

**DECLARATION**

**OF**

**COVENANTS, CONDITIONS AND**

**RESTRICTIONS**

**FOR**

**RIVER VALLEY 2 HOA**

(a Utah Expandable Residential Community)

August 2019

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**DECLARATION**  
OF  
**COVENANTS, CONDITIONS AND RESTRICTIONS**  
FOR  
**RIVER VALLEY 2 HOA**

This Declaration of Covenants, Conditions and Restrictions for River Valley 2 HOA (“Declaration”) is made and executed by River Valley Development, LLC, a Utah limited liability company (“Declarant”).

**RECITALS:**

A. **Name of Project and Description of Land.** The subdivision that is the subject of this Declaration is known as the River Valley 4-Plex Subdivision Phase 2 (“Project”), and is situated in and upon that certain real property (“Subject Land”) located in Box Elder County, State of Utah, as specifically described in Exhibit “A” attached hereto and incorporated herein by this reference. Declarant has prepared and has recorded in the office of the County Recorder for Box Elder County, State of Utah, a plat map for River Valley 4-Plex Subdivision Phase 2 (“Plat”). There will be sixteen (16) Lots in the first phase of the Project, although the Project, when completed, may contain up to a total of ninety-five (95) or more Lots in a total of three (3) or more phases.

B. **Name of Association and Bylaws.** The name of the Association shall be the River Valley 2 HOA (“Association”), which has been created as a Utah nonprofit corporation by filing articles of incorporation with the Utah Division of Corporations and Commercial Code. The Association is the governing body of the Project and is to be operated in accordance with this Declaration, the Articles of Incorporation for River Valley 2 HOA, and the Bylaws of River Valley 2 HOA. The Bylaws are attached hereto as Exhibit “B”.

C. **Intent and Purpose.** Declarant, by recording this Declaration, does so for the purpose of imposing upon the subject land mutually beneficial restrictions under a general plan of improvement for the benefit of all Lots within the Project and the Owners thereof.

D. **Authority to Amend.** Inasmuch as no Lots have been conveyed by Declarant as of the date of this Declaration is recorded, and as Declarant is the sole owner of Lots and common area in the Project, Declarant authorizes this Declaration to be recorded.

## ARTICLE I DEFINITIONS

- 1.1 **Defined Terms.** Unless the context clearly indicates otherwise, certain terms as used in this Declaration shall have the meanings set forth in this Article I.
- 1.2 **Additional Land** shall mean any of the real property which is in the River Valley Subdivision or within the same general area of the Project (i.e., within 1000 feet), which real property may from time to time be made subject to this Declaration pursuant to the provisions of Article 17 hereof. At no time shall any of the Additional Land be deemed to be part of the Project until such portion of the Additional Land has been duly annexed hereto pursuant to Article 17 hereof and until a supplemental declaration and amended plat or additional plat have been duly recorded.
- 1.3 **Association** shall mean the River Valley 2 HOA, a Utah nonprofit corporation, organized to serve and act as the governing body of the Project.
- 1.4 **Board of Directors** or **Board** shall mean the Board of Directors of the Association.
- 1.5 **Bylaws** shall mean those bylaws attached hereto as Exhibit B and as amended from time to time.
- 1.6 **Common Area** shall mean and refer to the common area identified on the Plat as “Common Area,” and shall include the areas identified as “Limited Common Areas,” together with all equipment, facilities, fixtures, and other personal property and real property improvements located in the Common Area and/or owned by the Association for the use and benefit of all Owners, each Owner possessing an equal undivided interest in the Common Area. All Common Area shall be managed and controlled by the Association for the common use and enjoyment of the Owners as more fully described in this Declaration. As additional phases are added to the Project, additional Common Area which the Association will own and be responsible to maintain may be added to the Project.
- 1.7 **Common Expense** shall mean the actual and estimated costs of maintenance, management, operation, repair and replacement of the Common Area (including any special assessments), and including those fees not paid by the Owner responsible for payment; costs of management and administration of the Association including, but not limited to, accountants, bookkeepers, attorneys and other employees and consultants; the costs of all utilities, landscaping and other services benefitting the Common Area; the costs of any casualty or liability insurance covering the Project; and the cost of bonding the Directors of the Association; any taxes paid by the Association; amounts paid by the Association for discharge of any lien or encumbrance levied against the Project, or portion thereof; and the cost of any other expense incurred by the Association for any reason whatsoever in connection with the Project, for the benefit of all of the Owners.
- 1.8 **Common Expense Fund** shall mean the fund created or to be created and into which all funds of the Association shall be deposited and used to pay common expenses.

- 1.9 **Declarant** shall mean River Valley Development, LLC, a Utah limited liability company, its assigns or its successor in interest, and shall not include a builder who purchases a lot and constructs a Dwelling thereon.
- 1.10 **Dwelling** shall mean and refer to each physically constructed residential dwelling or building containing a single family residence located as an improvement on a Lot.
- 1.11 **Limited Common Area** shall mean those portions of the Project within the Common Area that are reserved for the exclusively use by the Owner of the Lot appurtenant to the Common Area, and shall include the front porch as shown on the Plat. Maintenance, repair and replacement of the Limited Common Areas are set forth in the Maintenance Chart attached as Exhibit C.
- 1.12 **Lot** shall mean each individual parcel of real property shown on the Plat as a Lot, together with all improvements located thereon and all appurtenances thereunto appertaining.
- 1.13 **Manager** shall mean the person, firm, or company, if any, designated from time to time by the Association to manage, in whole or in part, the affairs of the Association and the Project.
- 1.14 **Member** shall mean a member of the Association and shall include all Owners.
- 1.15 **Mortgage** shall mean any mortgage, deed of trust, or other security instrument by which a Lot or any part thereof is encumbered.
- 1.16 **Mortgagee** shall mean (i) any person named as the mortgagee or beneficiary under any Mortgage, or (ii) any successor to the interest of such person under such Mortgage.
- 1.17 **Owner** shall mean any person or entity or combination thereof, including the Declarant, owning fee title to a Lot within the Project as shown on the records of Box Elder County, State of Utah. The term "Owner" shall not refer to any Mortgagee (unless such Mortgagee has acquired title for other than security purposes) or to any person or entity purchasing a Lot under contract until such contract is fully performed and legal title conveyed.
- 1.18 **Period of Administrative Control** shall end (a) ten (10) years from the date of recordation of this Declaration; or (b) the date Declarant provides written notice to the Association that the Project is completed and no further lots will be developed and no Additional Land will be added to the Project, which ever is sooner.
- 1.19 **Plat or Map** shall mean the Plat or Plats for River Valley 2, as recorded in the office of the County Recorder for Box Elder County, State of Utah. A copy of which is attached hereto as Exhibit "D".
- 1.20 **Project** shall mean all Lots and all Common Areas, collectively.
- 1.21 **Subject Land** shall mean the land upon which the Project is situated, as more particularly described in Exhibit "A".

- 1.22 **Total Votes of the Association** shall mean the total number of votes appertaining to the Lots in the Project. After Class B membership ceases to exist, all Lots shall have an equal vote and each Lot shall be entitled to one vote.

## **ARTICLE II DIVISION OF PROJECT**

- 2.1 **Submission to Declaration.** All of the Subject Land is and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, and improved as a subdivision to be known as River Valley 2 HOA. All of said Subject Land is and shall be subject to the covenants, conditions, restrictions, easements, uses, limitations, and obligations set forth herein and in the Plat, each and all of which are declared and agreed to be for the benefit of the Project and in furtherance of a plan for improvement of said property and division thereof into Lots. Further, each and all of the provisions hereof shall be deemed to run with the land and shall be a burden and a benefit to the Lot Owners, their successors and assigns, and any person acquiring, leasing, or owning an interest in any Lot, their lessees, heirs, executors, administrators, devisees, successors and assigns.
- 2.2 **Subdivision into Lots.** Pursuant to the Plat, the Subject Land is divided into Lots as more particularly described on the Plat. The Owner of each Lot, regardless of the size, purchase price or location of the Lot, shall have the right to use the Common Area. The Declarant, with the recordation of this Declaration, hereby quitclaims all of its right, title and interest in and to all of the Common Area, as more particularly shown on the Plat, without warranty, to the Association, to be held and administered in accordance with the provisions of this Declaration.
- 2.3 **Not a Cooperative or Condominium.** The creation of the River Valley 2 HOA shall not constitute the creation of a cooperative and no portion of the Project shall contain any condominiums.
- 2.4 **Easements.** The Declarant, its successors and assigns, shall have a transferable easement over, on and across the Common Area for the purpose of doing all things reasonably necessary and proper for the construction, completion, development and sale of the Project.

## **ARTICLE III IMPROVEMENTS**

- 3.1 **Description of Improvements.** The Project shall initially consist of one phase and contain sixteen (16) Lots, as shown on the Plat. Pursuant to Article XVII below, the Project may be expanded to contain a total of ninety-five (95) or more Lots in three (3) or more phases. Each of the Lots shall, when improved, contain one attached single family dwelling. The Declarant reserves the right to construct and may construct as part of the Common Area a storage/maintenance shed, a laundry facility, and such other amenities as determined by the Declarant to be in the best interest of the Project and Association, though no assurances are made that such amenities will be constructed by Declarant. Some Lots have covered parking which will be part of the Limited Common Area and have spaces assigned by the Declarant.

3.2 **Description and Legal Status of Lots.** The Plats show or will show the number of each Lot. All Lots shall be capable of being independently owned, encumbered, and conveyed.

3.3 **Equal Ownership.** Except for the Class B Member pursuant to Section 8.2 below, each Lot Owner shall be entitled to one vote in the Association.

#### **ARTICLE IV NATURE AND INCIDENTS OF OWNERSHIP**

4.1 **Ownership and Maintenance of Lots.** The maintenance, replacement and repair of the Common Area shall be the responsibility of the Association as directed by the Board and the cost thereof shall be a Common Expense. The Association shall repair and maintain the exterior of the Dwelling, including the roof (including the underlayment and plywood) and stucco (not including any backing material), but not the structural components of each. The Lot Owners shall have the responsibility to maintain, repair, replace and keep in a clean and sanitary condition, at the Lot Owner's expense, all other portions of the Owner's Dwelling. The Lot Owners shall keep clean and in a sanitary condition their porch and patios, if any. Lot Owners are responsible to maintain, repair and replace the foundation of a Dwelling and all concrete located on the Owner's Lot. Attached as Exhibit "C" is a Maintenance Chart that lists the division of responsibility for maintenance and repair of various portions of the Subject Land between the Association and the Owners. The provisions of Exhibit "C" govern to the exclusion of any other language contained in this Declaration. However, the Association is only responsible to maintain and repair the items listed on Exhibit "C", and is only responsible to replace the Common Area and is not responsible to replace any property or improvements associated with a Dwelling or a Lot unless expressly indicated.

4.2 **Party Walls and Common Foundation.**

- (a) Each wall and foundation which is built as a part of the original construction of a Dwelling and placed on the dividing line between the Dwellings shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article 4.2, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply.
- (b) The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.
- (c) If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.
- (d) Notwithstanding any other provision of this Article, an Owner who by his negligent or willful acts causes the party wall to be exposed to the elements shall bear the whole

cost of furnishing the necessary protection against such elements.

- (e) The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.
- 4.3 **Landscape Installation.** Any landscaping located on a Lot not installed by Declarant must be installed and completed within six (6) months of the time a certificate of occupancy is obtained or within six (6) months of the time a Dwelling is substantially completed. The six (6) month requirement may be extended during periods of inclement weather, but for no longer than three (3) additional months.
- 4.4 **Sprinkler System.** The Association shall be responsible for the installation, maintenance, repair and replacement of the sprinkler system located on the Common Areas and Lots. Sprinklers may only be installed in the areas located in the front or rear yards of a Lot. No sprinklers may be installed by an Owner in the side yard of any Lot.
- 4.5 **Title.** Title to a Lot within the Project may be held or owned by any person or entity or any combination thereof and in any manner in which title to any other real property may be held or owned in the State of Utah, including without limitation, joint tenancy or tenancy in common.
- 4.6 **Prohibition Against Subdivision of Lot.** No Owner, by deed, plat or otherwise, shall subdivide or in any manner cause his Lot to be subdivided, partitioned or separated into physical tracts or parcels smaller than the whole Lot as shown on the Plat.
- 4.7 **Ownership and Use of Common Area.** The Association shall own the Common Area and the Association shall have the exclusive right and obligation to manage and maintain all Common Area, and to repair, replace and reconstruct any existing or new Common Area. The Association shall not be required to maintain any other areas except as expressly set forth herein. Each Owner shall have an irrevocable license and easement to use, occupy and enjoy all Common Area in common with all other Owners. Except as otherwise provided in this Declaration, each Owner shall be entitled to the nonexclusive use of the Common Area in any manner that does not hinder or encroach upon the rights of other Owners and is not contrary to any rules or regulations promulgated by the Association. Each Owner will be responsible for an equal share of the insurance, maintenance and other costs and expenses relating to the Common Area.
- 4.8 **Exclusive Use of Lot.** All Lots and all improvements on a Lot are reserved for the exclusive use of the Owner of that Lot, and such Owner's invitees and guests and such areas shall be maintained and repaired at the expense of the Lot Owner as indicated on the attached Exhibit "C".
- 4.9 **Fences and Walls.** The Association shall be responsible for the maintenance, replacement or repair of any fences within the Project. All fences installed by Declarant shall be maintained, repaired and replaced by the Association. All fences must match the material, type, color and quality of the fence installed by Declarant which borders the perimeter of the Project. The Association shall be responsible for the maintenance, replacement or repair of



those portions of a fence that were installed by the Declarant or the Association.

- 4.10 **Inseparability.** Title to any part of a Lot within the Project may not be separated from any other part thereof. Every devise, encumbrance, conveyance, or other disposition of a Lot, or any part thereof, shall be constructed to be a devise, encumbrance, conveyance, or other disposition, respectively, of the entire Lot, together with all appurtenant rights created by law or by this Declaration, including appurtenant membership in the Association as hereinafter set forth, and an irrevocable license to use, occupy and enjoy the Common Area in common with all Owners.
- 4.11 **No Partition.** The Common Area shall be owned by the Association, in accordance with the provisions of this Declaration, and no Owner nor the Association may bring any action for partition thereof except as allowed by law.
- 4.12 **Separate Mortgages by Owners.** Each Owner shall have the right separately to mortgage or otherwise encumber his Lot. No Owner nor the Association shall attempt to or shall have the right to separately mortgage or otherwise encumber the Common Area or any part thereof. Any mortgage or other encumbrance of any Lot shall be subordinate to all of the provisions of this Declaration, and in the event of foreclosure the provisions of this Declaration shall be binding upon any Owner whose title is derived through foreclosure by private power of sale, judicial foreclosure, or otherwise.
- 4.13 **No Separate Taxation.** Each Lot and all improvements located thereon shall be assessed separately for all taxes, assessments, and other charges of the State of Utah or of any political subdivision thereof or of any special improvement district or of any other taxing or assessing authority. The Common Area shall be taxed in accordance with the ownership interest possessed by each Lot Owner. All such taxes, assessments, and other charges on each respective Lot shall be separately levied against the Owner thereof. No forfeiture or sale of any Lot for delinquent taxes, assessments, or other governmental charges shall divest or in any way affect the title to any other Lot.
- 4.14 **Mechanic's Liens.** No labor performed or material furnished for use in connection with any Lot with the consent or at the request of an Owner or his agent or contractor shall create any right to file a statement, claim, or notice of mechanic's lien against the Lot of any other Owner not expressly consenting to or requesting the same.
- 4.15 **Mortgages and Liens on Common Area.** The Association shall not attempt nor shall it have the right to mortgage or otherwise encumber the Common Area or any part thereof. No labor performed or material furnished for use in connection with the Common Area shall create any right to file a statement, claim, or notice of mechanic's lien against the Common Area.

## ARTICLE V ARCHITECTURAL RESTRICTIONS

- 5.1 **Single Family Residence.** All Lots in the Project shall be known and described as

residential lots. All building shall be erected on lots for the purpose of constructing single family Dwellings not to exceed two stories in height.

- 5.2 **Setback Requirements.** All set back lines, side yards, and back yards shall be in accordance with applicable city ordinances.

## **ARTICLE VI EASEMENTS**

- 6.1 **Easement for Maintenance.** The Association shall have the irrevocable right to have access from time to time to all Common Areas during such reasonable hours as may be necessary for the maintenance, cleaning, repair, and replacement thereof or for making emergency repairs at any time herein necessary to prevent damage to the Common Areas or to properly maintain those area for which it has responsibility as set forth in Exhibit “C”.
- 6.2 **Easements Deemed Created.** All conveyances of Lots within the Project hereafter made, whether by Declarant or otherwise, shall be construed to grant and reserve such reciprocal easements as are provided herein, even though no specific reference to such easements appears in any such conveyance.
- 6.3 **Easements Reserved by Declarant and Association.** The Association shall have power, without the vote or consent of the Owners or of any other person, to grant and convey to any third party, and Declarant hereby reserves unto itself, easements and rights of way, including but not limited to rights of ingress and egress, in, on, over and under the Common Areas, for the purpose of constructing, erecting, operating and maintaining lines, cables, wires, conduits or other devices for electricity, cable television, power, telephone and other purposes, public sewers, storm drains and pipes, water systems, sprinkling systems, water, heating and gas lines or pipes, and any similar public or quasi-public improvements or facilities to provide common utility services to the Project and other property that may be added to the Project.

## **ARTICLE VII RESTRICTIONS ON USE**

- 7.1 **Residential Uses Only.** Each Lot contained in the Project is intended to be used for single family residential housing and is restricted to such use. No Lot or Dwelling shall be used for business or commercial activity except that an Owner may operate an office or business out of their Dwelling provided that no business activity involving clients coming to the home on a regular basis (more than once a day) may take place nor shall the deliveries to the Dwelling more than twice per day. Nothing herein shall be deemed to prevent (a) Declarant or its duly authorized agent from using any Lots owned by Declarant as sales models or property management offices, or (b) any Owner or his duly authorized agent from freely renting or leasing his Lot from time to time.
- 7.2 **No Noxious or Offensive Activity.** No noxious or offensive trade or activity and no nuisance shall be carried on upon any Lot nor shall anything be done which may be or may become an annoyance in the neighborhood. No activities shall be conducted, nor

improvements constructed, in or upon any part of the Project which are or may become unsafe or hazardous to any person or property.

- 7.3 **Smoking.** No Owner, family member of a Owner, tenant, lessee, resident, occupant, guest, business invitee, visitor or any other person (collectively referred to as “Resident”) shall smoke cigarettes, cigars, or any other tobacco product, marijuana, illegal substance, or any other substance that emits smoke, anywhere within the Association’s Common Area that is within 25 feet of a Dwelling. This prohibition shall include but not be limited to common area, enclosed common area within the project and all porches, patios and parking areas. The term “smoke”, “smoking” or “tobacco” as used herein includes the inhaling, exhaling, burning, or carrying of any lighted cigarette, cigar or other tobacco product, vaping, marijuana, illegal substance, or any other substance or item that emits smoke or a smoke-like substance.
- 7.4 **Restriction on Recreational Vehicles.** No boats, trailers, recreational vehicles, or inoperable or unregistered or unlicensed vehicles shall be parked or stored in the Common Area for more than 72 hours in any 30 day period. No automobile, recreation or commercial vehicle, other motorized vehicle, or any portion thereof shall be dismantled, rebuilt, serviced, repaired or repainted in the Common Area.
- 7.5 **Temporary Structure.** No trailer, basement, tent, shack, garage, barn or other out building erected in the Project shall at any time be used as a residence temporarily or permanently, nor shall any structure of a temporary character be used as a residence.
- 7.6 **No Obstructions.** There shall be no obstruction of the Common Area by any Owner. Owners shall neither store nor leave any of their property in the Common Area, except with the prior written consent of the Association
- 7.7 **Prohibition of Damage and Certain Activities.** Except with the prior written consent of the Association, nothing shall be done or kept in or on any Lot, in the Common Area, or in any other part of the Project which may result in cancellation or any insurance on the Project or any part thereof, nor shall anything be done or kept in or on any Lot or Dwelling which may increase the rate of insurance on the Project or any part hereof over that which the Association, but for such activity, would have to pay. Nothing shall be done or kept in or on any Lot or Dwelling or in the Common Area or any part thereof which would be in violation of any statute, rule, ordinance, regulation, permit, or other validly imposed requirement of any governmental authority. No damage to, or waste of, the Common Area or any part thereof shall be committed by any Owner or guest or invitee of any Owner, and each Owner shall indemnify and hold the Association and other Owners harmless against all loss resulting from any such damage or waste caused by such Owner, his guests, lessees, licensees, or invitees.
- 7.8 **Sheds.** No form of a shed, out-building, or any other type of construction shall be permitted in the Common Area except as approved by the Declarant during the Period of Administrative Control, or by the Association thereafter, and then only when such out-building is a common amenity to be used for the benefit all Owners and residents.

- 7.9 **Garbage Cans and Trash.** Garbage cans may be placed outside a Dwelling in the Common Areas as designated by the Association and so as not to be a nuisance or health concern. No trash may be collected, placed or stored on any portion of an Owner's Lot or Limited Common Area.
- 7.10 **Pets.** Domestic pets may be kept in Dwellings in conformance with local government requirements. No pets, animals, livestock, or poultry of any kind shall be bred in, on, or about the Project. The Board may adopt Rules adding further restrictions related to pets not inconsistent with this Declaration including but not limited to restrictions on the number and types of pets, requirements for registration with the Association, and noise limitations. Aggressive pets shall not be brought to the Project and may be removed by the Association if determined to be a threat to residents or animals. All pets must be properly licensed and registered with the appropriate governmental agency and must abide by all pet Rules adopted by the Board from time to time. Pets may not create a nuisance. The following acts of an animal may constitute a nuisance: (a) it causes damage to property of any other resident; (b) it causes unreasonable fouling of the air by odors; (c) it causes unsanitary conditions; (d) it defecates on any Lot or Common Area and the feces are not immediately cleaned up by the responsible party; (e) it barks, whines, or howls, or makes other disturbing noises in an excessive, continuous, or untimely fashion; or (f) it molests or harasses a passersby by lunging at them or chasing passing vehicles. Pets may not be tied or tethered to the exterior of a building or in the Common Area or Limited Common Area and shall be leashed or restrained whenever outside a Dwelling. The Association may levy special Assessments to Owners for any damages to the Common Areas and landscaping caused by a pet, including burn spots in the lawn from urine.

## **ARTICLE VIII THE ASSOCIATION**

- 8.1 **Membership.** Each Owner shall be entitled and required to be a Member of the Association. Membership shall begin immediately and automatically upon becoming an Owner and shall terminate immediately and automatically upon ceasing to be an Owner. If title to a Lot is held by more than one person, the membership appurtenant to that Lot shall be shared by all such persons in the same proportionate interests and by the same type of tenancy in which title to the Lot is held. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot. An Owner shall be entitled to one membership for each Lot owned by said Owner. Each membership shall be appurtenant to the Lot to which it relates and shall be transferred automatically by conveyance of that Lot. Ownership of a Lot within the Project cannot be separated from membership in the Association appurtenant thereto, and any devise, encumbrance, conveyance, or other disposition of a Lot shall be construed to be a devise, encumbrance, conveyance, or other disposition, respectively, of the Owner's membership in the Association, and the rights appurtenant thereto. No person or entity other than an Owner may be a member of the Association, and membership in the Association may not be transferred except in connection with the transfer of a Lot.
- 8.2 **Voting Rights.** The Association shall have the following-described two classes of voting

membership:

- (a) **Class A.** Class A Members shall be all Owners, but excluding the Declarant until the Class B membership ceases. Class A Members shall each be entitled to one vote.
- (b) **Class B.** The Class B Member shall be the Declarant and its assigns or successors, and shall consist of the interest the Declarant has in the existing Lots and the future Lots projected to be constructed on the Additional Land. For voting purposes the Class B Member shall be entitled to ten (10) votes for each Lot owned by Declarant. Declarant shall also have ten (10) votes for each of the ninety-five (95) Lots that are projected to be built on the Additional Land, which voting interests shall remain until all the Lots created by Declarant are developed and sold, until the expiration of ten (10) years from the recording of this Declaration, or until Declarant provides written notification to the Association, whichever is sooner. The Class B Membership shall automatically cease and be converted to a Class A Membership on the first to occur of the following events:
  - (i) The date Declarant provides written notice to the Association that the Project is completed and no further lots will be developed and no Additional Land will be added to the Project.
  - (ii) The expiration of ten (10) years after the date on which this Declaration is filed for record in the office of the County Recorder of Box Elder County, Utah.

8.3 **Board of Directors.** The Board of Directors shall consist of three (3) members. Declarant reserves the right to appoint all of the Board of Directors until the first of the following occurs:

- (a) Ten (10) years from the date of recordation of this Declaration.
- (b) The date on which one hundred percent (100%) of the Lots in the Project have been conveyed to Owners other than Declarant or Declarant's successor in interest.

8.4 **Amplification.** The provisions of this Article VIII may be amplified by the Bylaws of the Association; provided, however, that no such amplification shall substantially alter or amend any of the rights or obligations of the Owners set forth in this Declaration.

8.5 **Liability of Board.** The Association shall indemnify every officer and member of the Board against any and all expenses, including but not limited to attorney fees reasonably incurred by or imposed upon any officer or member of the Board in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board) to which he or she may be a party by reason of being or having been an officer or member of the Board. The officers and members of the Board shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful and gross: misfeasance, malfeasance, misconduct or bad faith. The officers and members of the Board shall have no personal liability with respect to any contract or other commitment made

by them, in good faith, on behalf of the Association (except to the extent that such officers or members of the Board may also be Members of the Association), and the Association shall indemnify and forever hold each such officer and member of the Board free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall be exclusive of any other rights to which any officer or member of the Board, or former officer or member of the Board, may be entitled. The Association shall, as a Common Expense, maintain adequate general liability, officer's and director's insurance coverage to fund this obligation, if such insurance is reasonably available.

## **ARTICLE IX RIGHTS AND OBLIGATIONS OF THE ASSOCIATION**

- 9.1 **Common Area.** The Association shall be responsible, as described in herein and subject to the rights and duties of the Owners as set forth in this Declaration, for the exclusive management and control of the Common Area and all improvements thereon. Except as otherwise provided for in this Declaration, the Association shall be responsible for maintenance, repair, and replacement of all improvements or other materials located upon or used in connection with the Common Area. All goods and services procured by the Association in performing its responsibilities under this Section shall be paid for with funds from the Common Expense Fund.
- 9.2 **Limited Common Area.** The Association and Owners shall be responsible for the maintenance of the Limited Common Area as set forth in Exhibit C.
- 9.3 **Manager.** The Association may by written contract delegate in whole or in part to a professional Manager such of the Association's duties, responsibilities, functions, and powers hereunder as are properly delegable. The services of any Manager retained by the Association shall be paid for with funds from the Common Expense Fund.
- 9.4 **Rentals and Use of Dwellings.**
- (a) **Single Family.** No Dwelling shall be occupied and used except for single-family residential purposes by the Owners, their tenants, and social guests, and no trade or business shall be conducted therein.
  - (b) **Nightly Rentals.** Dwellings may be used as nightly and short-term rentals consistent with City ordinances relating to short term and nightly rentals.
  - (c) **Property Management.** There exist a number of the management challenges in a large residential development permitting nightly and short-term rentals, including but not limited to: parking enforcement; regulating use and maintenance of the Common Area by guests; responding to nuisance complaints and minimizing nuisances; enforcing pet rules and dealing with pet complaints and waste; obtaining and coordinating the identity of guests for security and safety purposes; and controlling the costs associated with rule enforcement. The Association is obligated to provide Owners and their guests

with minimal lifestyle disruption and desire to maintain a welcoming environment and atmosphere within the Project. To achieve these objectives the Association will engage a property management company to ensure the above referenced challenges and issues are properly managed. The Association realizes the Association may be required to pay a management premium to achieve its objectives and fully address the issues described. While Owners are free to self-manage their Dwelling or to use their choice of property management companies, if, additional expenses are incurred by the Association due to an Owner engaging in nightly rentals, the Association may assess the Owner for any additional expenses it incurs for additional management services or expenses.

- 9.5 **Miscellaneous Goods and Services.** The Association may obtain and pay for the services of such personnel as the Association shall determine to be necessary or desirable for the proper operation of the Project, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or which it contracts. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Project, the enforcement of this Declaration, or any other matter. In addition to the foregoing, the Association may acquire and pay for as a Common Expense, insurance, landscaping, some exterior lighting, and other necessary or desirable utility services for the goods and services common to the Lots.
- 9.6 **Rules and Regulations.** The Association by action of its Board of Directors may make reasonable rules and regulations governing the use of the Lots and of the Common Area, which rules and regulations shall be consistent with the rights and duties established in this Declaration. The Association may take judicial action against any Owner to enforce compliance with such rules and regulations or other obligations of Owners arising hereunder, or to obtain damages for noncompliance therewith, as permitted by law. The Association is empowered to adopt rules allowing for the termination of utilities upon non-payment of fees, as provided in Utah Code Annotated § 57-8a-309 (as amended), to adopt rules for the collection of lease payments from tenants as provided in Utah Code Annotated § 57-8a-310 (as amended), and to adopt rules allowing the Association to assess a fine against those residents, Owners or tenants who violate the Association's Declaration, bylaws or rules and regulations, which rules shall be consistent with those permitted in Utah Code Annotated § 57-8a-208 (as amended). In the event of such action, with or without the filing of a judicial action, the Association shall be entitled to recover its costs, including reasonable attorney fees, from the offending Owner. During the Period of Administrative Control the Declarant is exempt from Association rules and rule making procedures.
- 9.7 **Construction Period Exemption.** During the course of actual construction of any structures or improvements which are permitted to be located on the Project, the provisions, covenants, conditions, and restrictions contained in this Declaration shall be deemed waived to the extent necessary or convenient to permit such construction; provided, however, that during the course of such construction, nothing shall be done which would result in a violation of any of said provisions, covenants, conditions, or restrictions following completion of such construction.
- 9.8 **Implied Rights.** The Association may exercise any right or privilege given to it expressly

by this Declaration or by law, and every other right or privilege reasonably necessary to effectuate any such right or privilege.

- 9.9 **Reserves.** Following the Period of Administrative Control, the Association shall maintain an adequate reserve fund for maintenance, repair and replacement of those Common Areas that must be replaced on a periodic basis, and such reserves shall be funded from the monthly assessments described in Article X below.

## **ARTICLE X ASSESSMENTS**

- 10.1 **Agreement to Pay Assessments.** Declarant, for and as the owner of the Project and every part thereof on the date hereof, hereby covenants, and each Owner of a Lot by the acceptance of instruments of conveyance and transfer therefor, whether or not it be so expressed in said instruments, shall be deemed to covenant and agree with each other and with the Association, to pay to the Association all assessments, both regular and special, made by the Association for the purposes provided in this Declaration. Such assessments shall be fixed, established and collected from time to time as provided in this Article X.
- 10.2 **Uniform Assessments / Exceptions.** Common Expense assessments shall be computed and uniformly assessed against all Lots and the Owners of Lots in the Project, subject to the exception provided to the Declarant during the Period of Administrative Control. All Owners shall pay an equal portion of the Common Expenses, subject to the following:
- (a) Some Owners may receive services or benefits not received by all Owners, including but not limited to common garbage service and/or the use of a carport. The Association shall equitably apportion those expenses associated with unique and limited services to those Owners who receive the limited and unique service, the intent being to not charge Owners for services or benefits they have no ability to use or receive.
  - (b) The Association's power to equitably apportion some expenses to specific Owners and not to other Owners may only be exercised when a group of Owners collectively receive a service or benefit that is not available to the remaining Owners and where it would be manifestly unjust to charge all Owners for such service or benefit. By way of illustration, if some Owners receive and pay for individual garbage service, they should not be assessed a Common Expense for use of a common garbage dumpster used by other Owners; and if some Owners have a carport as part of their Limited Common Area, the costs and expenses associated with maintenance, repair and replacement of the carport, including reserve costs, should be assessed to those Owners with carports and not to those Owners who have a carport assigned for their use.
  - (c) The Declarant shall establish the Common Expense assessments in a manner consistent herewith, which amounts may be adjusted as needed to equitably apportion the Common Expenses among all Owners. The Common Expense assessments made by the Declarant shall be conclusive and may, upon completion of the Project, be reduced to a written exhibit attached to an amended declaration approved solely by the



Declarant, which exhibit shall be final and may not be modified unless approved after the Period of Administrative Control by a vote of not less than sixty-seven percent (67%) of the total votes within the membership of the Association.

- 10.3 **Annual Budget.** Annually, the Association shall prepare, or cause to be prepared, an operating budget setting forth an itemized statement of the anticipated receipts and disbursements for the coming calendar year and taking into account the general condition of the Common Area. Each such budget, together with a written statement from the Association outlining a plan of operation for the year in question and justifying in every important particular the estimates made, shall be submitted to the Owners annually. Said operating budget shall serve as the basis for the schedule of proposed monthly assessments for the annual period for which it is prepared. Said budget shall also constitute a major guideline under which the Association shall operate during such annual period.
- 10.4 **Basis of Annual Budget.** The annual budget shall be based upon the Association's estimates of the cash required to provide for payment of expenses ("Common Expenses") arising out of or connected with maintenance and operation of the Common Areas. Such actual expenses and estimated expenses may include, among other things, the following: expenses of management; governmental taxes and special assessments; premiums for all insurance that the Association is required or permitted to maintain; repairs and maintenance; wages for Association employees, including fees for a Manager, if any; utility charges; legal and accounting fees; any deficit remaining from a previous period; creation of a reasonable contingency reserve and reserve fund required or allowed herein; and any other expenses and liabilities which may be incurred by the Association for the benefit of all of the Owners or by reason of this Declaration.
- 10.5 **Annual Assessments.** Subject to the Association's ability to adjust Common Expenses as provided in Article 10.2 above, the Association shall establish a regular monthly assessment against each Owner, which assessment shall be uniform for each Owner and be paid by each Owner into a Common Expense fund ("Common Expense Fund"). The foregoing method of assessing the Common Expenses to the Owners may be altered by the Association as provided in Article 10.2 so long as the method it adopts is consistent with good accounting practice. Each monthly installment of the regular assessment not timely paid by the 5<sup>th</sup> day of the month shall bear interest at the rate of one and one-half percent (1½ %) per month from the date it becomes due and payable until paid, as well as a late fee in an amount established by the Board, not to exceed \$50.00 per month. Failure of the Association to give timely notice of any assessment as provided herein shall not affect the liability of the Owner of any Lot for such assessment.
- 10.6 **Inadequate Funds.** In the event that the Common Expense Fund proves inadequate at any time for whatever reason, including nonpayment of any Owner's assessment, the Association may levy additional assessments as needed. No vote of the Owners shall be required to approve an assessment needed to repair or maintain portions of the Common Area that the Association is responsible to repair and maintain. Any amounts assessed pursuant hereto shall be apportioned equally among and assessed equally to all Lots. Notice in writing of the amount of such assessment and the time for payment thereof shall be given promptly to the

Owners. No payment shall be due less than thirty (30) days after such notice shall have been mailed. All unpaid portions of any assessment shall bear interest at the rate of one and one-half percent (1½ %) per month from the date such portions become due until paid plus late fees as established by the Board not to exceed \$50.00 per month.

- 10.7 **Declarant's Obligations.** Notwithstanding the preceding provisions of this Article X to the contrary, Declarant or Declarant's successor in interest shall not be obligated to pay any Common Expense assessment or any other assessment to the Association. Assessments shall first become due when a Lot (1) has been conveyed from Declarant to a third party; (2) a Dwelling has been constructed on the Lot; and (3) an Owner, not including the builder of the Dwelling, has received title to the Lot or otherwise moved into and occupies the Dwelling.
- 10.8 **Lien for Assessments.** All sums assessed to the Owner of any Lot within the Project pursuant to the provisions of this Article X, together with interest thereon as provided herein, is secured by virtue of this Declaration as a lien on such Lot in favor of the Association. To evidence a lien for sums assessed pursuant to this Declaration, the Association may prepare a written notice of lien in conformance with Utah law. Each Owner shall be deemed to have consented to the filing of a notice of lien against such Owner's Lot. Such notice shall be signed and acknowledged by a duly authorized officer of the Association or its attorney and may be recorded in the office of the Box Elder County Recorder. No notice of lien shall be recorded until there is a delinquency in payment of the assessment. Such lien may be enforced by nonjudicial foreclosure by the Association in the same manner in which mortgages on real property may be foreclosed in the State of Utah. In any such foreclosure, the Owner shall also be required to pay to the Association any assessments against the Lot which shall become due during the period of foreclosure and the costs and expenses of such proceeding, the costs and expenses of filling the notice of lien, and all reasonable attorney fees.
- 10.9 **Personal Obligation of Owner.** The amount of any regular or special assessment against any Lot shall be the personal obligation of the Owner of such Lot to the Association. Suit to recover a money judgment for such personal obligation shall be maintainable by the Association without foreclosing or waiving the lien securing the same. No Owner may avoid or diminish any such personal obligation by waiver of the use and enjoyment of any of the Common Area or by abandonment of his Lot, or by waiving any services or amenities. In the event of any suit to recover a money judgment for unpaid assessments hereunder the involved Owner shall pay the costs and expenses incurred by the Association in connection therewith, including reasonable attorney fees.
- 10.10 **Non-Judicial Foreclosure.** All costs, expenses, assessments and fees owed to the Association for Common Expenses may be secured by a lien, which lien may be foreclosed in the same manner as foreclosures of deeds of trust under Utah law. The lien shall also secure and the Owner shall also be required to pay to the Association any assessments against the Lot which shall become due during the period of foreclosure. The Association shall have the right and power to bid an amount equal to its then existing lien at the foreclosure sale or other legal sale and to acquire, hold, convey, lease, rent, encumber, use and otherwise deal with the same as the Owner thereof. In any foreclosure or sale, the Owner shall pay the costs

and expenses of such proceedings, including but not limited to the cost of a foreclosure report, reasonable attorney fees, and a reasonable rental for the Dwelling during the pendency of the foreclosure action. The Association in the foreclosure action may require the appointment of a receiver to collect the rental without regard to the value of the mortgage security. If the Association elects to foreclose the lien in the same manner as foreclosures in deeds of trust, then the Owner by accepting a deed to the Lot hereby irrevocably appoints the attorney of the Association, provided he is a member of the Utah State Bar, as Trustee, and hereby confers upon said Trustee the power of sale set forth with particularity in Utah Code Annotated, Section 57-1-23 (1953), as amended. In addition, Owner hereby transfers in trust to said Trustee all of his right, title, and interest in and to the real property for the purpose of securing his performance of the obligations set forth herein. Declarant hereby conveys and warrants pursuant to U.C.A. Sections 57-1-20 and 57-8a-302 to Richard W. Jones, as trustee, an attorney licensed in the State of Utah, with power of sale, the Lot and all improvements to the Lot for the purpose of securing payment of assessments under the terms of the Declaration. The Association may appoint a substitute trustee by executing a substitution of trustee as authorized in Utah Code Annotated, Section 57-1-22, without amending this paragraph.

- 10.11 **Statement of Account.** Upon written request of any Owner, Mortgagee, prospective Mortgagee, or prospective purchaser of a Lot and payment of any reasonable fee assessed as authorized by law, the Association shall issue a written statement setting forth the following: (a) the amount of the unpaid assessments, if any, with respect to such Lot, and (b) the amount of the current regular assessment with respect to such Lot and the date such assessment becomes or became due. Such statement shall be conclusive upon the Association in favor of persons who rely thereon in good faith.
- 10.12 **Personal Liability of a Purchaser.** In a voluntary conveyance, the purchaser of a Lot shall be jointly and severally liable with the seller thereof for all unpaid assessments against such Lot up to the time of the grant of conveyance; provided, however, that the provisions of this Section shall not prejudice the purchaser's right to recovery from the seller of the amount of such assessments paid by the purchaser for such assessments.
- 10.13 **Amendment of Article.** Except as may be necessary to conform to the law, as it may be amended from time to time, this Article X shall not be amended unless the Owners of two-thirds (2/3) of the Lots in the Project consent and agree to such amendment by a duly recorded instrument.

## **ARTICLE XI INSURANCE**

**NOTICE: The Association's Insurance Policy does not cover the personal property or personal liability of the Owners or their Occupants.**

- 11.1 **Insurance.** The Board shall obtain insurance as required in this Declaration, the Act, or other applicable laws. The Association may obtain insurance that provides more or additional coverage than the insurance required in this Declaration. Different policies may be obtained

from different insurance carriers and standalone policies may be purchased instead of, or in addition to, embedded, included coverage, or endorsements to other policies. Insurance premiums shall be a Common Expense.

## 11.2 **Property Insurance.**

- (a) **Association to Insure Buildings.** The Association shall maintain a blanket policy of property insurance covering the entire Project, including the Common Area and all buildings including all Dwellings fixtures, and building services equipment as provided in the Act. The Association may maintain broader coverage if afforded by the insurance contract.
- (1) The blanket policy shall exclude land and other items not normally and reasonably covered by such policies. The blanket policy shall be an "all in" or "all inclusive" insurance as those terms are used in the insurance industry and shall include insurance for any fixture, improvement, or betterment installed in or to the Dwelling or any Limited Common Areas or otherwise permanently part of or affixed to Common Areas, Dwellings, or Limited Common Areas, including but not limited to floor coverings, cabinets, light fixtures, electrical fixtures, heating and plumbing fixtures, paint, wall coverings, windows.
  - (2) At a minimum, the blanket policy shall afford protection against loss or damage by: (1) fire, windstorm, hail, riot, aircraft, vehicles, vandalism, smoke, and theft; and (2) all perils normally covered by "special form" property coverage.
  - (3) The blanket policy shall be in an amount not less than one hundred percent (100%) of current replacement cost of all property covered by such policy (including the Dwellings) at the time the insurance is purchased and at each renewal date. The actual replacement cost of the property shall be determined by using methods generally accepted in the insurance industry.
  - (4) The blanket policy shall include either of the following endorsements to assure full insurable value replacement cost coverage: (1) a Guaranteed Replacement Cost Endorsement under which the insurer agrees to replace the insurable property regardless of the cost; and (2) a Replacement Cost Endorsement under which the insurer agrees to pay up to one hundred percent (100%) of the Property's insurable replacement cost but not more. If the policy includes a coinsurance clause, it must include an Agreed Amount Endorsement which must waive or eliminate the requirement for coinsurance.
  - (5) Each property policy that the Association is required to maintain shall also contain or provide for Inflation Guard Endorsement, if available.
- (b) **Owner Responsibility for Payment of Deductible.** If a loss occurs that is covered by a property insurance policy in the name of the Association and another property insurance policy in the name of an Owner:

- (1) The Association's policy provides primary insurance coverage, and:
    - (a) the Owner is responsible for the Association's policy deductible; and
    - (b) the Owner's policy, if any, applies to that portion of the loss attributable to the Association's policy deductible.
  - (2) An Owner that has suffered damage to any combination of a Dwelling or a Limited Common Area appurtenant to a Dwelling ("Dwelling Damage") as part of a loss, resulting from a single event or occurrence, that is covered by the Association's property insurance policy ("a Covered Loss") is responsible for an amount calculated by applying the percentage of total damage resulting in a Covered Loss that is attributable to Dwelling Damage ("Dwelling Damage Percentage") for that Dwelling to the amount of the deductible under the Association's property insurance policy; and
  - (3) If an Owner does not pay the amount required under Subsection (2) above within 30 days after substantial completion of the repairs to, as applicable, the Dwelling or the Limited Common Area appurtenant to the Dwelling, the Association may levy an assessment against the Owner for that amount.
- (c) **Claims Under the Deductible.** If, in the exercise of its business judgment, the Board determines that a claim is likely not to exceed the Association's policy deductible:
  - (a) the Owner's policy is considered the policy for primary coverage to the amount of the Association's policy deductible; (b) an Owner who does not have a policy to cover the Association's property insurance policy deductible is responsible for the loss to the amount of the Association's policy deductible; and (c) the Association need not tender the claim to the Association's insurer.
- (d) **Deductible Notice.** The Association shall provide notice to each Owner of the Owner's obligation under Subsection (b) above for the Association's policy deductible and of any change in the amount of the deductible. If the Association fails to provide notice of the initial deductible, it shall be responsible for the entire deductible in case of any loss. If the Association fails to provide notice of any increase in the deductible, it shall be responsible for paying any increased amount that would otherwise have been assessed to the Owner. The failure to provide notice shall not invalidate or affect any other provision in this Declaration.
- (e) **Owner's Responsibility for Personal Property.** The Association shall have no obligation to obtain or maintain any insurance covering Owners' personal property, and each Owner shall be responsible for obtaining and maintaining such personal property insurance.

11.3 **Comprehensive General Liability (CGL) Insurance.** The Association shall obtain CGL insurance insuring the Association, the agents and employees of the Association, and the Owners, against liability incident to the use, ownership or maintenance of the Common Area

or membership in the Association. The coverage limits under such policy shall not be less than Two Million Dollars (\$2,000,000.00) covering all claims for death of or injury to any one person or property damage in any single occurrence. Such insurance shall contain a Severability of Interest Endorsement or equivalent coverage which should preclude the insurer from denying the claim of an Owner because of the negligence acts of the Association or another Owner.

- 11.4 **Director's and Officer's Insurance.** The Association shall obtain Directors' and Officers' liability insurance protecting the Declarant, the Board, the officers, and the Association against claims of wrongful acts, mismanagement, failure to maintain adequate reserves, failure to maintain books and records, failure to enforce the Governing Documents, and breach of contract (if available). This policy shall: (1) include coverage for volunteers and employees, (2) include coverage for monetary and non-monetary claims, (3) provide for the coverage of claims made under any fair housing act or similar statute or that are based on any form of discrimination or civil rights claims, and (4) provide coverage for defamation. In the discretion of the Board, the policy may also include coverage for any Manager and any employees of the Manager and may provide that such coverage is secondary to any other policy that covers the Manager or any employees of the Manager.
- 11.5 **Theft and Embezzlement Insurance.** The Association shall obtain insurance covering the theft or embezzlement of funds that shall: (1) provide coverage for an amount of not less than the sum of three (3) months' regular assessments in addition to the prior calendar year's highest monthly balance on all operating and reserve funds, and (2) provide coverage for theft or embezzlement of funds by: (a) Officers and Board of Directors members of the Association, (b) employees and volunteers of the Association, (c) any Manager of the Association, (c) officers, directors, and employees of any Manager of the Association, and (d) coverage for acts.
- 11.6 **Worker's Compensation Insurance.** The Board of Directors shall purchase and maintain in effect workers' compensation insurance for all employees of the Association to the extent that such insurance is required by law and as the Board deems appropriate.
- 11.7 **Certificates.** Any insurer that has issued an insurance policy to the Association shall issue a certificate of insurance to the Association, and upon written request, to any Owner or Mortgagee.
- 11.8 **Named Insured.** The named insured under any policy of insurance shall be the Association; and the Declarant shall be listed by name as an additional insured under any and all policies of insurance. The Declarant and each Owner shall also be an insured under all property and CGL insurance policies.
- 11.9 **Right to Negotiate All Claims & Losses & Receive Proceeds.** Insurance proceeds for a loss under the Association's property insurance policy are payable to an Insurance Trustee if one is designated, or to the Association, and shall not be payable to a holder of a security interest. An Insurance Trustee, if any is appointed, or the Association shall hold any insurance proceeds in trust for the Association, Owners, and lien holders. Insurance proceeds shall be

disbursed first for the repair or restoration of the damaged property, if the property is to be repaired and restored as provided for in this Declaration. After any repair or restoration is complete and if the damaged property has been completely repaired or restored, any remaining proceeds shall be paid to the Association. If the property is not to be repaired or restored, then any remaining proceeds after such action as is necessary related to the property has been paid for, shall be distributed to the Owners and lien holders, as their interests remain with regard to the Dwelling. Each Owner hereby appoints the Association, or any Insurance Trustee, as attorney-in-fact for negotiating all losses related thereto, including the collection, receipt of, and appropriate disposition of all insurance proceeds; the execution of releases of liability; and the execution of all documents and the performance of all other acts necessary to administer such insurance and any claim.

This power-of-attorney is coupled with an interest, shall be irrevocable, and shall be binding on any heirs, personal representatives, successors, or assigns of the Owner.

- 11.10 **Insurance Trustee.** In the discretion of the Board or upon written request executed by Owners holding at least 50% of the entire voting interest of the Association, the Board shall hire and appoint an insurance trustee ("Insurance Trustee"), with whom the Association shall enter an insurance trust agreement, for the purpose of exercising such rights under this paragraph as the Owners or Board (as the case may be) shall require.
- 11.11 **Owner Act Cannot Void Coverage Under Any Policy.** Unless an Owner is acting within the scope of the Owner's authority on behalf of the Association and under direct authorization of the Association, an Owner's act or omission may not void an insurance policy or be a condition to recovery under a policy.
- 11.12 **Waiver of Subrogation against Owners and Association.** All property and CGL policies must contain a waiver of subrogation by the insurer as to any claims against the Declarant, the Association and the Owners and their respective affiliates, agents and employees.
- 11.13 **Applicable Law.** This Declaration is specifically subjecting the Association to the insurance requirements and provisions in Part 4 of the Act, and any amendments thereto and thereafter enacted by law. It is the intent of this provision that any future changes to the insurance law applicable to community associations shall apply to this Association.

## **ARTICLE XII COMPLIANCE WITH DECLARATION AND BYLAWS**

- 12.1 **Compliance.** Each Owner shall comply with the provisions of this Declaration, the Articles of Incorporation and Bylaws of the Association, rules and regulations promulgated by the Association, and the decisions and resolutions of the Association adopted pursuant thereto, as the same may be lawfully amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due and for damages or injunctive relief or both, maintainable by the Association or by an aggrieved Owner.
- 12.2 **Enforcement and Remedies.** The obligations, provisions, covenants, restrictions and

conditions contained in this Declaration, or in any supplemental or amended Declaration, enforceable against the Association, shall be enforceable by Declarant or by any Owner of a Lot, by a proceeding for a prohibitive or mandatory injunction. The obligations, provisions, covenants, restrictions and conditions contained in this Declaration, or in any supplemental or amended Declaration, enforceable against an Owner or any other person, shall be enforceable by Declarant or the Association by a proceeding for a prohibitive or mandatory injunction or by a suit or action to recover damages or to recover any amount due or unpaid.

### **ARTICLE XIII COLLECTION FROM RENTERS**

- 13.1 **Collecting Fees from Renters.** If the Owner of a Lot who is leasing the Lot fails to pay any assessment for a period of more than 60 days after it is due and payable, the Board may require the tenant to pay to the Association all future lease payments due the Owner, commencing with the next monthly or other periodic payment, until the amount due to the Association is paid.
- 13.2 **Notice to Lot Owner.** The Board shall give the Lot Owner written notice of the Board's intent to demand full payment of all delinquent assessments from the Owner's tenant. This notice shall be sent by regular first class mail to the last known address of the Owner, as provided on the records of the county recorder or as provided by the Lot Owner to the Board. The notice shall inform the Owner that all delinquent assessments must be paid to the Association within fifteen (15) days from the date the notice is mailed to the Lot Owner, and if payment is not received within fifteen (15) days, the Board shall notify the tenant that future lease payments shall be paid to the Association and not to the Lot Owner. This notice to the Owner shall also:
- (a) provide that the Board will give notice to the tenant that full payment of remaining lease payments will begin with the next monthly payment unless the delinquent assessment is paid by the Lot Owner within fifteen (15) days from the date contained on the notice;
  - (b) state the amount of the delinquent assessment due, including any interest or late payment fee;
  - (c) state that any costs of collection, not to exceed \$150, and other assessments that become due may be added to the total amount due; and;
  - (d) contain a copy of this amendment authorizing the Board to collect delinquent HOA fees from tenants, and a copy of the state law (U.C.A. 57-8a-310) authorizing such action to be taken.
- 13.3 **Notice to Tenant.** If the Lot Owner fails to pay the amount of the assessment due within the fifteen (15) day period specified in the notice, the Board shall deliver written notice to the tenant that informs the tenant that all future payments due from the tenant to the Owner shall



be paid to the Association. The notice to the tenant shall be served on the tenant by: (1) posting a notice on the door of the tenant's Dwelling, (2) mailing a notice to the tenant at the address of the Dwelling, or (3) delivering notice personally to the tenant. A copy of the notice shall be mailed to the Lot Owner. The notice provided to the tenant shall also state:

- (a) that due to the Owner's failure to pay the assessment within the time period allowed, the Owner has been notified of the Board's intent to collect all lease payments due to the Association;
- (b) that until notification by the Association that the assessment due, including any interest or late payment fee, has been paid, all future lease payments due to the Owner are to be paid to the Association; and
- (c) payment by the tenant to the Association will not constitute a default under the terms of the lease agreement with the Lot Owner/landlord. If payment is in compliance with this notice, suit or other action may not be initiated by the Owner against the tenant for failure to pay.

13.4 **Disbursement of Funds Collected.** All funds paid to the Association pursuant to the notice shall be deposited in a separate account and disbursed to the Association until the assessment due, together with any cost of administration which may not exceed \$25, is paid in full. Any remaining balance must be paid to the Owner within five business days of payment in full to the Association.

13.5 **Terminating Collection.** Within five business days of payment in full of the assessment, including any interest or late payment fee, the Board must notify the tenant in writing that future lease payments are no longer due to the Association. A copy of this notification shall be mailed to the Lot Owner.

13.6 **Definition of Lease.** As used in this section, "lease" or "leasing" means regular, exclusive occupancy of a Dwelling by any person or persons, other than the Lot owner, for which the Lot owner receives any consideration or benefit, including a fee, service, gratuity, or emolument.

#### **ARTICLE XIV DECLARANT'S SALES PROGRAM**

14.1 **Declarant's Right to Promote and Sell the Project.** Notwithstanding any other provisions of this Declaration, until Declarant ceases to be an Owner ("Occurrence"), Declarant, its successor or assigns shall have the following rights in furtherance of any sales, promotional or other activities designed to accomplish or facilitate the sale of Lots owned by Declarant:

- (a) **Sales Offices and Model Lots.** Declarant, its successors and assigns, shall have the right to maintain sales offices, including a trailer, and model homes on Lots. Sales offices may be located on any Lot (at any location) owned by Declarant or may be located on any of the Common Area Declarant shall have the right to maintain any

number of model homes it may desire using the Lots Declarant owns.

- (b) **Promotional Devices.** Declarant, its successors and assigns, shall have the right to maintain a reasonable number of promotional, advertising and/or directional signs, banners and similar devices at any place or places on the Common Area or Lots owned by Declarant, but any such devices shall be of sizes and in locations as are reasonable and customary.
- (c) **Right to Use the Common Area.** Declarant shall have the right to use the Common Area of the Project to entertain prospective purchasers or to otherwise facilitate Lot sales, provided said use is reasonable as to both time and manner.

14.2 **Declarant's Rights to Relocate Sales and Promotional Activities.** Declarant shall have the right from time to time to locate or relocate its sales offices, trailer, model homes and signs, banners and similar devices, but in connection with each such location or relocation Declarant shall observe the limitations imposed by the preceding portions of this Article. Within a reasonable period of time after the happening of the Occurrence, Declarant shall have the right to remove from the Project any sales structures, fixtures, improvements, signs, banners and similar sales materials and properties.

14.3 **Limitation on Amending Association Documents.** During any time Declarant holds an ownership interest in any Lot or in any portion of the property, no amendment shall be made to the Declaration, Bylaws or Rules without the written consent and approval of the Declarant.

## ARTICLE XV MORTGAGEE PROTECTION

15.1 **Mortgage Protection.** No breach of any of the covenants, conditions, restrictions, and limitations contained herein shall defeat or render invalid the lien of any Mortgage made in good faith and for value; provided, however, that all such covenants, conditions, restrictions and limitations contained herein shall be binding upon an Owner whose title is derived through foreclosures or trustee's sale.

15.2 **Priority of Liens.** No enforcement of any lien provision herein contained shall defeat or render invalid the lien of any Mortgage. All sums assessed in accordance with the provisions herein shall constitute a lien on each respective Lot prior and superior to all other liens except (1) all taxes, bonds, assessments, and other levies which, by law, would be superior thereto; and (2) the lien or charge of any recorded Mortgage on such Lot made in good faith and for value and recorded prior to the date on which any such assessment or assessments become due.

15.3 **Prior Liens Relate Only to Individual Lots.** All taxes, assessments and charges which may become liens prior to the first Mortgage under local law shall relate only to the individual Lot and not to the Project as a whole.

15.4 **Mortgage Holder Rights in Event of Foreclosure.** Any Mortgagee of a Mortgage of record

which obtains title to a Lot by the foreclosure of the Mortgage on the Lot or any purchaser at a foreclosure sale, shall take the Lot free of any claims for unpaid assessments and charges against the Lot which accrued prior to the date of the acquisition of title to such Lot by such acquirer.

- 15.5 **Amendment.** No provision of this Article XV shall be amended without the consent of at least two-thirds of all first Mortgagees as they appear on the official records of Box Elder County, Utah, as of the date of such amendment, which Mortgagees have notified and requested the Association first provide the Mortgagee with notice of any material amendment to the Declaration, which consent may be deemed granted by the provisions of the Community Association Act, U.C.A. § 57-8a-220. However, should this Article XV be amended without the prior consent of at least two-thirds of all first Mortgagees who have requested notification, the first Mortgagees who have received a security interest in a Lot as indicated on the official records of Box Elder County, Utah, and who have requested notice, will not be subject to the amendment but will be bound by the provisions of Article XV that existed of record at the time the first Mortgagee received a security interest. All other Mortgagee who receives a security interest in a Lot will be bound by the provisions of this Article XV that existed of record at the time the Mortgagee received a security interest in a Lot, as well as any amendment to this Article XV.

## **ARTICLE XVI DISPUTE RESOLUTION**

- 16.1 **Statement of Intent.** Prior to purchasing a Lot, every Owner is capable of obtaining an inspection and is permitted to perform, or pay someone else to perform, any inspection on any Lot and Dwelling the Owner is purchasing regarding any aspect of the Project. Moreover, if any warranty is provided, it identifies only those items warranted by the Declarant or the contractor who built the Dwelling. Having had the ability to inspect prior to purchasing a Lot, having received a written warranty if any warranty is provided, and having paid market price for a Lot in the condition the Lots and Common Area are in at the time of purchase, it is acknowledged that it is unfair and improper to later seek to have the Declarant and/or any contractor performing work in the Project to change, upgrade, or add additional work to the Project outside of any express warranty obligation. Moreover, the Owners (by purchasing a Lot and Dwelling) and the Declarant acknowledge and agree that litigation is an undesirable method of resolving disputes and conflicts in that it can be slow, expensive, uncertain, and can often negatively impact the sale value and ability to obtain financing for the purchase of Lots for years, unfairly prejudicing those Owners who must or want to sell their Lot and Dwelling during any period when litigation is pending. For this reason, the Owners by purchasing a Lot and Dwelling and the Declarant agree and acknowledge that claims and disputes with Declarant and or the contractor who built the Dwelling shall not be pursued through court action, but shall be asserted and resolved only through certain specific alternative dispute resolution mechanisms and only after full disclosure, right to cure periods, and knowing approval of the Owners, as set forth herein. In addition, the Association and the Owners agree that they take ownership and possession of the Lots and Common Area AS IS, with no warranties of any kind except as otherwise required as a matter of law. The Declarant and the contractors who build the Dwellings

specifically disclaim any warranties of merchantability, fitness for a particular use, or of habitability, to the full extent allowed by law.

16.2 **Arbitration.** To the fullest extent permitted by law, all claims and disputes of any kind that any Owner or the Association may have involving the Declarant or contractor who built a Dwelling, or any agent, employee, executing officer, manager, affiliate or owner of the Declarant, or any engineer or contractor involved in the design or construction of the Project, which arises from or is in any way related to a Lot, Dwelling, Common Area, or any other component of the Project (a “Dispute”), shall be submitted to final and binding arbitration. Binding arbitration shall be the sole remedy for resolving claims and disputes between or involving the Declarant, the contractor, and any Owner or between or involving the Declarant, the contractor, and the Association. Arbitration proceedings shall not be commenced unless the Pre-Arbitration Requirements set forth in Section 16.3 below have been satisfied in full. Without in any way limiting the foregoing, Disputes subject to binding arbitration shall include:

- (a) Any allegation that a condition in any of the Lots, Dwellings, or Common Area is a construction defect;
- (b) Any disagreement as to whether an alleged construction defect has been corrected;
- (c) Any disagreement about whether any warranties, including implied warranties, are applicable to the subject matter of any Dispute;
- (d) Any disagreement as to the enforceability of any warranties alleged to be applicable to the subject matter of any Dispute;
- (e) Any disagreement about whether any warranty alleged to be applicable to the subject matter of any Dispute has been breached;
- (f) Any alleged violations of consumer protection, unfair trade practice, or other statutes;
- (g) Any allegation of negligence, strict liability, fraud, and/or breach of duty of good faith, and all other claims arising in equity or from common law;
- (h) Any allegation that any condition existing in the Project or created by the Declarant, including construction-related noise, dust, and traffic, is a nuisance;
- (i) Any disagreement concerning the issues that should be submitted to binding arbitration;
- (j) Any disagreement concerning the timeliness of performance of any act to be performed by Declarant;
- (k) Any disagreement as to the payment or reimbursement of any fees associated with binding arbitration;
- (l) Any other claim or disagreement arising out of or relating to the sale, design, or construction of any of the Lots, Dwellings, or Common Areas.

16.3 **Pre-Arbitration Requirements.** An Owner or the Association may only pursue a claim against the Declarant or contractor to the extent described herein or by law after the following dispute resolution efforts have been completed:

- (a) **Right to Cure:** the Owner shall provide to the Declarant or contractor a written Notice of Claim (defined below) and permit the Declarant or contractor one hundred eighty (180) days to cure or resolve the claim or defect or to try to get the builder or the

appropriate subcontractor to cure or resolve the claim or defect, prior to initiating any formal arbitration proceedings;

- (b) If the dispute is not resolved within the 180-day Right to Cure period, the parties agree to mediate the dispute prior to taking further action or commencing arbitration. If additional, different, or modified claims, damages, calculations, supporting information, or descriptions are added, provided to, or asserted against the Declarant or contractor that were not included in any previously submitted Notice of Claim, the Right to Cure period provided for in this section shall immediately apply again and any pending action or proceedings, including any mediation or arbitration, shall be stayed during the 180-day period.
- (c) "Notice of Claim" shall mean and include the following information: (1) an explanation of the nature of the claim, (2) a specific breakdown and calculation of any alleged damages, (3) a specific description of the claim along with any supporting opinions, information, or factual evidence upon which the claim is based, (4) photographs of any alleged condition, if applicable, (5) samples of any alleged defective conditions or materials, (6) all efforts taken to avoid, mitigate, or minimize the claim or any alleged damages arising therefrom, and (7) the names, phone numbers, and address of each person providing factual information, legal or factual analysis, or legal or factual opinions related to the claim.

16.4 **Binding Arbitration.** If a claim or dispute has not been resolved after satisfying and complying with the above-described "Pre-Arbitration Requirements," then the claimant (Owner or Association or contractor) shall have the right to proceed with binding arbitration; however, the Association shall not pursue or commence binding arbitration unless such action is first approved by a majority of the total votes of the Association after first obtaining a written opinion from legal counsel advising the Association of the likelihood of success on the merits of the claims, the anticipated costs and legal fees, the anticipated expert witness fees, and the likelihood of recovery if the Association prevails. The written opinion from legal counsel, addressing these topics, must be provided to all Owners before the formal vote on whether to proceed with binding arbitration. The binding arbitration shall be conducted by a member of the American Arbitration Association's Panel of Construction Arbitrators, or by a different arbitrator or arbitration service provider if mutually approved by the parties. The binding arbitration shall be conducted according to the rules and procedures set forth in the Construction Industry Arbitration Rules promulgated by the American Arbitration Association. The award of the arbitrator shall be final and may be entered as a judgment by any court of competent jurisdiction.

16.5 **Fees and Costs.** Each party shall bear its own attorney fees and costs (including expert witness costs) for the arbitration. The arbitrator shall not award attorney fees or expert witness fees to the prevailing party. The arbitration filing fee and other arbitration fees shall be divided and paid equally as between the parties.

16.6 **No Court Proceeding.** If any Owner, the Association, or the Declarant or contractor files a proceeding in any court to resolve any Dispute, such action shall not constitute a waiver of

the right of such party, or a bar to the right of any other party, to seek arbitration of that or any other Dispute and such court shall, upon motion of any party to the proceeding, stay the proceeding before it and direct that such Dispute be arbitrated in accordance with the terms set forth herein.

- 16.7 **Subrogation.** The Association and each Owner waives any right to subrogation against the Declarant and any builder and engineer in the Project. This waiver shall be broadly construed and applied to waive, among other things, any attempt by any insurer of any Owner or of the Association from pursuing or exercising any subrogation rights, whether arising by contract, common law, or otherwise, against the Declarant, the engineer, and builder, and their officers, employees, owners, and representatives. To the full extent permitted by law, the Association and Owners hereby release Declarant, the Project engineer, and builder, their respective officers, employees, owners, and representatives from any and all liability to the Association and all Owners, and anyone claiming through or under them by way of subrogation or otherwise, for any loss, injury, or damage to property, caused by fire or any other casualty or event, even if such fire or other casualty shall have been caused by the fault or negligence of Declarant or builder, their officers, employees, owners, and representatives. The Association and each Owner agrees that all policies of insurance shall contain a clause or endorsement to the effect that this release and waiver of subrogation shall not adversely affect or impair such policies or prejudice the right of the Association or any Owner to recover thereunder. The Association and all Owners shall indemnify and defend the Declarant, the builder, and any of their officers, employees, owners, or representatives from any claims barred or released by this provision, including but not limited to any claim brought under any right of subrogation.
- 16.8 **No Rights Created.** Nothing in this Declaration or in this Article XVI shall grant or otherwise create a right of action by the Association against the Declarant, the developer or the builder, that does not otherwise already exist under Utah law.

## **ARTICLE XVII EXPANSION**

- 17.1 **Declarant's Option to Expand.** Declarant hereby exclusively reserves the option to expand the Project (the "Option to Expand") by adding additional Lots and Common Area upon the terms and provisions set forth in this Article without the prior consent of the Owners or the Association. Declarant makes no representation regarding the number of Lots that may be included in the Project. Only Declarant and its assigns may exercise the Option to Expand, and Declarant and its assigns shall have the right to expand the Association even if the Declarant no longer owns any Lot within an earlier phase of the Project. If the Option to Expand is exercised by Declarant or its assigns, it may do so at any time after the recording of this Declaration. There is no obligation of any kind whatsoever for the Declarant or its assigns to exercise the Option to Expand. The terms and conditions of the Option to expand shall be as follows:
- (a) The real property subject to the Option to Expand shall consist of property adjacent to or within 1000 feet of the Project. Any property added to the Association pursuant

to the Option to Expand shall not contain more than seventy-nine (79) additional Lots, meaning that the completed subdivision or Project shall not contain more than ninety-five (95) total Lots. Some of the additional lots may contain additional Common Areas, which the Association shall own and be required to maintain according to the requirements found in the Declaration.

- (b) Subject to the provisions of Section 17.1(c) below, the Option to Expand may be exercised at different times as to all or any portions of any additional property. In the event the Option to Expand is exercised with respect to a portion of the Additional Land, the Option to Expand may subsequently be exercised with respect to any other portion of Additional Land. There are no limitations as to when portions of the Additional Land may be added.
- (c) Declarant shall not be restricted in the location of improvements on the Additional Land or in the number or kind of Dwellings or structures that may be created on the Additional Land, except as may be required by applicable zoning requirements, ordinances or regulations, provided the Project when completed shall not exceed ninety-five (95) Lots or Dwellings, facilities and any other improvements required to be placed or developed thereon by the City or the County.
- (d) The Residences to be located on the Additional Land shall be subject to the same uses as provided in this Declaration, as applicable. Declarant reserves the right to exercise all developmental rights reserved or afforded in this Declaration with respect to any Residences located on the Additional Land.
- (e) Declarant reserves the right to add additional Common Areas to the Additional Land without limitation.
- (f) The responsibility for Assessments and the votes for all Lots in the Project shall be changed at the time Declarant records a supplemental declaration and an additional or supplemental Plat reflecting Declarant's exercise of the Option to Expand in accordance with the provisions set forth in the article.
- (g) After additional Lots are added to the Project, each Lot Owner shall continue to have one vote for Association matters and each owner shall pay an equal percentage of the Common Expenses, subject to Declarant's authority to adjust fees as stated herein.
- (h) Each Owner, by execution of a contract for deed or the acceptance of a deed to a Lot in the Project, shall be deemed to have consented to all provisions of this Article XVII, including the procedure for adjustment of Lot ownership interest. After the filing for record of any amendment to this Declaration, the supplemental declaration and/or supplemental Plat reflecting Declarant's exercise of the Option to Expand, or any other part thereof, legal and equitable title to each Lot thereby created within the Additional Land shall be vested in and held by Declarant and none of the other Owners shall have any claim or title to or interest in such Lot.

- (i) Declarant shall not be required to obtain the consent of any Owners or of any other Person or entity having any right or interest in all or any portion of the Project prior to or subsequent to adding all or portions of the Additional Land.
- (j) No provision of this Article XVII shall be amended without the prior written consent of Declarant, so long as Declarant owns or has the right to acquire any Lots in the Development.

17.2 **Expansion of Additional Land.** In addition to the provisions for annexation specified in this Article XVII and subject to the applicable laws in effect from time to time, the Additional Land may be expanded to include additional real property, not as yet identified. Such property may be annexed to the Additional Land in accordance with the then current applicable laws.

## **ARTICLE XVIII GENERAL PROVISIONS**

18.1 **Intent and Purpose.** The provisions of this Declaration and any supplemental or amended Declaration shall be liberally construed to effectuate the purpose of creating a uniform plan for the development and operation of the Project. Failure to enforce any provision, restriction, covenant, or condition in this Declaration, or in any supplemental or amended Declaration, shall not operate as a waiver of any such provision, restriction, covenant, or condition or of any other provisions, restrictions, covenants, or conditions.

18.2 **Construction.** The provisions of this Declaration shall be in addition and supplemental to all applicable provisions of law. Wherever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural shall include the singular, and the use of any gender shall include all genders. The Article and Section headings set forth herein are for convenience and reference only and are not intended to describe, interpret, define or otherwise affect the context, meaning, or intent of this Declaration or any Article, section or provision hereof. The provisions hereof shall be deemed independent and severable and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provision hereof.

18.3 **Registration of Mailing Address.** Upon the purchase of any Lot, the Owner of such Lot shall register with the Association his current mailing address. All notices or demands intended to be served upon any Owner shall be sent as provided in the Bylaws.

18.4 **Audit.** Any Owner may at any reasonable time, upon appointment and at his own expense, cause an audit or inspection to be made of the books and records maintained by the Association.

18.5 **Amendment.**

- (a) Except as otherwise provided herein, this Declaration, and any amendments to the Declaration, may be amended with or without a meeting of the Owners by the



affirmative consent or vote of at least sixty-seven percent (67%) of the Owners. All necessary written consents must be obtained prior to the expiration of ninety (90) days from the date the first written consent is obtained. Any amendment so authorized shall be accomplished through the recordation of an instrument executed by an officer of the Association certifying that the vote required by this Article has occurred, which properly approved amendments shall be evidenced by instruments which are duly recorded in the office of the County Recorder for Box Elder County, State of Utah.

- (b) During the Period of Administrative Control, the Declarant shall have and is hereby vested with the right to amend this Declaration and the Plats by an instrument duly executed and acknowledged by Declarant and recorded in the Official Records of the County Recorder of Box Elder County, Utah. Such right of amendment shall apply without regard to the subject matter or the nature of the amendment involved, and such amendment shall not take away any substantive legal rights of those Owners who own a Lot at the time of such amendment by the Declarant.

18.6 **Effective Date.** This Declaration and any amendments thereto shall take effect upon recording.

18.7 **Agent for Service.** The person to receive service of process for the Association shall be the then current registered agent of the Association as shown on the records maintained in the office of the Division of Corporations and Commercial Code of the State of Utah.

18.8 **Limitation on Association's Liability.** The Association shall not be liable for any failure of water service or other utility service to be obtained and paid for by the Association hereunder, or for injury or damage to any person or property caused by the elements or by another Owner or person in the Project, or resulting from electricity, water, ground water, rain, snow or ice, or the settling of ground beneath a Dwelling. No diminution or abatement of any assessments under this Declaration shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs, maintenance or improvements to the Project or any part thereof, or from any action taken to comply with any law, ordinance or order of a governmental authority.

18.9 **Owner's Obligations.** All obligations of an Owner under and by virtue of the provisions contained in this Declaration shall continue, notwithstanding that he may be leasing, renting, or selling on contract his Lot. The Owner of a Lot shall have no obligation for expenses or other obligations accruing after he conveys title to such Lot.

*[Signatures on Following Page]*

EXECUTED BY DECLARANT and the Lot Owner named below on the date of notarization appearing below:

**Declarant:**

**River Valley Development, LLC**

By \_\_\_\_\_  
Its: Manager

\_\_\_\_\_  
J. Burdette Stocking

STATE OF UTAH )  
 :ss.  
COUNTY OF BOX ELDER )

On this \_\_\_\_ day of August, 2019, personally appeared before me, \_\_\_\_\_ who acknowledged to me that he is the manager of **River Valley Development, LLC**, and is authorized to, and did in fact execute this Declaration on behalf of **River Valley Development, LLC**.

\_\_\_\_\_  
Notary Public

STATE OF UTAH )  
 :ss.  
COUNTY OF BOX ELDER )

On this \_\_\_\_ day of July, 2019, personally appeared before me **J. Burdette Stocking** who acknowledged to me that he did in fact execute this Declaration.

\_\_\_\_\_  
Notary Public

**Exhibit “A”**

**LEGAL DESCRIPTION**

**RIVER VALLEY 4-PLEX SUBDIVISION PHASE 2  
LOT 22 AND 23 AMENDMENT 2**

ALL OF LOTS 1 THROUGH 16, RIVER VALLEY 4-PLEX SUBDIVISION PHASE 2,  
LOT 22 AND 23 AMENDMENT 2, TREMONTON, BOX ELDER COUNTY, UTAH.

Parcel numbers: 05-238-0123 thru 0138

**Exhibit “B”**

**BYLAWS**

# BYLAWS

FOR

## RIVER VALLEY 2 HOA

The following are adopted as the administrative Bylaws of River Valley 2 HOA (“River Valley 2”).

### ARTICLE I

#### PLAN OF LOT OWNERSHIP AND INCORPORATION

- 1.1 **Submission.** These Bylaws are adopted by the Owners of Lots in River Valley 2. These Bylaws shall govern the administration of River Valley 2 HOA.
- 1.2 **Definitions.** The words defined in Article I of the Declaration of Covenants, Conditions and Restrictions for River Valley 2 HOA, shall have the same meaning when used herein unless the context clearly requires another meaning.
- 1.3 **Conflict.** In the event of any conflict, incongruity or inconsistency between the provisions of these Bylaws and the provisions of the Declaration or any amendments thereto, the latter shall in all instances govern and control.
- 1.4 **Office and Registered Agent.** The Registered Agent of the Association shall be the President or Secretary of the Association and the Registered Office of the Association shall be the office of the President or such other place as shall be designated by him.
- 1.5 **Bylaws Applicability.** All present and future Owners, residents, tenants, renters, lessees, and their guests, licensees, invitees, servants, agents or employees, and any other person or persons who shall be permitted at River Valley 2 shall be subject to and abide by these Bylaws.

### ARTICLE II

#### ASSOCIATION

- 2.1 **Composition.** The Association of Owners is a mandatory association consisting of all Owners at River Valley 2.
- 2.2 **Voting.** Each Owner shall have an equal number of votes, subject to the voting rights of the Class B member as set forth in the Declaration.
- 2.3 **Place of Meeting.** Meetings of the Association shall be held at the principal office of the Association or at such other suitable place as may be designated by the Board from time to

time and stated in the notice of meeting.

- 2.4 **Annual Meeting.** The annual meeting of the Association shall be held at such suitable day, date and time as may be designated by the Board from time to time. The place of meeting shall be the principal office of the Association unless otherwise specified in the notice of meeting.
- 2.5 **Special Meetings.** The President shall call a special meeting (a) if he or she so desires, (b) if a majority of the members of the Board of Directors direct him to do so, or (c) upon receipt of a petition signed and presented to the Secretary of the Board by at least fifty-one percent (51%) of the members of the Association. The notice of any special meeting shall state the date, time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.
- 2.6 **Notice of Meeting.** It shall be the duty of the Secretary to give notice of (a) each annual meeting of the Owners not less than ten (10) and not more than thirty (30) days in advance of such meeting; and (b) each special meeting of the Owners at least three (3) days and not more than twenty (20) days in advance of such meeting, stating the purpose thereof as well as the time and place where it is to be held, to each Owner of record, at the address of his respective Lot or such other address as each Owner may have designated by notice in writing to the Secretary. The mailing of a notice of meeting in the manner provided in this Section shall be considered service of notice.
- 2.7 **Notification by Mail, Website and Email.** Any notice permitted or required to be delivered by the Board or from the Association to the Owners may be delivered either personally, by U.S. mail, or by electronic means.
- (a) If notice is by mail, it shall be deemed to have been delivered 24 hours after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to each Owner at the address given by such person to the Board of Directors for the purpose of service of such notice or to the Lot of such person if no address has been given. Such addresses may be changed by Owner from time to time by notice in writing to the Board of Directors.
  - (b) If notice is by electronic means, any notice delivered by the Association to Owners under the provisions of the Declaration or these Bylaws may be sent by electronic means, including text message, email, or the Association's website. The Association shall maintain records of all notices sent to Members by electronic means, including the electronic address to which notice was sent. When a notice is sent electronically, the Association shall first compile a list of Owners' current electronic addresses (such as email or text messaging addresses or other types of well known electronic forms, such as Facebook) and the Association shall send notification of all Association meetings and business to the electronic address of the Owners. The Association secretary shall thereafter send an electronic notice, via email or a comparable electronic means, of all Association meetings and business to those Owners who do not object to electronic notification in this manner. A member may,

by written demand, require the Association to provide notice to the Lot Owner by mail.

- (c) If notice is by personal means, notice may be delivered to Owners by hand delivery directly to the Owner or a responsible occupant of an Owner's Dwelling, or by securely attaching a copy of the notice to the front entry door of the Owner's Dwelling.

2.8 **Voting Requirements.** An Owner shall be deemed to be in "good standing" and "entitled to vote" at any annual meeting or at any special meeting of the Association if, and only if, he shall be in full compliance with all of the terms, covenants, and conditions of the Project Documents, and shall have fully paid all Assessments due.

2.9 **Proxies.** The votes appertaining to any Lot may be cast pursuant to a proxy or proxies duly executed by or on behalf of the Owner, or in cases where the Owner is more than one person, by or on behalf of all such persons. No such proxy shall be revocable except by actual written notice to the person presiding over the meeting, by the Owner or by any of such persons, that it be revoked. Any proxy shall be void if it is not dated, if it purports to be revocable without notice, or if it is not signed by a person having authority, at the time of the execution thereof, to execute deeds on behalf of that person. Unless it expressly states otherwise, a proxy shall terminate automatically upon the adjournment of the first meeting held on or after the date of that proxy. Each proxy must be filed with the Secretary of the Board before the meeting. Only individual Owners or the legal representative of an Organizational Owner may be proxies.

2.10 **Quorum.** A majority of the members (51% or more) of the Association shall constitute a quorum for a meeting unless otherwise stated in the Declaration of Bylaws. If, however, such quorum shall not be present or represented at any meeting, the Owners entitled to vote thereat, present in person or represented by proxy, shall have power to adjourn the meeting and reschedule for a time no earlier than two (2) days nor more than thirty (30) days after the set time for the original meeting. No notice of such rescheduled meeting shall be required except an announcement thereof at the original meeting. The Owners present at the rescheduled meeting shall constitute a quorum for the adoption of decisions. When a quorum is present at any meeting, the vote of the Owners representing a majority of the members of the Association present at the meeting either in person or by proxy, shall decide any question brought before the meeting; provided, however, if the Declaration requires a fixed percentage of Owners to approve any action, however, that percentage shall be required anything to the contrary notwithstanding.

2.11 **Order of Business.** The order of business at all meetings of the Association shall be as follows:

- (a) roll call to determine quorum status;
- (b) proof of notice of meeting;
- (c) reading of minutes of preceding meeting;
- (d) reports of officers;



- (e) report of special Boards, if any;
- (f) appointment of inspectors of election, if applicable;
- (g) election of Board Members, if applicable;
- (h) unfinished business; and
- (i) new business.

2.12 **Conduct of Meeting.** The President shall, or in his absence the Vice-president, preside over all meetings of the Association; the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted by the meeting as well as record of all transactions occurring thereat.

### **ARTICLE III BOARD OF DIRECTORS**

3.1 **Powers and Duties.** The affairs and business of the Association shall be managed by the Board of Directors. The Board of Directors shall have all of the powers and duties necessary for the administration of the affairs of the Association in accordance with the provisions of the Declaration, and may do all such acts and things necessary to operate and maintain the Project. The Board may delegate its authority to a manager or managers. Subject to any limitations or provisions contained in the Declaration, the Board shall be responsible for at least the following:

- (a) Preparation of an annual budget;
- (b) Determining the annual assessment of each Owner;
- (c) Managing the Association;
- (d) Maintaining the Common Area;
- (e) Collecting the Assessments;
- (f) Depositing the collections into a federally insured interest bearing account or accounts;
- (g) Adopting and amending rules and regulations;
- (h) Enforcing the Project Documents;
- (i) Opening of bank accounts on behalf of the Association and designating the signatories required therefor.
- (j) Making, or contracting for the making of, repairs, additions, and improvements to, or alterations of, the Property and repairs to, and restoration of, the Property, in accordance with the Declaration and other provisions of these Bylaws, after damage or destruction by fire or other casualty.
- (k) Commencing legal action when necessary;
- (l) Purchasing and maintaining insurance for the Association and the Board;
- (m) Paying the cost of all services rendered to the Project and not billed directly to Owners of individual Lots.
- (n) Keeping books and records of the Association;
- (o) Providing common utility services as needed;
- (p) Paying any amount necessary to discharge any mechanic's or materialman's lien or other encumbrance levied against the Common Area;
- (q) Giving notice of alleged violations of the Project Documents and providing the

- alleged violator the opportunity to be heard;
- (r) Levying fines, sanctions and citations;
- (s) Making emergency repairs;
- (t) Towing or impounding motor vehicles;
- (u) Evicting non-Owner residents in material violation of the Project Documents or who have created and failed to abate a nuisance; and
- (v) Doing such other things and acts necessary to accomplish the foregoing.

3.2 **Composition of Board of Directors.** The Board of Directors shall be composed of three (3) members of the Association.

3.3 **Qualification.** Only individual Owners or officers or agents of organizational Owners other than individuals shall be eligible for Board Membership. Only one Owner per Lot shall serve on the Board at any given same time.

3.4 **Election and Term of Office of the Board.** The term of office of membership on the Board shall be one (1) year and each member shall serve on the Board until such time as his successor is duly qualified and elected.

3.5 **Initial Organizational Meeting.** The first meeting of the members of the Board shall be immediately following the annual meeting of the Association or at such other time and place designated by the Board.

3.6 **Regular Meetings.** Regular meetings of the Board shall be held from time to time and at such time and place as shall be determined by a majority of the members of the Board, but no less often than monthly.

3.7 **Special Meetings.** Special meetings of the Board may be called by the President, Vice-president or a majority of the members on at least fifty-six (56) hours prior notice to each member. Such notice shall be given personally, by regular U.S. mail postage prepaid, by telephone or electronic means, and such notice shall state the time, place and purpose of the meeting. Any meeting attended by all members of the Board shall be valid for any and all purposes.

3.8 **Waiver of Notice.** Before or at any meeting of the Board, any member may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member at any such meeting of the Board shall constitute a waiver of notice. If all the members are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

3.9 **Quorum.** At all meetings of the Board, a majority of the members then in office shall constitute a quorum for the transaction of business, and the acts of the majority of all the Board members present at a meeting at which a quorum is present shall be deemed to be the acts of the Board. If, at any meeting of the Board, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time but for no shorter than two (2) days nor more than 5 days and give notice of the rescheduled meeting to the members

not in attendance. At any such rescheduled meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

- 3.10 **Vacancies.** Vacancies in the Board caused by any reason other than removal of a member by a vote of the Association shall be filled by vote of the majority of the remaining members of the Board at a special meeting of the Board held for that purpose promptly after the occurrence of any such vacancy, even though the total members remaining may constitute less than a quorum of the Board; and each person so elected shall be a member for the remainder of the term of the member so replaced. A vacancy created by the removal of a member by a vote of the members of the Association at a special meeting called for that purpose shall be filled by the election and vote of the members of the Association at said meeting.
- 3.11 **Removal of Board Member.** A member may be removed, with or without cause, and his successor elected, at any duly called regular or special meeting of the Association at which a quorum of the Association is present, by an affirmative vote of a majority of the members of the Association. Any member whose removal has been proposed by the Owners shall be given at least thirty (30) days notice of the calling of the meeting and the purpose thereof and an opportunity to be heard at the meeting. Any Board Member who misses twenty-five percent (25%) or more of the Board Meetings in any twelve month period or who misses three (3) consecutive meetings in any calendar year, shall be automatically removed from the Board.
- 3.12 **Compensation.** Board members shall not be compensated for their services but shall be reimbursed for all expenses reasonably incurred in connection with Board business and approved by the Board.
- 3.13 **Conduct of Meetings.** The President shall preside over all meetings of the Board and the Secretary shall keep a Minute Book of the Board recording therein all resolutions adopted by the Board and a record of all transactions and proceedings occurring at such meetings, subject to the following:
- (a) **Open Meetings.** A portion of each meeting of the Board shall be open to all members of the Association, but members other than members of the Board may not participate in any discussion or deliberation unless expressly so authorized by a majority of a quorum of the Board. The Board shall establish procedures, policies, and guidelines for conducting of its meetings, retiring to executive session, and prohibiting photographs and/or any electronic (video or audio) recordation of the meetings, or any part thereof.
  - (b) **Executive Session.** The Board may, with approval of a majority of a quorum, adjourn a meeting and reconvene in an Executive Session to discuss and vote upon private, confidential, sensitive or personnel matters, litigation, and orders of business of a similar nature. The nature of any and all business to be considered in an Executive Session shall first be announced in open session.

(c) **Action Without a Formal Meeting.** Any action to be taken at a meeting of the Board may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all members of the Board.

3.14 **Report of Board.** The Board shall present at each annual meeting, and when called for by vote of the Association at any special meeting of the Association, a full and clear statement of the business and condition of the Association.

#### **ARTICLE IV NOMINATION AND ELECTION OF BOARD MEMBERS**

4.1 **Nomination Process.** The process for the nomination and election of the Board of Directors shall proceed as set forth herein.

4.2 **Nominating Committee.** Nominations for election to the Board shall be made by a Nominating Committee, whose purpose is to seek out and locate qualified individuals as candidates for election to the Association's Board of Directors. The Nominating Committee shall consist of a Chairman, who shall be a member of the existing Board, and three or more additional members of the Association, who may or may not be current members of the Board. The Nominating Committee shall be appointed by the Board not less than 30 days prior to each annual meeting of the Association at which an election will be held. The Nominating Committee shall serve for a term of one year. The Nominating Committee shall make as many nominations for election to the Board as it shall in its discretion determine, but in no event less than the number of vacant Board seats to be filled. The Nominating Committee may notify members that it is seeking qualified candidates and interview all candidates interested in serving on the Board to determine if, in the Nominating Committee's sole discretion, the potential candidate has the proper demeanor, experience, ability and character to serve the interests of the Association if elected. The Nominating Committee shall submit to the Board those names as candidates which a majority of the Nominating Committee recommend be placed on the Association ballot. Those nominated as candidates shall have the opportunity to communicate their qualifications to the members and to solicit votes. Should the Board fail to follow the procedures outlined in this Article 4.2, then nominations shall be made from the floor at the annual meeting or any special meeting.

4.3 **Nomination Approval.** Anyone nominated as a candidate prior to or at the Association's election meeting should have first granted their approval and affirmatively stated that he or she is willing to serve for the term if elected.

4.4 **Nominations.** The names of the candidates recommended by the Nominating Committee shall be included in the Notice of the annual meeting sent to members of the Association, and may be included on proxy and absentee ballots sent to members. Write-in candidates are permitted. Nominations may also be received from members of the Association from the floor at the annual meeting of the members.

4.5 **Election.** At the annual meeting for the election of new Board members, the Board shall prepare and distribute a ballot to each Owner. Owners who do not attend the meeting may vote by proxy ballot or by written ballot. Each Lot is entitled to vote as provided in the

Declaration and Bylaws. Voting need not be conducted by secret ballot.

## **ARTICLE V OFFICERS**

- 5.1 **Designation.** The principal officers of the Association shall be a President, a Vice-president, a Secretary and a Treasurer, all of whom shall be elected by the Board. The Board may appoint assistant secretaries and such other officers as in its judgment may be necessary. All officers shall also be members of the Board. Two or more offices may be held by the same person, except that the President shall not hold any other office.
- 5.2 **Election of Officers.** The officers of the Association shall be elected by the members of the Board of Directors at their first meeting after the annual meeting of the Association. Any vacancy in an office shall be filled by the remaining members of the Board of Directors at a regular meeting or special meeting called for such purpose.
- 5.3 **Removal of Officers.** The officers shall hold office until their respective successors are chosen and qualify in their stead. Any officer elected or appointed by the Board may be removed at any time by the affirmative vote of a majority of the Board, and his successor may be elected at any regular meeting of the Board, or at any special meeting of the Board called for such purposes.
- 5.4 **President.** The President shall be the chief executive officer; he shall preside at meetings of the Association and the Board and shall be an ex officio member of all Boards; he shall have general and active management of the business of the Board and shall see that all orders and resolutions of the Board are carried into effect. He shall have all of the general powers and duties, which are usually vested in or incident to the use of president of a stock corporation organized under the laws of the State of Utah.
- 5.5 **Vice-president.** The Vice-president shall, in the absence or disability of the President, perform the duties and exercise the powers of the President, and shall perform such other duties as the Board or the President shall prescribe. If neither the President nor the Vice-president is able to act, the Board shall appoint a member of the Board to do so on an interim basis.
- 5.6 **Secretary.** The Secretary shall attend all meetings of the Board and all meetings of the Association and record all votes and the minutes of all proceedings in a book to be kept by him or her for that purpose and shall perform like duties for Boards when required. He shall give, or cause to be given, notices for all meetings of the Association and the Board and shall perform such other duties as may be prescribed by the Board. The Secretary shall compile and keep current at the principal office of the Association, a complete list of the Owners and their last known post office addresses. This list shall be open to inspection by all Owners and other persons lawfully entitled to inspect the same, at reasonable hours during regular business days. The Secretary shall also keep current and retain custody of the Minute Book of the Association, containing the minutes of all annual and special meetings of the Association and all sessions of the Board including resolutions.

- 5.7 **Treasurer.** The Treasurer shall have custody of all funds and securities. He shall keep full and accurate records of receipts and disbursements, shall prepare all required financial data, and shall deposit all monies and other valuable effects in such depositories as may be designated by the Board. He shall disburse funds as ordered by the Board, taking proper vouchers for such disbursements, and shall render to the President and members, at the regular meetings of the Board, or whenever they may require it, an account of all his transactions as Treasurer and of the financial condition of the Project.

## **ARTICLE VI FISCAL YEAR**

- 6.1 The fiscal year of the Association shall be the calendar year consisting of the twelve month period commencing on January 1 of each year terminating on December 31 of the same year. The fiscal year herein established shall be subject to change by the Board should it be deemed advisable or in the best interests of the Association.

## **ARTICLE VII AMENDMENT TO BYLAWS**

- 7.1 **Amendments.** These Bylaws may be modified or amended either by the affirmative vote of a majority of the members of the Association. During the Period of Administrative Control, no amendment to these bylaws may be adopted without the written approval of the Declarant.

## **ARTICLE VIII COMPLIANCE, CONFLICT, AND MISCELLANEOUS PROVISIONS**

- 8.1 **Compliance.** These Bylaws are set forth in compliance with the requirements of the Declaration.
- 8.2 **Conflict.** These Bylaws are subordinate to and are subject to all provisions of the Declaration, except in those cases where the provisions of the Bylaws are clearly intended to govern (administrative matters). All of the terms hereof, except where clearly repugnant to the context, shall have the same meaning as they are defined to have in the Declaration.
- 8.3 **Severability.** If any provisions of these Bylaws or any section, sentence, clause, phrase, or work, or the application thereof in any circumstance is held invalid, the validity of the remainder of these Bylaws shall not be affected thereby and to this end, the provisions hereof are declared to be severable.
- 8.4 **Waiver.** No restriction, condition, obligation, or provision of these Bylaws shall be deemed to have been abrogated or waived by reason of any failure or failures to enforce the same.
- 8.5 **Captions.** The captions contained in these Bylaws are for convenience only and are not part of these Bylaws and are not intended in any way to limit or enlarge the terms and provisions

of these Bylaws.

- 8.6 **Construction.** Whenever in these Bylaws the context so requires, the singular number shall refer to the plural and the converse; the use of any gender shall be deemed to include both masculine and feminine, and the term “shall” is mandatory and “may” permissive.
- 8.7 **Effective.** These Bylaws shall be effective upon recording in the Office of the Box Elder County Recorder.

**Exhibit “C”**  
**MAINTENANCE CHART**

The following chart defines the division of responsibility for maintenance and payment of repairs of various areas between the River Valley 2 HOA and the Lot Owners.

	<b>EXTERIOR</b>	<b>HOA</b>	<b>OWNER</b>
1	Maintenance of, repair, paint and replace roof and stucco	X	
2	Maintenance of, replace and repair of exterior brickwork	X	
3	Maintenance of, replace and repair of front steps and sidewalk	X	
4	Maintenance of, replace and repair of concrete foundations and entrees		X
5	Maintenance of, replace and repair of patio concrete		X
6	Maintenance of and replace and repair of any perimeter fences bordering the Project	X	
7	Maintenance of and replace and repair non perimeter fences		X
8	Maintenance of, replace and repair of rain gutters and down spouts	X	
9	Replacement, maintenance and repair of doors, hinges, frames, thresholds, locks, doorbells and chimes		X
10	Replacement, maintenance and repair of carport structure	X	
11	Replacement, maintenance and repair of windows, sliding glass doors, screens and frames		X
12	Replacement, maintenance and repair of all yard lights that use electricity from the Dwelling		X
13	Replacement, maintenance and repair of all lights attached to the exterior walls	X	
14	Maintenance of gas lines and electric wiring connections from the meters to the Dwelling		X
15	Maintenance of water system from the outside entry through the foundation and throughout the Dwelling. This includes the outside faucets and hose bibs. Any water damage due to leaks caused by this portion of the water system is the liability of Lot Owner		X
16	Replacement and repairs to outside water spigots and bibs	X	
17	Replacement, repair and maintenance of phone lines, TV cables, air conditioning, satellite dishes antennas		X
18	Lot Owner improvements: windows, attic vents and similar items		X
19	Maintenance, replacement and repair of sprinkler lines and sprinkler heads on Lots	X	
20	Lawn mowing on Lots	X	



	<b>INTERIOR</b>	<b>HOA</b>	<b>OWNER</b>
21	All interior painting, decorations and furnishings from the inside of the unfinished walls and ceilings. This includes all appliances such as dishwashers, garbage disposals, ranges, refrigerators, furnaces, exhaust fans, attic vents, air conditioners, water heaters, and intercom, telephone, and computer wiring and networks		X
22	Maintenance, cleaning and repair of venting, chimneys and fireplaces		X
23	Maintenance, repair and replacement of the electrical system from the city electric meter to the breaker panel and to all outlets including switches and light fixtures		X
24	Maintenance, repair and replacement of plumbing fixtures such as sinks, basins, toilets and all interior pipes and valves		X
25	Repair of cracks or other damage to interior walls, floors or ceilings caused by normal settling		X
26	Repairs of damage resulting from static water or seepage of water from any underground source (except sprinkler system failures)		X
27	Repairs of damage resulting from surface water		X
28	Repairs of damage to interior of a Dwelling resulting from static water, rain, or seepage of ground water		X

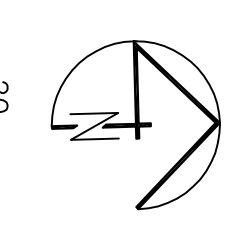
	<b>GROUNDS</b>	<b>HOA</b>	<b>OWNER</b>
29	Lawn, flowers, trees and shrubs in the Common Area	X	
30	Lawn watering systems on the Common Area	X	
31	Snow removal in parking lot and private Association property	X	
32	Snow removal from driveway and porch and sidewalks on a Lot	X	
33	Maintenance, repair and replace carport asphalt	X	

	<b>OTHER</b>	<b>HOA</b>	<b>OWNER</b>
34	Garbage collection (depending on type of Dwelling)	X	X
35	Maintenance and repair of water system from the city water meter to the entrance to the exterior wall of each Dwelling	X	
	[reserved for future use]		

Any portion of a dwelling or lot not clearly identified above as being the responsibility of the Association, shall be the exclusive responsibility of the owner to maintain, repair or replace.

**EXHIBIT “D”**

**PLAT**

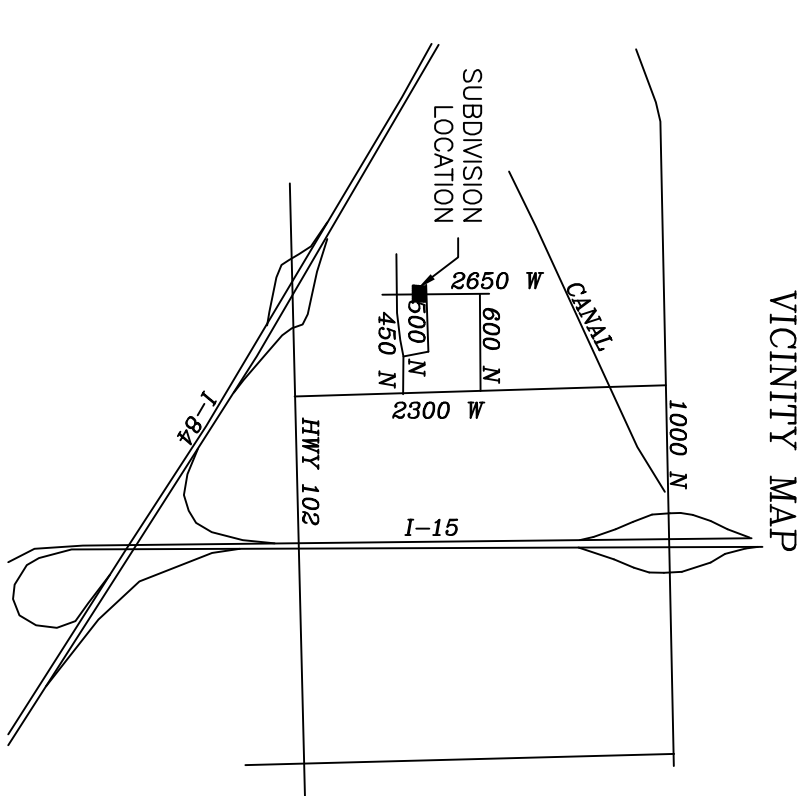


0 20 40  
SCALE: 1"=20' (24x36 PLAN SET)

**RIVER VALLEY 4-PLEX SUBDIVISION PHASE 2,  
LOT 22 AND 23 AMENDMENT 2**  
PART OF THE SOUTHEAST QUARTER OF  
SECTION 5, TOWNSHIP 11 NORTH, RANGE 3 WEST,  
SALT LAKE BASELINE AND MERIDIAN  
TREMONTON, UTAH



LOT	ADDRESS
1	483 N 2650 W UNIT 1
2	483 N 2650 W UNIT 2
3	483 N 2650 W UNIT 3
4	483 N 2650 W UNIT 4
5	483 N 2650 W UNIT 5
6	483 N 2650 W UNIT 6
7	483 N 2650 W UNIT 7
8	483 N 2650 W UNIT 8
9	482 N 2650 W UNIT 9
10	482 N 2650 W UNIT 10
11	482 N 2650 W UNIT 11
12	482 N 2650 W UNIT 12
13	482 N 2650 W UNIT 13
14	482 N 2650 W UNIT 14
15	482 N 2650 W UNIT 15
16	482 N 2650 W UNIT 16



**LEGEND**

- SECTION CORNER
- QUARTER SECTION CORNER
- BOUNDARY LINE
- EASEMENT
- SETBACK
- SET REBAR W/ PLASTIC CAP MARKED LS 275617
- FOUND REBAR (AS NOTED)
- PRIVATE
- COMMON AREA (SEE NOTE 7)
- LIMITED COMMON AREA (SEE NOTE 8)

**SURVEYOR'S CERTIFICATE**

1. Brian G. Lyon, a Registered Land Surveyor, hold certificate No. 275617, as prescribed by the laws of the State of Utah, and do hereby certify that by and through the use of the best of my skill and judgment, I have surveyed and marked the above described tract of land, which is accurately described therein, and have subdivided said tract of land into lots and streets to be hereafter known as RIVER VALLEY 4-PLEX SUBDIVISION PHASE 2, LOT 22 AND 23 AMENDMENT 2 and I do hereby further certify that this map was prepared in accordance with Utah Law and represents a true and accurate map of the land to the best of my knowledge and belief.

PROFESSIONAL LAND SURVEYOR  
275617  
BRIAN G. LYON  
8/17/19  
STATE OF UTAH

**BOUNDARY DESCRIPTION**

Part of the Southeast Quarter of Section 5, Township 11 North, Range 3 West of the Salt Lake Base and Meridian described as follows:  
Lots 22-A, 22-B, 23-A and 23-B of the River Valley 4-Plex Subdivision, Phase 2, Lot 22 and 23 Amendment recorded in the Box Elder County, Utah Recorder's Office on January 16, 2019 under Entry No. 392401.

**NOTES**

- The Tremonton City Culinary Water Authority does not reserve or warrant water capacity for recorded lots or property. Culinary water capacity is reserved and guaranteed once a building permit is issued for a lot or property.
- The Tremonton City Sanitary Sewer Authority does not reserve sewer treatment capacity for recorded lots or property. Sewer treatment capacity is reserved and guaranteed once a building permit is issued for a lot or property.
- This survey was to subdivide Lot 22-A, 22-B, 23-A and 23-B into townhome lots of the River Valley 4-Plex Subdivision Phase 2, Lot 22 and 23 Amendment recorded under Entry No. 392401 on January 16, 2019.
- High ground water levels may be present in the area. Tremonton city's inspection of construction does not constitute any assumption of liability for high water table issues. The buyer of each individual lot is solely responsible for all risks involved in purchasing and building on these lots.
- Underground field drain lines may exist. If field drain lines are shown on the subdivision map, they are to be installed and maintained at the expense of the subsurface drainage system.
- All common areas are considered to be an easement for all utility, irrigation and drainage purposes. This includes the ingress/egress area, strips or public streets are considered common area, including parking, private streets, open space, landscaping, storm water detention and drainage easement area.
- All driveways, patios, decks and balconies as shown on each unit contained within the project are considered limited common areas. They are set aside and reserved for the use of the respective unit to which they are attached and/or appurtenant.

**OWNERS' DEDICATION**

Know all by these presents that we the undersigned owners of the above-described tract of land, having caused the same to be subdivided into single family dwelling lots, townhome lots, streets and common areas to be hereafter known as RIVER VALLEY 4-PLEX SUBDIVISION, LOT 22 AND 23 AMENDMENT 2, do hereby dedicate for the perpetual use of the owners of \_\_\_\_\_, all areas shown as private streets and common areas on this plat, and we do hereby dedicate for the perpetual use of the owners of \_\_\_\_\_, all areas shown as private streets and common areas on this plat, for the use of the public for the installation and maintenance of utilities. Also hereby convey to any and all public utility companies a perpetual non-exclusive easement over the public utility easements shown on this plat, the same to be used for the installation and maintenance of public utility lines, including but not limited to, water, gas, electric, and telecommunications. We incorporate all notes and restrictions as listed herein, and dedicate a perpetual right and easement over, upon and under the lands designated on the plat as public utility, drainage easements, the same to be used for the installation, maintenance and operation of public utility service lines, storm drainage facilities whenever it is applicable as may be authorized by Tremonton City, Utah with no buildings or structures being erected within such easements. In witness whereof the undersigned have hereunto set their signatures this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Manager: River Valley Development, LLC

**RIVER VALLEY 4-PLEX SUBDIVISION PHASE 2,  
LOT 22 & 23 AMENDMENT 2**  
PART OF THE SOUTHEAST QUARTER OF  
SECTION 5, TOWNSHIP 11 NORTH, RANGE 3 WEST,  
SALT LAKE BASELINE AND MERIDIAN  
TREMONTON, UTAH

**BOX ELDER COUNTY RECORDER**

ENTRY NO. \_\_\_\_\_ FEE PAID \_\_\_\_\_ FILED FOR  
RECORD AND RECORDED \_\_\_\_\_ AT \_\_\_\_\_ IN BOOK  
\_\_\_\_\_ OF OFFICIAL RECORDS, PAGE \_\_\_\_\_  
RECORDED FOR \_\_\_\_\_  
BY: \_\_\_\_\_ DEPUTY

**ALLIANCE CONSULTING  
ENGINEERS**  
150 EAST 200 NORTH SUITE P  
LOGAN, UTAH 84321  
allianceclogn@yahoo.com

**LAND USE AUTHORITY  
APPROVAL AND ACCEPTANCE**

Presented to the Tremonton City Land Use Authority this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at which time this subdivision was recommended to the City Council for approval.

Development Review Committee Chairman \_\_\_\_\_ Date \_\_\_\_\_

**CITY COUNCIL APPROVAL AND ACCEPTANCE**

Presented to the Tremonton City Council this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at which time this subdivision was approved and accepted.

Mayor \_\_\_\_\_ Date \_\_\_\_\_  
City Recorder \_\_\_\_\_ Date \_\_\_\_\_

**ENGINEER'S CERTIFICATE**

I certify that I have examined this plat and find it to be correct and in accordance with information on file in this office.

City Engineer \_\_\_\_\_ Date \_\_\_\_\_

**APPROVAL AS TO FORM**

Approved as to form this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 20\_\_\_\_.

City Attorney \_\_\_\_\_

**LIMITED LIABILITY COMPANY ACKNOWLEDGEMENT**

STATE OF UTAH } ss  
COUNTY OF \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year 2019, before me, Manager/Member of this voluntary public, personally appeared \_\_\_\_\_, and acknowledged that said document was signed by him in behalf of said RIVER VALLEY DEVELOPMENT, LLC by authority of its bylaws.

Voluntary Public Signature \_\_\_\_\_  
Voluntary Public Full Name \_\_\_\_\_  
Commission Number \_\_\_\_\_  
A Notary Public Commissioned in Utah