

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR THE
HERITAGE SOUTHWEST ESTATES SUBDIVISION

THIS **DECLARATION**, made this _____ day of January, 2006, by HERITAGE SOUTHWEST ESTATES, LLC, as the owner of record of all of the subdivided lots and other real property (the "Lots") in the HERITAGE SOUTHWEST ESTATES SUBDIVISION ("Subdivision"), hereafter referred to as the "Declarant":

RECITALS:

A. Declarant is the record owner of certain property located in Cache County, State of Utah, which is more particularly described as follows: See Exhibit A attached hereto.

B. Declarant has deemed it desirable, for the efficient preservation of the values and amenities in the real property described above (the "Property"), to create a nonprofit corporation under the Utah Revised Nonprofit Corporation Act to which should be delegated and assigned the powers of administering and enforcing the covenants and restrictions contained in this document and collecting and disbursing the assessments and charges hereinafter created, and to do and perform all other duties and exercise all other powers delegated to it herein, in its Bylaws, Articles of Incorporation or in any other way legally delegated to the corporation, which said corporation is sometimes hereafter referred to as the Heritage Southwest Estates Homeowners Association, Inc. or the "Association."

C. Declarant has caused or shall cause such Association to be created, the members of which shall be the respective owners of the various lots, and a proportional share of any portion of the real property in the subdivision held in common. Each Owner of a lot shall be a member of the Association as provided in the Articles of Incorporation, Bylaws or otherwise, and each of the lots shall have one (1) vote in the Association. The common obligations of the Association shall be distributed in like percentages.

D. Declarant will develop and convey all of the lots, as herein defined, pursuant to a general plan for the Property and subject to certain protective covenants, conditions, restrictions, reservations, easements, equitable servitudes, liens and charges, all running with the Property and the lots as hereinafter set forth.

E. Declarant hereby declares that all of the Property and the lots shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied and improved, subject to the following easements, restrictions, covenants, conditions and equitable servitudes, all of which are for the purpose of uniformly enhancing and protecting the value, attractiveness and desirability of the Property and lots, in furtherance of a general plan for the protection, maintenance, subdivision, improvement and sale of the Property, or any portion thereof. The covenants, conditions, restrictions, reservations, easements and equitable servitudes set forth

herein shall run with the Property and each Lot thereon and shall be binding upon all persons having any right, title or interest in the Property and shall inure to the benefit of every portion of the Property and any interest therein; and shall inure to the benefit of and be binding upon Declarant, its successors in interest and each Owner and his respective successors in interest; and may be enforced by an Owner and his successors in interest and/or by the Association, and/or by Wellsville City, if applicable.

F. Notwithstanding the foregoing, no provision of this Declaration shall be construed as to prevent or limit HERITAGE SOUTHWEST ESTATES, LLC's rights to complete development of the Property and construction of improvements therein, nor HERITAGE SOUTHWEST ESTATES, LLC's right to maintain model homes, construction, sales or leasing offices or similar facilities on any portion of the Property owned by HERITAGE SOUTHWEST ESTATES, LLC, nor HERITAGE SOUTHWEST ESTATES, LLC's right to post signs incidental to construction, sales or leasing and so long as said signs conform to the Wellsville City sign ordinance.

ARTICLE I GENERAL TERMS

A. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot situated upon the Property but, notwithstanding any applicable theory of mortgage or trust deed, shall not mean or refer to the mortgagee or other lender unless and until such mortgagee or lender has acquired title pursuant to foreclosure or Trustee's sale, or any proceeding in lieu of foreclosure.

B. "Mutual and Reciprocal Benefits," etc. All of these restrictions, conditions, covenants, and agreements are made for the direct and mutual and reciprocal benefit of each and every Lot contained within the Property.

C. Initial Review. Prior to applying for a building permit for a Lot within the subdivision, the grantee(s) or owner(s) of the Lot involved, their heirs, successors, and assigns, are required to meet with the Association Board of Directors, or sub-committee, such as the Architectural Control Committee, as may be created by the Association, in order to review all of said restrictions, conditions, covenants, and agreements established for the HERITAGE SOUTHWEST ESTATES SUBDIVISION.

D. "Notices." Any notice required to be sent to any Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who is an Owner at the time of such mailing.

E. "Enforcement." Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation and/or to recover damages; and failure by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a

wavier of the right to do so thereafter. Enforcement shall be by an Owner or his successors in interest and/or by the Association and/or by Wellsville City, if applicable. Wellsville City shall have no responsibility for, nor shall the City incur any liability, with respect to or in connection with the enforcement of these Covenants, Conditions & Restrictions, or the failure to enforce them, unless the City has specifically agreed to undertake such responsibility and be liable therefore, in writing. The agreement by the City to take such action for one breach or violation shall not constitute an on-going obligation, but shall be effective for the one-time agreement by the City to do so, only.

F. “Architectural Control Committee.” This committee shall be selected by the Association and shall consist of not more than three individuals who shall approve or disapprove the plans submitted to the Association consistent with this Declaration.

ARTICLE II GENERAL RESTRICTIONS

A. Signs. No signs shall be displayed on any of the Lots except for one “For Sale” or “For Lease” sign not exceeding twenty-four (24) inches by thirty-six (36) inches when required for the purpose of advertising such sale or lease. All signs must comply with the Wellsville City Sign Ordinance.

B. Private Residences. The Lots contained within the Property shall be used for private residences only, and no structure shall be moved from any place on said premises without prior written approval of the Association. No offensive, noisy or illegal trade, calling, or transaction shall be done, suffered, or permitted upon the land conveyed. No part of said premises shall be used or occupied injuriously to affect the use, occupation, or value of the adjoining or adjacent premises for residential purposes, or the neighborhood wherein said premises are situated.

C. Excavation. No excavation for stone, gravel, or earth shall be made on the Property unless such excavation is made for the purpose of the erection of a building or structure thereon.

D. Rubbish. No rubbish, debris, or waste products shall be stored or allowed to accumulate on the lots except such as is kept in the municipal waste containers and emptied according to the municipal garbage collection schedule. Compost piles are acceptable given that they are maintained at a moisture content that will not create a fire hazard, or an offensive odor. The composted material may consist of vegetation generated from the Lot, and vegetable kitchen wastes that are generated by the owner. No meat or animal by-products may be composted.

E. Repair and Storage of Personal Property. Personal property of the Owner in the process of being repaired shall not be left in the visible site of neighbors unless such repairs occur within the confines of the Owners’ garage. Recreational vehicles of the Owner, which include but are not limited to boats, snowmobiles, motor homes, and campers, shall be parked

behind or along side the dwelling in a manner that no portion of the said equipment shall extend beyond the front exposure of the residence or said equipment may be stored in a covered garage or carport. There will be no tent type patios or garage extensions. No curbside parking or storage of recreational or sports vehicles, including campers and trailers shall be allowed.

F. Easements and Rights of Way. Such easements and rights of way shall be reserved to the Declarant, and Wellsville City, their successors and assigns, in and over said Property, for the erection, construction, maintenance, and operation therein, of drainage and all other utility pipes, of conduits, poles, wires, and other means of providing to and from Lots contained within the Properties, gas, electricity, power, water, telephone, and telegraph services, cable television, sewage and other necessities for the convenience of the Owners of the Lots contained within the Properties, as may be shown on the Final Plat Map of the Property, and Declarant, its successors and assigns, shall have the right to reserve any further necessary easements for said purposes in contracts and deeds to any or all of the said lots contained within the Properties. No structure of any kind shall be erected over any such easements except upon written permission of the Declarant, its successors and assigns, Wellsville City, the Heritage Southwest Estates Homeowners Association, Inc., and except as may be required by the company or entity furnishing utilities.

G. Resubdivision of Site. None of said Lots may be resubdivided except that Lot Owners, their successors or assigns, may convey away any part of said lots so as to increase the size of adjoining lots; but in no event shall the number of lots within the subdivision be increased, nor applicable zoning or other laws be violated.

H. Maintenance of Lots. Buildings, outbuildings, fences, landscaping and other improvements shall be continuously maintained to preserve a well kept appearance. If the appearance of a Lot falls below reasonable levels, the Association, or its successor, shall notify the Owner of the Lot in writing and the Owner shall have thirty (30) days after receipt of such notice to restore the property to an acceptable level of maintenance. Should the owner fail to do so, the Association, or its successor, may order the necessary work done at the expense of the Owner of the Lot. Lots that are held in ownership but not occupied are subject to the same maintenance conditions.

I. Manufactured or Mobile Homes. No manufactured or mobile homes shall be allowed in this subdivision.

ARTICLE III SPECIFIC RESTRICTIONS

A. Intent of Restrictions on Improvements. Declarant intends by these covenants to restrict the design, materials used, and landscaping of improvements only to the extent of insuring quality in external appearance and maintaining property values on a long-term basis.

B. Type of Structure. No building other than one single family dwelling house and appropriate accessory/outbuildings buildings as defined by the Wellsville Zoning Laws shall be erected on any of the Lots, nor shall any house constructed on any of the Lots be used for any purpose other than a dwelling house or approved outbuildings, provided that uses permitted by the Wellsville City Zoning Ordinance maybe allowed, such as “home occupations.”

C. Architectural Controls. No house or outbuilding shall be erected, placed, or altered on any lot until the construction plans and specifications and a plan showing the location of the structures and it’s architectural style, and design in detail, as well as color, have been approved by the Architectural Control Committee as to quality of materials, workmanship, overall architectural design, harmony of external design and appearance with existing structures and the natural landscape, and as to location with respect to topography and finish grade elevations.

D. Materials. A minimum of different types of exterior wall materials should be used. There should be strong transitions between changes of material and plane. All materials, with the exception of windows, should be non-reflective in character, or surface shall be treated to eliminate the reflectiveness of the material. Aluminum window frames are to be anodized or acrylic coated to create a non-reflective finish.

E. Colors. The colors of all structures should blend with the other structures on the Lot, with neighboring structures, and with the natural landscape. The use of earth-tone colors are recommended. All projections such as vents, rain gutters and down spouts are to be painted to match the color of the surface from which they project or painted in a color approved by the Architectural Control Committee.

F. Siding. Each residence shall be constructed of concrete masonry, brick veneer, cement plaster, or stucco siding in compliance with the exterior finish requirements of the U.B.C. Vinyl, aluminum, wood, and steel siding may only be used if approved in writing by the Architectural Control Committee. All cooler or air conditioning equipment shall be concealed.

G. Roofs. All roofing shall be asphalt shingles, tile roofs, or split cedar shakes, though the use of split cedar shakes is not encouraged due to potential wildfire concerns at site. The recommended roof covering is a U.L. listed Class A or B material in accordance with Chapter 32 of the Uniform Building Code. In keeping with the traditional style and to respond to climatic conditions of the region the minimum roof pitch shall be 6/12, made of gable or hip construction. Roof overhang shall not be less than twelve (12) inches on all sides.

H. Exterior Lighting. All exterior lights shall relate well to the architectural style of the home. All exterior lights shall employ the use of directional down lighting to minimize the amount of ambient light affecting neighbors, and to minimize the overall visual impact of the subdivision’s nighttime lighting. Exterior lights must be mounted to the residence, garage, or on a free standing pole no greater than 10 feet in height. Large area, overhead lights other than street lights, must be approved by the Association.

I. Residence Size. The ground floor area of the main structure, exclusive of one-story open porches and garages, shall be not less than 1,400 square feet finished or not less than 1,800 square feet finished in the case of a structure without a basement or second level. Any smaller residence shall require advance written approval of Grantor. Lots in this subdivision shall be residential lots, and all buildings erected thereon shall be one-family dwellings. Two car garages are required in addition to the structures as specified in this document. Lots shall not have garages constructed thereon for more than six (6) cars. No dirt or gravel driveways shall be permitted.

J. Road and Planting Strip Maintenance. Driveways and parking areas shall consist of concrete, brick or asphalt construction. No dirt or gravel driveways are permitted. The Lot owner shall be responsible for maintaining the planting strip located between the asphalt road and the owner's front property line and for maintaining the area around the fire hydrants. At least two (2) trees, as approved by the Wellsville City Shade Tree and Beautification Committee, shall be planted by the lot owners in the front park strip and landscaping shall be completed within 18 months of occupancy of the home on the lot.

K. Preservation of Views. The Association shall review the planting and growth of trees on Lots in order to prevent one Lot owner or occupant from planting trees, or allowing trees to grow, so as to significantly and substantially impair the view from the other lots. The lot owner or his occupant shall abide by any written decision or order of the Association to cut back and remove trees or other plants that are found to impair the view from other lots. If the lot owner refuses to comply with the direction of said Association, the Association has power to perform said requests and charge the total to the Owner, plus the labor and time costs of completing said work. If payment is not made by the Owner to the Association to cover such costs, the Owner may lose the right to use secondary irrigation water for such disallowed landscaping and any other reasonable restrictions as imposed by the Association.

L. Fencing. Fencing must not compete with or dominate a house.

M. Site Planning. All structures should be designed to relate to grade conditions with a minimum of grading and exposed foundation wall or retention wall. Any grade changes shall be in keeping with the general appearance of neighboring developed areas and the orientation of individual building sites shall be such as to maintain maximum natural topography and cover. The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal.

N. Drainage and Erosion Control. Construction must not cause excessive soil erosion and runoff. Proper measures must be taken to reduce erosion during construction such as control bars, vegetative mats, and temporary containment basins. Site plans must incorporate on-site management of surface runoff.

O. Weed Control. Noxious weeds that have established as a result of a site disturbance or are present in the "natural area" of the landscape, are required by the landowner

under State, County, and Wellsville City Laws and Ordinances, to be managed under a program of control. Such weed species common to the area include but are not limited to Dyers Woad, Scotch Thistle, Canada Thistle, and Hounds Tongue. It is recommended that each Owner consult with a local government branch for control and eradication measures. Owners of Lots that are not occupied must ensure said conditions are met.

P. Diligence in Construction of Improvements. A Building Permit shall be approved and obtained from the City within two (2) years from the time the lot is purchased from the Developer. Once the construction of any residence or other structures other than fencing is begun, work thereon must proceed diligently and be completed within twelve (12) months and landscape within eighteen (18) months of occupancy. Measures must be taken during and after construction to minimize erosion and runoff which may impact surrounding landowners. On-site catch basins, erosion bars, vegetation mats, or other temporary features should be implemented until the site work is completed.

Q. Temporary Trailers. No temporary dwelling or construction trailers on site during construction will be allowed unless submitted and approved by the Association and Wellsville City, if necessary, by law. In any event, if use of a temporary trailer is approved by the Association, said trailer shall be parked immediately adjacent to the residence being constructed and may be on site for no more than six (6) months.

R. It is intended and required that each lot and other area requiring human waste/sewage disposal services shall be connected to the City's municipal sewer system at the time of original construction on each lot. The need for a sewer pump station has also been established for this subdivision. By owning a lot within this subdivision and/or by purchasing a lot within this subdivision/development, the Developer and/or each such purchaser/lot owner acknowledges and agrees to connect to the City's sewer system, pay the costs for such connection, any other required costs, and a prorated portion of the total cost for operating and maintaining the sewer pump station(s), as established and assessed by the HOA or other assessing agency. A failure to make the required connection and/or pay any other required fees shall be treated as a failure to pay the monthly sewer assessment required by the Ordinances of the City and will result in late notices being given and ultimately a termination of water services, if the required connection and/or payment is not made, all in accordance with the terms and provisions of the City's water and sewer Ordinances and regulations. The subdivision is located in an area of the City that is expected to grow to include additional residential areas, together with commercial developments. It is anticipated that the time will come when a new, larger sewer pump station will be required in order to properly dispose of all the sewage generated by the residential and commercial developments that are eventually constructed adjacent to and around this subdivision, and the original pump station will most likely be abandoned. In such event, the Developer and/or each lot owner, by owning and/or purchasing a lot within this subdivision, acknowledges and agrees to pay the prorated share of the costs necessary to build the new pump station which is assessed; and in addition, the HOA and/or individual lot owners will pay one hundred percent (100%) of the cost incurred for constructing the new main sewage line from the subdivision to the new pump station, and any costs necessary to obtain any necessary easements for said line.

ARTICLE IV
AUTHORITY OF HOMEOWNERS ASSOCIATION

A. The Architectural Control Committee shall have the right to approve or disapprove any building plans and specifications submitted. It shall be in the Committee's sole discretion to determine if a submitted plan is in harmony with the neighborhood and may require changes in plans and specifications as it sees fit to bring such plans into harmony with the neighborhood.

B. The Association or America West Heritage Center, AWHC, hereafter, if it undertakes the following responsibilities and obligations by a contract approved by Wellsville City, shall maintain, repair, and otherwise manage the pump and the pipeline that supplies secondary irrigation water to the HERITAGE SOUTHWEST ESTATES SUBDIVISION. Each Owner shall be responsible to install filters and backflow valves for their lots. The Association, or AWHC, if substituted by approved contract, shall be authorized to collect a required monthly fee or assessment for the payment of the water assessment from the canal company and for maintenance and repair of the pump and pipelines. If this fee is not timely paid by an Owner, the Association, or AWHC, if applicable, shall have the power and authority to cut off the Owner's use of the irrigation water and to utilize the irrigation easement supplied to each Lot for access to turn off and lock the irrigation pipe supplying irrigation water to said Lot until all assessments are paid in full.

C. Water rights on this property shall be owned and annual assessments paid by the Association or AWHC, if applicable, and used for secondary irrigation purposes and to maintain the open spaces, and as otherwise provided. All water appurtenant to and currently used on this property shall stay with the Property and open spaces for irrigation, maintenance and other approved uses and shall not be sold or otherwise transferred for use on other property without giving the City of Wellsville the first option to purchase said shares. Notice of this option shall be given to the appropriate water company and shall be marked on the share certificates and/or in the water company records. Use should be proportionate to the respective open space and other acreage within the subdivision. The Association, or AWHC, if applicable, shall have sole discretion to determine sprinkler design, watering days, and a maximum number of hours per week for use of the secondary water system. In the event there is insufficient flow the Association, or AWHC, if applicable, may notify the Owners that they need to use culinary water for lawns or follow other guidelines as adopted.

D. The Association has full power to do whatever is legally necessary to enforce the terms of this Declaration, and in the event the Association fails or refuses to so enforce such terms, the City of Wellsville may take such enforcement action and be reimbursed all

enforcement costs as herein allowed, whether from the Association or individual Owners. Any Owner who violates any term of this Declaration or subsequent rules and restrictions put in place by the Association, not inconsistent with this Declaration, shall be obligated to pay all enforcement costs incurred by the Association, AWHC, if applicable, an individual lot owner or owners or to the City, including reasonable attorney fees and court costs. If any regulations are in conflict, the most restrictive shall prevail.

E. Open spaces shall be dedicated to and maintained by the Association, AWHC, if applicable, or Wellsville City, expressly subject to prior AWHC or City agreement or approval to accept such dedication and maintenance obligation. Dedication to and maintenance by the City shall be the last option for such purposes, unless otherwise approved by the City Council. These spaces shall not be sold for additional development. They shall be kept as pasture, open space or recreational areas for the use of the homeowners as a whole. Uses, regulations, maintainability, etc. shall be the responsibility of the Association, AWHC or the City, as the case may be. Open space shall be void of weeds and hazardous conditions. The Association, or AWHC, if applicable, shall ensure that all common area is maintained in accordance with this Declaration and applicable city ordinances and codes (see 16.20.040), as they currently exist or might be amended in the future. If the Association, or AWHC, if applicable, fails to maintain the open space, the City may maintain the open space and assess actual cost to the Association, or AWHC, if applicable, and its members, individually, if the Association, or AWHC, if applicable, fails or refuses to perform as required.

F. Homeowners' Association. The undivided lands and associated facilities may/will be held in common ownership by a Homeowners' Association. The Association shall be formed and operated under the following provisions:

1. The Developer shall provide Covenants, Conditions and Restrictions (CC&Rs) of the Association, including its Bylaws and methods for maintaining the undivided lands. The CC&Rs shall be reviewed in content and form by the City. Acceptance of the CC&Rs by the City will be contingent upon meeting the intent and conditions required by this code. The CC&Rs will be approved by the City prior to filing the final plat. The CC&Rs will be recorded at the county recorder's office at the time of the filing of the final plat.

2. The Association shall be organized by the Developer and be operated with financial subsidization by the Developer before the sale of any lots within the Development.

3. Membership in the Association is automatic (mandatory) for all purchasers of homes/lots therein and their successors. The Developer shall have and maintain control of the Association until 85% of the lots within the subdivision are sold, at which point elections of directors and officers shall be performed as stated in the Association's By-laws and other applicable documents.

4. The Association shall be responsible for maintenance of insurance and taxes on common/undivided lands, enforceable by liens placed by the City, in the same manner as allowed by the Association.

5. The members of the Association shall share equitably the costs of maintaining and developing such undivided lands. Fees shall be determined by the Association and assessed and deposited in an escrow account. Shares shall be defined within the Association Bylaws.

6. The Association, or AWHC, if applicable, shall have or hire adequate staff to administer common/undivided facilities and properly and continually maintain the common/undivided lands.

7. The Homeowners' Association may lease or donate common/undivided lands to AWHC or any other qualified person, corporation, LLC, or other entity as allowed by Wellsville City Ordinances and in accordance with their provisions, for operation and maintenance of common/undivided lands, and such lease or donation agreement shall provide:

- (a) that the residents of the Development shall at all times have access to the undivided lands contained therein;
- (b) that the undivided lands to be leased or donated shall be maintained for the purposes set forth in this document and City Ordinance; and
- (c) that the operation of facilities within the undivided lands may be for the benefit of the residents only, or may be open to the residents of the City, at the election of the Developer and/or Homeowners' Association, as the case may be.

The lease or donation agreement shall be subject to the approval of the City Council, and any transfer or assignment of the lease or donation Agreement, shall be further subject to the approval of the City Council. Any attempt to lease or donate said property shall be void, unless approved by Wellsville City. Lease or donation agreements shall be recorded with the County Recorder within thirty (30) days of execution, and a copy of the recorded lease or donation Agreement shall be filed with the City. Notwithstanding anything else to the contrary contained in these Covenants, Conditions & Restrictions, any lease, donation or other transfer or disposition of undivided property/common area property shall require the written approval of the City before such action is effective.

G. Maintenance Standards.

1. The following standard shall be fulfilled and shall be recorded on the face of the Final Plat: "The City of Wellsville shall have the right, but not the duty, to require, and if necessary, perform, at the Association's expense, landscaping, maintenance and snow removal services within the common areas if the Association fails adequately to perform such. In the event the City of Wellsville exercises this right, the City shall be entitled to recover any associated costs and attorney's fees."

2. The owner of the open space shall be responsible for maintenance and the raising of all monies required for operations, maintenance or physical improvements to the open space

through annual dues, special assessments, etc. The maintenance organization shall be authorized, under its bylaws, or pursuant to the procedures outlined in the documents relating to the subdivision and its HOA, to place liens on the property of residents who fall delinquent in payment of such dues, assessments, etc., and to take all enforcement actions necessary to collect any such dues, assessments, etc.

3. In the event that the Homeowners' Association or any approved successor organization shall, at any time after establishment of this development which contains open space, fails to maintain the open space in reasonable order and condition in accordance with the development plan, the City may serve written notice upon the owner of record, setting forth the manner in which the owner of record has failed to maintain the open space in reasonable condition, and directing that the owner remedy such violation within thirty (30) days of the date on said notice. If the owner fails to remedy or cure such default, the City may, but is not obligated to, remedy or cure such default itself and be reimbursed for any costs incurred as herein provided.

4. The irrigation ditch on the West boundary of the subdivision will be piped according to specifications of Wellsville East Field Irrigation and Canal Co. by the Developer.

5. See Attachment 1: Wellsville East Field Irrigation and Canal Co. Addendum #1, Dated July 6th, 2005. The terms and provisions of said attachment will be implemented and enforced by the Homeowners' Association.

6. A Homeowners' Association assessment of \$1,000.00 per lot will be collected at the time of closing when a lot is first sold by the Developer to help offset the costs of the construction of the secondary, pressurized water system. A monthly fee of up to \$50.00 per lot will be collected to help offset costs of maintaining common use open space, and such other fees as determined necessary by the HOA's Board of Directors or other responsible body, shall be set and collected to pay the costs of operating and maintaining the secondary, pressurized water system.

DECLARANT has executed this Declaration on the day and year first above written.

HERITAGE SOUTHWEST
ESTATES, LLC, a Utah limited liability
company

By:

Its:

STATE OF UTAH)
 : ss.
County of Cache)

On the _____ day of January, 2006, personally appeared before me WILLIAM D. BERTOLIO, who being by me duly sworn did say that he is the Managing Member of HERITAGE SOUTHWEST ESTATES, LLC, a Utah limited liability company, and that the within and foregoing instrument was signed in behalf of said company by authority of its Operating Agreement and/or its Articles of Organization, and the said WILLIAM D. BERTOLIO duly acknowledged to me that said company executed the same.

NOTARY PUBLIC

J:\BLJ\WELLSVILLE\southwest heritage estates ccrs.1.wpd

EXHIBIT "A"

BOUNDARY DESCRIPTION

A PART OF THE NORTHEAST QUARTER OF SECTION 35, TOWNSHIP 11 NORTH, RANGE 1 WEST OF THE SALT LAKE MERIDIAN, CITY OF WELLSVILLE, COUNTY OF CACHE, STATE OF UTAH FURTHER DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST QUARTER CORNER OF SECTION 35, TOWNSHIP 11 NORTH, RANGE 1 WEST OF THE SALT LAKE MERIDIAN, THENCE NORTH 55 09'16" EAST 71.97 FEET TO THE POINT OF BEGINNING, SAID POINT BEING IN THE WEST RIGHT-OF-WAY (R/W) LINE OF U.S. HIGHWAY 89/91;

THENCE ALONG THE NORTH SIDE OF AN EXISTING IRRIGATION DITCH THE FOLLOWING FOUR COURSES:

- (1) THENCE NORTH 76 45'44" WEST 134.81 FEET;
- (2) THENCE NORTH 73 58'38" WEST 161.66 FEET;
- (3) THENCE NORTH 68 56'57" WEST 168.00 FEET;
- (4) THENCE NORTH 72 10'26" WEST 31.24 FEET;

THENCE SOUTH 09 39'43" WEST 5.12 FEET TO THE SOUTH SIDE OF SAID DITCH; THENCE ALONG THE SOUTH SIDE OF SAID DITCH THE FOLLOWING FIVE COURSES:

- (1) THENCE NORTH 72 24'08" WEST 28.51 FEET;
- (2) THENCE NORTH 78 08'59" WEST 57.66 FEET;
- (3) THENCE NORTH 87 55'15" WEST 42.20 FEET;
- (4) THENCE SOUTH 81 23'04" WEST 51.27 FEET;
- (5) THENCE NORTH 88 45'27" WEST 157.32 FEET;

THENCE NORTH 01 14'33" EAST 1580.76 FEET; THENCE SOUTH 89 45'48" EAST 740.52 FEET; THENCE NORTH 00 50'32" EAST 65.32 FEET; THENCE NORTH 45 35'22" EAST 216.63 FEET; THENCE SOUTH 01 10'28" WEST 618.42 FEET; THENCE SOUTH 88 54'51" WEST 209.12 FEET; THENCE SOUTH 01 12'52" WEST 644.80 FEET; THENCE SOUTH 87 54'11" EAST 635.64 FEET TO A POINT IN THE WEST R/W LINE OF U.S.

HIGHWAY 89/91; THENCE ALONG SAID R/W LINE SOUTH 38 06'26" WEST 270.00 FEET; THENCE ALONG SAID R/W LINE SOUTH 38 21'39" WEST 573.50 FEET TO THE POINT OF BEGINNING.
CONTAINING 33.74 ACRES MORE OR LESS AND 56 LOTS.

J:\BLJ\WELLSVILLE\southwest heritage estates ccrs.1.wpd
N-111.032