

WHEN RECORDED, MAIL TO:
Gardner Jordan Bluffs, L.C.
201 South Main Street, Suite 200
Salt Lake City, Utah 84111

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RASHELLE HOBBS
Recorder, Salt Lake County, UT
COTTONWOOD TITLE
BY: eCASH, DEPUTY - EF 71 P.

Parcel I.D. Nos. 21-35-201-005; 21-35-476-002-4001;
21-35-476-002-4002; 21-35-476-002-4001; 21-35-476-002-4002

CTIA 120376-CAM

Space above for use by Recorder

**DECLARATION
FOR
JORDAN BLUFFS**

DECLARATION FOR JORDAN BLUFFS

THIS DECLARATION FOR JORDAN BLUFFS ("**Declaration**") is executed as of April 30, 2020 by GARDNER JORDAN BLUFFS, L.C., a Utah limited liability company, with an address of 201 South Main Street, Suite 2000, Salt Lake City, Utah 84111 ("**Declarant**").

RECITALS

A. Declarant owns all of those certain parcels or tracts of real estate located in the City of Midvale, State of Utah (the "**City**"), as more particularly described in Exhibit "A" attached hereto (the "**Property**"). Unless otherwise defined in the introduction to this Declaration or these Recitals, capitalized terms used in the introduction to this Declaration or these Recitals shall have the meanings set forth in Section 1.1 of this Agreement.

B. The Property is currently zoned Jordan Bluffs (JB) Zone (the "**Applicable Zoning Ordinance**") as set forth in Section 17-7-10 of the Midvale City Code, as amended. The Applicable Zoning Ordinance establishes both the procedural and substantive requirements for approval of development of the Property or any portion thereof.

C. As required by the Applicable Zoning Ordinance, the City and Declarant entered into an Amended and Restated Master Development Agreement dated April 4, 2019 (as amended, restated, supplemented, or otherwise modified from time to time, the "**Master Development Agreement**").

D. Declarant has caused the Jordan Bluffs Owners Association, Inc., a Utah nonprofit corporation (the "**Association**"), to be incorporated under the laws of the State of Utah, as an owners association, for the purpose of exercising the functions identified in this Declaration.

E. Declarant has established this Declaration to provide a governance structure and a flexible system of standards and procedures for the overall development, administration, maintenance and preservation of the Property.

NOW, THEREFORE, Declarant hereby declares as follows:

I. DEFINED TERMS

1.1 Defined Terms. Certain capitalized terms are previously defined in the introduction and Recitals to this Declaration. The following additional capitalized terms shall have the meanings set forth below, unless the context requires otherwise:

"**Act**" means the Community Association Act, as set forth in the U.C.A. Section 57-8a-101 et seq.

"**Actions**" means all lawsuits, causes of action, arbitrations, administrative actions or

proceedings, mediations and other proceeding, whether judicial, administrative or otherwise with respect to a specified matter.

"Affiliate" means, with respect to any specified Person, each of the following Persons:

(i) Any member, manager, partner, director, officer, employee or agent of such specified Person at any level removed;

(ii) Any Person which owns, directly or indirectly, any interest in the capital, profits or voting control of such specified Person at any level removed; and

(iii) Any Person in which such Member or other specified Person at any level removed owns directly or indirectly more than twenty percent (20%) of the capital, profits or voting interest.

"Architectural Control Committee" or **"Committee"** means the body described in Section 5.2.

"Articles" means the Articles of Incorporation for the Jordan Bluffs Association, Inc., a Utah nonprofit corporation, as amended at any time and from time to time. The initial Articles, as filed, are attached hereto as Exhibit "C".

"Assessment(s)" means any and all assessments for expenditures made or liabilities incurred by or on behalf of Declarant and the Association in carrying out their responsibilities or duties or exercising their rights under this Declaration and the other Governing Documents, and may be subject to Late Fees, attorneys' fees, and interest at the Default Rate, as provided for and described in Article IV. Assessments shall include Specific Assessments and Special Assessments.

"Assessment Lien" means that lien created upon recordation of a Notice of Assessment Lien by reason of the delinquency of an Owner in paying an Assessment as provided for and described in Article IV.

"Board" means the body described in Section 3.1 to act on behalf of the Association, as provided for more fully in this Declaration, the Articles and the Bylaws.

"Building" means any enclosed structure designated for occupancy by the Owner or Permittees, constructed or located on a Parcel, which for the purpose of this Declaration shall include any appurtenant supports, service areas and other outward extensions.

"Bylaws" means the Bylaws adopted by the Association, as amended at any time and from time to time. The initial Bylaws are attached hereto as Exhibit "D".

"Claims" means, with respect to a specified matter, any and all claims, liens, demands, causes of action, controversies, offsets, obligations, losses, damages and liabilities of every kind and character whatsoever, including, without limitation, any action, omission, misrepresentation or other basis for liability founded either in tort, contract or otherwise and the duties arising thereunder, whether currently existing or which may hereafter accrue, known or unknown,

anticipated or unanticipated, in law or in equity, liquidated or unliquidated, contingent or otherwise.

“Common Areas” means all the areas on a Parcel which, at any time and from time to time, are made available for the general use, convenience and benefit of all Permittees of any other specified Parcel or Parcels, as the same may be modified at any time and from time to time in accordance with this Declaration. Without limitation, Common Areas shall include the following areas located within the exterior boundaries of the Property that are available to Permittees of any other Parcel or Parcels: (i) all roadways and driveways, including the Roadways; (ii) all sidewalks and walkways; (iii) all landscaped and planted areas, including areas immediately adjacent to the Project such as, but not limited to, landscaped medians; (iv) Trails, (v) Slopes (except for such portion of the Slope which is subject to a Solar Lease), (vi) Shuttle Service Areas, (vii) subject to the limitation set forth in Section 7.2(d) hereof, all parking areas, (viii) the Wetland Areas, Park, lakes, natural habitat and waterways, and (viii) without duplication, all Common Maintenance Areas.

“Common Maintenance Areas” means (a) subject to the provisions of Section 7.5 hereof, the Park, (b) the Project Signage, (b) subject to the provisions of Section 7.8 hereof, the Roadways, (c) subject to the provisions of Section 10.4 hereof, the Slope Area, (d) the Shuttle Service Areas, (e) subject to the provisions of Section 7.7 hereof, the Trails, (f) subject to the provisions of Section 7.9 hereof, the Wetlands Area, and (g) any future portion of the Project which is developed as a common amenity for all Permittees of the Project.

“Common Maintenance Costs” means all costs and expenses incurred by the Association (a) for the repair, replacement, operation and maintenance of the Common Maintenance Areas, (b) in connection with the Shuttle Service, and (c) for the performance of other obligations imposed the Association pursuant to this Declaration, the Articles and the Bylaws.

“Common Utility Lines” means those Utility Lines which are installed to provide the applicable service to more than one Parcel.

“Consent Decree” has its meaning set forth in Section 6.1 hereof.

“Declarant” means Gardner Jordan Bluffs, L.C., a Utah limited liability company (which is the Person designated as “Declarant” in introduction of this Declaration) for so long as it or any one of its Affiliates: (i) is an Owner of any Parcel within the Property; and (ii) has not recorded a notice of its resignation of Declarant as set forth below in this definition. If (a) the then current Declarant is not designating to the Association as the Declarant, and (b) the then current Declarant is transferring rights as Declarant to an Owner that is not an Affiliate and such Owner’s Parcel contains less square feet than Lot 1, then Declarant shall first offer, prior to any designation, to assign Declarant rights to the Lot 1 Owner so long as the Lot 1 Owner is Zions. Should the Lot 1 Owner fail to elect to assume the rights of Declarant, by delivering written notice to Declarant within ten (10) days of Declarant’s delivery of such offer, then Declarant shall designate the successor Declarant which shall either be the Association or another Owner of a Parcel within the Property. Such designation shall be in the form of a written amendment to this Declaration, which shall be signed and acknowledged by the resigning Declarant and the

designated successor Declarant, shall be in recordable form, and shall be effective when such amendment to this Declaration is recorded with the Recorder. Upon recording such an amendment, the successor Declarant shall have all rights, powers, duties and obligations granted to and assumed by the originally named Declarant under this Declaration, including, without limitation, the right to designate its successor Declarant, which designation shall occur in accordance with the foregoing procedure as though the successor Declarant were the original Declarant. In all events, Declarant or one of its Affiliates shall either be the Association or the Owner of a Parcel within the Property. If a Declarant which is not the Association is no longer eligible to serve in such capacity but fails within ninety (90) days of written request of the Association to designate a successor Declarant, then the Association shall automatically become Declarant hereunder. The right to be Declarant is determined pursuant to this provision and does not run with the land as to any Parcel within the Property (with the single exception of the right to become a successor Declarant does run with the land as to the Lot 1 Owner so long as the Lot 1 Owner is Zions for the circumstances described above) it being intended that Declarant status be personal to the original named Declarant and each specifically and properly named successor.

“Declarant Control Period” means the period of time when Declarant is a Person other than the Association.

“Default Rate” means that annual rate of interest equal to the interest rate per annum published by the Wall Street Journal as the prime rate (or in the event the Wall Street Journal no longer publishes a prime rate, then the prime rate or reference rate announced by the then largest federally chartered bank in Utah in terms of deposits) from time to time plus two percentage (2%) points per annum, but in no event more than any maximum rate of interest permitted by law.

“DEQ” means the Utah Department of Environmental Quality.

“Development Rights” means those development rights reserved and retained by Declarant pursuant to Part X.

“EPA” means the United States Environmental Protection Agency.

“Governing Documents” means those documents listed in Section 2.4, as amended from time to time.

“IC Ordinance” has its meaning set forth in Section 6.1 hereof.

“Improvement(s)” means any and all buildings, structures, site work, landscaping, improvements, and other items placed on a Parcel or installed within or upon a Parcel.

“Institutional Controls” has its meaning set forth in Section 6.1 hereof.

“Jordan Bluffs Design Guidelines” means the standards, criteria and/or guidelines for design, landscaping, or aesthetics imposed upon the Property as set forth on Exhibit “E”.

“Late Fee” means a reasonable fee for late payment of an Assessment, as established by the Board from time to time.

“Lot 1” means Lot 1 of the Jordan Bluffs Lot 201A Amended Subdivision, as may be further amended, and of record in the office of the Salt Lake County Recorder.

“Lot 1 Owner” means the fee owner of Lot 1.

“Member” shall have the definition provided in the Bylaws.

“Mortgage” means a mortgage or deed of trust on a Parcel or any portion thereof, in each case entered into by an Owner in good faith in favor of a third party (not affiliated with such Owner) for value. A Mortgage shall include a “Sale and Leaseback” (meaning a transaction whereby an Owner conveys its fee or a leasehold estate in such Parcel and such conveyance is followed immediately by a leaseback or sub-leaseback of the entire interest so conveyed or the improvements thereupon to such Owner, or to a party wholly controlled by such Owner).

“Mortgagee” means any mortgagee or beneficiary under a Mortgage (or if the Mortgage is a Sale and Leaseback, the lessor under such arrangement). The interest held by any Mortgagee in any Parcel shall be subordinate to this Declaration.

“Notice of Assessment Lien” means a notice recorded in the office of the Recorder, and such other place or places as may be required by law, on behalf of the Association for money owed as an Assessment payable by any Owner pursuant to any provision of this Declaration stating that said Assessment or sum has not been paid and that the applicable grace period for such payment, if any, has expired.

“Owner” means: (i) each Person, who, at any given time, holds fee title to any full Parcel; or (ii) a ground lessee of any full Parcel if the Owner of such Parcel so designates such ground lessee as having the right to exercise the rights of such Owner under this Declaration, which designation must be set forth in a written statement recorded with the Recorder. In addition:

(a) Except as set forth above with respect to a ground lessee, an Owner shall not include tenants and sublessees of a Parcel.

(b) In the event, at any time, that an interest in the full Parcel shall be vested in more than one Person, a majority of such Persons voting by undivided interest shall have the right to designate and subsequently replace only one (1) of them to act on behalf of all such Persons in the performance of the provisions of this Declaration. Any such designation shall be in writing, duly executed and acknowledged by each such Person. A copy of such designation shall be delivered to Declarant and the Association in accordance with the notice provisions of this Declaration, and an original of such designation shall be recorded with the Recorder.

(c) If a Parcel is converted to a condominium project, the individual owners of condominium units shall not constitute “Owners” of the Parcel covered by the condominium declaration and map, and the condominium units shall not constitute Parcels under this Declaration. The Owner of a Parcel which is converted to a condominium project shall be the owner’s association or condominium association for the condominium project located on the original Parcel.

(d) If a planned unit development is created with respect to a Parcel, then the individual lot or unit holders shall not constitute "Owners" of such Parcel and the lots or units shall not constitute "Parcels" but either: (A) the owner's association or similar body shall constitute the "Owner" of the original Parcel; or (B) if an owner's association or similar body has not been established for such parcel, the owners of all of the lots or units within the planned unit development shall have the right to designate and replace only one (1) of them to act on behalf of all such owners in the performance of the provisions of this Declaration. Any such designation shall be in writing, duly executed and acknowledged by such Persons and a copy of such designation shall be delivered to Declarant and the Association in accordance with the notice provisions of this Declaration. An original of such designation shall be recorded in the office of the Recorder.

"Parcel" means any portion of the Property that is independently subdivided and owned, including condominium units, lots, or separate parcels. In order to qualify as a Parcel, the Parcel must be shown on an applicable plat, map or deed. Until further subdivision, each Project Area constitutes a Parcel.

"Park" means those area which are required to be constructed within the Project pursuant to the Master Development Agreement, and which are to be located approximately in the areas shown on the Site Plan (including all amenities constructed thereon and any parking areas which are constructed to serve such Park (even is such parking serves other Project Areas within the Property)).

"Park Dedication Deadline" has its meaning set forth in Section 7.5 hereof.

"Permittees" means the Owners of any and all portions of the Property and:

(i) All of the respective heirs, successors, assigns, grantees, tenants and subtenants of such Owners;

(ii) All Persons who now hold, or hereafter hold, any interest in the Property the nature of which does not qualify them to be an Owner; and

(iii) The officers, directors, concessionaires, agents, employees, contractors, customers, visitors and licensees and invitees of the Owner and the foregoing Persons.

Notwithstanding the scope of the foregoing definition, Declarant, with respect to the entire Project, or a declarant of a Project Area Association, or portion of a Project, having jurisdiction and control over an entire Project Area, or portion of a Project, may establish rules which regulate Persons engaging in advertising, public, charitable or political activities within the Project, or portion of a Project, and may deny such Persons the status of a Permittee.

"Person" means any natural person, partnership, trust, corporation, limited liability company or other legal entity.

"Project" means the development of the Property in accordance with Master Development Agreement and the Governing Documents.

“Project Area” means any one of “pods” identified in the Applicable Zoning Ordinance.

“Project Areas” means, collectively, all Project Areas.

“Project Area Association” means any association organized and established by a Project Area Declaration.

“Project Area Declaration” means a written declaration or instrument containing covenants, conditions, restrictions, reservations, easements or equitable servitudes, or any combination thereof for one or more Project Area, which shall be recorded with the Recorder. This Declaration is not a Project Area Declaration.

“Project Area Design Guidelines” means the standards, criteria and/or guidelines for design, landscaping, or aesthetics imposed upon any Project Area by any Project Area Association or Project Area Design Review Committee pursuant to a Project Area Declaration.

“Project Area Design Review Committee” means the committee, the board or other group or body designated under a Project Area Declaration as having the primary responsibility of review and approval of any Project Area Master Plan.

“Project Area Master Plan” means the master plan for an entire Project Area, submitted by an Owner of an entire Project Area for approval of the Association pursuant to Part V hereof and the City in accordance with the Applicable Zoning Ordinance.

“Project Signage” means the monument, pylon, directional and information signs which serve the entire Property. Project signage does not include signage placed by an Owner on its Parcel for purposes of identify such Owner or its Tenant or otherwise. The location of the initial Project Signage is shown on the Site Plan.

“Property” has its meaning set forth in Recital A hereof.

“Recorder” means the Recorder of Salt Lake County, Utah.

“Restricted Uses” means (i) any use which constitutes a public or private nuisance; (ii) 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 operations, including odors typically incidental to beauty and nail salons, restaurants, cafeterias, hotels, fast food restaurants or other food service establishments; (iii) any use which produces any excessive quantity of dust, dirt or ash (provided the foregoing will not prevent the construction of Improvements which are being completed in accordance with applicable laws); (iv) any use involving unusual fire, explosive or other damaging or dangerous hazards (including the storage, display or sale of explosives or fireworks); provided, however, this restriction will not prohibit annual or other periodic displays of fireworks in connection with national, regional or other holidays or events of significance in the area of the Property, or other events which have been approved by the Association; (v) any heavy manufacturing, distillation, refining, smelting, agriculture or mining operation; (vi) any mobile home or trailer court, mortuary, lot for the sale of new or used vehicles, labor camp, junkyard, stock yard or use involving animal raising; (vii) any operation for drilling for and/or removal of subsurface substances; (viii) any operation involving dumping, disposal, incineration

or reduction of garbage or refuse, other than in enclosed receptacles intended for such purposes; (ix) the use, generation or storage of Hazardous Materials, other than office and janitorial supplies and materials customarily used in connection with uses of a Parcel permitted under this Declaration, provided such use, generation or storage shall comply with all applicable laws, the IC Ordinance, the Institutional Controls, the Consent Decree and the SMP; (x) any automobile body and fender repair shop operation; and (xi) any off-track betting facility.

“Roadways” means all roadways and driveways within the Property which are meant to serve more than one Parcel. The initial Roadways are shown on the Site Plan.

“Rules and Regulations” means the rules and regulations for the Property as may be established from time to time pursuant to Section 7.6.

“Separate Utility Lines” means the Utility Lines which are installed to provide the applicable service to only one Parcel. For the purpose of this Declaration, the portion of a Utility Line extending between a Common Utility Line and a single Building shall be considered a Separate Utility Line.

“Shuttle Service Area” means the areas within the Property which are designated for the pick-up and drop-off of Permittees of the Shuttle Service.

“Shuttle Service” means the shuttle service to be provided to the Property for the benefit of the Permittees which provides shuttle service during the hours of 7:30 a.m. to 9:30 a.m. and 4:00 p.m. to 6:00 p.m., Monday through Friday, between the Shuttle Areas and the nearest UTA Trax Station, provided, so long as Zions is the Lot 1 Owner, (i) such hours shall not be increased without the consent of Zions (which consent shall not be unreasonably withheld, conditioned or delayed), and (ii) at the request of Zions, such hours may be extended with the consent of the Association (which consent shall not be unreasonably withheld, conditioned or delayed).

“Site Plan” means the site plan for the Project which is attached hereto as Exhibit “B”.

“Slope Area” means the areas designated on the Site Plan as the “Slope Area.”

“Special Assessment(s)” has its meaning set forth in Section 4.4 hereof.

“Specific Assessment(s)” has its meaning set forth in Section 4.5 hereof.

“Solar Lease” means one or leases with respect to all or any portion of the Slope Area which are initially leased to Declarant, or an Affiliate of Declarant, for the purposes of construction, operating, maintain, repairing and replacing solar panels, or other alternative energy generation equipment which is permitted by the Applicable Zoning Ordinance.

“SMP” has its meaning set forth in Section 6.1 hereof.

“Trails” the trails, pathways and public walking areas which are required to be developed on the Property pursuant to the Master Development Agreement in the areas shown approximately on the Site Plan.

“Utility Corridors” means those portions of the Common Areas marked on the Site Plan as Utility Corridors, if any. If no Utility Corridors are marked on the Site Plan as Utility Corridors, the Utility Corridors will be those areas designated on a plat for the Project or any Project Area which are dedicated as public utility easements.

“Utility Lines” means those facilities and systems for transmissions of utility services, including, but not limited to, storm water drainage and storage systems or structures or both; fire protection, irrigation and domestic water mains and manholes; lift stations; sewer lines and systems; fire and landscape water sprinkler systems (including without limitation, fire risers); telephone lines and manholes; generators and related equipment and switch gear, electrical conduits or systems, gas mains and other public or private utilities.

“Wetlands Area” means the areas designated on the Site Plan as the “Wetlands Area.”

“Zions” means Zions Bancorporation, N.A., a national banking association, or any Affiliate thereof, or any entity which acquires all or substantially all of Zions Bancorporation’s assets (including any successor by merger).

II.

SCOPE OF DECLARATION; PROPERTY

2.1 **Submission of Property to the Declaration.** Declarant hereby subjects the Property to the provisions of this Declaration including, without limitation, the easements granted pursuant to Part VII and the Restricted Uses.

2.2 **Purpose and Intent.** Declarant acknowledges and agrees that this Declaration is made for the purposes set forth in the Recitals.

2.3 **Binding Effect.** Declarant hereby declares that all of the Property shall be held, sold, and conveyed subject to the easements, restrictions, powers, covenants and conditions of this Declaration, except such portions of the Property as are a part of or are subsequently conveyed to the City or to other governmental authorities as a right-of-way, a public street, road or highway, or as and used as a public parks, public trails and open space.

2.4 **Governing Documents.** The Governing Documents consist of the following (and all amendments thereto in effect at any specified time): (a) this Declaration; (b) the Articles; (c) the Bylaws; (d) the IC Ordinance, the Institutional Controls and the SMP, (e) plats, maps, and deeds of record, as applicable; (f) Rules and Regulations; and (f) Board resolutions and actions. Portions of the Property may be subject to additional covenants, restrictions and easements, which a Project Area Association may administer. In such case, if there is a conflict between or among the Governing Documents and any such additional covenants or restrictions, or the governing documents or policies of any such Project Area Association, the Governing Documents shall control. Nothing in this Section shall preclude any Project Area Declaration or other recorded covenants applicable to any Project Area from containing additional restrictions or provisions which are more restrictive than the provisions of this Declaration or the other

Governing Documents and, in such case, the more restrictive record documents shall control. The Association shall be governed by the Governing Documents, as amended from time to time. Copies of the Governing Documents then in effect shall be made available to all Owners at the Association offices during normal business hours. No Project Area Declaration may be recorded against property owned by the Lot 1 Owner without the prior written consent of such owner.

III.

ASSOCIATION

3.1 Association—Membership and Board. This Declaration will be managed, implemented, and enforced by Declarant and the Association. Except as required by law or the Governing Documents, the Association will be managed by a Board of Directors (“**Board**”). The initial Board will consist of five (5) members. During the Declarant Control Period, Declarant shall have the right to appoint four (4) members of the Board, and, so long as Zions is the Lot 1 Owner, the Lot 1 Owner shall have the right to appoint one (1) member of the Board. Upon expiration or earlier termination of the Declarant Control Period, the Board will be dissolved and its members elected as provided in the Bylaws.

3.2 Association Powers. As provided more fully in the Articles and Bylaws, the Association, acting through the Board, shall have powers consistent with the intent and purposes of this Declaration and the other Governing Documents to perform functions to benefit some or all of the Owners. Without limiting these general powers, the Association, acting through the Board, shall have the specific power to, in its sole discretion to:

- (a) enter into contracts, including, without limitation, one or more Solar Leases in accordance with Section 10.4 hereof;
- (b) employ staff, contractors, accountants, legal counsel, or other consultants as the Board deems necessary or appropriate;
- (c) exercise such powers as authorized by the Governing Documents or by Utah law;
- (d) provide initial approval or denial of each Project Area Master Plan, or any revisions, changes, conditions or amendments thereto;
- (e) provide initial approval or denial of the Jordan Bluffs Design Guidelines or any material revisions, changes or amendments thereto, of all Project Area Design Guidelines and, except as provided in Section 5.16, of all Project Area Design Guidelines, or impose such conditions for approval as it deems appropriate;
- (f) enter into agreements for the provision of Shuttle Service within the Project Area;
- (g) follow, institute, and enforce the IC Ordinance, the Institutional Controls and the SMP, to the fullest extent applicable to the Association;

(h) convey all or a portion of the Wetlands to another person or entity in accordance with Section 7.9; and

(i) levy and collect Assessments as provided in this Declaration.

In exercising the powers described in Section 3.2, the Association may take actions even where such actions may not directly benefit all of the Owners.

3.3 Assent, Ratification and Approval. All Owners shall be deemed to have assented to, ratified and approved the general purposes of this Declaration and the power, authority, management responsibility and designation of Declarant and the Association pursuant to this Declaration and the other Governing Documents.

3.4 Indemnification. To the fullest extent permitted by law, the Association shall indemnify, hold harmless and defend each officer and employee of the Association and each member of the Board against all Claims and Actions, including attorneys' fees, reasonably incurred by or imposed upon such employee, officer or Board member in any proceeding to which he or she may be a party, or in which he or she may become involved, by reason of being or having been an employee, officer or Board member of the Association, or any settlements thereof, whether or not he or she is an employee, officer or Board member of the Association at the time such expenses are incurred. This indemnification shall not apply in cases where an employee, officer or Board member is adjudged guilty of fraud, willful misconduct or gross negligence in the performance of his or her duties. In the event of a settlement, the indemnification provided for in this Declaration shall apply only when the Board approves such settlement and reimbursement as being in the best interests of the Association.

3.5 Project Area Associations - Project Area Declarations. Declarant and/or the Association may delegate any of their respective powers, rights or authorities pursuant to this Declaration to one or more Project Area Associations within the Project.

3.6 Common Maintenance Areas. The Association is the entity responsible for management, maintenance, operation, and control of the Common Maintenance Areas. The Association also is the primary entity responsible for enforcement of the Governing Documents. The Association shall perform its functions in accordance with the Governing Documents and Utah law.

IV.

COVENANT FOR ASSESSMENTS

4.1 Assessments-Authorization and Covenant. The Association is hereby authorized to levy Assessments on the Parcels, on an as needed basis, for the purpose of funding the implementation and enforcement of this Declaration, including without limitation funds to maintain Wetlands Areas, Roadways and Park prior to dedication to a Governmental Authority, and to retain legal, engineering, accounting and other professional services as needed, and providing Shuttle Service within any portion of the Property. Unless otherwise provided in the Bylaws, the Association shall provide written notice of the levy of an Assessment to each Owner being assessed at the last address provided in writing by such Owner to the Association. As to

any Project Area subject to a condominium declaration, planned unit development or similar regime, the notice shall be given only to the condominium association, owners association, declarant or similar controlling Person.

4.2 Budgeting and Allocating Common Expenses.

(a) At least thirty (30) days before the beginning of each fiscal year, the Board shall prepare a budget of the estimated Common Maintenance Costs for the coming year, including any contributions to be made to a reserve fund pursuant to Section 4.2. The budget shall also reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than Assessments levied against the Parcels and the amount to be generated through the levy of any Special Assessments as authorized in Section 4.4. The Association is authorized to levy Assessments against a Parcel in the amount equal to the aggregate amount of the Assessments (excluding Specific Assessments) multiplied by a fraction, the numerator of which is the number of square feet of real property contained within such Parcel (excluding the area contained in the Park, Roadways, the Slope Area, the Shuttle Service Areas, Trails, and the Wetlands Area), and the denominator of which is the number of square feet of real property in the Project (excluding the area contained in the Park, Roadways, the Slope Area, the Shuttle Service Areas, Trails, and the Wetlands Area).

(b) The Board shall send a copy of the final budget, together with notice of the amount of the Assessment to be levied pursuant to such budget, to each Owner at least thirty (30) days prior to the effective date of such budget. The budget shall automatically become effective unless disapproved at a meeting by Members representing at least seventy-five percent (75%) of the votes entitled to be cast by the Owners. There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of the Members as provided for special meetings in the By-laws any such petition must be presented to the Board within ten (10) days after delivery of the budget and notice of any Assessment. If any proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then the budget most recently in effect shall continue in effect until a new budget is determined. The Board may revise the budget and adjust the Assessments from time to time during the year, subject to the notice requirements and the right of the Members to disapprove the revised budget as set forth above.

4.3 Budgeting for Reserves. The Board shall prepare and review at least annually a reserve budget for the Common Maintenance Areas. The budgets shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repairs or replacement cost. The Board shall include in the Common Maintenance Costs budget adopted pursuant to Section 4.2 a capital contribution to fund reserves in an amount sufficient to meet the projected need with respect both to amount and timing by annual contributions over the budget period.

4.4 Special Assessments. In addition to other authorized Assessments, the Association may levy Assessments to cover unbudgeted expenses or expenses in excess of those budgeted (the "Special Assessments"). Any such Special Assessment may be levied against the entire Property, if such Special Assessment is for Common Maintenance Costs. Except as

otherwise specifically provided in this Declaration, any Special Assessment shall require the affirmative vote or written consent of the Members representing more than fifty percent (50%) of the total votes allocated to the Members which will be subject to such Special Assessment, and the affirmative vote or written consent of the Board. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved. Costs for the Shuttle Service shall not be assessed as a Special Assessment.

4.5 Specific Assessment. The Association shall have the power to levy Specific Assessments against a particular Parcel as follows:

(a) To cover the costs, including overhead and administrative costs, of providing services to Parcels upon request of an Owner. Costs for the Shuttle Service shall not be assessed as a Specific Assessment. Specific Assessments for special services may be levied in advance of the provision of the requested service; and

(b) To cover costs incurred in bringing the Parcel into compliance with the Governing Documents, or costs incurred as a consequence of the conduct of the Owner or occupants of the Parcel, their agents, contractors, employees, licensees, invitees, or guests; provided, the Board shall give Owner of such Parcel prior written notice and an opportunity for a hearing, before levying any Specific Assessment under this subsection.

4.6 Time of Payment. The obligation to pay Assessments shall commence as to each Parcel on the first day of the month following: (a) the month in which Declarant conveys the Parcel to an Owner, or (b) the month in which the Board first determines a budget and levies Assessments pursuant to this Article, whichever is later. The first annual Assessment levied on each Parcel shall be adjusted according to the number of months remaining in the fiscal year at the time Assessments commence on the Parcel. Assessments shall be paid in such manner and on such dates as the Board may establish. The Board may require advance payment of Assessments at closing of the transfer of title to a Parcel and impose special requirements for Owners with a history of delinquent payment. If the Board so elects, Assessments may be paid in two or more installments. Unless the Board otherwise provides, an Assessment (other than a Special Assessment or Specific Assessment) shall be due and payable in advance on the first day of each fiscal year. If any Owner is delinquent in paying any Assessments or other charges levied on its Parcel, the Board may require the outstanding balance on all Assessments to be paid in full immediately.

4.7 Statements of Account. The Association shall furnish to any Owner, upon written request, delivered personally or by certified mail, first class, postage prepaid, return receipt requested, a written statement setting forth the amount of all unpaid Assessments, if any, currently levied against such Owner's Parcel. The statement shall be furnished within ten (10) business days after receipt of the request and shall be binding on the Association, the Board, and every Owner.

4.8 No Exemptions, Offsets, or Reductions. No Owner may become exempt from liability for payment of any Assessment by reason of abandonment of Owner's Parcel, by the Owner's failure or alleged failure to receive direct benefits related to this Declaration, the other

Governing Documents or any Assessment, or by operation of any legal doctrine such as, without limitation, estoppel, laches, waiver, including waiver of the Owner's right to vote or the Owner's use or enjoyment of common facilities. All Assessments shall be payable in the amounts specified in the levy thereof, and no offsets or reduction thereof shall be permitted for any reason, including, without limitation, any Claim or Action that the Association or the Board or any other Person is not properly exercising its duties and powers under this Declaration.

4.9 Personal Obligation to Pay Assessments. By reason of its ownership of its Parcel, the Owner of any Parcel shall be deemed to covenant and agree to pay, in a timely manner, any and all Assessments imposed by the Association pursuant to this Declaration or the other Governing Documents. Assessments provided for in this Declaration, including Late Charges, attorneys' fees and interest at the Default Rate charged by the Association shall be the personal obligation of the Owner of such Parcel at the time when the Assessment or other charges become due and its successors and assigns.

4.10 Creation of Lien; Enforcement. In the event any Assessment or other sum of money payable by any Owner pursuant to any provision of this Declaration to any Person is not paid when due and after expiration of any applicable notice and/or grace period, then the Person to whom such sums are owing shall have the right to record with the Recorder a Notice of Assessment Lien which shall set forth the then delinquent amount owed by such Owner (including interest at the Default Rate, if applicable) and a legal description of the property within the Project owned or leased by such defaulting Owner. Upon recordation of such Notice of Assessment Lien, the then delinquent amount owing by such Owner, together with interest thereon at the Default Rate, shall constitute an Assessment Lien upon the Parcel or Parcels described in the Notice of Assessment Lien. In the event the amount secured by such Assessment Lien is not paid in full within thirty (30) days after such Notice of Assessment Lien has been recorded, Declarant or the Association, as applicable, may enforce payment of the Assessment or other amount due, or enforce the Assessment Lien against the property and interest of the delinquent Owner by taking either or both of the following actions, concurrently or separately (and, by exercising either of the remedies set forth below, such Person shall not prejudice or waive its right to exercise the other remedy or such additional remedies as may be available under this Declaration or under applicable law):

(a) Bringing an action at law against the Owner personally obligated to pay the Assessment or other sum of money;

(b) Foreclosing the Assessment Lien against the Parcel of the Owner in accordance with the then prevailing applicable law relating to the foreclosure of Mortgages in Utah (including the right to recover any deficiency) and in accordance with U.C.A. Section 57-8(a)-301 et seq.; and/or

(c) Pursuing any other remedy available at law or in equity.

Declarant hereby conveys and warrants pursuant to U.C.A. Sections 57-1-20 and 57-8a-302 to Matthew Winn, Esq., whose address is 201 South Main Street, Suite 2000, Salt Lake City, Utah 84111 (the "Trustee"), with power of sale, the Property and all Improvements to the Property for the purpose of securing payment of Assessments under the terms of this

Declaration. The Trustee may be replaced or substituted at any time by the Declarant, by filing an amendment to this Declaration (which is required by be signed by the Declarant), or which substitution may be included in the form of Notice of Assessment Lien.

4.11 Priority. The Assessment Lien and any other liens or charges provided for in this Declaration shall be superior to any and all other charges, liens or encumbrances which hereafter in any manner may arise or be imposed upon any portion of the Project; provided, however, that such Assessment Lien and any other liens or charges provided for in this Declaration shall be subject and subordinate to:

(a) Liens for taxes and other public charges which by applicable law are expressly made superior;

(b) Any Mortgages recorded with the Recorder prior to the date of recordation of a Notice of Assessment Lien. All liens recorded subsequent to the recordation of a Notice of Assessment Liens shall be junior and subordinate to the Assessment Lien created by reason of the delinquency described in the recorded Notice of Assessment Lien; and

(c) The rights of any and all Permittees occupying any portion of the Project under written leases executed prior to the date the Notice of Assessment Lien was recorded with the Recorder.

A Person may prosecute a single Assessment Lien foreclosure action as to amounts delinquent at the time a Notice of Assessment Lien is recorded and as to amounts thereafter becoming delinquent, up to and including the time a final judgment is rendered in such action.

4.12 Cure. Upon the curing of any default for which a Notice of Assessment Lien was recorded, Declarant or the Association, as applicable, shall record an appropriate release of any Notice of Assessment Lien upon payment by the defaulting Owner of a reasonable fee, as established by Declarant or Association, to cover the costs of preparing and recording such release, together with the payment of such other costs, including, without limitation, legal fees and court costs, interest or fees, as such Person shall have incurred.

4.13 Contest. Any provision contained in this Declaration to the contrary notwithstanding, any Owner shall have the right to contest, in a court of competent jurisdiction, the recordation of any Notice of Assessment Lien against the property within the Project owned or leased by such Owner on the basis that the recordation of such Notice of Assessment Lien or the amounts claimed to be delinquent therein is or are incorrect or improper under the provisions of this Declaration. The prevailing party in such action shall be entitled to recover from the other party or parties its reasonable attorney's fees.

V.

APPROVAL RIGHTS

5.1 Project Area Master Plans. Declarant and the Association shall have the right to approve, for each Project Area, the Project Area Master Plan, the Project Area Declaration, and

the Project Area Design Guidelines and all modifications and amendments to each of these documents, if any. Declarant or the Association may refuse to grant such approval if either of them is not satisfied that the listed documents meets the requirements and/or intentions of the Governing Documents or the Applicable Zoning Ordinance. Declarant or the Association may impose such reasonable conditions as it deems appropriate as a prerequisite to granting its approval of any of the listed documents. Declarant and the Association also has the right to approve or disapprove any material amendment, change or substitution of any of the listed documents as a condition precedent to any such amendment, change or substitution being submitted to the City for approval.

5.2 Architectural Control Committee. Subject to the provisions of Section 5.16 hereof, no Improvements of any kind, may be constructed, erected, or installed on a Parcel without the approval of the Architectural Control Committee ("Committee"). No excavation, grading, filling, draining, landscaping, or planting or removal of existing vegetation in connection with the development of a Parcel (excluding any replacement of landscaping after development of a Parcel which is performed in the ordinary course and otherwise in compliance with all Governing Documents) may be performed without the approval of the Committee. No approval will be required to repaint the exterior of a structure in accordance with the originally approved color scheme or to rebuild in accordance with originally approved plans and specifications. Any Owner may remodel, paint, or redecorate the interior of its Improvements without approval by the Committee. However, modifications to the exterior of the Improvements will be subject to Committee approval.

5.3 Composition of Architectural Control Committee. The Committee will consist of at least three (3) individuals, appointed by the Board in its reasonable discretion; provided, however, so long as Zions is the Lot 1 Owner, the Lot 1 Owner shall have the right to appoint (1) one of the individuals to the Committee, in the Lot 1 Owner's reasonable discretion.

5.4 Jordan Bluffs Design Guidelines. The Jordan Bluffs Design Guidelines establish standards, rules, regulations, restrictions, and guidelines, in addition to those set forth in this Declaration, with respect to design features, architectural styles, exterior colors and materials, details of construction, location and size of structures, landscaping, and other matters requiring approval by the Committee. If there is a conflict between the Jordan Bluffs Design Guidelines and this Declaration, this Declaration will prevail. The Committee may amend the Jordan Bluffs Design Guidelines subject to the approval of the Board and provided such Jordan Bluffs Design Guidelines comply with the Applicable Zoning Ordinance. The Jordan Bluffs Design Guidelines will be binding on all Owners and their respective architects, design professionals, builders, contractors, and agents. However, amendments to the Jordan Bluffs Design Guidelines will be applied prospectively only and will not be applied so as to require modifications to or removal of improvements previously approved once construction of the approved improvements has begun. The Committee will make the Jordan Bluffs Design Guidelines available to Owners who seek to construct improvements within the Development, but each Owner (and its architects, design professionals, builders, contractors, and agents) will be responsible for obtaining, understanding, and following the latest version of the Jordan Bluffs Design Guidelines.

5.5 Application. Any Owner seeking to construct Improvements must submit an application (each an "Application") to the Committee for review. The required Application

materials will include plans and specifications showing site layout, structural design, exterior elevations, exterior materials and colors, landscaping, drainage, exterior lighting, irrigation, and other features of the proposed improvements, as applicable. The Committee may require the submission of such additional information as may be reasonably necessary to consider any Application. The Committee may also waive certain Application requirements depending on the nature of the proposed improvements.

5.6 Standard. The Committee will review each Application for compliance with this Declaration and the Jordan Bluffs Design Guidelines, and may consider issues such as (i) whether the proposed improvements are consistent with the architectural character of the Development, considering the nature, shape, color, size, material, location, height, form, proportion, volume, and aesthetic quality of the proposed improvements; (ii) whether the dimensions of the Parcel can accommodate the proposed improvements; (iii) whether the proposed improvements harmonize with the exterior design, topography, grade, and finished ground elevations of neighboring Parcels, Common Areas improvements; (iv) whether the proposed Improvements and the contemplated uses thereof comply with the Applicable Zoning Ordinance; and (v) whether landscaping, drainage, utility service systems, and lighting are adequate. The Committee will have the sole discretion to make final, conclusive, and binding determinations on matters of aesthetic judgment, and such determinations will not be subject to review so long as they are made in good faith and in accordance with the procedures set forth in this Section and in the Jordan Bluffs Design Guidelines. As a condition to granting the Committee's Approval, the Association may require that the Owner establish an area on such Parcel which is conveniently located to accommodate a pick up and drop of area for pick-up and drop-off of Permittees of the Shuttle Service, which area shall not exceed five hundred (500) square feet in size without the consent of such Owner.

5.7 Approval Procedure. The Committee will make a determination on each Application within thirty (30) days after receipt of a completed Application and all required information. The Committee may (i) approve the Application, with or without conditions; (ii) approve portions of the Application and disapprove other portions; or (iii) disapprove the Application. The Committee will notify the Applicant of its decision within ten (10) days of making the decision. In the case of disapproval, the Committee will specify the reasons for disapproval or offer suggestions for curing any objections. If the Committee fails to render its decision within thirty (30) days after receipt of a completed Application, approval will not be required, and the Applicant will be deemed to have fully complied with this Section.

5.8 Appeal. Any Owner adversely affected by an action of the Committee may appeal such action to the Board. Appeals must be made in writing within ten (10) days of the Committee's action and must contain specific objections to the Committee's decision or mitigating circumstances justifying overturning the Committee's decision. A final, conclusive decision will be made by the Board within thirty (30) days after receipt of the appeal.

5.9 Fees. The Committee may collect a fee for reviewing an Application ("Review Fee") and may require the Review Fee to be paid in full before the Committee reviews an Application. The Review Fee may include the reasonable cost of having the Application reviewed by architects, engineers, or other professionals whom the Committee may employ as it deems necessary to perform the review. The Board may change the amount of the Review Fee

from time to time to cover increasing costs. No Review Fee will be charged which is in excess of the fee permitted under applicable law.

5.10 Enforcement. The Committee will notify the Board of any Applicant who fails to comply with this Section. The Board may then enforce such violation in accordance with Section 5.

5.11 Majority Action. Except as otherwise provided in this Declaration, a majority of the members of the Committee will have the power to act on behalf of the Committee, without the necessity of a meeting and without the necessity of consulting the remaining members of the Committee. Committee decisions will be rendered in writing and will set forth the actions taken by the consenting Committee members.

5.12 Liability. No Committee member will be liable to any Owner, occupant, builder, or developer for any damage, loss, or prejudice suffered or claimed because of any act or omission of the Committee or a member of the Committee, as long as the Committee member has acted in good faith.

5.13 Nonwaiver. Consent by the Committee to any matter will not be deemed to be a precedent or waiver preventing the Committee from withholding consent to any similar matter.

5.14 Effective Period of Consent. Unless otherwise specified in the approval given by the Committee, the Committee's consent to any Application will automatically be revoked one year after issuance unless Owner has begun construction of the proposed improvements or has applied for and received an extension of time from the Committee.

5.15 Estoppel Certificate. Within thirty (30) days after written request is delivered to the Committee by any Owner, and upon payment to the Committee of a reasonable fee fixed by the Board to cover costs, but not in excess of the amount permitted by the Act, the Committee will provide such Owner with an estoppel certificate executed by a member of the Committee, certifying with respect to any Parcel owned by the Owner that as of the date of the certificate, either: (i) all improvements located on the Parcel comply with this Declaration, or (ii) certain improvements do not comply with this Declaration, in which event the certificate will also identify the noncomplying improvements and specify the nature of the noncompliance. In addition, the Committee shall provide such other certifications as may be required by the Act. Any purchaser of the Owner's Parcel and any Mortgagee or other lienholder will be entitled to rely on the estoppel certificate, which will be conclusive as between the Owner, the Committee, the Association, and such purchaser, Mortgagee, or other lienholder.

5.16 Alternative Approval Procedure for Project Area Associations. In lieu of obtaining the approval of the Committee, a Project Area Association may elect, at its option to follow the alternative procedure set forth in Section 5.16(b) for receiving approval of Improvements, but only if the conditions set forth in Section 5.16(a) are all satisfied:

(a) The prerequisite conditions to the alternate procedure are as follows:

(i) The Project Area Master Plan, the Project Area Association and Project Area Declaration shall have been approved by the Association as complying with the

Governing Documents.

(ii) The Project Area Association shall have adopted Project Area Design Guidelines consistent in all material respects with the Jordan Bluffs Design Guidelines. The Association shall have approved or disapproved, in the Association's sole reasonable discretion, the Project Area Design Guidelines prior to the adoption of such guidelines by the Project Area Association. Following the approval and adoption of such Project Area Design Guidelines, the Association shall thereafter have the right to approve or disapprove, in advance, any material amendment, addition or change to such Project Area Design Guidelines, which approval will not be unreasonably withheld.

(iii) The governing documents of the Project Area Association shall provide for a Project Area Design Review Committee consisting of at least three (3) individuals: one (1) individual appointed by the Association, one (1) individual licensed design professional appointed by the Association, and one (1) individual appointed by the declarant of the Project Area Declaration. The design professional shall have experience in designing developments in scope similar to the Project.

(b) If the conditions set forth in Section 5.16(a) are satisfied, then an Application by and Owner in a Project Area shall be reviewed by the Project Area Design Review Committee. In the event that the Association's appointee to the Project Area Design Review Committee approves any Application as being in compliance with the Jordan Bluffs Design Guidelines, neither Declarant, the Association nor any other Owner shall have any right thereafter to challenge such compliance and Declarant, the Association and all other Owners hereby waive any such right. However, nothing in this Section 5.16 shall waive or modify any existing rights of the Association or the City to independently enforce the provisions of the Governing Documents.

VI.

CONSENT DECREE

6.1 Consent Decree. The Property consists of a parcel of real property commonly known as the Sharon Steel Superfund Site (the "Site"). The U.S. District Court for the District of Utah ("Court") entered a remedial action Partial Consent Decree for the Site (the "Consent Decree"). The EPA has acknowledged that the remedial action under the Consent Decree, and associated EPA Record of Decision, have been satisfied, and, as such, any person acquiring the Property may attain the status of a "Bona Fide Prospective Purchaser" ("BFPP"); provided that, in order to maintain such BFPP status, a purchaser must implement appropriate reasonable steps with respect to hazardous substance contamination found at the Site, as required by ¶¶ 3-6 of the November 18, 2004 Court Order Confirming Stipulation and Granting Joint Motion for Modification and Termination of Partial Consent Decree, the EPA Ready for Reuse Determination, Sharon Steel Superfund Site (September 30, 2004), and the Letter from EPA Region 8 to KC Gardner Company, L.C. dated October 19, 2017 all of which contain specific information on those reasonable steps prescribed by EPA to maintain BFPP status (the "Reasonable Steps"). The EPA has permitted the redevelopment of the Project subject to compliance with certain institutional controls as set forth in the Institutional Control Process Plan

(“**Institutional Controls**”) and Midvale City Institutional Control Ordinance (“**IC Ordinance**”) approved by the EPA, the Utah Department of Environmental Quality and adopted by the Midvale City Council on May 4, 2004 and June 26, 2007, respectively.

6.2 All future development within the Property is subject to compliance with the ICPP and IC Ordinance and shall demonstrate conformance with the applicable provisions of the ICPP and the IC Ordinance. A Site Modification Plan (2004) and Site Management Plan (2017) (“**SMP**”) have been prepared to outline general construction practices for redevelopment within the Project and is attached as Exhibit “F”.

VII.

COMMON AREAS; COMMON MAINTENANCE AREAS AND PROJECT EASEMENTS

7.1 Grant of Easements. Declarant hereby establishes and grants to, and each other Person who becomes an Owner shall, immediately upon becoming such an Owner and without further act, be deemed to have established and granted, to all other Owners and all Permittees, irrevocable, non-exclusive perpetual easements over, across, upon and beneath the Common Areas held or owned by such Owner for the purposes set forth in Section 7.2.

7.2 Permitted Common Area Uses. The Common Area shall be used for the purposes set forth in this Section; provided each such area designated only for one or less than all of the following uses shall be used only for those purposes:

(a) Vehicular and pedestrian ingress and egress by Permittees, including all emergency vehicles, to and from adjacent streets, including all Roadways, to the Parcel or Parcels in which Permittees have an interest, and between such Parcels.

(b) Ingress and egress of delivery and service trucks and vehicles to and from the Buildings on a Parcel (or any portion thereof) and the public streets, for the delivery of goods, wares, merchandise and the rendering of services to all Permittees. Each Permittee shall use commercially reasonable efforts to have deliveries made within the areas designated for such purposes by Declarant. In the event it is necessary that deliveries be made other than in the areas designated by Declarant, such deliveries shall be made so as to cause the least amount of interference with the use of adjacent portions of the Common Area.

(c) The installation, operation, maintenance, inspection, repair, replacement and relocation in the Utility Corridors of Utility Lines serving any part of the Property, all of which (except hydrants and transformers and other installations as may be requested by the utility company) will be even with or below the surface of the Common Area or as otherwise agreed by the Owners of the servient estate. All Owners will cooperate in the granting of appropriate and proper easements to each other or to utility companies and governmental authorities for the installation, operation, maintenance, repair, replacement and relocation of the Utility Lines. The location of the Utility Lines shall be within the Utility Corridors unless otherwise agreed to by the Owners on whose Parcel such Utility Line is being placed. Each Owner will have the right to enter upon any portion of the Common Areas constituting the

Utility Corridor and the areas immediately adjacent thereto as may be necessary or appropriate in order to accomplish the installation, operation, maintenance, inspection, repair, replacement and relocation of the Utility Lines subject to compliance with the following:

(i) The installation, operation, maintenance, inspection, repair and replacement of such Utility Lines (A) shall not unreasonably interfere with the use of the improved Common Area or with the normal operation of any business in each Parcel, (B) shall not unreasonably interfere with or diminish utility service to the businesses served by the Utility Lines, (C) shall not reduce or unreasonably impair the usefulness or functionality of the Utility Lines serving other Parcels, (D) shall, except as provided in Subsection 7.2(c)(iii) below, be performed without cost or expense to the Owner or Permittee of any other Parcel, (E) shall be performed in a good and workmanlike manner, with due care, and in compliance with all applicable laws, and (F) shall not unreasonably interfere with the pedestrian and vehicular access or parking. For non-routine maintenance and repair that will impact the utilization of the Utility Lines serving other Parcels, the Association shall provide written notice to the other Owners prior to performing any such non-routine maintenance and repair and shall perform such maintenance and repairs during periods approved to by the other Owners, such approval to not be unreasonably withheld, conditioned or delayed.

(ii) To the extent any installation, operation, maintenance, inspection, repair or replacement relates to Separate Utility Lines, the Owner of the benefitted Parcel shall, (A) to the extent applicable, comply with Subsection 7.2(c)(i); (B) repair to the original specifications any damage resulting from such installation, operation, maintenance, inspection, repair and replacement; and (C) shall provide as built plans for all such Separate Utility Lines to the Association and the Owners of all Parcels upon which such Separate Utility Lines are located within thirty (30) days after the date of completion of construction of same. All costs associated with the installation, operation, maintenance, inspection, repair and replacement of Separate Utility Lines shall be borne solely by the Owner of the Parcel served thereby.

(iii) All costs associated with the operation, maintenance, inspection, repair and replacement of Common Utility Lines shall be allocated among the Owners of the Parcels as an Assessment; provided, however, if any Owner requires an increase in the capacity of such lines, the Owner requiring such increase shall be responsible for costs necessary to increase the capacity of such lines. Except as may be otherwise provided herein, the installation, operation, maintenance, inspection, repair and replacement of Common Utility Lines shall be performed by the Association. The Association shall bill the Owner(s) of the other Parcel(s) served thereby as a Specific Assessment.

(iv) At any time and from time to time the Owner of a Parcel shall have the right to relocate on its Parcel any Utility Line which is then located on such Owner's Parcel, provided that any such relocation (A) shall be performed only after sixty (60) days' notice of the Owner's intention to undertake the relocation shall have been given to the Association and Owners of each Parcel served by the Utility Line, (B) shall not unreasonably interfere with the use of the other Owners' Parcel(s) or with the normal operation of any business in each Parcel, (C) shall not unreasonably interfere with or diminish utility service to the businesses served by the Utility Line on the other Parcel, (D) shall not reduce or unreasonably impair the usefulness or function of the Utility Line, (E) shall be performed without cost or expense to the Owner or

Permittee of any other Parcel, (F) shall provide for the original and relocated area to be restored to the same condition it existed in prior to such relocation, (G) shall not unreasonably interfere with the pedestrian and vehicular access or the parking areas, and (H) shall be subject to the approval of Declarant and the Committee. At any time and from time to time the Owner of a Parcel may relocate onto its Parcel any Separate Utility Lines that are then present on the other Owner's Parcel, provided that in relocating such separate Utility Lines, the Owner relocating the Separate Utility Lines shall comply with subsections (A), (B), (E), (G) and (H). Further, if the Utility Lines on the other Parcel are accessed or the surface of the other Parcel is disturbed in such relocation, the original area shall be restored to its original specifications. The Owner performing such relocation shall provide as built plans for all such relocated Utility Lines to the Owners of all Parcels served by such Utility Lines within thirty (30) days after the date of completion of such relocation.

(v) Notwithstanding the foregoing, Declarant shall have the right to dedicate all or a portion of any Common Utility Lines to a utility company or governmental entity. The Association and each of the Owners hereby irrevocably consents to the grant, conveyance and/or dedication of the Common Utility Lines, as applicable, for public use, together with any underground public or private utilities located therein, and agrees to cooperate fully with Declarant and to take all actions necessary to accomplish the dedication promptly following the construction of the Common Utility Lines, including without limitation the execution and recordation of a dedication plat effectuating such dedication, if necessary. Upon such dedication, (A) such Common Utility Line will not be included as Common Areas or Common Maintenance Areas, (B) the obligation to repair, replace, maintain, and insure any such Common Utility Line will be with the entity to whom such Common Utility Line was dedicated, and (C) any alterations, modifications, relocations or connections to such Common Utility Line will require the consent of the entity to whom such Common Utility Line was dedicated.

(vi) Each Owner shall not interrupt, damage, or otherwise interfere with the Separate Utility Lines of the other Owner, including without limitation, any generators, related equipment and switch gear.

(d) The parking of passenger vehicles and the pedestrian and vehicular traffic of Permittees in the Common Areas that are designated as parking areas; provided, (i) all Buildings and Improvements constructed on any Parcel shall be developed to comply with the Applicable Zoning Ordinance related to parking and access for the use proposed for the Parcel; (ii) no Owner will enter into any lease, license, occupancy agreement, easement or other right which, when taken in the aggregate with all other leases, licenses, occupancy agreements, easements or other rights granted for such Parcel, grants rights for more parking spaces than those that are located on such Owner's Parcel, (iii) each Owner of a Parcel which is not developed for residential purposes will have the right to reserve up to five percent (5%) of the parking spaces located on such Owner's Parcel for the exclusive use of such Owner and its Permittees, and (iv) each Owner of a Parcel which is developed for residential purposes will have the right to reserve any covered parking (including garages) and driveways, and up to five percent (5%) of all other parking spaces located on such Owner's Parcel for the exclusive use of such Owner and its Permittees. Notwithstanding the foregoing, the Lot 1 Owner, as to Lot 1, shall have the right to reserve up to one hundred percent (100%) of the parking spaces located on Lot 1 for the exclusive use of the Lot 1 Owner and its Permittees; provided, however, the Lot 1

Owner shall have the right to enter into a shared parking agreement with Declarant and/or the Association, in the Lot 1 Owner's sole discretion. No Parcel shall be developed in so intense a manner as to have material and adverse impact the parking available on the other Parcels absent an express written agreement permitting such from the Owners of the adversely affected Parcels. The Association will have the right to establish a parking program for the Project (the "**Parking Program**"), which Parking Program may provide for, among other things, parking rules and regulations, which are necessary in order to implement protections to ensure each owner is complying with the foregoing.

(e) The construction, maintenance, repair, replacement and reconstruction of Project Signs in the areas shown on the Site Plan. The Project Signage may only be used to identify the Permittees of the Project. Declarant hereby grants the Lot 1 Owner the right to install a sign panel on the Project Signage as shown on Exhibit "G" attached hereto. Declarant shall have the right to grant to other Owners (or their Permittees) a right to install one or more sign panels on the Project Signs, which designation will be pursuant to a sign agreement which may be recorded as a supplement to this Declaration. Notwithstanding anything to the contrary contained herein, the Association will have the right to establish a sign program for the Project ("**Sign Program**"), which Sign Program may include, among other things, detailed design, engineering and specification requirements relating to signage. The Association will have the right to change the Sign Program from time to time. Any and all signage installed at the Property after (but not before) the adoption of a Sign Program will be subject to and erected in accordance with the Sign Program.

(f) Installation, operation, maintenance, repair, replacement, relocation, restoration and removal of sidewalks, ramps (excluding loading ramps), driveways, lanes, curbs, directional and other signs, gutters, traffic control areas, traffic islands, traffic lighting facilities, perimeter walls, pedestrian walkway or landscaped areas, including planters, planting boxes, edgers, fountains, valves and customer conveniences, such as mail boxes, public telephones and benches for the comfort and convenience of Permittees; provided, however, that the Committee shall first approve the location of all such facilities.

(g) Subject to the prior written approval of Declarant, which will not be unreasonably withheld, the temporary use (including erection of ladders, scaffolding and store front barricades) during periods of construction, remodeling or repair, and ingress and egress for vehicles transporting construction materials and equipment and use thereof by construction equipment, upon the condition, however, that all construction, remodeling or repair of Buildings, other improvements and appurtenances is diligently performed and such ladders, scaffolding and barricades are promptly removed upon completion of such work.

(h) Subject to the limitations in Section 7.10, the runoff of water within the Project.

7.3 Reserved Rights. The Association, with respect to the entire Property, and each Owner with respect to such Owner's Property, has the right to eject from the Common Areas designated for the use by others on its Parcel any Persons not authorized to use the same. In addition, the Association, with respect to the entire Property, and each Owner with respect to the Common Areas located on such Owner's Property, for such reasonable periods of time as may be

required for serious security situations or legally necessary to prevent the acquisition of prescriptive rights by anyone; provided, however, before closing off any part of the Common Areas designated for the use by others as provided above, the Association or such Owner, as applicable, must give notice to the Owners of its intention to do so and must coordinate its closing with the activities of each of the Owners so that there is no unreasonable interference with the use, occupation or operation on the other Parcels by such Owners or their respective Permittees.

7.4 Common Area Alteration. No Owner or other Person shall alter any other improvements located upon the Common Area, without the prior written consent of Declarant. Notwithstanding the foregoing: (i) an Owner (or Declarant) shall have the right to excavate or conduct construction activities upon the Common Area, if necessary, in connection with the installation, operation, maintenance, repair, replacement, relocation and removal of any utility or service facilities, subject, however, to the provisions of Section 7.2, so long as such excavation or construction activities shall be prosecuted diligently to completion; and further provided that the consent of the Owner on whose Parcel such activity is to take place shall also be obtained, which consent shall not be unreasonably withheld. The Person causing such excavation or construction activities to be made shall forthwith, upon completion thereof, restore any portion of the Common Area affected thereby to the same condition as existed prior to the commencement of such installation or construction activities using the same type and quality of materials as previously used; and (ii) Declarant may make or permit to be made alterations in the Common Area as it shall deem appropriate or necessary. Any work performed in the Project pursuant to this subparagraph shall be performed so as to minimize the disruption of business operations conducted anywhere within the Project.

7.5 Park. Pursuant to the Master Development Agreement, Declarant is required to construct the Park. Unless otherwise agreed in a separate agreement between Declarant and an Owner, the Park will be constructed at Declarant's sole cost and expense within the periods required by the Master Development Agreement. Upon completion of all or a portion of the Park, such portion so developed shall become Common Maintenance Areas until such time as the Park is dedicated to the City as required and permitted by the Master Development Agreement. Declarant shall dedicate the entire Park to the City on or before December 31, 2029 ("**Park Dedication Deadline**"). The Association and each of the Owners hereby irrevocably consents to the grant, conveyance and/or dedication of the Park, as applicable, for public use, and agrees to cooperate fully with Declarant and to take all actions necessary to accomplish the dedication prior to the Park Dedication Deadline, including without limitation the execution and recordation of a dedication plat effectuating such dedication, if necessary. Upon such dedication, (A) the Park will not be included as Common Areas or Common Maintenance Areas, and (B) the obligation to repair, replace, and maintain the Park will be the responsibility of the City in accordance with the City's standards.

7.6 Shuttle. The Association will provide the Shuttle Service. The Shuttle Service may be provided through a vehicle that is owned or leased by the Association, or through a separate agreement with a third party provider. In the event the Shuttle is not initially provided with a third party provider, Declarant shall purchase and convey to the Association a shuttle (the "**Shuttle**"). Declarant's obligation to purchase such Shuttle shall forever terminate if the Association has engaged a third party provider to provide the Shuttle Service, or upon the

purchase and conveyance of one (1) Shuttle to the Association. The Association will be solely responsible for operating (including hiring a driver to operate the Shuttle), maintaining, insuring, storing and repairing the Shuttle, the cost of which will be included as a Common Maintenance Expense. Additionally, in the event the Shuttle is required to be replaced, all costs and expense to acquire a replacement Shuttle will be paid by the Association, the cost of which will be included as a Common Maintenance Expense. If the Shuttle Service is provided through a third party provider, the Association will enter into a contract with such third party provider, and all costs and expense paid to such third party provider will be paid by the Association, which costs and expenses will be included as a Common Maintenance Expense.

7.7 Trails. The Trails are required to be developed on the Property pursuant to the Master Development Agreement. Unless otherwise agreed by Declarant and the Owner of a Parcel, the Trails which are on a Parcel are required to be developed on such Parcel in accordance with the requirements of the Master Development Agreement. The Trails may be used for pedestrian and bicycle ingress and egress by the general public within the Project and to the Jordan River Parkway public trail. For clarity, the Trails may not be used for any motor vehicles whose maximum speed exceed 15 miles per hour (excluding maintenance and repair vehicles). Declarant shall have the right to dedicate all or a portion of the Trails to the City. The Association and each of the Owners hereby irrevocably consents to the grant, conveyance and/or dedication of the Trails, as applicable, for public use, and agrees to cooperate fully with Declarant and to take all actions necessary to accomplish the dedication promptly following the construction of the Trails, or any portion thereof, including without limitation the execution and recordation of a dedication plat effectuating such dedication, if necessary. Upon such dedication, (A) the Trails will not be included as Common Areas or Common Maintenance Areas, and (B) the obligation to repair, replace, maintain, and insure the Trails will be the responsibility of the City.

7.8 Roadways. Declarant will construct certain Roadways as shown on the Site Plan. Unless otherwise agreed in a separate agreement between Declarant and an Owner, the Roadways will be constructed at Declarant's sole cost and expense. Upon completion of all or a portion of the Roadways, such portion so developed shall become Common Maintenance Areas until such time as such Roadways are dedicated to the City as required and permitted by the Master Development Agreement. Declarant shall have the right to dedicate all or a portion of the Roadways to the City. The Association and each of the Owners hereby irrevocably consents to the grant, conveyance and/or dedication of the Roadways for public use, and agrees to cooperate fully with Declarant and to take all actions necessary to accomplish the dedication promptly following the construction of the Roadways, or any portion thereof, including without limitation the execution and recordation of a dedication plat effectuating such dedication, if necessary. Upon such dedication, (A) the Roadways will not be included as Common Areas or Common Maintenance Areas, and (B) the obligation to repair, replace, and maintain the Roadways will be the responsibility of the City in accordance with the City's standards.

7.9 Wetlands Area. Declarant has conveyed, or will convey, to the Association a Parcel which includes the Wetlands Area. The Association will hold and maintain the Wetlands area in accordance with applicable law. Notwithstanding the foregoing, the Association may, at any time, elect to convey the Wetlands to another Person, including a conveyance for nominal consideration, and upon such conveyance, the Wetlands Area will not be included as Common

Areas or Common Maintenance Areas.

7.10 Water Detention and Retention; Runoff. Each Parcel will be required to provide its own water retention and detention facilities. No Party shall alter or permit to be altered the surface of the Common Area after the initial construction or the drainage/retention system constructed on its Parcel if such alteration would materially increase the flow of surface water onto an adjacent Parcel either in the aggregate or by directing the flow of surface water to a limited area, or materially decreasing the purity or quality of surface water flowing onto an adjacent Parcel, without the written consent of the Owner of the applicable Parcel, which consent shall not be unreasonably withheld or delayed.

7.11 Building and Improvement Maintenance. Except as may otherwise be provided pursuant to other matters of record affecting the Project or any portion thereof existing as of the date of recordation of this Declaration and in other Governing Documents, each Owner shall maintain, or cause to be maintained, in a safe, clean, attractive and tenantable condition, all Buildings and other improvements located upon its Parcel or Parcels, including screening from view the garbage receptacle areas. In the event of any damage to a Building, the Owner of such Building shall either (i) restore such damage with all commercially reasonable diligence, or (ii) raze such Building and return the Parcel to a safe and clean condition.

7.12 Utilities. Each Owner shall be solely responsible for obtaining and paying for all utilities and services required and used on its Parcel. Notwithstanding the foregoing, any such costs which are attributable to the Common Areas shall be paid by the various Owners in accordance with their obligations set forth in other matters of record as of the date of recordation of this Declaration affecting the Project or any portion thereof or in other Governing Documents, provided, however, all such costs attributable to the Common Areas (other than Common Maintenance Areas) shall be paid by the Owner of the Parcel containing same.

7.13 Rules and Regulations. Declarant may promulgate reasonable rules and regulations of general application for the supervision, control and use of the Common Area, in which event, Declarant shall make or permit to be made and use its reasonable efforts to enforce the same or cause the same to be enforced uniformly.

7.14 Maintenance of Common Areas. Notwithstanding anything to the contrary contained in this Declaration, in any other Governing Document or in any other document of record affecting the Project or any portion thereof, each Owner of a Parcel shall be responsible for the operation, management, equipping, lighting, repair, replacement and maintenance of the Common Areas (excluding Common Maintenance Areas) located on its Parcel at such Owner's sole cost and expense and in compliance with the obligations under the Governing Documents. These obligations include, without limitation:

- (a) Resurfacing of walks, drives and similar areas;
- (b) Keeping the surface of such Common Areas within the subject Parcel in a smooth and evenly covered condition with the type of surfacing material originally installed or such substitute as shall, in all respects, be equal in quality, use and durability;
- (c) Cleaning, sweeping, snow and debris removal, painting, striping, disposal

of rubbish and debris, removal of soil and stone washed into such Common Area drainage facilities and all other tasks necessary to maintain such Common Areas of such Parcel in a clean, safe and orderly condition;

(d) Maintenance of all curbs, dividers, landscape enclosures, fences and retaining walls in good condition and repair;

(e) Placing, keeping in repair and replacing any necessary and appropriate directional signs, markers and lines and keeping in repair and replacing when necessary such artificial lighting facilities and lighting fixtures as shall be reasonably required;

(f) Maintenance of all landscaped areas, making such replacements of shrubs and other landscaping as is necessary, and keeping such landscaped areas at all times adequately weeded, fertilized and watered;

(g) Security service, to the extent Declarant (without any liability therefor) reasonably deems the same to be necessary or advisable;

(h) Illumination of the subject Common Areas until such time as Declarant reasonably determines; and

(i) Maintenance of all utility lines within the subject Common Areas that are not the responsibility of the utility company or the responsibility of another Person pursuant to applicable matters of record.

7.15 Takeover of Maintenance. If an Owner of a Parcel shall fail to operate, manage, equip, light, repair, replace and/or maintain the Common Areas within its Parcel as required by this Declaration, or otherwise fail to operate such Common Areas, pursuant to the other requirements and standards set forth in this Declaration, then the Association shall have the right (but not the obligation), by giving such Owner at least ninety (90) days' prior written notice, to assume, or cause to be assumed, responsibility for the operation, maintenance, repair and replacement of such Common Areas; provided, however, in the event such Owner performs such remedial actions or cures the relevant breach (or, if such remedial actions cannot be cured within such ninety (90) day period, such Owner promptly undertakes such remedial actions and diligently pursues such remedial actions to completion), the Association shall not have the right to take over, or cause to be taken over, the operation, maintenance, repair and replacement of the subject Common Areas on account of such breach. If the Association so exercises such option to assume, or causes to be assumed, the responsibilities for the operation, maintenance, repair and replacement of the relevant Common Areas, the Association or a designee appointed by the Association, shall thereafter so operate, maintain, repair, replace and otherwise perform such Owner's obligations with respect to the subject Common Areas (or relevant portions thereof) in the same manner and subject to the same standards as required of such Owner under this Declaration. In such event, such Owner shall be responsible for any and all costs incurred by the Association or such designee (as the case may be) with respect to such operation, maintenance, repair, replacement and satisfaction of other obligations of such Owner with respect to such Common Areas, which costs shall be paid by such Owner to the Association or such designee (as the case may be) periodically, as billed by such Person, within thirty (30) days following such

billing and shall be treated as a Specific Assessment.

VIII.

GENERAL RESTRICTIONS

8.1 Safety and Security. Each Owner and occupant, and their respective guests and invitees, shall be responsible for their own personal safety and the security of their Parcel in the Property. Neither the Association nor Declarant shall in any way be considered insurers or guarantors of safety or security within the Property, nor shall either be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. Each Owner acknowledges, understands and shall be responsible for informing its tenants and all occupants that the Association, its officers, Board and committees, and Declarant are not insurers or guarantors of security or safety and that each Person within the Property assumes all risks of personal injury and loss or damage to property, including Parcels and the contents of Improvements, resulting from acts of third parties or latent property defects or conditions.

8.2 Access. Each Owner hereby covenants and agrees to provide the Association, any applicable Project Area Association, the EPA, the DEQ, the City, and each of their respective employees, agents, and contractors, with the right of access to all real property owned by such Person to the extent such access is reasonably required to implement and enforce this Declaration.

8.3 Changes in Circumstances Anticipated; Integration. Declarant has promulgated a conceptual plan for the purposes stated in the recitals of this Declaration; provided, however, that in all cases and events such conceptual plan shall be subject to the Association's ability to respond to changes in circumstances, conditions, needs and desires within the Property, except as expressly provided for in this Declaration. In order to allow for minor variations or setbacks the actual locations of the completed Improvements on the Parcels and to assure that each subsequent Owner can, where necessary, construct and maintain its improvements so that they abut and/or connect to the Common Area Improvements that have been completed on adjacent Parcels, each Owner has the right to the extent to which they may be required to enable any Owner to enter upon an adjacent Parcel to construct, complete and thereafter permanently maintain its improvements so that all of the development on Project will give the appearance of having been developed as, and will be able to be used as, a part of an overall unified integrated development.

8.4 Owner Acknowledgment. Each Owner is subject to this Declaration and the covenants and restrictions contained in this Declaration. By acceptance of a deed, or other instrument establishing title, ownership or other interest, each Owner acknowledges that such Owner has been given notice of this Declaration and that use of a Parcel is subject to the provisions of this Declaration.

8.5 Restrictions on Subordinate Covenants, Maps and Planned Parcel Developments on Residential Parcels. With regard to the Property, or unless otherwise agreed by the Association, the prior written consent of the Association, or the applicable Project Area Design

Review Committee, shall be required before any planned unit development, map, plat or re-subdivision may be filed of record against all or any portion of a Parcel. In the event an Owner records covenants against all or any part of a Parcel without the written consent required by the provisions of this Section, or in the event an Owner records any planned unit development, map, plat or re-subdivision against all or any part of any Parcel without the written consent required by the provisions of this Section, the instruments recorded shall be voidable and shall be deemed void by the Association, or the applicable Project Area Association, upon recording a notice to that effect.

8.6 Right of Owners Regarding Rules and Regulations. With regard to the Property, or unless otherwise agreed by the Association, the Board may adopt, amend or repeal rules and regulations concerning and governing the Property or any portion thereof in furtherance of the purposes of this Declaration, and subject to the Board's duty to exercise judgment and reasonableness on behalf of the Association, Owners and Members. The Board may establish and enforce penalties for the infraction thereof.

8.7 Construction Use. It is expressly permissible for Declarant and Owners to, consistent with the requirements of the Master Development Agreement, perform construction and such other reasonable activities, and to maintain upon portions of the Property such facilities as deemed reasonably necessary or incidental to the construction and sale of Parcels in the development of the Property, specifically including, without limiting the generality of the foregoing, the maintenance of temporary business offices, storage areas, trash bins, construction yards and equipment, signs, model units, temporary sales offices, parking areas and lighting facilities.

8.8 Restricted Use. No portion of the Property may be used for a Restrictive Use.

IX.

ASSOCIATION INSURANCE

9.1 Required Coverages. The Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect the following types of insurance, if reasonably available, or if not reasonably available, the most nearly equivalent coverages as are reasonably available:

(a) Broad form property insurance for all insurable improvements on the Common Maintenance Areas to the extent that Association has assumed responsibility in the event of a casualty, regardless of ownership. All property insurance policies obtained by the Association shall have policy limits sufficient to cover the full replacement cost of the insured improvements under current building ordinances and codes;

(b) Commercial general liability insurance on Common Maintenance Areas, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf. If generally available at reasonable cost, such coverage (including primary and any umbrella coverage) shall have a limit of at least \$2,000,000.00 per occurrence with respect to bodily injury, personal injury, and property damage;

- (c) Employers liability insurance, if and to the extent required by law;
- (d) If the Association owns a shuttle to provide the Shuttle Service, automobile liability;
- (e) Directors and officers liability coverage; and
- (f) Such additional insurance as the Board, in the exercise of its business judgment, determines advisable.

Premiums for all insurance on all insurance maintained by the Association shall be included in Assessments.

9.2 Policy Requirements. The Association shall arrange for an annual review of the sufficiency of its insurance coverage by one or more qualified Persons, at least one of whom must be familiar with insurable replacement costs in the location of the Property. All Association policies shall provide for a certificate of insurance to be furnished to the Association and, upon request, to each Member insured. The policies may contain a reasonable deductible and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of Section 9.1. In the event of an insured loss, the deductible shall be treated as an expense which is included as an Assessment in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the By-Laws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may assess the full amount of such deductible against such Owner(s) and their Parcels as a Specific Assessment. All insurance coverage obtained by the Board shall, to the extent available without unreasonable cost:

- (a) be written with a company authorized to do business in the State of Utah;
- (b) be written in the name of the Association as trustee for the benefited parties. Policies on the Common Maintenance Areas shall be for the benefit of the Association and its Members;
- (c) not be brought into contribution with insurance purchased by Owners, occupants, or their Mortgagees individually;
- (d) contain an inflation guard endorsement;
- (e) include an agreed amount endorsement, if the policy contains a co-insurance clause;
- (f) provide that each Owner is an insured person under the policy with respect to liability arising out of such Owner's interest in the Common Maintenance Areas as a Member (provided, this provision shall not be construed as giving an Owner any interest in the Common Maintenance Areas other than that of a Member);
- (g) provide a waiver of subrogation under the policy against any Owner;

(h) include an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any one or more individual Owners, or on account of any curable defect or violation without prior written demand to the Association to cure the defect or violation and allowance of a reasonable time to cure; and

(i) include an endorsement precluding cancellation, invalidation, or condition to recovery under the policy on account of any act or omission of any one or more individual Owners, unless such Owner is acting within the scope of its authority on behalf of the Association.

In addition, the Board shall use reasonable efforts to secure insurance policies which list the Owners as additional insureds and provide:

(i) a waiver of subrogation as to any claims against the Association's Board, officers, employees, and its manager, the Owners and their tenants, servants, agents, and guests;

(ii) a waiver of the insurer's rights to repair and reconstruct instead of paying cash;

(iii) an endorsement excluding Owners' individual policies from consideration under any "other insurance" clause;

(iv) an endorsement requiring at least thirty (30) days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal;

(v) a cross liability provision; and

(vi) a provision vesting in the Board exclusive authority to adjust losses; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related to the loss.

9.3 Restoring Damaged Improvements.

(a) In the event of damage to or destruction of Common Maintenance Areas or other property which the Association is obligated to insure, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repairing or restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

(b) Damaged improvements on the Common Maintenance Areas shall be repaired or reconstructed unless the Members representing at least seventy-five percent (75%) of the total votes in the Association decide within sixty (60) days after the loss not to repair or reconstruct. If either the insurance proceeds or estimates of the loss, or both, are not available to the Association within such 60-day period, then the period shall be extended until such funds or information are available. However, such extension shall not exceed sixty (60) additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or

destruction to the Common Maintenance Areas shall be repaired or reconstructed.

(c) If a decision is made not to restore the damaged improvements, and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the association in a neat and attractive, landscaped condition consistent with Applicable Zoning Ordinance. Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by the Association for the benefit of the Members and placed in a capital improvements account. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Parcel. If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board may, without a vote of the Members, levy Special Assessments to cover the shortfall against the Owners.

X.

RESERVED DEVELOPMENT RIGHTS

10.1 Reserved Development Rights. Declarant reserves the following Development Rights with respect to any and all of the Property; provided that these rights are discretionary with Declarant and nothing in this Section shall be construed to impose any affirmative obligation upon Declarant:

(a) The right to add additional tracts of land to the Property and to designate or restrict uses of such land.

(b) The right to subject portions of the Property owned by Declarant, or otherwise, with the written consent of the Owner thereof, to additional covenants, conditions, terms and restrictions (including, without limitation, use restrictions).

(c) As to Parcels owned by Declarant, or with respect to other Parcels with the consent of the Owner thereof, the right to relocate boundaries between adjoining Parcels, enlarge Parcels, enlarge or reduce or diminish the size of Parcels, subdivide Parcels, or complete or make improvements on Parcels.

(d) As to Parcels owned by Declarant, or with respect to other Parcels with the consent of the Owner thereof, the right to designate portions of the Property (owned by Declarant, or with the consent of the Owner), as being subject to an affordable housing plan and further to record affordable housing restrictions against such property.

(e) As to Parcels owned by Declarant, or with respect to other Parcels with the consent of the Owner thereof, the right to amend the Declaration, Site Plan, maps or plats in connection with the exercise of any Development Right.

(f) The right to make amendments to the Declaration, Bylaws or Articles of Incorporation to meet or comply with any requirement of FHA or VA or other applicable law.

(g) The right to amend the Governing Documents in connection with the exercise of any Development Right.

(h) The right, for itself and for the Owners, to maintain signs, sales offices, mobile offices, temporary buildings, parking lots, management offices and models in Parcels of Declarant or of an Owner.

(i) The right, for itself and for the Owners, to maintain signs and advertising on the Property to advertise the Property or other communities developed or managed by, or affiliated with Declarant.

(j) The right to establish, from time to time, by dedication or otherwise, public streets and utility and other easements for purposes including but not limited to public access, access, paths, walkways, drainage, recreation areas, parking areas, conduit installation areas, and to create other reservations, exceptions and exclusions.

(k) The right to perform or cause to be performed warranty work, repairs and construction work and to store materials in secure areas, in Parcels and the future right to control such work and repairs, and the right of access thereto, until completion. All work may be performed without the consent or approval of any Owner or holder of a security interest. Declarant expressly reserves such easement through the Property as reasonably necessary for exercising reserved rights in this Declaration.

(l) The right to exercise any additional right reserved to Declarant created by any other provision of this Declaration.

(m) Any rights created or reserved under this part for the benefit of Declarant, for the express benefit of an Owner, may be transferred to any Person by an instrument describing the rights transferred recorded in the real property records of the appropriate county. Such instruments shall be executed by the transferor and the transferee. The rights transferred may then be exercised without the consent of the Association, any Owners or any Mortgagee.

(n) The consent of Owners or holders of security interests shall not be required for exercise of any Development Rights by Declarant, and Declarant or its assignees may proceed to exercise any Development Right without limitation at its sole option and discretion. Declarant or its assignees may exercise any Development Rights on all or any portion of the Property in whatever order determined.

(o) The recording of amendments to the Declaration and the map or plat pursuant to Development Rights in this Declaration shall automatically effectuate the terms and provisions of that amendment. Further, upon the recording of an amendment to the Declaration, the definitions used in this Declaration shall automatically be extended to encompass and to refer to the Property as expanded and to any additional Improvements, and the same shall be added to and become a part of the Property for all purposes. Reference to the Declaration plat or map in any instrument shall be deemed to include all amendments to the Declaration, plat or map without specific reference thereto.

(p) The rights reserved to Declarant, for itself and for Owners, their successors and assigned, shall not expire unless terminated by written instrument executed by Declarant and recorded in the real property records of the appropriate county.

(q) The right to enter into one or more Solar Leases for all or a portion of the Slope Area, provided, however, that no Solar Leases may be located on Slope Area adjoining Lot 1 without the prior written consent of the Lot 1 Owner, which may be withheld in the Lot 1 Owner's sole discretion.

10.2 Designating Property as Subject to the Affordable Housing Plan.

(a) Without limiting any other rights provided herein, Declarant specifically reserves the right to subject portions of the Project to affordable housing restrictions by: (i) recording, or causing to be recorded with the Recorder, such restrictions against such property prior to the conveyance of the property to an Owner; or (ii) requiring such restrictions as a prerequisite to approval of any Project Area Master Plan.

(b) To the extent provided by any applicable Project Area Master Plan, each Owner shall cause to be prepared and recorded, temporary and permanent affordable housing restrictions against a Parcel prior to the transfer of that property, or any portion thereof or any Parcel thereon, to an Owner. In the event the Owner fails to do so, the Association shall have the right to cause to be prepared and recorded such temporary and permanent affordable housing restrictions against such Parcel.

(c) An Owner may modify the affordable housing restrictions on property owned by such Owner with the written consent of the Midvale City Redevelopment Agency and the Association, provided that the consent of the Association shall be granted if such modification does not increase the necessity for, increase the burden of, or have an adverse impact on, existing or future affordable housing restrictions affecting other property within the Project.

10.3 Additions to Property. Additions of tracts of land or Parcels to the Property may be made by Persons other than Declarant, or its successors and assignees or Owners, upon approval of Declarant and the Association pursuant to a majority vote of the Board. Such approval shall be evidenced by a certified copy of such resolution of approval and a supplement or amendment to this Declaration, recorded in the real property records of the appropriate county.

10.4 Solar Lease. Subject to the limitations in Section 10.1(a), Declarant will have the right, from time to time, to lease, or to allow its Affiliate to lease, from the Association, all or a portion of the Slope Area pursuant to one or more Solar Leases. Each such Solar Lease shall contain such terms and conditions as are acceptable to Declarant, but shall include the following: (a) unless otherwise agreed by Declarant, the term of the Solar Lease shall be for a period of not less than sixty (60) years, but may be terminated by the tenant thereunder at any time upon thirty (30) days' notice from the tenant thereunder, (b) the Solar Lease will contain terms and conditions as are necessary to allow the tenant thereunder to obtain leasehold mortgage financing on the Solar Lease, provided no such leasehold mortgage will extend to the fee interest in the land, (c) the base rent payable under the Solar Lease will be ten dollars (\$10.00), (d) during the term of the Solar Lease, the tenant thereunder will be responsible for the upkeep, repair and maintenance of the portion of the Slope Area subject to the Solar Lease, and while such Solar Lease is in effect, such portion of the Slope Area will not be deemed to be Common Areas or

Common Maintenance Areas, (e) the tenant under the Solar Lease will be responsible for maintaining all insurance on the Slope Area subject to the Solar Lease, (f) upon the expiration of the Solar Lease, the tenant thereunder will be required to restore the Slope Area to substantially the same condition it existed in prior to such Solar Lease. The Board and Declarant will agree to a form of the Solar Lease which form of Lease will be used for all future Solar Lease with only such changes thereto as are agreed on by the Board and Declarant.

XI.

COMPLIANCE AND ENFORCEMENT

11.1 Compliance and Enforcement.

(a) Declarant or the Association, acting through the Board, may enforce all applicable provisions of this Declaration or the Governing Documents. Without limiting other remedies available at law, the Association may levy Assessments to cover costs incurred by the Association to bring a Parcel into compliance with the Governing Documents. No Owner may enforce this Declaration, provided, however that the Lot 1 Owner may enforce those provisions appertaining specifically to Lot 1.

(b) In addition, Declarant or the Association, acting through the Board, may take the following enforcement procedures to ensure compliance with the Governing Documents:

- (i) exercising self-help in any emergency situation; or
- (ii) bringing suit at law or in equity to enjoin any violation or to recover monetary damages or both.

(c) In addition to any other enforcement rights, if an Owner fails to comply with the IC Ordinance, the Institutional Controls or the SMP, the Association may record a notice of violation and assess all costs incurred by the Association against the Parcel and the Owner as a Specific Assessment. The Association shall provide the Owner reasonable notice and an opportunity to cure the problem prior to taking such enforcement action, as the Board may establish from time to time.

(d) All remedies set forth in the Governing Documents, or this Declaration shall be cumulative of any remedies available at law or in equity. In any action to enforce the Governing Documents, or this Declaration the prevailing party shall be entitled to recover all costs, including, without limitation, attorneys' fees and court costs, reasonably incurred in such action.

(e) The decision to pursue enforcement action in any particular case shall be left to Declarant or the Board's discretion, except that Declarant and the Board shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing sentence, the Board may determine that, under the circumstances of a particular case:

- (i) The position of Declarant and the Association is not strong enough

to justify taking any or further action;

(ii) The covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with applicable law;

(iii) Although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable Person or to justify expending the resources of Declarant or the Association; or

(iv) That it is not in the Association's best interests, based upon hardship, expense or other reasonable criteria, to pursue enforcement action.

Such a decision shall not be construed as a waiver or estoppel of the Association's right to enforce such provisions at a later time under other circumstances or preclude Declarant or the Association from enforcing any other covenant, restriction or rule.

11.2 Joint Right to Enforce Junior or Subordinate Covenants. Declarant or the Association shall have the right to enforce, by any proceeding at law or in equity, any and all subordinate or junior restrictions, incidents, covenants, reservations, rules, regulations or architectural guidelines now or hereafter imposed by any Project Area Association (including covenants for the payment of Assessments established in such subordinate or junior declaration if expressly permitted or delegated), to the extent necessary to implement and enforce the requirements of the Governing Documents, or this Declaration. Further, Declarant or the Association shall be entitled to enjoin any violation thereof, to cause any such violation to be remedied, or to recover damages resulting from such violation. In addition, violation of any such condition, covenant, restriction, reservation, rule, regulation or guideline shall give to Declarant or the Association the right to enter upon the portion of the Parcel wherein said violation or breach exists and to summarily abate and remove, at the expense of the violator, any structure, thing or condition that may be or exist thereon contrary to the intent and meaning of the applicable provisions of such subordinate or junior governing documents. No such entry by Declarant or the Association or its agent shall be deemed a trespass, and Declarant or the Association and its agents shall not be subject to liability for such reentry or any action taken to remedy or remove such a violation. The cost of any abatement, remedy or removal thereunder shall be a binding personal obligation on the violator. All remedies provided herein or at law or in equity shall be cumulative and are nonexclusive. Failure by Declarant or the Association to enforce any covenant or restriction contained in any subordinate or junior governing documents shall in no event be deemed a waiver or estoppel of the right to do so thereafter.

11.3 Violations Constitute a Nuisance. Any violation of any provision, covenant, condition, restriction or equitable servitude contained in this Declaration, whether by act or omission, is hereby declared to be a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action, by any Person entitled to enforce the provisions of this Declaration.

11.4 Remedies Cumulative. Each remedy provided under this Declaration is cumulative and nonexclusive.

XII.

GENERAL PROVISIONS

12.1 Severability. Each of the provisions of this Declaration shall be deemed independent and severable. If any provision of this Declaration or the application thereof to any Person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of this Declaration which can be given effect without the invalid provisions or applications.

12.2 Term of Declaration. The covenants and restrictions of this Declaration shall run with and bind the land in perpetuity.

12.3 Amendment of Declaration by Owners. With the exception of Section 5.16, Section 6.1 and Part X, subject to the provisions of Section 12.4, any provision, covenant, condition, restriction or equitable servitude contained in this Declaration may be amended or repealed at any time and from time to time with the written consent of at least sixty-seven percent (67%) of the votes allocated to the Owners. Amendment to Section 6.1 of this Declaration abridging or modifying the obligations of Declarant or the Association, or the rights of the City, to enforce Institutional Controls shall only be allowed if, in addition to meeting the foregoing requirements, the City and the Association consents to any such amendment. Any amendment of this Declaration shall become effective upon the recordation by Declarant or the Association in the real property records of Salt Lake County of a certificate setting forth the amendment in full and certifying that the amendment has been approved as set forth above.

12.4 Required Consent of Declarant to Amendment. Notwithstanding any other provision in this Declaration to the contrary, any proposed amendment or repeal of any provision of this Declaration reserving Development Rights or otherwise for the benefit of Declarant or its assignees, shall not be effective unless Declarant, and its assignees, if any, have given written consent to such amendment or repeal, which consent may be evidenced by the execution by Declarant or its assignees of any certificate of amendment or repeal. The foregoing requirement for consent to any amendment or repeal shall terminate upon the expiration of Declarant Control Period.

12.5 Validity of Amendments. Any action to challenge the validity of an amendment of this Declaration must be brought within one year after the amendment is recorded with the Recorder.

12.6 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate their purposes set forth in the recitals of this Declaration.

12.7 No Representations or Warranties. No representations or warranties of any kind, express or implied, shall be deemed to have been given or made by Declarant or its agents or employed in connection with any portion of the Property, its or their physical condition, zoning, compliance with applicable laws, fitness for intended use, or in connection with the subdivision, sale, operation, maintenance, cost of maintenance, taxes or regulation thereof, unless and except as shall be specifically set forth in writing.

12.8 Singular Includes the Plural; References to Parts and Sections. Unless the context

otherwise requires, the singular shall include the plural, and the plural shall include the singular, and each gender referral shall be deemed to include the masculine, feminine and neuter. When a reference is made to a Part or Section by number, the reference shall be deemed to refer to the correspondingly numbered Part or Section in this Declaration unless the context requires otherwise.

12.9 Captions. All captions and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit or otherwise affect that which is set forth in any paragraph, Section or Part of this Declaration.

12.10 Recitals; Exhibits. The Recitals and the Exhibits to this Declaration are an integral part of this Declaration and are hereby incorporated by reference.

12.11 Governing Law. This Declaration shall be construed and governed under the laws of the State of Utah.

12.12 Successors and Assigns; Benefits and Burdens Run with the Land. Except as expressly limited by this Declaration, each easement, restriction and covenant contained herein shall be appurtenant to and for the benefit of all portions of the Property and shall be a burden thereon, for the benefit of all portions of the Property, and shall run with the land. This Declaration and the restrictions, easements, covenants, benefits and obligations created hereby run with the land shall inure to the benefit of and be binding upon Declarant, Owners and their successors, transferees and assigns; provided, however, that, if any Owner transfers all of its interest in the Property, the transferee thereof shall automatically be deemed to have assumed and agreed to be bound by the covenants and agreements herein contained, and the transferor shall thereupon be released and discharged from any and all obligations under this Declaration accruing after the date of sale.

[Remainder of this Page Left Blank-

Signatures Commence on Following Page]

"DECLARANT"

GARDNER JORDAN BLUFFS, L.C., a Utah limited liability company, by its manager

KC Gardner Company, L.C., a Utah limited liability company

By: [Signature]
Name: Kem C. Gardner
Its: Chair

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

On this 20 day of APRIL, 2020, personally appeared before me KEM C. GARDNER, the signer of the above instrument, who duly acknowledged to me that he executed the same. Chair

[Signature]
Notary Public
Residing in DAVIS COUNTY, UT

My Commission Expires: 10.16.20



EXHIBIT "A"
TO
DECLARATION FOR JORDAN BLUFFS

Legal Description

The following real property located in Salt Lake County Utah:

Jordan Bluffs Lot 2 Amended Subdivision – Lot 204

Beginning at a point section line, said point being South 00°12'34" West 2,173.27 feet along the Section line from the Northeast Corner of Section 35, Township 2 South, Range 1 West, Salt Lake Base and Meridian; and running

thence South 00°12'34" West 8.56 feet along the section line;
thence South 77°21'33" West 407.54 feet;
thence South 39°54'40" East 125.53 feet;
thence South 12°21'11" East 52.85 feet;
thence South 08°28'42" West 112.58 feet;
thence South 02°50'06" East 70.43 feet;
thence South 14°03'34" East 230.09 feet;
thence South 03°23'34" East 140.14 feet;
thence South 20°38'28" East 50.85 feet;
thence South 58°43'52" East 269.39 feet;
thence South 00°00'49" West 196.13 feet;
thence South 82°40'44" West 737.50 feet;
thence Northwesterly 148.39 feet along the arc of a 546.00 foot radius curve to the left
(center bears South 39°36'31" West and the chord bears North 58°10'37" West 147.93 feet with a
central angle of 15°34'17");
thence North 65°57'46" West 152.03 feet;
thence Northwesterly 616.65 feet along the arc of a 554.00 foot radius curve to the right
(center bears North 24°02'14" East and the chord bears North 34°04'31" West 585.30 feet with a
central angle of 63°46'30");
thence North 02°11'16" West 557.43 feet;
thence Northeasterly 27.48 feet along the arc of a 17.50 foot radius curve to the right
(center bears North 87°48'44" East and the chord bears North 42°47'36" East 24.74 feet with a
central angle of 89°57'43");
thence North 87°46'28" East 875.98 feet;
thence Northeasterly 34.64 feet along the arc of a 536.00 foot radius curve to the left
(center bears North 02°13'32" West and the chord bears North 85°55'23" East 34.63 feet with a
central angle of 03°42'10");
thence North 84°04'18" East 217.54 feet;
thence Northeasterly 29.99 feet along the arc of a 464.00 foot radius curve to the right
(center bears South 05°55'42" East and the chord bears North 85°55'23" East 29.98 feet with a
central angle of 03°42'10");
thence North 87°46'28" East 179.06 feet to the point of beginning.

Contains 1,237,922 Square Feet or 28.419 Acres

Jordan Bluffs Lot 2nd Amended Subdivision – Lot 201A and Parcel A

Beginning at the intersection of the Southerly Right-of-Way Line of 7800 South Street and the Westerly Right-of-Way Line of Bingham Junction Boulevard, said point being North 00°08'36" East 188.60 feet along the section line and West 1,548.54 feet from the Northeast Corner of Section 35, Township 2 South, Range 1 West, Salt Lake Base and Meridian; and running

thence along said Westerly Right-of-Way Line of Bingham Junction Boulevard the following nine (9) courses:

- 1) thence South 04°13'16" East 186.77 feet;
 - 2) thence Southwesterly 242.05 feet along the arc of a 754.00 foot radius curve to the right (center bears South 85°46'44" West and the chord bears South 04°58'31" West 241.01 feet with a central angle of 18°23'35");
 - 3) thence South 14°10'19" West 165.04 feet;
 - 4) thence Southerly 448.37 feet along the arc of a 851.00 foot radius curve to the left (center bears South 75°49'41" East and the chord bears South 00°55'19" East 443.21 feet with a central angle of 30°11'16");
 - 5) thence South 16°00'58" East 253.77 feet;
 - 6) thence Southeasterly 180.77 feet along the arc of a 749.00 foot radius curve to the right (center bears South 73°59'02" West and the chord bears South 09°06'07" East 180.33 feet with a central angle of 13°49'42");
 - 7) thence South 02°11'16" East 1,558.21 feet;
 - 8) thence Southeasterly 719.05 feet along the arc of a 646.00 foot radius curve to the left (center bears North 87°48'44" East and the chord bears South 34°04'31" East 682.50 feet with a central angle of 63°46'30");
 - 9) thence South 65°57'46" East 152.03 feet;
- thence South 14°36'10" West 864.52 feet;
- thence North 64°14'18" East 169.64 feet;
- thence North 29°11'11" East 280.62 feet;
- thence North 11°12'18" East 124.12 feet;
- thence North 21°42'27" East 96.89 feet;
- thence North 62°41'04" East 17.98 feet;
- thence South 51°24'44" East 28.99 feet;
- thence South 14°02'16" East 78.45 feet;
- thence South 15°57'39" West 125.11 feet;
- thence South 47°48'00" East 233.95 feet;
- thence South 26°33'45" East 184.69 feet;
- thence South 01°13'47" East 267.87 feet;
- thence South 26°11'17" East 82.70 feet;
- thence South 09°13'26" East 126.53 feet;
- thence South 40°07'03" West 224.34 feet;
- thence North 35°42'23" West 85.29 feet;
- thence North 18°07'28" West 98.62 feet;
- thence North 20°33'59" West 64.11 feet;
- thence North 80°30'01" West 105.53 feet;

thence South 88°37'38" West 1,286.49 feet;
thence North 24°58'40" West 838.81 feet;
thence Northwesterly 1,395.88 feet along the arc of a 4,000.00 foot radius curve to the right (center bears North 65°01'20" East and the chord bears North 14°58'50" West 1,388.81 feet with a central angle of 19°59'40") along the east bank of said Jordan River;

thence along said east bank of said Jordan River the following eleven (11) courses:

- 1) thence North 05°00'36" West 1,109.12 feet;
- 2) thence North 07°17'20" East 282.82 feet;
- 3) thence North 03°53'39" East 154.63 feet;
- 4) thence North 124.58 feet;
- 5) thence North 47°59'09" West 30.66 feet;
- 6) thence North 37°43'31" West 42.50 feet;
- 7) thence North 05°35'12" West 145.43 feet;
- 8) thence North 15°41'49" West 136.97 feet;
- 9) thence North 28°15'14" West 307.98 feet;
- 10) thence North 04°52'14" West 66.01 feet;
- 11) thence North 05°54'45" East 189.03 feet to the Southerly Right-of-Way Line 7800

South;

thence along said Southerly Right-of-Way Line 7800 South the following nine (9) courses:

- 1) thence North 74°43'59" East 64.19 feet;
- 2) thence North 81°38'00" East 249.51 feet;
- 3) thence North 74°46'34" East 146.30 feet;
- 4) thence Northeasterly 195.95 feet along the arc of a 4,829.15 foot radius curve to the right (center bears South 15°12'57" East and the chord bears North 75°56'48" East 195.94 feet with a central angle of 02°19'30");
- 5) thence North 59°42'12" East 103.69 feet;
- 6) thence Northeasterly 494.28 feet along the arc of a 4,861.15 foot radius curve to the right (center bears South 11°49'30" East and the chord bears North 81°05'17" East 494.07 feet with a central angle of 05°49'33");
- 7) thence South 81°32'25" East 102.50 feet;
- 8) thence North 85°15'24" East 147.80 feet;
- 9) thence North 77°33'30" East 56.17 feet to the point of beginning.

Contains 6,956,952 Square Feet or 159.710 Acres

EXHIBIT "B"
TO
DECLARATION FOR JORDAN BLUFFS

Site Plan

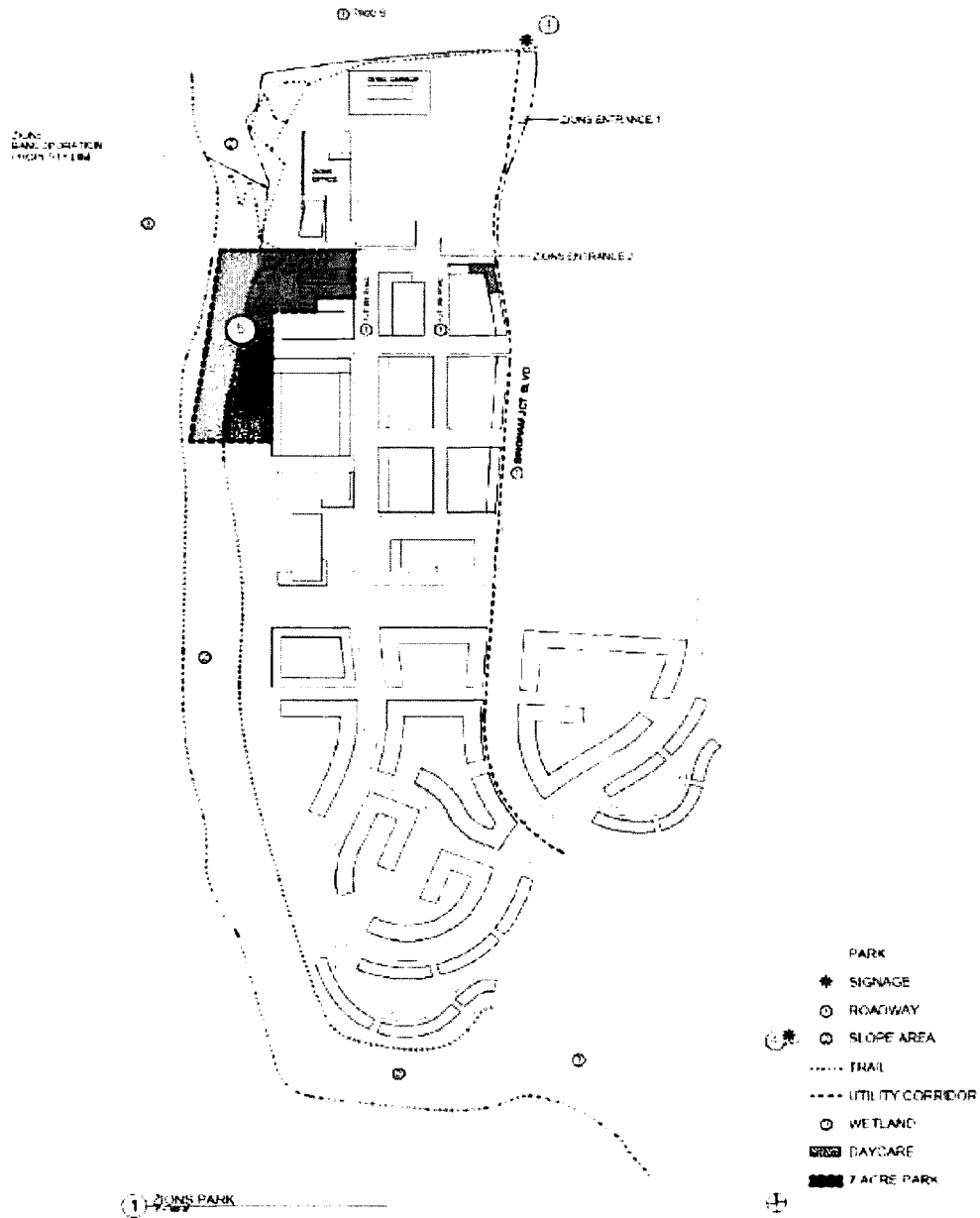


EXHIBIT "C"
TO
DECLARATION FOR JORDAN BLUFFS

ARTICLES OF INCORPORATION

OF

JORDAN BLUFFS ASSOCIATION, INC.

The undersigned adult natural person, acting as incorporator, hereby establishes a nonprofit corporation pursuant to the Utah Revised Nonprofit Corporation Act (the "Act") and adopts the following articles of incorporation:

ARTICLE 1
NAME

The name of the corporation is Jordan Bluffs Association, Inc.

ARTICLE 2
DURATION, MEMBERS AND STOCK

The corporation shall have perpetual existence. The members of the corporation shall be the Owners all as set forth in the Declaration. The corporation will not issues share of stock evidencing ownership.

ARTICLE 3
REGISTERED OFFICE, REGISTERED AGENT AND PRINCIPAL OFFICE

The address of the initial registered office and principal office of the corporation is 201 South Main Street, Suite 2000, Salt Lake City, Utah 84111. The corporation's incorporator and registered agent is Matthew Winn, an individual.

ARTICLE 4
DEFINITIONS

A. **Declaration.**

As used herein, "Declaration" means that certain Declaration for Jordan Bluffs, as the same may be amended or supplemented from time to time, recorded in the Official Records of Salt Lake County, Utah.

B. **Other Definitions.**

Unless otherwise defined herein, all capitalized terms used herein shall have the meanings given to them in the Declaration.

ARTICLE 5
PURPOSES AND POWERS

A. Purposes.

The Association, which is organized as a nonprofit corporation, has the following purposes:

(1) to manage, operate, insure, construct, improve, repair, replace, alter, and maintain the Common Maintenance Areas;

(2) to provide certain facilities, services, and other benefits to the Owners;

(3) to administer and enforce the covenants, conditions, restrictions, reservations, and easements created by the Declaration;

(4) to levy, collect, and enforce the Assessments, charges, and liens imposed pursuant the Declaration;

(5) to enter into agreements with other persons or entities, including, without limitation, easements, licenses, leases, and other agreements with or without the vote or consent of the Owners, or of any other person or entities, for facilities and services that serve the Association;

(6) to take any action that it deems necessary or appropriate to protect the interests and general welfare of the Owners, occupants and residents of the Project; and

(7) to execute and record, on behalf of all Owners, any amendment to the Declaration or the Plat which has been approved by the vote or consent necessary to authorize such amendment.

B. Powers.

(1) Unless expressly prohibited by law, the Declaration, or the bylaws of the Association (the "Bylaws"), the Association may: (i) take any and all actions that it deems necessary or advisable to fulfill its purposes; (ii) exercise any powers conferred on it by the Act, the Declaration, or the Bylaws; and (iii) exercise all powers that may be exercised in Utah by nonprofit corporations.

(2) Without in any way limiting the generality of paragraph 5.B.(1) above, the Association may, but is not obligated to:

(a) to the extent not provided by a public, quasi-public, or private utility provider, provide certain facilities and services to the Owners, such as: (i) recreational facilities and services; (ii) water, sewer, natural gas, electric, cable and/or satellite television, and other

utility services; (iii) parking facilities; and (iv) trash collection facilities and services for residential purposes only;

(b) acquire, sell, lease, and grant easements over, under, across, and through the Common Maintenance Area that are reasonably necessary to the ongoing development and operation of the Project or that are required or permitted pursuant to the Declaration;

(c) borrow monies and grant security interests in the Common Maintenance Area and in the assets of the Association as collateral therefor;

(d) make capital improvements, repairs, and replacements to the Common Maintenance Area;

(e) convey all or a portion of the Wetlands Area to a third party (which may include a conveyance for no consideration); and

(e) hire and terminate managers and other employees, agents, and independent contractors.

C. Restrictions on Purposes and Powers.

The purposes and powers of the Association described in Sections 5.A. and 5.B. above are subject to the following limitations:

(1) The Association shall be organized and operated exclusively for nonprofit purposes as set forth in Section 528 of the Internal Revenue Code of 1986, as amended, or in any corresponding provision of any future law of the United States of America providing for exemption of similar organizations from income taxation.

(2) No part of the net earnings of the Association shall inure to the benefit of any Owner, except as expressly permitted in paragraph 5.C.(3) below with respect to the dissolution of the Association.

(3) The Association shall not pay any dividends. No distribution of the Association's assets to Owners shall be made until all of the Association's debts are paid, and then only upon the final dissolution of the Association in accordance with the Act. Upon payment of all of the Association's debts and final dissolution, any remaining assets of the Association shall be distributed among the Owners in accordance with the terms and conditions of the Bylaws or in accordance with the Act.

ARTICLE 6
VOTING

A. Voting.

(1) The Association shall have voting Members, who shall be the Owners of the Parcels as more specifically set forth in the Declaration. At any meeting of the Association, the votes attributable to each Parcel may be voted in connection with issues presented to the Owners for vote.

(2) The vote or votes allocated to each of the Parcels is equal to the number of votes set forth in the Bylaws with respect to such Parcels.

(3) The Owner of each Parcel shall be entitled to the number of votes allocated to it in accordance with paragraphs 6.A.(1) and 6.A.(2) above, regardless of the number of Owners of the Parcel. If the Owners of a Parcel cannot agree among themselves as to how to cast their votes on a particular matter, they shall lose their right to vote on such matter. If any Owner casts a vote representing a particular Parcel, it will thereafter be presumed for all purposes that the Owner was acting with the authority and consent of all other Owners with whom such Owner shares the Parcel, unless objection thereto is made by an Owner of that Parcel to the person presiding over the meeting at the time the vote is cast. If more than the number of allocated votes is cast for any particular Parcel, none of such votes shall be counted and all of such votes shall be deemed null and void other than to determine whether a quorum exists.

(4) In any case in which the Act or this Declaration requires the vote of a stated percentage of the Owners or approval of an act or transaction, such requirement shall be fully satisfied by obtaining, with a meeting, consents in writing to such transaction from Owners who collectively hold at least the stated percentage of required votes or, without a meeting, the written consent of all Owners entitled to vote with respect to such matter. Such written consents shall be subject to the following conditions:

(a) All necessary consents must be obtained prior to the expiration of ninety (90) days after the first consent is given by any Owner.

(b) Any change in ownership of a Parcel which occurs after consent has been obtained by the Owner having an interest therein shall not be considered or taken into account for any purpose.

(c) Unless consent of all Owners having an interest in the same Parcel is secured, the consent of none of such Owners shall be effective.

ARTICLE 7

BOARD OF DIRECTORS

A. Board of Directors.

(1) The business and affairs of the Association shall be controlled, conducted, and managed by the Board, except as otherwise provided in the Act, the Declaration, these Articles, or the Bylaws.

(2) Except as provided by law or in the Declaration, these Articles, or the Bylaws, the Board may act on behalf of the Association in all instances. The Board may not, however, act on behalf of the Association to: (i) amend the Declaration; (ii) terminate the Association, the Declaration, or the Project; (iii) elect directors ("Directors") to the Board, other than to fill a vacancy for the unexpired portion of any Director's term, subject to Declarant's and Lot 1 Owner's rights under Section 7.B. below; or (iv) determine the qualifications, powers, duties, or terms of office of Directors.

(3) The Board shall consist of five (5) Directors. The names and addresses of the initial Directors are as follows:

<u>Name</u>	<u>Address</u>
Christian Gardner	201 South Main Street, Suite 2000 Salt Lake City, Utah 84111
Mark Murdock	201 South Main Street, Suite 2000 Salt Lake City, Utah 84111
John Bankhead	201 South Main Street, Suite 2000 Salt Lake City, Utah 84111
Matthew Winn	201 South Main Street, Suite 2000 Salt Lake City, Utah 84111
Jennifer A. Smith	c/o Zions Bancorporation 2200 South 3270 West West Valley City, UT 84119

B. Declarant Control Period.

Notwithstanding anything to the contrary contained in these Articles, the Declaration, or the Bylaws, except as otherwise specifically set forth in the Declaration, during the Declarant Control Period, Declarant shall have the right to appoint and remove four (4) Directors and so long as Zions (as defined) in the Declaration is the Lot 1 Owner (as defined in the Declaration), the Lot 1 Owner shall have the right to appoint and remove one (1) Director.

ARTICLE 8
LIABILITY AND INDEMNIFICATION

A. Limits on Directors' Liability.

To the fullest extent permitted by the Act, as the same exists or may hereafter be amended, a Director shall not be liable to the Association or the Owners for monetary damages

for breach of fiduciary duty. Any repeal or modification of this Section 8.A. shall be prospective only and shall not adversely affect any right or protection of a Director existing at the time of such repeal or modification.

B. Indemnification.

To the fullest extent permitted by the Act, as the same exist or may hereafter be amended, the Association shall indemnify each Director and each officer, employee, fiduciary, and agent of the Association.

ARTICLE 9
BYLAWS

The initial Bylaws of the Association shall be adopted by the Board. Subject to the rights of Mortgagees under the Declaration, if any, the Board shall have the power to alter, amend, or repeal the Bylaws from time to time and to adopt new Bylaws only as provided in the Declaration and the Act. The Bylaws of the Association may contain any provisions for the regulation or management of the affairs of the Association that are not inconsistent with law, the Declaration, or these Articles.

ARTICLE 10
AMENDMENT

The Association may amend, alter, change, or repeal any provision contained in these Articles by, unless a higher voting requirement is set forth herein with respect to any particular provisions, (1) with the consent of Declarant during the Declarant Control Period, and (2) after the termination of the Declarant Control Period, with the vote of the holders of at least sixty-seven percent (67%) of the votes allocated to the Members other than Declarant at any regular or special meeting called for that purpose at which a quorum is represented and with Declarant's consent so long as Declarant owns any property subject to the Declaration. The Association's right to amend, alter, change, or repeal these Articles is subject to the limitations thereon set forth in the Declaration.

ARTICLE 11
INCORPORATOR

The name and address of the incorporator is Matthew Winn. The address of the incorporator is 201 South Main Street, Suite 2000, Salt Lake City, Utah 84111.

IN WITNESS WHEREOF, the above-named incorporator signed these Articles of Incorporation this _____ day of April, 2020.

Matthew Winn

Acceptance of Appointment by Registered Agent

Pursuant to the Utah Revised Nonprofit Corporation Act, the undersigned hereby accepts appointment as registered agent for Jordan Bluffs Association, Inc., a Utah nonprofit corporation.

Dated April __, 2020.

Matthew Winn

EXHIBIT "D"
TO
DECLARATION FOR JORDAN BLUFFS

BY-LAWS OF JORDAN BLUFFS ASSOCIATION, INC.

I.

NAME, PURPOSES AND DEFINITIONS

1.1 Name. The name of the corporation is Jordan Bluffs Association, Inc. (the "**Association**").

1.2 Principal Office. The principal office of the Association shall be located at 201 South Main Street, Suite 2000, Salt Lake City, Utah 84111. The Association may have such other offices, either within or outside Utah, as the Board may determine or as the affairs of the Association may require.

1.3 Definitions. The words used in these By-Laws shall be given their normal, commonly understood definitions, except that capitalized terms shall have the same meaning as set forth in the Declaration (defined below) to which these By-Laws are attached unless the context indicates otherwise.

1.4 Purposes. The purposes for which the Association was formed are to preserve and enhance the value of the properties of Members and to operate, govern, manage, supervise and care for the Project situated in the City of Midvale, State of Utah, in accordance with the that certain document entitled Declaration for Jordan Bluffs, as the same may be amended or supplemented from time to time, as recorded in the Official Records of the Salt Lake County Recorder ("**Declaration**").

II.

MEMBERSHIP

2.1 Membership. Members of the Association ("**Members**") shall be the Owners subject to the Declaration. Each Owner shall be entitled to one (1) Membership.

2.2 Voting Rights of Members. During the Declarant Control Period, except as specifically provided in the Declaration, Declarant or persons appointed by Declarant shall have the exclusive right to appoint all officers of the Association and members of the Board. Thereafter, each Member shall have the right to cast votes for the election of the Board. Each Member shall be allocated votes as provided herein.

2.3 Vote Allocations.

(a) Residential Use – Individually Owned Parcels. The Owner of any Parcel that is used for single family purposes, if individually owned, shall be entitled to cast one (1)

vote for each such Parcel. This includes multi-family buildings and similar structures (such as condominiums) that are individually owned, as evidenced by a deed or similar form of conveyance.

(b) Multi-Family Residential Use – Apartments and Rentals. The Owner (such as a landlord) of any Parcel that is used for multi-family residential purposes that are not individually owned shall be entitled to cast one (1) vote for every ten (10) dwelling Parcels appurtenant to such Parcel. This includes any form of multi-family buildings and structures (such as apartment complexes) in which dwellings are not individually owned.

(c) Commercial, Office and Other Uses. The Owner of any Parcel that is used for commercial, retail, light industrial, office, or similar use, shall be entitled to cast the greater of (i) one (1) vote or (ii) one (1) vote for each 2,000 square foot increment of floor area within the building(s) appurtenant to such Parcel. The calculation of floor area of a building shall be the gross floor area of all floor(s) of the building(s) measured from the exterior of the structure, including any basement area, provided that floor areas not comprising a full 2,000 square foot increment will not be included and will not be entitled to a fractional vote. The Board may require as-built plans to be filed with the Association and may promulgate written standards governing the calculation of floor area for purposes of this Section.

(d) Undeveloped Parcels. The Owner of unimproved and undeveloped (*i.e.*, those without vertical development) Parcels not otherwise allocated votes as provided in subsections (a), (b), and (c) above, will be entitled to cast the greater of (i) one (1) vote or (ii) one (1) vote for every ten thousand (10,000) square feet of land located within such Parcel. For purposes of this allocation, fractional land areas shall be rounded to the nearest ten-thousand (10,000) square feet.

2.4 Memberships Appurtenant. Each Membership shall be appurtenant to the fee title of an Owner. The person or persons who constitute the Owner of fee title shall automatically be the holder of the Membership appurtenant and the Membership shall automatically pass with fee title. No Member shall be entitled to resign from the Association. Membership shall not be assignable separate and apart from fee simple title except that an Owner may assign some or all of their rights as an Owner and as a Member to a current tenant or holder of a security interest and may arrange for a current tenant to perform some or all of such Owner's obligations, but no such delegation or assignment shall relieve an Owner from the responsibility for fulfillment of the obligations of an Owner under the Declaration. The rights acquired by any such tenant or holder of a security interest shall be extinguished automatically upon termination of the tenancy or security interest. The assignment of rights by an Owner pursuant to this Section shall not be subject to any present or future statutory time limit for the duration of proxy rights.

2.5 Voting by Joint Owners. If there is more than one person who constitutes an Owner (for example, tenants in common and joint tenants), each such person shall be entitled to attend any meeting of Members but the voting power attributable to such Parcels shall not be increased. In all cases in which more than one person constitutes an Owner, including instances of husband and wife, then, unless written notice to the contrary, signed by any one or such persons, is given to the Board prior to the meeting, any one such person shall be entitled to cast,

in person or by proxy, the vote attributable to such Parcel, and it shall be presumed that they are in agreement with respect to the manner that such vote is cast.

2.6 Resolution of Voting Disputes. If the Owners of a Parcel cannot agree among themselves as to how to cast their votes on a particular matter, they shall lose their right to vote on such matter. If more than the number of allocated votes is cast for any particular Parcel, none of such votes shall be counted and all of such votes shall be deemed null and void other than to determine whether a quorum exists.

2.7 Suspension of Voting and Member Rights. During any period in which a Member shall be in default in the payment of any Assessment levied by the Association, the voting rights of such Member shall be deemed suspended by the Board, without notice or hearing, until such Assessments have been paid. Such rights of a Member may also be suspended, after notice or hearing, during any period of violation of any other provision of the Declaration, Articles or Bylaws.

III.

MEETINGS OF MEMBERS

3.1 Place of Meetings of Members District. Meetings of the Members shall be held in the Project, or in the greater Salt Lake County area, as designated by the Board or the President or an officer or agent, in the notice of the meeting.

3.2 Annual Meetings of Members. Beginning after the Declarant Control Period has expired, annual meetings of the Association shall be held to elect members of the Board and to transact such other business as may properly come before the meeting. At these meetings, Board members shall be elected by ballot of the Members, in accordance with the provisions of these Bylaws, the Declaration and Articles. The Members may transact other business as may properly come before them at these meetings.

3.3 Special Meetings of Members. Special meetings of the Members may be called by the Board or by Members holding not less than ten percent (10%) of the total votes of all Members. No business shall be transacted at any special meeting except as indicated in the notice thereof.

3.4 Record Date for Member Meetings. For the purpose of determining Members entitled to notice of, or to vote at any meeting of Members or in order to make a determination of such Members for any other proper purpose, the Board may fix, in advance, a date as the record date for any such determination of Members. The record date shall be not more than fifty (50) days prior to the meeting of Members or the event requiring a determination of Members.

3.5 Notice of Meetings of Members. Written notice of each meeting of Members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting at least ten (10) days before, but not more than fifty (50) days before such meeting, to each Member entitled to vote. Notice may be provided by telephone, facsimile, e-mail, or by first class mail, postage prepaid. Such notice shall specify the place, day and hour of the meeting

and, in the case of a special meeting, the purpose of the meeting. No matters shall be heard nor action adopted at a special meeting except as stated or allowed in the notice.

3.6 Proxies of Members. A Member entitled to vote may vote in person or by proxy in writing executed by the Member or his duly authorized attorney-in-fact and filed with the Secretary of the meeting prior to the time the proxy is exercised. The filing of a proxy by a Member may include, without limitation, the transmission of the same by facsimile, e-mail or other electronic transmission to the Secretary of the meeting provided that such transmitted proxy shall set forth or be transmitted with written evidence from which it can be determined that the Member transmitted or authorized the transmission of the proxy. Any proxy may be revoked, prior to the time the proxy is exercised, by a Member in person at a meeting or by revocation in writing filed with the Secretary. A proxy shall automatically cease upon the conveyance by a Member of their Parcel. No proxy shall be valid after eleven (11) months after the date of its execution unless otherwise provided in the proxy and no proxy shall be valid in any event for more than three years after its date of execution. Any form of proxy furnished or solicited by the Association and any form of written ballot furnished by the Association shall afford an opportunity thereon for Members to specify a choice between approval and disapproval of each matter or group of related matters which is known, at the time and form of proxy or written ballot is prepared, may come before the meeting and shall provide, subject to reasonably specified conditions, that if a Member specifies a choice with respect to any such matter, the vote shall be cast in accordance therewith.

3.7 Quorum at Members' Meetings. Except as may be otherwise provided in the Declaration, the Articles, or these Bylaws, and except as hereinafter provided with respect to the calling of another meeting, the presence, in person or by proxy, of Members entitled to cast at least ten percent (10%) of the votes of all Members shall constitute a quorum at any meeting. Members present in person or by proxy at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of Members so as to leave less than a quorum. If the required quorum is not present in person or by proxy at any such meeting of Members, another meeting may be called, subject to the notice requirements hereinabove specified, and the presence, in person or by proxy, of Members entitled to cast at least five percent (5%) of the votes of all Members, shall, except as may be otherwise provided in the Declaration, the Articles, or these Bylaws, constitute a quorum at such meeting.

3.8 Adjournment of Members' Meetings. Members present in person or by proxy at any meeting may adjourn the meeting from time to time, whether or not a quorum shall be present in person or by proxy, without notice other than announcement at the meeting, for a total period or periods not to exceed thirty (30) days after the date set for the original meeting. At any adjourned meeting which is held without notice other than announcement at the meeting, the quorum requirement shall not be reduced or changed, but if the originally required quorum is present in person or by proxy, any business may be transacted which might have been transacted at the meeting as originally called.

3.9 Vote Required at Members' Meetings. At any meeting if a quorum is present, a majority if the votes present in person or by proxy and entitled to be cast on a matter shall be necessary for the adoption of the matter, unless a greater proportion is required by law (including, without limitation, the Act), the Declaration, the Articles or these Bylaws.

3.10 No Cumulative Voting. Cumulative voting by Members in the election of Board members shall not be permitted.

3.11 Order of Business. The order of business at any meeting of Members shall be as follows: (a) roll call to determine the voting power represented at the meeting; (b) proof of notice of meeting or waiver of notice; (c) reading of minutes of preceding meeting; (d) report of the Association; (e) election of the Board (at annual meetings or special meetings held for such purpose); and (f) other business if noticed, as provided for in these Bylaws.

3.12 Certification of Election after Meeting. Promptly after any meeting of Members to elect the Board, the Secretary or their agent shall certify in writing the name and address of the Board members elected, and the time and place of the meeting at which the Board members were elected.

3.13 Expense of Meetings. The Association shall bear the expenses of all meetings of Members.

3.14 Conduct of Meeting. The President shall preside over all meetings of the Association, and the Secretary shall keep the minutes of the meetings and record in a minute book all resolutions adopted and all other transactions occurring at such meetings

3.15 Action by Written Ballot. Any action that may be taken at any annual, regular, or special meeting of the Members may be taken without a meeting by written ballot delivered to every Member entitled to vote on the matter. Any action required or permitted by law to be taken at a meeting of the Members may be taken without a meeting, prior notice, or a vote if written consent specifically authorizing the proposed action is signed by Members holding at least the minimum number of votes necessary to authorize such action at a meeting if all Members entitled to vote thereon were present. Such consents shall be signed within sixty (60) days after receipt of the earliest date consent, dated, and delivered to the Association. Such consents, as filed with the minutes of the Association, shall have the same force and effect as a vote of the Members at a meeting. Within ten (10) days after receiving written consent authorization for any action, the Secretary shall give written notice to all Members entitled to vote who did not give their written consent, fairly summarizing the material features of the authorized action

IV.

BOARD

4.1 Number and Potential Classes.

(a) The affairs of the Project and the Association shall be governed by a Board, which shall during the Declarant Control Period initially consist of five (5) members, elected or appointed as provided in the Declaration. Upon expiration of the Declarant Control Period, the then-sitting Board will be dissolved and a new Board consisting of five (5) members shall be elected as provided in the Declaration and these Bylaws.

(b) Declarant or Lot 1 Owner (as defined in the Declaration) may voluntarily surrender any and all of their rights to appoint and remove Officers and members of the Board before termination of the Declarant Control Period, but in that event, Declarant or Lot 1 Owner may require, for the duration of the Declarant Control Period, that specified actions, as described in a recorded instrument executed by Declarant or Lot 1 Owner as applicable, be approved by Declarant or Lot 1 Owner, as applicable, before they become effective.

(c) Declarant or the Owners may establish such classes of membership of the Owners and of the Board so as to reasonably allow for representation of the various neighborhoods included within the Project

4.2 Qualifications of Members of the Board. Board members shall be natural persons who are eighteen (18) years of age or older. Except as appointed by Declarant or Lot 1 Owner, they must be an Owner or, if the Owner is a partnership, corporation or other entity not a natural person, must be an authorized agent of such partnership, corporation or other entity. If a Board member conveys or transfers title to his/her Parcel, or a Board member who is an authorized agent or a partnership, corporation or other entity ceases to be such authorized agent, or if the partnership, corporation or other entity transfers title to its Parcel, such Board member's term shall immediately terminate and a new Board member shall be selected as promptly as possible. There shall be no limit on the number of terms that may be served.

4.3 Nominations for the Board. Except for appointees by Declarant or Lot 1 Owner, nomination for election to the Board shall be made by a nominating committee. Nominations may also be made from the floor at the annual meetings of Members. The nominating committee shall consist of a President, who shall be a member of the Board, and two or more Members. The nominating committee shall be appointed by the Board prior to each annual meeting of the Members to serve from the close of such annual meetings until the close of the next annual meetings and such appointment shall be announced at each annual meeting. The nominating committee shall make as many nominations for election to the Board as it shall in its discretion determine, but not less than the number of vacancies that are to be filled.

4.4 Term of Office for Board members. Beginning after the Declarant Control Period has expired, the terms of office of Board members shall be five (5) years or until such time as a successor is elected, and the terms the Board shall be staggered and terms of one-fifth (1/5) of the Board members shall expire annually. During the Declarant Control Period, Board members shall serve at the pleasure of Declarant and Lot 1 Owner.

4.5 Removal of Board members. The Members, by a vote of at least two-thirds (2/3) of the votes at any meeting of the Members at which a quorum is present, may remove a Board member, other than a Board member elected or appointed by class (if any classes are designated by Declarant), and other than directors appointed by Declarant or Lot 1 Owner. Board members appointed by Declarant or Lot 1 Owner may not be removed by the Members under this section of the Bylaws. Board members sought to be removed shall have the right to be present at such meeting and shall be given the opportunity to speak to the Members prior to a vote to remove being taken. Upon removal, the Members, by majority vote, shall then elect new Members of the Board to replace those Members removed.

4.6 Vacancies on the Board. Vacancies in the Board, unless filled by Declarant pursuant to its appointment powers, that are caused by any other reason (other than removal by the Members) shall be filled by election at a special meeting of Members or shall be filled by the affirmative vote of a majority of the remaining members of the Board, though less than a quorum. Each person so appointed shall be a Board member who shall serve for the remainder of the unexpired term.

4.7 Compensation. No Board member shall receive any compensation from the Association for acting as such unless approved by a majority of the total Member votes in the Association at a regular or special meeting of the Association. Any Board member may be reimbursed for expenses incurred on behalf of the Association upon approval of a majority of the other Board members. Nothing herein shall prohibit the Association from compensating a Board member, or any entity with which a Board member is affiliated, for services or supplies furnished to the Association in a capacity other than as a Board member pursuant to a contract or agreement with the Association, provided that such Board member's interest was made known to the Board prior to entering into such contract and such contract was approved by a majority of the Board, excluding the interested Board member.

4.8 Resignation of Board members. Any member of the Board may resign at any time by giving written notice to the President, to the Secretary or to the Board stating the effective date of such resignation. Acceptance of such resignation shall not be necessary to make the resignation effective.

V.

MEETINGS OF THE BOARD

5.1 Location of Meetings and Open Meetings of the Board. All meetings of the Board shall be at the principal office of the Association, if any, or at such other place, within or reasonably convenient to the Project. All meetings shall be open to attendance by Members.

5.2 Annual Meeting of the Board. Beginning after the Declarant Control Period has expired, annual meetings of the Board shall be held on the same date as, or within ten (10) days following, the annual meeting of Members. The business to be conducted at the annual meeting of the Board shall consist of the appointment of Officers and the transaction of such other business as may properly come before the meeting. No prior notice of the annual meeting of the Board shall be necessary if the meeting is held on the same day and at the same time and place as the annual meeting of Members.

5.3 Regular Meetings of the Board. In addition to the annual meeting, at least one other regular meeting of the Board shall be held each year after expiration of the Declarant Control Period at such place and hour as may be fixed by the Board, without notice. The Board may set a schedule of additional regular meetings by resolution, and no further notice is necessary to constitute regular meetings, except as may be required by law.

5.4 Special Meetings of the Board. Special meetings of the Board shall be held when called by the President of the Association, or by any two Board members, after notice to each Board member.

5.5 Notice of Board Meetings. In the case of all meetings of the Board for which notice is required, notice stating the place, day and hour of the meeting shall be delivered not less than three (3) nor more than fifty (50) days before the date of the meeting, by mail, telephone, e-mail or personally, by or at the direction of the persons calling the meeting, to each member of the Board. If mailed, such notice shall be deemed to be delivered at 5:00 p.m. on the second business day after it is deposited in the mail. If by facsimile, such notice shall be deemed delivered when received at the facsimile number for each member of the Board as appears on the records of the Association. If by telephone, such notice shall be deemed to be delivered when given by telephone to the member of the Board or to any person answering the telephone who sounds competent and mature at his home or business telephone number as either appears on the records of the Association. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board need be specified in the notice or waiver of such meeting.

5.6 Waiver of Notice of Board Meetings. Any Board member may waive notice of any meeting in writing. Attendance by a Board member at any meeting of the Board shall constitute a waiver of notice unless the Board member at the beginning of the meeting objects to holding the meeting or transacting business at the meeting because of lack of notice or defective notice.

5.7 Quorum for Board Meeting. At all meetings of the Board, a majority of the Board members shall constitute a quorum for the transaction of business. If, at any meeting, there shall be less than a quorum present, a majority of those present may adjourn the meeting.

5.8 Proxies of the Board. For the purpose of determining a quorum with respect to a particular proposal and for the purposes of casting a vote for or against that particular proposal, a Board member may execute, in writing a proxy, to be held by another Board member. The proxy shall specify either a yes, no or abstain vote on each particular issue for which the proxy was executed. Proxies which do not specify a yes, no or abstain vote shall not be counted for the purpose of having a quorum present or as a vote on the particular proposal before the Board.

5.9 Adjournment of Board Meetings. Members of the Board present at any meeting of the Board may adjourn the meeting from time to time, whether or not a quorum shall be present, without notice other than an announcement at the meeting, for a total period or periods not to exceed thirty (30) days after the date set for the original meeting. At any announced meeting which is held without notice other than announcement at the meeting, the quorum requirement shall not be reduced or changed, but if the originally required quorum is present, any business may be transacted which may have been transacted at the meetings originally called.

5.10 Vote Required at Board Meetings. At any meeting of the Board, if a quorum is present, a majority of the votes present in person and entitled to be cast on a matter shall be necessary for the adoption of the matter, unless a greater proportion is required by law (including, without limitation, the Act), the Declaration, the Articles or these Bylaws.

5.11 Consent to Corporate Action of the Board. The Board members shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all of the Board members. Any action so approved shall have

the same effect as though taken at a meeting of the Board members. The Secretary shall file these consents with the minutes of the meetings of the Board.

5.12 Conduct. The President shall preside over all Board meetings, and the Secretary shall keep a minute book of Board meetings, recording all Board resolutions and all transactions and proceedings occurring at such meetings.

5.13 Telephone Communication of Board Members in Lieu of Attendance. A Board member may attend a meeting of the Board by using an electronic or telephonic communication method whereby the Board member may be heard by the other members and may hear the deliberations of other members of any matter properly brought before the Board. The Board member's vote shall be counted and his or her response noted as if that Board member was present in person on that particular matter.

5.14 Open Meetings; Executive Session.

(a) Except in an emergency, notice of Board meetings shall be delivered personally or by mail to each Member entitled to vote at such meeting not less than 10 nor more than fifty (50) days before the date of the meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the Member at the Member's address as it appears in the office of the Association, with postage thereon prepaid. For the purpose of determining Members entitled to notice of or to vote at any meeting of the Members, the Board may set a record date for such determination of Members, in accordance with the laws of the State of Utah. Notice of any meeting at which Assessments are to be established shall state that fact and the nature of the Assessment. Subject to the provisions of **Section 3.15** hereof, all Board meetings shall be open to all Members; but attendees other than directors may not participate in any discussion or deliberation unless a director requests that they be granted permission to speak. In such case, the President may limit the time any such individual may speak.

(b) Notwithstanding the above, the President may adjourn any Board meeting and reconvene in executive session, and may exclude persons other than directors, to discuss matters of a sensitive nature, such as pending or threatened litigation, personnel matters, etc.

VI.

POWERS AND DUTIES OF THE BOARD

6.1 Powers and Duties. The Board may act in all instances on behalf of the Association, except as provided in the Declaration, the Articles, these Bylaws or the Act. The Board shall have, subject to the limitations contained in the Declaration, the Articles, these Bylaws and the Act, the powers and duties necessary for the administration of the affairs of the Association and of the Project, and for the operation and maintenance of the Project as a first class Project, including the following powers and duties:

- (a) Adopt the initial Bylaws;
- (b) Adopt and amend budgets for revenues, expenditures and reserves;

(c) As a part of the adoption of the regular budget the Board shall include an amount which, in its reasonable business judgment, will establish and maintain a reserve fund for the replacement of those improvements that it is obligated to maintain, based upon age, remaining life, quantity and replacement cost;

(d) Collect Assessments to the extent expressly permitted by the Declaration;

(e) Hire and discharge an independent managing agent, provided that any agreement for professional management of the Project must provide for the termination by either party without cause and without payment of a termination fee or penalty upon thirty (30) days' written notice;

(f) Hire and discharge employees, independent contractors and agents other than managing agents;

(g) Institute, defend or intervene in litigation or administrative proceedings or seek injunctive relief for violations of the Declaration or Bylaws in the Association's name, on behalf of the Association or two (2) or more Members on matters affecting the Project.

(h) Make contracts and incur liabilities consistent with the Declaration;

(i) Acquire, hold, encumber and convey, in the Association's name, any right, title or interest to real estate or personal property;

(j) Impose a reasonable charge for late payment of Assessments and, after notice and hearing, levy reasonable fines or Assessments provided for or allowed in the Declaration or Bylaws;

(k) Keep and maintain full and accurate books and records showing all of the receipts, expenses or disbursements of the Association;

(l) Borrow funds in order to pay for any expenditure or outlay required pursuant to the authority granted by the provisions of the Declaration and these Bylaws, and to execute all such instruments evidencing such indebtedness as the Board may deem necessary and give security therefor;

(m) Impose a reasonable charge for the preparation and recording of amendments to the Declaration, liens, or statements of unpaid Assessments;

(n) Provide for the indemnification of the Association's officers and the Board and maintain Board members' and officers' liability insurance;

(o) Cause all Board members, officers, employees or agents having fiscal responsibilities to be bonded or insured, as it may deem appropriate and in such amounts as it may deem appropriate;

(p) Declare the office of a member of the Board to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board;

(q) Exercise for the Association all powers, duties, rights and obligations in or delegated to the Association and not reserved to the Members by other provision of the these Bylaws, the Articles, the Declaration or the Act; and

(r) Exercise any other powers conferred by the Declaration or Bylaws.

6.2 Limits on Delegation, Requirements for Association Funds and Financial Statements. If the Association delegates powers of the Board or officers relating to collection, deposit, transfer or disbursement of Association funds to other persons or to a manager or managing agent, the Association shall require the following:

(a) That the other persons or managing agent maintain fidelity insurance coverage or a bond in an amount not less than fifty thousand dollars (\$50,000) or such higher amount as the Board may require.

(b) That the other persons or managing agent maintain all funds and accounts of the Association separate from the funds and accounts of other associations managed by the other persons or managing agent and maintain all reserve accounts of each association so managed separate from operational accounts of the Association.

(c) That an annual accounting for Association funds and a financial statement be prepared and presented to the Association by a certified public accountant.

6.3 Board Standards. In the performance of their duties, Association directors and officers shall be insulated from personal liability as provided by Utah law for directors and officers of non-profit corporations, and as otherwise provided in the Declaration, the Articles or these By-Laws. Directors are required to exercise the ordinary and reasonable care of directors of a corporation, subject to the business judgment rule. As defined herein, a director shall be acting in accordance with the business judgment rule so long as the director: (a) acts within the express or implied terms of the Declaration, the Articles or these By-Laws and his or her actions are not ultra vires; and (b) acts in a non-fraudulent manner and without reckless indifference to the affairs of the Association. A director acting in accordance with the business judgment rule shall be protected from personal liability. Board determinations of the meaning, scope, and application of the provisions of the Declaration, the Articles or these By-Laws shall be upheld and enforced so long as such determinations are reasonable. The Board shall exercise its power in a fair and nondiscriminatory manner and shall adhere to the procedures established in the Declaration, the Articles or these By-Laws.

VII.

OFFICERS AND THEIR DUTIES

7.1 Enumeration of Offices. The officers of this Association shall be a President, Vice President, Secretary and Treasurer, and such other officers as the Board may from time to time create by resolution. The offices of Secretary and Treasurer may be held by the same person.

7.2 Qualification; Appointment of Officers. Each officer shall be at least eighteen (18) years old. The officers shall be appointed by the Board at the annual meeting of each new Board. The officers shall hold office at the pleasure of the Board.

7.3 Special Appointments. The Board may appoint or elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

7.4 Resignation and Removal. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein. Acceptance of such resignation shall not be necessary to make it effective. Any officer may be removed from office with or without cause by a majority of the Board.

7.5 Vacancies. A vacancy in any office may be filled by appointment by the Board by majority vote of the Board. The officer appointed to such vacancy shall serve at the pleasure of the Board.

7.6 Duties. The Duties of the officers are as follows:

(a) President. The President shall have all of the general powers and duties which are incident to the office of President of a Utah nonprofit corporation. The President may cause to be prepared and may execute amendments, attested by the Secretary, to the Declaration and these Bylaws on behalf of the Association, following authorization or approval of the particular amendment as applicable.

(b) Vice President. The Vice President shall take the place of the President and perform the President's duties whenever the President is absent or unable to act. If neither the President nor the Vice President present is able to act, the Board shall appoint some other Board member to act in the place of the President on an interim basis. The Vice President shall also perform other duties imposed by the Board or by the President.

(c) Secretary. The Secretary shall have charge or shall keep the minutes of all meetings of the Members and proceedings of the Board. The Secretary shall have charge of the Association's books and papers and shall perform all the duties incident to the office of Secretary of a Utah nonprofit corporation. The Secretary may cause to be prepared and may attest to execution by the President of amendments to the Declaration and the Bylaws on behalf of the Association, following authorization or approval of the particular amendment as applicable.

(d) Treasurer. The Treasurer shall be responsible for Association funds and for keeping full and accurate financial records and books of accounts showing all receipts and disbursements and for the preparation of all required financial data. The Treasurer shall be responsible for the deposit of all monies and other valuable effects in depositories designated by the Board and shall perform all of the duties incident to the office of Treasurer of a Utah nonprofit corporation.

7.7 Delegation. The duties of any officer may be delegated to a manager employed by the Association, or another Board member, provided, however, that by so doing the officer

shall not be relieved of any responsibility incumbent upon such office under these Bylaws or under Utah law.

7.8 Agreements, Contracts, Deeds, Checks, Etc. Except as provided in these Bylaws, all agreements, contracts, deeds, leases, checks and other instruments of the Association shall be executed by any officer of the Association or by any other person or persons designated by the Board.

7.9 Statements of Unpaid Assessments. The Treasurer, a manager employed by the Association, if any, or, in their absence, any officer having access to the books and records of the Association may prepare, certify, and execute statements of unpaid Assessments.

7.10 Compensation. Compensation of officers shall be subject to the same limitations as imposed in these Bylaws on compensation of Board members.

VIII.

COMMITTEES

8.1 Designated Committees. The Association may appoint committees as deemed appropriate in carrying out its purposes, subject to the Declaration. Committees shall have authority to act only to the extent designated in the Governing Documents or delegated by the Board.

IX.

ENFORCEMENT

9.1 Abatement and Enjoinment of Violations. The violation of any provision of the Governing Documents shall give the Board the right, in addition to any other rights set forth in these Bylaws, to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach.

9.2 Fines for Violation. By action of the Board, following notice and hearing, the Board may levy reasonable fines for a violation of the Governing Documents which persist after notice and hearing, but in no event shall this amount exceed the amount necessary to insure compliance with the rule or order of the Board.

X.

BOOKS AND RECORDS

10.1 Records. The Association or its manager, if any, shall keep the following records:

(a) An account for each Member, which shall designate the name and address of each Member, the amount of each Assessment, the dates on which each Assessment comes due, any other fees, costs or amounts payable by the Member, the amounts paid on the account and the balance due;

- (b) The most recent regularly prepared balance sheet and income and expense statement, if any, of the Association;
- (c) The current budgets;
- (d) A record of any unsatisfied judgments against the Association and the existence of any pending suits in which the Association is a defendant;
- (e) A record of insurance coverage provided for the benefit of Members and the Association;
- (f) Tax returns for state and federal income taxation;
- (g) Minutes of proceedings of meetings of the Members, Board members, committees of Board members and waivers of notice; and
- (h) A copy of the most current versions of the Declaration, Articles, Bylaws and Resolutions of the Board, along with their exhibits and schedules.

10.2 Examination. The books, records and papers of the Association (excepting any confidential and/or privileged books, records or papers) shall at all times, during normal business hours and after reasonable notice, be subject to inspection and copying by any Member, at their expense, for any proper purpose and subject to applicable law on confidentiality and right to privacy. The Board shall determine reasonable fees for copying.

XI.

INDEMNIFICATION

11.1 Obligation to Indemnify.

- (a) The Association shall indemnify any person:
 - (v) Who was or is a party, or is threatened to be made a party, to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by the Association);
 - (vi) By reason of the fact that the person is or was a Board member, officer or committee member of the Association;
 - (vii) Provided that the person is or was serving at the request of the Association in such capacity; and
 - (viii) Such person (A) acted in good faith; (B) acted in a manner which such person reasonably believed to be in the best interests of the Association; and (C) with respect to any criminal action or

proceeding, had no reasonable cause to believe the conduct was unlawful.

(b) The Association's obligation for indemnification shall include: (i) reasonable expenses (including expert witness fees, attorneys' fees and costs); (ii) judgments and fines; and (iii) reasonable amounts paid in settlement.

11.2 Determination Required. The Board shall determine whether the person requesting indemnification has met the applicable standard of conduct set forth above. Such determination shall be made by:

(a) By majority vote of those members of the Board who were not parties to such action, suit or proceeding; or

(b) By independent legal counsel in a written opinion if a majority of the members of the Board are parties to such action, suit or proceeding so directs; or

(c) By a vote of the Members if a majority of the members of the Board are parties to such action, suit or proceeding so directs.

(d) Determination of any action, suit or proceeding by judgment, order, settlement or conviction, or upon a plea of *nolo contendere* or its equivalent, shall not of itself create a presumption that the person did not act in good faith and in a manner reasonably believed to be in the best interests of the Association and, with respect to any criminal action or proceeding, had reasonable cause to believe the conduct was unlawful.

11.3 Payment in Advance of Final Disposition. The Association shall pay for or reimburse the reasonable expenses as described above in advance of final disposition of the action, suit or proceeding if the person requesting indemnification provides the Board with:

(a) A written affirmation of that person's good faith belief that he or she has met the standard of conduct described above; and

(b) A written statement that such person shall repay the advance if it is ultimately determined that he or she did not meet the standard of conduct described above.

11.4 No Limitation of Rights. The indemnification provided in this Article shall not be deemed exclusive of nor a limitation upon any other rights to which those indemnified may be entitled under any bylaw, agreement, vote of the Members or disinterested members of the Board, or otherwise, nor by any rights which are granted pursuant to the Act, as may be amended from time to time.

11.5 Board members' and Officers' Insurance. The Association may purchase and maintain insurance on behalf of any person who is or was an officer or member of the Board, the manager, committee members or anyone acting at the direction of the Board, covering defense and liability expenses arising out of any action, suit or proceeding asserted against such person by virtue of such person's actions on behalf of the Association or at the direction of the Board,

whether or not the Association would have the power to indemnify such person against such liability under provisions of this Article.

XII.

MISCELLANEOUS

12.1 Notices to the Association. All notices to the Association or the Board shall be delivered to the location of the regularly established office of the Association, or to such other address as the Board may designate by written notice to all Members.

12.2 Waiver. No restriction, condition, obligation or provision contained in these Bylaws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

XIII.

AMENDMENTS

13.1 Bylaw Amendments. These Bylaws may be amended only by the affirmative vote of a majority of the Board at any regular or special meeting of the Board, provided that a quorum is present at any such meeting.

13.2 Restriction on Amendments. No amendment of the Bylaws of this Association shall be adopted which would affect or impair the validity or priority of any security interest covering any Parcel, or which would materially change the provisions of the Bylaws with respect to a first lien security interest or the interest of an institutional mortgagee of record. Additionally, these Bylaws may not be amended during the Declarant Control Period without Declarant's prior written consent, which consent Declarant may withhold in its sole discretion.

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CERTIFICATION

I, the undersigned, do hereby certify that I am the Incorporator of the Jordan Bluffs Association, Inc., a Utah nonprofit corporation (the "Corporation"), and that the foregoing Bylaws constitute the Bylaws of said Corporation as duly adopted by the Board.

Matthew Winn, Incorporator

EXHIBIT "E"
TO
DECLARATION FOR JORDAN BLUFFS

The Applicable Zoning Ordinance in effect as of the date hereof, a copy of which is in the records of the Association.

EXHIBIT "F"
TO
DECLARATION FOR JORDAN BLUFFS

Addendum to Design Site Plan Jordan Bluffs – View 78, Midvale Utah Terracon Project No. 61177702, dated April 16, 2020, a copy of which is on file with the Association.

EXHIBIT "G"
TO
DECLARATION FOR JORDAN BLUFFS

Lot 1 Owner's Project Signage Location

