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Office of the Davis County Recorder

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RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
04/05/2022 11:33 AM
FEE \$48.00 Pgs: 10
DEP RT REC'D FOR SUNSET CITY



Davis
COUNTY

300 WEST 1500

Recorder
Richard T. Maughan
Chief Deputy
Laile H. Lomax

THE UNDERLYING DOCUMENT ATTACHED HERETO IS AN ORIGINAL DOCUMENT SUBMITTED FOR RECORDING IN THE OFFICE OF THE COUNTY RECORDER OF DAVIS COUNTY, UTAH. THE DOCUMENT HAS INSUFFICIENT MARGIN SPACE FOR THE REQUIRED RECORDING ENDORSMENT STAMP. THIS PAGE BECOMES THE FRONT PAGE OF THE DOCUMENT FOR RECORDING PURPOSES.

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Tax Serial Number(s)

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COVENANTS, CONDITIONS AND RESTRICTIONS OF SUNSET TOWNHOMES

This declaration of COVENANTS, CONDITIONS AND RESTRICTIONS is made and executed this 3 day of March, 2022 by JAG PROPERTIES, LLC hereinafter referred to as "DECLARANT."

RECITALS

A. Declarant is the owner of certain real property in Davis County, Utah, more particularly described on Exhibits "A" attached hereto (the "Property"). Declarant desires to develop the Property as an PRUD Subdivision Project (the "Project")

B. Declarant intends to establish a common scheme and plan for the possession, use, Enjoyment, repair, maintenance, restoration and improvement of the Property.

NOW THEREFORE, it is hereby declared that the Property and all Lots therein shall be held, sold, conveyed, leased, occupied, rented, encumbered and used subject to the following Declaration as to easements, rights, covenants, servitudes, restrictions, limitations, conditions and uses to which the Property and each individual Lot may be put.

1. MUTUAL AND RECIPROCAL BENEFITS

All of the restrictions, conditions, covenants and agreements shall be made for the direct and mutual benefit of each and every Lot created on the Property and shall be intended to create a mutual equitable servitude on each Lot in favor of every other Lot, to create reciprocal rights and obligations between the Owners, and to create privity of contract and privity of estate between the Owners and their heirs, successors and assigns.

2. PERSONS BOUND

This Declaration shall be binding on and for the benefit of Declarant, its successors and assigns, and all subsequent Owners of all or part of the Property or all or part of any Lot, together with their grantees, successors, heirs, executors, administrators, devisees and assigns. The restrictions, conditions, covenants and agreements contained herein shall run with the land, and all Owners, purchasers and occupants of Lots shall, by acceptance of contracts, deeds or possession, be conclusively deemed to have consented to conform to and observe all such restrictions, conditions, covenants and agreements. Any mortgage or other encumbrance of any Lot or Dwelling on the Property shall be subject to and subordinate to all of the provisions of this Declaration, and in the event, of foreclosure, the provisions of this Declaration shall be binding upon any Owner whose title is derived through the foreclosure, whether such foreclosure is by private power of sale, judicial foreclosure or otherwise.

3. LAND USE AND BUILDING TYPE

3.1 No Lot shall be used except for single family residential and related purposes.

3.2 No building shall be used, rented or leased for commercial purposes, except for a temporary sales office to be maintained by Declarant or another developer for the purpose of selling and marketing the Lots or Dwellings thereon.

3.3 Accessory buildings may be allowed only with the prior written consent of the Architectural Control Committee and subject to compliance with all zoning and other land use regulations then in effect of Sunset City, Davis County or any successor government entity.

3.4 No trailer, basement, tent, shack or other outbuildings shall be placed upon or used at any time within the Property as a temporary or permanent residence.

3.5 All buildings on the Property shall be placed upon and used on a Lot in accordance with the provisions of the Sunset City Zoning Ordinances as the same may be amended from time to time, unless otherwise modified or restricted by this Declaration.

4. NUISANCES AND RELATED MATTERS

4.1 No noxious or offensive activity shall be carried on or upon any Lot, nor shall anything be done thereon which may be an annoyance or nuisance to the neighborhood.

4.2 All pets must be kept on a leash and not allowed to run at large. Also, no pet shelter, clog-run etc. shall be installed in common area. All pets must remain indoors when owner is not present. Owner is also responsible to clean up after pets when taken outdoors.

4.3 Boats, trailers, motorhomes, campers, commercial type vehicles and commercial trucks shall be parked in a garage. No inoperative motor vehicle shall be placed or remain on any Lot or adjacent street for more than 48 hours. No portion of any Lot may be used for the repair of motor vehicle except in a garage.

4.4 The storage or accumulation of metals, bulk materials, equipment, junk, scrap, trash, refuse, manure or other unsightly, offensive or commercial materials is prohibited.

4.5 Facilities for hanging, drying or airing clothing or household fabrics shall be appropriately screened from view.

4.6 No pads used for the storage of vehicles or other material either temporarily or permanently shall be constructed within the front yard setback requirements of a given Lot. This open space shall remain unoccupied and unobstructed by buildings, vehicles and/or hard surfaces such as asphalt, cement and packed surface at all times.

4.7 Except for signs displayed by the Declarant for the sale of Lots or Dwellings, no signs other than name plates shall be displayed to the public view on any Lot, except one sign for sale of the Lot or Dwelling. All signs shall comply with relevant governmental ordinances and regulations.

4.8 No oil or gas drilling, mining, quarrying or related operations of any kind shall be permitted on any Lot.

4.9 No rubbish shall be stored or allowed to accumulate anywhere in the Project, except in sanitary containers.

4.10 No external radio, citizen's band, ham radio or other transmitting or receiving antennas or equipment shall be placed on any structure of Lot. Provided, however, that television antennas and satellite dishes may be placed on a Lot, in a location to be approved by the Architectural Control Committee.

4.11 An owner shall not, by deed, plat or otherwise, subdivide or in any manner cause his or her Lot to be separated into physical tracts or parcels smaller than the whole Lot as shown on the Map, nor shall any Owner cause, suffer or permit the fee. No Owner shall separate or divide into annually recurring time share units of any other duration, form or kind whatsoever.

5. EASEMENTS

5.1 Such easements and rights of way shall be reserved to the Declarant, its successors and assigns, in and over the Property and the Lots for the erection, construction, maintenance and operation of pipes, conduits, poles, wires and other means of conveying to and from Lots and Dwellings gas, electricity, power, water, telephone and telegraph services, sewage, storm drain and other things for the development of the Property and for the convenience of the Owners of Lots as may be shown on the subdivision plat or otherwise. No structures of any kind shall be erected over any such easements without the written permission of the Declarant or the Architectural Control Committee. By acceptance of contracts or deeds for a Lot or Lots or any portion thereof, all purchasers of Lots shall also be conclusively deemed to have granted an easement to the Declarant so as to permit the Declarant to develop each and every part or parcel of adjoining property owned or held by it, whether subject to this Declaration or otherwise.

6. HOMEOWNER'S ASSOCIATION

6.1 The Declarant shall create a Homeowner's Association for the Project for the purpose of assessing each Lot Owner for the maintenance and upkeep of all common area improvements including landscaping, sidewalk, curb and gutter, fencing, street improvements and snow removal. After the Homeowner's Association is created, the Members shall be every Lot Owner within the Project, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Homeowner's Association his or her prorata or proportionate share of assessments to be established and collected as hereinafter provided. Any Homeowner's Association created

hereby shall be governed by a Board of Trustees consisting of three (3) natural persons, who need not be members of the Homeowner's Association. If Declarant shall create the Association, Declarant shall have the right to appoint the initial Board of Trustees, one of whom may be the Declarant, who shall serve until such time as successors may be elected by the Lot Owners at a meeting duly noticed and called for that purpose.

6.2 **Assessment of Annual Maintenance Fee.** The Owners shall be responsible for the exclusive management, control and maintenance of all improvements in the project. An annual fee shall be assessed on all Lots within the Project in an amount sufficient to cover on-site and off-site maintenance of any improvement or parts thereof serving the Project. Each Owner, by the acceptance of instruments of conveyance and transfer therefor, whether or not it be so expressed in such instruments, shall be deemed to covenant and agree with each other (and with any Homeowner's Association formed for this purpose) to pay all assessments deemed necessary by Homeowner's Association. Unless otherwise specified herein, the fee assessed shall be a portion of the total maintenance costs representing the Owner's prorata share, i.e., if there are 13 Lots total in the Project, and Owner owns one Lot, that Owner's share will be 1/13th of total expenses for the year. All sums assessed an Owner within the Project pursuant to the provisions hereof, together with interest thereon as may be provided for in this Declaration, shall be secured by a lien on such Lot in favor of the Owners (or Homeowner's Association formed for this purpose). To evidence a lien for sums assessed pursuant to this Section, the Owners (or the Homeowner's Association) shall prepare a written notice of lien setting forth the amount of the assessment, the due date, the amount remaining unpaid, the name of the Owner and description of the Lot. Such a notice shall be signed and acknowledged by a duly authorized officer of the Owners (or the Homeowner's Association) and may be recorded in the office of the Davis County Recorder. No notice of lien shall be recorded until there is a delinquency in payment of the assessment. (Other assessments may be made to cover the expenses of the Homeowner's Association in the Project).

6.3 The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time the assessment fell due. The personal obligation for delinquent assessments shall not pass to his or her successors in title unless expressly assumed by them.

6.4 Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

6.5 Annual assessments provided for herein shall commence as to all Lots on the first day of the month following the formation of the Homeowner's Association. The first annual assessment shall be prorated according to the number of months remaining in the calendar year. The Board of Trustees of the Homeowner's Association shall fix the amount of the annual assessment against each Lot at least 30 days in advance of each annual assessment period. Written notice of annual assessment shall be sent to every Owner subject thereto. The Board of Trustees shall establish the due dates. The Homeowner's Association shall, upon written demand and for a reasonable charge, furnish a certificate signed by an officer of the Homeowner's

Association setting forth whether all assessments on a specified Lot have been paid. A properly executed certificate of the Homeowner's Association as to the status of assessments on a Lot is binding on the Homeowner's Association as of the date of its issuance. Any vacant lots will not be assessed until they are built upon and sold.

6.6 Assessment and any installments thereof not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of twelve percent (12%) per annum. All payments on account shall be first applied to interest and then to the assessment payment first due.

6.7 The lien for unpaid assessments shall be superior (prior) to all other liens and encumbrances except assessments, liens and charges in favor of the State or any political subdivision thereof for taxes past due and unpaid on the Lot and amounts due under duly recorded mortgages which were recorded prior to the recording of the lien for assessments. However, the sale and transfer of any Lot pursuant to mortgage foreclosure, or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer, but no such sale or transfer shall relieve such Lot from liability of any assessments thereafter becoming due or from the lien thereof.

6.8 The lien for nonpayment of assessments may be enforced by sale or foreclosure of the Owner's interest by the Board of Trustees of the Homeowner's Association, such sale or foreclosure to be conducted in accordance with the provisions of law applicable to the exercise of powers of sale or foreclosure in deeds of trust or mortgages or in any manner permitted by law. In connection therewith, each Owner is hereby deemed to have given and granted a power of sale to any attorney licensed in the State of Utah and selected by the Board of Trustees to act as trustee in the event that any such lien is foreclosed in the manner provided by law for foreclosure of deeds of trust.

6.9 In any foreclosure of a lien for assessments, the Owner subject to the lien shall be required to pay a reasonable rental for the Lot, and the Board of Trustees shall be entitled to the appointment of a receiver to collect the same.

6.10 If an Owner shall at any time lease or rent his Lot or any portion thereof and shall default for a period of one month or more in the payment of assessments, the Board of Trustees may, at its option, so long as such default shall continue, demand and receive from any tenant of the Owner the rent due or becoming due and the payment of such rent to the Board of Trustees shall discharge such tenant for rent due, and shall discharge the Owner for such assessments to the extent of the amount so paid.

6.11 The Board of Trustees shall handle all assessments hereunder, whether for Common Expenses or as capital contributions, so as to comply with applicable provisions of the Internal Revenue Code and the regulations adopted thereunder as well as applicable State and local tax laws and to avoid undue adverse tax consequences that might result to the Homeowner's Association or individual Owners.

7. ARCHITECTURAL PROCEDURE

The Homeowner's Association shall approve or disapprove any and all variations in landscaping and or changes in any improvements.

8. ADDITIONAL COVENANTS

8.1 Concrete Maintenance. Each Lot Owner shall, at all times, be responsible to maintain the concrete in front of their lot in good condition, and shall repair any cracks or breaks in such concrete (i.e. steps, driveway, landings or walk ways) within a reasonable time after receiving notification to do so from the Homeowner's Association or Declarant.

8.2 Enforcement. No dwelling, improvement or other structure or building shall be constructed or maintained on any lot or common area. The Lot Owners hereby agree that the Homeowner's Association and/or Sunset City may institute in its own name any suit or suits necessary in order to obtain a decree for specific performance or any restraining order necessary under any covenant or agreement contained in this Declaration. Should any suits be instituted, the affected Lot Owner or Owners agree that if the court finds in Sunset City's or the Homeowner's Association's favor, such Lot Owner or Owners shall pay reasonable attorney's fees to Sunset City or the Homeowner's Association.

DISCLAIMER AS TO BASEMENTS AND GROUND WATER. EACH LOT OWNER HEREBY ASSUMES THE RISK OF GROUND WATER ON THE PROPERTY AND THE LOTS. IT SHALL BE THE SOLE RESPONSIBILITY OF THE LOT OWNER TO PROTECT HIS OWN STRUCTURE AND PROPERTY FROM GROUND WATER DAMAGE.

9. ACCEPTANCE OF RESTRICTIONS

By acceptance of contracts or deeds for a Lot or Lots or any portion thereof, all purchasers of Lots shall be conclusively deemed to have consented and agreed to all restrictions, conditional, covenants and agreements in this Declaration and shall be bound thereby.

10. VIOLATION OF RESTRICTIONS; PENALTIES

Each Owner shall strictly comply with the provisions of the Declaration. Failure to so comply shall be grounds for an action to recover sums due for damages or injunctive relief or both, maintainable by any Lot Owner, the Homeowner's Association, or Declarant. Violation of any of the restrictions, conditions, covenants or agreements herein contained shall also give the Homeowner's Association or the Declarant, their successors and assigns, the right to enter upon any portion of the Property where such violation or breach exists, and to summarily abate and remove at the expense of the Owner, any erection, thing or condition that may be existing thereon contrary to the provisions hereof, without being deemed guilty of trespass. The result of every action or omission whereby any restriction, condition, covenant or agreement is violated, in whole or in part, is hereby declared to be and constitute a nuisance and

every remedy allowed by law against a nuisance, either public or private, shall be applicable against such result. Such remedy shall be deemed cumulative and not exclusive.

11. AMENDMENT

Except as otherwise provided in this Declaration and except as prohibited by law, the provisions of this Declaration may be amended by the affirmative vote, or approval and consent of Owners who own three-fourths (3/4) or more of the Lots on the Property. Provided, however, that so long as Declarant owns one or more Lots in the Project, Declarant's approval or consent shall be required for any amendment. In voting, each Lot Owner of record, including Declarant, shall be entitled to cast one vote for each Lot owned by him or her. Provided, however, where there is more than one record Owner of a Lot, all such Owners must act unanimously to cast a vote for that Lot. Any amendment so authorized shall be accomplished by recordation of an instrument executed by such Lot Owners. Notwithstanding the foregoing, any provision of this Declaration derived from or relating to the Development Agreement cannot be amended without the consent of Sunset City, including, among other things, liability and assessment for subsurface drainage systems, setbacks, fencing and landscaping.

12. NO WAIVER

Each and all of the covenants, conditions, restrictions and agreements contained herein shall be deemed and construed to be continuing. No waiver of a breach of any of these covenants, conditions, restrictions and agreements, and no failure to enforce any one of such restrictions, either by forfeiture or otherwise, shall be construed as a waiver of any other restriction or condition. The failure of the Owners, the Architectural Control Homeowner's Association or their agents or designers to insist, in one or more instances, upon the strict performance of any of the terms, covenants, conditions or restrictions of this Declaration, to exercise any right or option herein contained, to serve any notice or to institute any action shall not be construed as a waiver or a relinquishment of such term, covenant, condition or restriction; but such term, covenant, condition or restriction shall remain in full force and effect.

13. SEVERABILITY

The provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion hereof shall not affect the validity or enforceability of any other provision hereof.

14. CAPTIONS

The captions in this Declaration are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Declaration or the intent of any provision hereof.

15. LAW CONTROLLING

This Declaration shall be construed and controlled by and under the laws of the State of Utah.

16. EFFECTIVE DATE

This Declaration shall take effect when recorded.

IN WITNESS WHEREOF, the undersigned has executed this instrument this 3 of March, 2022

JAG PROPERTIES, LLC

BY: Mark Clifford

ITS: Manager

STATE OF UTAH
COUNTY OF DAVIS

ON THE 3 day of March, 2022, personally appeared before me MARK CLIFFORD, who being by me sworn, did say that he is the Manager of JAG PROPERTIES, LLC and that the within and foregoing instrument was signed in behalf of the LLC by the authority of the Articles of Organization and that the LLC executed the same.

[Signature]
Notary Public





CITY OF SUNSET, UTAH
3-7-22

PART OF THE SOUTHEAST QUARTER OF SECTION 26, TOWNSHIP 5 NORTH, RANGE 2 WEST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT, SAID POINT BEING N00°06'53"E 245.34 FEET AND N89°53'07"W 1181.44 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION 26; THENCE N89°56'37"W 110.78 FEET TO THE EASTERLY RIGHT OF WAY LINE OF 250 WEST STREET; THENCE N00°10'57"E ALONG SAID EASTERLY RIGHT OF WAY LINE, 270.21 FEET TO THE SOUTHERLY LINE OF SUBURBAN HEIGHTS SUBDIVISION; THENCE S89°42'41"E ALONG SAID SOUTHERLY LINE, 110.18 FEET; THENCE S00°03'23"W 269.77 FEET TO THE POINT OF BEGINNING.

CONTAINING 29,829 SQUARE FEET OR 0.685 ACRES MORE OR LESS.

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