

When recorded, mail to:
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CALLISTER NEBEKER & McCULLOUGH
Gateway Tower East Suite 900
10 East South Temple
Salt Lake City, Utah 84133

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RUSSELL SHIRTS & WASHINGTON CO RECORDER
2001 SEP 19 12:47 PM FEE \$27.00 BY KD
FOR: FIRST AMERICAN TITLE CO

AGREEMENT REGARDING LAND USE AND RESTRICTIONS

THIS AGREEMENT is made and entered into this 8 day of June, 2001, by, between, and among **SNOW CANYON DEVELOPMENT, INC.**, a Utah corporation (hereinafter "Development"), and **SNOW CANYON INVESTMENTS, L.C.**, a Utah limited liability company (hereinafter "Investment").

RECITALS

- A. **WHEREAS**, Investment is the owner of real property located in the City of Ivins, as more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference (hereinafter referred to as the "Investment Property"), said property also being located adjacent to real property owned by Development which Development acquired from Investment, as more particularly described on Exhibit "B" attached hereto and incorporated herein by this reference (hereinafter the "Development Property"); and
- B. **WHEREAS**, Investment and Development have heretofore coordinated their development activities regarding the Investment Property and the Development Property and have been motivated to do so by virtue of business and ownership relationships between the members of Investment and the shareholders of Development; and
- C. **WHEREAS**, the members of Investment and the shareholders of Development now propose to effect a separation of their business relationships, and in connection with such separation, propose that the Investment Property be made subject to restrictions regarding the future development of such property including, without limitation, restrictions on exterior materials to be used on structures erected on the Investment Property, and a prohibition against structures on that portion of the Investment Property more particularly described on Exhibit "C" attached hereto and incorporated herein by this reference (the "No Build Property"); and
- D. **WHEREAS**, to facilitate the separation as aforesaid and in consideration for the completion thereof, Investment is willing to give certain assurances with regard to

the development of the Investment Property, with the intent that such covenants and assurances will benefit the Development Property and shall run with the land.

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained, the receipt and sufficiency of which are hereby acknowledged by each of the parties hereto, the parties agree as follows:

AGREEMENT

1. Development of Investment Property.

- a. Investment agrees that buildings and structures erected on the Investment Property will not use exterior materials, including paint, having a Light Reflective Value (LRV) that is greater than 38%, and that all buildings and structures erected on the Investment Property must be painted earth tones consistent with the building site and its visual surroundings. Exterior building colors for structures erected on the Investment Property shall be harmonious with the mountainous surroundings while colors of the hardscape shall be complimentary to the natural desert ground. The primary color of each home must be different than any adjoining homes.
- b. There will be no structures built or placed on the No Build Property.

2. Nature and Effect of Covenants. Each and all of the covenants, restrictions and provisions contained in this Agreement:

- a. are made for the benefit of the owners of the entirety of the Development Property, and each part thereof, and their respective heirs, successors and permittees;
- b. create equitable servitudes upon the Investment Property in favor of the Development Property;
- b. constitute covenants running with the land and are a burden on the Investment Property for the benefit of the Development Property; and
- c. shall bind every person or entity having any fee, leasehold, or other interest in any portion of the Investment Property at any time or from time to time to the extent that such portion is affected or bound by the easement, covenant, restriction or provision in question, or to the extent that such easement, covenant, restriction or provision is to be performed on such portion.

3. Counterparts.

The parties may execute this Agreement in two or more counterparts, which shall, in the aggregate, be signed by all of the parties.

4. Governing Law.

This Agreement is executed and intended to be performed in the State of Utah, and the laws of that state shall govern its interpretation and effect.

5. Successors.

This Agreement shall be binding on and inure to the benefit of the respective successors, assigns, and personal representatives of the parties hereto except to the extent of any contrary provision specifically contained in this Agreement.

6. Severability.

If any term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the rest of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

7. Attorneys' fees.

In the event that any suit or other legal proceeding, including arbitration, is brought for the purposes of enforcing this Agreement, or otherwise in connection with this Agreement, in addition to whatever other remedies the prevailing party in such suit or other legal proceeding might be entitled, such prevailing party shall be entitled to reasonable attorneys' fees as determined by the tribunal having jurisdiction of the matter.

8. Entire Agreement.

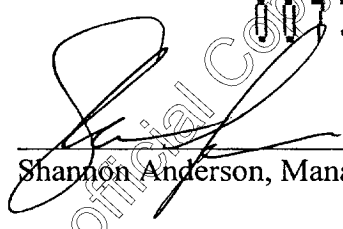
This instrument contains the entire agreement of the parties relating to the rights granted and obligations assumed in this instrument, and it supersedes all prior oral and written representations and agreements, all of which, if any, are deemed merged herein.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

SNOW CANYON INVESTMENTS, L.C., a Utah limited liability company

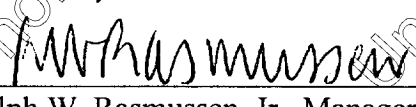
By: *Dorinda D. Gubler*
Its: Manager

By:



Shannon Anderson, Manager

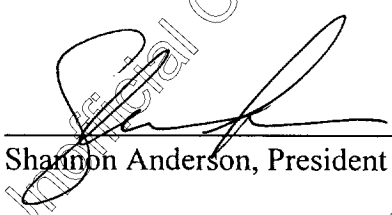
By:



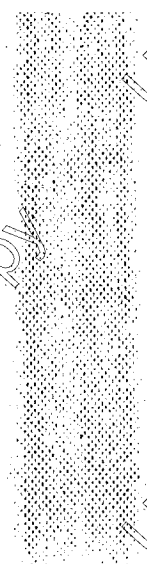
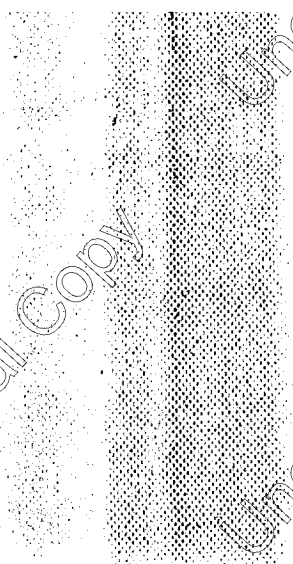
Ralph W. Rasmussen, Jr., Manager

SNOW CANYON DEVELOPMENT, INC., a
Utah corporation

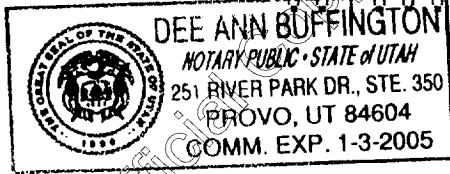
By:



Shannon Anderson, President



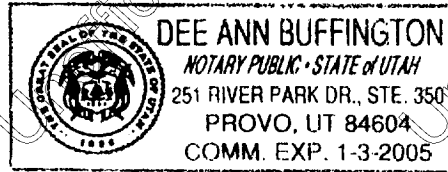
STATE OF UTAH)
) ss.
COUNTY OF Utah)



Subscribed, sworn to and acknowledged before me by Shandon D. Gubler, Manager of Snow Canyon Investments, L.C., a Utah limited liability company, whose identity is known to me or proven to me on the basis of satisfactory evidence, this 6 day of June, 2001.

Dee Ann Buffington
NOTARY PUBLIC

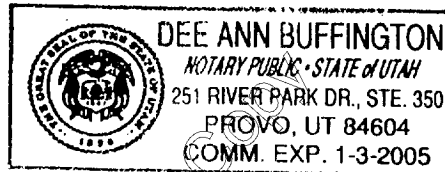
STATE OF UTAH)
) ss.
COUNTY OF Utah)



Subscribed, sworn to and acknowledged before me by Shannon Anderson, Manager of Snow Canyon Investments, L.C., a Utah limited liability company, whose identity is known to me or proven to me on the basis of satisfactory evidence, this 7 day of June, 2001.

Dee Ann Buffington
NOTARY PUBLIC

STATE OF UTAH)
) ss.
COUNTY OF Utah)



Subscribed, sworn to and acknowledged before me by Ralph W. Rasmussen, Jr., Manager of Snow Canyon Investments, L.C., a Utah limited liability company, whose identity is known to me or proven to me on the basis of satisfactory evidence, this 7 day of June, 2001.

Dee Ann Buffington
NOTARY PUBLIC





STATE OF UTAH)

COUNTY OF Utah)

) ss.

Subscribed, sworn to and acknowledged before me by Shannon Anderson, President of Snow Canyon Development, Inc., a Utah corporation, whose identity is known to me or proven to me on the basis of satisfactory evidence, this 7 day of June, 2001.

Dee Ann Buffington
NOTARY PUBLIC

317358.3

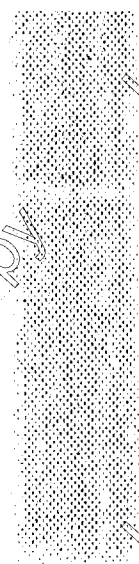


EXHIBIT "A"
INVESTMENT PROPERTY

That certain real property located in Washington County, State of Utah and more particularly described as follows:

Beginning at the West Quarter Corner of Section 3, Township 42 South, Range 16 West, Salt Lake Base and Meridian; and running thence South $01^{\circ}16'55''$ West along the west line of said Section 3, 1329.48 feet to a point on a 1/16 section line of Section 4, Township 42 South, Range 16 West; thence North $88^{\circ}23'19''$ West, along said 1/16 section line, 1371.74 feet to a point on a 1/16 section line; thence along said 1/16 section line the following two (2) calls: North $01^{\circ}30'33''$ East, 1329.49 feet; thence North $01^{\circ}29'15''$ East, 1333.16 feet to a point on a 1/16 section line; thence South $88^{\circ}32'26''$ East along said 1/16 section line, 1360.69 feet to a point on the aforementioned west section line of said Section 3; thence North $01^{\circ}14'24''$ East along said section line 1336.82 feet to the Northwest corner of said Section 3; thence South $88^{\circ}42'57''$ East along the North line of said Section 3, 1785.32 feet to a point on The Cliffs of Snow Canyon property line; thence along said property line the following four (4) calls: South $42^{\circ}37'03''$ West, 966.83 feet; thence South $14^{\circ}22'26''$ West, 997.63 feet; thence South $38^{\circ}26'44''$ West, 775.82 feet; thence South $03^{\circ}51'29''$ West, 354.97 feet to a point the quarter section line of said Section 3; thence North $89^{\circ}07'14''$ West, along said quarter section line, 434.22 feet to the point of beginning.

Contains 144.38 acres.

317358.3

EXHIBIT "B"
DEVELOPMENT PROPERTY

That certain real property located in Washington County, State of Utah and more particularly described as follows:

Beginning at a point on the Northeast right-of-way of the Snow Canyon Parkway Road; said point being North $89^{\circ}34'24''$ East, along the quarter section line 567.83 feet from the West Quarter corner of Section 3, Township 42 South, Range 16 West, Salt Lake Base and Meridian; and running thence along said right-of-way line the following two (2) calls: thence North $64^{\circ}24'15''$ West, 44.47 feet to a point on a 510 foot radius curve to the right; thence 105.97 feet along said curve through a central angle of $11^{\circ}54'18''$ (chord bears North $58^{\circ}27'07''$ West, 105.78 feet); thence North $02^{\circ}33'06''$ East, 279.34 feet; thence North $37^{\circ}08'21''$ East, 775.82 feet; thence North $13^{\circ}04'03''$ East, 997.63 feet; thence North $41^{\circ}18'40''$ East, 966.83 feet to a point on the Section line running thence along said section line the following three (3) calls: thence North $89^{\circ}58'40''$ East, 760.98 feet; thence North $89^{\circ}26'16''$ East, 29.70 feet; thence North $89^{\circ}56'33''$ East, 121.17 feet to the North Quarter corner of Section 3; thence South $00^{\circ}02'40''$ East along said quarter section line 2689.75 feet; thence South $89^{\circ}34'24''$ West, 709.14'; thence North $40^{\circ}19'57''$ West, 85.00 feet; thence South $89^{\circ}34'24''$ West, 802.21'; thence South $40^{\circ}19'57''$ West, 185.19 feet; thence South $82^{\circ}43'21''$ West, 71.44 feet; thence South $38^{\circ}02'20''$ West, 78.11 feet to a point of non-tangency with a 840 foot radius curve to the left; said point also being on the Northeast right-of-way line of said Snow Canyon Parkway Road; thence 184.31 feet along said right-of-way line and along said curve through a central angle of $12^{\circ}34'17''$ (chord bears North $58^{\circ}07'07''$ West, 183.94 feet; thence North $64^{\circ}24'15''$ West along said right of way line, 185.15 feet to the point of beginning).

Contains 105.09 acres.



- Civil Engineering
- Surveying • GPS
- Land Planning • GIS
- Landscape Architecture
- Environmental and Natural Resources Management
- Construction Administration
- Program Management
- ADA Consulting
- Measurement Technologies

No-Build Easement

Beginning at a point on the north right-of-way of Snow Canyon Parkway, said point being South 89°07'14" East, along the quarter section line, 438.15 feet and North 00°52'46" East, 75.52 feet from the West Quarter corner of Section 3, Township 42 South, Range 16 West, Salt Lake Base & Meridian; and running thence along said right-of-way the following two (2) calls: thence along a 510.00 foot radius curve to the right; thence 6.08 feet along said curve through a central angle of 00°40'58" (chord bears North 50°51'06" West, 6.08 feet); thence North 50°30'37" West, 72.20 feet; thence North 10°21'43" East, 253.63 feet; thence North 34°32'53" East, 185.43 feet; thence North 37°43'37" East, 193.10 feet; thence North 35°40'35" East, 345.35 feet; thence North 12°40'39" East, 199.78 feet; thence North 23°13'51" West, 162.37 feet; thence North 47°01'33" East, 215.26 feet; thence North 07°20'30" East, 388.64 feet; thence North 22°49'16" East, 140.08 feet; thence North 48°03'36" East, 244.75 feet; thence North 39°24'44" East, 212.44 feet; thence North 27°42'48" East, 189.29 feet; thence North 48°46'10" East, 275.24 feet to a point on the section line; thence South 88°42'57" East, along said section line, 140.35 feet to a point The Cliffs of Snow Canyon Subdivision property line; thence along said property line the following four (4) calls; South 42°37'03" West, 966.83 feet; thence South 14°22'26" West, 997.63 feet; thence South 38°26'44" West, 775.82 feet; thence South 03°51'29" West, 279.34 feet to the point of beginning.

Contains: 6.06 Acres

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76 East 6790 South • Midvale, Utah 84047 • Telephone (801) 562-2521 • Fax (801) 562-2551