

When Recorded Return to:

Highland Park Towns, LLC  
454 East Center St., Suite 103  
North Salt Lake, UT 84054

CT-118436-CAF  
Parcel Numbers: See Exhibit A

TIN 10-063-0035  
**THE PARK  
DECLARANT RIGHTS ASSIGNMENT, EXEMPTION, AND PLAN APPROVAL AGREEMENT**

This DECLARANT RIGHTS ASSIGNMENT, EXEMPTION, AND PLAN APPROVAL AGREEMENT (this "Agreement") is made this 29 day of Feb, 2020, by and between CW THE PARK, LLC, a Utah limited liability company ("Declarant"), and HIGHLAND PARK TOWNS, LLC, a Utah limited liability company ("Builder").

**RECITALS**

A. Declarant is the "Declarant" under that certain Master Declaration of Covenants, Conditions and Restrictions, and Reservation of Easements for The Park, recorded on 2.29.20 in the official records of Davis County, Utah, at Entry No. 3230424 (as the same may hereinafter be amended and assigned, the "Declaration"). Initially capitalized terms used in this Agreement and not otherwise defined in this Agreement shall have the respective meanings assigned to them in the Declaration.

B. Builder purchased from Declarant that certain real property constituting 64 townhome Lots, located in Davis County, Utah, as the same are more particularly described in Exhibit A (the "Builder Property"), attached hereto and incorporated herein by this reference.

C. As set forth in the Declaration, the Builder Property has been annexed into the Declaration, and is part of the Property as defined under the Declaration.

D. As "Declarant" under the Declaration, Declarant, has reserved and possesses various rights pertaining to the Property and, pursuant to the Declaration, Declarant may assign certain Declarant rights or exempt a builder engaged in the development, construction, and sale of Lots within the Property from all or any portion of the Declaration. In connection with the Builder's acquisition of the Builder Property, Declarant agreed that it would assign certain Declarant rights to and exempt the Builder from certain provisions of the Declaration pertaining to or benefitting the Builder Property as set forth herein.

E. As of the date of this Agreement, Declarant, is the sole member of the Design Review Board under the Declaration, and with all approval rights as may be exercised by the Design Review Board.

F. All capitalized terms used but not defined herein shall have the meanings given to them in the Declaration.

## AGREEMENT

NOW, THEREFORE, in consideration of the Recitals and mutual promises and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Agreement and Acceptance. Declarant hereby makes a non-exclusive assignment to Builder of those rights and exemptions of Declarant under the following Sections of the Declaration with respect to and/or benefitting the Builder Property (i) Section 6.17 (Declarant's Exemption), (ii) Section 8.15 (Design Review Process Not Applicable to Declarant), (iii) Section 20.6 (Assessment Exemption), and (iv) Section 20.12 (Use of Units and Common Areas and Facilities for Sales Activities), (individually and collectively, the "**Assigned and Exempted Rights**"), which rights Builder may elect to exercise, without obligation to do so, at Builder's sole discretion. Builder hereby accepts the foregoing Assigned and Exempted Rights as of the effective date of this Agreement.

2. Assessment Exemption Expiration. The Assessment Exemption referred to in Section 20.6, identified above, will expire with respect to any Lot within the Builder Property when Builder, or any affiliate of Builder which takes title to such Lot, transfers the Lot to a third-party residential purchaser. For the avoidance of doubt, any residential homebuyers will be obligated to pay assessments arising under the Declaration. In the event that the Builder or an affiliate or alter-ego of the Builder acquire or retain ownership of any Lot or Unit within the Property after construction is completed for the purpose of leasing or renting said Lot or Unit, the assessment exemptions provided in this Agreement shall expire. In addition, notwithstanding anything in the Declaration or any related document to the contrary, Declarant agrees that the Reinvestment Fee payable under that certain *Notice of Reinvestment Fee Covenant* recorded on 1.20, 2020, as Entry No. 3230432 will not be assessed in connection with the transfer of the Builder Property to the Builder or with the transfer of the Builder Property, any portion thereof, or any Lot to an affiliate of Builder, but will be assessed in connection with the transfer of any Lot to a third-party residential purchaser. The amount of such reinvestment fee will not exceed \$1,500.00. In the event the fixed reinvestment fee exceeds the maximum rate allowed by UCA §57-1-46(5) on any given Lot, then the maximum allowable reinvestment fee shall be equal to one-half percent (0.5%) of the value of each Lot at the time of transfer.

3. Easements. Declarant hereby grants Builder all easements within the Property that are necessary to allow Builder to develop, construct, and sell the Lots within the Builder Property.

4. Retention of Rights. Except for the Assigned and Exempted Rights, Declarant retains all other rights of Declarant under the Declaration.

5. Limitation on Exercise of Assigned and Exempted Rights. In exercising any of the Assigned and Exempted Rights, Builder will, at all times, be subject to and will comply with the restrictions on the exercise of such rights imposed pursuant to the Declaration.

6. Declarant Plan Approval. Declarant, as Declarant under the Declaration, hereby acknowledges that Builder has submitted to Declarant all required plans for the construction and installation of townhomes and other improvements on the Builder Property (collectively, the "**Homes**"), including utilities, landscaping, and fencing (collectively the "**Plans**") and that in accordance with the Declaration, Declarant has approved the Plans (the "**Approved Plans**"). In accordance with Section 8.15 and Section 20.3 of the Declaration, Builder shall have no further obligations to seek or obtain approval of the Design Review Board under Article VIII of the Declaration with respect to the construction and installation of Homes on the Builder Property in accordance with the Approved Plans.

7. Release of Exempted Rights. At any time, and from time to time, Builder shall have the right to waive and release all or any of the Assigned and Exempted Rights, with respect to all or any portion of the Builder Property, in a writing executed by Builder. In the event of such a written waiver or release, the Assigned and Exempted Rights will revert to Declarant or any successor in interest.

8. General Provisions.

(a) No Implied Waiver. No failure by either party to insist upon the strict performance of any provision contained in this Agreement shall constitute a waiver of any such provision.

(b) No Oral Amendment or Modifications. No amendments, waivers or modifications of the terms and provisions contained in this Agreement, and no approvals, consents or waivers by either party under this Agreement, shall be valid or binding unless in writing and executed by the party to be bound thereby.

(c) Severability. If any provision of this Agreement shall be held invalid, illegal, or unenforceable, it shall not affect or impair the validity, legality or enforceability of any other provision of this Agreement, and there shall be substituted for the affected provision a valid and enforceable provision as similar as possible to the affected provision.

(d) Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. The provisions contained in this Agreement shall be construed as covenants running with the Property.

(e) Successors and Assigns of Builder. A party shall be deemed a successor of Builder only if specifically designated as such in a written, acknowledged, and recorded instrument. However, a successor to Builder by consolidation or merger shall automatically be deemed a successor to Builder under this Agreement.

(f) Construction; Captions for Convenience. The parties acknowledge and agree that both they and their counsel have reviewed this Agreement, and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement. All headings and captions used herein are for convenience only and are of no meaning in the interpretation or effect of this Agreement.

(g) Costs of Legal Proceedings. In the event either party institutes legal proceedings to interpret or enforce this Agreement, the prevailing party shall be entitled to recover, in addition to any other relief to which it is entitled, its costs and expenses incurred in connection with such legal proceedings, including, without limitation, reasonable attorneys' fees.

(h) No Third-Party Beneficiaries. None of the terms, conditions or covenants contained in this Agreement shall be deemed to be for the benefit of any person other than Builder, its successors and assigns as provided for under this Agreement, and no other person shall be entitled to rely hereon in any manner.

(i) Relationship of Parties. Nothing in this Agreement shall be construed or deemed to make or constitute the parties as partners, joint venturers or any other form of joint participants in the development of the Project.

(j) Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original but together shall constitute one agreement.

(k) Governing Law. This Agreement shall be governed by and construed under the laws of the State of Utah without giving effect to the principles of conflict of laws thereof.

**[Remainder of Page Intentionally Left Blank]**

IN WITNESS WHEREOF, Declarant and Builder have executed this Agreement as of the day and year first above written.

**DECLARANT:**

CW THE PARK, LLC,  
a Utah limited liability company

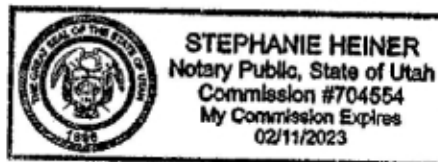
By: \_\_\_\_\_  
Name: COLIN H. WRIGHT  
Title: MANAGER

STATE OF UTAH     )  
                                  )ss.  
COUNTY OF Davis     )

The foregoing instrument was acknowledged before me this 27 day of February, 2020 by COLIN H. WRIGHT as MANAGER of CW THE PARK, LLC, a Utah limited liability company.

Witness my hand and official seal.

\_\_\_\_\_  
NOTARY PUBLIC



[Signatures continued on next page.]

**BUILDER:**

HIGHLAND PARK TOWNS, LLC,  
a Utah limited liability company

By: *[Signature]*  
Name: Nathan W. Pussley  
Title: Manager

STATE OF UTAH )  
COUNTY OF SALT LAKE )ss.

The foregoing instrument was acknowledged before me this 20 day of February 20 20, by NATHAN W. PUSSLEY as MANAGER of Highland Park Towns, LLC, a Utah limited liability company.

Witness my hand and official seal.



*[Signature]*  
NOTARY PUBLIC

Exhibit A

Legal Description – Builder Property

PARCEL 1:

A part of the Northwest quarter of Section 19, Township 4 North, Range 1 West, Salt Lake Base and Meridian, U.S. Survey, Layton City, Davis County, Utah:

Beginning at the Southwest corner of the proposed The Park PRUD - Phase 1 (Layton City, Davis County, Utah), said point also being the Southeast corner of the intersection of 2200 West Street and the proposed 800 North Street, said point being 33.00 feet North 89°50'40" East along the quarter section line and 1,051.07 feet South 00°11'10" West along the Easterly right-of-way line of said 2200 West Street; and running thence East 557.52 feet along the Southerly right-of-way line of said proposed 800 North Street; thence South 189.27 feet to a point on the Northerly line of the Layton City Corporation Property; thence South 89°50'40" West 578.14 feet along said Northerly line to the Easterly right-of-way line of said 2200 West Street; thence North 00°11'10" East 190.84 feet along said Easterly right-of-way line to the Southerly right-of-way line of said proposed 800 North Street and the point of beginning. (aka the proposed The Park PRUD - Phase 6)

ALSO:

A part of the Northwest quarter of Section 19, Township 4 North, Range 1 West, Salt Lake Base and Meridian, U.S. Survey, Layton City, Davis County, Utah:

Beginning at a point on the Southerly right-of-way line of the proposed 800 North Street, also at a point on the Southerly line of the proposed The Park PRUD - Phase 3 (Layton City, Davis County, Utah), said point being 604.25 feet North 89°50'40" East along the quarter section line and 1,052.71 feet South 00°09'20" East from the Northwest corner of said Section 19; and running thence along the boundary of said proposed The Park PRUD - Phase 3 the following five (5) courses: (1) East 725.13 feet; (2) South 155.00 feet; (3) East 112.46 feet; (4) Southeasterly along the arc of a 50.00 foot radius curve to the left a distance of 36.58 feet (Central Angle equals 41°54'45" and long chord bears South 69°11'58" East 35.77 feet) to a point of non-tangency; and (5) South 00°09'20" East 19.20 feet to the Northerly line of the Layton City Parcel; thence South 89°50'40" West 871.08 feet along said Northerly line to the Easterly line of the proposed The Park PRUD - Phase 6; thence North 189.27 feet to the Southerly right-of-way line of said proposed 800 North Street and the Southerly line of the proposed The Park PRUD - Phase 3 and the point of beginning. (aka the proposed The Park PRUD - Phase 7)

PARCEL 1A:

A non-exclusive temporary access easement for ingress and egress and access purposes, appurtenant to Parcel 1 described herein, as disclosed by that certain Temporary Access Easement recorded 2/16/10 as Entry No.

1 in Book 7459 at Page 3399

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