

BENTON FRANKLIN TITL COV 54.00
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Benton County


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WHEN RECORDED RETURN TO:
ROGER GRAY
27 N MORAIN STREET
KENNEWICK WA 99336

BENTON FRANKLIN TITLE CO.

89732

54

DOCUMENT TITLE(S):
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

REFERENCE NUMBER(S) OF DOCUMENTS ASSIGNED OR RELEASED:

GRANTOR:
ROGER GRAY & ASSOCIATES

GRANTEE:
ROGER GRAY & ASSOCIATES

ABBREVIATED LEGAL DESCRIPTION:
UNION WEST NO 2 - PHASE 3-A & 5-A

9-8-29

TAX PARCEL NUMBER(S):
1-0989-400-0001-001 IOP, 1-0989-400-0009-001 IOP

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AFTER RECORDING RETURN TO:

Roger Gray & Associates
27 N Morain Street
Kennewick, WA 99336

Declaration of Covenants, Conditions and Restrictions for Union West No. 2 – Phase 3-A & 5-A

This declaration is executed this 17th day of August, 2007 by the undersigned hereinafter referred to as Declarant. Declarant is the owner in fee simple of that certain real property situated in the City of Kennewick, County of Benton, State of Washington, designated as "Union West No. 2 Phase 3-A & 5-A" a recorded plat, consisting of real property legally described in Exhibit A, attached. Said property is referred to herein as designated property.

Designated property in Union West No. 2, Phase 3-A & 5-A is hereby joined with, and is adjacent to the subdivisions Union West, Whispering Winds, Union West No. 2, Phase 1-A, Union West No. 2, Phase 2-A, Union West No. 2, Phase 1-B & 2-B, Union West No. 2 Phase 3-B, and Union West No. 2, Phase 4-A for the purpose of joint participation in Homeowners Association and its Board of Directors; future Swim Club Association; Irrigation Entity and other specified neighborhood functions per authority of Declaration of Covenants filed March 9, 1981, Auditor's File Number 837450, February 11, 1998, Auditor's File Number 983368, August 9, 2000, Auditors File Number 2000-020241, and Auditor's File Number 2000-020242 and January 10, 2001, Auditor's File number 2001-000808 and 2001-000809 and April 30, 2002, Auditor's File Number 2002-016765 and April 29, 2002 Auditor's File No. 2002-016462. However, covenants, conditions and restrictions contained herein shall apply only in the Union West No. 2, Phase 3-A & 5-A subdivision, and shall take precedence over provisions recorded in adjacent subdivisions.

Each and every covenant, restriction and reservation contained herein shall be considered an independent and separate covenant and agreement and in the event any one or more of such covenants, restrictions or reservations shall for any reason be held to be invalid or unenforceable, all of the remaining covenants, restrictions and reservations shall nevertheless remain in full force and effect.

Violations of these covenants, including the adopted Design Requirements, as may be amended, by any of the parties, their heirs, successors or assigns shall be prosecuted and said violators shall be required to cease violation, pay damages, pay all attorney fees and costs and refrain from any future violation.

Declarant hereby declares that the designated property herein described is now held and in the future shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied, and improved, subject to the following limitations, restrictions, covenants, and conditions, all of which are declared and agreed to be an enhancement for the improvement, sale, ultimate use and resale of said designated property. Hence, the purpose of these covenants shall be construed to enhance and protect value, desirability, and attractiveness of the designated property and every part thereof.

All limitations, easements, restrictions, conditions and covenants shall run with the designated property and shall be binding upon all parties having or in the future acquiring any right, title or interest in the designated property or any part thereof, and shall be for the benefit of each owner of all or any portion of the designated property or any interest therein and shall inure to the benefit of and be binding upon each successor in interest. Unless authorized herein, Declarant shall not have the right to waive any conditions of these covenants. The failure of a property owner to secure Architectural Review Committee approval will be deemed a violation. Any construction activity without such approval may be enjoined without posting a bond, and damages, including attorney fees and costs, may be assessed and recovered for such violation.

Enforcement

All the powers necessary for carrying out the above purposes is hereby granted to the Declarant and the Homeowners Association Board of Directors. Each lot resident, by purchasing property or an interest in property, hereby agrees to be bound by the decisions, rules, and regulations of the Homeowners Association Board of Directors.

In the event of a conflict between this Declaration and the applicable rules and regulations of the City of Kennewick, the County of Benton, the State of Washington, or other governmental entity, the more restrictive requirement shall apply. Failure to discover or lack of enforcement of any of the terms of these restrictions shall not constitute a waiver of future enforceability of any of these covenants or restrictions.

If a homeowner is found to be in violation of any covenant, condition, restriction, design guideline or architectural review committee requirements or procedure, the non complying homeowner will receive a written notice via registered mail from the Declarant or Homeowner's Association, giving the homeowner 10 calendar days to correct or cure the described violation. If the violation has not been cleared during the 10 day grace period, the homeowner will receive a second written notice via registered mail. Beginning the day after receipt of the second notice, a \$50.00 per day penalty assessment per violation, or such amount as determined by the Homeowner's Association Board of Directors, will commence until violation is corrected, Declarant or Homeowner's Association has accepted the correction, and all penalties, clerical and notification costs have been paid.

In the event said violation is not remedied within the 10 day grace period, the homeowner consents to and authorizes the filing of a consensual penalty assessment lien, with accruing \$50.00 per day penalties on the homeowner's property, with full rights of lien enforcement until violation is cured and total amount of penalty, including all legal, recording and notification costs, are paid in full to Declarant or Homeowner's Association.

Each assessment shall constitute a lien on each lot prior and superior to all other liens except (1) taxes and governmental assessments having priority by law, and (2) lien mortgagee and deeds of trust made in good faith and for value prior to the recording of the assessment lien. Liens may be enforced by sale by the Declarant or Homeowner's Association in accordance with the provisions of Washington law applicable to the exercise of powers of sale in deeds of trust or by judicial foreclosure as a mortgage or in a manner permitted by law. Suits to recover assessments or monetary damages, including attorney fees, shall be maintainable without foreclosing or waiving

the lien. Declarant or Homeowner's Association may suspend any privileges of lot owners while any assessment is delinquent.

In addition to any other remedies listed herein or by law provided, the Homeowners Association Board of Directors or any member may enforce the obligations of the owners and members in the following manner.

By filing a suit in law or equity in the Superior Court of the State of Washington in and for Benton County, which Court shall have exclusive venue for all actions under this Declaration. Any judgment rendered in any such action shall include in addition to injunctive relief (without the posting of a bond), damages, together with interest thereon at 12% per annum from date due, costs of collection, Court costs and reasonable attorney's fees in such amount as the Court may adjudge against the delinquent owner. A violation of these covenants damages all owners. Since damages are difficult to assess and because Declarant and all owners who purchase an interest in these properties agree that a liquidated damage clause is reasonable for violation of these covenants, it is therefore agreed that violation of any covenant herein shall bear damages of \$50.00 per day, or such amount as may be determined by the Homeowner's Association Board of Directors, for each of said violations.

Restrictions

- 1) No mobile home, modular home or manufactured nor preassembled home shall be erected, placed or allowed to remain upon any lot.
- 2) No trade, business, manufacturing, retail sales or commercial enterprise of any kind shall be maintained, conducted, or operated upon, in front of, or in connection with any lot or other portion of the designated property without the express written approval of the Declarant.

Permissible business activities could include home based consulting, brokering, designing, engineering, contracting and computing, provided written approval is received from Declarant, and further provided that such business activities require no more than one (1) non-resident employee and the nature of business requires no more than four (4) customers or clients a day to visit premises.

Declarant or Declarant's assigns may conduct promotion, advertising, and selling activities on designated property as long as Declarant owns an unimproved lot.

- 3) No temporary structure shall be allowed on any lot at any time; except a temporary construction facility and/or a portable toilet, during construction, if approved in writing as to its location by the Architectural Review Committee.
- 4) The owner of each lot shall, in conformance with the Design and Landscape Requirements, maintain the landscaping on the lot in a neat and regularly maintained condition, including watering, fertilizing, removal of weeds, trimming and mowing of vegetation.
- 5) Hedges over 3' high shall be at least 20 feet from the property line adjacent to public streets unless approved in writing by the Architectural Review Committee. Hedge height shall be limited to 10 feet.
- 6) No gas, oil, mineral, quarry or gravel mining operations shall be permitted on any part of the premises in the subdivision.



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- 7) No animals, livestock, pigs, goats, or poultry of any kind shall be raised, bred, or kept on any lot, except that dogs, cats, birds, or other household pets may be kept if they are not kept, bred, or maintained for any commercial purpose. No such animals shall be permitted outside of the lot of the owner of said animal unless said animal is under the control of a responsible person by means of a leash or other reasonable restraint.
- 8) No lot shall be used, or allowed to be used, or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall be kept in covered sanitary containers. All incinerators, trash containers or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition in a location so as not to be visible from the street or neighboring property, except as required for collection.
- 9) No devices used for sports or other activities visible from the street(s) shall be allowed to remain in an unmaintained condition or state of disrepair.
- 10) No sign of any kind shall be displayed to the public view on any lot or structure except the following:
- a) Any sign installed by Declarant to identify a neighborhood as a whole, and any replacement thereof;
 - b) Any sign used by Declarant in connection with the promotion, marketing or sale of lots in the designated property;
 - c) Any sign required to be installed or maintained by legal proceedings, ordinance or statute;
 - d) Any window sign for safety or security purposes;
 - e) Not more than one sign larger than four (4) square feet in area, advertising the property for sale or for rent, and/or not more than two (2) signs of a temporary nature.
 - f) Construction or vendor signs less than 4 sq. ft. are permitted only during construction.
 - g) Only listing agency real estate signs.
 - h) Any other sign approved in writing by Declarant.
 - i) Political signs before any primary or general elections.
- 11) No noxious or harmful activity or condition shall be carried on or allowed to exist upon any lot nor shall anything be done thereon which may be or may become an annoyance or nuisance to the designated property. Without limiting any of the foregoing, no exterior horns, whistles, bells or other sound devices, except security devices used exclusively for security purposes, shall be located, used or placed on a residential lot. No owner shall permit anything or any condition to exist upon his lot or structure which shall contain, breed or harbor rodents, infectious plant diseases or noxious insects.
- 12) No recreational vehicle, object, construction vehicle or equipment, commercial vehicle or equipment, or other equipment, truck, bus, boat, inoperable vehicle or similar object shall be stored or parked between the street and the residential structure. Pickups and pickup mounted campers, and vans one-ton or less are exempt from this restriction. Also

exempt are overnight recreational vehicles or visitors parked on owner's lot; providing the visit does not exceed two (2) weeks.

Recreational vehicles, construction vehicles or equipment, commercial vehicles or equipment, trucks and boats may be allowed to be parked on the property provided they are sited and screened from public view by a garage, six foot high sight obscuring fence or a combination of other appropriate screening device approved in writing by the Architectural Review Committee.

- 13) An owner shall be entitled to rent a dwelling unit situated on a lot, to a residential family provided that the owner shall be responsible at all times for the tenant's or lessee's compliance with all of the provisions of this declaration. Each tenant or lessee shall be provided with copies of the Declarations by the owner so renting or leasing.
- 14) No storage of any kind including but not limited to wood, toys, children's riding or climbing apparatus, tires, used material, leaves, grass clippings, dog runs, or other similar materials or objects is allowed between the residential structure and the street. Where allowed, said storage must be screened from public view by garage, fence, storage shed or other appropriate screening device approved in writing by the Architectural Review Committee. All storage sheds or outbuildings must be approved by the Architectural Review Committee.
- 15) No outside clothes drying or airing facilities shall be maintained on any lot unless concealed or screened from public view.
- 16) All playground equipment must be approved by the Architectural Review Committee prior to installation. Batting cages and homemade playground equipment or playhouses are prohibited unless approved by the Architectural Review Committee.
- 17) No exterior newspaper tubes shall be allowed on any lot unless attached to structure or screened from public view.
- 18) All lots are restricted to and shall be used solely as single family residences. Proposed asylums, communes, alternate living arrangements, group homes, half-way houses, social agency homes, nursing homes, mental health homes, hospitals, sanitariums, convalescent homes, adult or child care facilities or daycare/homecare or pre-school, boarding homes, and criminal rehabilitative homes are strictly prohibited.

Architectural Review Committee

Architectural Review Committee has adopted Design and Landscape Requirements for the designated property pertaining to architectural design, placement of buildings, landscaping, driveways and walkways, color schemes, exterior finishes, products and materials and similar features which shall be used for all improvements on the designated property provided, however, such Requirements shall not be in derogation of the minimum standards required by this Declaration. Said Design and Landscape Requirements are available for inspection at Architectural Review Committee's place of business at 27 North Morain Street, Kennewick, WA 99336, or other such address as designated by the Declarant or Homeowner's Association.

Declarant is the Architectural Review Committee (ARC) until such time as the Declarant has no remaining lots within the designated property, or earlier resigns and the Architectural Review Committee is assigned in part, or whole, to the Homeowners Association.

The Architectural Review Committee must approve all proposed site plans and elevations before construction plans are drawn and City permits are sought. No construction may commence until written Architectural Review Committee approval with required conditions is received by the

owner. Exterior colors, materials, landscaping and fencing choices may be submitted at a later date, prior to installation.

The following requirements and restrictions are hereby adopted:

- 1) Prior to application for City permits, written approval from the Architectural Review Committee shall be obtained for the following:
 - a) SITE PLANS WITH EASEMENTS AND PROPOSED SET-BACKS, ALL ELEVATIONS, AND FLOOR PLANS for all structures, outbuildings, driveways, and walkways. Said plans must be signed by Architectural Review Committee showing approval. Failure to follow this procedure shall be deemed a violation and subject to the enforcement provisions contained herein.

Lot owners are responsible for their and their contractor's action during construction for dust control, litter control, material storage and security, and construction debris, including off-site concrete dumping and washing. Failure to comply with the above shall be deemed a violation of this declaration, and subject to penalties contained herein.

- b) LANDSCAPING PLANS AND SPECIFICATIONS including fences, walls and timed underground sprinklers, must be signed and approved by Architectural Review Committee prior to construction.

All improvements on a lot shall be maintained by the lot owner in good condition and repair. Any damage to utilities, property pins, irrigation valves and risers during construction shall be at purchaser's expense. Unless prior arrangements have been made in writing with the Architectural Review Committee, and written permission from the lot owner is obtained, access to the construction site across adjacent properties is strictly prohibited.

- 2) Any dwelling or other structure erected or placed on the designated property shall be completed and have final City building inspection approval as evidenced by a Certificate of Occupancy within twelve (12) months of commencement of construction. Failure to meet this deadline shall be deemed a violation of this declaration. Declarant may extend this deadline.
- 3) Construction must commence within four (4) years after the initial closing date of the lot. Landscaping visible from the street shall be completed within six (6) months after the final building inspection of the dwelling unit.

If construction has not commenced four (4) years after the date of the first sale of each lot by Declarant, the lot may, at Declarant's option, be repurchased by Declarant or Declarant's assigns. The option to repurchase shall be exercised and closed by Declarant within thirty (30) days of written notice. Declarant shall pay the defaulting owner the original price, less seller credits in the original purchase and sale agreement, without interest. The defaulting owner shall pay all closing costs for the lot repurchase, including, but not limited to, excise tax, title insurance and escrow closing costs. Taxes and assessments shall be prorated as of closing. Declarant may at its sole discretion extend the commencement of the construction deadline for additional years upon condition that the repurchase price thereafter shall be decreased by 2% per month after the initial 48 months from the date of first sale, for the term of the granted extension.

Should lot owner fail to timely comply with the resale of said lot, Declarant shall be entitled to specific performance and/or damages, including reasonable attorney fees and costs as a judgment from a court of competent jurisdiction.

4) Minimum sized residential living structures above ground shall be as follows:

	<u>Block 1</u>	<u>Block 2</u> (Lots 1-4)	<u>Block 3</u> (Lots 1 & 2)	<u>Block 4</u>
Single Story	2,600sf	3,000sf	2,800sf	2,200sf
All other styles*	3,200sf	3,600sf	3,200sf	2,800sf

	<u>Block 2</u> (Lots 5 & 6)	<u>Block 3</u> (Lots 3-8)
Single Story	2,200sf	3,000sf
All other styles*	2,800sf	3,600sf

*50% of these minimum square footage requirements must be on the main level; below grade square footage cannot be included. A bonus room over a garage on a rambler is not considered main floor square footage.

Upon a demonstration of unique design circumstances, the Architectural Review Committee may approve a home with 90% or more of the above square footage requirements.

5) The Architectural Review Committee setback requirements exceed present City codes.

Front Yard Setback <i>Front yard to be defined by main entry door which defines the street address.</i>	20 feet or more (increased for lots over 100 feet deep)
Side Yard Setback <i>Exceptions to the side yard setbacks may be allowed with Architectural Review Committee approval.</i>	A total for both sides of 15 feet, with one side at least 5 feet. 20 feet or more from a public street
Backyard	20 feet or more

6) No dwelling, building, exterior finishing, exterior building color, fence, wall, patio, roof, storage facility, pool or other improvement visible from the street(s) shall be altered, modified or changed except after written approval of the Architectural Review Committee.

7) **FENCES:** No fence, wall or other dividing or sight-obscuring barrier shall be erected or maintained on any lot unless first approved by the Architectural Review Committee. Fences shall not exceed six (6) feet in height. Requirements include:

- a) The use of wood, masonry, wrought iron, coated metal, vinyl, composite, and stone material;
- b) In most cases fencing shall project the decorative side toward the view from the street. All exceptions require a prior written approval of the Architectural Review Committee;
- c) Fencing over 36 inches is not allowed within 20 feet of a public street side property line, except on Lots 8, 9 and 10, Block 1; and Lot 6, Block 2. In the event a lot is bordered on three sides by a public street, one fencing setback may be 15' with ARC approval.
- d) A galvanized cyclone fence is allowed only on the swim club property, or as an area fence within a sight-obscuring fence.
- e) In addition to the above restrictions, all fences must be built to City requirements, with required building permits.



- 8) **ACCESSORY BUILDINGS.** Unless otherwise approved by the Architectural Review Committee, accessory buildings shall have conforming architectural design, materials, features and scale relationships similar to the main structure. Metal buildings are allowed only in sight-obscured areas. In all cases, the Architectural Review Committee must approve all accessory buildings and their siting. Setbacks for detached accessory buildings may vary with the size of the building.
- 9) All dwellings shall include, or have constructed on site, enclosed, off-street parking for a least two automobiles.
- 10) No exterior or above ground antennas, lines, wires, discs, TV dishes, or other devices for the communication or transmission of electric current or power, including telephone, television or radio signals shall be constructed, placed or maintained anywhere in or upon any lot or structure without the prior written approval of Architectural Review Committee. However, security system components and cameras are acceptable.
- 11) No solar panels or devices shall be constructed on any structure within public view without the prior written approval of Architectural Review Committee.
- 12) No outdoor high illumination lighting, higher than 15 feet above grade, shall be installed without prior Architectural Review Committee approval.

Homeowners Association

Declarant shall establish a Homeowner's Association at such time as Declarant no longer owns any lots within the designated property, or earlier elects to transfer and assign, in part or in whole all rights and duties of Declarant herein to the Board of Directors and said Homeowners Association. This Association shall be organized under the laws of the State of Washington. The Homeowners Association shall have the power to collect annual assessments or monthly assessment dues and impose assessment liens upon designated properties for non-payment of assessment dues, late fees, damages, including liquidated damages, attorney fees and court costs, after notice and hearing before the Board of Directors or Designee. Failure to pay assessment dues timely constitutes a violation and is subject to remedies contained herein.

The Homeowners Association shall operate by its Board of Directors which shall have all powers and, at this time, consist solely of Declarant. Voting rights and control of the Association shall be vested in the Board of Directors. All property owners in the designated property and such adjacent property as shall be joined shall be members of the Homeowners Association. Said members of the Homeowners Association shall be subject to the rules and regulations of said Association and subject to these covenants. Members of the Homeowners Association shall have no voting rights and exercise no control over the Association until resignation or assignment of the Declarant.

The purposes and powers of the Homeowners Association, which are to be exercised by its Board of Directors, are as follows:

- 1) To operate an Architectural Review Committee for requiring that construction and maintenance of improvements within the designated property and such adjacent property as shall be joined is in accordance with these covenants.
- 2) To own, maintain, manage, and regulate for the benefit of the designated property and such adjacent property as shall be joined the irrigation entity and related systems serving the designated property.

- 3) To manage, regulate and control the construction and the maintenance of landscaping within the designated property to insure compliance with these covenants, and to manage the entry areas at West 19th Avenue and South Union Street.
- 4) To advise regarding the orderly development, improvement, and living environment of the designated property and such adjacent property as shall be joined.
- 5) To possess and to exercise all powers necessary to carry out the purposes and provisions of this Declaration, and as may be granted by State Law (RCW 64.38).

The Declarant and/or Homeowners Association Board of Directors shall have the right and power to delegate any of its powers to such committees, officers or employees as it deems necessary and proper, and shall have the power, subject to the provisions of this Declaration, to adopt, amend and repeal its rules and regulations.

No member of the Homeowners Association Board of Directors shall be personally liable to the Association, its members or to any other person, including Declarant, for any error, omission, negligence or other act, provided that such board member has acted in good faith upon the basis of such information as may be possessed by him/her. The Association as a whole hereby agrees to indemnify and defend the Declarant, Board of Directors and each Director thereon as to all causes of action brought against the Declarant, the Board or a Director for omissions, actions or negligence in conducting Association affairs.

There are hereby reserved to Declarant and the Homeowners Association Board of Directors such easements and granted permissions as are necessary to perform the duties, inspections and obligations as set forth in this Declaration, or in the by-laws, articles or rules of said Association.

Declarant, Homeowner's Association or assigns reserves the right and the homeowner consents to and authorizes the Declarant or Homeowners Association to place a consensual penalty assessment lien on the homeowner's property for non-payment of Homeowners Association dues, late charges, including reimbursement of any and all attorney fees and court costs.

Irrigation

Union Street Development Co., Inc., and Declarant own, maintain, manage and regulate, for the benefit of the designated property and such adjacent property as shall be joined, the pressurized irrigation systems serving said property. However, the Declarant reserves the right to convey the system to the Homeowner's Association or to the Kennewick Irrigation District. Each lot in said properties shall be charged its pro rata share of the cost of maintenance and operation of the system in each year. Lot owners shall be assessed for irrigation maintenance and operation upon closing of their respective lot. The irrigation system will deliver water to the respective lots at one three-quarter inch turnout. Declarant and/or Declarant's assigns reserves the right to use pressurized irrigation water at no cost for enhancement of designated and adjacent properties. Upon full development of said properties or earlier, rotation and scheduling of irrigation deliveries may be required. The Homeowners Association Board of Directors shall be vested with full power to establish regulations and a schedule of when water will be made available to the respective lots, with all lots in the subdivisions subject to this schedule. The Board of Directors may change the schedule from time to time as circumstances require. The purpose of the irrigation regulations shall be to distribute irrigation water to all of the lots in the most equitable manner possible.

All residential landscaping and vegetation must be serviced by timed, underground sprinkler systems.



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The irrigation water system (ponds, pumps and distribution lines) owned by Union Street Development Co., Inc., (USDC) shall be subject to the control of Declarant, until such time as USDC and Declarant conveys or assigns the system to the Homeowner's Association. Declarant shall reserve development rights to provide pressurized irrigation water to properties located in Exhibit B, the Declarant's commercial property at 27th and Union, legally described as Short Plat #2836, Lots 1 - 8. Upon the sale of said lots, irrigation assessments will commence.

No permanent structure or slab other than driveways and sidewalks shall be placed on the irrigation easements. No homeowner's irrigation valves, manifolds, or more than 10' of the irrigation mainlines shall be placed on irrigation easements.

USDC, Declarant, Homeowner's Association or assigns reserves the right and the homeowner consents to and authorizes USDC, Declarant or Homeowners Association to place a consensual penalty assessment lien on the homeowner's property for non-payment of assessed irrigation fees, late charges, including reimbursement of any and all attorney fees and court costs.

Lot owners with irrigation easements on their property hereby grant general and immediate access through their property for the purposes of maintenance, operation or repair to the irrigation system.

There is no obligation on the part of any entity having an interest in the irrigation easement to repair or restore any improvement or vegetation placed on said irrigation easement.

Large trees and homeowner irrigation manifolds, valves and supply lines are prohibited on irrigation easements.

If any encroachments exist on irrigation easements, USDC, Declarant, or assigns has no obligation to restore improvements and owner shall immediately and timely remove or relocate whatever is necessary for repairs.

A 3/4" galvanized union disconnect is required on each side of the service shut off valve. Any alteration to the 3/4" service supply or any mainlines shall be done only with Declarant's written permission.

All fencing crossing irrigation easements shall be of a lift-out or gate variety or permanent alternative access to the irrigation easement is provided by the homeowner. Any homeowner's property containing mainline valves or blowout devices on irrigation easements shall provide immediate access for the USDC, Declarant, Homeowner's Association, water master and maintenance people.

Swim Club

Upon occupancy of 75 homes in the Union West, Union West No. 2 and Whispering Winds subdivisions, Declarant has the right to commence construction of a swimming pool on Lot 10, Block 1 for use of the residents of the designated property and such adjacent property as shall be joined. The use of the pool shall be confined to the use of the designated property and such adjacent property as shall be joined, unless altered by the Homeowner's Association. All costs of construction of this facility will be paid by Declarant and Developers and upon completion, the swimming pool and all facilities constructed in conjunction therewith shall be given to a Swim Club Association made up of all owners and future owners of lots within the designated property and such adjacent property as shall be joined who desire membership in said Association. Upon gift of said facilities to said Association, the Swim Club Association shall assume all responsibilities for the maintenance, operation, regulation and control of said facilities and guarantee the Declarant and Developers, to their satisfaction, in advance of construction of the swim club facility, that the Swim Club Association is capable of performing its responsibilities for

future maintenance and operation, indemnifying Declarant and Developers from all claims, etc., arising after transfer.

Notices

Where this Declaration requires or permits written notice to be given, such notice shall be given by a letter deposited in the United States mail, certified or registered, return receipt requested and shall be deemed received on the date shown on the return receipt, or three (3) days from the date of mailing, whichever is sooner. The address for giving such notice shall be the address of the owner's lot, where the person receiving the notice is a lot owner, unless such owner has duly submitted to the Declarant or its assigns a written notice of a different address.

Duration

This declaration shall run with the land and be binding upon all parties and all persons claiming under them for a period of forty (40) years from the date of recording thereof, after which time said Declaration shall be automatically extended for successive periods of ten (10) years unless an instrument terminating said Declaration and signed by the then owners of a 75% majority of the lots in the designated property has been recorded prior to the beginning of the respective ten (10) year period.

Amendments

Amendments may be made in writing to this document with Declarant's written consent and with 75% approval of the Homeowner's Association.

Assignment

The Declarant, or his assigns, in part or in whole may use any of the lots, within the designated property owned by it, for residentially occupied model home sites, a temporary sales office, incidental parking and any other purpose for which the Declarant deems necessary to develop and market the designated properties and to carry out this Declaration.

IN WITNESS WHEREOF, the undersigned Declarant has executed the within Declaration the day and year first above written.

DECLARANT:

UNION WEST NO. 2 – PHASE 3-A & 5-A
SOUTH KENNEWICK INVESTORS,
A General Partnership
Managing Partner: Roger F. Gray Management & Inv., Inc.


By Roger F. Gray, President

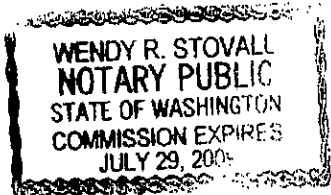
Roger F. Gray & Associates, A Limited Partnership


By Roger F. Gray, General Partner

State of Washington
County of Benton

Before me personally appeared ROGER F. GRAY to me known to be the individual who executed the foregoing instrument and acknowledged that he signed the same as his free and voluntary act and deed, for the uses and purposes therein mentioned.

Dated September 5, 2007
Signature of Notary Public Wendy R. Stovall
Title Notary - Wendy R. Stovall
My appointment expires 7-29-2009





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BENTON FRANKLIN TITL COV

Exhibit A
To
Declaration of Covenants, Conditions and Restrictions
For Union West No. 2 – Phase 3-A & 5-A

LEGAL DESCRIPTION

PARCEL A:

THOSE PORTIONS OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 8 NORTH, RANGE 29 EAST, WILLAMETTE MERIDIAN, BENTON COUNTY, WASHINGTON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE WEST ONE-HALF OF SAID SOUTHEAST QUARTER OF SECTION 9; THENCE ALONG THE EAST LINE OF SAID WEST ONE-HALF NORTH 0°08'22" EAST, 2085.02 FEET TO THE TRUE POINT OF BEGINNING;

THENCE SOUTH 74°10'45" WEST, 340.00 FEET; THENCE NORTH 15°49'15" WEST, 110.03 FEET TO A POINT ON A 1227.00 FOOT RADIUS CURVE TO THE RIGHT (RADIUS POINT BEARS NORTH 15°25'43" WEST); THENCE SOUTHWESTERLY, ALONG SAID CURVE 70.05 FEET THROUGH A CENTRAL ANGLE OF 3°16'16"; THENCE SOUTH 15°49'15" EAST, 112.51 FEET; THENCE SOUTH 74°10'45" WEST, 87.03 FEET; THENCE NORTH 8°46'02" WEST, 120.20 FEET; THENCE NORTH 6°19'28" WEST, 54.05 FEET; THENCE NORTH 0°24'11" EAST, 154.50 FEET TO A POINT ON THE SOUTH LINE OF LOT 2, BLOCK 3, PLAT OF WHISPERING WINDS, RECORDS OF BENTON COUNTY, WASHINGTON, SAID POINT BEARS NORTH 89°24'03" EAST, 77.00 FEET FROM THE SOUTHWEST CORNER THEREOF; THENCE ALONG THE SOUTH LINE OF SAID LOT 2 AND THE SOUTHERLY LINE OF SAID PLAT THE FOLLOWING COURSES:
NORTH 89°24'03" EAST, 132.01 FEET; THENCE NORTH 0°24'11" EAST, 50.00 FEET; THENCE NORTH 89°24'03" EAST, 120.00 FEET; THENCE NORTH 89°15'46" EAST, 124.61 FEET; THENCE NORTH 55°29'30" EAST, 161.93 FEET; THENCE LEAVING SAID PLAT BOUNDARY LINE SOUTH 0°08'22" WEST, 380.00 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THAT PORTION THEREOF CONVEYED TO THE CITY OF KENNEWICK FOR STREET PURPOSES BY DEED RECORDED UNDER AUDITOR'S FILE NO. 883722.

AND TOGETHER WITH THE FOLLOWING DESCRIBED REAL PROPERTY:

BEGINNING AT THE NORTHWEST CORNER OF LOT 1 SHORT PLAT NO. 2036, RECORDS OF BENTON COUNTY; THENCE SOUTH 89°46'31" EAST, 636.67 FEET ALONG THE NORTH LINE OF SAID LOT 1 TO THE TRUE POINT OF BEGINNING;
THENCE NORTH 0°13'29" EAST, 178.68 FEET; THENCE SOUTH 89°46'31" EAST, 112.65 FEET; THENCE NORTH 0°13'29" EAST, 153.49 FEET TO THE SOUTH LINE OF LOT 2, BLOCK 3, PLAT OF WHISPERING WINDS, RECORDS OF BENTON COUNTY; THENCE NORTH 89°24'03" EAST, 77.00 FEET ALONG SAID SOUTH LINE; THENCE SOUTH 0°24'11" WEST, 154.50 FEET; THENCE SOUTH 6°19'28" EAST, 54.05 FEET; THENCE SOUTH 8°46'02" EAST, 120.20 FEET TO A POINT ON THE NORTH LINE OF SAID LOT 1, SHORT PLAT NO. 2036; THENCE SOUTH 74°10'45" WEST, 23.01 FEET ALONG SAID NORTH LINE; THENCE NORTH 89°46'31" WEST, 192.00 FEET TO THE TRUE POINT OF BEGINNING.

AND EXCEPT THAT PORTION CONVEYED TO SOUTH KENNEWICK INVESTORS BY DEED RECORDED UNDER AUDITOR'S FILE NO. 2007-014737.

TRACT B:

A PARCEL OF LAND IN THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 8 NORTH, RANGE 29 EAST, W.M., BENTON COUNTY, WASHINGTON DESCRIBED AS FOLLOWS:

THAT PORTION OF LAND LYING SOUTH OF THE FOLLOWING PLATS:

PLAT OF UNION WEST NO. 2, PHASE 4-A (VOLUME 15 OF PLATS, PAGE 129);

PLAT OF UNION WEST NO. 2, PHASE 2-A (VOLUME 13 OF PLATS, PAGE 119);

AND LYING NORTH OF SHORT PLAT NO. 2036;

AND LYING WEST OF THE PLAT OF WHISPERING WINDS (VOLUME 14 OF PLATS, PAGE 34) AND ALSO LYING WEST OF THE PARCEL OF LAND CONVEYED UNDER AUDITOR'S FILE NO. 2000-003423 WHICH IS DESCRIBED AS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 1, SHORT PLAT NO. 2036; THENCE SOUTH 89°46'31" EAST, 636.67 FEET ALONG THE NORTH LINE OF SAID LOT 1 TO THE TRUE POINT OF BEGINNING;

THENCE NORTH 0°13'29" EAST, 178.68 FEET; THENCE SOUTH 89°46'31" EAST, 112.65 FEET; THENCE NORTH 0°13'29" EAST, 153.49 FEET TO THE SOUTH LINE OF LOT 2, BLOCK 3, WHISPERING WINDS; THENCE NORTH 89°24'03" EAST, 77.00 FEET ALONG SAID SOUTH LINE; THENCE SOUTH 0°24'11" WEST, 154.50 FEET; THENCE SOUTH 6°19'28" EAST, 54.05 FEET; THENCE SOUTH 8°46'02" EAST, 120.20 FEET TO A POINT ON THE NORTH LINE OF SAID LOT 1, SHORT PLAT NO. 2036; THENCE SOUTH 74°10'45" WEST, 23.01 FEET ALONG SAID NORTH LINE;

THENCE NORTH 89°46'31" WEST, 192.00 FEET TO THE TRUE POINT OF BEGINNING.

AND TOGETHER WITH THAT PORTION CONVEYED TO SOUTH KENNEWICK INVESTORS BY DEED RECORDED UNDER AUDITOR'S FILE NO. 2007-014737.



2007-029929
Pg: 15 of 15
09/10/2007 11:50A
Benton County

BENTON FRANKLIN TITL COV 0.00



2007-029474
Pg: 15 of 15
09/05/2007 12:01P
Benton County

BENTON FRANKLIN TITL COV 54.00

Exhibit B

To Declaration of Covenants, Conditions and Restrictions

For Union West No. 2 – Phase 3-A & 5-A

SHORT PLAT NO. 2836

PREPARED UNDER CITY OF KENNEWICK

SHORT PLAT ORDINANCE NO.1545

A PORTION OF SE 1/4 OF SECTION 9,
TOWNSHIP 8 NORTH, RANGE 29 EAST, W.M.
CITY OF KENNEWICK,
BENTON COUNTY, WASHINGTON

RECORD LEGAL DESCRIPTION

THAT PORTION OF LOT 4, SHORT PLAT NO. 718, ACCORDING TO THE SURVEY THEREOF RECORDED UNDER AUDITOR'S FILE NO. 785691, ALSO DESCRIBED AS FOLLOWS:

REAL PROPERTY LOCATED IN THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 8 NORTH, RANGE 29 EAST OF THE WILLAMETTE MERIDIAN, IN THE CITY OF KENNEWICK, COUNTY OF BENTON, STATE OF WASHINGTON BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID SECTION 9; THENCE NORTH 0°03'07" EAST, 761.85 FEET ALONG THE EAST LINE OF SAID SECTION 9; THENCE NORTH 89°56'53" WEST, 30.00 FEET TO THE WEST LINE OF SOUTH UNION STREET AND THE TRUE POINT OF BEGINNING;

THENCE SOUTH 0°03'07" WEST, 538.41 FEET ALONG SAID WEST LINE TO THE BEGINNING OF A 349.50 FEET RADIUS NON-TANGENT CURVE (RADIUS POINT BEARS SOUTH 89°30'32" WEST); THENCE SOUTHERLY, 169.42 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 27°46'25" TO A POINT ON THE NORTH LINE OF A ROAD RIGHT OF WAY (FUTURE WEST 27th AVENUE 60 FEET IN WIDTH); THENCE LEAVING SAID CURVE NORTH 89°46'40" WEST, 268.51 FEET ALONG SAID NORTH LINE; THENCE CONTINUING ALONG SAID NORTH LINE NORTH 58°27'26" WEST, 345.16 FEET; THENCE LEAVING SAID NORTH LINE NORTH 31°32'34" EAST, 16.21 FEET; THENCE NORTH 15°20'50" EAST, 69.50 FEET; THENCE NORTH 74°45'35" WEST, 63.71 FEET; THENCE NORTH 68°03'48" WEST, 288.39 FEET; THENCE NORTH 20°33'07" EAST, 5.25 FEET; THENCE NORTH 44°15'24" EAST, 220.12 FEET TO A POINT ON A NON-TANGENT 170.00 FEET RADIUS CURVE (RADIUS POINT BEARS NORTH 44°15'24" EAST) SAID POINT BEING ON THE SOUTHERLY LINE OF PARCEL "B" AS SHOWN ON A RECORD OF SURVEY AS RECORDED IN VOLUME 1 OF SURVEYS AT PAGE 1812, RECORDS OF BENTON COUNTY; THENCE THE FOLLOWING EIGHT COURSES ALONG THE SOUTHERLY LINE OF SAID PARCEL "B" AND THE SOUTHERLY AND EASTERLY LINES OF PARCEL "A" OF SAID SURVEY:

THENCE SOUTHERLY, 89.61 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 30°12'08"; THENCE SOUTH 75°56'44" EAST, 11.36 FEET TO THE BEGINNING OF A 470.00 FEET RADIUS CURVE CONCAVE TO THE NORTH; THENCE EASTERLY, 159.96 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 19°30'00" TO A POINT OF REVERSE CURVATURE WITH A 530.00 FEET RADIUS CURVE CONCAVE TO THE SOUTH; THENCE EASTERLY, 159.23 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 17°12'50" TO A POINT OF REVERSE CURVATURE WITH A 20.00 FEET RADIUS CURVE CONCAVE TO THE NORTHWEST; THENCE EASTERLY AND NORTHEASTERLY, 30.62 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 87°42'50"; THENCE NORTH 14°03'16" EAST, 207.70 FEET TO THE BEGINNING OF A 230.00 FEET RADIUS CURVE CONCAVE TO THE SOUTHEAST; THENCE NORTHEASTERLY, 72.62 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 18°05'21"; THENCE SOUTH 58°00'00" EAST, 65.65 FEET TO THE SOUTHWEST CORNER OF LOT 1, SHORT PLAT NUMBER 718 AS RECORDED IN VOLUME 1 OF SHORT PLATS, PAGE 718, RECORDS OF BENTON COUNTY; THENCE SOUTH 58°00'00" EAST, 69.45 FEET ALONG SAID SOUTH LINE; THENCE SOUTH 89°56'53" EAST, 155.00 FEET ALONG SAID SOUTH LINE AND AN EXTENSION THEREOF TO THE TRUE POINT OF BEGINNING;

EXCEPTING THEREFROM THAT PORTION CONVEYED TO THE CITY OF KENNEWICK BY DEED RECORDED APRIL 18, 2000 UNDER AUDITOR'S FILE NO. 2000-009246, RECORDS OF BENTON COUNTY, WASHINGTON.