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WHEN RECORDED RETURN TO:  
Big Cottonwood Cove P.U.D.  
4968 S Holladay Pines Ct.  
Holladay, UT 84117

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ADAM GARDINER  
RECORDER, SALT LAKE COUNTY, UTAH  
BIG COTTONWOOD COVE PUD  
4968 S HOLLADAY PINES CT  
HOLLADAY UT 84117  
BY: NDP, DEPUTY - WI 29 P.

DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR BIG COTTONWOOD COVE HOA

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THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR BIG COTTONWOOD COVE P.U.D. (BCC) is made as of this 7TH day of FEBRUARY, 2018, by JAR, a limited liability company, referred to below as "Declarant."

**RECITALS:**

A. JAR Real Estate Development is the owner of certain real property, titled BIG COTTONWOOD COVE P.U.D., final plat described in Exhibit A (the "Big Cottonwood Cove P.U.D. Final Plat) located in Salt Lake County, Utah, which is more particularly described in Exhibit BA (the "Legal Description").

B. The Initial Property is a part of a larger tract of real property more particularly described in Exhibit C (the "Proposed Extended Plat"), with respect to which Declarant has a protective strip bordering the East side of Final Plat. Additional property may be added to the real property described in Exhibit A and may become a part of the Proposed Extended Plat property.

C. Declarant intends to develop a residential subdivision on the Entire Property. Declarant will develop and convey all of the Lots within the Subdivision subject to a general plan of development, and subject to certain protective covenants, conditions and restrictions all as set forth in this Declaration, and which are deemed to be covenants running with the land mutually burdening and benefiting each of the Lots within the Subdivision.

D. Declarant intends to develop the subdivision on the Entire Property in phases, with the initial phase consisting of the Initial Property.

## DECLARATION:

DECLARANT HEREBY DECLARES that all of the Lots within the Subdivision shall be held, sold, conveyed, encumbered, leased, used, occupied and improved subject to the protective covenants, conditions, restrictions and equitable servitudes set forth in this Declaration, all of which are created for the mutual benefit of the Owners of the Lots. It is the intention of the Declarant in imposing these covenants, conditions and restrictions to create a generally uniform pattern of development, to protect and enhance the property values and aesthetic values of the Lots by eliminating inconsistent uses or improvements, all for the mutual protection and benefit of the Owners of the Lots. The covenants, conditions and restrictions are intended to, and shall in all cases run with the title of the land, and be binding upon the successors, assigns, heirs, lien holders, and any other person holding any interest in the Lots, and shall inure to the benefit of all other Lots in the Subdivision to be located on the Entire Property. The covenants, conditions and restrictions shall be binding upon the Declarant as well as its successors in interest, and may be enforced by the Declarant or by any Owner, of a Lot within the Subdivision on the Entire Property. An instrument containing protective covenants, conditions and restrictions substantially similar to the covenants set forth in this Declaration, with such modifications or supplemental provisions as may be deemed appropriate by Declarant on a phase-by-phase basis to address differences in the circumstances affecting Lots to be constructed after the initial phase, may be recorded against Lots in subsequent phases of the Subdivision on the Entire Property.

Notwithstanding the foregoing, no provisions of this Declaration shall prevent the Declarant from doing any of the following, which shall be deemed to be among Declarant's reserved rights in addition to such rights as may be described elsewhere in this Declaration: (1) Installation and completion of the Subdivision Improvements; (2) use of any Lot owned by the Declarant as a model home, or for the placement of a temporary construction or sales office; (3) installation and maintenance of signs incidental to sales or construction which are in compliance with applicable ordinances; (4) assignment of Declarant's rights under this Declaration in whole or in part to one or more builders intending to construct homes within the Subdivision; and (5) retention of Declarant's rights with respect to the balance of the Entire Property, including the right not to include any portion of the balance of the Entire Property under the protective covenants, conditions and restrictions contained in this Declaration.

## COVENANTS, CONDITIONS AND RESTRICTIONS:

1. **Definitions.** Unless the context clearly requires the application of a more general meaning, the following terms, when used in this Declaration, shall have the following meanings:

1.1 "Additional Property" shall mean the balance of the Entire Property not included within recorded Plats.

1.2 "Architectural Committee" shall mean the committee created under Section 2 of this Declaration.

1.3 “Declarant” shall mean and refer to JAR Real Estate Development (JAR), a dba for Rice Asset Mgmt, LLC, a Utah Limited Liability Company, and any successor to in the ownership of Lots or the balance of the Entire Property where ownership is conveyed in connection with a total or limited assignment and assumption of Declarant’s rights and obligations under this Declaration.

1.4 “Declaration” shall mean this Declaration of Covenants, Conditions and Restrictions, together with any subsequent amendments or additions. The Subdivision Plats for Big Cottonwood Cove P.U.D., and the easements and other matters shown on any such Plat, are also incorporated into this Declaration by reference.

1.5 “Dwelling” shall mean the single family residence built or to be built on any Lot, including the attached garage.

1.6 “Entire Property” shall have the meaning set forth in the recitals. Additional property not included with the legal descriptions attached to this Declaration may be incorporated as a part of the Entire Property by recordation by either Declarant of a supplemental declaration submitting the additional property to the terms and conditions of this Declaration.

1.7 “Family” shall mean one household of persons related to each other by blood, adoption or marriage, or one group of not more than five people not so related living together as a unit who maintain a common household.

1.8 “Homeowner’s Association” shall be comprised of all home owner’s in BIG COTTONWOOD COVE P.U.D. and be referred to as the BIG COTTONWOOD COVE HOA.

1.9 “Improvement” shall mean all structures and appurtenances of every type and kind, including but not limited to buildings, Dwellings, garages, storage buildings, walkways, retaining walls, sprinklers, pipes, driveways, fences, landscaping, pools, decks, stairs, poles, lighting, signs, satellite dishes or other antennas, and any mechanical equipment located on the exterior of any building.

1.10 “Initial Property” shall have the meaning set forth in the recitals.

1.11 “Lot” shall mean any numbered building Lot shown on any official plat of all or a portion of the Subdivision.

1.12 “Owner” shall mean the person or persons having title to any Lot. Where the context requires, Owner shall also include the Owner of the Additional Land. Owner shall mean the person holding fee simple title, including the Declarant, and buyers under any installment contract entitling the buyer to the delivery of a deed, but shall exclude any person or entity holding title for purposes of securing performance of an obligation.

1.13 “Person” shall mean a natural person or any legal entity with a right to hold title to real property in its own name in the State of Utah.

1.14 "Plat" shall mean an official ownership plat of any phase of the Big Cottonwood Cove P.U.D. as approved by the City of Holladay (the "City") and recorded in the office of the Salt Lake County Recorder, as it may be amended from time to time.

1.15 "Recreational Equipment" shall mean the following not exceeding six (6) feet in height: boats, camper shells, trailers, camping equipment and other similar small recreational equipment, patio and lawn furniture

1.16 "Recreational Vehicles" shall mean campers, recreational vehicles or other on-road or off-road vehicles in excess of six feet in height.

1.17 "Subdivision" shall mean all phases of the BIG COTTONWOOD COVE P.U.D. and all Lots and other property within the Subdivision as shown on the Plats covering the Entire Property.

1.18 "Subdivision Improvements" shall mean all subdivision improvements to be installed outside of the boundaries of Lots or within easements as identified on the Plats that are necessary to provide public road access and utility service to the Lots, and including other construction work required to comply with any conditions of the City or other governmental agencies to the approval of the Subdivision or any Plat thereof.

1.19 "City" shall mean the City of Holladay, Salt Lake County, Utah, and its appropriate departments, officials, and boards.

1.20 "Common Area" shall mean all land or property within Big Cottonwood Cove P.U.D. that is not owned individually by an Owner, such as the swimming pool, playground and other such areas that are not specifically and legally contained within an Owner's lot but is part of the overall development. Such areas will be "Common Area" and owned jointly by the lot Owner's of Big Cottonwood Cove P.U.D..

**2. Architectural Committee.** It is the intention and purpose of these covenants, conditions and restrictions to impose architectural standards on the Improvements to any Lot of a type and nature that result in buildings which are architecturally compatible in terms of scale, proportion, materials, colors, and general appearance, and result in coordination and compatibility of landscaped features, while at the same time allowing for diversity in style and design appropriate for the desert setting. To accomplish this goal, the Declarant hereby establishes the Architectural Committee, which is empowered to oversee and enforce the Architectural Design Standards set forth in this Declaration and in any design guidelines developed pursuant to the terms of this Declaration.

2.1 Architectural Committee Created. The Architectural Committee will consist of three members. Declarant reserves the right to appoint the Architectural Committee for the first fifteen (15) years after the recordation of this Declaration. Declarant may waive its exclusive right to appoint members of the Architectural Committee prior to the expiration of the fifteen (15) year period by recording a written supplement to this Declaration. At the time Declarant's exclusive right to appoint

the Architectural Committee expires or is waived, the Architectural Committee then in existence shall have the right to remove or replace members of the Architectural Committee, subject to the right of the Owners of 60% of the Lots (including the Owner of the Additional Property and counting the number of Lots anticipated on the Additional Property) exercised by a written agreement, to remove and replace one or more members of the Architectural Committee, with or without cause. The initial committee will consist of three people appointed by the Declarant, who do not need to be Owners. At the time 75% of the Lots (including the number of Lots anticipated on the Additional Property) are sold to persons other than the Declarant, at least one member of the Committee shall be an Owner of a Lot. At the time that 90% of the Lots (including the number of Lots anticipated on the Additional Property) are sold to persons other than the Declarant, at least two members of the Committee will be Owners.

2.2 Approval by Committee Required. No Improvements of any kind, including without limitation the construction of any Dwelling, garage, out-building, parking area, driveway, tennis court, walkway, or other hard surfaced area in excess of 150 square feet, swimming pools, outdoor hot tubs or spas, fences, walls, curbs, poles, trampolines, satellite dishes or antenna, solar panels, or any other permanent structure may be constructed, erected, or installed in the Subdivision without the prior consent of the Architectural Committee. No excavation, grading, filling, draining, landscaping, or installation or removal of existing vegetation shall be made without the advance written consent of the Architectural Committee. Approval of the Committee will be sought in the following manner:

(a) Plans Submitted. Plans for the construction of any new Dwelling must be submitted to the Committee for review. The plans must be in sufficient detail to show the location on the Lot of the exterior walls of the Dwelling and all other structures to be built with it; detailed drawings of all elevations of all buildings showing locations of windows, doors, roof pitches, decks and other exterior elements; a list of exterior siding and roofing materials and/or a sample, including color samples; and a landscape plan showing the location of landscaped areas, fences (including fence design), driveways, walkways, patios, decks and other hard surfaced or irrigated areas and the areas to be disturbed by construction and the means of restoring those areas. In the case of an addition or modification of an existing Dwelling, the Committee may waive any of the foregoing it feels are unnecessary to its review of the remodel or addition. Four copies of the plans shall be submitted to facilitate the architectural review.

(b) Review Fee. The applicant will pay a review fee to the Committee in an amount necessary to cover the costs of review and the administration of the program in an amount to be established from time to time by the Architectural Committee. The initial review fee shall be \$100 for each new Dwelling, \$50 for each addition, remodel or installation of Improvements that cost less than \$1,000, or \$25 for construction that makes no structural changes, whichever is applicable. At the time of submission, the applicant shall also submit the deposit provided in section 7.5 below. In addition, the Architectural Committee may assess a fee for the professional review of the plans in accordance with the provisions of section 2.4 below, which fee would also be payable at the time of submission of the plans. The Committee shall have no obligation to account for the use of any application fees submitted pursuant to this section. No review shall commence until the chair of the Architectural Committee considers the submission complete and all fees are paid. All application and review fees for Improvements designed and constructed by any person or entity affiliated with Declarant shall be waived.

(c) Review. Within 15 days from receipt of a complete submission, the Committee will review plans and make an initial determination whether or not the plans comply with the conditions imposed by the Declaration and the design guidelines developed pursuant to this Declaration. The plans may be approved, approved subject to compliance with modifications or conditions or rejected in the exercise of the discretion of the Architectural Committee. Owners may desire to submit preliminary plans for review. The Committee will review preliminary plans, without fee, and make its comments known to the Owner, provided, however, that no preliminary approval is to be considered a final approval, and no final approval will be granted on less than a complete submission. Upon approval, the Committee and the Owner will each sign the copy of the plans. Two copies shall be retained by the Committee, and the other two copies shall be returned to the Owner for use in connection with the construction of the Improvements. No construction that is not in strict compliance with the approved plans will be permitted.

(d) Written Record. The Committee will maintain a written record of its actions, and maintain in its files a copy of all plans approved or rejected for a period of five years.

(e) Failure to Act. If the Committee has not approved or rejected any submission within 45 days after payment of the review fee and submission of complete plans, the submission is deemed to have been disapproved.

(f) Address for Submission of Plans and Fees. The initial address for submission of the plans and fees shall be in care of JAR at 4968 S Holladay Pines Ct., Holladay, Utah 84117. JAR may designate a different address in an instrument recorded in the Salt Lake County Recorder's Office referencing this Declaration.

2.3 Variations. Variations to the design standards contained in this Declaration may be granted by the Architectural Committee when strict application would create an unreasonable hardship to the Owner of any Lot because of the configuration of the Lot. No variance, of any kind, may be granted without notice to the Owners of Lots within 150 feet of any boundary of the Lot applying for the variance disclosing the variance and providing an opportunity to make comments on the variance. The Architectural Committee shall have no power to grant any variance that has the effect of modifying applicable zoning or building code regulations. The burden of obtaining a variance is entirely on the applicant, including the costs of notice.

2.4 Costs of Professional Review. The Committee may engage the services of an architect, a civil or structural engineer or another design professional to assist in its review of any proposed Improvements on a case-by-case basis or may elect to require the review of a design professional for every application. All costs of such additional review will be paid by the applicant, provided, however, that no architect or engineer will be hired without advance notice to the applicant of the intention to hire a review architect or engineer and the estimated cost of that review. The costs of such review must be paid by the applicant prior to the commencement of any review. If the applicant does not withdraw the proposal within five days after receipt of that notice, the applicant shall be deemed to have consented to

the Committee retaining such professional assistance. Whenever the Committee retains outside professional services in its review, the reviewing design professional is acting only in an advisory capacity, and the applicant, on behalf of the applicant and the applicant's successors and assigns, waives any and all claims against the Committee in the event that advice from, or conditions imposed by, the reviewing professional prove ineffective, unnecessary, or inappropriate to the circumstances.

2.5 General Design Review. The Committee will use its best efforts to provide a consistent pattern of development, and consistent application of the standards of this Declaration. These standards are, of necessity, general in nature, and it is the Committee's responsibility to apply them in a manner that results in a high quality, attractive, and well designed community.

2.6 Declarant and Committee Not Liable. The Declarant and the Committee and its members and consultants shall not be liable to the applicant for any damages, or to the Owners of any Lots within the Subdivision for their actions, inactions, or approval or disapproval of any set of plans submitted to the Committee for review. The Owners shall have no claim against the Declarant or Committee as a result of the performance or failure to perform the duties created by this Declaration. Each Owner has the right to enforce these covenants against every other Owner, and may seek independent redress if it believes the Committee has acted improperly.

2.7 Limitations on Review. The Committee's review is limited to those matters expressly granted in this Declaration. The Committee shall have no responsibility to design or review in accordance with, confirm compliance with or enforce building codes, zoning ordinances, or other statutes, laws, or ordinances affecting the development or improvement of real property or building, engineering or soils standards applicable to the proposed construction. Neither the Committee, its members nor its consultants shall have any liability to any Owner whose approved plans included any violation of law or failure to comply with any other applicable standard. Corrections or changes in plans to bring them into conformity with applicable codes must be approved by the Committee prior to construction.

2.8 Design Guidelines. The Architectural Committee may develop specific design guidelines in addition to those standards and restrictions set forth in this Declaration to provide additional design guidance, including guidelines with respect to architectural features, colors and materials. Those design guidelines shall be binding on Owners to the same extent as if set forth in this Declaration.

**3. Restrictions.** The following restrictions on use apply to all Lots within the Subdivision:

3.1 Zoning Regulations. The lawfully enacted zoning regulations of the City, and any building, fire, and health codes are in full force and effect in the Subdivision, and no Lot may be occupied in a manner that is in violation of any such statute, law, or ordinance.

3.2 Residential Use; No Mining Uses. The property within the Subdivision shall be used for residential purposes only, and no mining, drilling, prospecting, mineral exploration or quarrying activity will be permitted at any time. Residential purposes shall be deemed to include the use of a Lot or



portion thereof for a swimming pool, tennis court or other similar recreational amenity. Further, Declarant reserves the right to designate a portion of the Subdivision, including one or more platted Lots, for recreational uses or for the storage of Recreational Vehicles by filing an amendment to this Declaration designating the area in question. No such amendment shall require the approval of any Owners.

3.3 No Business or Commercial Uses. No portion of the Subdivision may be used for any commercial business use, provided, however, that nothing in this provision is intended to prevent (i) the Declarant from using one or more Lots for purposes of a construction office or sales office during the actual period of construction of the Subdivision Improvements or until all of the Lots are sold, or (ii) the use by any Owner of a part of a home for a home occupation. No home occupation will be permitted, however, which requires or encourages the Owner's clients, customers, patients or others to come to the home to conduct business, or which requires any employees outside of the Owner's immediate family or household. No retail sales of any kind may be made in the Subdivision.

3.4 Restrictions on Signs. The Subdivision may, at the option of Declarant, be identified on a sign to be permanently maintained at the Project entrance or entrances. No signs will be permitted on any Lot or within the Subdivision, except for traffic control signs placed by the County, temporary signs warning of some immediate danger, or signs not in excess of six square feet identifying the contractor and/or architect of any Dwelling unit while it is under construction. Signs indicating the Lot is for sale may be placed in accordance with applicable sign regulations, and no such sign may exceed three square feet. The Declarant may erect a sign at the entrance or entrances to the Subdivision for a period of no more than two years after the recordation of the last Plat within the Subdivision announcing the availability of Lots and giving sales information. No permanent signs stating the address or the name of the owner of the Lot may be installed without the advance consent of the Architectural Committee.

3.5 Animals. No animals other than not to exceed two ordinary household pets may be kept on any Lot. This restriction specifically excludes keeping horses on any Lot. Each Owner shall be responsible for their pets becoming a nuisance or bothering neighbors by reason of noise, odors or other problems. No kennel or dog run may be placed on lot. No wire fencing shall be allowed.

3.6 Underground Utilities. All gas, electrical, telephone, television, and any other utility lines in the Subdivision are to be underground, including lines within any Lot which service installations entirely within that Lot. No propane tanks or oil tanks may be installed on any Lot.

3.7 Maintenance of Property. All Lots, and the Improvements on them, shall be maintained in a clean, sanitary, attractive and marketable condition at all times. No Owner shall permit his Lot or the Improvements on it to fall into disrepair. It is the intent of the Developers, JAR; to have the Homeowner's Association be in charge of maintaining all Common Areas and Owner's lots by an outside landscape service company. It is also the intent of the Developer to contract with an outside service company for snow and garbage removal. The costs for these services will be allocated on a prorated basis to the Owners bases upon their lot size.

3.8 No Noxious or Offensive Activity. No noxious or offensive activity shall be carried out on any Lot, including the creation of loud or offensive noises or odors that detract from the reasonable

enjoyment of nearby Lots.

3.9 No Hazardous Activity. No activity may be conducted on any Lot that is, or would be considered by a reasonable person to be unreasonably dangerous or hazardous, or which would cause the cancellation of conventional homeowners insurance policy. This restriction includes, without limitation, the storage of caustic, toxic, flammable, explosive or hazardous materials in excess of those reasonable and customary for household uses, the discharge of firearms or fireworks, and setting open fires (other than properly supervised and contained barbecues).

3.10 No Unsightliness. No unsightliness is permitted on any Lot. Unsightliness shall include, without limitation, the open storage of any building materials (except during the construction of any Dwelling unit or addition); open storage or parking of farm or construction equipment, trucks larger than pick-up trucks (except during periods of actual loading and unloading) or inoperable motor vehicles; accumulations of lawn or tree clippings or trimmings; accumulations of construction debris or waste; household refuse or garbage except as stored in tight containers in an enclosure such as a garage; and the storage or accumulation of any other material, vehicle, or equipment on the Lot in a manner that it is visible from any other Lot or any public street.

3.11 Storage of Recreational Equipment. Owners are not to store recreational equipment (RE) or recreational vehicles (RV) any where on their lot except inside of their garage. RE and RV's may be parked occasionally in Owner's driveways or parking stalls for occasional use, but at no time is an owner to park or store these vehicles or equipment for more than on occasional few days.

3.12 No Annoying Lights. Any outdoor lighting shall be subject to approval by the Architectural Committee, and no outdoor lighting shall be permitted except for lighting that is designed to aim downward and limit the field of light to the confines of the Lot on which it is installed. This shall not apply to street lighting maintained by the City.

3.13 No Annoying Sounds. No speakers or other noise making devices may be used or maintained on any Lot which creates noise that might reasonably be expected to be unreasonably or annoyingly loud from adjoining Lots, except for security or fire alarms.

3.14 Drainage. No Owner shall alter the direction of natural drainage from his Lot, nor shall any Owner permit accelerated storm run-off to leave the Lot without first using reasonable means to retain the water and dissipate the flow energy of water that leaves the Lot.

3.15 Vehicles Restricted to Roadways. Except during construction, no motor vehicle will be operated on the Subdivision except on improved roads and driveways.

3.16 No Transient Lodging Uses. The Lots are to be used for residential housing purposes only, and shall not be rented in whole or in part for the conduct of a transient lodging business, or the operation of a boarding house, "bed and breakfast," or other uses for providing accommodations to travelers. This section shall not prohibit the rental of a home for vacation purposes.

3.17 No Re-Subdivision. No Lot may be re-subdivided without the consent of the Architectural Committee, and no re-subdivision of any Lot may result in the construction of any

additional Dwelling units within the Subdivision.

3.18 Combination of Lots. Subject to the provisions of this Declaration and the limitations set forth in this Section, any Owner may combine two or more adjoining Lots within the Subdivision. The placement of the Dwelling on the combined Lots shall be subject to review and approval of the Architectural Committee. The Architectural Committee may require supplemental landscaping to mitigate the effect of the Lot combination on neighboring properties and the appearance of the neighborhood. The combination of Lots is deemed to be permanent and the Lots may not be independently sold once construction has commenced on the Improvements for the combined Lot. The Owner of any Lots that have been combined will execute and deliver to the Committee a notice in recordable form, containing the name of the Owner and the legal description of the Lots combined, which Notice will state that the two Lots have been combined and cannot subsequently be subdivided. The Committee shall record this Notice with the Washington County Recorder upon the commencement of construction of the Dwelling on the combined Lots.

**4. Design Standards for Improvements.** All Improvements on any Lot shall be subject to the following restrictions and architectural design standards:

4.1 Number of Dwellings. Only one Dwelling may be constructed on any Lot. All Dwellings shall have an attached garage for at least two cars. No other habitable structure may be permitted on any Lot. A separate storage structure may be permitted by the Architectural Committee on a Lot on the conditions that the structure is permitted by the City. The Architectural Committee may condition such approval on the Owner's compliance with conditions with respect to use, location, height, color, materials, fencing and/or landscaping.

4.2 Dwelling Size. The minimum allowable Dwelling size for each Lot in the Subdivision, stated as the square footage of the main floor living area of the Dwelling that is under roof and enclosed by walls (excluding for this purpose the garage and any unfinished storage areas) is 2,000 square feet.

4.3 Dwelling Setback and Placement. All portions of the Dwelling unit are to be within the minimum front, rear and side yard setbacks as shown on the Plat or as required by the City.

4.4 Dwelling Height. No structure on any Lot may exceed 32 feet in height as measured at the natural grade on the Lot prior to construction, to the highest point on the ridge line of the roof.

4.5 Roof Design. All replacement roofing material shall be approved by Architectural Committee. The Architectural Committee reserves the right to specify the brand name and color of one or more approved roof materials.

4.6 Exterior Style, Surface Materials, Accent Materials and Colors. The Architectural Committee may maintain a list of architectural features and standards to be reflected on the exterior of each structure constructed within the Subdivision. Stucco shall be the exterior surface material used, but the Architectural Committee may approve other accent materials consistent with the required design style including tile, wood, stone and concrete. The Architectural Committee shall have the right to

specify the color of each structure within the Subdivision in order to encourage and achieve an appropriate mix of colors while promoting and achieving the harmonious development of the streetscape within the Subdivision. The Architectural Committee shall maintain a list of approved stucco colors. No reflective materials shall be used on the exterior of any structure. The Architectural Committee may require Improvements to be protected by a concrete or gravel apron to avoid soil staining.

4.7 Chimneys, Vents. Chimneys must be enclosed in an approved material. No exposed metal flues are permitted. All chimney tops on any Dwelling must be of identical design. Vent stacks must be combined to the extent possible to minimize the number of roof penetrations, and should generally not be visible from the street.

4.8 Antennas; Solar Panels; Mechanical Equipment. All antennas must be enclosed within the Dwelling unless specifically approved by the Architectural Committee. The Architectural Committee may develop standards for the location on the roof of a satellite dish that does not exceed 24 inches in diameter. Any satellite dishes larger than 24 inches in diameter must be located on the ground and screened in a manner approved in advance by the Architectural Committee so that they are not directly visible from adjoining Lots. Solar panels will be permitted only with the consent of the Architectural Committee, and if permitted at all, must lie flat against the roof and may not differ in pitch or color from the roof surface on which they are mounted. Exterior mechanical equipment must be screened in a manner approved by the Architectural Committee and may not be located on the roof.

4.9 No Used or Temporary Structures. No previously erected, used, or temporary structure, mobile home, trailer house, or any other non-permanent structure may be installed or maintained on any Lot.

**5. Landscape Standards.** Water is a precious resource in the desert environment, and careful planning should be given to the water demands created by landscaping of Lots. It is the intent of this Declaration to require appropriate landscaping of Lots following construction of any Improvements, and to encourage the use of appropriate drought tolerant plant materials. The use and Improvement of each Lot is subject to the following Landscape Standards:

5.1 Front and Side Yard Landscaping Required. Each Owner if they are to make any changes in landscape shall be required to submit landscape plans to the Architectural Committee. Landscaping may consist of planter areas containing shrubs, plants, ground covers, trees and organic or gravel mulch, lawn areas with grass, graveled areas and areas of native vegetation that are maintained to prevent weed growth. The landscaping plan shall be submitted to the Architectural Committee for approval. The landscaping plan shall generally comply with the following guidelines: The front yard next to the sidewalk and the front yard next to the Dwelling shall be covered predominately by planter areas of shrubs, plants, trees, ground covers and mulch that will provide vertical relief from flat or hard surfaces. The side portion of the front yard shall be designed to coordinate generally with the landscaping on the adjacent Lot. The Architectural Committee may establish a general guideline for landscaping limiting the excessive use of grass or gravel or a combination of the two in the landscaping of the front yard (which guideline or limitation shall not count the use of gravel as a mulch in planter areas containing shrubs and plants), or require additional planter areas to provide visual relief from

extended flat surfaces. The landscaping plan must also provide for automatic sprinklers to water all planted and grass areas. The colors and style of gravel and stone may be limited by the Architectural Committee.

5.2 Rear Yard Landscaping. The Architectural Committee may establish standards for rear yard landscaping and may prohibit the exclusive use of grass, gravel or a combination of the two in the rear yard. The Architectural Committee may approve a delay in such installation upon the request of an Owner based on good cause.

5.3 Drought Tolerant Plants Recommended. The use of drought tolerant species of grasses, shrubs, and trees is strongly recommended. The Architectural Committee may maintain a list of drought tolerant species suitable for different exposures within the Salt Lake County area. The majority of the planted area of each Lot is to be planted with species from any list maintained by the Architectural Committee for this purpose.

5.4 Placement of Trees. Other than the replacement of existing trees that are a part of the original landscape plan trees will be subject to review by the Architectural Committee. The location of trees will be subject to review by the Architectural Committee.

5.5 Sprinkler Systems. Permanent underground sprinkler systems with automatic controls are required within any vegetated area.

5.6 Fences and Walls. Fencing or walling of Lots along the Lot line or any area within the lot lines shall not be permitted in the Subdivision only as allowed by the Architectural Committee. The area that may be enclosed with a six foot high fence or wall shall be limited to the common areas, such as swimming pool, playground or perimeter of development. No fencing or walls shall occur in the front yard area of any Lot. The Architectural Committee reserves the right to change the design, finish, color, texture, materials of any of the fences, walls, gates or pillars in the development.

**6. Owners' Maintenance Obligations.** It is the obligation of each Owner to maintain his Lot at all times in order to preserve and enhance the enjoyment of the Subdivision:

6.1 Duty to Maintain. It is the obligation of the Homeowner's Association to maintain the landscaping of each owner's lot and pass those expenses on to each owner based upon a prearranged formula. All landscaped areas shall be watered by an automatic sprinkling system as appropriate for the landscaping installed. The Home Owner's Association will also hold meetings on a regular basis to determine what items upon Owner's lot will be maintained by the Homeowner's Association and what must be maintained by the individual owners.

6.1.a. Duty to Maintain Master Water Meter. It is the duty of the Homeowner's Association (and Declarant prior to the HOA assuming control) to install and maintain the Master Water Meter that will be installed at JAR's expense in order to service all properties within the PUD. Salt Lake Utilities will be the water service provider and all billing will be paid by the HOA and then Assessed to each HOA member/home owner.

6.2 Repair by Architectural Committee. In the event that an Owner permits his Lot or Improvements to fall into a state of disrepair that is dangerous, unsafe, unsanitary, or unsightly condition or fails to comply with any other covenant or restriction in violation of this Declaration, the Architectural Committee may give written notice to the Owner describing the condition complained of and demanding that the Owner correct the condition within thirty (30) days or within seven (7) days with respect to any failure to adequately maintain and water landscaping. If the Owner fails to take corrective action, the Architectural Committee shall have the right, but not the obligation, to enter upon the offending Owner's Lot and take corrective action to abate the condition. All costs of abatement shall be charged to the Owner, who agrees to promptly pay the reasonable costs of any work performed under this provision. In addition, each Owner hereby grants to the Architectural Committee a lien on the Lot and any Improvements to secure repayment of any sums advanced pursuant to this section, which lien may be foreclosed at any time by the Architectural Committee in the manner prescribed in Utah for the foreclosure of mortgages. Alternatively, without requiring foreclosure, the Architectural Committee may seek collection of sums advanced directly from the Owner of the Lot in question. Unpaid amounts will bear interest from the date advanced at the lawful judgment rate under applicable state law. The Architectural Committee is hereby granted the right of access to the Lot and Improvements of the offending Owner to the extent reasonably required to abate any condition covered in a notice given pursuant to this Section.

6.3 Alterations of Exterior Appearance. The Owners will maintain their Lots and improvements in substantially the same condition and appearance as that approved by the Architectural Committee. No subsequent exterior alterations, improvements or remodeling, whether structural or changes in landscaping, paint color or siding or trim materials will be made without the advance consent of the Committee.

6.4 Repair Following Damage. In the event of casualty loss or damage to the Improvements, the Owner will be entitled to reconstruct the Improvements as they existed prior to the damage or loss without review by the Committee, provided however that alterations or deviations from the originally approved plans will require review. Nothing in this Declaration is intended to prevent an Owner who has suffered property damage or loss from taking temporary measures to secure the property and prevent further damage, or to prevent injury or dangerous conditions following loss or damage, before reconstruction begins. Such temporary measures may be taken without the consent or approval of the Architectural Committee, provided that any such measures must be of a temporary nature, and repair or reconstruction must begin as soon as circumstances will permit. No damaged structure will be permitted to remain on any Lot for more than 90 days without repairs commencing, and any damaged structure which does remain unrepaired after 90 days following the occurrence of damage is deemed a nuisance which may be abated by the Architectural Committee.

7. **Construction Covenants.** In order to minimize the inconvenience to adjoining Owners during periods of construction within the Subdivision, the following construction regulations shall be enforced. These regulations shall be made a part of the construction contract between the Owner and the builder of each Dwelling or other Improvements on a Lot. The Owner shall be bound by these regulations, and violations committed by the builder or its employees, sub-contractors or others shall be deemed a violation by the Owner for which Owner is liable.

7.1 Construction Area Appearance. The Lot must be maintained in a reasonably organized and neat condition at all times during the construction of a Dwelling or other Improvements. Once the Dwelling is enclosed, materials shall be stored inside, and out of sight, whenever practical and possible.

7.2 Construction Debris Removal. The builder must comply with ordinances requiring the removal of trash on the Lot. Each builder shall collect trash at the end of each work day and depositing construction trash, packing material, unusable scraps, and other debris in a suitable container, protected from the wind, and regularly serviced. No trash may be burned, buried, or otherwise disposed of within the Subdivision. No concrete trucks may be cleaned out on the Lot or elsewhere within the Subdivision.

7.3 Soil Conservation; Dust. At all times when the surface of the Lot is disturbed by construction activity, and re-vegetation has not been completed, the builder shall practice reasonable dust, sedimentation and erosion control measures.

7.4 Removal of Mud. The builder is responsible for cleaning up and removing mud from the construction site that is deposited on the roadways of the Subdivision.

7.5 Sanitary Facilities. The builder is responsible for the installation and maintenance of an approved portable toilet facility during construction. The portable toilet must be located on the Lot at a location approved by the Committee, and removed from the site at such time as the permanent plumbing system is operational.

7.6 Construction Parking and Vehicles. Construction crews must park their vehicles on the Lot on which they are working, and shall not use or park on any other Lot. All vehicles must be parked to allow the free flow of traffic within the Subdivision.

7.7 Construction Sign. During periods of actual construction on the Dwelling, the Owner or builder may install a sign not to exceed six square feet in area identifying the Lot and the builder. The sign must be removed upon completion or abandonment of construction.

7.8 Hours of Work. Daily working hours on the site shall be limited to the period beginning one half hour after sunrise and ending one half hour before sunset, unless otherwise restricted by ordinances. Each builder is responsible for controlling noise emanating from the site.

7.9 Duration of Construction. No construction shall be undertaken without a Building Permit and all other necessary permits from the City and any other governmental entity having jurisdiction over construction on the site. No materials, tools, temporary offices or portable toilets, excavation or construction equipment, or similar materials or equipment may be delivered to this site prior to the issuance of the Permit. It is the obligation of the Owner to proceed with construction with all reasonable speed once construction has commenced, and in any event, all exterior surfaces of the Dwelling shall be substantially complete within a period of six (6) months from commencement.

**8. General Provisions.** The covenants, conditions, and restrictions contained in this Declaration may be enforced as follows:

8.1 Violation Deemed a Nuisance. Any violation of these Covenants which is permitted to remain on the property is deemed a nuisance, and is subject to abatement by the Architectural Committee or by any other Owner.

8.2 Remedies.

(a) Any single or continuing violation of the covenants contained in this Declaration may be enjoined in an action brought by the Declarant (for so long as the Declarant is the Owner of any Lot), by any other Owner, or by the Architectural Committee in its own name. In any action brought to enforce these covenants, the prevailing party shall be entitled to recover as part of its judgment the reasonable costs of enforcement, including attorneys fees and costs of court.

(b) Nothing in this Declaration shall be construed as limiting the rights and remedies that may exist at common law or under applicable federal, state or local laws and ordinances for the abatement of nuisances, health and safety, or other matters. these covenants are to be construed as being in addition to those remedies available at law.

(c) The remedies available under this Declaration and at law or equity generally are not to be considered as exclusive, but rather as cumulative.

(d) The failure to take enforcement action shall not be construed as a waiver of the covenants contained in this Declaration in the future or against other similar violations.

8.3 Severability. Each of the covenants contained in this Declaration shall be independent of the others, and in the event that any one is found to be invalid, unenforceable, or illegal by a court of competent jurisdiction, the remaining covenants shall remain in full force and effect.

8.4 Limited Liability. Neither the Declarant or the Architectural Committee or its individual members, nor any other Owner shall have personal liability to any other Owner for actions or inactions taken under these covenants, provided that any such actions or inactions are the result of the good faith exercise of their judgment or authority, under these covenants, and without malice.

8.5 Amendment. At any time while this Declaration is in effect, the Owners of 80% of the Lots may amend the provisions of this Declaration. For purposes of this vote the Owners of Lots shall include the Owner of the Additional Land, who shall be entitled to one vote for each Lot anticipated on the Additional Land, whether or not the Additional Land has yet been subdivided. Any amendment must be in writing and be approved by 80% of such Owners at the time of the amendment. No such amendment will be binding upon the holder of any mortgage or trust deed unless the holder joins in the amendment. No amendment which limits the rights of the Declarant or its successors in interest to expand the Subdivision or otherwise affects the Additional Land shall be effective without the written consent of the Declarant or other Owner of the Additional Land.



8.6 Constructive Notice. Every person who owns, occupies, or acquires any right, title or interest in any Lot in the Subdivision is conclusively deemed to have notice of this Declaration and its contents, and to have consented to the application and enforcement of each of the covenants, conditions and restrictions against his Lot, whether or not there is any reference to this Declaration in the instrument by which he acquires his interest in any Lot.

8.7 Notices. All notices under this Declaration are deemed effective 72 hours after mailing, whether delivery is proved or not, provided that any mailed notice must have postage pre-paid and be sent to the last known address of the party to receive notice. Notices delivered by hand are effective upon delivery.

8.8 Liberal Interpretation. The provisions of this Declaration shall be interpreted liberally to further the goal of creating a uniform plan for the development of the Subdivision. Paragraph headings are inserted for convenience only and shall not be considered in interpretation of the provisions. Singular will include plural, and gender is intended to include masculine, feminine and neuter as well.

The foregoing instrument was executed as of the date stated above.

JAR Real Estate Development a dba for Rice Asset Mgmt  
LLC

By: 

Jay Rice, Manager

State of Utah )

:ss

County of Salt Lake )

The foregoing instrument was acknowledged before me on the 8 day of February, 2018, by Jay Rice, a Manager of JAR Real Estate Development, dba for Rice Asset Mgmt LLC.



Notary Public

Residing at: Salt Lake City, UT

My Commission Expires:

06/28/2021

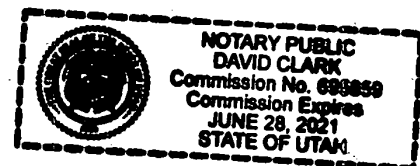




Exhibit B

**Legal Description of Big Cottonwood Cove PUD**

*PARCEL- 22-22-104-006*

BEGINNING AT A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF BIG COTTONWOOD CANYON ROAD, SAID POINT BEING NORTH 89°56'00" EAST 1263.15 FEET ALONG THE SECTION LINE AND SOUTH 33.00 FEET FROM THE NORTHWEST CORNER OF SECTION 22, TOWNSHIP 2 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, AND RUNNING THENCE NORTH

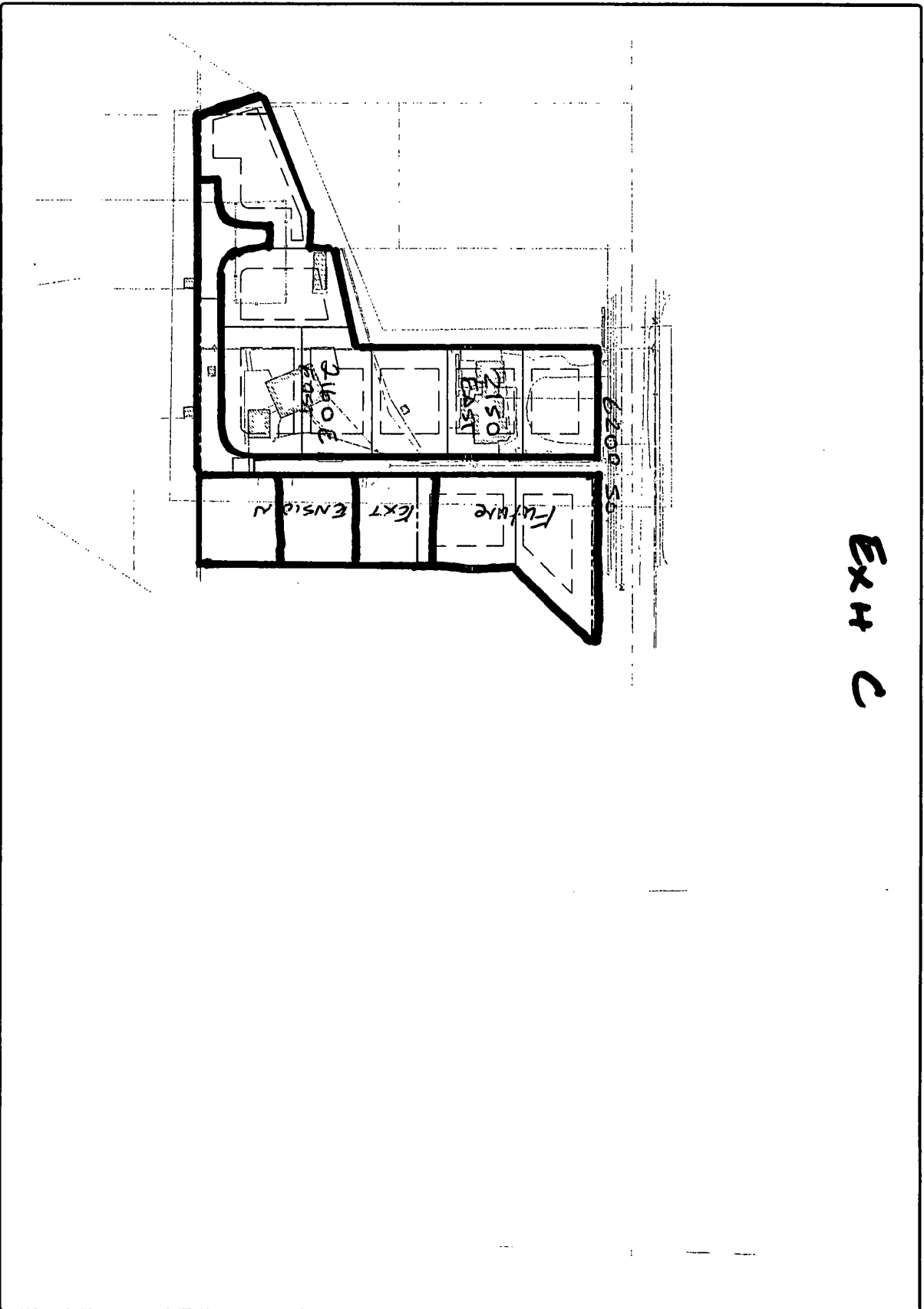
89°56'00" EAST 125.50 FEET ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE; THENCE SOUTH 398.29 FEET TO A POINT ON THE NORTH LINE OF BISCAYNE NO.8 SUBDIVISION RECORDED MARCH 28, 1968 AS ENTRY NO. 2239071 IN BOOK FF OF PLATS AT PAGE 41 AT THE OFFICE OF THE SALT LAKE RECORDER; THENCE WEST 358.31 FEET ALONG SAID NORTH LINE; THENCE NORTH 01°01'56" WEST 67.31 FEET; THENCE NORTH 68°05'34" EAST 109.37 FEET; THENCE NORTH 84°55'53" EAST 33.09 FEET; THENCE NORTH 00°04'00" WEST 20.00 FEET; THENCE NORTH 71°14'37" EAST 13.85 FEET; THENCE NORTH 78°18'45" EAST 88.34 FEET; THENCE NORTH 244.77 FEET TO THE POINT OF BEGINNING.

SUBJECT TO A 16.5 FOOT RIGHT-OF-WAY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF BIG COTTONWOOD CANYON ROAD, SAID POINT BEING NORTH 89°56'00" EAST 1372.15 FEET AND SOUTH 33.00 FEET FROM THE NORTHWEST CORNER OF SECTION 22, TOWNSHIP 2 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, AND RUNNING THENCE NORTH 89°56'00" EAST 16.50 FEET ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE; THENCE SOUTH 345.00 FEET; THENCE SOUTH 89°56'00" WEST 16.50 FEET; THENCE NORTH 345.00 FEET TO THE POINT OF BEGINNING.

CONTAINS 76,682 SQUARE FEET OR 1.760 ACRES MORE OR LESS

7 LOTS



EXH C

CONCEPT  
1 OF 1

DAVID WEEKLEY HOMES  
2150 E 6200 S  
HOLIADAY, UTAH



BENCHMARK  
ENGINEERING &  
LAND SURVEYING  
1100 SOUTH STATE STREET SUITE 100  
SALT LAKE CITY, UTAH 84143-1000  
WWW.BENCHMARKCIVIL.COM

DATE	BY	REVISION
07/26/2017		CONCEPT

SCALE: 1/8" = 1'-0" (AS SHOWN)  
ALL DIMENSIONS UNLESS OTHERWISE NOTED  
CLIENT: DAVID WEEKLEY HOMES

## **Bylaws of BIG COTTONWOOD COVE HOA**

### **1 BYLAW APPLICABILITY/DEFINITIONS**

#### **1.1 Definitions**

The capitalized terms used in the Bylaws shall have the same meaning given to them in the Declaration, unless otherwise specifically stated.

#### **1.2 Bylaw Applicability**

The provisions of these Bylaws are binding upon the Association and the Owners. All present and future Owners shall be subject to these Bylaws, as amended from time to time. Acquisition of any Lot constitutes an acknowledgment that the Owner has agreed to and ratified these Bylaws and will comply with them.

### **2 ASSOCIATION**

#### **2.1 Composition**

All of the Owners acting as a group in accordance with the Governing Documents shall constitute the Association. Except for matters specifically reserved for a vote of the Owners, the Board, on behalf of the Owners, shall administer the Association's affairs.

#### **2.2 Annual Meeting**

Annual meetings shall be held once a year. The Board shall determine the date, time, and place of the annual meeting. The Association shall send notice of annual meetings at least 10 days but not more than 60 days in advance of the meeting. At the annual meeting the Association shall conduct the following business in any order the Board sees fit:

- 2.2.1 Roll call and verification of quorum;
- 2.2.2 Approval of minutes from preceding annual meeting;
- 2.2.3 Reports of officers;
- 2.2.4 Special committee reports;
- 2.2.5 Election of Directors;
- 2.2.6 Review of reserve analysis;
- 2.2.7 Unfinished business from preceding annual meeting; and
- 2.2.8 New business.

#### **2.3 Special Meeting**

Special meetings may be held at any time for any purpose. A special meeting may be called by a majority of the Directors or upon petition of at least 20% of the Owners in good standing. The

Association shall schedule and send notice of a special meeting within 30 days of request. The notice of a special meeting shall state the date, time, place, and purpose of the meeting. The Association shall send notice of a special meeting at least 10 days in advance of the meeting. No business may be transacted at a special meeting except as stated in the notice.

#### **2.4 Place of Meeting**

Meetings shall be held at a place designated by the Board and stated in the notice of meeting. Meetings shall be held in Washington County.

#### **2.5 Conduct of Meeting**

The President shall preside over all meeting of the Association. The Secretary shall keep the minutes of the meeting and take record of all resolutions adopted at the meeting.

#### **2.6 Quorum**

A quorum shall be the Owners present in person or by proxy at a meeting.

#### **2.7 Voting**

The Association shall initially have the following two classes of votes:

2.7.1 **Class A.** Class A Members shall be all Owners other than the Declarant until the Class B membership ceases. Class A Members shall be entitled to one vote for each Lot in which the interest required for membership in the Association is held. In no event, however, shall more than one Class A vote exist with respect to any Lot.

2.7.2 **Class B.** The Class B Member shall be the Declarant. The Class B Member shall be entitled to 2 votes for every Lot owned by Declarant plus 2 votes for every class A vote. The Class B Membership shall automatically cease and be converted to a Class A membership upon the sale of the last lot.

If a Lot is owned by more than one Person and multiple Owners are present at a meeting, the vote appertaining to that Lot shall be cast by agreement of a majority of the Owners. If a Lot is owned by more than one Person and a single Owner is present at a meeting, the vote appertaining to that Lot shall be cast by the Owner present. The Association may conclusively presume the consent of all a Lot's Owners when a vote is cast by a Lot with multiple Owners.

Except where a greater number is required by the Governing Documents or the Nonprofit Act and elections of Directors, any decision requiring Owner consent shall be passed by majority vote of a quorum.

#### **2.8 Good Standing**

An Owner shall be in good standing if he has paid assessments levied against his Lot, including late fees, interest, fines, collection costs, and attorney fees. An Owner must have paid in full at least three days prior to the meeting or action.

## **2.9 Proxies**

An Owner in good standing may vote or otherwise act by proxy. An Owner may appoint a proxy by signing a proxy appointment form. The proxy appointment form may be submitted to the Association in person, by mail, or electronically. The proxy appointment form must name a proxy, be dated, and signed by the Owner. Any proxy appointment form that does not contain a proxy's name, date, or signature shall be void. A proxy appointment form is valid until revoked by the Owner's attendance at a meeting, a signed and dated revocation delivered to the Association, a subsequent proxy appointment, notice of death or incapacity of the Owner, or the passage of 11 months.

## **2.10 Mail-in Ballots**

Any action requiring a vote of the Owners, except election of Directors, may be taken by mail-in ballots. Action by mail-in ballot shall comply with the procedures set forth in Nonprofit Act Section 16-6a-709, as amended from time to time. A combination of mail-in ballots, ballots collected electronically, and ballots cast in person may be used.

## **2.11 Written Consent in Lieu of Vote**

Any action requiring a vote of the Owners, except election of Directors, may be taken by written consent. Action by written consent shall comply with the procedures set forth in Nonprofit Act Section 16-6a-707, as amended from time to time. Written consents may be collected electronically.

## **2.12 Record Date**

The record date for determining which people are entitled to vote shall be the date notice of the meeting or action is sent. The Board may change the record date prior to sending notice of the action. The Owners shown on the records of the Association on the record date shall be the people entitled to vote on an action.

# **3 BOARD OF DIRECTORS**

## **3.1 Number and Qualification of Directors**

There shall be 5 Directors. Except for Directors appointed by Declarant, Directors must be Members in good standing.

## **3.2 Selection and Term of Directors**

After the Turnover Meeting, Directors shall serve for a term of two years and shall serve until their successors have been elected. There is no limit on the number of terms an Owner may serve as a Director. Directors terms shall be staggered as follows: (i) two Directors shall be elected in years ending with an even number; and (ii) one Director shall be elected in years ending with an odd number. At the initial election of the Directors, the newly elected Directors shall determine their terms.

### **3.3 Vacancies**

After the Turnover Meeting, director vacancies, for any reason other than removal by vote of the Association, shall be filled by vote of a majority of the remaining Directors. The Board shall conduct a special meeting for the purpose of filling the vacancy. The meeting shall be valid even if a quorum is not present. Each replacement Director shall serve until the next annual Owners' meeting, then the vacancy shall be filled by vote of the Owners. The replacement Director elected by the Owners shall serve the remaining term of the replaced Director.

### **3.4 Removal of Directors**

After the Turnover Meeting, a Director may be removed with or without cause by vote of a majority of a quorum of Owners. If the Owners propose to remove a Director, the Association shall give the Director and Owners at least 15 day written notice of the meeting and the purpose of the meeting. The Director shall be given an opportunity to be heard at the meeting prior to the vote to remove him. At any meeting where a Director is removed by the Owners, the Owners must vote to replace the Director. The replacement will serve the remaining term of the removed Director.

After the Turnover Meeting, any Director who allows his assessments to become more than 90 days past due may be removed and replaced by vote of a majority of the Board. The Board shall give the Director 10 day written notice to cure the default prior to voting to remove the Director.

### **3.5 Organization Meeting**

The Directors shall hold a meeting following the annual owners meeting for the purpose of electing officers. Notice of the organization meeting shall be given verbally at the annual meeting. The organization meeting shall be conducted at the next regular meeting of the Board or may be conducted at a special meeting.

### **3.6 Regular Meetings**

The Board shall hold regular meetings. The Board shall determine frequency, times, and locations of regular meetings. However, the Board shall conduct at least two regular meetings per year. Notice of regular meetings shall be given to each Director at least three days prior to the meeting.

### **3.7 Special Meetings**

A Director may call a special meeting of the Board. Notice shall be given at least three days prior to the meeting. Notice shall state the time, place, and purpose of the meeting.

### **3.8 Conduct of Meetings**

The President shall preside over all meetings of the Board. The Secretary shall take minutes of the Board meetings and shall make record of all resolutions.

### **3.9 Quorum**

A majority of the Board shall constitute a quorum. A quorum shall be required to conduct business at a meeting. If less than a quorum is present at a meeting, the majority of those present may adjourn the meeting until such time as a quorum is present. Once established, a quorum will be present even if Directors leave. Directors may attend a meeting telephonically.



### **3.10 Notice and Waiver of Meeting Notice**

Notice to Directors may be personally delivered, mailed, or delivered by any available electronic mean, including, without limitation: text, email, fax, or posting on the website. Directors may waive notice of meetings in writing. A waiver shall be deemed equivalent to notice. Attendance of a Director at a meeting will be considered a waiver of notice, unless the Director attends to dispute notice. If all Directors are present at a meeting, notice of the meeting is waived and any business may be conducted.

### **3.11 Action without Meeting**

Any action by the Board may be taken without a meeting if all the Directors submit a written vote either for, against, or abstaining from the action. Written votes may be given in person, by mail, or electronically. The Association shall file the written votes with its record of minutes.

### **3.12 Powers and Duties**

The Board shall manage the affairs and business of the Association. The Board is vested with all power and authority necessary to administer the affairs of the Association in accordance with the Governing Documents. The Board may do any act required or allowed by the Governing Documents, the Community Association Act, the Nonprofit Act, or any other rule of law.

Subject to the limitations contained in the Declaration, Bylaws, or Community Association Act, the Board shall have the following authority:

- 3.12.1 Prepare an annual budget and establish what constitutes a Common Expense;
- 3.12.2 The Board may not adopt and amend rules, regulations, policies, and procedures governing the Common Areas, administration of the Association without a majority approval of the HOA. They may however enforce and interpret the Governing Documents;
- 3.12.3 They may not delegate authority to a managing agent to act on behalf of the Association without a 67% majority of the HOA;
- 3.12.4 Provide for the maintenance, repair, and replacement of the Common Areas and exterior of Living Units;
- 3.12.5 Hire, contract for, and terminate personnel or contractors necessary for the maintenance repair and replacement of the Common Areas, exterior of Living Units, and administration of Association business. Provide for the compensation of personnel. Purchase supplies, equipment, and materials for use in the Association;
- 3.12.6 Open and maintain bank accounts on behalf of the Association. Designate authorized signers for the bank accounts;
- 3.12.7 File lawsuits or initiate other legal proceedings on behalf of the Association;
- 3.12.8 Defend lawsuits, administrative actions, and other legal proceedings against the Association;

3.12.9 Pay costs of any services rendered to the Project or multiple Owners, but not billed to the Owners individually;

3.12.10 Keep books with detailed accounts of the receipts and expenditures of the Association. Make the books available to the Owners as required by the Community Association Act and Nonprofit Act. The books shall be kept in accordance with generally accepted accounting practices. Upon resolution by the Board, retain an independent auditor to audit the books;

3.12.11 Grant easements, licenses, or permission over, under, and through the Common Areas;

3.12.12 Upon approval by 67% of the ownership interest in the Common Areas, to convey Common Areas;

3.12.13 Create committees;

3.12.14 Any other act allowed or required by the Governing Documents, the Community Association Act, or the Nonprofit Act;

3.12.15 Any act allowed or required to be done in the name of the Association.

### **3.13 Manager**

The Board shall employ a manager to perform such duties and services as the Board shall authorize, given an approval by the HOA of at least a majority. The Board may delegate to the manager all powers granted to the Board and officers by the Governing Documents. However, the manager must obtain the Board's written consent to exercise the powers listed in Bylaw Sections 3.12.2, 3.12.6, 3.12.7, 3.12.8, 3.12.11, 3.12.12.

### **3.14 Compensation**

Directors shall not be compensated for their work. However, Directors may seek reimbursement for actual costs and mileage incurred during their service.

### **3.15 Limitation of Liability**

The Directors shall not be liable to the Owners for any mistake of judgment, negligence, or other errors, unless it was by willful misconduct or criminal conduct. The Association shall indemnify and hold the Directors harmless against liability to third parties for actions taken on behalf of the Association, while acting in their capacity as Director, unless the action constitutes willful misconduct or criminal conduct.

## **4 OFFICERS**

### **4.1 Election and Term of Officers**

The Board shall elect the officers of the Association. Officers shall be elected from the Directors. Officers shall serve one-year terms and shall serve until their successor is elected.

#### **4.2 Removal of Officers**

The Board may remove any officer with or without cause by affirmative vote of a majority of a quorum of the Board. If an officer is removed, the Board shall replace them.

#### **4.3 Offices**

The Association officers shall be president, vice president, secretary, and treasurer. The Board may appoint assistant officers, who need not be Directors, as it may deem necessary. Except for the president, the same person may hold two offices.

##### **4.3.1 President**

The president shall be the chief executive officer. He shall preside at meetings of the Association and the Board. He shall be an unofficial member of all committees. He shall have general and active management of Association business. He shall see that all resolutions and policies of the Association are executed.

##### **4.3.2 Vice President**

The vice president shall perform the duties and exercise the powers of the president in the absence or disability of the president. If the president and vice president are unable to act, the Board shall appoint a Director to fulfill the duties on an interim basis.

##### **4.3.3 Secretary**

The secretary shall attend all meetings and take minutes thereof. He shall also make record of all resolutions, rule, policies, and procedures. He shall give or cause to be given notice of all meetings. He shall compile or cause to be compiled a complete list of the owners and their contact information.

##### **4.3.4 Treasurer**

The treasurer shall oversee the finances of the Association. He shall be responsible to ensure that the Association has full and accurate records of income and expenses. He shall give financial reports at regular Board meetings and the annual Owners' meeting.

#### **4.4 Delegation of Duties**

The Association officers may delegate any of their duties to a manager or to committee. However, the officers shall be responsible to oversee and ensure that the duties so delegated are being properly discharged.

#### **4.5 Compensation**

Officers shall not be compensated for their work. However, officers may seek reimbursement for actual costs and mileage incurred during their service.

## **5 NOTICE**

### **5.1 Manner of Notice**

All notices and other communications required under the Governing Documents shall be in writing.

5.1.1 Notices to Owners may be delivered using the following methods:

5.1.1.1 By professional courier service or First-class U.S. mail, postage prepaid, to the address of the Lot or to any other address designated by the Owner in writing to the Association;

5.1.1.2 By hand to the address of the Lot or to any other address designated by the Owner in writing to the Association;

5.1.1.3 By posting on the Association website; or

5.1.1.4 By facsimile, electronic mail, or any other electronic means to an Owner's number or address as designated by the Owner in writing to the Association or used by the Owner to communicate with the Association.

5.1.2 Notice to the Association may be delivered using the following methods:

5.1.2.1 By professional courier service or First-class U.S. mail, postage prepaid, to the principal office of the Association as designated in writing to the Owners; or

5.1.2.2 By facsimile, electronic mail, or any other electronic means to the Association's official electronic contact as designated in writing to the Owners.

5.1.2.3 Notices sent via courier or mail shall be deemed received 3 days after being sent. Notices hand delivered or sent via electronic means shall be deemed received upon delivery or being sent.

## **5.2 Waiver of Notice**

Whenever any notice is required under the Governing Documents, the Community Association Act, or the Nonprofit Act, an owner may waive notice in writing. The waiver may be signed before or after the time for notice. A waiver of notice shall be equivalent to notice.

# **6 FINANCES**

## **6.1 Fiscal Year**

The fiscal year of the Association shall be the calendar year.

## **6.2 Checks, Agreements, Contracts**

All checks, contracts, deeds, leases, and other instruments used for expenditures or obligations may be executed by any person authorized by the Board.

## **6.3 Availability of Records**

Association financial records shall be available as provided by the Community Association Act and Nonprofit Act.

# **7 AMENDMENT TO BYLAWS**

## **7.1 Amendments**

These Bylaws may be amended by the Board, unless it would result in changing the rights, privileges, preferences, restrictions, or conditions of a membership class as to voting, dissolution, redemption, or transfer by changing the rights, privileges, preferences, restrictions,

or conditions of another class. These Bylaws may also be amended by a majority vote of a quorum of the Owners.

**7.2 Recording**

Any amendment to these Bylaws shall become effective on the date it is recorded in the Washington County Recorder's Office.

**8 MISCELLANEOUS**

**8.1 Office**

The principal office of the Association shall be located at any place within the State of Utah which may be designated from time to time by the Board.

**8.2 Conflicts**

The Bylaws are subordinate to any conflicting provisions in the Community Association Act, the Nonprofit Act, the Articles, the Map, or the Declaration. The Bylaws are superior to the rules, regulations, and policies of the Association.

**8.3 Severability**

If any provision of these Bylaws is held by a court of law to be invalid, the validity of the remainder of these Bylaws shall not be affected.

**8.4 Waiver**

No provision of these Bylaws shall be deemed to be waived because of a failure to enforce the provision.

**8.5 Captions**

The captions contained in these Bylaws are for convenience only. The captions shall not be used to interpret, limit, or enlarge the provisions of these Bylaws.

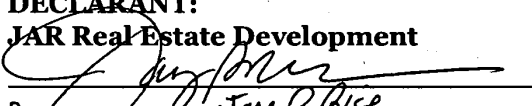
**8.6 Gender, etc.**

Whenever the context so requires, the singular shall include the plural and vice versa. The use of any gender shall include all genders.

IN WITNESS WHEREOF, the Declarant has caused these Bylaws to be executed by its duly authorized officers.

DATED: 2/8/18

**DECLARANT:**  
**JAR Real Estate Development**

By:   
Its: Jay R. Rice  
MANAGER