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**DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS OF  
THE BENCHES AT SARATOGA PHASE 10-13  
(Lots 1001-1061, 1101-1131, 1201-1227,1301-1330)**

THIS DECLARATION is made this 15th day of January 2006, by Development Associates Inc. , hereinafter referred to as "Declarants."

WITNESSETH

WHEREAS, Declarants are the owners of certain property (hereinafter the "Lots") Saratoga Springs, Utah County, State of Utah, more particularly described as follows:

All Lots, The Benches at Saratoga Plat 10,11,12,and 13 (Lots1001-1061,1101-1131,1201-1227,1301-1330) according to the official plat thereof filed with the Utah County Recorder in Utah County, Utah.

WHEREAS, Declarants intend that the Lots, and each of them together with the Common Easements as specified herein, shall hereafter be subject to the covenants, conditions, restrictions, reservations, assessments, charges and liens herein set forth.

NOW, THEREFORE, Declarants hereby declares, for the purpose of protecting the value and desirability of the Lots, that all of the Lots shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which shall run with the lots, and be binding on all parties having any right, title or interest in the Lots or any part thereof, their heirs, successors and assigns, and shall insure to the benefit of each Owner thereof.

**ARTICLE 1  
ARCHITECTURAL CONTROL**

SECTION 1. The Architectural Control Committee shall be composed of Matt Meyer, Gentry Jensen and Sean Fleming. Each representative may represent and act in behalf of the committee. In the event of death or resignation of any member of the committee, the remaining members of the committee shall have full authority to select a successor. Neither members of the committee, nor its designated representative shall be entitled to any compensation for the services performed pursuant to this covenant.

SECTION 2. Prior to the construction of a home or any structure on an individual lot, the Owner or Builder must submit a set of formal plans and specifications, and site plan detailing the placement of the home or structure on the lot, to the Committee before the review process can commence. The Committee's approval or disapproval as required in these covenants shall be evidenced by a stamp of approval, or written comments, detailing the reasons for disapproval, on the set of plans. The owner must submit a set of formal plans, specifications, and site plan to the Committee before the review process can

commence.

SECTION 3. The Architectural Control Committee members will be released of duty two years after the first building permit is issued from the city of Saratoga Springs. Each homeowner will have one vote. By majority vote three members will be elected to oversee the committee as committee chairs. All decisions will be based on majority vote, with each homeowner constituting one vote each. In the event of a tie the three committee chairs will be given two votes.

SECTION 4. A Homeowners Association may be instituted if deemed necessary by Developers prior to first building permit being issued by the city.

## ARTICLE II RESIDENTIAL AREA COVENANTS

SECTION 1. An Elementary School or Church shall be allowed in the Subdivision. No other Lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any Lot other than one detached single family dwelling not to exceed two stories in height, and private garages for not less than two vehicles. All construction shall be comprised of new materials, except that used brick *may* be used with prior written approval of the Architectural Control Committee.

SECTION 2 Dwelling Size. Dwelling size requirements are as follows:

(i) A Rambler, One-story home shall be not less than 1600 square feet above grade. 1500 to 1599 square foot rambles may be permitted by the Committee when additional features, as described below, are incorporated into the design and construction.

(ii) A two-story home shall have not less than 1400 square feet on the main floor, and not less than 2000 square feet of finished living area. 1200 to 1399 square foot main floor living area and/or 2200 to 2499 total living area may be permitted by the Committee when additional features, as described below, are incorporated into the design and construction. In the Committee's review of plans for any two-story home, particular attention to the design of the rear of the homes shall be required

Additional Features. In considering an application to construct a Dwelling that is less than the stated minimums, but within the sizes, for which the Committee has the discretion to accept a smaller size, the Committee may require some or any combination of the following additional design elements in granting or denying the application:

- 3 car garage
- Increased Roof Pitch:
- Roof Type: such as 40-year Shingle, slate, tile, or shake
- Wide Over-Hangs (Porch not included)
- Full masonry – brick or rock
- Landscaping
- Overall architectural design
- Fully enclosed Mailbox, matching exterior of Home

Light in Mailbox, with Photo Electric Cell  
 Exterior Yard Light, with Photo Electric Cell

SECTION 2.1 Dwelling Quality All exterior front wall surfaces on the main floor level facing the street shall be not less than forty percent (40%) brick or stone, excluding garage doors, doors and windows. In the event the house is on a corner lot, the wall adjacent to the front facing wall and facing the street to have minimum a three foot rock or brick wainscot to the back corner of the house. The remaining sixty percent (60%) of exterior wall surface facing the street, and all other walls on the dwelling shall be brick, stone or stucco, excluding windows and doors.

SECTION 3. City Ordinances. All improvements on a lot shall be made, constructed and maintained, and all activities on a Lot shall be undertaken in conformity with all laws and ordinances of the City of Saratoga Springs, Utah County, and the State of Utah which may apply, including without limiting the generality of the foregoing, all zoning and land use ordinances.

SECTION 4. Easement. Easements for installations 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 and maintenance 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.

SECTION 5. 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 or nuisance to the neighborhood.

SECTION 6. Temporary Structures. No structures of a temporary character, trailer, basement, tent, shack, garage barn or other outbuilding shall be used on any Lot at any time as a residence, either temporarily or permanently.

SECTION 7. Garbage and Refuse Disposal. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers.

SECTION 8. Lawn and Landscaping Required. Front yard and visible side yard lawns are to be installed with 90 days following occupancy or, in the case of a winter occupancy that prevents the installation of landscaping, by the following April 30th. As soon as practical following completion of the construction of the Dwelling, but in no event later than the summer immediately following completion of construction, or not later than 18 months from the issuance of a building permit, whichever first occurs, each Owner is required to fully landscape his or her Lot. The Committee shall be entitled to require an escrow deposit from the Owner in the event that the landscaping is not installed within 90 days from the time the homeowner occupies his or her Lot, in such amount and under such terms as are determined by the Committee. As of the date of recording of this Declaration, the amount of the escrow deposit shall be equal to One dollar and fifty cents (\$1.50) per square foot of front yard and visible side yard area. The Committee shall be entitled to change such amount from time to time as the Committee may deem appropriate. In the event the Owner does not install the required landscaping within 90 days following occupancy or, in the case of a winter occupancy that prevents the installation of landscaping, by the following April 30th, then the Committee shall be entitled to apply the escrow deposit toward the cost of installing such landscaping as the Committee may in its discretion determine appropriate. Neither the Committee, nor any of its officers or agents shall be liable in any manner in connection with the exercise

of the remedies set forth in this paragraph in the event the Owner fails to install landscaping as provided herein. The Committee shall not be required to use any of the Association's own funds for such purpose. Each Owner shall submit a written cost estimate with their landscape plan. The Owner may plant lawns and gardens, plant shrubbery, trees or other ornamental plantings or replace natural species. Front and visible side yard lawn areas must be provided with sod and not grown from seed or power mulching. Trees, lawns, shrubbery and other plantings provided by each lot owner shall be properly nurtured and maintained at the Owner's sole expense, including replacement of the same upon the request of the Committee.

SECTION 8.1 Placement of Trees and Shrubs. Planting of a minimum of six trees and a minimum of 12 two-gallon shrubs in the front and/or visible side yard within each Lot is required. Conifers shall be a height of at least four feet and deciduous trees shall be at least a one and one-half inch caliper, except on the parking strip, where deciduous trees shall be at least a two and one-half inch caliper. The planting and placement of the trees is to be accomplished in accordance with the landscape plan submitted to and approved by the Committee. The lot Owner is required to plant and maintain at least one tree every thirty feet in the parking strip between the back of the curb and the sidewalk in front of his or her Lot. The type and size is to be determined by the Committee. Only sod and trees will be permitted in the parking strip.

SECTION 8.2 Mail Box. An enclosure containing a mail box shall be provided and installed by the home owner at the time of occupancy to match Dwelling masonry exterior material. Individual lot owners will be responsible for replacing any damaged or missing parts of the enclosure. Said restored enclosures shall be reconstructed to duplicate the original design and construction.

SECTION 9 Boats, Campers and Other Vehicles. Trailers, mobile homes, trucks larger than standard pickups, boats, tractors, campers, garden or maintenance equipment and vehicles other than automobiles, when not in actual use, shall be kept at all times in an enclosed structure or in a paved side yard area next to the garage and at no time shall any of said vehicles or equipment be parked or stored on a public or private right-of-way within the Subdivision. The parking or storage of commercial equipment, including, but not limited to, truck trailers or cabs, construction or excavation equipment, etc., is prohibited. The primary purpose of the garage required on each Lot is for the parking and storage of automobiles and other vehicles (hereafter "Automobiles"). No other use of a garage or conversion of a garage, which prohibits or limits the use of a garage for the parking or storage of the number of automobiles for which it is designed, shall be permitted. Parking on the lawn or unpaved portion of the Lot or in a public right-of-way within the Subdivision, other than for temporary purposes (as determined by the ACC), is prohibited. No inoperative vehicle shall be parked or stored at any time on a Lot unless wholly within an enclosed structure.

SECTION 10 Fences. It is the intent of the Grantor to create an open, spacious and landscaped appearance throughout the Subdivision. Therefore, all fences, walls, hedges, high plantings, obstructions and other visual or privacy barriers (hereafter collectively "fences") shall be constructed and installed in compliance with the applicable ordinances of the County, and in conformance with fencing standards and specifications to be promulgated by the ACC. In the event there is a conflict between the requirements of the County ordinances and the ACC standards and specifications, the more strict requirement shall

control. OWNERS SHOULD NOT ORDER FENCE MATERIALS THAT ARE NOT IN COMPLIANCE WITH SUCH ORDINANCES, STANDARDS AND SPECIFICATIONS. All fences constructed on Lots within the Subdivision shall be subject to the following additional conditions and restrictions:

- (a) Fences greater than 36" in height shall not project beyond the front yard setback or the principal Building (whichever distance is greater) on the Lot upon approval of the ACC. No fence higher than six feet (6') shall be allowed.
- (b) Heavy foliage and fences are not allowed to interfere with the vision triangle of traffic.
- (c) All fences shall be constructed and installed and maintained in good appearance and condition at the expense of the Owner of the Lot on which they are located and all damaged fencing shall be repaired or replaced to original design, materials, and color within a reasonable time after said damage occurs.
- (d) No fence shall interfere with the use and enjoyment of any easement reserved in this Declaration or shown on the recorded Plat(s) of the Property.
- (e) Fences installed by the Grantor, County or other public agency, or the Association on or along property owned by the County or Association shall not be altered or modified by any Owner or Occupant in any manner other than for routine maintenance (including painting, repair and replacement). Owners and Occupants shall not install parallel fences to those installed by Grantor, the Association or the County.
- (f) Except as provided herein, chain link fencing is not a permitted fence type. Exceptions may be granted by the ACC on a case-by-case basis where (1) such fence would be limited to small area (such as a dog run) and (2) where the chain link fence is not used as a perimeter fencing method and would not be open to public view. In all events, uses of chain link fencing must receive prior approval by the ACC in writing with respect to location, color and other compliance with the ACC fencing standards and specifications. Notwithstanding the foregoing, the Grantor shall be authorized to utilize chain link fencing, in the sole discretion of the Grantor, as necessary for the Development, and on property used for Public Schools.
- (g) No wood fences shall be allowed. No white fencing shall be allowed. All fencing must be of a earth tone color with the exception of a black rod iron, if not under these standards color must be approved by the Committee. Vinyl Fences shall only be allowed in earth tone colors, no white vinyl fencing shall be allowed.

Pre-cast concrete shall be allowed only if painted/stained in earth tone colors. Brick and stone fencing shall be allowed. Rod-iron and like fences shall be allowed. If fencing is a different material than listed above, it must be approved by the Committee.

### ARTICLE III GENERAL PROVISIONS

**SECTION 1. Enforcement.** Any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by any Owner to enforce any covenants or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

**SECTION 2. Severability.** Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provision, which shall remain in full force and effect.

**SECTION 3. Amendment.** The covenants and restrictions of this Declaration shall run with and bind the land, for a term of forty (40) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended or terminated by a vote of at least seventy-five percent (75%) of the total votes of all Home Owners, (one vote per homeowner), which vote shall be taken at a duly called meeting. Any amendment approved shall be reduced to writing, signed, and recorded against the Lots.

**SECTION 4. Attorney's fees:** In the event of any arbitration proceeding or lawsuit between owners, builder or declarant arising out of the Work or the Contract Documents, the non-prevailing party in any such proceedings or action shall pay all of the prevailing party's reasonable attorney's fees and costs incurred with respect thereto, the amount to be fixed by the arbitrator or a court without a jury, respectively.

IN WITNESS WHEREOF, the undersigned, being the Declarants herein, has hereunto set its hand this 12<sup>th</sup> day of APRIL, 2006.

DECLARANTS

Wentworth Development, LLC

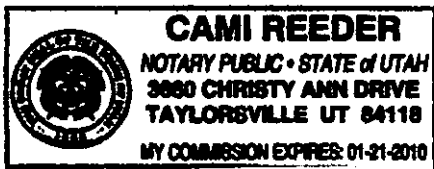
By: [Signature]  
Its: MANAGER

STATE OF UTAH )

:ss.

COUNTY OF ~~UTAH~~ Salt Lake

On the 12<sup>th</sup> day of April, 2006  
personally appeared before me Sean M. Fleming and \_\_\_\_\_  
who being by me duly sworn did say that they signed the foregoing instrument by proper  
authority, and they duly acknowledged to me said identity.



Cami Reeder  
Notary Public  
Residing at Taylorsville, UT  
My commission expires 1/21/2010