judgment, court order, or other cause, shall in no way affect any of the other covenants, agreements, restrictions, terms, or conditions hereof, all of which shall remain in full force and effect.

THIS DECLARATION is made this ^{21ST}~~8th~~ day of August, 2014.


MUTTON HOLLOW ESTATES LLC

by: 
Howard Kent, Manager

STATE OF Utah)
 :§
COUNTY OF Salt Lake)

On the 21ST day of AUGUST, 2014, personally appeared before me, Howard Kent, whose identity is personally known to me and who, being by me duly affirmed did say that he is the Manager of MUTTON HOLLOW ESTATES LLC., and that said document was signed by him in behalf of said LLC by authority, and said LLC executed the same.

My commission expires:


NOTARY PUBLIC

JAN. 20, 2017

Residing at: SANDY, UTAH

