

WHEN RECORDED RETURN TO:

Heatherwood Homes, LLC
2479 Field Rose Dr.
Salt Lake City, UT 84121

ENT50898:2021 PG 1 of 11
Andrea Allen
Utah County Recorder
2021 Mar 17 04:29 PM FEE 40.00 BY SW
RECORDED FOR Integrated Title Insurance Services,
ELECTRONICALLY RECORDED

**NOTICE OF JOINT USE, MAINTENANCE, EASEMENT, AND
COST SHARING AGREEMENT**

This NOTICE OF JOINT USE, MAINTENANCE, EASEMENT, AND COST SHARING AGREEMENT ("**Notice**") is executed and adopted by Heatherwood Homes LLC, a Utah limited liability company ("**Declarant**") on behalf of Heatherwood Cottages, Inc., a Utah nonprofit corporation ("**Association**").

RECITALS

A. This Notice, and all information provided herein, is subject to the First Amended and Restated Declaration of Covenants, Conditions, Restrictions for Heatherwood on the Green Phase 3 recorded with the Utah County Recorder's Office on January 29, 2019 as Entry No. 7567:2019 (the "**Declaration**").

B. The real property subject to this Notice is identified on Exhibit A attached hereto.

C. Under the terms of the Declaration, the Association has the right to enter into joint use and easement agreements with adjacent property owners for the benefit of the community and its members.

D. The Association and Declarant desire to disclose to its members the Joint Use, Maintenance, Easement, and Cost Sharing Agreement ("Joint Use Agreement") the Association entered into with Heatherwood on the Green Homeowner's Association, Inc., and recorded in the office of the Utah County Recorder as Entry Number 7282:2019. A copy of the Joint Use Agreement is attached hereto as Exhibit B.

E. Unless otherwise defined herein, all capitalized terms shall have the meanings defined in the Joint Use Agreement.

NOW THEREFORE, all reciprocal rights, covenants, and burdens arising under the Joint Use Agreement shall extend to the owners of the properties subject to this Notice, pursuant to their membership in the Association.

IN WITNESS WHEREOF, the Declarant has executed this Notice this 10 day of March, 2021.

DECLARANT
HEATHERWOOD HOMES, LLC
a Utah limited liability company

By: Afsaneh Rafati

Name: Afsaneh Rafati

Title: Manager

STATE OF UTAH)
) ss.
COUNTY OF Salt Lake

On the 10 day of March, 2021, personally appeared before me Afsaneh Rafati who by me being duly sworn, did say that she/he is an authorized representative of Heatherwood Homes, LLC, and that the foregoing instrument is signed on behalf of said company and executed with all necessary authority.

Notary Public: Becky Rasmussen

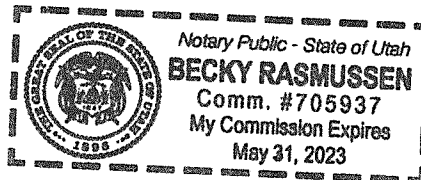


EXHIBIT A LEGAL DESCRIPTION

All of **RANCHES ESTATES PLAT "D"**, according to the official plat on file in the office of the Utah County Recorder.

Including Lots **1** through **4**

More particularly described as:

Beginning at a point which is North 00°54'41" West 315.10 feet along section line and East 3043.92 feet from the West Quarter Corner of Section 20, Township 5 South, Range 1 West, Salt Lake Base and Meridian; thence Northeasterly 104.23 feet along the arc of a 325 foot radius curve to the right, through a central angle of 18°22'33", the chord of which bears North 40°25'26" East 103.79 feet; thence North 66°40'40" East 16.22 feet; thence North 84°51'00" East 152.02 feet; thence South 05°08'08" East 100.89 feet; thence South 84°51'52" West 194.00 feet; thence North 72°33'58" West 40.14 feet; thence North 58°45'50" West 13.00 feet to the point of beginning.

Parcel contains: 21,056 sq.ft.

Basis of Bearing: the line between the West Quarter Corner and the Northwest Corner of Section 20, Township 5 South, Range 1 West, Salt Lake Base and Meridian which bears North 00°54'41" West (NAD 83).

JOINT USE, MAINTENANCE, EASEMENT, AND COST SHARING AGREEMENT

This Joint Use, Maintenance, Easement, and Cost Sharing Agreement (this "**Agreement**") is executed this 24 day of September, 2018 by and between HEATHERWOOD ON THE GREEN HOMEOWNER'S ASSOCIATION, INC., a Utah nonprofit corporation (the "**Heatherwood HOA**"), and HEATHERWOOD COTTAGES, INC., a Utah nonprofit corporation (the "**Cottages HOA**"), collectively known as the "**Parties**", and may individually be referred to as a "**Party**".

RECITALS

A. The Heatherwood HOA was made subject to the Amended and Restated Declaration of Covenants, Conditions, and Restrictions as recorded with the Utah County Recorder (the "**Recorder's Office**") on July 23, 2009 as Entry No. 80942:2009 (the "**Heatherwood HOA Declaration**"). The Heatherwood HOA Declaration was amended by and through the Second Amendment recorded in the Recorder's Office on September 25, 2012 as Entry No. 81875:2012; and the Third Amendment recorded in the Recorder's Office on January 26, 2016 as Entry No. 6796:2016. References to the Heatherwood HOA Declaration herein include the amendments listed above, and other amendments in effect at the time this Agreement is made effective.

B. The Heatherwood HOA Declaration pertains to and affects that certain real property located in Eagle Mountain City, Utah County, Utah, which is more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference (the "**Heatherwood HOA Property**").

C. The Cottages HOA was made subject to the Declaration of Covenants, Conditions, and Restrictions for Heatherwood on the Green Phase 3 as recorded in the Recorder's Office on October 2, 2018, 2018 as Entry No. 94655:2018 (the "**Cottages HOA Declaration**").

D. The Cottages HOA Declaration pertains to and affects that certain real property located in Eagle Mountain City, Utah County, Utah more particularly described on Exhibit "B" attached hereto and incorporated herein by this reference (the "**Cottages HOA Property**").

E. Heatherwood Homes, LLC, (the "**Declarant**") is a Utah limited liability company and the Declarant of the Cottages HOA Declaration.

F. The Parties desire, to create pursuant to this Agreement, certain reciprocal rights for the members of the Heatherwood HOA and Cottages HOA to share, use, and enjoy certain amenities to be constructed on the Heatherwood HOA Property and to provide a means for the allocation between the members of the Heatherwood HOA and the Cottages HOA as to the costs to operate, maintain, repair, and replace the amenities as needed under this Agreement.

G. The Parties have obtained the necessary consents and approvals to effectuate this Agreement, which shall run with and burden the Property described in Exhibits "A" and "B" and the various Lots within the Heatherwood HOA Property and Cottages HOA Property.

~~ENT 7282:2019 PG 1 of 8
JEFFERY SMITH
UTAH COUNTY RECORDER
2019 Jan 28 4:19 pm FEE 184.00 BY MA
RECORDED FOR HEATHERWOOD ON THE GRE~~

AGREEMENT

NOW THEREFORE, in consideration of the foregoing Recitals and the mutual covenants and agreements set forth herein, the Heatherwood HOA and the Cottages HOA hereby covenant and agree as follows:

1. Creation of the Easement. Throughout the Term (as defined in Section 10 below) of this Agreement, the Heatherwood HOA and the Cottages HOA hereby establish and create a mutual and reciprocal nonexclusive easement (the "Easement"), pursuant to which the Parties shall have the right to use and enjoy the private parks and open space amenities and improvements located upon and within the Heatherwood HOA, including without limitation, the clubhouse, playground, pavillions, gazebos, sport courts, gardens, benches, tables, barbeques, and the landscaping surrounding such areas (the "Shared Amenities"), subject to the rules and regulations pertaining to such use and enjoyment established from time to time by the Declarant or the Joint Board (as defined in Section 4 below).

2. Shared Amenities Control. The Declarant shall have exclusive control over the Shared Amenities until such point that the Declarant's period of Declarant control terminates under the Cottages HOA Declaration. The Declarant's control includes, but is not limited to, design, construction, and operational duties of the Shared Amenities. Following the period of Declarant control, the Shared Amenities shall be controlled by the Joint Board, as discussed below.

3. Shared Amenities Budget and Funding. The Declarant has collected and will continue to collect funds from initial purchasers within the Heatherwood HOA and Cottages HOA for the construction costs of the Shared Amenities.

4. Joint Board. Initially, the Declarant shall represent the entirety of the Joint Board. Upon completion of Phase 3 (the Cottages HOA Property) and the termination of the Declarant's control as described in the Cottages HOA Declaration, the Declarant shall relinquish control of the Joint Board to the Heatherwood HOA and the Cottages HOA. Once control is relinquished by the Declarant, the Joint Board shall consist of six (6) members. Three (3) members shall come from among the Heatherwood HOA board, as selected by the Heatherwood HOA board; and three (3) members shall come from among the Cottages HOA board, as selected by the Cottages HOA board. Therefore, each Joint Board member shall simultaneously serve on the board of directors of his/her respective HOA.

5. Combined Project Budget, Cost Sharing, and Assessments. The Joint Board shall, in good faith, annually prepare a proposed budget (the "Shared Amenities Budget"), that shall include all of the costs and expenses to be incurred to operate, maintain, repair, and replace as necessary the Shared Amenities. Such costs shall be allocated among the Parties based on the number of Lots within each HOA, and shall be treated as a common expense under each Party's declaration of covenants, conditions, and restrictions or other governing document. It is the intent of the Heatherwood HOA and the Cottages HOA that each Party shall have an equal vote in the preparation and approval of the Shared Amenities Budget via the Joint Board. If the Parties are unable to agree on a Shared Amenities Budget for a given year, the budget last approved shall remain in effect, but the Parties shall in good faith try to come to a mutual understanding and agreement.

6. Easements. Each Party hereby grants an irrevocable easement on, over, through, and upon their respective property in order to effectuate this Agreement and allow the Parties, and their respective owners, residents, occupants, and their guests to enjoy the Shared Amenities equally and in harmony. This easement includes, without limitation, the use of private roads, sidewalks, and the Shared Amenities themselves.

7. Rules. The Joint Board may establish rules and regulations governing the conduct of individuals utilizing the Shared Amenities. Each Party shall be responsible to ensure that their owners, residents, occupants, and their guests adhere to such rules.

8. Default. Upon a legally sufficient showing of the occurrence of an event of default, a non-defaulting party shall be entitled to all rights and remedies available at law or in equity, except as otherwise limited by the provisions of this Agreement. Any amount payable by any Party under this Agreement that is not paid within five (5) business days after any party gives the defaulting party notice that payment has not been timely made shall be delinquent, and such nonpayment shall constitute a default hereunder. In addition to all other remedies at law and in equity for such default, the past due amounts shall bear interest at the rate of ten percent (10%) per annum until paid in full.

9. Effective Date of Agreement. This Agreement shall become effective upon the execution hereof by all Parties.

10. Term of This Agreement. The term (the "Term") of this Agreement shall be perpetual, unless this Agreement is terminated by the mutual written agreement of the Parties.

11. No Partnership. Nothing contained in this Agreement shall be deemed to make the Parties hereto joint venturers or partners or to create any relationship of principal and agent, but rather the relationship of the Parties shall be that of separate independent parties, and no Party shall have any authority, express or implied, to commit or bind the other parties without such Party's written consent. This Agreement is not intended to create a partnership or joint venture among the Parties under Utah law or for state or federal income tax purposes and shall not be so construed. Each Party hereby renounces the existence of any form of agency relationship, joint venture, or partnership between the Parties, and nothing herein shall be construed as creating such relationship between the Parties.

12. Governing Law. This Agreement is entered into and shall be construed and interpreted in accordance with the laws of the State of Utah.

13. Entire Agreement. This Agreement contains the entire understanding between the Parties relating to the transaction contemplated hereby, and all prior or contemporaneous agreements, understandings, representations, and statements, oral or written, are merged herein and shall be of no further force or effect. No provision of this Agreement may be amended, waived, or added except by an instrument in writing signed by the Parties hereto.

14. Incorporation of Exhibits. All exhibits referred in this Agreement are incorporated herein by reference.

15. Counterparts. This Agreement may be executed in counterparts, which when taken together shall constitute a single executed original as though all Parties had executed the same page.

16. Attorneys' Fees. In the event any Party to this Agreement commences arbitration or litigation for damages for the breach of this Agreement, the prevailing party shall be entitled to a judgment against the defaulting party for an amount equal to reasonable attorneys' fees and court costs incurred by the prevailing party.

17. Amendment and Consents. No amendment, modification, supplement, termination, or waiver of any provision of this Agreement shall be effective, unless executed in writing by all Parties and then only in the specified instance and for the specific purpose given.

18. Notice. Any notice, payment, or instrument required or permitted by this Agreement to be delivered to any Party shall be deemed to have been received when personally delivered to that Party or seventy-two (72) hours following the deposit of the same in any United States Post Office, first class, postage prepaid, return receipt requested, or by fax or e-mail with successful delivery confirmation. The Parties shall keep each other updated as to the phone number, mailing address, email address, or fax number of each Party for notice purposes.

19. Covenants Running With Land/Successor of Interest. The Agreement and all rights and obligations contained herein shall be in effect whether or not any or all Parties to the Agreement have been succeeded by another entity, and all rights and obligations of the Parties' signatory to this Agreement shall be vested and binding on their successors in interest. The rights and obligations established under this Agreement shall constitute covenants that shall run with the land, and shall benefit and shall be binding upon those persons or entities having any right, title, or interest in and to either property, respectively, and their respective heirs, successors and assigns. By acceptance of a deed of conveyance or any other instrument granting an interest in any portion of either property, each grantee or transferee, including mortgagees taking by foreclosure, consents and agrees to be so bound. Recordation of a deed or other instrument granting an interest shall be conclusive evidence of such acceptance.

20. Severability. If any portion of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, such portion shall be deemed severed from this Agreement, and the remaining parts shall remain in full effect as though such invalid or unenforceable provision had not been a part of this Agreement.

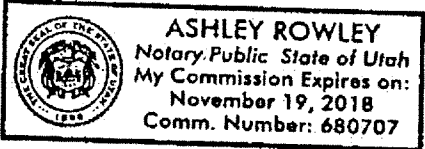
[INTENTIONALLY LEFT BLANK; SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by officers duly authorized to execute the same as of the dates set forth below.

STATE OF UTAH)
 : ss.
COUNTY OF Utah)

The foregoing instrument was acknowledged before me this 19 day of September 2018, by Nicole Dowland, in such person's capacity as the Vice-president of Heatherwood on the Green Homeowner's Association, Inc., a Utah nonprofit corporation.

Heatherwood on the Green Homeowner's Association, Inc.



Nicole Dowland
Authorized Representative

Ashley Rowley
Notary Public

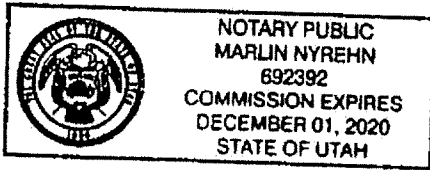
STATE OF UTAH)
)
) : ss.
COUNTY OF Salt Lake)

The foregoing instrument was acknowledged before me this 24 day of September 2018, by Afsaneh Rafati, in such person's capacity as the Manager of Heatherwood Cottages, Inc., a Utah nonprofit corporation.

Heatherwood Cottages, Inc.

Afsaneh Rafati

Authorized Representative



Marlin Nyrehn

Notary Public

EXHIBIT "A"

HEATHERWOOD HOA PROPERTY DESCRIPTION

The land referred to in this Agreement is described as follows:

Lots 1A through 1H, 2A through 2H, 3A through 3H, 4A through 4J, 5A through 5J, 6A through 6J, 7A through 7J, 9A through 9H, 10A through 10A through 10J, 11A through 11D, and Common Area/Open Space A through C, HEATHERWOOD ON THE GREEN PHASE 1, 2ND AMENDMENT, Planned Unit Development, according to the official plat thereof, as recorded in the office of the Utah County Recorder.

Together with an easement of use and enjoyment in and to the common area and facilities, including but not limited to roadways and access ways appurtenant to said Lot, as provided for in the Declaration of HEATHERWOOD ON THE GREEN.

Parcel Identification No. 41:818:0001 through 41:818:0086 and 41:818:0088 through 41:818:0090

EXHIBIT "B"
COTTAGES HOA PROPERTY DESCRIPTION

The land referred to in this Agreement is described as follows:

Lots 1 through 72, HEATHERWOOD ON THE GREEN PHASE 3, Planned Unit Development, according to the official plat thereof, as recorded in the office of the Utah County Recorder.

Together with an easement of use and enjoyment in and to the common area and facilities, including but not limited to roadways and access ways appurtenant to said Lot, as provided for in the Declaration of HEATHERWOOD ON THE GREEN.

Parcel Identification No. 41-900-001 through 41-900-0072.

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