



W2889497

Recorded at the request of:
Sunset Ridge, LLC
3755 Washington Blvd
Ogden, UT 84403

E# 2889497 PG 1 OF 74
LEANN H KILTS, WEBER COUNTY RECORDER
13-NOV-17 254 PM FEE \$1.00 DEP JKC
REC FOR: OGDEN CITY

Record against the Property
Described in Exhibit "A"

After recording mail to:
JENKINS BAGLEY, PLLC
Attn: Carson B. Bagley
285 West Tabernacle, Suite 301
St. George, UT 84770

**DECLARATION OF COVENANTS, CONDITIONS,
AND RESTRICTIONS, AND RESERVATION OF EASEMENTS FOR
SUNSET RIDGE**

(A Planned Residential Unit Development)

This Declaration of Covenants, Conditions, and Restrictions, and Reservation of Easements for Sunset Ridge ("Declaration") is made and executed by the Declarant Sunset Ridge, LLC, of 3755 Washington Blvd, Ogden, UT, 84403 (the "Declarant").

RECITALS

WHEREAS, Sunset Ridge, LLC (hereinafter referred to as "Declarant"), is the owner of certain real property located in the city of Ogden, Weber County, State of Utah as more particularly described in Exhibit "A" attached hereto as a part hereof, said land together with such additional land as shall or may be subjected to this Declaration being referred to as the "Property" or "Project"; and

WHEREAS, the Property is an area featuring unique and distinctive terrain and by subjecting the Property to this Declaration, it is the desire, intent and purpose of Declarant to create a community in which beauty shall be substantially preserved, which will enhance the desirability of living on that real estate subject to this Declaration, and which will increase and preserve the utility, attractiveness, quality and value of the lands and improvements therein; and

WHEREAS, the Declarant is desirous of subjecting all of the Property to all of the covenants, conditions, restrictions, reservation of easements, liens, assessments and charges hereinafter provided for, each and all of which is and are for the benefit of and shall pass with the Property, and each and every parcel, and Lot thereof, and shall apply to and bind the successors in interest, and any Owner thereof; and

WHEREAS, the Declarant has constructed or is in the process of constructing upon the Property a planned residential unit development which shall consist of single family residences, including twin-home style Units, Lots, Common Areas and facilities, and other improvements of a less significant nature. The construction will be completed in accordance with the plans contained in the respective Plats of record, including any amendments or annexations thereto; and

WHEREAS, the Declarant intends to sell to various purchasers the fee title to the individual Lots contained within the Property. Purchasers shall have certain rights, herein set forth, to the Common Areas and facilities, together with an appurtenant and corresponding membership interest in the Association. The ownership and membership will be subject to this Declaration and all other Governing Documents, as may be amended; and

WHEREAS, the Declarant has deemed it desirable, for the efficient preservation of the values and amenities in the Property, including any other real property which may be annexed thereto pursuant to the provisions of this Declaration, to create a corporation under the Utah Revised Nonprofit Corporation Act ("Association") to which should be delegated and assigned the powers of owning, maintaining and administering the Common Areas and other areas and improvements within the Property, including without limitation, administering and enforcing these covenants, conditions and restrictions, and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, the Declarant has caused such corporation, the members of which are or shall be the respective Owners of the Lots within the Property, to be formed for the purpose of exercising the functions set forth in this Declaration and the other Governing Documents; and

WHEREAS, the Declarant will develop and convey all of the Property pursuant to a general plan for all of the Property and subject to those certain protective covenants, conditions, restrictions, reservation of easements, equitable servitudes, liens and charges, all running with the Property as hereinafter set forth; and

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

WHEREAS, notwithstanding any of the foregoing recitals, no provisions of this Declaration shall be construed as to prevent or limit the Declarant's right to complete development of the Property and construction of improvements thereon, nor the Declarant's rights to maintain model homes, construction, sales or leasing offices, or similar facilities on any portion of the Property owned by the Declarant or the Association, nor Declarant's right to post signs incidental to such construction, sales or leasing.

NOW, THEREFORE, for the reasons recited above and subject to the covenants, conditions and restrictions set forth below, Declarant hereby makes the following declaration:

Declarant hereby declares that all of the Property shall be held, sold, conveyed and occupied subject to the following covenants, conditions, restrictions, easements, assessments, charges and liens, and to the respective Plats recorded in the Weber County Recorder's Office, as may be amended. This is for the purposes of protecting the value and desirability of the Property. This Declaration and the Plats shall be construed as covenants of equitable servitude; shall run with the Property and be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns; and shall inure to the benefit of each Owner thereof. The Property is located in Ogden City, Weber County, Utah and is more particularly described in Exhibit "A" hereto, including any such additional land as shall or may be subjected to this Declaration.

ALL OF THE FOREGOING PROPERTY IS SUBJECT TO: This Declaration; all liens for current and future taxes, assessments, and charges imposed or levied by governmental or quasi-governmental authorities; all

Patent reservation and exclusions; any mineral reservations of record and rights incident thereto; all instruments of record which affect the Property or any portion thereof, including, without limitation, any mortgage or deed of trust; all visible and necessary easements and rights-of-way; all easements and rights-of-way of record; any easements, rights-of-way, encroachments, or discrepancies shown on or revealed by the Plats or otherwise existing; an easement for each and every Common Area, including any facilities or other improvement thereon, equipment pipes, lines, cables, wires, utility systems, or similar facilities which traverse or partially occupy the Property; and all easements necessary for servicing, repairing, ingress to, egress from, maintenance of, and replacement of all such Common Areas, equipment, pipes, lines, cables, wires, utility systems, and similar facilities.

ARTICLE I
DEFINITIONS

When used in this Declaration (including in that portion hereof titled "Recitals"), each of the following terms shall have the meaning indicated.

- 1.1 "Accessory Building" shall mean and refer to any structure which is not the primary structure, containing at least one hundred and twenty (120) square feet, requires a building permit, and/or is considered by the ARC as an accessory building; no shed, shack or other outbuilding or structure for which a building permit is not required shall be considered an "Accessory Building".
- 1.2 "ARC" shall mean the architectural review committee, consisting of the person or persons appointed to review the designs, plans, specifications, homes, architecture, fencing, and landscaping within the Project.
- 1.3 "Articles of Organization" or "Articles" shall mean and refer to the Articles of Organization of the Sunset Ridge Owners Association.
- 1.4 "Association" shall mean Sunset Ridge Owners Association, a corporation formed under the Utah Revised Nonprofit Corporation Act, its successors and assigns. Except as limited in the Governing Documents, the Board acts in all instances on behalf of the Association.
- 1.5 "Common Area" "Common Areas" and/or "Common Areas and Facilities" shall mean and refer to all of the property designated or identified in the Plats or Declaration as Common Area which is owned by the Association for the common use and enjoyment of the Owners. Common Areas shall include all Property (excluding Lots) owned or leased by the Association, including any and all facilities and improvements thereon. Real property within the Project is not Common Area solely because it is burdened by an easement for utilities, landscaping, storm water management, signage or trails or dedicated as a public street or roadway even though the Association may maintain such areas. Common Area shall include the Limited Common Area.
- 1.6 "Board" and "Board of Directors" shall mean the Board of Directors of the Association, the members of which shall be elected or appointed in accordance with the Bylaws and other Governing Documents. "Director" means a member of the Board. Except as may otherwise be provided, all corporate powers shall be exercised by or under the authority of, and the business and affairs of the Association managed under the direction of, the Board.
- 1.7 "Builder" shall mean Miller Jacobsen Construction, LLC, its successors and assigns.
- 1.8 "Building" shall mean and refer to any of the structures constructed within the Property.
- 1.9 "Bylaws" shall mean and refer to the Bylaws of the Association, a copy of which is attached hereto as Exhibit "B" and incorporated herein by this reference.
- 1.10 "Capital Improvement" or "Addition" shall mean and refer to a permanent addition to or betterment of real property that enhances its capital value and requires the expenditure of labor or money and is designed to make the property more useful or valuable as distinguished from ordinary repairs, replacement or maintenance.
- 1.11 "City" shall mean and refer to the City of Ogden in Weber County, Utah.
- 1.12 "Common Expenses" shall mean all expenditures made by or on behalf of the Association,

together with all funds determined by the Board to be reasonably necessary for the creation and maintenance of reserves pursuant to the provisions of the Governing Documents. Without limitation, Common Expenses shall include the actual and estimated costs of: management, operation, maintenance, repair, replacement and improvement of the Common Areas and other areas within the Project for which the Association is responsible; costs of management and administration of the Association, including, compensation paid by the Association to managers, accountants, attorneys and other employees; and the costs of any other items incurred by the Association for any reason whatsoever, in connection with the Project and for the benefit of all of the Owners.

- 1.13 "Community Standard" shall mean and refer to the standard of conduct, maintenance, or other activity generally prevailing in the Project, as determined by the Declarant or Board from time to time.
- 1.14 "Declarant Control Period" shall mean and refer to the period of time during which the Class B Member is entitled to appoint a majority of the members of the Board. The Declarant Control Period is also known as the "Class B Control Period".
- 1.15 "Declaration" shall mean and refer to this Declaration of Covenants, Conditions, and Restrictions, and Reservation of Easements for Sunset Ridge, as may be amended from time to time.
- 1.16 "Dedicated Streets" shall mean and refer to those public roads, streets, lanes and cul-de-sacs within the Project formally dedicated to the City or any other municipal or governmental body politic, entity or agency.
- 1.17 "Design Guidelines" shall mean and refer to the architectural and design requirements set forth in Exhibit "C" attached hereto and incorporated herein by this reference, as may be amended from time to time.
- 1.18 "Declarant" shall mean and include Sunset Ridge, LLC, a Utah limited liability company, including its successors and assigns.
- 1.19 "Detention Basin" shall mean and refer to the detention basin identified on the Plat, which shall be constructed in accordance with the requirements of Ogden City. The Detention Basin is Common Area and shall be maintained, repaired and replaced by the Association.
- 1.20 "Dwelling" "Dwelling Unit" or "Unit" shall mean and refer to a dwelling, home or living unit constructed upon a Lot which is designed and intended for use and occupancy as a residence by a Single Family, together with all improvements located on the Lot which are used in conjunction with such residence.
- 1.21 "Governing Documents" shall mean and refer to and include this Declaration, the Articles, the Bylaws, the Plats, the Rules and Regulations covering the operation and maintenance of the Project and Property, and all other documents identified in Utah Code § 57-8a-102(9) (collectively the "Governing Documents"), as any of the foregoing may be amended from time to time.
- 1.22 "Lot" shall mean and refer to any of the separately numbered and individually described parcels of land shown on the Plat and intended for private residential use and ownership and excludes any Common Area. Each Lot is owned in fee simple by the Owner. Each Lot shall be assigned a separate parcel tax identification number by the appropriate governmental agency. Mechanical equipment, fixtures and appurtenances located within any one Lot, or located without said Lot but designated and designed to serve only that Lot, such as appliances, electrical receptacles and outlets, air conditioning compressors, furnaces, water heaters, apparatus, systems or equipment, fixtures and the like, shall be considered part of the Lot.
- 1.23 "Limited Common Area" means that portion of the Property owned by the Association and shown on the Plats or otherwise identified in the Governing Documents as being dedicated to the exclusive use and enjoyment of the Owner of the Lot to which such Limited Common Area is adjacent and/or appurtenant.
- 1.24 "Manager" shall mean and refer to the person, firm, corporation or its agents retained or employed by the Association and delegated certain duties, powers or functions of the Association

as provided in the Governing Documents.

- 1.25 "Mortgagee" "Mortgage" and "Mortgagor" "Mortgage" shall mean any first or second security interest on a Lot secured by a mortgage or trust deed recorded in the official records of the Weber County Recorder, State of Utah. The term "Deed of Trust" or "Trust Deed" when used herein shall be synonymous with the term "Mortgage." "Mortgagee" shall mean a person or entity to whom a Mortgage is made and shall include the beneficiary of a Deed of Trust. "Mortgagor" shall mean a person or entity who mortgages his, her, or its Lot to another (i.e., the maker of a Mortgage), and shall include the Trustor of a Deed of Trust. The term "Trustor" shall be synonymous with the term "Mortgagor," and the term "Beneficiary" shall be synonymous with the term "Mortgagee."
- 1.26 "Owner" shall mean the person, persons or entity who is the owner of record (in the office of the Weber County Recorder, Utah) of a fee simple or an undivided fee simple interest in a Lot. Notwithstanding any applicable theory relating to a Mortgage, the term Owner shall not mean or include a Mortgagee unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.
- 1.27 "Pedestrian Trail" shall mean and refer to a pedestrian trail within the Common Areas of the Project that may be developed and completed by the Declarant and may be up to six (6) feet wide or as otherwise shown upon the Plats.
- 1.28 "Plats" or "Plat" shall mean and refer to the official plats prepared and certified by Keith R. Russell, a Utah Registered Land Surveyor, titled "Sunset Ridge PRUD Phase 1" and "Sunset Ridge PRUD Phase 2" and recorded herewith in the Office of the Weber County Recorder, including any amendments, replacements thereof, modifications, or additions thereto. As used herein, the terms "Plat" and "Plats" shall mean, refer to, and include the official plats for any additional property that is annexed as part of the Project in the future.
- 1.29 "Property" or "Project" shall mean all of that certain real property hereinbefore described, and such additions thereto as may hereafter be subjected to this Declaration.
- 1.30 "Public Roads" shall mean and refer to the public roads throughout the Project which are dedicated to the public. All roads in the Project shall be built to Ogden City's engineering specifications on the effective date of the Declaration and shall be dedicated to the City.
- 1.31 "Single Family" shall mean and refer to one individual living alone; or one of the following groups of individuals, but not both at the same time, living together as a single nonprofit housekeeping unit, together with any incidental domestic staff residing on the premises:
- (a) Two (2) or more individuals related by blood, marriage, adoption, guardianship, or other duly authorized custodial relationship;
 - (b) Two (2) unrelated individuals and any children of either such individuals, if any; or
 - (c) A group of not more than three (3) unrelated individuals including in such number any domestic staff residing on the premises.
- 1.32 "Single Family Residence" shall mean and refer to (a) both the architectural style of a residence and the nature of the residential use permitted and (b) the Lot as shown on the Plats. A twin-style home will also qualify as a Single Family Residence, given it complies with all other Governing Documents and ordinances of the City of Ogden.
- 1.33 "The Acts" or "Acts" shall mean and collectively refer to the Utah Revised Nonprofit Corporation Act, Utah Code §16-6a-101, *et seq.* (the "Nonprofit Act") and the Community Association Act, Utah Code §57-8a-101, *et seq.* (the "Community Association Act"), including any amendments thereto. The Acts shall supplement the Governing Documents. If the Declaration adopts a specific section of the Acts, such amendment shall grant a right, power, and privilege permitted by such section, together with all correlative obligations, liabilities and restrictions of that section.
- 1.34 "Twin Home Lot" and "Twin Home Lots" shall mean and refer to any Lots within the Project that are designed and designated on the Plats for twin homes or attached Dwelling Units to be constructed thereon.

- 1.35 "Significant Grove" shall mean and refer to a group of five (5) or more trees in healthy condition with the trunk of any individual tree being not more than twenty feet (20') from the trunk of another tree and having at least one tree with a caliper of four inches (4") or greater as measured by industry standards.

ARTICLE II

Owner's Property Rights

2.01 Owners' Easements of Enjoyment. Each Owner shall have a right and easement of use and enjoyment including, but not limited to, the right of ingress and egress to and from the Owner's Lot and in and to the Common Areas. Such right and easement shall be appurtenant to and shall pass with title to each such Lot and in no event shall be separated therefrom. Any Owner may grant the use and enjoyment described herein to any tenant, lessee, guest, or family member, and to a contract purchaser who resides on such Lot.

2.02 Form for Conveyancing. Any deed, lease, mortgage, deed of trust, or other instrument conveying or encumbering title to a Lot shall describe the interest or estate involved substantially as follows:

ALL OF LOT _____, SUNSET RIDGE, PHASE __, A PLANNED RESIDENTIAL UNIT DEVELOPMENT, ACCORDING TO THE OFFICIAL PLAT THEREOF, SUBJECT TO THE DECLARATION OF CONDITIONS, COVENANTS AND RESTRICTIONS AND RESERVATION OF EASEMENTS, ON FILE IN THE OFFICE OF THE WEBER COUNTY RECORDER.

Whether or not the description employed in any such instrument is in the form specified above, all provisions of this Declaration shall be binding upon and shall inure to the benefit of any party who acquires any interest in a Lot.

2.03 Title to Common Area. Pursuant to the Declaration and Plats, including any other relevant documents, the Declarant shall dedicate and convey all of the Common Areas to the Association and the Association shall have title to the Common Areas.

2.04 Limitations on Common Area Easement. An Owner's right and easement of use and enjoyment concerning the Common Areas shall be subject to the following:

(a) Subject to the provisions of Article XIII of this Declaration, the right of the Declarant or Association to dedicate or transfer all or any part of the Common Area to any public agency or authority for such purposes and subject to such conditions as may be agreed to by the Declarant or Association. Any such dedication or transfer made after expiration of all Class B Membership must, however, be assented to by seventy-five percent (75%) of all Owners, whether by written consent or vote of the Membership;

(b) The right of the Association, to be exercised by the Board, to establish uniform Rules and Regulations as provided in this Declaration;

(c) The right of the Association to maintain, repair, reconstruct, replace or refinish any improvement or portion thereof upon the Common Areas in accordance with the original design, finish or standard of construction of such improvement;

(d) The right of the Association to replace destroyed trees or other vegetation or landscaping material and plant trees, shrubs and install ground cover or other landscaping material upon any portion of the Common Areas;

(e) The right of the Association to reasonably restrict access to portions of the Common Areas;

(f) The easements reserved in this Declaration;

(g) The right to suspend an Owner's voting rights as provided for in the Bylaws or other Governing Documents and the right to suspend an Owner's right to the Common Areas during any period of violation of any provision of the Governing Documents; and,

(h) The right of the Association to enter into agreements or leases which provide for use of the Common Areas by a similar association in consideration for use of the common areas of the other association, or for cash consideration.

2.05 Parking Restrictions. The Association is hereby empowered to establish and designate "parking" "guest parking" and "no parking" areas within the portions of the Common Areas improved as streets, driveways, turnarounds or community parking areas, specifically excluding any areas within the Project that are Public Roads. The Association is also empowered to include in the Rules and Regulations, the ability to enforce the parking restrictions imposed pursuant to this section by all means lawful for such enforcement, including the removal of any violating vehicle, equipment, etc., at the expense of the owner of the vehicle, equipment, trailer, etc.

2.06 Easements for Public Service Use. In addition to the foregoing easements over the Common Areas, there shall be for all Owners and all future owners within the Project, easements for public services of Weber County and the City of Ogden in which the Project is located, including but not limited to, the right of the police, ambulance and fire departments to enter upon any part of the Project, including without limitation the Common Areas, for the purpose of carrying out their official duties.

2.07 Waiver of Use. No Owner may exempt himself/itself from personal liability for assessments duly levied by the Association nor release the Lot or other property owned by him/her/it from the liens and charges hereof, by waiver of the use and enjoyment of the Common Areas or any improvements thereon or by abandonment of the Owner's Lot or any other property in the Project.

2.08 Easements for Water and Utility Purposes. In addition to the foregoing easements over the Common Areas, there shall be as reserved by the Declarant, covenants for all future Owners within the Project, easements for public and private utility purposes, including but not limited to, the right of any public utility of ingress or egress over the Common Areas for purposes of reading and maintaining meters, and using and maintaining fire hydrants located within the Project. The Lots shall also be subject to such public utility easements as shown on the Plats and as required by Weber County and/or the City of Ogden.

2.09 Taxes. Each Owner shall execute such instruments and take such action as may reasonably be specified by the Board to obtain separate real estate tax assessment of each Lot. If any taxes or assessments may, in the opinion of the Board, become a lien on the Common Areas, or any part thereof, they may be paid by the Association and the Association may levy against the Lot as a corrective assessment any amounts paid by the Association to rectify the problem.

2.10 Easement for Encroachments. If any portion of a Dwelling Unit or other improvement constructed by the Declarant or Builder, or if any portion of a Dwelling Unit or other improvement

reconstructed so as to substantially duplicate the Dwelling Unit or other improvement, encroaches upon the Common Areas, or other Lots, as a result of the construction, reconstruction, repair, shifting, settlement or movement of any portion of the Property, a valid easement for the encroachment and for the maintenance of the same shall exist so long as the encroachment exists.

2.11 Lot/Limited Common Area. To allow flexibility in the construction, in some instances the Lot may be larger than the Dwelling Unit. Each Lot is owned in fee simple by the Owner. However, area within the surveyed Lot boundaries but outside of the walls, floors and ceilings of the Dwelling Unit shall be treated as Limited Common Area for use purposes. Construction upon or to a Lot or Dwelling Unit, if any, may occupy any portion of the surveyed Lot, subject to all other provisions of this Declaration. An Owner may construct appurtenant structures that do not contain a roof or footings and personal landscaping outside the boundaries of the Dwelling Unit and within the boundaries of the Lot or Limited Common Area appurtenant to the Lot, subject to approval of the ARC or Board.

2.12 Reinvestment Fee. Upon the conveyance of a Lot there shall be a Reinvestment Fee charged to the buyer or seller, comprised of one or more of the following charges (said fees may be charged to seller or buyer, as the parties may agree):

- (a) An assessment determined pursuant to resolution of the Board and charged for:
 - (i) common planning, facilities, and infrastructure,
 - (ii) obligations arising from and environmental covenant,
 - (iii) community programming,
 - (iv) recreational facilities and amenities,
 - (v) Association expenses, as defined in Utah Code 57-1-46(1)(a); and,
- (b) Expenses reasonably charged to the Association by the Manager for the administration of the conveyance.

No reinvestment assessment shall exceed 0.5% of the fair market value of the Lot, plus all improvements. When the seller is a financial institution, the reinvestment assessment shall be limited to the costs directly related to the transfer, not to exceed \$250.00. The Association may assign the charges in 2.12(b) directly to the Manager.

2.13 View Impairment. Neither the Declarant nor the Association guarantees or represents that any view over and/or across any property, including any Lot or Building, will be preserved without impairment. Neither the Declarant nor the Association shall have the obligation to prune or thin trees or other landscaping except as otherwise set forth in this Declaration. Any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

ARTICLE III The Association

3.01 Organization of Association. The Association is organized and formed under the Utah Revised Nonprofit Corporation Act as a Utah nonprofit corporation. The Association's Articles have been filed with the State of Utah, Department of Commerce, Division of Corporations and Commercial Code.

3.02 Parties and Powers. The Association shall have such duties, powers and authority as set forth in the Governing Documents.

3.03 Membership. Every Owner shall be a Member of the Association. Membership in the Association shall be mandatory and shall be appurtenant to the Owner's Lot.

3.04 Transfer. Membership in the Association is nontransferable and shall not be separated from the Lot to which it appertains.

ARTICLE IV Voting Rights

4.01 Classes of Voting Membership. The Association shall have two classes of membership, Class A and Class B as follows:

- a. Class A. Class A Members shall be all Owners of the Lots within the Project, with the exception of the Class B Member. Class A Members shall be entitled to vote on all issues before the Association. Class A Members shall have one (1) vote per Lot owned. No vote shall be cast or counted for any Lot not subject to assessment. When more than one person holds such interest or interest in any Lot (a "co-owner"), all such co-owners shall be Members and may attend any meetings of the Association, but only one such co-owner shall be entitled to exercise the vote to which the Lot is entitled. A vote cast at any Association meeting by any such co-owners, whether in person or by proxy, shall be conclusively presumed to be the vote attributable to the Lot concerned, unless an objection is immediately made by another co-owner of the same Lot. In the event such an objection is made, the vote involved shall not be counted for any purpose whatsoever, other than to determine whether a quorum exists.
- b. The Class B Member shall be the Declarant. As a Class B Member, Declarant shall have three (3) votes per Lot owned by Declarant. The rights of the Class B Member, including the right to approve actions taken under this Declaration and the Governing Documents, are specified elsewhere in the Declaration and the Bylaws. The Class B Member shall be entitled to appoint a majority of the members of the Board during the Class B Control Period. The Class B membership shall terminate and shall be converted to Class A membership upon the first to occur of the following: (a) the expiration of ten (10) years after the first Lot is conveyed to a person other than the Declarant, or (b) when the total number of votes held by all Class A Members equals the total number of votes held by the Class B Member, provided that Declarant's voting rights shall be restored by any addition to the Project, even though previously lost under this subparagraph, or (c) when, in its discretion the Class B Member so determines.

ARTICLE V Jurisdiction of Association

5.01 The Association has been organized to provide for the operation, administration, maintenance, preservation and architectural control of the Project, including without limitation the improvements within the Common Areas. The Association shall have jurisdiction and authority over the Property and the Owners, including their guests, tenants, lessees and invitees, residing on or temporarily visiting the Property, to the fullest extent allowed by law and as provided for in the Governing Documents.

ARTICLE VI Covenant for Assessments

6.01 Creation of Assessment Obligation. Each Owner of a Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) Annual Assessments; (2) Special Assessments; (3) Corrective Assessments; and, (4) any other amount, fine or assessment levied by the Association pursuant to the Governing Documents. The determination of the reasonable cash needs for ordinary and necessary maintenance expenses, including expenses for repair and replacement, shall be within the discretion of the Board. All assessments shall be

established and collected as provided in the Governing Documents. The Association shall not levy or collect any assessment that exceeds the amount reasonably necessary for the purpose or purposes for which it is levied. All such assessments, together with interest, costs and reasonable attorney fees for the collection thereof, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which such assessment is made. Each such assessment, together with interest, costs and reasonable attorney fees, if applicable, shall also be and remain the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. This personal obligation cannot be avoided by abandonment of a Lot or by an offer to waive use of the Common Areas. No sale or transfer of a Lot shall relieve an Owner from personal liability for assessments coming due after the Owner/Purchaser takes title or from the lien of such later assessments. In a voluntary conveyance of a Lot, the grantee of the Lot shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor for his/her/its share of assessments up to the time of the grant or conveyance being recorded, without prejudice to the grantee's rights to recover from the grantor the amounts paid by the grantee. However, any such grantee shall be entitled to a statement from the Association setting forth the amounts of the unpaid assessments against the grantor, and such grantee shall not be liable for, nor shall the Lot conveyed be subject to a lien for, any unpaid assessments against the grantor in excess of the amount set forth.

6.02 Purpose of Annual and Special Assessments. The Annual Assessments and Special Assessments levied by the Association shall be used exclusively to promote the common health, safety, benefit and welfare of the Owners and for the improvement and maintenance of the Common Areas and other areas/improvements within the Project which the Association is obligated to maintain, repair and/or replace. Annual and Special Assessments may include establishing and funding a reserve to cover maintenance, repair or replacement of improvements within the Project and any expense necessary or desirable to enable the Association to perform or fulfill its obligations, functions, or purposes under the Governing Documents.

6.03 Annual Assessments. Annual Assessments shall be used to satisfy Common Expenses of the Association, as provided in the Governing Documents. The Annual Assessment for each fiscal year shall be established by the Board and be payable in twelve (12) equal monthly installments due on the first day of each month. Pre-payment, annually, is acceptable and will be held in a non-interest bearing account. The Annual Assessment shall be based upon the budget prepared by the Board. The Common Expenses of the Association, and therefore the Annual Assessment, may increase or decrease from time to time based upon changes to the Common Expenses or other changes to expenses or costs of the Association.

6.04 Special Assessments. In addition to the Annual Assessment, a Special Assessment can be assessed to pay the costs of any one or more of the following:

(a) Approved by Board. Special Assessments for the following extraordinary expenses can be levied by the Board without Owner approval:

- (i) An extraordinary expense required by an order of a court;
- (ii) An extraordinary expense necessary to repair, replace or maintain the Common Areas, or any other area within the Project which the Association is responsible, or any portion thereof, where a threat to personal safety within the Project is discovered. Prior to the imposition or collection of a Special Assessment pursuant to this subsection, the Board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense is necessary and was not or could not have been reasonably foreseen in the budgeting process. The resolution shall be distributed to the Members with the notice of assessment; and

(iii) Taxes payable to Weber County as described in Section 7.02 of this Declaration.

(b) Approved by Association. Special projects which must be assented to by more than fifty percent (50%) of the total votes of the Association, or the written consent of persons holding more than fifty percent (50%) of the total votes of the Association, involve:

(i) replacement, repair, maintenance or improvement of the Common Areas or other areas within the Project for which the Association is responsible; and

(ii) an extraordinary expense necessary to repair, replace or maintain the Common Areas or any other portion of the Project for which the Association is responsible.

(c) Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved, if the Board so determines.

6.05 Twin Home Assessments. In addition to the aforementioned assessments, each Owner of a Twin Home Lot within the Project shall pay additional assessments ("Twin Home Assessments") to cover the additional insurance, exterior maintenance, repair, replacement and reserve costs for the Twin Home Lots. The Twin Home Assessments shall be an additional charge added to the base assessments and collected along with the base assessments, as determined by the Board. The Twin Home Assessments shall include costs to pay for the additional insurance, exterior maintenance, repair, replacement and reserves for the actual Dwelling Units constructed upon the Twin Home Lots. The Twin Home Assessments shall be assessed equally and uniformly against all Owners of the Twin Home Lots.

6.06 Uniform Rate of Assessment. Annual Assessments and Special Assessments imposed pursuant to subsections 6.02, 6.03, and 6.04 of this Declaration shall be assessed equally and uniformly against all Owners and their Lots, except for the additional charges assessed to each Owner of a Twin Home Lot in accordance with subsection 6.05.

6.07 Date of Commencement of Annual Assessments. The Board shall authorize and levy the amount of the Annual Assessment upon each Lot, as provided herein, by a majority vote of the Board. The Annual Assessments shall commence as to particular Lots within each phase of the Project on the day of the closing of the sale or conveyance of any particular Lot by the Declarant to any contract purchase or Owner with a proper proration on any monthly assessment if the closing takes place on a day other than the first day of the month. The Board shall fix the amount of the Annual Assessment against each Lot at least thirty (30) days in advance of each Annual Assessment period. Written notice of any change in the amount of any Annual Assessment shall be sent to every Owner subject thereto, not less than thirty (30) days prior to the effective date of such change. The due dates shall be established by the Board. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer or agent of the Association, setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments against a Lot is binding upon the Association as of the date of its issuance.

6.08 Corrective Assessments. In addition to Annual Assessments and any Special Assessments, the Association may levy corrective assessments against a particular Owner and the Owner's Lot to pay the following: costs directly attributable to, or reimbursable by, that Owner, equal to the costs incurred by the Association for corrective action, performed pursuant to the provisions of the Governing Documents, plus interest and other charges, including attorney fees and costs, if any, on such corrective assessments.

(a) As to any Owner whom the Board intends to levy a corrective assessment, the Board shall deliver a notice of noncompliance and provide said Owner with a reasonable opportunity to be heard. Corrective assessments shall be due and payable within (45) days following delivery of a written notice of the Board's adjudication and shall bear interest thereafter at the rate of eighteen percent (18%) per annum, compounded annually, until paid in full.

6.09 Exempt Property. The following property subject to this Declaration shall be exempt from the assessments herein:

- (a) All portions of the Property dedicated to and accepted by a local public authority; and
- (b) The Common Areas owned by the Association in fee; and
- (c) All Lots owned by the Declarant.

6.10 Additional Assessments. In addition to the Annual Assessments, Special Assessments, and corrective assessments, the Association may levy such additional assessments as may be necessary from time to time for the purpose of repairing and restoring damage or disruption resulting to streets or to Common Areas or other areas within the Project which the Association is responsible. Said additional assessments shall include assessments to repair or restore such areas as a result of the activities of the City of Ogden in maintaining, repairing or replacing the City's utility lines and facilities thereon. It is acknowledged that the ownership of said utility lines, underground or otherwise, is in the City up to and including the meters for individual Dwelling Units, and that they are installed and shall be maintained to City specifications.

6.11 Preparation of Budget. At least annually the Board shall prepare and adopt a budget for the Association and the Board shall present the budget at a meeting of the Members. A budget presented by the Board is only disapproved if member action to disapprove the budget is taken in accordance with the limitations under Utah Code §57-8a-215, as may be amended.

6.12 Reserve Fund. The Board shall cause a reserve analysis to be conducted no less frequently than every six (6) years and shall review and, if necessary, update a previously prepared reserve analysis every three (3) years. The Board may conduct the reserve analysis by itself or may engage a reliable person or organization to conduct the reserve analysis. The Board shall annually provide Owners a summary of the most recent reserve analysis or update and provide a complete copy of the reserve analysis or update to an Owner upon request. In formulating the budget each year, the Board shall include a reserve line item in an amount required by the Governing Documents, or, if the Governing Documents do not provide for an amount, the Board shall include an amount it determines, based on the reserve analysis, to be prudent.

ARTICLE VII

Effect of Non-Payment of Assessments Remedies of the Association

7.01 Effect of Nonpayment of Assessments; Remedies and Lien. The Association has a lien on a Lot for any assessment or other charge due under the provisions of this Declaration or other Governing Documents, including fines properly imposed in accordance with Utah Code §57-8a-208, including fees, charges, court costs and reasonable attorney fees, late charges in the amount of ten dollars (\$10.00) per month, or such larger amount as set by the Board, provided the charge does not exceed twenty-five percent (25%) of the amount of the installment payment, for each delinquent assessment or installment payment, interest at the rate of 18% per annum compounded annually, and all other costs associated with collecting an unpaid assessment or installment, and any other amount the Association is entitled to

recover under the Governing Documents, the Acts, or an administrative or judicial decision. The recording of the Declaration constitutes record notice and perfection of the lien described in this section. The Association may, in its discretion, bring a formal legal action against the Owner or seek to foreclose the lien against the Lot through nonjudicial or judicial foreclosure in accordance with the Community Association Act and the Governing Documents. Any judgment obtained by the Association and any foreclosure commenced shall include reasonable attorney fees, court costs, interest thereon, and each and every other expense incurred by the Association in enforcing its rights.

7.02 Weber County Tax Collection. It is recognized that under the Declaration the Association owns the Common Areas and that it may be obligated to pay property taxes to Weber County. It is further recognized that each Owner of a Lot is a Member of the Association and as part of the assessments may be required to pay to the Association a pro rata share of such taxes. Notwithstanding anything to the contrary contained in this Declaration, or otherwise, Weber County shall be, and is, authorized to collect such pro rata share (on an equal basis) of taxes directly from each Owner by inclusion of said share with the tax levied on each Lot. To the extent allowable, Weber County is hereby directed to do so. In the event that the assessor shall separately assess Common Areas to the Association, the Board may impose, in its discretion a Special Assessment to pay such taxes, or they may be incorporated into the Annual Assessments.

7.03 Foreclosure Sale. The Board may elect to file a claim of lien against the Lot of the delinquent Owner by recording a notice ("Notice of Lien") setting forth (a) the amount of the claim or delinquency, (b) the interest and costs of collections which have accrued thereon, (c) the legal description of the Lot against which the lien is claimed, and (d) the name of the reputed Owner thereof. Such Notice of Lien shall be signed and acknowledged by an officer of the Association or duly authorized agent or attorney of the Association. The lien shall continue until all amounts secured thereby and all subsequently accruing amounts are fully paid or otherwise satisfied. The lien shall be prior to any other lien arising thereafter, except for liens which, by law, are deemed prior to liens of a nature similar to such assessment liens. Unless paid or otherwise satisfied, the lien may be foreclosed in a like manner as a mortgage or deed of trust lien, including judicial or non-judicial foreclosure. For purpose of a foreclosure, the Association is considered to be the beneficiary under a trust deed and the Owner is considered to be the trustor under a trust deed. An Owner's acceptance of an interest in the Lot constitutes simultaneous conveyance of the Lot in trust, with power of sale, to the trustee designated in accordance with the Community Association Act. The Association hereby conveys and warrants pursuant to Sections 212 and 302 of the Community Association Act, and Utah Code §57-1-20, to attorney Carson B. Bagley, or any other attorney that the Association engages to act on its behalf to substitute for Carson B. Bagley, 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 Governing Documents. The Association, through duly authorized agents, shall have the power to bid on the Lot at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. Upon completion of the foreclosure sale, an action may be brought by the Association or the purchaser at the sale in order to secure occupancy of the defaulting Owner's Lot, and the defaulting Owner shall be required to pay the reasonable rental value of such Lot during any period of continued occupancy by the defaulting Owner or any persons claiming under the defaulting Owner.

7.04 Curing of Default. Upon the timely curing of any default for which a Notice of Lien was recorded by the Association, the Board shall record an appropriate release of lien upon payment by the defaulting Owner of a reasonable fee to cover the cost of preparing and recording such release. A certificate duly executed and acknowledged by the Association or its authorized agent stating the indebtedness secured by the lien upon any Lot created hereunder shall be conclusive upon the Association and the Owners as to the amount of such indebtedness as of the date of the certificate, in favor of all persons who rely thereon in good faith. Such certificate shall be furnished to any Owner upon request at a reasonable fee, to be determined by the Board.

7.05 Cumulative Remedies. The assessment liens and the rights to foreclosure and sale thereunder shall be in addition to and not in substitution for all other rights and remedies which the Association and its assigns may have hereunder and by law, including a suit to recover a money judgment for unpaid assessments, as above provided.

7.06 Mortgage Protection. Notwithstanding all other provisions hereof, no lien created under this Article, nor any breach of this Declaration, nor the enforcement of any provision hereof shall defeat or render invalid the rights of the Beneficiary under any recorded Mortgage upon a Lot made in good faith and for value; provided that after such Beneficiary or some other person obtains title to such Lot by foreclosure or by means of the powers set forth in such Mortgage, such Lot shall remain subject to the Declaration and the payment of all installments of Assessments accruing subsequent to the date such Beneficiary or other person obtains title.

7.07 Priority of Association's Lien. A lien under this Article has priority over each other lien and encumbrance on a Lot except: (a) a lien or encumbrance recorded before this Declaration was recorded; (b) a first or second security interest on the Lot secured by a Mortgage recorded before a recorded notice of lien by or on behalf of the Association; or (c) a lien for real estate taxes or other governmental assessments or charges against the Lot. A lien under this section is not subject to Utah Code § 78B-5-501 *et seq.* (the Utah Exemptions Act). When the Beneficiary of a first or second Mortgage of record or other purchaser of a Lot obtains title pursuant to a judicial or non-judicial foreclosure of the first or second Mortgage, such person, including any successors and assigns, shall not be liable for the share of the Common Expenses or assessments by the Association chargeable to such Lot which became due prior to the acquisition of title to such Lot by such person. In the event a Mortgagee causes a notice of default to be recorded against any Lot and the foreclosure is not completed within six (6) months from the date the notice of default is recorded, the Mortgagee and Owner shall become jointly and severally liable and obligated to pay the Association for any and all assessments that become due during the time period beginning six (6) months after the notice of default is recorded until the Lot is conveyed or otherwise transferred to a new Owner.

7.08 Rent After Foreclosure. In the event of foreclosure, if the Board desires to allow the occupant to remain in the Dwelling Unit, the occupant shall be required to pay a reasonable rent for the Dwelling Unit.

7.09 Collection of Rent. If an Owner leasing a Lot fails to pay an assessment for a period of more than sixty (60) days after an assessment is due and payable the Board may require a lessee under a Lease with an Owner to pay the Association all future lease payments due to the Owner. The Association shall give the Owner notice in accordance with Utah Code § 57-8a-310 and the Declaration or other Governing Documents. If the Owner fails to pay the amount owing within fifteen (15) days after the Owner is provided notice, the Association's Manager or Board may exercise the Association's rights by delivering a written notice to the tenant. The notice provided to the tenant shall state that: (i) due to the Owner's failure to pay the assessments within the required time, the Owner has been notified of the intent of the Board to collect all lease payments until the amount owing is paid; (ii) the law requires the tenant to make all future lease payments, beginning with the next monthly or other periodic payment, to the Association, until the amount owing is paid; and (iii) the tenant's payment of lease payments to the Association does not constitute a default under the terms of the lease with the Owner. A tenant to whom notice is given shall pay all future lease payments to the Association until the Association notifies the tenant that the amount owing is paid. An Owner shall credit each payment from the tenant to the Association against any obligation the tenant owes to the Owner as though the tenant made the payment to the Owner and the Owner may not initiate a suit or other action against the tenant for failure to make a lease payment that the tenant pays to the Association pursuant to this provision. Upon full payment to

the Association the Association shall promptly notify the tenant that the tenant is no longer required to pay future lease payments to the Association, a copy of said notice shall also be provided to the Owner.

ARTICLE VIII
Architectural Control

8.01 Declarant Exemption. The Declarant and Builder (Miller Jacobsen Construction, LLC) shall not be required to comply with the provisions of this Article in the initial construction of the Project. ~~During the Declarant Control Period the Declarant shall fulfill all functions of the ARC under this Declaration unless the Declarant expressly surrenders this right by written and recorded instrument. In order to ensure the architectural harmony of the Project, Builder shall be the sole contractor and constructor of all Dwelling Units and Accessory Buildings constructed within the Project.~~

8.02 Members of Committee. Upon expiration or termination of the Declarant Control Period, the Architectural Review Committee ("ARC") shall consist of two (2) to five (5) persons. The Board shall have the power to appoint and remove all members of the ARC. Persons appointed to the ARC by the Board need not be Members of the Association. If the ARC is not appointed, the Board itself shall perform the duties required of the ARC. Individual members of the Board may also serve as members of the ARC.

8.03 ARC General Powers. The Board may promulgate reasonable standards against which the ARC shall examine any request made pursuant to this Article, in order to ensure that the proposed plans conform harmoniously to the exterior design and existing materials of the improvements within the Project. The Board shall have the authority to promulgate ARC Rules and Regulations which, among other provisions, may set forth procedures for the submission of plans for approval, and state additional factors which the ARC will take into consideration in reviewing submissions. The Board shall have final authority over any decisions of the ARC, including without limitation, the ability to override any denials or approvals of the ARC.

8.04 Review of Plans and Specifications. The ARC shall consider and act upon any and all plans and specifications submitted for its approval under this Declaration and perform such other duties as from time to time shall be assigned to it by the Board, including the inspection of construction in progress to assure its conformance with plans and specifications approved by the ARC. No exterior construction, alteration, removal, relocation, repainting, demolition, addition, modification, external decoration or redecoration, or reconstruction of a Dwelling Unit or improvement upon a Lot, including landscaping, within the Project shall be commenced or maintained, until the plans and specifications therefor showing the nature, kind, shape, height, width, color, materials and location of the same shall have been submitted to the ARC (together with such fees for review and inspection as may be reasonably required) and approved in writing by the ARC. The ARC shall approve plans and specifications submitted for its approval only if it deems that the construction, alterations or additions contemplated thereby in the locations indicated will not be detrimental to the appearance of the surrounding area or the Project as a whole, that the appearance of any structure affected thereby will be in harmony with the surrounding structures, that the construction thereof will not detract from the beauty, wholesomeness and attractiveness of the Project or the enjoyment thereof by the Members, and that the upkeep and maintenance thereof will not become an unreasonable burden on the Association.

8.05 ARC Approval. The ARC may condition its approval of any improvement upon such changes, alterations or modifications of such improvement as it deems appropriate and may require submission of additional plans and specifications or other information prior to approving or disapproving material submitted. Such conditions may also include a requirement that the applicant complete the proposed improvement within a stated period of time. The ARC may require such detail in plans and specifications submitted for its review as it deems proper, including, without limitation, landscape plans,

floor plans, as they relate to exterior appearance, site plans, exterior lighting plans and interior lighting plans as they relate to exterior illumination, drainage plans, elevation drawings and description or samples of exterior material and colors. Decisions of the ARC shall be transmitted by the ARC to the applicant at the address set forth in the application for approval, after receipt by the ARC of all materials required by the ARC and within thirty (30) days after its next duly scheduled meeting at which there is a quorum in attendance. Any application submitted pursuant to this section shall be deemed denied, unless written approval is transmitted to the applicant within the time herein set forth. In addition to complying with the ARC Rules and Regulations, the Applicant shall meet any review or permit requirements of the City of Ogden, Utah, prior to making any alterations or engaging in construction, reconstruction or remodeling permitted hereunder.

8.06 Meetings of the ARC. The ARC shall meet from time to time as necessary to perform its duties hereunder. The vote of a majority of the ARC shall be sufficient to enact an approval, denial or other decision of the ARC. The attendance of a majority of the ARC members at any meeting shall constitute a quorum.

8.07 No Waiver of Future Approvals. The approval by the ARC of any proposals or plans for any work done or proposed or in connection with any other matter requiring the approval and consent of the ARC, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans or matters subsequently or additionally submitted for approval or consent.

8.08 Compensation of Members. The members of the ARC shall receive no compensation for services rendered, other than reimbursement for expenses incurred by them in the performance of their duties hereunder.

8.09 Scope of Review. The ARC shall review and approve, conditionally approve or disapprove all plans submitted to it for any proposed improvement, alteration or addition, solely on the basis of aesthetic considerations and the overall benefit or detriment which would result to the immediate vicinity and the Project generally. The ARC shall take into consideration the aesthetic aspects of the architectural designs, placement of buildings, landscaping, color schemes, exterior finishes and materials and similar architectural features, all as may be required by the basic ARC standards and the ARC Rules and Regulations. The ARC's approval or disapproval shall be based solely on the considerations set forth in this Article VIII, and the ARC shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any plan or design from the standpoint of structural safety or conformance with building or other codes. Each Owner shall be responsible for obtaining all necessary permits and for complying with all City requirements with respect to the implementation of such plans.

8.10 Application Fees. The Association may charge a plan fee that is equivalent to the cost of reviewing and approving the plans. As used in this section, "plans" mean any plans for the construction or improvement of a Lot which are required to be approved by the ARC before the construction or improvement may occur.

8.11 Display of the Flag. The Association may not prohibit an Owner from displaying the United States flag inside a Dwelling Unit or on the Owner's Lot or Limited Common Area appurtenant to the Owner's Lot if the display complies with United States Code, Title 4, Chapter 1. The Association may, by rule of the Board, restrict the display of a United States flag on the Common Area.

8.12 Limitation on Liability. Neither the ARC nor the Board, nor any member thereof, acting in good faith shall be liable to the Association or to any Owner or other person for any damage, loss, or prejudice suffered or claimed on account of (i) the approval or rejection of, or the failure to approve or reject, any plans, drawings, specifications, or variance requests (ii) the construction or performance of any

work, whether or not pursuant to approved plans, (iii) the development or manner of development of any of the Project, or (iv) any engineering or other defect in approved plans, drawings and specifications.

ARTICLE IX
Maintenance and Repair Obligations

9.01 Exterior Maintenance, Repair and Replacement. All improvements in the Project shall be maintained in a safe, sanitary and attractive condition, and in good order and repair. No improvement, maintenance, repair, replacement, excavation or work which in any way alters the Common Areas or other exterior areas within the Project shall be made or done by any person other than the Association or its authorized agents, unless otherwise approved by the ARC or Board in writing.

9.02 Obligations of Owners. Except as expressly provided in section 9.03 below, including the subsections thereto, it shall be the duty of each Owner, at the Owner's sole cost and expense, subject to the provisions of the Governing Documents requiring approval of the ARC or Board, to maintain, repair, replace and restore all improvements located within the Owner's Dwelling Unit or upon the Owner's Lot or appurtenant Limited Common Areas used exclusively for the benefit of the Owner's Lot, including without limitation, all Accessory Buildings, exterior surfaces, roofs, foundations, driveways, sidewalks, HVAC equipment, doors, windows, walls, interior surfaces, floors, ceilings, outlets, lights, pipes, vents, ducts, shafts, flues, chutes, conduits, wires and other utility installations, together with all fixtures and improvements within the Lot, or within the appurtenant Limited Common Area to the Lot and used solely for the Owner's Lot. Each Owner shall ensure all driveways, sidewalks, Accessory Buildings, decks, patios, railings, steps, and doorway areas/entrances within the Lot or appurtenant Limited Common Areas are kept in a clean, neat, sanitary, safe and attractive condition. As to driveways and other elements within Limited Common Areas that are common to, or otherwise shared by, adjacent Lots, the Owners of the adjacent Lots shall equally share in the costs for maintaining, repairing and replacing such portions of said driveways and other such common elements. As to Limited Common Area between adjacent Lots, the mid-point between each Lot shall delineate the boundary of the appurtenant Limited Common Area for each adjacent Lot, said line extending along the mid-point between Lots from perimeter boundary to perimeter boundary of the Limited Common Area. If any Owner permits any improvement, the maintenance of which is the responsibility of such Owner, to fall into disrepair or to become unsafe, unsightly or unattractive or to otherwise violate the Governing Documents, the Association shall have the right to seek any remedies at law or in equity which it may have against the Owner. In addition, the Association shall have the right, but not the duty, to enter upon such Owner's Lot and appurtenant Limited Common Areas to perform such emergency and non-emergency repairs or maintenance as the Board deems appropriate and to charge the cost thereof to the Owner. Said cost shall be a corrective assessment enforceable as set forth in this Declaration. For non-emergency repairs, replacement or maintenance the Owner shall be entitled to notice of noncompliance by the Association and a right to a hearing.

9.03 Obligations of Association.

- (a) The Association shall provide for the maintenance, repair, and replacement of any improvements within the Common Areas, except: (1) improvements in the Limited Common Areas which shall be maintained, repaired and replaced by the Owner pursuant to Section 9.02 above or 9.03(c) below; and (2) the public use trail that may be installed within the boundaries of the 20' Storm Drain and Sewer Easement identified in the official plat for Sunset Ridge PRUD Phase 1, which shall be maintained by Ogden City in the event said public use trail is ever constructed.
- (b) The Association shall maintain, repair and replace all landscaping within the Project (Common Areas and Limited Common Areas), including any lawns, grass, shrubs, trees,

bushes, flora and fauna installed as part of the initial construction of the Project. The Association shall make reasonable efforts to ensure that all landscaping within the Project is maintained free of weeds, debris and disease.

- (c) As to the Dwelling Units and appurtenant Limited Common Areas, including the Accessory Buildings, if any, upon or appurtenant to the Twin Home Lots, the Association shall maintain, repair and replace all exterior: surfaces, roofs, doors, windows, lights, walls, and other utility installations appurtenant thereto. The Association's obligations set forth in this section shall not negate the Twin Home Lot Owner's responsibility to ensure all improvements within or upon the Twin Home Lot and appurtenant Limited Common Areas, including the driveways, sidewalks, Accessory Buildings, decks, patios, railings, steps, doorway areas/entrances, fixtures, and other related improvements are kept in a neat, sanitary, safe and attractive condition at all times.
- (d) The Association shall provide for the commonly metered utilities serving the Common Area or other areas within the Project, if any. The Association shall be authorized, but not required, to maintain any property within the Project which has been dedicated to and accepted for maintenance by the City, a state, local or municipal governmental agency or entity.
- (e) The Association shall maintain any emergency access easements in good repair and free from any natural or artificial obstructions, including snow removal.
- (f) To the extent reasonably feasible, the Association shall preserve and maintain Significant Groves within the Common Areas.
- (g) All of the foregoing obligations of the Association shall be discharged when and in such manner as the Board shall determine in its judgment to be appropriate.

9.04 Damage to Dwelling Units - Reconstruction. If all or any portion of any Lot or Dwelling Unit is damaged or destroyed by fire or other casualty, the Owner of such Lot shall, at the Owner's election, either rebuild, repair or reconstruct the Lot and the Dwelling Unit on such Lot in a manner which will restore them substantially to their appearance and condition immediately prior to the casualty or as otherwise approved by the ARC/Board or restore the Lot by removing from the Property all damaged or destroyed building materials. The Owner of any damaged Lot or Dwelling Unit and the ARC/Board shall be obligated to proceed with all due diligence hereunder, and such Owner shall cause reconstruction or restoration of the Lot to commence within three (3) months after the damage occurs and to be completed within fifteen (15) months after damage occurs, unless prevented by causes beyond the Owner's reasonable control. A transferee of title to the Lot which is damaged or upon which is located a damaged Dwelling Unit shall commence and complete reconstruction of the Dwelling Unit or restoration of the Lot in the respective periods which would have remained for the performance of such obligations if the Owner of the Lot at the time of the damage still held title to the Lot. However, in no event shall such transferee of title be required to commence or complete such reconstruction of the Dwelling Unit or restoration of the Lot in less than thirty (30) days from the date such transferee acquired title to the Lot.

9.05 Party Walls.

- (a) General Rules of Law to Apply. Each wall which is built as a part of the original construction in the Project and constructed in the Limited Common Area or Common Area between Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property

damage due to negligence or willful acts or omissions shall apply thereto.

- (b) Sharing of Repair and Maintenance. 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) Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, then, to the extent said destruction or damage is not covered by insurance and repaired out of the proceeds of the same, 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) Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements to the extent that said protection is not covered by insurance and paid for out of the proceeds of the same.
- (e) Right to Contribution Runs With Land. 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.
- (f) Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be made by a majority of all the arbitrators. Should any party refuse to appoint an arbitrator within ten (10) days after written request to do so, the Board shall select an arbitrator for the refusing party.

ARTICLE X Use Restrictions

All real property within the Project shall be held, used and enjoyed subject to such limitations and restrictions set forth below.

10.01 Single Family Residence. Each Lot and Dwelling Unit shall be used as a residence for a Single Family. The Lot or Dwelling Unit shall not be partitioned physically or otherwise and rented as individual rooms. **A maximum of 8 Dwelling Units within the entire Project may be leased.** The following lease restrictions shall apply to every Dwelling Unit that is leased:

(a) Right to Lease and Compliance. An Owner in compliance with the Governing Documents may lease the Owner's Dwelling Unit even if the lessees change or the Dwelling Unit remains unoccupied in between lease terms. An Owner must comply with all of the Governing Documents to be able to lease the Owner's Dwelling Unit.

(b) Terms of Lease. Any agreement for the leasing or rental of a Dwelling Unit (herein "Lease") shall be in writing and shall provide that the terms of such Lease shall be subject in all respects to the provisions of the Governing Documents. Any failure by the lessee to comply with the terms of the Governing Documents shall be a default under the Lease. The Owner(s) shall be responsible for assuring compliance by such Owner's lessee(s) with the Governing Documents

and the Lease.

(c) Notification of Lease. Within ten (10) calendar days prior to any Lot being occupied pursuant to a lease, the Owner shall furnish the Board with (i) a copy of the entire Lease (with the lease/rent amount redacted, if desired by the lessee or Owner), (ii) the telephone number of the lessee, and (iii) any change in the address or telephone number of the Owner. As soon as practicable after receiving such notification that an Owner has entered into a Lease, the Owner shall, and the Board may, cause copies of the Governing Documents to be delivered to such lessee. (The Governing Documents shall be binding on the lessee whether or not the Owner or the Board delivers the Governing Documents to the lessee.)

(d) No Transient Lodging. No Dwelling Unit, including any appurtenances thereto, shall be leased for hotel or transient purposes. A Lease for a period of less than twelve (12) months shall be deemed to be for transient purposes. No Owner or lessee shall lease less than the entire Dwelling Unit. Any Lease of a Dwelling Unit shall be in writing and shall include an acknowledgment by the lessee of the applicability of all the Governing Documents, including any amendments thereto.

(e) Association's Right to Lease. The Association shall have the right to lease any Association owned Dwelling Unit(s) or any Dwelling Unit that the Association has possession of pursuant to any court order or foreclosure (judicial or non-judicial).

(f) Compliance with Governing Documents and Default. Failure of an Owner to comply with the Governing Documents shall be deemed a default hereunder by such Owner. The Association, after affording the Owner an opportunity to be heard, may levy a fine against such Owner in an amount determined by the Board and set forth in a duly promulgated schedule of fines. The Owner shall have thirty (30) calendar days after receiving written notice of default to either pay the fine or request a hearing from the Board. If the fine is not timely paid or a hearing requested or the Board finds the Owner in violation after a hearing, the Association shall be entitled to exercise all of its rights hereunder and under the law, including without limitation to (i) levy fines against any Owner for continuing violations, (ii) institute proceedings in unlawful detainer/eviction on behalf of the Owner against the lessee, and (iii) collect such fines, interest, costs and attorney's fees incurred in connection therewith. Each of the charges provided for herein and any other costs or expenses (including attorney fees and costs) incurred by the Association to enforce the provisions of the Governing Documents shall constitute an assessment under Article VI, which shall become a lien against the Owner's Lot and be enforced as provided under Article VII of the Declaration.

(g) Power of Attorney. In the event an Owner fails to enforce the terms of the Owner's Lease and the Governing Documents, such Owner hereby appoints the Association as its limited attorney in fact for the purposes of filing and prosecuting any proceeding in Unlawful Detainer/Eviction that the Association elects to commence pursuant to the terms of the Governing Documents.

(h) Required Contents of Lease Agreement. An Owner shall incorporate the provisions of Exhibit "D" in its lease agreements with its lessee(s)/tenant(s).

10.02 Accountability of Members. As more fully provided in Article XI, each Owner shall be liable to the Association for any damage to any area for which the Association is responsible to maintain, repair or replace, including without limitation the Common Areas, sustained by reason of the negligence or willful misconduct of said Owner or the persons deriving their right and easement of use and enjoyment

of the Project from said Owner, or of the Owner's respective family, guests and/or tenants, both minor and adult.

10.03 Business or Commercial Activity. Subject to the following exceptions, no part of the Project shall ever be used or caused to be used or allowed or authorized in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending or other such non-residential purpose, other than a home office permitted under applicable zoning ordinances, without the vote of sixty-seven percent (67%) of all votes eligible to be cast by the Owners. Occupations without external evidence thereof, including, without limitation, traffic generation, which are merely incidental to the use of the Dwelling Unit as a residential home and for so long as such occupations are conducted in conformance with all applicable governmental ordinances shall be permitted.

10.04 Signs. Except for one professional quality "For Rent" or "For Sale" sign of not more than two (2) square feet, no advertising signs, billboards, objects of unsightly appearance, or nuisances shall be erected, placed, or permitted to remain on any Lot. Such sign shall not be placed on the Common Areas, but shall be placed in the window of a Dwelling Unit.

10.05 Quiet Enjoyment. No noxious or offensive activity shall be carried on upon any part of the Property, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood, or which shall in any way interfere with the quiet enjoyment of each of the Owners or which shall in any way increase the rate of insurance.

10.06 Parking and Vehicular Restrictions.

(a) Parking:

(i) General. With the exceptions noted in (iii) and (iv) below, no vehicle, equipment, etc., may be parked or stored on the Property except for cars, motorcycles, pickup trucks or minivans used for daily transportation which may be kept in the designated parking area. Recreational vehicles may not be parked within the Project other than in preparation for or return from a trip, in each such case, for a period not to exceed four (4) hours during any two (2) day period, unless approved by the Board.

(ii) Driveways. Each Owner shall maintain the Owner's designated driveway in a manner which ensures that it is capable of accommodating one (1) vehicle.

(iii) Street Parking. Contractor's vehicles may be parked within the designated parking areas in the Project for a period of time not exceeding twelve (12) hours during a construction day.

(iv) Community Parking Areas. The community parking areas within the Project shall be used only for temporary parking.

(b) Vehicle Repairs. No person shall conduct repairs, oil changes or restorations of any vehicle, equipment, etc., upon any portion of the Property.

10.07 Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any of said Lots, except that dogs, cats, birds or other household pets, two (2) or less in total number, may be kept provided that they are not kept, bred or maintained for any commercial purpose. Notwithstanding the foregoing, no animals or fowl may be kept on the Property which result in an annoyance or are obnoxious, by noise, smell or otherwise, to Owners. All pets must be kept within the Dwelling Unit or fenced Limited Common Area or on a leash attended to by a person when in any area outside of the

Dwelling Unit. All pet waste must be immediately cleaned up. The following are not considered household pets: reptiles, rodents, swine, insects and animals weighing fifty (50) pounds or more.

10.08 Insurance and Governmental Requirements. No Owner shall permit or cause anything to be done or kept within the Project which may increase the rate of insurance for the Property, or result in the cancellation of such insurance, or which will obstruct or interfere with the rights of other Owners, nor commit or permit any nuisance thereon or violate any law. Each Owner shall comply with all of the requirements of the local or state health authorities and with all other governmental authorities with respect to the occupancy and use of a Dwelling Unit.

10.09 Construction. All damage caused by construction activity to or upon an Owner's Lot (including construction related vehicles) shall be promptly repaired by the Owner or his contractor.

10.10 Temporary Buildings. No outbuilding, tent, shack, shed or other temporary building or improvement of any kind (except portable outhouses and dumpsters with lids or covers during construction) shall be placed upon any portion of the Property either temporarily or permanently.

10.11 Further Subdivision. No Owner shall further partition or subdivide his Lot or the rooms in the Dwelling Unit and Limited Common Area, including without limitation any division of his Lot into time-share estates, time-share uses, or creation of additional living quarters; provided, however, that this provision shall not be construed to limit the right of an Owner (1) to rent or lease his entire Lot to a Single Family by means of a written lease or rental agreement subject to the restrictions of the Governing Documents, so long as the Lot is not leased for transient or hotel purposes; (2) to sell his Lot; or (3) to transfer or sell any Lot to more than one person to be held by them as tenants-in-common, joint tenants, tenants by the entirety or some other form of joint ownership.

10.12 Drainage. There shall be no interference with or alteration of the established drainage pattern over any Lot or Common Areas within the Project, unless an adequate alternative provision is made for proper drainage. For the purposes hereof, "established drainage pattern" is defined as the drainage which existed at the time a certificate of occupancy for such Lot was issued by the City of Ogden, and shall include drainage from the Lots within the Project onto the Common Areas.

10.13 Water Supply and Sewage Disposal Systems. No individual water supply or sewage disposal system shall be permitted on any Lot within the Project unless such system is designed, located, constructed and equipped in accordance with the requirements, standards and recommendations, if any, of the ARC or Board and of any public agency having jurisdiction over the Project, The Weber County, Utah, Health Department, and all other applicable governmental authorities.

10.14 External Apparatus. No Lot Owner shall cause or permit anything (including, without limitation, awnings, canopies or shutters) to hang, be displayed or otherwise affixed to or placed on the exterior walls or roof or any part thereof, or on the outside of windows or doors, without the prior written consent of the ARC or Board.

10.15 Exterior Television or Other Antennas. No exterior radio or other antennas, except one (1) television antenna and one (1) satellite dish per provider, which shall not exceed four feet in height, per Dwelling Unit, shall be placed, allowed or maintained upon any building or upon any structure or portion of the improvements situated and located within the Project without prior written approval of the ARC or Board.

10.16 Planting and Gardening. No planting or gardening shall be done, and no fences, hedges or walls shall be erected or maintained upon any property except such as are installed in accordance with the initial construction of the buildings located thereon or as approved by the Board.

10.17 Garbage Removal. All rubbish, trash, pet waste/feces, and garbage shall be regularly removed from the Lots and Common Areas and shall not be allowed to accumulate thereon, except in the designated receptacles/containers within the Project. All garbage must be promptly placed in the proper receptacles/containers.

10.18 Fines and Enforcement Policy. The Association may levy and assess fines for any violation or non-compliance with the Governing Documents.

ARTICLE XI **Damage and Condemnation**

11.01 Damage to or destruction of all or any portion of the Common Areas or other areas within the Project, and condemnation of all or any portion of the same shall be handled in the following manner:

- (a) If the Common Area, or other area within the Property for which the Association is responsible to maintain, repair or replace, is damaged or destroyed, the Association shall first utilize insurance proceeds and second reserve funds to cause the same to be repaired and reconstructed substantially as they previously existed.
- (b) If the cost of effecting total restoration of such Common Area or other area within the Property for which the Association is responsible to maintain, repair or replace, exceeds the amount of insurance proceeds and reserve funds, the Association shall, if and to the extent a Special Assessment is approved as provided for in Section 6.04(b), cause the same to be repaired and reconstructed substantially as they previously existed, and the difference between the insurance proceeds and the actual cost shall be levied as a Special Assessment against each Lot and its respective Owner.
- (c) To the extent of funds available for restoration, any restoration or repair of such Common Area or other area within the Property for which the Association is responsible to maintain, repair or replace, shall be performed substantially in accordance with the original plans and specifications subject to such changes within the scope of such original plans and specifications as may be approved by the Board.
- (d) Each Owner shall be liable to the Association for any damage to the Common Areas or other area within the Property for which the Association is responsible to maintain, repair or replace, sustained by reason of the negligence or willful misconduct of said Owner or the persons deriving their right and easement of use and enjoyment of the Common Areas or other area within the Property for which the Association is responsible to maintain, repair or replace, from said Member, or of his respective family and guests, both minor and adult. In the event of such damage to the Common Areas or other area within the Property for which the Association is responsible to maintain, repair or replace, the Association may either assess a fine under the Rules and Regulations established by the Board in an amount sufficient to pay all costs of the Association attributable to such damage, including deductibles and increase in insurance premiums, if any, or the Association may repair the damage to such areas or improvements with the proceeds from the Association's insurance and assign to the Association's insurance company, its claims against the Owner who, by his own acts or the acts (both minor and adult) of his family member, guest, invitee, lessee, or assignee, damaged

such areas or improvements thereon. In the case of joint ownership of a Lot, the liability of the Owners thereof shall be joint and several, except to the extent that the Association has previously contracted in writing with such joint Owners to the contrary. All such expenses may be levied by the Association as a Corrective Assessment.

- (e) If at any time any portion of the Common Areas or other area within the Property for which the Association is responsible to maintain, repair or replace, shall be taken or condemned by any authority having the power of eminent domain, the Association shall represent the Lot Owners in such proceedings, negotiations, settlements or agreements. All compensation and damages shall be payable to the Association and shall be used promptly by the Association to the extent necessary for restoring and replacing any improvements on the remainder of the Common Areas or other areas within the Project for which the Association is responsible to maintain, repair or replace. Upon completion of such work and payment in full therefor, any proceeds of condemnation then or thereafter in the hands of the Association which are proceeds for the taking of any portion of the Common Area or other areas within the Project for which the Association has the duty to maintain, repair or replace, shall be disposed of in such manner as the Association shall reasonably determine.

ARTICLE XII

Insurance

12.01 The Association shall secure and at all times maintain all insurance required pursuant to Utah Code § 57-8a-401 *et seq.*, including the following insurance coverage:

- (a) **Casualty Insurance.** In accordance with Utah Code § 57-8a-405, blanket property insurance or guaranteed replacement cost insurance on the physical structure of all Twin Home Lots (attached dwellings), Limited Common Areas appurtenant to a dwelling on a Lot, and Common Areas in the Project, insuring against all risks of direct physical loss commonly insured against, including fire and extended coverage perils. A policy or policies of fire and casualty insurance, with extended coverage endorsement, for the full insurable replacement value of all improvements comprising a part of the Common Area. The name of the insured under each such policy shall be in form and substance similar to: "SUNSET RIDGE OWNERS ASSOCIATION" for the use and benefit of the individual Lot Owners and Mortgagees, as their interests may appear. The Association is not required, but may, provide such insurance for the Lots that are not Twin Home Lots.
- (b) **Liability Insurance.** In accordance with Utah Code § 57-8a-406, the Association shall secure and maintain at all times liability insurance covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the Common Areas. A comprehensive policy or policies insuring the Owners, the Association, and its Board, officers, agents, and employees against any liability incident to the ownership, use or operation of the Common Areas which may arise among themselves, to the public, and to any invitees or tenants of the Project or of the Owners. Limits of liability under such insurance shall not be less than \$2,000,000.00 for all claims for personal injury and/or property damage arising out of a single occurrence, such coverage to include protection against water damage, liability for non-owned or hired automobile, liability for property of others, and such other risks as shall customarily be covered with respect to projects similar in construction, location and use. Such policies shall be issued on a comprehensive liability basis, shall provide a cross-liability endorsement pursuant to which the rights of the named insured as between themselves are not prejudiced, and shall contain "a severability of interest" clause or endorsement to preclude the insurer

from denying the claims of an Owner in the Project because of negligent acts of the Association or other Owners.

(c) **Fidelity Insurance.** A fidelity policy or policies to protect against dishonest acts on the part of Board, officers, Manager, employees of the Association and all others (including volunteers) who handle or are responsible for handling funds of the Association. This fidelity coverage shall name the Association as the obligee or insured and shall be written in an amount sufficient to offer the protection reasonably required, but in no event less than three (3) months' assessments, plus reserves on hand. The fidelity bond or insurance shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression. Said policy shall also provide that it may not be canceled or substantially modified (including cancellation for non-payment of premiums) without at least thirty (30) days prior written notice to all Mortgagees of Lots.

(d) **Workers Compensation and Directors and Officers.** In addition to the other insurance required by Article 12, the Board shall obtain, as a common expense, worker's compensation insurance, if and to the extent required by law, directors' and officers' liability coverage, if reasonably available.

12.02 Additional Insurance Requirements. The following additional provisions shall apply with respect to the insurance:

(a) In addition to the insurance described above, the Association shall secure and at all times maintain insurance against such risks as are or hereafter may be customarily insured against in connection with developments similar to the Project in construction, nature, and use.

(b) All policies shall be written by a company holding a rating of Class IV or better from Best's Insurance Reports or equivalent rating. Each insurer must be specifically licensed in the State of Utah.

(c) The Association shall have the authority to adjust losses.

(d) Insurance secured and maintained by the Association shall not be brought into contribution with insurance held by the individual Owners or their Mortgagees.

(e) Each policy of insurance obtained by the Association shall, if reasonably possible, provide: a Waiver of the insurer's subrogation rights with respect to the Association, the Owners, invitees, and tenants; that it cannot be canceled, suspended, or invalidated due to the conduct of any particular Owner or Owners; that it cannot be canceled, suspended, or invalidated due to the conduct of the Association or of any Board, officer, Manager, agent or employee of the Association without a prior written demand that the defect be cured; that any "no other insurance" clause herein shall not apply with respect to insurance held by the owners.

(f) Notwithstanding any provisions to the contrary herein, so long as the Mortgagee or its designee holds a mortgage or beneficial interest in a trust deed on a Lot in the Project or owns a Lot, insurance policies shall meet all requirements and contain such other coverage and endorsements as may be required from time to time by the Mortgagee or its designee.

(g) All policies of hazard insurance must contain or have attached the standard Mortgagee clause commonly accepted by private institutional mortgage investors in the area in which the mortgaged premises are located. The mortgagee clause must provide that the

insurance carrier shall notify the first Mortgagee (or trustee) named at least ten (10) days in advance of the effective date of any reduction in or cancellation of the policy.

(h) The Board shall periodically, and whenever requested by twenty percent (20%) or more of the Owners, review the adequacy of the Association's insurance program and shall report in writing the conclusions and action taken on such review to the Owner of each Lot and to the holder of any mortgage on any Lot who shall have requested a copy of such report. Copies of every policy of insurance procured by the Board shall be available for inspection by the Owner.

12.03 Insurance Obligations of Owners. Each Owner of a Lot that is not a Twin Home Lot shall be responsible to obtain blanket property insurance or guaranteed replacement cost insurance on the physical structure of the Dwelling Unit upon said Lot. Each Owner is encouraged to secure and keep in force at all times fire and extended coverage insurance which shall only need General Liability, contents of the Dwelling Unit and Limited Common Area, and the Association's casualty insurance deductible (typically referred to as an "HO6 policy").

12.04 Unacceptable Policies. Policies are unacceptable where: (i) under the terms of the carrier's charter, bylaws or policy, contributions or assessment may be made against the Lot Owner or Mortgagee or Mortgagee's designee; or (ii) if, the terms of the carrier's charter, bylaws or policy, loss payments are contingent upon action by carrier's policy includes any limiting clauses (other than insurance conditions) which could prevent the Owner, Mortgagee or Mortgagee's Designee from collecting insurance proceeds.

12.05 Flood Insurance. If the Project is located in an area identified by the Department of Housing and Urban Development as an area having special flood hazards, then a blanket policy of flood insurance on the Project shall be maintained in the amount of the aggregate of the outstanding principal balances of the mortgage loans on the Lots comprising the Project or the maximum limit of coverage available under the National Flood Insurance Act of 1968, as amended, whichever is less.

ARTICLE XIII Mortgagee Protection Clause

Notwithstanding any other provision of this Declaration, the following provisions concerning the rights of first Mortgagees shall be in effect:

13.01 Preservation of Regulatory Structure and Insurance. Unless the holders of ten percent (10%) of all first Mortgagees and sixty-seven percent (67%) of the Lot Owners shall have given their prior written approval, the Association shall not be entitled:

(a) by act or omission to change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design of the exterior, appearance of Dwelling Units, the exterior maintenance of Dwelling Units, or the upkeep of the Common Area;

(b) to fail to maintain fire and extended insurance coverage required by Utah Code § 57-8a-401 *et seq.*; or

(c) to use hazard insurance proceeds for losses to the Common Area or other areas for which the Association has a duty to maintain, repair and/or replace, for other than the repair, replacement or reconstruction of such improvements.

13.02 Preservation of Common Area; Change in Method of Assessment. Unless the Association shall receive the prior written approval of (1) at least ten percent (10%) of all first mortgagees (based on one (1) vote for each Mortgagee) of the Lots and (2) the Owners of at least sixty-seven percent (67%) of the Lots, the Association shall not be entitled:

(a) by act or omission to seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area, except to grant easements for utilities and similar or related purposes, as herein elsewhere reserved; or

(b) to change the ratio or method of determining the obligations, assessments, dues or other charges which may be levied against a Lot or the owner thereof.

Neither this Article XIII nor the insurance provisions contained in Article XII may be amended without the prior approval of ten percent (10%) of all first and second Mortgagees.

13.03 Notice of Matters Affecting Security. The Association shall give written notice to any Mortgagee of a Lot requesting such notice wherever:

(a) there occurs any substantial damage to or destruction of any Dwelling Unit or any part of the Common Area involving an amount in excess of, or reasonably estimated to be in excess of \$15,000.00. Said notice shall be given within ten (10) business days after the Association learns of such damage or destruction; or

(b) there is any condemnation proceedings or proposed acquisition of a Dwelling Unit or of any portion of the Common Area within ten (10) business days after the Association learns of the same the Association plans to abandon or terminate the planned unit development established by this Declaration.

13.04 Notice of Meetings. The Association shall give to any Mortgagee of a Lot requesting the same in writing, notice of all meetings of the Members of the Association, and such first Mortgagee shall have the right to designate in writing a representative to attend all such meetings.

13.05 Right to Examine Association Records. Any first or second Mortgagee shall have the right to examine the books, records and audit financial statements of the Association.

13.06 Right to Pay Taxes and Charges. Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any portion of the Common Area, and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for the Common Area; and Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

13.07 Rights Upon Foreclosure of Mortgagee. Each holder of a first Mortgage (or Deed of Trust) on a Lot and any purchaser from it who comes into possession of the Lot by virtue of foreclosure of the mortgage, or by deed or assignment in lieu of foreclosure, or pursuant to a power of sale or otherwise will take the Lot free of, and shall not be liable for any claims for unpaid assessments and charges against the Lot which accrue prior to the time such holder comes into possession of the Lot, except as otherwise provided in Section 7.07.

ARTICLE XIV
General Provisions

14.01 Enforcement. This Declaration may be enforced by the Association and any Owner as follows:

(a) Each Owner, including the Owner's guests, lessees or invitees, shall comply with the provisions of the Acts, the Governing Documents, 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, including reasonable attorney fees and costs, maintainable by the Association on behalf of the Members, or, in a proper case, by an aggrieved Owner. A tenant of any rental Dwelling Unit shall abide by the terms of the Acts and the Governing Documents. The Owner and the tenant of the rental Dwelling Unit shall be jointly and severally liable to the Association for any tenant's violation of a provision of the Governing Documents or the Acts.

(b) Breach of any of the provisions contained in the Governing Documents and the continuation of any such breach may be enjoined, abated or remedied by appropriate legal proceedings instituted by any Owner or by the Association. The offending party is entitled to such notice and rights to a hearing as provided for in the Governing Documents. Any judgment rendered in any action or proceeding pursuant hereto shall include a sum for attorneys' fees in an amount as the court may deem reasonable, in favor of the prevailing party, as well as the amount of any delinquent payment, interest thereon, costs of collection and court costs.

(c) The result of every act or omission whereby any of the provisions contained in this Declaration or the Governing Documents are violated in whole or in part is hereby declared to be and constitutes a nuisance, and every remedy allowed by law or equity against a nuisance either public or private shall be applicable against every such result and may be exercised by any Owner or by the Association.

(d) The remedies herein provided for breach of the provisions contained in the Governing Documents shall be deemed cumulative, and none of such remedies shall be deemed exclusive.

(e) The failure of the Association to enforce any of the provisions contained in the Governing Documents shall not constitute a waiver of the right to enforce the same thereafter.

(f) Any breach or amendment of the provisions contained in the Governing Documents shall not affect or impair the lien or charge of any Mortgage made in good faith and for value on any Lot or the improvements thereon, provided that any subsequent Owner of such property shall be bound by such provisions of the Governing Documents, whether such Owner's title was acquired by foreclosure in a trustee's sale or otherwise.

14.02 Severability. Invalidation of any provision of this Declaration or the other Governing Documents by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

14.03 Term. Unless earlier terminated pursuant to Section 14.05 below, the covenants and restrictions of this Declaration shall run with and bind the Project, and shall inure to the benefit of and be enforceable by the Association or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successive owners and assigns, for a term of fifty (50) years from the date this Declaration is recorded, after which the term shall be automatically extended for successive periods of ten (10) years unless a declaration of termination satisfying the requirements of an amendment to the Declaration as set forth in Section 14.05 is recorded. This Declaration shall take effect upon it being filed for record in the Office of the County Recorder.

14.04 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of a residential community and for the maintenance of the Common Areas and other areas within the Project. The article and section headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine and neuter shall each include the masculine, feminine and neuter.

14.05 Amendment. Any amendment to this Declaration after expiration of the Declarant Control Period shall require the written consent or affirmative vote of at least two-thirds (2/3) of all Owners, whether represented in person, by proxy, or by ballot. Any amendment authorized pursuant to this Section shall be accomplished through the recordation of an instrument executed by the Association. In such instrument an officer of the Association or member of the Board shall certify that the vote or approval required by this Section for amendment has occurred.

- a. Initial Declarant Right to Amend. The Declarant alone may amend or terminate this Declaration prior to the closing of a sale of the first Lot.
- b. Unilateral Right to Amend Under Certain Conditions. Notwithstanding anything contained in this Declaration to the contrary, this Declaration may be amended unilaterally at any time and from time to time by Declarant if such Amendment is (i) necessary to correct typographical errors or inadvertent omissions; (ii) necessary to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation or judicial determination which shall be in conflict therewith; or (iii) reasonably necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots subject to this Declaration; provided, however, any such Amendment shall not materially adversely affect the title to any Lot unless any such Owner shall consent thereto in writing.
- c. Declarant's Right to Amend Unilaterally Prior to Termination of the Declarant Control Period. Prior to the expiration of the Declarant Control Period, Declarant may unilaterally amend this Declaration for any other purpose provided, however, any such amendment shall not materially adversely affect the substantive rights of any Owner or Member hereunder, nor shall it adversely affect title to any property without the consent of the affected Owner or Member.
- d. To Satisfy Requirements of Lenders. Notwithstanding anything to the contrary, Declarant reserves the unilateral right to amend all or any part of this Declaration to such extent and with such language as may be requested by a State Department of Real Estate (or similar agency), including but not limited to, FHA, VA, the FHLMC or FNMA and to further amend to the extent requested by any other federal, state or local governmental agency which requests such an amendment as a condition precedent to such agency's approval of this Declaration or approval of the sale of Lots, or by federally chartered lending institution as a condition precedent to lending funds upon the security of any Lot, or any portions thereof. Any such amendment shall be effected by the recordation by Declarant of an Amendment duly signed by the Declarant, specifying the federal, state or local governmental agency or the federally chartered lending institution requesting the amendment and setting forth the amendatory language requested by such agency or institution. Recordation of such an Amendment shall be deemed conclusive proof of the agency's or institution's request for such an

amendment and such amendment when recorded, shall be binding upon all Lots and Memberships and all persons having an interest therein. It is the desire of Declarant to retain control of the Association and its activities during the anticipated period of planning and development. If any amendment requested pursuant to the provisions of hereof deletes, diminishes or alters such control in any manner, whatsoever in the opinion of Declarant, Declarant shall have the unilateral right to amend this Declaration to restore such control.

- e. Declarant's Rights. No provision of this Declaration reserving or granting to Declarant any developmental rights shall be amended without the prior express written consent of Declarant, which consent may be withheld, conditioned or delayed for any reason or for no reason at Declarant's sole and exclusive discretion.
- f. Conditional Use Permit: Restriction on Amendments or Site Modifications. It is hereby acknowledged and understood that this PRUD has been granted a conditional use permit by Ogden City based upon its compliance with Ogden City ordinances and, in addition, was granted an increase in allowable density under such conditional use permit based upon continuing compliance with certain criteria and conditions. Amendments to this Declaration or the Plat or substantive changes to the site may require an amendment to the conditional use permit and failure to seek such amendment may result in an ordinance violation or a revocation of the conditional use permit.

14.06 Fair and Reasonable Notice. Any notice, including without limitation, Notice of Noncompliance by the ARC, Notice of Noncompliance by the Board and Right to Hearing, and Notice of Board Adjudication, permitted or required to be delivered pursuant to the Governing Documents shall be fair and reasonable if given in writing via electronic means, including text message, email or facsimile, except that an Owner may, by written demand, require the Association to provide notice to that Owner by mail. Any notice required to be given will be deemed to have been given upon the earlier to occur of the following:

- (a) when sent by telecopy, the notice is deemed given when the sender receives a facsimile acknowledgment confirming delivery of the telecopy;
- (b) when placed into the care and custody of the United States Postal Service, the notice is deemed given three (3) calendar days after the date the notice is deposited into a receptacle of the United States Postal Service, with postage prepaid and addressed to the most recent address of the recipient according to the records of the Association;
- (c) when sent via electronic means such as an e-mail, text message or similar electronic communication, the notice is deemed given within twenty-four (24) hours of being sent and a rejection or undeliverable notice is not received by the sender;
- (d) when hand delivered, the notice is deemed given immediately upon delivery; or
- (e) when delivered by other means, the notice is deemed given upon such circumstances and conditions as are reasonably calculated to give notice to the recipient.

Notwithstanding the foregoing, notice given by other means shall be deemed fair and reasonable if given in accordance with the Utah Revised Nonprofit Corporation Act. An Owner's mailing address, email, phone number, facsimile number, or other address to receive notice from the Association may be changed from time to time by notice in writing to the Association.

14.07 Manager. The Association may carry out through a Manager any of its functions which are properly the subject of delegation. Any Manager so engaged may be an independent contractor or an agent or employee of the Association. Such Manager shall be responsible for managing the Property for

the benefit of the Association and the Owners, and shall, to the extent permitted by law and the terms of a management agreement with the Association, be authorized to perform any of the functions or acts required or permitted to be performed by the Association itself.

14.08 Terms of Management Agreement. Any agreement for professional management of the Project, or any other contract providing for services to the Association, may not exceed three (3) years. Any such agreement must provide for termination by either party without cause and without payment of a termination fee on not more than one-hundred eighty (180) days, but not less than one-hundred twenty (120) days written notice.

14.09 Rules and Regulations. The Association, through its Board, shall have the authority to promulgate and adopt Rules and Regulations as the Board deems necessary or desirable (i) to aid it in administering the affairs of the Association, (ii) to insure that the Property is maintained and used in a manner consistent with the interests of the Owners, (iii) to regulate the use of the Property and Common Areas and to regulate the personal conduct of the Members, tenants and their guests thereon, and (iv) to establish penalties and fines for the infractions of any Rules and Regulations or other provisions of the Governing Documents. Fines levied may be assessed as a Corrective Assessment against the Lot.

14.10 Limitation on Rules and Design Criteria. The Board may adopt, amend, cancel, limit, create exceptions to, expand or enforce rules and design criteria of the Association that are not inconsistent with the Declaration or the Acts. Except in the case of imminent risk of harm to a Common Area, an Owner, a Lot or a Dwelling Unit, the Board shall give at least fifteen (15) days advance notice of the date and time the Board will meet to consider adopting, amending, canceling, limiting, creating exceptions to, expanding or changing the procedures for enforcing rules and design criteria. The Board may provide in the notice a copy of the particulars of the rule or design criteria under consideration. A rule or design criteria adopted by the Board is only disapproved if member action to disapprove the rule or design criteria is taken in accordance with the limitations under Section 217 of the Community Association Act.

14.11 Fines. The Association, through its Board, shall have the power to levy fines for violations of the Governing Documents and fines may only be levied for violations of the Governing Documents. In addition to the levy of fines, the Board may also elect to pursue other enforcement remedies and/or damages permitted under the Governing Documents. Furthermore, pursuant to Utah Code §57-8a-218(2)(b), a tenant shall be jointly and severally liable to the Association with the Owner leasing to such tenant for any violation of the Governing Documents by the tenant. The Board shall adopt a rule for the procedure to enforce the Governing Documents and levy fines, including a schedule of fines.

14.12 Declarant's Sales Program. Anything to the contrary notwithstanding, for so long as Declarant owns any Lots within the Project the following provisions shall be deemed to be in full force and effect and neither the Owners, the Association nor the Board shall interfere with the completion of improvements and sale of all of Declarant's remaining Lots, and Declarant shall have the following rights in furtherance of any sales, promotions or other activities designed to accomplish or facilitate the sale of all Lots owned by Declarant:

- a. Declarant shall have the right to maintain one (1) or more sales offices and one (1) or more model homes at any one time. Such office and/or models may be one or more of the Lots owned by the Declarant, one or more separate structures or facilities placed on the Property for the purpose of aiding Declarant's sales efforts, or any combination of the foregoing;
- b. Declarant shall have the right to maintain a reasonable number of promotional, advertising and/or directional signs, banners or similar devices at any place or places on the Property;
- c. Declarant shall have the right to use the Common Areas and facilities located in the Project;

- d. Declarant shall have the right from time to time to locate or relocate any of its sales offices, models, or signs, banners or similar devices. Until one hundred and twenty (120) days after the date of closing of Declarant's last Lot in the Project, Declarant shall have the right to remove from the Project any signs, banners or similar devices and any separate structure or facility which was placed on the Property for the purpose of aiding the sales efforts of Declarant; and
- e. All of the rights of Declarant under this Declaration may be assigned or transferred either by operation of law or through a voluntary conveyance, transfer or assignment.

14.13 Rules against Perpetuities and Unreasonable Restraints. The rule against perpetuities and the rule against unreasonable restraints on alienation of real estate may not defeat or otherwise negate a provision of the Governing Documents. If for any reason the Declaration does not comply with the Community Association Act, such noncompliance does not render a Lot or Common Area unmarketable or otherwise affect the title if the failure is insubstantial.

ARTICLE XV
Expansion

15.01 Expansion. Declarant reserves the right, at its sole election, to expand the Property/Project to include additional property more particularly described in Exhibit "E", attached hereto and incorporated herein by this reference, by unilateral action of Declarant without the consent of Owners, for a period of ten (10) years from the date of recording of this Declaration in the office of the Weber County Recorder, Weber County, State of Utah. The additional property, all or part of which may be included in one or more expansions, is located in Weber County, Utah, and includes any land within one-half mile of the land identified in Exhibit "A" or Exhibit "E". Expansion shall occur by the Declarant filing: (1) an additional subdivision plat or plats creating additional planned residential unit developments on the property described above, stating on each plat the intention to have the property described on said plat bound by the terms, covenants and conditions of this Declaration upon the filing or recording of a Declaration of Annexation, and (2) a Declaration of Annexation which shall state the Declarant's intention to have the area described therein subject to this Declaration. Upon the recording of such a Declaration of Annexation the property described therein shall be subject to this Declaration. Any additional properties annexed hereto by the Declarant shall be exclusively for residential Single Family dwellings, architecturally compatible to the existing Dwelling Units, constructed out of similar materials, with similar Lot sizes. The maximum number of Lots to be added shall be 30 Lots. The Declarant shall have the sole discretion as to development of the Common Area in any expansion area and may include any facilities or amenities thereon that Declarant deems necessary and such Common Areas shall be owned by the Association. The Common Area and Limited Common Area in such area shall be deeded by the Declarant to the Association.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has executed this instrument on the on the 3rd day of November, 2017.

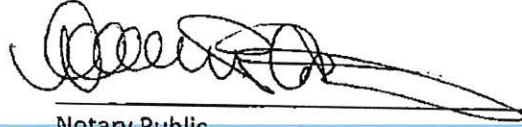
DECLARANT: SUNSET RIDGE, LLC

Vaughn A. Jacobsen
By: Vaughn A. Jacobsen
Its: President and Managing Member

Tom Miller
By: Tom Miller
Member

STATE OF UTAH)
 : ss.
County of Weber)

On the 3RD day of November, 2017, personally appeared before me Vaughn A. Jacobsen, who being by me duly sworn, did say that he is the managing member of Declarant Sunset Ridge, LLC, or is the authorized individual empowered to sign this instrument and that the same was signed on behalf of Declarant Sunset Ridge, LLC, and Tom Miller, Member, with approval and authorization of a majority of the Members thereof.



Notary Public

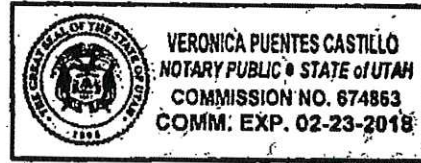


Exhibit "A"
 LEGAL DESCRIPTION
 SUNSET RIDGE (Phases I & II)

The land referred to in the foregoing Declaration is located in Weber County, Utah and more particularly described as follows:

Sunset Ridge PRUD – Phase 1

Beginning at the intersection of the quarter section line and a point on the east line of Harrison Boulevard, said point being South 89°28'30" East 1050.04 feet along the quarter section line from the West Quarter Corner of Section 15, Township 5 North, Range 1 West, Salt Lake Base and Meridian, and running;

Thence South 89°28'30" East 17.40 feet along the quarter section line, also being the east line of Harrison Boulevard;

Thence North 31°44'00" West 281.32 feet along the east line of Harrison Boulevard to an angle point in the east line of Harrison Boulevard marked by a right-of way marker;

Thence North 63°18'42" East 20.08 feet;

Thence South 31°52'09" East 55.16 feet;

Thence North 60°52'23" East 61.08 feet;

Thence North 59°29'21" East 70.99 feet;

Thence southeasterly along the arc of a 2757.09 foot radius curve to the left, (center bears North 59°29'22" East and long chord bears South 30°52'39" East 35.31 feet, with a central angle of 0°44'02");

Thence southeasterly 23.69 feet along the arc of a 15.00 foot radius curve to the left, (center bears North 58°45'20" East and long chord bears South 76°29'20" East 21.30 feet, with a central angle of 90°29'20");

Thence North 58°16'00" East 31.76 feet;

Thence northeasterly 24.21 feet along the arc of a 72.00 foot radius curve to the left, (center bears North 31°44'00" West and long chord bears North 48°38'05" East 24.09 feet, with a central angle of 19°15'50");

Thence South 50°59'50" East 56.00 feet;

Thence South 34°15'54" East 14.72 feet;

Thence South 89°17'16" East 47.83 feet;

Thence South 83°15'05" East 9.09 feet;

Thence South 89°45'07" East 57.99 feet to a Boundary Line Agreement marked by a fence line;

Thence South 0°14'53" West 110.15 feet along the Boundary Line Agreement and fence line to a wood fence line running easterly;

Thence South 89°36'06" East 145.51 feet along a wood fence line to a chain link fence line running southerly;

Thence South 0°28'01" West 215.40 feet along a chain link fence line to the north line of Shadow Valley Drive;

Thence westerly 2.54 feet along the arc of a 433.00 foot radius curve to the left, (center bears South 0°51'14" West and long chord bears North 89°18'51" West 2.54 feet, with a central angle of 0°20'10") along the north line of Shadow Valley Drive;

Thence North 89°28'56" West 50.20 feet along the north line of Shadow Valley Drive;

Thence southwesterly 241.08 feet along the arc of a 433.00 foot radius curve to the left, (center bears South 0°31'04" West and long chord bears South 74°34'03" West 237.98 feet, with a central angle of 31°54'02") along the north line of Shadow Valley Drive;

Thence South 58°37'02" West 14.29 feet along the south line of Shadow Valley Drive to the east line of Harrison Boulevard;

Thence North 35°41'00" West 223.77 feet along the east line of Harrison Boulevard to the point of beginning.

Contains 142,930 square feet, 3.281 acres, 9 Private Units and a Clubhouse.

Sunset Ridge PRUD – Phase 2

Beginning at the Northeast Corner of Sunset Ridge PRUD – Phase 1, said point being on a Boundary Line Agreement and South 89°28'30" East 1330.70 feet along the quarter section line and North 0°14'53" East 217.65 feet from the West Quarter Corner of Section 15, Township 5 North, Range 1 West, Salt Lake Base and Meridian, and running;

Thence North 89°45'07" West 57.99 feet along the north line of Sunset Ridge PRUD – Phase 1;

Thence North 83°15'05" West 9.09 feet along the north line of Sunset Ridge PRUD – Phase 1;

Thence North 89°17'16" West 47.83 feet along the north line of Sunset Ridge PRUD – Phase 1;

Thence North 34°15'54" West 14.72 feet along the north line of Sunset Ridge PRUD – Phase 1;

Thence North 50°59'50" West 56.00 feet along the north line of Sunset Ridge PRUD – Phase 1;

Thence southwesterly 6.74 feet along the arc of a 72.00 foot radius curve to the right, (center bears North 50°59'50" West and long chord bears South 41°41'01" West 6.74 feet, with a central angle of 5°21'44") along the north line of Sunset Ridge PRUD – Phase 1;

Thence North 29°55'59" West 135.75 feet;

Thence North 28°00'30" West 70.00 feet;

Thence North 21°43'03" East 13.12 feet;

Thence North 71°25'48" East 28.59 feet;

Thence North 2°59'59" West 124.14 feet;

Thence North 0°52'22" East 82.65 feet;

Thence South 85°33'48" East 82.28 feet;

Thence North 4°26'12" East 56.00 feet;

Thence South 85°33'48" East 11.27 feet;

Thence North 4°26'12" East 85.00 feet to a Boundary Line Agreement;

Thence North 4°26'12" East 85.00 feet to a Boundary Line Agreement;

Thence South $85^{\circ}33'49''$ East 143.75 feet along a Boundary Line Agreement to another Boundary line Agreement marked by a fence line;
Thence South $0^{\circ}14'53''$ West 573.87 feet along a fence line and Boundary Line Agreement to the point of beginning.

Contains 121,446 square feet, 2.788 acres, 11 Private Units.