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BK 8399 PG 688

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RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
12/14/2023 03:20:55 PM
FEE: \$40.00 Pgs: 37
DEP eCASH REC'D FOR: COTTONWOOD TITLE
INSURANCE AGENCY, INC.

When recorded, mail to:

Nam Tran, Esq.
Winstead PC
500 Winstead Building
2728 N. Harwood Street
Dallas, Texas 75201

170709-DMF

**INSTRUCTIONS TO RECORDER:
INDEX THIS DOCUMENT AS A COLLATERAL ASSIGNMENT**

Tax Id No.: 15-144-0001, 15-144-0002 and 15-144-0003

WINKEL ROCK DE, LLC,
a Delaware limited liability company, as assignor

and

BANK OZK, as assignee

**COLLATERAL ASSIGNMENT OF
DECLARANT'S RIGHTS**

COLLATERAL ASSIGNMENT OF DECLARANT'S RIGHTS

This COLLATERAL ASSIGNMENT OF DECLARANT'S RIGHTS ("Assignment") is executed as of December 14, 2023, by **WINKEL ROCK DE, LLC**, a Delaware limited liability company ("Borrower"), to **BANK OZK** ("Lender").

WITNESSETH:

WHEREAS, pursuant to a Construction Loan Agreement ("Loan Agreement"), of even date herewith between Borrower, as borrower, and Lender, as lender, Borrower has issued and delivered to Lender that certain Promissory Note of even date herewith, executed by Borrower, payable to the order of Lender, in the principal amount of **\$42,000,000.00** (said note together with any and all renewals, modifications and extensions thereof being hereinafter collectively called the "Note"), evidencing that certain loan (the "Loan") governed by the Loan Agreement; and

WHEREAS, Borrower has executed and delivered to Lender that certain Deed of Trust, Security Agreement and Fixture Filing ("Deed of Trust") dated of even date herewith, conveying to a trustee for the benefit of Lender, as additional security for the Loan, that certain property, including, without limitation, the land described in Exhibit A attached hereto and incorporated herein by this reference ("Land" and collectively, together with all improvements now existing or hereafter constructed on the Land, all other property described in the Deed of Trust, and all other rights of Borrower relating to same, collectively, the "Property"); and

WHEREAS, the Loan Agreement, Note, Deed of Trust and other documents evidencing, securing or pertaining to the Loan are collectively referred to as the "Loan Documents"; and

WHEREAS, in order to induce Lender to make the Loan, Borrower is desirous of assigning to Lender, as additional security for the Loan, all of Borrower's rights ("Borrower's Rights") under that certain Declaration of Covenants, Conditions and Restrictions for Layton Station (the "Declaration"), dated December 14, 2023, executed by **WINKEL ROCK, LLC**, a Utah limited liability company, as declarant ("Original Declarant"), filed for record on December 14, 2023, and recorded in Book 4399, Page 424 in the Public Records of Davis County, Utah, which such declarant's rights under the Declaration were assigned from Original Declarant to Borrower in accordance with the Declaration and pursuant to that certain Assignment of Declarant Rights (Layton Station), December 14, 2023, executed by Original Declarant and Borrower and filed for record on December 14, 2023, and recorded in Book 8399, Page 608 in the Public Records of Davis County, Utah, including, without limitation, all of Borrower's rights (including, but not limited to, Borrower's voting rights) as a member of any condominium association in existence as of the date hereof or hereafter created which affects and/or pertains to all or any portion of the Property (the "Association"); and

NOW, THEREFORE, in consideration of the above and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by Borrower, Borrower hereby covenants and agrees with Lender as follows.

1. Assignment. Borrower hereby sells, collaterally assigns, transfers and sets over unto Lender, its successors and assigns, all of the Borrower's Rights and agrees that Lender shall have the sole and exclusive right to exercise any and all of the Borrower's Rights during the existence of a Default under the Loan Documents. A written statement to such effect filed in the Public Records of Davis County, Utah signed and acknowledged by Lender shall be deemed sufficient proof of Lender's rights to exclusive exercise of the Borrower's Rights for all purposes.

2. Borrower's Obligations. Borrower hereby reserves and retains all obligations and liabilities of Borrower under the Declaration (all of such obligations and liabilities, collectively, "Borrower's Obligations"). **BORROWER HEREBY UNCONDITIONALLY AND ABSOLUTELY AGREES TO IMMEDIATELY INDEMNIFY AND HOLD HARMLESS LENDER FROM ANY AND ALL LOSS, COST, DAMAGE OR EXPENSE SUFFERED OR INCURRED BY LENDER IN CONNECTION WITH ANY OF BORROWER'S OBLIGATIONS, EXCLUDING, HOWEVER, LOSS, COST, DAMAGE AND EXPENSE SUFFERED AND INCURRED AS A RESULT OF THE GROSS NEGLIGENCE, BAD FAITH, OR WILLFUL MISCONDUCT OF LENDER.**

3. Association Provisions. Borrower hereby represents, warrants, covenants and agrees as follows:

(a) That a true, complete and correct copy of the Articles of Incorporation and all amendments thereto (collectively, the "Association Articles of Incorporation") of the Association, as of the date hereof, is attached hereto as Exhibit B and incorporated herein by reference for all purposes.

(b) That a true, complete and correct copy of the Bylaws ("Association Bylaws") of the Association, as of the date hereof, is attached hereto as Exhibit C and incorporated herein by reference for all purposes.

(c) Borrower shall not without the prior written consent of Lender (i) pledge, transfer, mortgage or otherwise encumber or assign any portion of Borrower's Rights; (ii) release or disaffirm, cancel, terminate or consent to any surrender of any of Borrower's Rights; or (iii) agree to modify, extend or in any way alter the any of the terms of any of the Declaration, Association Articles of Incorporation and/or Association Bylaws so as to reduce, impair or diminish Borrower's Rights.

(d) Until the Loan and all indebtedness evidenced by the Note shall have been paid in full, Borrower, to the maximum extent permitted by applicable law, shall, and shall cause any director, board member, and/or officer of the Association, and/or other individual affiliated with the Association, who is controlled by, in control of, under common control with, or otherwise affiliated with Borrower, to, from time to time execute and deliver unto Lender upon written demand any and all documents, including a resignation and a voting agreement whereby Borrower authorizes Lender to exercise all of Borrower's voting rights pertaining to the Association, that Lender may deem reasonably necessary to effect the assignment of Borrower's Rights to Lender, and/or to enable Lender to exercise or enforce any right or rights in connection therewith or with respect to the operating of the Association; provided, however, that Lender shall only

exercise any of Borrower's Rights after and during the continuance of an Event of Default.

(e) Until the Loan and all indebtedness evidenced by the Note shall have been paid in full, Borrower shall from time to time (but not more frequently than two times in any twelve (12) calendar month period) deliver to Lender, within fifteen (15) days of a written request by Lender, a true, correct, and complete list of all of the then members of Board of Directors of the Association, the officers of the Association, and the then members of the Association.

(f) Borrower hereby authorizes and instructs the Association to comply with any instruction received by the Association from Lender in writing that is in accordance with the terms of this Agreement which notice may be given only after the occurrence and during the continuance of an Event of Default, without any other or further instructions from Borrower, and Borrower agrees that the Association shall be fully protected in so complying, absent gross negligence, bad faith or willful misconduct. Borrower's Rights.

4. Representations and Covenants. Borrower hereby represents and warrants to, and agrees for the benefit of Lender, as follows:

(a) Authority; Interest. Borrower has the right, power and capacity and requisite authority to make this Agreement and that no person, firm or corporation other than Borrower has or will have any right, title or interest in or to Borrower's Rights.

(b) Authorization. No authorization, consent of or notice to any other party (including, without limitation, any member, director or officer of the Association that has not been obtained) is required in connection with the execution, delivery, performance, validity or enforceability of this Agreement.

(c) Ownership. Borrower is the sole record and beneficial owner of, and has good and indefeasible title to, Borrower's Rights free of any and all rights, liens or options in favor of, or claims of, any other party, except the assignment effectuated by this Agreement and if and to the extent that Borrower's Rights have previously been assigned, sold, transferred, pledged or encumbered all of such rights in third parties have been fully and legally effectively terminated and are of no further force and effect.

(d) Negative Covenants. Borrower will not without the prior written consent of Lender (i) pledge, transfer, mortgage or otherwise encumber or assign all or any portion of Borrower's Rights (other than to Lender as part of the Loan); (ii) release or disaffirm, cancel, terminate or consent to any surrender of any of Borrower's Rights; or (iii) agree to modify, extend or in any way alter any of the terms of any of the Declaration, Association Articles of Incorporation and/or Association Bylaws, so as to reduce or diminish Borrower's Rights.

(e) Borrower shall not exercise any of the development rights or special declarant's rights without first obtaining the prior written consent of Lender, which consent shall not be unreasonably withheld, conditioned, or delayed.

(f) Default under Loan Documents. Any default by Borrower in the performance of any obligation or undertaking hereunder shall constitute and be deemed to be an Event of Default under the Loan Documents so as to entitle Lender to exercise any and all of the rights and remedies thereunder, including the right to declare all sums payable under the Note immediately due and payable without notice or demand; provided, however, that a failure by Borrower to timely satisfy (or cause the satisfaction of) an obligation or undertaking under this Agreement shall not constitute an "Event of Default" if (i) such failure does not constitute an Event of Default pursuant to any other provision of any Loan Document, and (ii) such failure is fully cured by Borrower on or before the expiration of the Cure Period (hereinafter defined). As used in this Agreement, the term "Cure Period" means a thirty (30) day period commencing upon Lender's written notice to Borrower of Borrower's failure to satisfy the subject obligation or undertaking; provided, however, if (A) the subject failure is, by its nature, not readily susceptible to cure within thirty (30) days, and (B) Borrower commences such cure process within the initial thirty (30) day period and diligently pursues same to completion within one hundred twenty (120) days of the initial failure by Borrower to satisfy the subject obligation or undertaking, then such failure shall not constitute an "Event of Default".

5. Further Assurances. Until the Loan and all indebtedness evidenced by the Note shall have been paid in full, Borrower will from time to time (but not more frequently than two times in any twelve (12) calendar month period) execute and deliver unto Lender upon demand any and all writings that Lender may reasonably deem necessary or desirable to carry out the purpose and intent hereof, or to enable Lender to enforce any right or rights hereunder.

6. Default. The term "Event of Default" as used herein shall mean the occurrence of any one of the following:

(a) The occurrence of any Event of Default under any of the other Loan Documents;

(b) If Borrower shall fail, refuse or neglect, or cause others controlled by Borrower to fail, refuse or neglect, to perform and discharge (subject to all applicable express notice and cure periods) in all material respects any of the covenants and agreements in this Agreement; or

(c) If at any time any material representation or warranty made by Borrower herein shall be materially incorrect at any time; provided, however, to the extent a representation, warranty or statement is the result of an innocent error by Borrower, such false representation, warranty or statement shall not cause an Event of Default if (i) it is susceptible to cure (i.e., Borrower's actions can cause the facts or circumstances relative to the Property, Borrower or other applicable circumstance to change such that the representation, warranty or statement as originally made will become correct), (ii) such cure is made by Borrower within thirty (30) days after written notice to Borrower is provided by Lender of such failure, and (iii) neither such false representation, warranty or statement or the delay occasioned by the cure of such representation, warranty or statement causes a Material Adverse Change (as defined in the Loan Agreement).

7. Action by Lender. Lender agrees that it will not exercise its rights under this Agreement unless and until there is an Event of Default hereunder.

8. Duty; Indemnity. Lender shall not be obligated to perform or discharge any obligation or duty to be performed or discharged by Borrower with respect to Borrower's Rights. **BORROWER HEREBY AGREES TO INDEMNIFY LENDER FOR, AND TO SAVE LENDER HARMLESS FROM, ANY AND ALL LIABILITY ARISING FROM LENDER'S EXERCISE OF OR OMISSION TO EXERCISE ANY OF THE BORROWER'S RIGHTS;** provided, however, the aforesaid indemnity shall not apply to any liability caused by Lender's gross negligence, bad faith, or willful misconduct occurring while Lender is exercising any of Borrower's Rights.

9. Notices. All notices required or permitted to be given hereunder shall be deemed to have been duly given if given in accordance with the applicable provisions of the Deed of Trust.

10. Defeasance. The duly recorded release or reconveyance of the Land from the lien of the Deed of Trust shall render this Agreement of no further force or effect from the date of such release or reconveyance forward. Within thirty (30) days after Borrower's written request to Lender, following the full repayment of the Loan and performance by Borrower of the Loan Documents and the termination of all of Lender's obligations to make Advances under the Loan Documents, Lender shall execute and deliver to Borrower a separate release of this Agreement in recordable form.

11. Binding Effect. This Agreement applies to and binds the parties hereto and their respective heirs, legal representatives, successors and assigns.

12. Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of New York.

13. **WAIVER OF JURY TRIAL. BORROWER AND LENDER MUTUALLY, EXPRESSLY, IRREVOCABLY AND UNCONDITIONALLY WAIVE TRIAL BY JURY FOR ANY PROCEEDING ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT IN THE INTEREST OF AVOIDING EXPENSES AND DELAYS ASSOCIATED WITH JURY TRIALS.**

[The balance of this page intentionally left blank.]

IN WITNESS WHEREOF, Lender and Borrower have caused this instrument to be executed as of the date first above written.

LENDER:

BANK OZK

By: 
Name: Clifton Hill
Title: Executive Managing Director -
Asset Management

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

The foregoing instrument was ACKNOWLEDGED before me this 14th day of November, 2023, by Clifton Hill, the Executive Managing Director – Asset Management, of **BANK OZK**, on behalf of said bank.

[SEAL]


Notary Public, State of Texas


My Commission Expires:
5-19-2024

Allison Rathmell
(Printed Name of Notary Public)



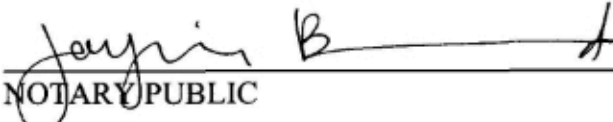
BORROWER:

WINKEL ROCK DE, LLC,
a Delaware limited liability company

By: 
Adam L. Davis, Authorized Signatory

STATE OF Utah §
 §
COUNTY OF Salt Lake §

This instrument was acknowledged before me this 15 day of November, 2023, by **ADAM L. DAVIS**, as Authorized Signatory of **WINKEL ROCK DE, LLC**, a Delaware limited liability company, on behalf of said limited liability company.


NOTARY PUBLIC

Residing at Salt Lake County, Utah

My Commission Expires:
8/04/2024



Exhibit A

Land

PARCEL 1:

ALL OF LOTS 1, 2, AND 3 OF LAYTON STATION PHASE 1 SUBDIVISION, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE DAVIS COUNTY RECORDER'S OFFICE, RECORDED OCTOBER 26, 2023 AS ENTRY NO. 3548782 IN BOOK 8367 AT PAGE 478.

PARCEL 1A:

THE NON-EXCLUSIVE EASEMENT APPURTENANT TO PARCEL 1 DESCRIBED HEREIN FOR A TEMPORARY, EXCLUSIVE CONSTRUCTION EASEMENT, AS CREATED AND DESCRIBED IN THAT CERTAIN TEMPORARY CONSTRUCTION EASEMENT AGREEMENT RECORDED AUGUST 15, 2023 AS ENTRY NO. 3540287 IN BOOK 8316, AT PAGE 126.

PARCEL 1B:

THE NON-EXCLUSIVE EASEMENT APPURTENANT TO PARCEL 1 DESCRIBED HEREIN FOR STORM WATER DRAINAGE, DETENTION AND ACCESS OVER AND ACROSS THE EASEMENT AREA AND ACCESS AREA, AS CREATED AND DESCRIBED IN THAT CERTAIN EASEMENT AGREEMENT RECORDED AUGUST 15, 2023 AS ENTRY NO. 3540288 IN BOOK 8316, AT PAGE 137.

PARCEL 1C:

THE NON-EXCLUSIVE EASEMENT APPURTENANT TO PARCEL 1 DESCRIBED HEREIN FOR VEHICULAR AND PEDESTRIAN ACCESS AND UTILITY ACCESS OVER EASEMENTS, AS CREATED AND DESCRIBED IN THAT CERTAIN RECIPROCAL EASEMENT AND MAINTENANCE AGREEMENT RECORDED JUNE 6, 2023 AS ENTRY NO. 3531605 IN BOOK 8270, AT PAGE 740.

PARCEL 1D:

THE NON-EXCLUSIVE EASEMENTS, APPURTENANT TO PARCEL 1 DESCRIBED HEREIN FOR RECIPROCAL EASEMENTS OVER COMMON AREAS AND ROADWAY EASEMENT TO-BE-GRANTED, AS CREATED AND DESCRIBED IN THAT CERTAIN DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR LAYTON STATION IN SECTIONS 7.3 AND 7.6, RECORDED 12/14, 2023 AS ENTRY NO. 3554439 IN BOOK 8399, AT PAGE 424.

Exhibit B

Association Articles of Incorporation

[The Association Articles of Incorporation follows this cover page.]

**ARTICLES OF INCORPORATION
OF
LAYTON STATION OWNERS ASSOCIATION, INC.**
(a Utah nonprofit corporation)

Tom Henriod, the undersigned natural person over the age of twenty-one years, acting as incorporator of a nonprofit corporation created pursuant to the Utah Revised Nonprofit Corporation Act, §16-6a-101, *et set.*, Utah Code Ann., as amended (the "Act"), hereby adopts the following Articles of Incorporation for such nonprofit corporation (the "Articles").

**ARTICLE I
NAME**

The name of this nonprofit corporation is: LAYTON STATION OWNERS ASSOCIATION, INC. (the "Association").

**ARTICLE II
DEFINITIONS**

Except as otherwise provided herein, all terms defined in that certain Declaration of Covenants, Conditions and Restrictions for Layton Station, recorded in the Official Records of Davis County, Utah (the "Declaration"), shall have such defined meanings when used in these Articles. The Declaration is hereby incorporated by reference and made a part of these Articles.

**ARTICLE III
DURATION**

Unless earlier dissolved pursuant to the Act or Bylaws of the Association (the "Bylaws"), the duration of the Association is perpetual.

**ARTICLE IV
PURPOSE AND POWER**

The Association is organized as a nonprofit corporation to be and to serve as the owners association of the project known as Layton Station as further described in the Declaration. The Association shall operate exclusively for the purpose of administering and enforcing the Declaration and to exercise the rights, powers and duties of the Association set forth in the Declaration. Subject to any limitations herein expressed, the Association shall have and may exercise the power to do any and all things that the Association is authorized or required to do under the Declaration, the Bylaws and the Act, including, without limiting the generality of the foregoing, the power to fix, levy and collect the charges and Common Area Assessments provided for in the Declaration.

**ARTICLE V
STOCK, MEMBERSHIP AND VOTING RIGHTS**

The Association will not issue stock, and neither the issuance nor the holding of stock shall be necessary to evidence Association membership.

Except to the extent otherwise provided in the Declaration and/or the Bylaws:

1. Every Owner of a Lot shall be a Member of the Association, and the Declarant shall be a Member of the Association so long as it owns any part of the Project (unless and until the Declarant expressly relinquishes in writing its status as a Member);

2. There shall be one (1) Association membership for each Lot, which Association membership shall be held jointly by all Owners of that Lot;

3. No persons or entities other than Declarant or an Owner of a Lot may be a Member of the Association;

4. Association membership shall be mandatory, and not optional, and shall be appurtenant to and may not be separated from the ownership of any Lot (except in the case of Declarant as provided under the Declaration), and shall begin immediately upon becoming an Owner and terminate when such ownership ceases;

5. The number of votes in the Association for each Lot are allocated in accordance with each Lot's Proportionate Share in accordance with Section 11.2(c) of the Declaration; and

6. The voting rights in the Association appurtenant to each Lot shall vest upon execution and recordation of the Declaration, and shall be exercisable pursuant to the terms and conditions of the Declaration and Bylaws.

**ARTICLE VI
COMMON AREA ASSESSMENTS**

Association Members shall be subject to Common Area Assessments by the Association from time to time in accordance with the provisions of the Declaration and Bylaws. Association Members shall be liable to the Association for such Assessments.

**ARTICLE VII
DISTRIBUTIONS**

No dividend shall be paid to, and no part of the net income, if any, of the Association, shall be distributed to any of the Owners, the Board or to the officers of the Association, except as otherwise provided herein, in the Bylaws, Declaration, or the Act.

**ARTICLE VIII
BOARD OF DIRECTORS**

The affairs of the Association shall be managed by the Board of Directors which shall consist of at least three (3) directors (odd-numbered totals only) who shall hold office until the election of their successors for the term stated in the Bylaws. The names and addresses of those persons who shall act as directors until the selection of their successors are:

Tom Henriod
4655 South 2300 East, Suite 205
Holladay, UT 84117

Adam Davis
4655 South 2300 East, Suite 205
Holladay, UT 84117

McKay Winkel
4655 South 2300 East, Suite 205
Holladay, UT 84117

**ARTICLE IX
INITIAL PRINCIPAL OFFICE**

The address of the Association's initial principal office is:

4655 South 2300 East, Suite 205
Holladay, UT 84117
Attn: Layton Station Project Manager

**ARTICLE X
INCORPORATOR**

The name and address of the incorporator is:

Tom Henriod
4655 South 2300 East, Suite 205
Holladay, UT 84117

**ARTICLE XI
REGISTERED OFFICE AND AGENT**

The registered office of the Association and the name of the initial registered agent shall be:

Todd Groskreutz
4655 South 2300 East, Suite 205
Holladay, UT 84117

**ARTICLE XII
LIMITATIONS ON LIABILITY**

The Association Members shall not be personally liable for the debts and obligations of the Association.

No officer or member of the Board shall be personally liable to the Association except for:

1. Acts or omissions which involve an intentional infliction of harm or an intentional violation of criminal law;
2. The amount of a financial benefit received by a member of the Board to which the member of the Board is not entitled; or
3. The payment of distributions in violation of §16-6a-824 of the Act.

**ARTICLE XIII
BYLAWS**

The initial Bylaws shall be as adopted by the Board. Declarant and the Board shall have the power to alter, amend or repeal the Bylaws from time to time in force and adopt new Bylaws in accordance with and subject to the provisions therein. The Bylaws may contain provisions for the regulation or management of the affairs of the Association which are not inconsistent with applicable law, the Articles, or Declaration, as may be amended from time to time.

**ARTICLE XIV
DISSOLUTION**

Upon dissolution, the Association shall make distribution of income or assets to the Association Members, after satisfaction of all debts or obligations of the Association.

**ARTICLE XV
AMENDMENTS**

Except as otherwise provided by law or by the Declaration, these Articles may be amended only upon the affirmative vote of a majority of the members of the Board. These Articles may not be amended so as to provide for any matter that is inconsistent with the provisions of the Declaration or Bylaws.

**ARTICLE XVI
CONFLICTS WITH GOVERNING DOCUMENTS**

In the event of any conflict or inconsistency between and among these Articles, the Bylaws, or the Declaration, the Declaration and Bylaws shall control, in that order. Any conflicting provision(s) of the Articles and/or Bylaws with the Declaration shall be amended to conform to the Declaration.

IN WITNESS WHEREOF, the undersigned, acting as incorporator, executes these Articles of Incorporation for Layton Station Owners Association, Inc., DATED this ___ day of October, 2023.

Tom Henriod

REGISTERED AGENT'S ACKNOWLEDGEMENT AND CONSENT

Todd Groskreutz hereby acknowledges that he is the initial registered agent of Layton Station Owners Association, Inc. and that he consents to act as such.

DATED this _____ day of October, 2023.

Todd Groskreutz

Exhibit C

Association Bylaws

[The Association Bylaws follow this cover page.]

BYLAWS
of
LAYTON STATION OWNERS ASSOCIATION, INC.
(a Utah nonprofit corporation)

ARTICLE 1
NAME, PRINCIPAL OFFICE, AND DEFINITIONS

1.1 Name. The name of the Association shall be the Layton Station Owners Association, Inc. ("Association").

1.2 Principal Office. The principal office of the Association shall be located at 4655 South 2300 East, Suite 205, Holladay, UT 84117, or at such other place as may be designated by the Board of Directors of the Association ("Board") from time to time.

1.3 Definitions. The Association is a nonprofit corporation, organized pursuant to and in accordance with Title 16, Chapter 6a of the Utah Code (the "Nonprofit Act"). The words used in these Bylaws shall be given their normal, commonly understood definitions. Capitalized terms shall have the same meaning as set forth in the Declaration of Covenants, Conditions and Restrictions for Layton Station, recorded in the Official Records of Davis County, Utah (the "Declaration"), unless the context indicates otherwise.

ARTICLE 2
MEMBERSHIP, VOTING AND MEETINGS OF THE ASSOCIATION

2.1 Membership. The Association shall be a Utah nonprofit corporation charged with the duties and vested with the powers prescribed by law and set forth in the Declaration and these Bylaws. Every Owner of a Lot shall be a member of the Association ("Member"), and Declarant shall be a Member of the Association so long as it owns any Lot. No persons or entity other than an Owner or Declarant may be a Member of the Association. Membership in the Association shall begin immediately and automatically upon becoming an Owner and shall cease immediately and automatically upon ceasing to be an Owner. Declarant's membership shall cease when Declarant has sold all of the Lots.

2.2 Votes in the Association. All Members shall be entitled to the number of votes associated with the Lot owned by such Member as set forth in Section 11.2(c) of the Declaration. Any issue put to a vote at a duly called meeting of Members at which a quorum is present shall be decided by a simple majority of the total votes represented in person or by valid proxy at such meeting.

2.3 Membership Rights. Each Member shall have the respective rights, duties and obligations set forth in the Declaration and these Bylaws, as the same may be amended from time to time.

2.4 Annual Association Meetings. There shall be an annual meeting of the Association at the date and time fixed by the Board at a reasonable place at the Project or some other location that is readily accessible at reasonable cost to the largest possible number of Members as determined by the Board.

2.5 Special Meetings of the Association. Special meetings of the Association may be called by the President (as defined in Section 4.2 below), a majority of the Board, or if the Association receives one or more written demands for a meeting that (a) state the purpose for which the special meeting is to be held and (b) are signed and dated by Members representing at least twenty-five percent (25%) or more of the total votes of the Association. Special meetings of the Association may be held at a reasonable place in the Project or some other location that is readily accessible at reasonable cost to the largest possible number of Members as determined by the Board. At any special meeting of the Association, only those matters of business, the general nature of which was given in the notice of the special meeting, may be voted upon by the Members.

2.6 Notice of Meetings of the Association. Notice of the annual meeting of the Association and of any special meetings of the Association shall be hand delivered, sent by facsimile (fax) or electronic (e-mail) transmission, or sent by first-class or certified mail, no fewer than ten (10) nor more than sixty (60) days prior to the date fixed for said meeting to each Member entitled to vote at such meeting at such Member's address as shown in the records of the Association or to any other mailing address designated in writing by the Member. Consent to electronic notice is deemed granted in the event a Member provides a fax number or e-mail address to the Association. Such notice shall specify the place, date and hour of the meeting and a description of any matters that must be approved by the Members for which the Members' approval is sought at such meeting. The notice of a special meeting shall also include a description of the purposes for which the meeting is called. If any annual or special meeting of the Members is adjourned to a different date, time or place, notice need not be given of the new date, time and place if the new date, time and place are announced at the meeting before adjournment. Notwithstanding the foregoing sentence, if the adjournment is for more than thirty (30) days, or if after the adjournment a new record date for the adjourned meeting is or must be fixed pursuant to Section 2.6 of these Bylaws or applicable law, notice of the adjourned meeting must be given pursuant to the requirements of this Section 2.16 to Members entitled to vote at the meeting.

2.7 Meetings by Telecommunication. Any or all of the Members may participate in an annual, regular, or special meeting by, or the meeting may be conducted through the use of, any means of communication by which all persons participating in the meeting may hear each other during the meeting.

2.8 Recording Meetings. The Board, in its sole and exclusive discretion, may adopt a policy regarding electronic recordation of meetings of the Association. Such policy may include, without limitation, an outright prohibition on any form of electronically recording meetings or outright prohibition on dissemination of any electronic recordings. Absent such a policy, and without the express approval of the Board, no Member may record any meeting of the Association in any electronic format.

2.9 Quorum. The presence in person or by proxy of Members holding fifty-one percent (51%) or more of the total votes of the Association at any meeting of the Association held in response to notice to all Members of record properly given shall constitute a quorum. In the absence of a quorum at an Association meeting, a majority of those present in person or by proxy may adjourn the meeting to another time, but may not transact any other business. An adjournment for lack of a quorum by those in attendance shall be to a date not less than five (5)

nor more than thirty (30) days from the original meeting date. The quorum for an adjourned meeting shall require the presence in person or by proxy of Members holding thirty percent (30%) or more of the total votes of the Association. If the time and place for an adjourned meeting is not fixed by those in attendance at the original meeting, or if for any reason a new date is fixed for the adjourned meeting after adjournment, notice of the time and place of the adjourned meeting shall be given to Members in the manner prescribed for regular meetings of the Association. Unless otherwise expressly provided in the Nonprofit Act, the Declaration and these Bylaws, any action may be taken at any meeting of the Members upon a majority vote of the Members who are present in person or by proxy.

2.10 Robert's Rules. Robert's Rules of Order Newly Revised (latest edition) shall govern the conduct of the Association's meeting when not in conflict with the Declaration, the Nonprofit Act, or any special rules of order the Association may adopt.

2.11 Action by Written Ballot. Any action that may be taken at any annual or special meeting of the Association may be taken without a meeting if the Association delivers a written ballot to every Member entitled to vote on the matter. The written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. All solicitations for votes by written ballot shall (a) indicate the number of responses needed to meet the quorum requirements; (b) state the percentage of approvals necessary to approve each matter other than election of Directors (as defined in Section 2.11 below); (c) specify the time by which a ballot must be received by the Association in order to be counted; and (d) be accompanied by written information sufficient to permit each person casting the ballot to reach an informed decision on the matter. The written ballot may be distributed electronically, including through an Owner website, and votes may be collected electronically, including by electronic mail or online voting. Approval by written ballot pursuant to this Section 2.11 shall be valid only when:

2.11.1 The time by which all ballots must be received by the Association has passed so that a quorum can be determined; and

2.11.2 The number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

2.12 Action by Written Consent. Other than the election of Directors, any action that may be taken at any annual or special meeting of the Association may be taken without a meeting and without prior notice, if one or more consents in writing, setting forth the action taken, are signed by the Members having not less than the minimum voting power that would be necessary to authorize or take the action at a meeting at which all Members entitled to vote on the action were present and voted. Such consents shall be signed, dated and delivered to the Association within a sixty (60) day period. Notice must be given to those Members who have not consented at least ten (10) days before the action takes effect.

2.13 Proxies. At each meeting of the Association, each Member entitled to vote shall be entitled to vote in person or by proxy. The right to vote by proxy shall exist only where the instrument authorizing such proxy to act shall have been executed by the Member or by his, her or its attorney thereunto duly authorized in writing. The instrument authorizing the proxy to act shall be delivered, at the beginning of the meeting, to the Secretary/Treasurer of the Association

(as defined in Section 4.4 below), or such other officer or person who may be acting as the secretary at the meeting. The secretary of the meeting shall enter a record of all such proxies in the minutes of the meeting. A Member may revoke a proxy given pursuant to this Section 2.13 only by actual notice of revocation to the Association. A proxy is void if it is not dated or purports to be revocable without notice.

2.14 Designated Member. In the event that a Lot is owned by more than one Owner, then by the majority written designation of all Owners after the initial conveyance of such Lot, one Owner shall be appointed as the designated Member ("Designated Member") for the Lot for the purposes of voting on Association matters and for billing purposes. This Designated Member may be changed at any time by delivering to the Association written notification of such change signed by all the Owners of the Lot. In the absence of such a designation, if only one of several Owners of a Lot is present at a meeting of the Association, that Owner is entitled to cast all the votes allocated to that Lot. If more than one of the Owners of a Lot is present at a meeting of the Lot, the vote allocated to that Lot may be cast only by the Designated Member. Absent a written designation, there shall be deemed to be majority agreement if any one of the Owners casts the votes allocated to the Lot owned without protest made promptly to the person presiding over the meeting by any of the other Owners of such Lot.

2.15 Transfer of Membership. The rights and obligations of any Member shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership of an Owner's Lot, and then only to the transferee of ownership of the Lot. A transfer of ownership of a Lot may be effected by deed, intestate succession, testamentary disposition, foreclosure or such other legal process as is now in effect or as may hereafter be established under or pursuant to applicable law. Any attempt to make a prohibited transfer shall be void. Any transfer of ownership of a Lot shall operate to transfer the Membership appurtenant to said Lot to the new Owner thereof. Each Purchaser shall notify the Association of his, her or its purchase of a Lot. A change in the ownership of a Lot shall be effective for voting purposes from the time the deed or other instrument effecting such change is Recorded; the Board shall thereafter be given written notice of such change and provided satisfactory evidence thereof.

2.16 Members of Record. For the purpose of determining Members entitled to notice of or to vote at a meeting of the Association, or in order to make a determination of Members for any other proper purpose, the Board shall fix in advance a date as the record date for any such determination of Members. The record date shall not be more than thirty (30) days prior to the date of the particular meeting of the Association or the date on which the particular action requiring such determination of Members is to be taken, as applicable, unless otherwise extended by the Board. If no record date is fixed, the record date for such determination of Members entitled to vote shall be four o'clock in the afternoon on the day before the day on which notice of the meeting is mailed or delivered. When a determination of Members entitled to vote at any meeting of the Association has been made as provided in this Section 2.16, such determination shall apply to any continuation of such meeting following an adjournment.

2.17 All Lots Owned by Single Person or Entity. In the event all Lots in the Project are owned by the same person or entity, the requirements for notices and meetings provided in this ARTICLE 2 shall not apply or be required.

ARTICLE 3 BOARD

3.1 Administration of Association. The management and maintenance of the Project and the administration of the affairs of the Association shall be conducted by the Board consisting of three (3) natural persons ("Directors"). For the purposes of this ARTICLE 3, the term "Owner" shall include Owners, the spouse of an Owner who is married to and not legally separated from an Owner, and Designated Members.

3.2 Composition. Each Director shall have one equal vote. Except with respect to Directors appointed by the Declarant, the Directors shall be Members or spouses of such Members. In the case of a Member that is not a natural person, any officer, director, member, partner or trust officer of such Member shall be eligible to serve as a Director unless otherwise specified by written notice to the Association signed by such Member; provided, no Member may have more than one such representative on the Board at a time, except in the case of Directors appointed by the Declarant.

3.3 Directors Prior to Turnover Date. Notwithstanding any other provision of these Bylaws, the Directors shall be selected by the Declarant, acting in its sole and subjective discretion and shall serve at the pleasure of the Declarant until the Turnover Date. On the Turnover Date, the Directors appointed by the Declarant shall resign and the Members shall be entitled to elect all successor Directors at a special meeting.

3.4 Election and Term of Office. At the first meeting of the Members on or after the Turnover Date, the Board shall be elected by the Members. The terms of the Directors shall be staggered so that the terms of one-third of the Directors will expire and successors will be elected each year by the Members as provided by these Bylaws. Thereafter, successors to the Directors whose terms then expire shall be elected by the Members to serve terms of two (2) years. Directors shall serve until their successors have been duly elected and qualified unless removed pursuant to Section 3.7 below. Directors may be elected to serve any number of consecutive terms. All candidates shall have a reasonable opportunity to communicate their qualifications to the Members and to solicit votes. Candidates must be in "good standing," as determined in the sole discretion of the Board at the time of being nominated by the Board or submitting a petition, as well as at the time of the election. For purposes herein "good standing" means the Owner (a) is current in all Common Area Assessments, fees, charges and contractual and other obligations owed to the Association and with respect to his or her Lot and has demonstrated a historical pattern of being current with such obligations; (b) is in compliance with all of the provisions of the Declaration and has demonstrated a historical pattern of compliance with all of the provisions in the Declaration; and (c) has not engaged in acts and/or assisted or caused others to engage in acts that are (i) detrimental to the Association and/or its members or (ii) inconsistent with that of a member of the Board and a fiduciary of the Association.

3.5 Voting for the Board. Voting for Directors may be by written or oral vote, unless an Owner objects to such procedure, in which case voting shall be by secret written ballot. At any meeting of the Association, each Member, either in person or by proxy, for each Director position to be filled, shall be entitled to the number of votes set forth in the Declaration for each

Lot. When there are multiple positions to be filled, Members may not cumulate votes or cast all votes in favor of a single candidate.

3.6 Resignation. Any Director may resign at any time by giving written notice to the President or to the remaining Directors. Any Director who (a) fails to attend three (3) consecutive Board meetings or fails to attend at least twenty-five percent (25%) of the Board meetings held during any fiscal year, or (b) fails to meet his or her assessment obligations under the Declaration shall be deemed to have tendered his or her resignation, and his or her position shall be vacant following confirmation of the failure to attend meetings or meet assessment obligations by the affirmative vote of the remaining Directors, notwithstanding such remaining Directors may be less than a quorum.

3.7 Removal. The Members, representing at least two-thirds (2/3) of the total votes of the Association present in person or by proxy at any meeting of the Members may remove any Director elected by the Members with or without cause. A Director may only be removed by the Members at a meeting called for the purpose of removing such Director and if the meeting notice states that the purpose, or one of the purposes, of the meeting is removal of such Director.

3.8 Vacancies. If vacancies shall occur in the Board by reason of the death or resignation of a Director, the Directors then in office shall continue to act, and such vacancies shall be filled by a vote of the Directors then in office, though less than a quorum. Any vacancy in the Board occurring by reason of removal of a Director by the Association may be filled by election at the meeting at which such Director is removed or any subsequent regular or special meeting of the Association in accordance with the voting procedures described above.

3.9 Compensation. Directors shall receive no compensation for their services unless expressly approved by the vote or written assent of sixty seven percent (67%) of the total votes of the Association; provided, however, that Directors shall be reimbursed by the Association for reasonable expenses actually incurred for attendance at regular and special meetings of the Board and any other expenses incurred on behalf of the Association upon approval of a majority of the other Directors. Any Director may be employed by the Association in another capacity and receive compensation for such employment; provided further, that such employment shall be approved by vote or in writing by all Directors not including the Director to be employed.

3.10 Powers. The Board, for the benefit of the Project and the Association, shall manage the business, property and affairs of the Project and the Association and enforce the provisions of the Declaration. The Board is authorized to adopt rules and regulations governing the use and operation of the Project, which shall become effective immediately upon adoption by the Board. The Board shall have the powers, duties and responsibilities with respect to the Project as contained in the Declaration and Nonprofit Act.

3.11 Board Meetings. The regular meetings of the Board shall be held at least annually at such times and places within the Project, or some other reasonable and suitable location in Salt Lake County, unless a meeting at another location would significantly reduce the cost to the Association and/or the inconvenience to Directors, as the Board shall determine. A majority of the Board shall constitute a quorum, and if a quorum is present, the decision of a majority of those present shall be the act of the Board. Directors may participate in meetings by means of telephonic conference or similar communications equipment by which all persons participating

in the meeting can hear each other at the same time and by any other means permitted under Utah law. Such participation shall constitute presence in person at the meeting.

3.12 Special Meetings of the Board. Special meetings of the Board may be called by written notice signed by the President or any two (2) Directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. Special meetings shall be held within the Project or some other reasonable location in Salt Lake County unless a meeting at another location would significantly reduce the cost to the Association and/or inconvenience to the Directors. To the extent permitted by Utah law, special meetings of the Board may be held by telephonic conference or other means as described in Section 3.11 above.

3.13 Notices. Notices of all regular Board meetings shall be given in writing, by personal delivery, first-class or certified mail, facsimile (fax) or electronic (e-mail) transmission to each Director not less than thirty (30) days prior to the meeting, provided that this requirement shall not apply to any Director who has signed a waiver of notice or a written consent to the holding of a meeting. Special meetings of the Board must be preceded by two days' notice of the date, time and place of the meeting. The notice need not describe the purpose of the special meeting unless required by Utah law. The giving of notice of any meeting shall be governed by the rules set forth in §16-6a-103 of the Nonprofit Act.

3.14 Waiver of Notice. A Director may waive any notice of a meeting before or after the time and date of the meeting stated in the notice. A Director's attendance at or participation in a meeting waives any required notice to that Director of the meeting unless such Director, at the beginning of the meeting or promptly upon the Director's arrival at the meeting, objects to holding the meeting or transacting business at the meeting because of lack of notice or defective notice and the objecting Director does not vote for or assent to action taken at the meeting.

3.15 Actions and Open Meetings. Directors shall act only as a Board, and individual Directors shall have no powers as such. Regular and special meetings of the Board shall be open to all Members; provided, however, that the Members who are not on the Board may not participate in any deliberation or discussion unless expressly so authorized by the vote of a majority of a quorum of the Board. The Board may, with the approval of a majority of a quorum of its Directors, adjourn the meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved and similar orders of business. The nature of any and all business to be considered in executive session shall first be announced in open session.

3.16 Action Without a Meeting. Any action that is required or permitted to be taken at a meeting of the Board may be taken without a meeting if one or more consents in writing, setting forth the action so taken, are signed by all Directors and such signed consents are filed with the records of the Association. To take action by written consent, such consent must be signed by each Director indicating either: (a) a vote in favor of the action; or (b) a vote against the action or abstaining from voting on the action as well as a waiver of the right to demand that action not be taken without a meeting. Action may be taken under this Section 3.16 only if the affirmative vote for the action equals or exceeds the minimum number of votes that would be necessary to take such action at a meeting where all Directors were present. The consents of Directors may be sent to the Association by electronically transmitted facsimile or other form of

wire or wireless communication providing a complete copy of the document, including a copy of the signature of the Directors.

3.17 Right of Declarant to Disapprove Actions. Until the Turnover Date, Declarant shall have a right to disapprove any action, policy or program of the Association, the Board and any committee which, in the sole and exclusive judgment of the Declarant, would tend to impair rights of the Declarant or any Declarant Affiliate under the Declaration or these Bylaws, or interfere with development, construction of any portion of the Project, or diminish the level of services being provided by the Association. No such action, policy or program shall become effective or be implemented until and unless:

3.17.1 The Declarant shall have been given written notice of all meetings and proposed actions approved at meetings of the Association, the Board or any committee thereof by certified mail, return receipt requested, or by personal delivery at the address it has registered with the Secretary of the Association, as it may change from time to time, which notice shall, except in the case of the regular meetings held pursuant to the Bylaws, set forth in reasonable particularity the agenda to be followed at said meeting; and

3.17.2 The Declarant shall be given the opportunity at any such meeting to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program which would be subject to the right of disapproval set forth herein. The Declarant, its representatives or agents shall make their concerns, thoughts, and suggestions known to the Board and/or the members of the subject committee. The Declarant shall have and is hereby granted an exclusive right to disapprove any such action, policy, or program authorized by the Association, the Board or any committee thereof, if the approval of the Board, any committee, or the Association is necessary for such action. This right may be exercised by the Declarant, its successors, assigns, representatives, or agents at any time within ten (10) days following the meeting held pursuant to the terms and provision thereof. This right to disapprove may be used to block proposed actions but shall not extend to the requiring of any action or counteraction on behalf of the Board, any committee, or the Association. The Declarant shall not use its right to disapprove to reduce the level of services which the Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

3.18 Fiscal Year. The fiscal year shall be set by resolution of the Board. In the absence of a Board resolution, the fiscal year shall be January 1 through December 31.

3.19 Eligibility for Directors. An officer, employee, agent or director of a corporate Owner of a Lot, a trustee or designated beneficiary of a trust that owns a Lot, a partner of a partnership that owns a Lot, a member of a limited liability company that owns a Lot, a fiduciary of an estate that owns a Lot, and the spouse of an Owner who is married to and not legally separated from an Owner may be considered an Owner for the purpose of determining eligibility for Directors of the Board. Where the person serving or offering to serve as an officer or Director of the Board is not the record Owner, such person shall file proof of authority in the records of the Association.

3.20 Resort Manager. The Board or the officers appointed thereby may delegate to the Resort Manager, or such other persons as it so determines, all of the duties and obligations of the Board set forth herein and in the Declaration to the extent such duties and obligations are properly delegable.

3.21 Special Committees. The Board may designate by resolution such committees and subcommittees as the Board deems appropriate, from time to time, which shall include the Design Review Committee as described in the Declaration. Each committee shall exercise those powers granted to it by an enabling resolution of the Board; provided, however that no committee shall exercise any power which is excluded from the delegation of the power of the Board by the laws of the State of Utah or the Declaration.

ARTICLE 4 OFFICERS

4.1 Designation. The officers shall be a President, Vice President, and Secretary/Treasurer and such other officers as may from time to time be appointed by the Board as it may deem necessary. No officer shall be required to be an Owner. No officer shall receive compensation for serving as such; provided, however, that an officer may be reimbursed for expenses incurred in performance of his or her duties as an officer to the extent such expenses are approved by the Board and may be compensated for services rendered to the Association other than in the capacity as an officer. All officers and employees of the Association shall serve at the will of the Board. Officers shall be annually elected by the Board and may be removed and replaced by the Board. Any one person may hold any two or more offices, except that the President may not also be the Secretary/Treasurer.

4.2 President. The President shall be the chief executive of the Board and shall preside at all meetings of the Association and of the Board and may exercise the power ordinarily allowable to the presiding officer of an Association, including the appointment of committees. The President shall exercise general supervision over the Project and its affairs. He or she shall sign, and the Secretary/Treasurer shall witness, on behalf of the Association, all conveyances, mortgages and contracts of material importance to its business. He or she shall do and perform all acts which the Board may require.

4.3 Vice President. The Vice President shall perform the functions of the President in his or her absence or inability to serve. He or she shall do and perform all acts which the Board may require.

4.4 Secretary/Treasurer. The Secretary/Treasurer shall keep minutes of all proceedings of the Board and of the meetings of the Association and shall keep such books and records as may be necessary and appropriate for the records of the Members and the Board. The Secretary/Treasurer shall also be responsible for the fiscal affairs of the Association, and shall have the custody and control of the funds of the Association, but may delegate the daily handling of funds and the keeping of records to a property manager or other consultant. The Secretary/Treasurer shall, upon the request of the President, report the state of the finances of the Association at any meeting of the Board or the Members. He or she shall do and perform all acts which the Board may require.

4.5 Resignation and Removal. Any officer may resign at any time by delivering a written resignation to the President or the Board. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any officer may be removed by the Board at any time, with or without cause.

4.6 Execution of Amendments. Any officer may prepare, execute, certify and record amendments to the Declaration, the Plat, or these Bylaws on behalf of the Association.

ARTICLE 5 DESIGN REVIEW COMMITTEE

5.1 Establishment. In addition to the committees described elsewhere in these Bylaws, the Board may establish the Design Review Committee. The Design Review Committee shall have the duties and authority described in Article 6 of the Declaration. The members of the Design Review Committee shall be appointed by Declarant until the Turnover Date, and thereafter by the Board, and such members need not be Owners.

5.2 Purpose. The Design Review Committee shall be the first to review, study and either approve, reject or request resubmittal of proposed developments and improvements to a Lot or any Common Areas in accordance with Article 6 of the Declaration.

5.3 Approval of Actions. So long as Declarant owns any Lot, Declarant may require that all actions by the Design Review Committee be reviewed and approved by Declarant prior to becoming effective.

5.4 Organization and Operation. Terms of office, qualifications for membership, election, removal, resignation, vacancies, meetings, actions, etc. shall be governed by the same procedures and requirements as set forth in ARTICLE 3 above.

ARTICLE 6 EXPENSES AND ASSESSMENTS

6.1 Assessments. All Common Area Assessments shall be levied against Members in accordance with the Declaration and this ARTICLE 6.

6.2 Common Expenses. The Board shall approve or disapprove the estimated Common Expenses for the coming fiscal year. Common Area Assessments shall be levied against all Owners in accordance with their Proportionate Share allocated to each Lot as provided in Section 9.2 of the Declaration and shall be assessed on a monthly, quarterly or annual basis, at the election of the Board, to the Members.

6.3 Billing Statement for Common Area Assessments. The Board shall submit a billing statement to each Member of the amount of the Common Area Assessments owed by such Member, at least thirty (30) days prior to the date payment of such Common Area Assessment is due. Such billing statement shall identify the amount of Common Area Assessments due and the due date.

6.4 No Exemption. No Member shall be exempt from liability for any of the expenses described above by waiver of the use or enjoyment of any of the Project or by abandonment of his, her or its Lot.

6.5 Common Area Assessment Records. The Treasurer shall keep detailed records of all receipts and expenditures, including expenditures affecting the Project, specifying and itemizing the maintenance, repair and replacement expenses of the Project and any other expenses incurred. Such records shall be available for examination by the Members during regular business hours. In accordance with the actions of the Board in assessing Common Expenses against the Lots, the Treasurer shall keep an accurate record of such Assessments and of the payments thereof by each Member.

6.6 Statements for Purchasers. Any person who shall have entered into a written agreement to purchase a Lot, by written request directed to the Board, shall be entitled to obtain a written statement from the Treasurer setting forth the amount of the monthly, quarterly, annual or other periodic Common Area Assessments and the amount of unpaid Common Area Assessments charged against such Lot and its Owner(s), and if such statement does not reveal the full amount of the unpaid Common Area Assessments as of the date it is rendered, the purchaser shall not be liable for the payment of an amount in excess of the unpaid Common Area Assessments shown thereon, provided that the former Owner shall remain so liable. Any such excess which cannot be promptly collected from the former Owner-grantor shall be reassessed by the Board as a Common Expense to be collected from all Members, including without limitation the purchaser of such Lot and his, her or its successors and assigns. The new Owner shall, and the former Owner shall not, be liable for any Common Area Assessments made after the date of transfer of title, even though the expenses incurred or the advances made by the Board for which the Common Area Assessment is made relate in whole or in part to any period prior to that date. The Board is authorized to require a reasonable fee not to exceed \$25.00, unless otherwise authorized by the Act, for furnishing such statements. Statements for Members and Mortgagees. In addition to the statements issuable to purchasers, the Board shall, upon ten (10) days prior written request therefor, provide to any Member and to any Mortgagee, a current statement of unpaid Common Area Assessments and for any expenses of and advances by the Board with respect to a Lot. The Board is authorized to require a reasonable fee not to exceed \$25.00, unless otherwise authorized by the Act, for furnishing such statements.

6.7 Collection. All Common Area Assessments shall be a separate, distinct and personal liability of the Members at the time each Assessment is made. The Board shall have the rights and remedies contained in the Act and in the Declaration to enforce the collection of Common Area Assessments. In all cases where all or part of any Common Area Assessments for Common Expenses, and for any expenses of and advances by the Board cannot be promptly collected from the persons or entities liable therefor under the Declaration or these Bylaws, the Board shall reassess the same as a Common Expense without prejudice to its right of collection against such persons or entities, or without prejudice to its lien for such Assessments.

6.8 Limitations on Alterations, Additions and Improvements of Common Areas. There shall be no structural alterations, capital addition to, or capital improvements of the Common Areas requiring an expenditure in excess of One Hundred Thousand Dollars (\$100,000.00) without prior approval of Members holding a majority of the total votes of the Association.

ARTICLE 7 LITIGATION

7.1 Expenses. If any action is brought by a Director on behalf of the Association, the expenses of suit, including reasonable attorneys' fees, shall be a Common Expense. Except as otherwise provided by the Declaration or applicable Utah law, if any action is brought against the Members or against the Board or the Directors, officers, employees or agents thereof in their capacities as such, with the result that the ultimate liability asserted would, if proved, be borne by all the Members, the expenses of suit, including attorneys' fees, shall be a Common Expense. If any action is brought against one or more, but less than all Members, with the result that the ultimate liability would, if proved, be borne solely by such Members named as defendants, the expenses of suit, including attorneys' fees, shall not be charged to or borne by the other Members, as a Common Expense or otherwise.

7.2 Defense. Except as otherwise provided by applicable Utah law, any action brought against the Association, the Board or the Directors, officers, employees or agents thereof, in their respective capacities as such, or the Project as a whole, shall be directed to the Board, and shall be defended by the Board and the Members and Mortgagees shall have no right to participate in such defense other than through the Board. Actions against one or more, but less than all Members, shall be directed to such Members who are named defendants, which Members shall promptly give written notice thereof to the Board, and such action shall be defended by such Members.

ARTICLE 8 INDEMNIFICATION

8.1 Actions by or in the Right of the Association. The Association shall indemnify each and every Director and officer of the Association, and each and every member of any committee appointed by the Board (including, for purposes of this Section 8.1, former officers and Directors of the Association, and former members of committees appointed by the Board) (each an "Association Official") against any and all expenses, including attorneys' fees, reasonably incurred by or imposed upon an Association Official in connection with any action, suit or other proceeding (including settlement of any suit or proceeding, if approved by the Board serving at the time of such settlement) to which he or she may be a party by reason of being or having been an Association Official, if he or she acted in good faith; reasonably believed, in the case of conduct in his or her official capacity with the Association, that his or her conduct was in the Association's best interest, or, in all other cases, that his or her conduct was at least not opposed to the Association's best interests; and in the case of a criminal proceeding, had no reasonable cause to believe his or her conduct was unlawful. So long as the Association Official: (a) acted in good faith; (b) reasonably believed, in the case of conduct in his or her official capacity with the Association, that his or her conduct was in the Association's best interest, or, in all other cases, that his or conduct was at least not opposed to the Association's best interests; and (c) in the case of a criminal proceeding, had no reasonable cause to believe his or her conduct was unlawful, then he or she shall not have any personal liability with respect to any contract or other commitment made or action taken on behalf of the Association (except indirectly to the extent that such Association Official may also be a Member of the Association and therefore subject to Assessments hereunder to fund a liability of the Association), and the Association shall indemnify and forever hold each such Association

Official free and harmless from and against any and all liability to others on account of any such contract, commitment or action. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any Association Official may be entitled. If the Board deems it appropriate, in its sole discretion, the Association may advance funds to or for the benefit of any Association Official who may be entitled to indemnification hereunder to enable such Association Official to meet on-going costs and expenses of defending himself or herself in any action or proceeding brought against such Association Official by reason of his or her being, or having been, an Association Official. In the event it is ultimately determined that an Association Official to whom, or for whose benefit, funds were advanced pursuant to the preceding sentence does not qualify for indemnification pursuant to this Section 8.1 or otherwise under the Articles, these Bylaws, the Declaration or applicable law, such Association Official shall promptly upon demand repay to the Association the total of such funds advanced by the Association to him or her, or for his or her benefit, with interest (should the Board so elect) at a rate not to exceed ten percent (10%) per annum from the date(s) advanced until paid. Notwithstanding the foregoing, the Association may not indemnify an Association Official under this ARTICLE 8: (i) in connection with a proceeding by or in the right of the Association in which the Association Official was adjudged liable to the Association; or (ii) in connection with any other proceeding charging improper personal benefit to the Association Official, whether or not involving action in his or her official capacity, in which the Association Official was adjudged liable on the basis that personal benefit was improperly received by the Association Official.

8.2 Successful on the Merits. To the extent that an Association Official has been wholly successful on the merits in defense of any action, suit or proceeding referred to in Section 8.1 above, or in defense of any claim, issue or matter therein, such person shall be indemnified by the Association against expenses (including expert witness fees, attorneys' fees and costs) actually and reasonably incurred by him or her in connection therewith.

8.3 Determination Required. Any indemnification under Section 8.1 (unless ordered by a court) and as distinguished from Section 8.2, shall be made by the Association only as authorized by the specific case upon a determination that indemnification of the Association Official is proper in the circumstances because such individual has met the applicable standard of conduct set forth in Section 8.1 above. Such determination shall be made by the Board by majority vote of a quorum consisting of those Directors who were not parties to such action, suit or proceeding or, if a majority of disinterested Directors so commands, by independent legal counsel and a written opinion or by Members entitled to vote thereon.

8.4 Payment in Advance of Final Disposition. The Association shall pay for or reimburse the reasonable expenses incurred by an Association Official who is a party to a proceeding in advance of final disposition of the proceeding if the Association Official furnishes to the Association a written affirmation of the Association Official's good faith belief that he or she has met the standard of conduct described in Section 8.1, the Association Official furnishes to the Association a written understanding, executed personally or on the Association Official's behalf to repay the advance with interest, if any, as set forth in Section 8.1 above if it is ultimately determined that the Association Official did not meet the standard of conduct and a determination is made that the facts then known to those making the determination would not preclude indemnification under this ARTICLE 8. The undertaking required in this Section 8.4 shall be an

unlimited general obligation of the Association Official but need not be selected and may be accepted without reference to financial ability to make repayment.

8.5 No Limitation of Rights. The indemnification provided by this ARTICLE 8 shall not be deemed exclusive of nor a limitation upon any other rights to which those indemnified may be entitled under any bylaw, agreement, vote of the Members or disinterested Directors, or otherwise, nor by any rights which are granted pursuant to the Nonprofit Act.

8.6 Directors and Officers Insurance. The Association shall purchase and maintain insurance on behalf of any person who is or was a Director or an officer of the Association against any liability asserted against him or her and incurred by such individual in any such capacity or arising out of his or her status as such, whether or not the Association would have the power to indemnify such individual against such liability under provisions of this Article 8. The Directors and officers of the Association shall have the liabilities, and be entitled to indemnification, as provided in the Nonprofit Act.

8.7 Notice to Members. If the Association indemnifies or advances expenses to an Association Official pursuant to this ARTICLE 8, the Board shall report the indemnification or advance in writing to the Members with or before the notice of the next meeting of the Members.

ARTICLE 9 ENFORCEMENT

9.1 Abatement and Enjoinment of Violations by Members. The violation of any Association Rules, the breach of any provision contained herein or the breach of any provision of the Declaration shall give the Board the right, in addition to any other rights set forth in these Bylaws:

9.1.1 To enter the Lot in which or as to which such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Member or Members, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Board shall not thereby be deemed guilty in any manner of trespass provided that items of construction may not be altered or demolished without proper judicial proceedings; and/or

9.1.2 To enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach.

9.2 Monetary Fines. The Board may assess a fine against a Member for violations of the Declaration provided that the Board shall give notice to the Member of the violation and inform the Member that a fine will be imposed if the violation is not cured within the time designated by the Board, which shall be at least 48 hours. The Board may levy fines in the amounts that it, in its sole discretion, shall determine to be reasonable for each violation of the Declaration provided that cumulative fines for a continuing violation may not exceed \$500 per month unless otherwise allowed by law. A Member who is assessed a fine may request an informal hearing to protest or dispute the fine within thirty (30) days from the date the fine is assessed.

9.3 Cause of Action. The Board shall have a right of action against Members who fail to comply with any provision of the Declaration or the decisions of the Association or Board. Before pursuing such cause of action, the Board shall provide the Member notice of the alleged violation and the opportunity to request an informal hearing.

9.4 Temporary Suspension. The Board may impose a temporary suspension of a Member's right to use the Common Areas or other appropriate discipline against a Member who has failed to comply with any provision of the Declaration. Prior to such suspension or other discipline, the Board shall provide the Member notice of the alleged violation and the opportunity to request an informal hearing.

9.5 Remedies Cumulative. These remedies are cumulative to other remedies provided in the Declaration and these Bylaws, any rules or regulations adopted by the Board, or in any other applicable laws.

ARTICLE 10 ACCOUNTING

10.1 Accounting and Recordkeeping. The books and accounts of the Association shall be kept in accordance with generally accepted accounting procedures under the direction of the Board. The Association shall maintain financial records, records of Assessments as required by Section 6.5 above, and such other records as required by the Declaration or by law. The cost of any audit shall be a Common Expense unless otherwise provided in the Declaration.

10.2 Financial Statements. At the close of each fiscal year, the books and records of the Association shall be prepared by an independent public accountant approved by the Board, and financial statements shall be prepared by said accountant and made available at such location as records of the Association are maintained for inspection by Members during normal business hours.

10.3 Budget. A budget for each fiscal year shall be adopted by the Board and distributed to all Members prior to the beginning of the fiscal year to which the budget applies.

10.4 Maintenance and Inspection of Records. The membership register, including mailing addresses and telephone numbers, books of account and minutes of meetings of the Association, of the Board and of committees of the Board and all other records of the Project maintained by the Association, Resort Manager or managing company shall be made available for inspection and copying by any Member or his, her or its duly appointed representative at any reasonable time and for a purpose reasonably related to his, her or its interest as a Member, at the office where the records are maintained, including the Resort Manager's office. Upon receipt of an authenticated written request from a Member along with the fee prescribed by the Board to defray the costs of reproduction, the Resort Manager or other custodian of records of the Association shall prepare and transmit to the Member a copy of any and all records requested. The Association may, as a condition to permitting a Member to inspect the membership register or to its furnishing information from the register, require that the Member agree in writing not to use, or allow the use of, information from the membership register for commercial or other purposes not reasonably related to the Member's interest in the Association. The Board shall establish reasonable rules with respect to:

10.4.1 Notice to be given to the custodian of the records by the Member desiring to make the inspection or obtain copies;

10.4.2 Hours and days of the week when such an inspection may be made; and Payment of the cost of reproducing copies of documents requested by a Member.

10.5 Inspection by Directors. Every Director shall have the absolute right at any time to inspect all books, records and documents of the Association and to inspect all real and personal properties owned or controlled by the Association. This right of inspection shall include the right to make extracts and copies of records, subject only to the right of the Association to require that the Director agree in writing not to use, or allow the use of, the information from the membership register for commercial or other purposes not reasonably related to the business of the Association and the Director's interest in the Association.

ARTICLE 11 INTENTIONALLY OMITTED

ARTICLE 12 AMENDMENT OF BYLAWS

12.1 By Declarant. Prior to the conveyance of the first Lot by Declarant to a person other than a Declarant Affiliate, Declarant may unilaterally amend these Bylaws. After such conveyance, and notwithstanding anything contained in these Bylaws to the contrary, these Bylaws may be amended unilaterally at any time and from time to time by Declarant if such amendment is (i) necessary to correct typographical errors or inadvertent omissions; (ii) necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; or (iii) reasonably necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots or other improvements subject to the Declaration; provided, however, any such amendment shall not materially adversely affect the title to any Lot unless any such Owner shall consent thereto in writing. Further, until the Turnover Date, Declarant may unilaterally amend these Bylaws for any other purpose; provided, however, any such amendment shall not materially adversely affect the substantive rights of any Owner hereunder.

12.2 By Members Generally. Except as provided above, these Bylaws may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing fifty-one percent (51%) of the total votes of the Lots, and the consent of the Declarant, so long as Declarant owns a Lot. In addition, the approval requirements set forth in the Declaration shall be met, if applicable. Notwithstanding the above, unless otherwise required under the Nonprofit Act, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. Notwithstanding the foregoing, no amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant or the successor of such right or privilege, which consent may be withheld for any reason or no reason.

ARTICLE 13 MISCELLANEOUS

13.1 Notices. Unless otherwise provided in these Bylaws, all notices, demands, bills, statements, or other communications under these Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally sent by United States mail, first class postage prepaid, facsimile (fax) or electronic (e-mail) transmission to:

13.1.1 If to a Member, at the mailing address, fax number or e-mail address which the Member has designated in writing and filed with the Secretary/Treasurer or, if no such address has been designated, at the street address of such Member's Lot; or

13.1.2 If to the Association or the Resort Manager, at the principal office of the Association or the Resort Manager, if any, or at such other address as shall be designated by notice in writing to the Members pursuant to this Section 13.1.

13.2 Severability. The provisions hereof 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.

13.3 Conflicts. If there are conflicts between the provisions of Utah law, the Declaration, the Articles or these Bylaws, the provisions of Utah law, the Declaration, the Articles, these Bylaws and the Association Rules (in that order) shall prevail. Should such conflicts arise, the arbitration and dispute resolution provisions provided for in the Declaration are specifically incorporated herein by this reference and made a part of these Bylaws.

13.4 Waiver. The failure of the Board to insist upon strict performance of any provisions hereof shall not be construed as a waiver for future purposes with respect to any such provision or option. No provision of these Bylaws shall be deemed to have been waived unless such waiver is in writing and signed by the Board.

13.5 Captions. The captions herein are inserted only as a matter of convenience and for reference and in no way to define, limit or describe the scope of these Bylaws nor the intent of any provision hereof.

13.6 Effective Date. These Bylaws shall take effect as of the date of filing of the Articles with the Utah Division of Corporations and Commercial Code.

13.7 Counterparts. These Bylaws may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

13.8 Seal. The Board may by resolution provide a corporate seal which shall be circular in form and shall have inscribed thereon the name of the Association, the state of incorporation and the words "Corporate Seal."

[Remainder of Page Intentionally Blank]

The foregoing were adopted as the Bylaws of Layton Station Owners Association, Inc., a nonprofit corporation under the laws of the State of Utah, as of the ____ day of October, 2023.

Name: Adam Davis

Title: Secretary/Treasurer

ACKNOWLEDGMENT AND CONSENT

This ACKNOWLEDGMENT AND CONSENT ("Consent") is dated as of December 14, 2023, and executed by **LAYTON STATION OWNERS ASSOCIATION INC.**, a Utah nonprofit corporation ("Association") in favor of BANK OZK ("Lender").

1. Agreement. Association hereby acknowledges receipt of a copy of that certain COLLATERAL ASSIGNMENT OF DECLARANT'S RIGHTS (the "Agreement") of even date herewith, executed by WINKEL ROCK DE, LLC, a Delaware limited liability company ("Borrower"), to and for the benefit of Lender and acknowledges that Borrower is bound thereby. All capitalized terms used herein shall have the meaning ascribed to such terms in the Agreement.

2. Notices Relating to Association. Association agrees to notify Lender promptly in writing of the occurrence of any of the events described in Sections 3(c) or 3(d) of the Agreement.

3. Lists; Estoppel. Association agrees to provide to Lender upon request a true, correct, and complete list of all of the directors, officers and members of the Association and any and all members of each and every committee formed under and pursuant to the terms of the Declaration, Association Articles of Incorporation, Association Bylaws, and all minutes, resolutions or consents duly enacted by the Association (collectively, the "Association Documents"), including any architectural review or similar committee ("ARC") charged with the review and/or approval of plans and specifications for any improvements to be constructed on any property covered and/or governed by the Declaration or other Association Documents. Association agrees to execute and deliver to Lender an estoppel letter, in form and substance reasonably acceptable to Lender, stating whether there are any defaults by Borrower under the Declaration, and if so, allowing Lender an opportunity (but Lender shall not have any obligation) to cure same within such period of time as is reasonably required for Lender to effectuate such cure, but in no event longer than sixty (60) days' after the applicable cure period set forth in the applicable Association Documents, and if no such cure period is stated in the applicable Association Documents, within sixty (60) days' after Lender's receipt of the requested estoppel letter from the Association.

4. Assessments. Association agrees to notify Lender promptly in writing of any failure by Borrower to pay any assessments due to the Association on [the Units] owned by Borrower or any failure by Borrower to timely fund any deficit in the event Borrower elects to guarantee the level of assessment due to the Association in accordance with Borrower's obligations under the Declaration.

5. Rights of Lender. Association agrees that after receipt of a notice of an Event of Default of Borrower under the Loan Agreement (a "Default Notice"), (i) Lender shall have the right, during the continuance of an Event of Default, without the consent of, or notice to, the Borrower, to exercise all of Borrower's rights and remedies (including voting and control rights) as a member of the Association under the Association Articles of Incorporation and Association Bylaws, (ii) Association shall comply during the continuance of an Event of Default with the instructions of Lender sent in accordance with Section 3(f) of the Agreement, without any further

consent from Borrower or any other party, in respect of the Association and (iii) Association shall during the continuance of an Event of Default disregard any request or instruction made by Borrower or any other person which contravenes the instructions of Lender with respect to the Association.

IN WITNESS WHEREOF, this Consent has been signed by the Association.

[Signature page follows.]

ASSOCIATION:

LAYTON STATION OWNERS ASSOCIATION, INC., a Utah nonprofit corporation

By: _____
Name: Adam L. Davis
Title: DIRECTOR

STATE OF Utah §
COUNTY OF Salt Lake §

The foregoing instrument was ACKNOWLEDGED before me this 15 day of November, 2023, by Adam L. Davis, as Director of **LAYTON STATION OWNERS ASSOCIATION, INC.**, a Utah nonprofit corporation on behalf of said nonprofit corporation.

Jaycie Baird
NOTARY PUBLIC

Residing at Salt Lake county, Utah

My Commission Expires:
8/04/2024

