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Recorder, Salt Lake County, UT  
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BY: eCASH, DEPUTY - EF 31 P.

WHEN RECORDED MAIL TO:

Scenic Development Group, LLC  
Attention: Kim Rindlisbacher  
14572 South 790 West, Suite A100  
Bluffdale, Utah 84065  
Title # 113212

**DECLARATION OF PROTECTIVE COVENANTS,  
CONDITIONS, RESTRICTIONS AND BYLAWS FOR  
MOUNTAIN POINT RETAIL CENTER**

THIS DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS, RESTRICTIONS AND BYLAWS FOR MOUNTAIN POINT RETAIL CENTER (the "Declaration") is made this 17 day of September, 2018, by Scenic Development Group, LLC, a Utah limited liability company, Scenic Holdings, LLC, a Utah limited liability company (collectively, the "Declarant").

**RECITALS**

A. Declarant and Marlene L. Doxey, Successor Trustee of the Evans and Marlene Doxey Revocable Trust dated March 26, 2014 ("Doxey"), are the owners of certain real property located in the Herriman City, Salt Lake County, Utah, more particularly described on Exhibit A attached hereto and incorporated herein by reference (the "Property").

B. Doxey consents to the recording of this Declaration on the Property.

C. Declarant and Doxey desire to create within and upon the Property an integrated retail and commercial development known as the Mountain Point Retail Center (the "Project"). In order to do so, Declarant and Doxey desire to establish protective covenants, conditions and restrictions upon the Property, which will constitute a general scheme for the improvement, development and management of the Property, and for the use, occupancy and enjoyment thereof, all for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property and enhancing the quality of the retail and business environment within the Project.

D. To provide efficient management for the Project and to preserve its value, desirability and attractiveness, Declarant has incorporated a Utah nonprofit corporation called Mountain Point Owners Association, Inc. (the "Association") and Declarant has delegated and assigned to such Association the powers (i) of managing the Project, (ii) of maintaining and administering the Common Facilities (as defined below), (iii) of administering and enforcing all covenants, conditions and restrictions imposed under this Declaration, (iv) of collecting and disbursing funds pursuant to the assessments and charges hereinafter created and referred to, and (v) of performing such other acts as shall generally benefit the Project.

E. The Declarant and Doxey will hereafter hold and convey title to all of the Property subject to the protective covenants, conditions and restrictions hereinafter set forth.

NOW, THEREFORE, Declarant and Doxey hereby covenant that each of the Lots (as defined below) shall be held and conveyed subject to the following covenants, conditions restrictions and easements which are hereby declared to be for the benefit of such interests in the Property, and the Owners (as defined below) of the Lots, their successors and assigns.

**ARTICLE I**  
**DEFINITIONS**

Unless the context clearly indicates otherwise, the following capitalized terms used in this Declaration are defined as follows:

Section 1.01 “Additional Property” means the land that may be added to the Property and Project in accordance with the provisions of Section 15.20, which land is more particularly described on Exhibit C attached hereto and incorporated herein by this reference.

Section 1.02 “Architectural Committee” shall mean the committee provided for in Article VI hereof.

Section 1.03 “Articles” shall mean the Articles of Incorporation of the Association as the same may from time to time be duly amended.

Section 1.04 “Assessments” shall include each of the Assessments hereinafter defined:

(a) “Regular Assessment” shall mean a charge against each Owner and such Owner’s Lot representing a portion of the cost to the Association for Common Expenses.

(b) “Special Assessment” shall mean a charge against a particular Owner and such Owner’s Lot, directly attributable to the Owner, to reimburse the Association for costs incurred in bringing the Owner and such Owner’s Lot into compliance with the provisions of this Declaration or Association Rules, or any other charge designated as a Special Assessment in this Declaration or the Association Rules, together with attorney’s fees and other charges payable by such Owner, pursuant to the provisions of this Declaration, plus interest thereon as provided for in this Declaration.

Section 1.05 “Association” shall mean the Mountain Point Owners Association, Inc., a nonprofit corporation, incorporated under the laws of the State of Utah, and its successors and assigns.

Section 1.06 “Association Rules” shall mean the rules adopted from time to time by the Association pursuant to Article VIII hereof.

Section 1.07 “Board” shall mean the Board of Trustees of the Association.

Section 1.08 “Building” shall mean any structure which (a) is permanently affixed to the land, and (b) has one or more floors and a roof.

Section 1.09 “Bylaws” shall mean the relevant provisions of this Declaration. The bylaws of the Association are incorporated herein as Article VIII (the Duties and Powers of the Association). The provisions of the Utah Revised Nonprofit Corporation Act, §16-6a-101 et seq. (the “Act”), as in effect on, and as amended after, the date of this Declaration, shall supplement the Bylaws set forth in this Declaration to the extent that such statutory provisions are not inconsistent with this Declaration.

Section 1.10 “City” shall mean Herriman City, Utah, a municipal corporation of the State of Utah.

Section 1.11 “Common Expense” shall mean the actual and estimated costs of: (a) maintenance, management, operation, repair, and replacement of the Common Facilities; (b) unpaid Special Assessments; (c) management and administration of the Association; (d) utilities, trash pickup and disposal, snow

removal, landscaping and other services benefiting the Owners and their Lots to the extent such services are paid for by the Association; (e) liability and insurance covering the Common Facilities; (f) taxes paid by the Association for the Common Facilities; (g) amounts paid by the Association for discharge of any lien or encumbrance levied against the Common Facilities or portions thereof; (h) fees and expenses incurred by the Architectural Committee or other committees of the Association; and (i) any other item or items approved by the Board and incurred in connection with the Common Facilities, this Declaration, the Articles, or in furtherance of the purposes of the Association or in the discharge of any obligations imposed on the Association by this Declaration.

Section 1.12 “Common Facilities” shall mean (a) the retention basin located on Parcel A, as described on the Subdivision Plat, any other retention basins located in the Project, including the StormTech and other underground storm sewer improvements, and all other real property and the improvements and fixtures thereto and the personal property thereon owned by or leased to the Association from time to time for the common use and benefit of the Owners, (b) any Project monument sign constructed on any Lot or any other property within the Project designated by Declarant for the use and benefit of all Owners, or (c) parking areas designated by Declarant on Parcels B or C for the benefit of one or more Lots. Parcel A shall be conveyed by Declarant to the Association. Declarant may permit the Owners and the Project to utilize Parcels B and C, as described on the Subdivision Plat, as retention basins, parking areas or other Common Facilities without conveying such Parcels to the Association, provided, that the Association, pay all costs associated with the installation and maintenance of any improvements used for such Common Facilities, and provided, further, that Declarant reserves the right to revoke the permission to use such Parcels for Common Facilities at any time. If Declarant revokes permission to use Parcel B or C for Common Facilities, if so designated by Declarant, Declarant shall not be required to provide reimbursement to any Owner for any improvements constructed on such Parcels. Notwithstanding the foregoing, an Owner can waive its right in writing to participate in the use of any parking areas on Parcel B or C, or any Project monument sign at the time such Common Facilities are constructed. In such an event, the portion of the Common Expenses attributable to such parking areas or a Project monument sign shall be assessed only against such Owners not waiving their rights to utilize such Common Facilities.

Section 1.13 “Declarant” shall mean Scenic Development Group, LLC, a Utah limited liability company, or any successor thereto.

Section 1.14 “Hazardous Material” shall mean (a) any waste, material or substance (whether in the form of a liquid, a solid or a gas and whether or not air-borne), which is deemed to be a pollutant or a contaminant, or to be hazardous, toxic, ignitable, reactive, corrosive, dangerous, harmful or injurious to public health or to the environment, and which is or becomes regulated by or under the authority of any applicable local, state or federal laws, judgments, ordinances, orders, rules, regulations, codes or other governmental restrictions or requirements, any amendments or successor(s) thereto, replacements thereof or publications promulgated pursuant thereto (collectively “Environmental Regulations” and individually, an “Environmental Regulation”); (b) petroleum; (c) asbestos; (d) polychlorinated biphenyls; and (e) any radioactive material. In addition to the foregoing, the term “Environmental Regulations” shall be deemed to include, without limitation, local, state and federal laws, judgments, ordinances, orders, rules, regulations, codes and other government restrictions and requirements, any amendments and successors thereto, replacements thereof and publications promulgated pursuant thereto, which deal with or otherwise in any manner relate to, environmental matters of any kind.

Section 1.15 “Improvements” shall mean, but are not limited to, all Buildings, structures, landscaping and lawns, exterior walkways, Shared Access Areas, parking areas, driveways and truck loading areas, signs, fences, poles, walls, utility lines, lighting, drainage facilities, repairs, alterations, and all other structures or objects of any type or kind installed or constructed on a Lot.

Section 1.16 “Lot” shall mean each of Lots 101 through 105, all as more particularly described on the Subdivision Plat, and any other lot located on the Additional Property, which is annexed into the Project and reflected on the Subdivision Plat, as amended. References in this Declaration to a specific Lot shall refer to the particular Lot as set forth in this Declaration and on the Subdivision Plat, as amended. If two or more contiguous Lots are held by the same Owner, such commonly owned Lots may, at the option of the Owner, be combined and treated as a single Lot for purposes of this Declaration, provided that (a) the construction and location of Improvements thereon shall nevertheless be subject to the review and approval requirements set forth in this Declaration; (b) each Lot shall nevertheless be subject to the specific use restrictions more particularly set forth herein; and (c) any Shared Access Areas benefitting other Lots not owned by the Owner of multiple Lots are preserved. Parcels B and C, as described on the Subdivision Plat, shall not be treated as Lots and be subject to Assessments, unless Declarant, in its sole discretion, elects to designate such Parcels as Lots. Declarant reserves the right to adjust the boundaries of a Lot to incorporate Parcel B or C, as the case may be, into an adjacent Lot.

Section 1.17 “Member” shall mean every individual or entity who qualifies for membership in the Association pursuant to Article II, including Declarant so long as Declarant qualifies for membership pursuant to such Article.

Section 1.18 “Occupant” shall mean and include the Declarant, the Owners, their respective heirs, successors and assigns, and any person who shall be from time to time entitled to the use and occupancy of space on a Lot or in a Building under any lease, sublease, license or concession agreement, or other instrument or arrangement under which such rights are acquired.

Section 1.19 “Owner” shall mean one or more persons or entities who are alone or collectively the record owner of fee simple title to a Lot, including Declarant and Doxey, and the vendee under an installment land sales contract, but excluding those having such interest merely as security for the performance of an obligation.

Section 1.20 “Permittees” shall mean all Occupants and all customers, employees, licensees and other business invitees of Occupants.

Section 1.21 “Project” shall mean all of the Property, or the Additional Property added to the description of the Property by Declarant, together with all of the Buildings and other Improvements constructed thereon.

Section 1.22 “Property” shall mean the real property described on Exhibit A attached hereto and incorporated herein by this reference and, subsequent to the annexation thereof pursuant to this Declaration, any portion of the Additional Property, which shall become subject to this Declaration.

Section 1.23 “Shared Access Area” shall mean the area on a Lot or Lots, which provides vehicles or pedestrians from one or more Lots (or Parcels), described on the Subdivision Plat, an entrance or exit across drive aisles or private roads on such Lot or Lots, and an entrance or exit to public roads adjacent to such Lot or Lots. Without limiting the generality of the foregoing, the Shared Access Areas shall include (a) the drive aisles on or near the lot lines between Lot 101, Lot 102, Lot 103 and Lot 104, which provide (1) vehicular and pedestrian access to and from such Lots, Parcel A and Academy Parkway, and (2) cross access between and among such Lots; (b) the drive aisles on or near the lot lines between Lot 102, Lot 103, Lot 104, Lot 105 and Parcel B, which provide (1) vehicular and pedestrian access to and from such Lots and Academy Parkway, and (2) cross access between and among such Lots; (c) the drive aisles on or near the lot line of Lot 105, Parcel B and Parcel C, and any Lot located on the Additional Property adjacent to such Lot 105 or Parcels B or C, which provide cross access for Lot 105, Parcels B and C for vehicular and pedestrian access; and (d) the area on any Lot or Parcel described as a drainage and/or utility

easement on the Subdivision Plat. The Shared Access Areas are not publicly-dedicated access or easement areas. For the avoidance of doubt, the Shared Access Areas shall provide vehicular and pedestrian access only, not parking rights. Any shared parking shall be subject to a separate written agreement entered into by the Owners of adjacent Lots. Notwithstanding the foregoing, Declarant reserves the right to dedicate that section of the Shared Access Area between Maradona Drive and Academy Parkway located on Lots 102, 103, 104, 105 and Parcel B, which is presently encumbered by a recorded access easement in favor of Wasatch South Hills Development Co., LLC (the "Access Easement"), to Herriman City as a public right of way. Each Owner of a Lot affected by such Access Easement agrees to execute such instruments as required by Declarant to effectuate such dedication.

Section 1.24 "Subdivision Plat" shall mean the final subdivision plat for the Property and the Project attached hereto as Exhibit B and incorporated herein by reference, and the final subdivision plat(s) for any portion of the Additional Property annexed into the Project pursuant to an amendment.

## **ARTICLE II** **MEMBERSHIP IN THE ASSOCIATION**

Section 2.01 Membership. Every Owner shall be a Member of the Association subject to the terms of this Declaration, the Articles and Association Rules. The terms and provisions set forth in this Declaration, which are binding upon all Owners, are not exclusive, as Owners shall, in addition, be subject to the terms and provisions of the Articles of the Association to the extent the provisions thereof are not in conflict with this Declaration. Membership in the Association shall be appurtenant to each Lot and may not be separated from the interest of an Owner in any Lot. Ownership of a Lot shall be the sole qualification for membership in the Association. Not more than one membership in the Association shall exist with respect to ownership of a single Lot.

Section 2.02 Transfer. The membership held by any Owner shall not be transferred, pledged or alienated in any way, except upon the conveyance or encumbrance of such Lot and then only to the transferee of such Lot. Any attempt to separate the membership in the Association from the Lot to which it is appurtenant shall be void and will not be reflected upon the books and records of the Association. In the event an Owner should fail or refuse to transfer the membership registered in such Owner's name to the transferee of such Owner's interest in such Lot, the Association shall have the right to record the transfer upon the books of the Association.

Section 2.03 Voting Rights. All voting rights shall be subject to the restrictions and limitations provided herein and in the Articles and Association Rules. The Association shall have one class of Members. Each Member shall be entitled to one (1) vote for each Lot the Member owns. When more than one person owns a portion of a Lot, the vote for such Lot shall be exercised as the co-Owners among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot. The Association shall not be required to recognize the vote or written assent of any such co-Owner except the vote or written consent of the co-Owner designated in a writing executed by all of such co-Owners and delivered to the Association.

Section 2.04 Approval of Members. In any matter requiring the consent of the Members, but not specifically provided for in this Declaration or the Articles or any contract executed by the Association, a simple majority of the votes of Members entitled to vote on such matter shall suffice.

## **ARTICLE III** **COVENANT FOR MAINTENANCE ASSESSMENTS**

Section 3.01 Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned by it, hereby covenants and agrees to pay, and each Owner of any Lot by acceptance of a deed or other conveyance creating in such Owner the interest required to be deemed an Owner, whether or not it shall be

so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association: Regular Assessments, Special Assessments, and such other Assessments to be fixed, established and collected from time to time as hereinafter provided. The Assessments, together with interest thereon, late charges, reasonable attorneys' fees and court costs, and other costs of collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such Assessment is made. Each such Assessment, together with such interest, late charges and costs and reasonable attorneys' fees, shall also be the personal obligation of the Owner of such Lot at the time when the Assessment fell due. The personal obligation shall not pass to the successors in title of an Owner unless expressly assumed by such successors.

Section 3.02 Purpose of Assessments. The Assessments levied by the Association shall be used exclusively to promote the comfort, health, safety, security and welfare of the Members and to perform the duties and exercise the powers of the Association enumerated in its Articles and this Declaration. For sake of clarity, the Assessments shall be collected to pay all costs associated with the maintenance and repair of the Common Facilities, and insurance maintained by the Association.

Section 3.03 Regular Assessments. The amount and timing of payment of Regular Assessments shall be determined by the Board pursuant to the Articles and this Declaration after giving due consideration to the current maintenance, operational, and other costs and the future needs of the Association. Not later than thirty (30) days prior to the beginning of each fiscal year of the Association, the Board shall estimate the total Common Expenses to be incurred for the forthcoming fiscal year. The Board shall then determine the amount of the Regular Assessment to be paid by each Member. Written notice of the annual Regular Assessments shall be sent to every Member. Each Member shall thereafter pay to the Association its Regular Assessment in installments as established by the Board. In the event the Board shall determine that the estimate of total charges for the current year is, or will, become inadequate to meet all Common Expenses for any reason, it shall then immediately determine the approximate amount of such inadequacy and issue a supplemental estimate of the Common Expenses and determine the revised amount of Regular Assessment against each Member, and the date or dates when due.

Section 3.04 Rate of Assessment. All Regular Assessments shall be fixed by the Board at a rate computed and assessed with respect to each Lot in the ratio that the size of such Lot bears to the aggregate size of all Lots. The Board shall have the right to adjust the Regular Assessments, if the Board reasonably determines that the Common Facilities cannot be maintained to the standard required by the Owners or as required by any governmental or quasi-governmental entity with jurisdiction over the Common Facilities. Regular Assessments may be collected at intervals selected by the Board. For the sake of clarity, the size of the Lot shall be based on the acreage calculation set forth in the Subdivision Plat.

Section 3.05 Certificate of Payment. The Association shall, upon demand, furnish to any Member liable for Assessments, a certificate in writing signed by an officer or authorized agent of the Association, setting forth whether the Assessments on a specified Lot have been paid, and the amount of delinquency, if any. A reasonable charge may be collected by the Board for the issuance of these certificates. Such certificates shall be conclusive evidence of payment of any Assessments therein stated to have been paid.

Section 3.06 Exempt Property. The following portions of the Property shall be exempt from the Assessments created herein: (i) all properties dedicated to and accepted by, or otherwise acquired by a public authority; and (ii) the Common Facilities (i.e., real property owned by the Association, and Parcels B and C during such periods of time they are used as retention basins or Common Facilities).

Section 3.07 Special Assessments. Special Assessments shall be levied by the Board against a Lot to reimburse the Association for costs incurred in bringing an Owner and such Owner's Lot into

compliance with the provisions of this Declaration, the Articles or Association Rules, or any other charges designated as a Special Assessment in this Declaration, the Articles or Association Rules, together with attorneys' fees, interest and other charges related thereto as provided in this Declaration. In the event the Association undertakes to provide materials or services which benefit individual Lots and which can be accepted or not by individual Owners, such as snow removal, such Owners in accepting such materials or services agree that the costs thereof shall be a Special Assessment.

Section 3.08 Date of Commencement of Regular Assessments. The Regular Assessments shall commence as to all Lots within the Property upon the earlier of (a) the conveyance of such Lots by the Declarant to a third party in a sale or lease transaction in which Declarant holds no ownership interest, or (b) the commencement of construction of a Building on a Lot owned in whole or in part by the Declarant. In the event the amount budgeted to meet Common Expenses for any year proves to be excessive in light of the actual Common Expenses, the Board in its discretion may either reduce the amount of the Regular Assessment or may abate collection of Regular Assessments as it deems appropriate.

Section 3.09 No Offsets. All Assessments shall be payable in the amount specified by the Assessment and no offsets against such amount shall be permitted for any reason, including, without limitation, a claim that the Association is not properly exercising its duties and powers as provided in this Declaration.

#### **ARTICLE IV** **NONPAYMENT OF ASSESSMENTS**

Section 4.01 Delinquency. Any Assessment provided for in this Declaration, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such Assessment is made. Any Assessment which is not paid when due shall be delinquent on said due date (the "delinquency date"). If any such Assessment is not paid within fifteen (15) days after the delinquency date, a late charge equal to five percent (5%) of the delinquent payment shall be levied and the Assessment shall bear interest from the delinquency date, at the rate of eighteen percent (18%) per annum. To the fullest extent permitted by law, the Association may, at its option, and without waiving the right to foreclose its lien against the Lot, bring an action at law against the Member personally obligated to pay the same, and/or upon compliance with the notice provisions set forth in Section 4.02, to foreclose the lien against the Lot. If action is commenced, there shall be added to the amount of such Assessment the late charge, interest, the costs of preparing and filing the complaint in such action, and reasonable attorneys' fees incurred in connection with the commencement and prosecution of such action and in the event a judgment is obtained, such judgment shall include said late charge, interest and a reasonable attorney's fee, together with the costs of action. Each Member vests in the Association or its assigns, the right and power to bring all actions at law and/or for lien foreclosure against such Member or Members for the collection of such delinquent Assessments.

Section 4.02 Notice of Lien. No action shall be brought to foreclose said Assessment lien or to proceed under the power of sale herein provided until thirty (30) days after the date a notice of claim of lien is deposited in the United States mail, certified or registered, postage prepaid, to the Owner of said Lot, and a copy thereof is recorded by the Association in the office of the Salt Lake County Recorder. Said notice of claim of lien must recite a good and sufficient legal description of any such Lot, the record Owner or reputed Owner thereof, the amount claimed (which shall include interest on the unpaid Assessment at the rate of eighteen percent (18%) per annum, the late charge referred to in Section 4.01, plus reasonable attorneys' fees and expenses of collection in connection with the debt secured by said lien), and the name and address of the Association.

Section 4.03 Foreclosure Sale. Such Assessment lien may be enforced by sale by the Association, its attorney or any other person authorized to make the sale after failure of the Owner to make the payments specified in the notice of claim of lien within said thirty (30) day period. Any such sale

provided for above is to be conducted in accordance with the provisions of the statutes of the State of Utah as said statutes may from time to time be amended, applicable to the exercise of powers of sale in mortgages and deeds of trust, or in any other manner permitted or provided by law. The Association may appoint as the trustee to conduct such deed of trust sale, any person or entity qualified to act as a trustee under the Utah deed of trust statutes. The Association, through its duly authorized agents, shall have the power to bid on the Lot, using Association funds, or funds borrowed for such purpose, at the sale, and to acquire and hold, lease, mortgage and convey the same.

Section 4.04 Curing of Default. Upon the timely payment, or other satisfaction, of (i) all delinquent Assessments specified in the notice of claim of lien, (ii) all other Assessments which have become due and payable with respect to the Lot as to which such notice or claim of lien was recorded and (iii) interest, late charges and attorneys' fees pursuant to this Declaration and the notice of claim of lien which have accrued, officers of the Association or any other persons designated by the Board are hereby authorized to file or record, as the case may be, an appropriate release of such notice, upon payment by the defaulting Owner of a fee, to be determined by the Association, to cover the costs of preparing and filing or recording such release.

Section 4.05 Cumulative Remedies. The Assessment lien 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.

## ARTICLE V USE

Section 5.01 Permitted Uses. Subject to the provisions of this Article V, Lots and Buildings within the Project shall only be used for any lawful retail, commercial, entertainment, office, cultural purpose, or purpose not specifically prohibited by this Declaration or by the Declarant. In so using the Building and Lot, the Owner or Occupant, as the case may be, shall at all times comply with all present and future safety, health, environmental, zoning or other laws, ordinances, orders, rules, regulations and requirements of all federal, state, county and municipal governments, departments, commissions, boards and officers, and all orders, rules and regulations of the National Board of Fire Underwriters or any other body exercising similar functions, which may be applicable to the Building, the Lot or the Project.

Section 5.02 Uses Specifically Prohibited. Notwithstanding anything to the contrary in Section 5.01, the enumerated uses specified above shall not be construed to include, either as a main or accessory use, and no Lot or part thereof shall be used for, any of the following uses:

- (a) Any use which is unlawful or constitutes a public or private nuisance;
- (b) Any use which produces noise or sound which may be heard outside of any Building and is objectionable due to intermittent, beat, frequency, shrillness or loudness (except for the car wash operated on Lot 101);
- (c) Any use which produces any noxious odor which may be smelled outside any Building other than such odors as are typically incidental to first-class retail operations, including odors typically incidental to beauty and nail salons, restaurants, fast food restaurants, other food service establishments and gas stations;
- (d) Any use which produces any excessive quantity of dust, dirt or ash;



- (e) Any use involving explosive or other damaging or dangerous hazards, including the storage, display or sale of explosives or fireworks;
- (f) Any warehouse, distribution, assembly, manufacturing, distillation, refining, or smelting operation;
- (g) Any junkyard, salvage yard, stock yard or use involving animal raising; overnight stay pet facilities; provided, however, that first-class pet stores may be permitted at the discretion of the Declarant;
- (h) Any operation for drilling for and/or removal of subsurface substances or similar;
- (i) Any operation involving dumping, disposal, incineration or reduction of garbage or refuse, other than in enclosed receptacles intended for such purposes;
- (j) Any use involving the display or distribution of pornographic materials, adult books and magazines, adult books or adult audio/video products, or X-rated videos or similar productions; provided, however, that the sale of such adult magazines and books as are carried by a convenience, supermarket, or full-line book store, shall be permitted within the Project;
- (k) Any automobile body and fender repair shop operation;
- (l) Any tavern or bar, except to the extent incidental to a restaurant operated primarily for on-premises consumption of alcoholic drinks;
- (m) Any night club, discotheque, dance hall, billiard or pool hall;
- (n) Any skating rink;
- (o) Any living quarters;
- (p) Any massage parlor;
- (q) Any church, synagogue, or other place of worship;
- (r) Any auditorium, meeting hall, school, or other place of public assembly;
- (s) Any gambling facilities;
- (t) Any gymnasium;
- (u) Food processing operations, except as incidental to permitted restaurant and cafeteria operations;
- (v) Manufacturing and assembly operations, except as otherwise provided by the Declarant;
- (w) Fire sales, flea markets, pawn shops, businesses selling second hand goods, bankruptcy sales (unless pursuant to a court order), or auction operations;
- (x) Automobile, truck, trailer, or recreational vehicle or boat sales, leasing, storage or

display;

(y) Fairs or carnivals, except as occasional promotional events incidental to the operation of a shopping center or similar use;

(z) Sales by transient merchants utilizing vehicles or booths;

(aa) Industrial or manufacturing uses;

(bb) Cabinet and carpenter shops; or

(cc) Plumbing or sheet metal shops.

Section 5.03 Parking and Parking Areas. No parking shall be permitted on any public or private street or Shared Access Area, or any place other than parking areas located upon Lots.

Section 5.04 Fences. Fence location, color, gage and type shall be subject to the written approval of the Declarant or the Architectural Committee, as the case may be, consistent with overall Project aesthetics, safety and quality of construction. No fences shall be placed in Shared Access Areas.

Section 5.05 Signs. All signs located on a Building or Lot shall be reviewed and approved by the Declarant or the Architectural Committee, and shall conform to all local laws, rules and regulations and the Association Rules.

Section 5.06 Waste Disposal. No trash, garbage or waste material, including, but not limited to, scraps, grass, shrub or tree clippings, lumber, pallets, metals and plant waste, shall be kept, stored or allowed to accumulate on any portion of a Lot except in an approved bin or contained within an enclosed structure appropriately screened from view. All trash, garbage and other waste materials shall be regularly removed from each Lot and the Property. Incineration of trash, garbage or waste materials on the Property is prohibited.

Section 5.07 Hazardous Materials.

(a) Restriction on Hazardous Materials. Any Hazardous Material brought upon, kept, used, generated, stored, treated, disposed of or released in or about the any Lot, or soils or groundwater of same, by any Owner of such Lot, any Occupant or Permittee, or any party acting on behalf of any of them and in a manner which does not comply with applicable Environmental Regulations shall be referred to herein as a "Hazardous Condition". In the event any Hazardous Condition occurs on a Lot, or causes any adjacent Lot(s) to be contaminated, the Owner of such Lot shall promptly take all actions at its sole expense as are necessary to correct said violation to the satisfaction of the regulating entity.

(b) Indemnity. If an Owner of a Lot breaches the obligations stated in Section 5.07(a) above or if a Hazardous Condition exists at any time, then the Owner of such Lot shall indemnify, defend and hold the Association, the Owners of each other Lot within the Property and such other Owners' managers, members, partners, officers, directors, shareholders, employees, and agents harmless from any and all claims, judgments, damages, penalties, fines, costs, expenses, liabilities or losses, including, without limitation, (1) diminution in value of the Property, (2) damages for the loss or restriction on use of rentable or usable space or of any amenity of the Property, (3) sums paid in settlement of, payment of, or in order to comply with any claims, suits, actions, judgments, proceedings, or investigations, (4) costs, expenses, reasonable attorneys' fees, consultant fees, expert fees and incidental costs incurred in connection with any of the above or any investigation of site conditions or any cleanup, remedial, removal or restoration work

required by any governmental or quasi-governmental entity. The obligations contained in this Section shall survive the termination of this Declaration.

Section 5.08 Storm Drainage; Escrow of Funds. All storm drainage facilities on each Lot shall conform to the requirements of the storm drainage system designed for the Project and to all applicable laws, ordinances and regulations of all governmental agencies and authorities having jurisdiction. Each Owner shall maintain, repair, replace and keep free of debris and obstruction all drainage systems and facilities located on such Owner's Lot. All parking areas, driveways, landscaping and loading areas shall be paved and properly graded to assure proper drainage. Each Lot shall connect to a retention basin Common Facility by an underground storm water line stubbed to such Lot. In consideration, concurrent with each Owner's purchase of a Lot from Declarant, each Owner shall pay to Declarant an assessment equal to the cost of construction of an on-site storm water retention pond for a 25-year storm (the "Storm Water Assessment"). Declarant shall hold all Storm Water Assessments in escrow until Declarant commences construction of phase 2 of the Project, at which time Declarant shall utilize all Storm Water Assessments to install a StormTech underground storm water management system in one or more retention basins to service the storm water from all Lots in the Project.

Section 5.09 Excavation. No excavation shall be made except in connection with the construction of an Improvement or in compliance with applicable laws, rules, regulations, orders and ordinances of the City, county, state and federal government, or any department or agency thereof, and upon completion thereof any exposed openings shall be backfilled and disturbed ground shall be graded, leveled and landscaped. Without limiting the generality of the foregoing, the Declarant must review and approve all grading and landscaping plans for any Lot or any Improvements. The Declarant reserves the right to perform excavation work in connection with the construction of any Improvements in the Project.

Section 5.10 Solar Devices. Solar collectors and other solar energy devices are permitted. All exterior solar energy devices, including, but not limited to, solar panels, collectors and accessories, must be architecturally integrated into the building design, or, if free-standing, must be visually screened from both adjoining Lots and all streets by landscaping or other means acceptable to the Declarant or the Architectural Committee. The same screening obligations shall apply to antennas, aerials and dishes.

Section 5.11 Outside Storage. No materials, supplies, equipment, vehicles, finished or unfinished products or articles of any kind shall be stored or permitted to remain on any portion of a Lot outside of a Building, except in storage areas approved by Declarant or the Board, as the case may be.

Section 5.12 Utility Lines Underground. All utility lines, pipes and conduits within the Property shall be installed underground and no such utility lines, pipes or conduits or supporting apparatus shall be permitted above ground, except to the extent reasonably necessary to support such underground utilities.

Section 5.13 Zoning Variances. No Owner of any Lots shall seek or obtain a zoning variance or a conditional use permit with regard to such Owner's Lot without the prior written approval of the Declarant and Board, nor shall any Owner request a rezoning or any portion of the Property without the prior written approval of the Declarant and the Board.

Section 5.14 Sounds. No exterior speakers, horns, whistles, bells or other sound devices, other than devices used exclusively for safety, security, fire prevention or fire control purposes, shall be located or used on any Lot except to the extent permitted by the Declarant or Board.

Section 5.15 Exterior Lighting. All exterior and security lighting shall have underground service and shall be designed, erected, altered and maintained in accordance with plans and specifications

approved in writing by the Declarant or Architectural Committee to the end that lighting shall be compatible and harmonious throughout the Project.

Section 5.16 Exterior Fixtures. No swamp coolers, window air conditioners or similar equipment shall be installed in the windows or to the exterior walls or sides of a Building (roof-top units are not prohibited).

## **ARTICLE VI** **ARCHITECTURAL CONTROL**

Section 6.01 Appointment of Architectural Committee. The Project shall have and at all times maintain an Architectural Committee composed of three (3) individuals who are Members; provided, however, the individuals appointed by the Declarant need not be Members. The Declarant shall initially have the right to and does hereby appoint the following three (3) individuals to the Architectural Committee: Kim Rindlisbacher, Braiden Rindlisbacher, and John Linton. After Declarant has sold, transferred and conveyed all Lots, and the period of Declarant's administrative control outlined in Section 8.04(c) has expired, the Board shall have the right to appoint, remove or replace the members of the Architectural Committee.

Section 6.02 Approval of Plans Required. No Building or other Improvement shall be erected, placed, installed or permitted to occur or exist on any Lot, nor shall the exterior of any existing Improvements be altered, nor shall any construction be commenced on any Improvements, unless and until plans for such Building or other Improvements have been approved in writing by the Architectural Committee. The obligation to obtain the Architectural Committee's approval of plans is limited to external features of Buildings and other Improvements. Work which is completely within a Building may be undertaken without such approval. The replacement of minor features of Improvements with substantially identical material shall also not require the prior approval of the Architectural Committee. The Architectural Committee shall exercise its judgment to see that all Buildings and other Improvements, including, without limitation, landscaping, within the Project are consistent with this Declaration. The actions of the Architectural Committee, through its written approval or disapproval of plans or other information, or with respect to any other matter, shall be conclusive and binding upon the Owner or other party who submitted the plans or other information for approval. The Architectural Committee shall approve all proposed Improvements that comply with this Declaration. All Improvements shall be constructed in accordance with the plans approved by the Architectural Committee.

Section 6.03 Change in Plans. No material change in any plans or other document required to be approved by the Architectural Committee shall be made unless and until the proposed change is submitted to and approved by the Architectural Committee.

Section 6.04 Submittal and Approval Procedures. An Owner or the Owner's representative shall submit materials in connection with the consideration of any plans, submittals or applications for approval of Improvements and shall pay such reasonable architectural review fees as may be established from time to time by the Architectural Committee. The Architectural Committee's approval or disapproval of submitted plans shall be within the reasonable discretion of the Architectural Committee, but shall be based upon compliance with this Declaration, and the harmony and compatibility of the submitted plans with other Improvements existing or contemplated within the Project. The Architectural Committee shall not arbitrarily withhold any approval or unreasonably condition or delay such approval. The Architectural Committee's approval of plans shall be evidenced only by the signature of the Architectural Committee upon the plans so approved or by other written instruments signed by the Architectural Committee. The Architectural Committee may approve or disapprove any submittal, or grant approval subject to specified

conditions. The Architectural Committee shall within thirty (30) days of receipt of a complete set of plans deliver written notice to the party seeking the approval stating that the approval is granted; that approval is granted subject to conditions and specifying the conditions, which must be consistent with this Declaration; or that approval is denied and specifying the reasons for disapproval. Upon disapproval, the party seeking approval may then modify and resubmit the necessary documents for approval. If the Architectural Committee fails either to approve or disapprove submitted documents, whether an initial submittal or resubmittal, within such 45-day period, the Architectural Committee shall be conclusively deemed to have disapproved such documents.

Section 6.05 Installation of Landscaping. All landscaping for a Lot shall be installed, according to the approved plans, in connection with substantial completion of the Building on such Lot; provided, however, if substantial completion of the Building occurs between October 15<sup>th</sup> and March 15<sup>th</sup>, then Owner shall: (i) complete such landscaping within six (6) months following such substantial completion, or (ii) post a landscape bond with the City or Declarant, if the City does not require a landscape bond, on terms and in such amount as required by Declarant to ensure the timely completion of all landscaping.

Section 6.06 No Engineering Approval. Plans are not approved for engineering design, and by approving such plans neither the Architectural Committee, the members thereof, the Association, the Members, the Board nor Declarant assumes liability or responsibility therefor, or for any defect in any structure constructed from such plans.

Section 6.07 Waiver or Variance of Restrictions. To encourage good design, innovation and flexibility, the Architectural Committee may waive or grant a variance of any of the requirements or restrictions contained in this Article with respect to any Lot, if, in the sole judgment of the Architectural Committee, such waiver or variance would be consistent with the general intent and purposes of this Declaration and would not adversely affect any other Lot or the Property as a whole. Subject always to the provisions of the foregoing sentence, variances may be approved, among other reasons, to correct errors in surveying of lot lines or unintentional mislocation of improvements on a Lot, or where the application of any of the provisions of this Declaration to a particular Lot or any portion thereof would, by reason of unusual circumstances or surroundings, result in undue hardship. Any Owner desiring a waiver or variance shall submit a written request to the Architectural Committee and shall provide all other information and material reasonably requested by the Architectural Committee. A waiver or variance may be granted only with the consent of the Architectural Committee and must be evidenced by a written instrument signed by the Architectural Committee. If the Architectural Committee fails to approve or disapprove in writing any request for a waiver or variance within thirty (30) days after receiving all requested information relating to the waiver or variance, the requested waiver or variances shall be deemed denied.

## **ARTICLE VII** **GENERAL CONSTRUCTION REQUIREMENTS**

Section 7.01 Construction of Improvements on Each Lot. All work performed in the construction, maintenance, repair, replacement, alteration or expansion of any Improvement on a Lot shall be effected as expeditiously as possible and in such a manner as not to unreasonably interfere, obstruct or delay (a) access to or from any other Lot, or part thereof, through any Shared Access Areas or to or from any of the Common Facilities; (b) construction work being performed on any other Lot; or (c) the use, enjoyment or occupancy of any other Lot by any Owner, Occupant or Permittee of that Lot. Owners engaged in approved construction activities shall regularly clean the roadways and Shared Access Areas used by construction vehicles of mud, dirt and construction debris, and upon completion of all construction activities shall promptly restore the affected roadways and Shared Access Areas to a condition which is equal to or better than the condition that existed prior to the commencement of such work. All work performed in the construction, maintenance, repair, replacement, alteration or expansion of any

Improvement on a Lot shall be in compliance with all applicable laws, rules, regulations, orders and ordinances of the City, county, state and federal government, or any department or agency thereof; and no such work shall cause any Improvement located on any other Lot to be in violation of any such laws, rules, regulations, orders or ordinances. All work performed in the construction, maintenance, repair, replacement, alteration or expansion of any Improvement on a Lot shall be done in a good and workmanlike manner and in accordance with good engineering standards. All materials shall be new.

Section 7.02 Staging of Construction of Improvements. Staging for the construction, maintenance, repair, replacement, alteration or expansion of any Improvement on a Lot, the storage of building materials, and the parking of construction vehicles and equipment, shall be limited to such Lot.

Section 7.03 Temporary Structures. No temporary Buildings or other temporary structures shall be permitted on any Lot; provided, however, trailers, temporary buildings and the like shall be permitted for construction purposes during the construction period of a permanent Building. The location and nature of such structures must be submitted to and approved by the Declarant or the Architectural Committee and shall be placed as inconspicuously as practicable, shall cause no inconvenience to Owners, Occupants Permittees of other Lots, and shall be removed not later than thirty (30) days after the date of substantial completion for beneficial occupancy of the Building(s) in conjunction with which the temporary structure was used.

## **ARTICLE VIII** **DUTIES AND POWERS OF THE ASSOCIATION**

Section 8.01 General Duties and Powers of the Association. Subject to the provisions of this Declaration, and the rights of the Declarant, the Project shall be operated, managed and maintained by the Board on behalf of the Owners, the reasonable cost of which (including the cost of the performance by the Board of all obligations contemplated by this Article VIII) shall be part of the Common Expenses. In addition to the duties and powers enumerated in its Articles, or elsewhere provided for herein, and without limiting the generality thereof, the Association shall:

(a) enforce the provisions of this Declaration and the Articles by appropriate means and carry out the obligations of the Association hereunder, including without limitation, the expenditure of funds of the Association, the employment of legal counsel, the commencement of actions, the promulgation of the Association Rules, which shall include the establishment of a system of fines or penalties enforceable as Special Assessments;

(b) acquire, maintain and otherwise manage all of the Common Facilities and all facilities, improvements and landscaping thereof, and all personal property acquired by the Association, and maintain all other areas within the Project which the Association deems appropriate to maintain or is obligated to maintain;

(c) pay any real and personal property taxes and other charges assessed against the Common Facilities unless the same are separately assessed to the Owners;

(d) obtain, for the benefit of the Common Facilities, if necessary, all water, gas and electric, refuse collections and other services;

(e) have the power, without the vote or consent of the Owners, or of any other person, grant, create, release, modify and/or relocate, on such terms as it deems advisable, reasonable permits, licenses, rights-of-way and easements over, under, across and through the Project or the Common Facilities for utilities, roads and other purposes reasonably necessary or useful for the proper operation and

maintenance of the Project, as provided, in part, in Article XIV below;

(f) contract for and maintain such policy or policies of insurance as may be required by this Declaration or as the Board deems necessary or desirable in furthering the purposes of and protecting the interest of the Association and its Members;

(g) establish and maintain a working capital and contingency fund in an amount to be determined by the Board;

(h) subject to the rights of the Declarant, have the duty to maintain architectural control over the property and appoint the Architectural Committee in connection therewith, pursuant to Article VI hereof; and

(i) have the power of entry upon any Lot where necessary in connection with construction, maintenance or repair for the benefit of the Common Facilities, or the Owners;

(j) have the power to sue; and

(k) have the power to levy and collect general and special assessments for the payment of Common Expenses as provided in this Declaration or the Articles.

Section 8.02 Association Rules. The Board shall also have the power to adopt, amend, and repeal such rules and regulations as it deems reasonable (the "Association Rules"). The Association Rules shall govern such matters in furtherance of the purposes of the Association, including, without limitation, the use of the Common Facilities; provided, however, that the Association Rules may not discriminate among Owners and shall not be inconsistent with this Declaration or the Articles. A copy of the Association Rules as they may from time to time be adopted, amended or repealed, shall be delivered to each Owner in the same manner established in this Declaration for the delivering of notices. Upon such delivery, said Association Rules shall have the same force and effect as if they were set forth in and were part of this Declaration. The Association Rules, as adopted, amended or repealed, shall be available at the principal office of the Association to each Owner upon request. In the event of any conflict between any such Association Rules and any other provisions of this Declaration or the Articles, the Association Rules shall be deemed to be superseded by the provisions of this Declaration or the Articles to the extent of any such inconsistency.

Section 8.03 Delegation of Powers. The Association shall have the right according to law, to delegate any of its powers under this Declaration or the Articles, provided, however, no such delegation, whether to a professional management company, the Architectural Committee or otherwise shall relieve the Association of its obligation to perform such delegated duty.

Section 8.04 Composition of Board. The Board shall be composed of up to five (5) natural persons and shall be subject to the following terms and conditions:

(a) Selection. Declarant shall appoint the initial members of the Board who shall serve during the period of Declarant's control. Thereafter, each Lot shall be entitled to one (1) seat on the Board. A Lot Owner shall provide written notice to the President of the individual selected to represent such Lot Owner. Only Owners and officers, partners, managers, members and agents of non-individual Owners shall be eligible for Board membership, except for members appointed by Declarant, who need not be Owners. A member shall serve on the Board until the member's successor is designated and qualifies. Notwithstanding the foregoing provisions, until the first annual meeting of the Owners, Declarant appoints the following as members of the Board who shall hold the office(s) indicated opposite

the person's name:

Name of Board Member	Who also holds office of:
Kim Rindlisbacher	President
John Linton	Vice President
Braiden Rindlisbacher	Secretary
Michelle Loveland	Treasurer

(b) Reimbursements; Compensation. Board members shall be reimbursed for all expenses reasonably incurred in connection with Board business, provided, that such expenses are first approved by the Members.

(c) Administrative Control by Declarant. Notwithstanding the foregoing, Declarant may appoint and remove some or all of the members of the Board, or exercise powers and responsibilities otherwise assigned by this Declaration to the Board or the Association; provided, however, that: (i) Declarant must give the Board written notice of any power or responsibility so assumed; and (ii) no such authorization shall be valid after the first to occur of: (1) the date that is fifteen (15) years after the date that this Declaration, is recorded; (2) the date on which all Lots have been conveyed to a person other than Declarant, a member of Declarant or a person that controls, is under common control with or is controlled by Declarant; or (3) the date on which Declarant surrenders any power or responsibility to the Board in writing.

(d) Approval of the Board. In any matter requiring the approval of the Board, but not specifically provided for in this Declaration or the Articles, a simple majority of the votes of the members of Board entitled to vote on such matter shall suffice.

Section 8.05 Officers and Agents. The Board shall perform its functions through those members who are elected as officers by the Board and through such agents or employees as the Board may appoint or employ. Any Board officer, agent or employee may at any time be removed with or without cause by the vote of a majority of the members of the Board. The officers of the Board and their respective powers and functions shall be as follows:

(a) President. The president shall be the chief executive officer of the Board and shall exercise general supervision over the Project and the affairs of the Project. The president shall preside over all meetings of the Board and of the Owners and shall execute all instruments on behalf of the Board.

(b) Vice President. The vice president shall have all the powers of the president in the president's absence or inability to act.

(c) Secretary. The secretary shall keep minutes of the meetings of the Board and of the Owners and shall keep all records that are required or made necessary by this Declaration or the Board.

(d) Treasurer. The treasurer shall have custody and control of the funds available to the Board. The offices of secretary and treasurer or of vice president and secretary or of vice president and treasurer may be held by the same Board member.

Section 8.06 Board Meetings. A regular meeting of the Board shall be held immediately after the adjournment of each annual Owners' meeting. Other regular meetings shall be held at periodic intervals at such time and place as the Board may decide. Either oral or written notice shall be given to each Board member of the time and place of each regular Board meeting at least three (3) days prior to such meeting. Special Board meetings shall be held whenever called by the president or any two members of the Board.



Reasonable effort shall be made to give either oral or written notice of a special meeting to each Board member at least three (3) days (but on an emergency, 14 hours) before the time fixed for the meeting. Adequate notice of a special meeting shall be deemed to have been given to a member if a reasonable effort is made, even though the member concerned does not actually receive notice. The propriety of holding any meeting that is attended by all Board members may not be challenged on grounds of inadequate notice. A quorum for the transaction of business at any Board meeting shall consist of a majority of all Board members then in office.

Section 8.07 Records. The Board shall keep detailed, accurate records in chronological order of the receipts and expenditures affecting the Common Facilities, specifying and itemizing the maintenance and repair expenses of the Common Facilities and any other expenses incurred. Such records and the vouchers authorizing the payments involved shall be available for examination by the Owners at convenient hours on weekdays. The Board shall maintain up-to-date records showing the name of each person who is an Owner, the address of such person and the Lot that is owned by such person, and any other records required by this Declaration or the Act. On any transfer of a fee interest in a Lot, either the transferor or transferee shall furnish the Board with evidence establishing that the transfer has occurred and that the deed or other instrument accomplishing the transfer is of record in the official records of the Salt Lake County Recorder. The Board may for all purposes act and rely on the information concerning Owners and ownership that is thus acquired by it or, at its option, the Board may act and rely on current ownership information respecting any Lot(s) that is obtained from the official records of the Salt Lake County Recorder (to that end, the Board may rely conclusively upon a title report issued by a title insurance company authorized to do business in Utah as to the ownership of any Lot). The address of an Owner shall be deemed to be the address of the Lot owned by such Owner unless the Board is otherwise advised.

Section 8.08 Professional Management. The Board may (but is not obligated to) carry out through a professional manager any of its functions that are properly the subject of delegation. The professional manager so engaged shall be an independent contractor and not an agent or employee of the Board, shall be responsible for managing the Project for the benefit of the Board and the Owners and shall, to the extent permitted by law and by the terms of the agreement with the Board, be authorized to perform any of the functions or acts required or permitted to be performed by the Board itself. Any such management agreement shall run for a reasonable initial term not to exceed to three (3) years, which may be renewed from time to time.

Section 8.09 Liability. No member of the Board or any officer of the Association shall be liable to the Owners for any mistake of judgment, for negligence or on other grounds, except for such member's own willful misconduct, gross negligence, bad faith or more culpable conduct, subject to the following:

(a) General. Members of the Board and officers of the Association: (a) shall have no personal liability in contract to an Owner or any other person or entity under any agreement, instrument or transaction entered into by them on behalf of the Association in their capacity as such; (b) shall have no personal liability in tort to any Owner or any person or entity, direct or imputed, by virtue of acts performed by them in their capacity as such, except for their own willful misconduct, gross negligence, bad faith or more culpable conduct, nor for acts performed for them in their capacity as such; and (c) shall have no personal liability arising out of the use, misuse or condition of the Property or Project, which might in any way be assessed against or imputed to them as a result of or by virtue of their capacity as such.

(b) Specific Listing. Without limiting the generality of Section 8.09(a) and notwithstanding any provision of this Declaration or the Articles to the contrary, neither the Board, the Association nor any member of the Board shall be liable for any loss, injury, death or damage (including any consequential damage) to persons, property or business resulting from any theft, act of God, public enemy, injunction, riot, strike, insurrection, war, court order, requisition, order of governmental body or

authority, fire, explosion, falling object, steam, water, rain, snow, ice, breakage, leakage, obstruction or other defects.

(c) Indemnity. The Owners and the Association (as the Indemnifying Party) shall indemnify each member of the Board and each officer of the Association (as the Indemnified Party) against all claims made by third parties arising out of any contract made by the Board on behalf of the Owners, unless such contract was made in bad faith.

Section 8.10 Initial Agent for Service of Process. The following shall be the initial person to receive service of process on behalf of the Project, the Board and the Association:

Name	Address
Kim Rindlisbacher	14572 South 790 West, Suite A101 Bluffdale, Utah 84065

The Board shall have the right to appoint a successor or substitute process agent at any time and from time to time. Service of process on two or more Owners in any action relating to the Common Facilities or more than one Lot may be made on the agent designated above.

Section 8.11 General Standard. Notwithstanding any provision in this Declaration to the contrary, the Board shall act fairly and reasonably in discharging its duties under this Declaration and in so doing shall not discriminate between or among any Owners or any classifications of Owners.

Section 8.12 Terms of Certain Contracts. If entered into during the period of control by Declarant contemplated by Section 8.04(c), no management contract, lease of recreational areas or facilities, or any other contract or lease that was designed to benefit Declarant and that was executed by or on behalf of the Association or the Owners as a group shall be binding after such period of control unless then renewed or ratified by the consent of a majority of the Owners. A contract for services such as garbage collection, maintenance, lawn care, or snow removal (but not contracts for utilities, cable services and other similar services that require an investment of infrastructure or capital, as to which the Board's following termination right is not applicable) executed on behalf of the Association or the Board during the period of control contemplated by Section 8.04(c) is binding beyond that period of control unless terminated by the Board after the period of control ends.

Section 8.13 Meetings of Owners.

(a) Annual Owner Meetings. The annual meeting of the Owners shall be held at 7:00 p.m. on the third Tuesday in November of each year or at such other time and place as the Association shall select for the purpose of approving the budget for the upcoming calendar year and for transacting such other Project business as may be necessary or appropriate. The place of such meeting shall be at a location in Salt Lake County, Utah. A written notice of such meeting, setting forth the time, place and general purpose of the meeting shall be given to each Owner by the Association in accordance with Section 13.09. The first annual meeting shall be held in the calendar year in which Declarant conveys the first Lot to a person other than Declarant, a member of Declarant or a person that controls, is under common control with or is controlled by Declarant.

(b) Special Meetings. Special meetings of the Owners may be called by the president of the Association or by any two members of the Association. At least five (5) but not more than thirty (30) days before the date set for a special meeting, written notice shall be given by the Association to the

Owners as set forth in Section 8.13(a).

(c) Notice; Quorum. No notice of any Owners' meeting shall be required if a waiver of such notice is signed by all of the Owners. Whenever all of the Owners meet in person or by proxy such meeting may not be challenged on grounds of inadequate notice unless such Owner participates in or attends the meeting solely to object to the transaction of business on the grounds of inadequate notice. The presence of a majority of the Owners shall constitute a quorum for the transaction of business at any Owners' meeting. If a quorum is not present at any Owners' meeting, whether regular or special, then the meeting may be adjourned and rescheduled for a time no earlier than 48 hours, and no later than 30 days, after the time set for the original meeting. Notice of such rescheduled meeting shall be delivered as set forth in Section 8.13(a) at least 48 hours prior to such rescheduled meeting. Notwithstanding the foregoing provisions of this Section, however, in any case in which the Act or this Declaration requires the affirmative vote of at least a specified percentage of the Owners for authorization or approval of a matter, the presence of Owners entitled to cast such percentage shall be necessary to constitute a quorum at any meeting (whether original or rescheduled) at which action on such matter is taken.

(d) Consent in Lieu of Vote. In any case in which the Act or this Declaration requires the vote of a stated percentage of Owners for authorization or approval of an act or a transaction, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Owners who collectively hold at least the stated percentage of votes, provided that: (1) all necessary consents must be obtained prior to the expiration of ninety (90) days after the first consent is given by any Owner; (2) any change in ownership of a Lot that occurs after consent has been obtained from the prior Owner of such Lot shall not be considered or taken into account for any purpose; and (3) unless the consent of all of the Owners having an interest in the same Lot is secured, the consent of none of such Owners shall be effective. If no percentage of votes is stated, the percentage shall be a simple majority of of the votes.

## **ARTICLE IX** **REPAIR AND MAINTENANCE**

Section 9.01 Repair and Maintenance by Association. Without limiting the generality of the statement of duties and powers contained in this Declaration, the Association shall have the duty to accomplish the following upon the Lots, Common Facilities or other land within and about the Project in such manner and at such times as the Board shall prescribe:

- (a) maintain the Common Facilities in a clean, safe, attractive, and first-class condition at all times;
- (b) repair, restore, replace and make necessary improvements to the Common Facilities;
- (c) maintain all drainage facilities and easements which constitute Common Facilities in accordance with the requirements of any applicable flood control district; and
- (d) cause the appropriate public utility to maintain any utility easements located within the Common Facilities.

Section 9.02 Repair and Maintenance by Owner or Occupant. Every Owner or Occupant shall, at its sole expense, be responsible for the following on such Owner's Lot, and neither the Association nor Owners of any other Lot shall in any way be responsible for any expenses related to such maintenance, repair, landscaping or Improvement on any Lot:

(a) maintain such Owner's Lot and all Improvements located therein, as well as all property from the back of the street curb to such Owner's or Occupant's Lot, in a clean, safe, attractive and first-class condition at all times; and

(b) repair any structural or visible defects or damages to Improvements, keep the exterior of Buildings and other structures on such Owner's Lot in good clean, safe, attractive, and first-class condition and painted as required, keep such Owner's Lot free from weeds, trash and debris, repair any utility lines that service such Owner's or Occupant's Building or Improvements to the extent such lines are not required to be maintained or repaired by the City, Association, or any applicable utility company, and keep all signs and lighting clean and functional;

(c) maintain and landscape all xeriscape, trees, shrubs, flowers and other landscaping in a first-class condition; and

(d) maintain in good condition and repair that portion of all Shared Access Areas, parking lot and truck dock areas, road, driveway, storm sewer, utilities, or similar Improvements located on such Owner's Lot in a manner and with such frequency as is consistent with good property management, including removing any snow from that portion of such Shared Access Areas located on such Owner's Lot.

Section 9.03 Right of Association to Maintain and Install. In the event any Owner fails to maintain the exterior of such Owner's Building or Lot or the Improvements thereon, or to install and thereafter maintain landscaping on such Lot in accordance with Section 9.02 hereof, the Association may cause such maintenance and installation to be accomplished. If the Association is required complete such maintenance or installation after demanding that an Owner take such action, and the Association pays for all or any portion of such maintenance or installation, such amount shall be a Special Assessment to the affected Owner and Lot.

## ARTICLE X INSURANCE

Section 10.01 Types. The Association, to the extent available, shall obtain and continue in effect in its own name the types of insurance the Board deems necessary, including, without limitation, public liability insurance. The Association may purchase such other insurance as it may deem necessary.

Section 10.02 Waiver By Members. As to each of such policies which will not be voided or impaired thereby, the Members hereby waive and release all claims against the Association, the Board, the Declarant and agents and employees of each of the foregoing, with respect to any loss covered by such insurance, whether or not caused by negligence of or breach of any agreement by said persons, but to the extent of insurance proceeds received in compensation for such loss only.

Section 10.03 Premiums and Proceeds. Insurance premiums for any such blanket insurance coverage obtained by the Association and any other insurance deemed necessary by the Association shall be a Common Expense to be included in the Regular Assessments levied by the Association. Insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried, or otherwise disposed of as provided in this Article. The Association is hereby granted the authority to negotiate loss settlements with the appropriate insurance carriers.

**ARTICLE XI**  
**DESTRUCTION OF COMMON FACILITIES**

In the event of partial or total destruction of any portion of the Common Facilities, it shall be the duty of the Association to restore and repair the same to its former condition as promptly as practical. The proceeds of any insurance maintained pursuant hereto shall be used for such purpose. In the event that the amount available from the proceeds of such insurance policies for such restoration and repair shall be insufficient to accomplish such repair or restoration, a Special Assessment may be levied by the Association to provide the necessary funds for such reconstruction, over and above the amount of any insurance proceeds available for such purpose. In the event any excess insurance proceeds remain, the Board, shall distribute pro rata (as determined in Section 3.04) such excess funds to the Members, subject to the prior rights of mortgagees whose interest may be protected by insurance policies carried by the Association. The rights of an Owner as to such pro rata distribution shall be governed by the provisions of the mortgage encumbering such Lot. All amounts collected as Special Assessments shall only be used for the purposes set forth in this Article and shall be deposited by the Board in a separate bank account to be held in trust for such purposes. Such funds shall not be commingled with any other funds of the Association and shall be deemed a contribution to the capital account of the Association by the Members.

**ARTICLE XII**  
**EMINENT DOMAIN**

The term "taking" as used in this Article shall mean condemnation by eminent domain or sale under threat of condemnation. In the event of a threatened taking of all or any portion of the Common Facilities, the Members hereby appoint the Board and such persons as the Board may delegate to represent all of the Members in connection with the taking. The Board shall act in its sole discretion with respect to any awards being made in connection with the taking and shall be entitled to make a voluntary sale to the condemnor in lieu of engaging in a condemnation action. Any awards received on account of the taking shall be paid to the Association. In the event of a taking of less than all of the Common Facilities, the rules as to restoration and replacement of the Common Facilities as set forth in Section XI shall apply. In the event of a total taking, the Board shall distribute pro rata (as determined in Section 3.04) any award to the Members. The rights of an Owner as to such pro rata distribution shall be governed by the provisions of the mortgage encumbering such Lot.

**ARTICLE XIII**  
**RIGHTS TO THE COMMON FACILITIES**

Section 13.01 Members' Right of Enjoyment. There is hereby reserved and established for the benefit of each Owner and such Owner's Occupants and Permittees a nonexclusive easement for use and enjoyment in and to the Common Facilities, and such right shall be appurtenant to and shall pass with the interest required to be an Owner to every Lot, subject to the right of the Association to dedicate or transfer all or any part of the Common Facilities to any public agency, authority or utility or other entity for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer, including, without limitation, the conveyance, lease or other transfer of any portion of the Common Facilities to a special tax assessment district or to the City, shall be effective unless approved by Members holding not less than sixty-six and two-thirds percent (66-2/3%) of the votes of the Members.

Section 13.02 Waiver of Use. No Member may exempt such Member from personal liability for Assessments duly levied by the Association, nor release the Lot owned by such Member from the liens and charges hereof, by the abandonment of its Lot.

**ARTICLE XIV**  
**EASEMENTS**

Section 14.01 Owners' Rights and Duties: Utilities. The rights and duties of the Owners with respect to water, sewer, electricity, gas, telephone, and drainage facilities shall be governed by the following:

(a) Wherever sanitary sewer, water, electricity, gas, telephone, internet, cable lines or drainage facilities are installed within public utility easements on the Property, there is hereby reserved by Declarant and established for the benefit of the Owners, Occupants or Permittees of any Lot served by such lines or facilities a nonexclusive easement to the full extent necessary therefor, to enter upon the Lots owned by others, or to have utility companies enter upon the Lots owned by others, in or upon which such lines or facilities, or any portion thereof lie, to connect to, repair, replace and generally maintain such lines and facilities as and when the same may be necessary as set forth below, provided that such Owner, Occupant or Permittee or utility company shall promptly repair any damage to a Lot caused by such entry as promptly as possible after completion of work thereon.

(b) Wherever sanitary sewer, water, electricity, gas, telephone, internet or cable lines or drainage facilities are installed within the Property, which lines or facilities serve more than one (1) Lot, the Owners, Occupants or Permittees of each Lot served by such lines or facilities shall be entitled to the full use and enjoyment of such portions of such lines or facilities which service such Owner's Lot.

(c) The foregoing provisions of this Section shall not be deemed to give any Owner, Occupant or Permittee the right to connect to any utility line or facility without first complying with all the requirements of the utility company providing the service in question, including without limitation, the payment of all required connection fees and related charges.

Section 14.02 Access Easements. The following nonexclusive easements are hereby reserved by Declarant and established for the benefit of each Owner, and the Occupants and Permittees of each Owner:

(a) Nonexclusive easements for the purpose of pedestrian and vehicular traffic over, upon, across and between each Lot and the public or private streets now and hereafter abutting any portion of such Lot; limited, however, to the Shared Access Areas and those other portions of a Lot which are improved by the Owner thereof from time to time for pedestrian or vehicular accessways as such portions (exclusive of the Shared Access Areas) may be relocated from time to time by such Owner.

(b) Nonexclusive easements over, upon, across and between the access points and Shared Access Areas from time to time established on each Lot for the purpose of providing ingress, egress, and access to (1) the easements hereby created; and (2) the public or private streets and alleys now and hereafter abutting any portion of such Lot.

The Owner of each affected Lot shall be responsible to maintain and repair the portion of the Shared Access Area located on its Lot, unless such Owners elect to establish a different agreement in writing. Nothing in this Declaration shall permit an Owner, Occupant or Permittee of one Lot to park in parking areas on another Lot, or to park in a Shared Access Area or otherwise block or impede the flow of pedestrian and vehicular traffic between Lots. If any Owners desire to share parking areas, such Owners shall be required to establish a different agreement in writing.

Section 14.03 Not a Public Dedication. Nothing in this Section or elsewhere in this Declaration shall be deemed to be or constitute a gift or dedication of any portion of the Project or a Lot to the general public or for any public use or purpose whatsoever, and any right to use an easement by an

Owner, Occupant or Permittee shall end immediately when any of the foregoing ceases to have the right to use an easement.

Section 14.04 Easements Appurtenant. Each and all of the easements and rights granted or created herein are appurtenances to the affected portions of the Property and none of the easements and rights may be transferred, assigned or encumbered except as an appurtenance to such portions. For the purposes of such easements and rights, the particular areas of the Property which are benefitted by such easements shall constitute the dominate estate, and the particular areas of the Property which are burdened by such easements and rights shall constitute the servient estate.

## **ARTICLE XV** **GENERAL PROVISIONS**

Section 15.01 Enforcement. Either the Association or any Owner shall have the right to enforce by proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration of any amendment hereto, including the right to prevent the violation of any such restrictions, conditions, covenants, or reservations and the right to recover damages or other dues for such violation; provided, however, that the Association shall have the exclusive right to enforce Assessment liens. The Association or any Member shall also have the right to enforce by proceedings at law or in equity the provisions of the Articles or Association Rules, and any amendments thereto. Failure by the Association, Declarant or by any Member to enforce any covenant, condition, or restriction herein contained, or the Articles, in any certain instance or on any particular occasion shall not be deemed a waiver of such right on any such future breach of the same covenant, condition or restriction.

Section 15.02 Severability. Invalidation of any one of these covenants, conditions or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 15.03 Term. The covenants, conditions and restrictions of this Declaration shall run with and bind the Property and shall inure to the benefit of and be enforceable by the Association or any Member, their respective legal representatives, heirs, successors and assigns, for a term of fifty (50) years from the date this Declaration is recorded, after which time said covenants, conditions and restrictions shall be automatically extended for a successive period of ten (10) years, unless an instrument, signed by a majority of the then current Members has been recorded, at least one (1) year prior to the end of any such period agreeing to change said covenants, conditions and restrictions in whole or in part.

Section 15.04 Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of a commercial and office park and for the maintenance of the Property and the Common Facilities. The Article and Section headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions or interpretation or construction.

Section 15.05 Amendments. Subject to the other provisions of this Declaration, this Declaration may be amended only by the affirmative vote of not less than fifty-five percent (55%) of the votes of the Members, and, further, this amendment provision shall not be amended to allow amendments by the vote of less than fifty-five percent (55%) of the votes of the Members. An amendment or modification shall be effective when executed by the President and Secretary of the Association who shall certify that the amendment or modification has been approved as hereinabove provided, and recorded in the official records of Salt Lake County, Utah.

Section 15.06 Singular Includes Plural. Whenever the context of this Declaration requires same, the singular shall include the plural and the masculine shall include the feminine and neuter.

Section 15.07 Nuisance. The result of every act or omission, whereby any provision, condition, restriction, covenants, easement, or reservation contained in this Declaration is 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 the Association or any Member. Such remedy shall be deemed cumulative and not exclusive.

Section 15.08 Attorneys' Fees. In the event action is instituted to enforce any of the provisions contained in this Declaration, the party prevailing in such action shall be entitled to recover from the other party thereto as part of the judgment, reasonable attorneys' fees and costs of such suit. In the event the Association is a prevailing party in such action, the amount of such attorneys' fees and costs shall be a Special Assessment with respect to the Lot involved in the action.

Section 15.09 Notices. Any notice to be given to an Owner under the provisions of this Declaration shall be in writing and may be delivered as follows: Notice to an Owner shall be deemed to have been properly delivered when delivered personally or placed in the first class United States mail, postage prepaid, to the most recent address furnished by such Owner in writing to the Association for the purpose of giving notice or, if no such address shall have been furnished, then to the street address of such Owner's Lot as on record in the office of the Salt Lake County Assessor for tax purposes. Any notice so deposited in the mail shall be deemed delivered forty-eight (48) hours after such deposit. In the case of co-Owners, any such notice may be delivered or sent to any one of the co-Owners, on behalf of all co-Owners and shall be deemed delivery on all such co-Owners.

Section 15.10 Effect of Declaration. This Declaration is made with the intent to establish a general scheme for the use, occupancy and enjoyment of the Property and each and every Lot and portion thereof. Declarant makes no warranties or representations, express or implied, as to the binding effect or enforceability of all or any portion of this Declaration, or as to the compliance of any of these provisions with public laws, ordinances and regulations applicable thereto.

Section 15.11 Personal Covenant. To the extent the acceptance of a conveyance of a Lot creates a personal covenant between the Owner of such Lot and Declarant or other Owners, such personal covenant shall terminate and be of no further force or effect from and after the date when a person or entity ceases to be an Owner except to the extent this Declaration may provide otherwise with respect to the payment of money to the Association.

Section 15.12 Nonliability of Officials. To the fullest extent permitted by law, neither the Declarant, the Board, the Architectural Committee or any other committee of the Association or any member of such Board or committee shall be liable to any Member or the Association for any damage, loss or prejudice suffered or claimed on account of any decision, approval or disapproval of plans or specifications (whether or not defective), course of action, act, omission, error, negligence or the like made in good faith.

Section 15.13 Leases. Any agreement for the leasing or rental of a Lot (hereinafter in this Section referred to as a "lease") shall provide that the terms of such lease shall be subject in all respects to the provisions of this Declaration, the Articles and the Association Rules. Such lease shall further provide that any failure by the lessee thereunder to comply with the terms of the foregoing documents shall be a default under the lease. All leases shall be in writing. Any Owner who shall lease its Lot shall be responsible for assuring compliance by such Owner's lessee with this Declaration, the Articles and Association Rules.



Section 15.14 No Merger. The ownership of the Project by the same party shall not effect the termination of this Declaration.

Section 15.15 No Third-Party Beneficiary. Except as specifically provided in this Declaration, no rights, privileges or immunities set forth in this Declaration shall inure to the benefit of any Occupant or Permittee, nor shall any customer, employee, guest, licensee or invitee of the Owner, Occupant or Permittee be deemed to be a third-party beneficiary of any of the provisions contained herein.

Section 15.16 Consent. Unless otherwise set forth herein, any approval or consent required or requested of the Owner or Manager may be withheld by the person to whom the request is made in the person's sole and absolute discretion.

Section 15.17 Assignment. The Declarant shall have the right to assign all or any portion of its rights, benefits, duties or obligations under this Declaration at any time without the prior written consent of the Association, any Owner or any other individual or entity.

Section 15.18 Non-Discrimination. There shall be no discrimination against or segregation of any person, or group of persons on account of sex, marital status, race, color, religion, creed, national origin or ancestry in the sale, lease, sublease transfer, use, occupancy, tenure or enjoyment of the Property, nor shall the transferee of any interest in the Property or any person claiming under or through such transferee, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the Property.

Section 15.19 Appointment of Trustee. Declarant hereby appoints Blake Parrish, P.C., or another trustee who qualifies under Utah Code Annotated Section 57-1-21(1)(a)(i) or (v), and hereby conveys and warrants pursuant to Utah Code Annotated Sections 57-1-20 and 57-8a-302 to Blake Parrish, P.C., with the power of sale, the Property and all improvements for the purpose of securing payment of assessments under the terms of this Declaration.

Section 15.20 Additional Property. Declarant reserves the right to include the Additional Property in the Project without the prior consent of the Owners or the Association. Declarant must exercise its option to include all or a portion of the Additional Property in the Project within fifteen (15) years after recordation of this Declaration. The Additional Property is more particularly described on Exhibit C. For the sake of clarity, Declarant may amend this Declaration to annex portions of the Additional Property into the Project in one or more phases. For purposes of this provision, "Declarant" shall mean any record owner of any portion of the Additional Property at the time any portion of the Additional Property is added to the Project. The Owners shall not have the right to amend this Declaration to prohibit Declarant from including any portion of the Additional Property in the Project, or preventing in any manner the Owners of any portion of the Additional Property from enjoying any rights as Members of the Association.

[SIGNATURE PAGE FOLLOWS]

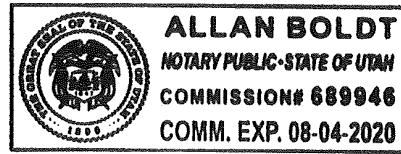
IN WITNESS WHEREOF, Declarant has executed this instrument the day and year first herein above-written.

**DECLARANT:**

SCENIC DEVELOPMENT GROUP, LLC

By: [Signature]  
Kim Rindlisbacher  
Its; Manager

STATE OF UTAH )  
 ) ss.  
COUNTY OF SALT LAKE )



The foregoing instrument was acknowledged before me this 2 day of AUG, 2018, by Kim Rindlisbacher, the Manager of Scenic Development Group, LLC, a Utah limited liability company.

[Signature]  
NOTARY PUBLIC

My Commission Expires:  
8/4/2020

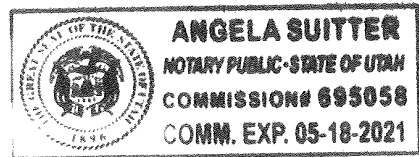
Residing At:  
South Jordan

**CONSENT OF OWNER**

Marlene L. Doxey, Successor Trustee of the Evans and Marlene Doxey Revocable Trust dated March 26, 2014, consents to the recordation of this Declaration.

By: [Signature]  
Marlene L. Doxey, Successor Trustee  
of the Evans and Marlene Doxey Revocable Trust  
dated March 26, 2014

STATE OF UTAH )  
 ) ss.  
COUNTY OF SALT LAKE )




The foregoing instrument was acknowledged before me this 2 day of AUG, 2018, by Marlene L. Doxey, Successor Trustee of the Evans and Marlene Doxey Revocable Trust dated March 26, 2014.

Commission Expires:  
5/18/21

[Signature]  
NOTARY PUBLIC

**DECLARANT:**

SCENIC HOLDINGS, LLC

By:   
Kim Rindlisbacher  
Its: Manager

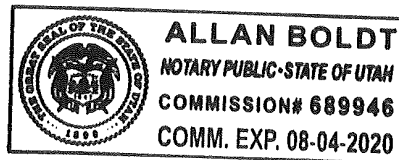
STATE OF UTAH )  
 ) ss.  
COUNTY OF SALT LAKE )

The foregoing instrument was acknowledged before me this 14 day of September, 2018, by Kim Rindlisbacher, the Manager of Scenic Holdings, LLC, a Utah limited liability company.

  
NOTARY PUBLIC

My Commission Expires:  
8/4/2020

Residing At:  
South Jordan



**EXHIBIT A**

**DESCRIPTION OF PROPERTY**

Lots 101 through 105, and Parcels A, B and C, Mountain Point Retail Center Phase 1, recorded as Entry No. 12847934 in Book 2018P at Page 324 in the Official Records of the Salt Lake County Recorder.

Parcel Nos. 33-17-200-012, 33-17-200-012  
Part of Parcel No. 33-17-201-001

**EXHIBIT B**

**SUBDIVISION PLAT**

[Attached]



**EXHIBIT C**

**DESCRIPTION OF THE ADDITIONAL PROPERTY**

**Phase 2 (The area south of Phase 1 and East of Academy Parkway):**

Parcel No. 33-17-400-007

Owner: Shirley Butterfield, LTD

Lot 2 and the West half of the South half of Lot 1 and the West half of Lot 6 and the Northwest quarter of the Southeast quarter of Section 17, Township 4 South, Range 1 West, Salt Lake Base and Meridian, less and excepting that portion lying northwest of Academy Parkway and Southwest of Mountain View Corridor.

**Phase 3 (The area West of Academy Parkway):**

Parcel 1

Parcel No. 33-17-400-007

Owner: Shirley Butterfield, LTD

Parcel 2

Parcel No. 33-17-201-001

Owner: Marlene L. Doxey Trust (E&MD Rev Trust)