



When Recorded, Mail to:

D.R. Horton, Inc.
12351 South Gateway Park, Suite D-100
Draper, Utah 84020
Attention: Krisel Travis

ENT 87891:2017 PG 1 of 18
JEFFERY SMITH
UTAH COUNTY RECORDER
2017 Sep 07 3:26 pm FEE 111.00 BY MG
RECORDED FOR D R HORTON INC

DECLARATION OF

COVENANTS, CONDITIONS, AND RESTRICTIONS

FOR

**OSPREY POINT PLAT A LOTS 132 AND 133,
PLAT C LOTS 201 - 217, 219 - 221 AND 228 - 235, AND
PLAT D LOTS 236 - 273**

**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR
OSPREY POINT PLAT A LOTS 132 AND 133, PLAT C LOTS 201 - 217, 219 - 221 AND
228 - 235, AND PLAT D LOTS 236 - 273**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR OSPREY POINT PLAT A LOTS 132 AND 133, PLAT C LOTS 201 - 217, 219 - 221 AND 228 - 235, AND PLAT D LOTS 236 - 273 (this "Declaration") is made and executed as of _____, 2017, by D.R. Horton, Inc., a Delaware corporation (hereinafter referred to as the "Declarant"). As of the date of the execution of this Declaration, Declarant is the sole owner of all of the Lots within the Project defined in this Declaration. Consequently, Declarant has full right, title and authority to execute, acknowledge and record in the Official Records this Declaration of Covenants, Conditions and Restrictions for OSPREY POINT PLAT A LOTS 132 AND 133, PLAT C LOTS 201 - 217, 219 - 221 AND 228 - 235, AND PLAT D LOTS 236 - 273.

RECITALS:

A. This Declaration affects only those certain Lots within the Osprey Point Subdivision, which Osprey Point Subdivision is located in Utah County, Utah, and which Lots are described with particularity in Exhibit "A" attached hereto and incorporated herein by this reference (hereinafter referred to as the "Lots"). Declarant desires to develop the Lots for residential uses.

B. Declarant is the owner of the Lots.

C. Declarant has constructed, is in the process of constructing or will construct upon the Lots a residential unit development, which shall include certain Lots and other improvements.

D. Declarant intends to sell to various purchasers the fee title to the individual Lots, subject to the Plat and the covenants, conditions and restrictions set forth herein.

E. Declarant desires, by recording in the Official Records this Declaration and the Plat, to submit the Lots and all Improvements now or hereafter constructed thereon to the terms, covenants and conditions of this Declaration.

NOW, THEREFORE, for the reasons recited above and subject to the covenants, conditions and restrictions set forth below, Declarant hereby makes the following Declaration:

**ARTICLE 1
DEFINITIONS**

When used in this Declaration (including in that portion hereof entitled "Recitals"), each of the following terms shall have the meaning indicated.

1.01 Administrative Control Period shall mean and refer to the period of time commencing on the date that this Declaration is recorded in Official Records and continuing until

the date that is 18 months following the date on which Declarant sells to a third-party purchaser the last of the Lots owned by Declarant that are subject to this Declaration.

1.02 Building shall mean and refer to any of the structures constructed in the Project.

1.03 Business and/or Trade shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to Persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether such activity is engaged in full or part-time; such activity is intended to or does generate a profit; or a license is required therefor.

1.04 City shall mean the City of Provo, a Utah municipal corporation.

1.05 Community Standards shall mean and refer to the standard of conduct, maintenance, or other activity generally prevailing in the Project as determined by Declarant during the Administrative Control Period.

1.06 Declaration shall mean and refer to this Declaration of Covenants, Conditions and Restrictions for OSPREY POINT PLAT A LOTS 132 AND 133, PLAT C LOTS 201 - 217, 219 - 221 AND 228 - 235, AND PLAT D LOTS 236 - 273.

1.07 Declarant shall mean and refer to D.R. Horton, Inc., a Delaware corporation, its successors and assigns.

1.08 Dike shall mean and refer to the elevated earth berm having a varying height and a varying width that is maintained by the City for flood control, as shown on the Plat.

1.09 Dwelling shall mean and refer to the single family residence built or to be built on any Lot.

1.10 Eligible Votes shall mean and refer to those votes available to be cast on any issue before the Owners.

1.11 Event or Events shall have the meaning set forth in Section 7.02.

1.12 Family shall mean and refer to a group of natural persons residing in the same residential structure and maintaining a common household.

1.13 Guest shall mean and refer to a temporary visitor, invitee or natural person whose presence within the Project is approved by or is at the request of a particular Owner.

1.14 Improvement shall mean and refer to all physical structures and appurtenances to the Lots of every kind and type, including but not limited to all buildings, dwellings, fixtures, plumbing, electrical, heating, air conditioning and utility systems, roads, alleys, walkways, driveways, parking areas, patios, fences, walls, stairs, landscaping, trees, shrubs, bushes and green space.

1.15 Lots shall mean and refer to the 87 Lots within the Project or the Subdivision, as more particularly described in Exhibit "A" attached hereto, and the term Lot shall mean any one of the Lots. Where the context indicates or requires, the term Lot includes any Dwelling or Improvement constructed on the Lot.

1.16 Majority shall mean and refer to those Eligible Votes of Owners or other groups as the context may indicate totaling more than fifty (50%) percent of the total eligible number.

1.17 Mortgage shall mean and refer exclusively to either a first priority mortgage or first priority deed of trust on any Lot, but shall not mean or refer to an executory contract of sale.

1.18 Mortgagee shall mean and refer exclusively to a mortgagee or a beneficiary under a first priority Mortgage on any Lot, but shall not mean or refer to a seller under an executory contract of sale.

1.19 Official Records shall mean and refer to the records of documents that have been recorded in the Office of the Recorder of Utah County, Utah.

1.20 Owner shall mean and refer to the Person who is the owner of record (in the Official Records) of a fee or an undivided fee interest in a Lot, including but not limited to both the seller and buyer under an executory sales contract. The term Owner does not mean or include a mortgagee or a beneficiary or trustee under a Mortgage, unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.

1.21 Permitted Improvements shall mean any Improvements installed, constructed, maintained or allowed to stand on the Property in conformity with this Declaration.

1.22 Person shall mean and refer to a natural person, corporation, partnership, trust, limited liability company, or other legal entity.

1.23 Plat shall mean and refer to the final subdivision plat of Osprey Point Plat A, Plat C and Plat D, on file and of record in the Official Records, as it may be amended from time to time. The Plat will show the location of the Lots.

1.24 Project shall mean and refer to only those ⁶⁷87 Lots within Osprey Point Plat A, Plat C and Plat D that are described on Exhibit "A" attached hereto. The terms Project and Subdivision are used interchangeably in this Declaration with the same meaning and intent.

1.25 Property shall mean and refer to all of the Lots and all Improvements and appurtenances subjected to the terms of this Declaration.

1.26 State shall mean the State of Utah.

1.27 Subdivision shall mean and refer to only those 87 Lots within Osprey Point Plat A, Plat C and Plat D, that are described on Exhibit "A" attached hereto. The terms Subdivision and Project are used interchangeably in this Declaration, with the same meaning and intent.

ARTICLE 2 PROPERTY SUBJECT TO THIS DECLARATION

2.01 Property Subject to this Declaration. Declarant hereby declares that all of the Property shall be held, sold, conveyed, encumbered, leased, used, occupied and improved subject to and in strict accordance with all of the terms and conditions of this Declaration, including without limitation all of the covenants, conditions and restrictions set forth herein, all of which are created for the mutual benefit of the Owners of the Property and the Lots. It is the intention of the Declarant in imposing the covenants, conditions and restrictions set forth in this Declaration to create a generally uniform pattern of development of the Property and to protect and enhance the property values and aesthetic values of the Property by eliminating inconsistent uses or improvements, all for the mutual protection and benefit of the Owners of the Lots. All of the terms and conditions of this Declaration, including without limitation all covenants, conditions and restrictions set forth herein, are intended to and shall in all cases run with the title of the land comprising the Property and shall be binding upon the Owners, their successors, assigns, heirs, lien holders, and any other Person holding any interest in the Property and shall inure to the benefit of all other Property in the Subdivision. All of the terms and conditions of this Declaration, including without limitation the covenants, conditions and restrictions set forth herein, shall be binding upon Declarant as well as all of Declarant's successors in interest, and may be enforced by Declarant or by any Owner. Notwithstanding the foregoing, no provisions of this Declaration shall prevent Declarant from the completion of the subdivision improvements, or from using any Lot owned by Declarant as a model home, temporary construction or sales office, nor limit Declarant's right to post signs or engage in other reasonable activities on the Property incidental to sales or construction which are in compliance with the applicable ordinances of the City. The Project is not a cooperative.

2.02 Reservation to Declarant. There is hereby reserved unto Declarant, its employees, agents, successors and assigns such easements and rights of ingress and egress over, across, through and under the Property and any Improvements now or hereafter constructed thereon as may be reasonably necessary for Declarant, its employees, agents and successors (in a manner not inconsistent with the provisions of this Declaration) to do all things reasonably necessary and proper for the construction, completion, development and sale of the Project. If pursuant to this reservation, the Property or any portion thereof (including any Lot) or any improvement thereon, is traversed or partially occupied by a permanent Improvement or utility line constructed or installed by Declarant, a perpetual easement for such Improvement or utility line shall exist. Each Owner, by acceptance of a deed or other document of conveyance to a Lot, does hereby acknowledge and agree that there will be construction activities, traffic, noises, odors and vibrations which may temporarily disrupt the quiet enjoyment of the Lot until all Improvements are complete. Each Owner does further hereby waive any right to object to such construction activities; provided, however, Declarant shall endeavor to use reasonable efforts to minimize the adverse impact of such construction activities on the Project. Declarant's construction activities shall not be considered a violation of the use restrictions contained herein.

2.03 Subject to Taxes, Instruments of Record. The Property that is subject to this Declaration is subject to all liens for current and future taxes, assessments and charges imposed or levied by governmental or quasi-governmental authorities, all patent reservations and exclusions, all instruments of records which affect the Property or any portion thereof, including without

limitation any mortgage or deed of trust, all visible easements and rights-of-way, and all easements and rights-of-way record, including without limitation, the easements, restrictions and rights-of-way identified on the Plat and all notes and disclosures of any nature included on the Plat.

ARTICLE 3 EASEMENTS

3.01 Reservation of Easements. Easements affecting the Lots within the Subdivision are reserved as shown on the Plat for utility installation and maintenance, drainage and other purposes as designated on the Plat. Without limiting in any manner the general reservation of easements as stated in the preceding sentence, all of the Lots within the Subdivision are subject to a non-exclusive, perpetual easement area, which extends from perimeter boundary line of such Lot and varies in width, as depicted in detail on the Plat, for the following purposes:

(a) Utilities & Sidewalks. The installation, maintenance, repair and replacement from time to time of public utility improvements; and

(b) Dike Easement. The existence, maintenance, repair and replacement from time to time of the Dike as shown on the Plat (the "Dike Easement"), which Dike Easement shall include vehicular and pedestrian ingress and egress thereto within the Dike Easement for inspection, maintenance, repair and replacement of the Dike by the City. No Owner of a Lot on which is located any portion of the Dike Easement shall conduct any grading or excavation of the Dike without the prior written approval of the City.

3.02 Rights of Access. Each Owner shall have the right to the horizontal, vertical and lateral support of such Owner's Lot.

3.03 Locations of Facilities Easements. Declarant hereby reserves to itself a non-exclusive easement for itself and its affiliates and assignees to construct, operate, maintain, repair and replace all types of telecommunication facilities within suitable locations for such facilities (the "Locations of Facilities") within the Project. Declarant further reserves a right of access to the Locations of Facilities in order to access the Locations of Facilities to exercise the rights established herein. Declarant reserves the perpetual right to transfer by easement, license agreement or other conveyance the rights reserved hereunder to one or more telecommunication facilities providers. Declarant may exercise all of such rights unilaterally and without the consent of any Owner or Mortgagee. Each Owner agrees to execute such further and additional instruments as may be requested by Declarant documenting the rights hereunder, in form satisfactory to Declarant, and any assignee of its rights hereunder.

3.04 Easements; Drainage; Support, Maintenance and Repair. There are hereby reserved by Declarant, and the Owners are hereby granted, the following easements and rights of way:

(a) Maintenance. A non-exclusive easement over, across, through, above and under the Lots for the operation, maintenance and regulation of the amenities, facilities, and any utilities servicing any part of the Project; and

(b) Drainage. A reciprocal easement on, over, under, through and across all Lots for the drainage of surface waters on, over, under, through and across the Project. The

Declarant shall establish a sub drain and storm drainage system designed to serve the entire Project (the "Master Sub Drain and Storm Drain System"). No Owner shall interfere with the Master Sub Drain and Storm Drain System established by the Declarant or its successors or assigns. Each Owner shall be responsible to use such Owner's Lot in a manner consistent with the Master Sub Drain and Storm Drain System, and so as not to detract therefrom or interfere therewith, or the Established Drainage Pattern on any other Lot in the Project. No changes to the Established Drainage Pattern on any Lot shall be permitted without the prior written consent of Declarant during the Administrative Control Period. For purposes of this Section, the term "Established Drainage Pattern" is defined as the approved drainage pattern, facilities and improvements in existence at the time such Lot is conveyed to a home purchaser by the Declarant, its successor or assign. The cost of all improvements, maintenance, repairs and replacements of the Master Sub Drain or Storm Drain System located within the boundaries of any Lot shall be the responsibility of the Owner.

ARTICLE 4 COVENANTS, CONDITIONS AND RESTRICTIONS APPLICABLE TO ALL PROPERTY

4.01 Description of Improvements. The significant Improvements in the Project include, or shall include, the 87 Lots as described in Exhibit "A" attached hereto and as identified on the Plat, and the Improvements constructed on the Lots.

4.02 Description and Legal Status of the Property. The Lots shall be owned by the Owners.

4.03 Conveyancing. Any deed, lease, Mortgage or other instrument conveying or encumbering a Lot shall describe the interest or estate involved substantially as follows: "All of Lot No. _____ contained within OSPREY POINT PLAT _____, as the same is identified on the Plat recorded in the Office of the Recorder of Utah County, Utah (as said Plat may have heretofore been amended or supplemented) and in the Declaration of Covenants, Conditions and Restrictions for OSPREY POINT OSPREY POINT PLAT A LOTS 132 AND 133, PLAT C LOTS 201 - 217, 219 - 221 AND 228 - 235, AND PLAT D LOTS 236 - 273, recorded in the Office of the Recorder of Utah County, Utah (as said Declaration may have heretofore been amended or supplemented)." Regardless of whether or not the description employed in any such instrument is in the above-specified form, all provisions of this Declaration shall be binding upon and shall inure to the benefit of any party who acquires any interest in a Lot and shall run with the Lots.

4.04 Ownership and Use. Each Owner shall be entitled to the exclusive ownership and possession of such Owner's Lot as set forth herein, subject, however, to the following:

(a) Nature and Restrictions on Ownership and Use in General. Each Owner shall have and enjoy the privileges of fee simple ownership of such Owner's respective Lot. There are no requirements concerning who may own a Lot, it being intended that the Lots may and shall be owned as any other real property by Persons. The Project is a residential community, and as such the Lots shall be used only and exclusively for residential purposes, except as set forth below.

(b) Governing Regulations. The lawfully enacted zoning regulations of the City and of any other governmental body having jurisdiction with respect to the Property, including without limitation any and all applicable building, fire, and health codes, are in full force and effect in the Subdivision, and no Lot may be occupied in a manner that is in violation of any such statute, law, ordinance or regulation. If the provisions of this Declaration are more stringent than any applicable governmental statute, law, ordinance or regulation, it is the intent that the provisions of this Declaration shall control. This Declaration shall not authorize any uses, improvements, or activities that are prohibited by any local, state or federal statute, law, ordinance or regulation.

(c) No Mining Uses. No mining, quarrying, tunneling, excavating or drilling for any substances within the earth, including but not limited to oil, gas, minerals, gravel, sand, rock and earth, shall ever be permitted on the Property within the Subdivision. The foregoing limitation shall not preclude drilling and excavation in connection with the construction of roads, utility lines and other Permitted Improvements.

(d) City Requirements and Permits. In addition to the covenants, conditions and restrictions set forth in this Declaration, the City may have additional requirements and/or permits pertaining to any alterations by an Owner to any Building, fencing, landscaped areas, utilities or other Improvements within the Project.

(e) Restrictions and Limitations of Use. The use of the Lots is subject to the following guidelines, limitations and restrictions:

(i) Parties Bound. The Plat and Declaration shall be binding upon all Owners and residents, their Family members and Guests.

(ii) Nuisance. It shall be the responsibility of each Owner and resident to prevent the creation or maintenance of a nuisance in, on or about the Project. For purposes of this Section a "nuisance" includes but is not limited to the following:

(A) The development of any unclean, unhealthy, unsightly, or unkempt condition on, in or about a Lot;

(B) The storage of any item, property or thing that will cause any Lot to appear to be in an unclean or untidy condition or that will be noxious to the senses. This shall be interpreted to include, but not be limited to, the prevention of hanging of bikes and the hanging of clothes or linens from balconies;

(C) The storage of any substance, thing or material upon any Lot that will emit any foul, unpleasant or noxious odors, or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the other residents at the Project;

(D) The creation or maintenance of any noxious or offensive condition or activity in or about any Lot;

(E) Actions or activities tending to cause embarrassment, discomfort, annoyance, distress or a disturbance to any other residents, their Guests or invitees, particularly if the police or sheriff must be contacted to restore order;

(F) Maintaining any plants, animals, devices, items, instruments, equipment, machinery, fixtures, or things of any sort whose activities or existence in any way is illegal, noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Project by other residents or their Guests; and

(G) Excessive noise or traffic in, on or about any Lot, especially after 10:00 p.m. and before 7:00 a.m.

(iii) Unsightly Work, Hobbies or Unkempt Conditions. The pursuit of hobbies or other activities, including, but not limited to, the assembly and disassembly of motor vehicles and other mechanical devices which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Project.

(iv) Subdivision of a Lot. No Lot shall be subdivided or partitioned.

(v) Firearms, Incendiary Devices and Graffiti. The use of firearms and incendiary devices or the painting of graffiti, within the Project is prohibited. The term firearms includes, but is not limited to, all guns, pistols, handguns, rifles, automatic weapons, semi-automatic weapons, BB guns, pellet guns, sling shots, wrist-rockets, blow-dart guns, and other firearms of all types, regardless of size.

(vi) Trees, Shrubs and Bushes; Maintenance of Proper Sight Distance at Intersections and Prior Written Consent Required. All property located at or near driveways, entrances, exits, walkways, paths and street intersections or corners shall be landscaped so as to remove any obstructions and to permit safe sight. Declarant may alter or remove any objects planted or placed in violation of this subparagraph.

(vii) Swamp Coolers or Evaporative Coolers. No Owner shall place upon any part of the Project or Lot any swamp cooler or evaporative cooler.

(viii) Plants. No plants or seeds infected with noxious insects or plant diseases shall be brought upon, grown, or maintained upon the Project.

(ix) Outdoor Clothes Washing and Drying. No exterior clotheslines shall be erected or maintained, and there shall be no outside drying or laundering of clothes or linens.

(x) Restrictions on Signs. No signs will be permitted on any Lot or within the Subdivision, except for traffic control and directional signs for roadways placed by the City or temporary signs warning of some immediate danger. Signs

indicating a Lot is for sale may be placed in accordance with the City sign regulations. The Declarant may erect a sign acceptable to the City at the entrance to the Subdivision announcing the availability of Lots and giving sales information.

(xi) Business Use. No commercial Business or Trade may be conducted on, in, or from any Lot unless: a) the existence or operation of the business activity is not apparent or detectable by sight or sound from outside the Dwelling; b) the business activity conforms to all zoning requirements for the Project; c) the business activity does not involve door-to-door solicitation of residents of the Project; and d) the business activity is consistent with the residential character of the Project and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Project. Notwithstanding the above, the leasing of a residence shall not be considered a Trade or Business within the meaning of this subparagraph.

(xii) Towers, Satellite Receivers and Antennas. No towers, exposed or outside radio, television or other electronic antennae, with the exception of television receiving antennae, shall be allowed or permitted to remain on any Lot. Satellite receivers, in excess of eighteen (18) inches in diameter, must have an enclosure to screen them from view from any surrounding Lot Owner

(xiii) Animals. No animal, bird, or fish, other than a reasonable number of generally recognized house or yard pets, shall be maintained on any Lot and then only if they are kept, and raised thereon solely as domestic pets and not for commercial purposes. All pets must be kept within a Permitted Improvement or on a leash at all times. No animal or bird shall be allowed to make an unreasonable amount of noise or to become a nuisance, and all pets must be restrained upon the Owner's Lot in a humane and sanitary manner. Enclosures, kennels, runs and the leash areas must be kept clean and sanitary. No pets may be kept in unreasonable numbers. No boarding of animals for hire shall be allowed within the Subdivision. Owners are required to be in control over their respective animals and pets in order to protect inhabitants of the Subdivision and other animals kept within the Subdivision. No dangerous animals will be allowed in the Subdivision. The Owner of each Lot shall make such Permitted Improvements as are necessary to assure that animals kept on such Owner's Lot do not trespass on other Lots. Pets must be on a leash at all times outside a Lot.

(xiv) Mailboxes. The initial mailbox must be the one approved and provided by the Declarant at the mail station within the Project.

(xv) No Transient Lodging Uses. The Lots are to be used for residential housing purposes only and shall not be rented in whole or in part for transient lodging purposes, boarding house, "bed and breakfast," or other uses for providing accommodations to travelers.

(xvi) Garbage and Refuse Disposal. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept

on any Lot, except in sanitary containers. All equipment for the storage or disposal of waste or rubbish shall be kept in a clean and sanitary condition.

(xvii) Parking and Storage of Personal Property. All motorized vehicles, boats, trailers, campers and other similar personal property of an Owner shall be parked or stored within the Project only in such Owner's garage or behind a fence that shall be behind or in line with the front façade of the Dwelling on the Lot. No storage of any articles, material, equipment or vehicles of any nature is permitted in the front, back or side yard portion of any Lot, except that regularly used passenger cars and light pickup trucks may be parked on the driveway areas of a Lot. No automobiles, trucks, campers, trailers, boats, equipment, recreational vehicles, motor homes or other similar vehicles shall be parked or stored on any street or right of way within the Project, except for temporary parking that shall not exceed a period of 24 consecutive hours.

4.05 Insurance. The Owner of each Lot within the Subdivision shall be responsible, at the sole cost and expense of such Owner, to obtain and maintain in effect at all times property insurance pertaining to such Owner's Lot and on the Dwelling and all Improvements located on such Owner's Lot insuring against all risks of direct physical loss common and shared against, including fire and extended coverage perils and also liability insurance in such amount as the Owner deems desirable and appropriate covering occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership and maintenance of such Owner's Lot, Dwelling and Improvements.

4.06 Liability of Owners and Residents for Damages. Any Owner or resident shall be liable to the other Owners or residents for damages to person or property in the Project caused by his or her negligence or willful misconduct.

ARTICLE 5 MAINTENANCE OBLIGATIONS

5.01 Operation and Maintenance. The Lots shall be maintained by the Owners as follows:

(a) Area of Personal Responsibility. Each Owner shall maintain, repair and replace all portions of such Owner's Lot, the Dwelling on such Owner's Lot, all Improvements located on such Owner's Lot.

(b) Snow and Ice Accumulations. Each Owner shall be responsible to clear ice and snow accumulations from all locations on Owner's Lot, including but not limited to all driveways and walkways.

(c) Garbage Removal. Each Owner shall be responsible to remove all garbage, debris and refuse from his Lot and deposit it in an approved trash container. Trash containers shall be kept out of sight and inside the garage, except on days when the trash is collected within the Project.

(d) Standard of Care/General. The Property shall be maintained in a usable, clean, functional, attractive and good condition, consistent with Community Standards. Aesthetic considerations alone, and matters of taste, are sufficient to enjoin a violation of this Declaration.

(e) Standard of Care/Landscaping. All landscaping in the Project shall be maintained and cared for in a manner consistent with Community Standards and the quality of design and construction originally established by Declarant. All front yard landscaping must be installed within twelve (12) months following the initial occupancy of a Dwelling on a Lot. Specific guidelines and restrictions on landscaping may be established by Declarant during the Administrative Control Period. All landscaping shall be maintained in a neat and orderly condition. Any weeds or diseased or dead lawn, trees, ground cover or shrubbery shall be removed and replaced within six (6) months. All lawn areas shall be neatly mowed, and trees, shrubs and bushes shall be properly pruned and trimmed.

(f) Neglect. If Declarant determines, during the Administrative Control Period, that any Owner has failed or refused to discharge properly his obligation with regard to the installation, maintenance, repair, or replacement of items for which he is responsible hereunder, then Declarant may, but is not obligated to, provide such installation, maintenance, repair or replacement at the Owner's sole cost and expense, subject to the following:

(i) Reimbursement. Such costs as are incurred by Declarant in the performance of an item that is the responsibility of the Owner shall be reimbursed by the Owner to Declarant, and shall be secured by a lien against his Lot regardless of whether a notice of lien is filed.

(ii) Notice of Intent to Repair. Except in an emergency situation, Declarant shall give the Owner written notice of Declarant's intent to provide necessary maintenance, repair, or replacement at such Owner's cost and expense. The notice shall set forth with reasonable particularity the maintenance, repair, or replacement deemed necessary by Declarant. The Owner shall have ten (10) days after receipt of notice within which to complete maintenance or repair, or if the maintenance or repair is not capable of completion within such time period, to commence replacement or repair within ten (10) days and thereafter complete such replacement or repair in a prompt manner.

(iii) Emergency Situation. If Declarant determines that an emergency situation exists, then notice to the Owner and an opportunity to cure the default is not necessary.

(iv) Optional Repairs. Declarant may, but is not obligated to, provide any such maintenance, repair, or replacement in the manner described above.

(v) Right of Entry. Declarant or its agents or employees shall have a right to enter upon or into any Lot as necessary to perform such work and shall not be liable for trespass for such entry or work.

5.02 Repair Following Damage. No damaged structure will be permitted to remain on any Lot for more than 90 days without repairs commencing, and any damaged structure which does remain unrepaired after 90 days following the occurrence of damage is deemed a nuisance which may be abated by Declarant during the Administrative Control Period.

ARTICLE 6 CONSTRUCTION COVENANTS

6.01 Introduction. Notwithstanding any other provisions in this Article 6 or in any other provisions of this Declaration to the contrary, none of the provisions or restrictions set forth in this Article 6 shall pertain to or be binding upon Declarant. In order to minimize the disturbance of the Property within the Subdivision during any construction activities, and to minimize the inconvenience to adjoining Owners, the following construction regulations shall be enforced. These regulations shall be made a part of the construction contract between the Owner and the builder of each Dwelling or other Improvements on a Lot. The Owner shall be bound by these regulations, and violations committed by the builder or its employees, subcontractors or others shall be deemed a violation by the Owner for which the Owner shall be liable.

6.02 Construction Debris Removal. The builder must comply with the ordinances of the City requiring the placement and maintenance of a trash container or dumpster on the Lot. The builder shall collect trash at the end of each work day and deposit construction trash, packing material, unusable scraps, and other debris in a suitable container, protected from the wind. Such container shall be regularly serviced. No trash may be burned, buried, or otherwise disposed of on the Property. No concrete trucks may be cleaned out on the Lot, the Property or anywhere within the Subdivision.

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

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

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

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

6.07 Duration of Construction. No construction shall be undertaken without a building permit and all other necessary permits from the City and any other governmental entity having jurisdiction over construction on the site. No materials, tools, temporary offices or portable toilets, excavation or construction equipment or similar materials or equipment may be delivered to the

site prior to the issuance of the permit(s). It is the obligation of the Owner to proceed with construction with all reasonable speed once construction has commenced, and in any event, all exterior surfaces of the Dwelling shall be substantially complete within a period of six months from commencement. All landscaping and soil stabilization work must be completed as soon as possible after completion of the exterior of the Dwelling, but in no event later than the summer following completion of the exterior of the Dwelling.

6.08 Repair of Damage. Each Owner is responsible for the prompt repair of any damage to any Property within the Subdivision caused by or incidental to such Owner's construction, including without limitation any cracked or broken sidewalks.

ARTICLE 7 GENERAL PROVISIONS

The covenants, conditions, and restrictions contained in this Declaration may be enforced as follows:

7.01 Meeting of the Owners. Any Owner can call a meeting of the Owners to discuss violations by one or more Owners within the Subdivision of this Declaration and to discuss possible efforts by the Owners within the Subdivision to enforce the terms of this Declaration. The notice of the meeting shall state the date, time and place of such meeting and shall be given not less than seven (7) and not more than fifteen (15) days prior to the meeting. The presence in person or by proxy of twenty-five (25) or more Owners entitled to cast a vote shall constitute a quorum for the transaction of business at any Owners' meeting.

7.02 Consent in Lieu of Vote. In any case in which this Declaration requires the vote of the Owners for authorization or approval of an act or a transaction, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Owners who collectively hold the required percentages, subject to the following conditions:

(a) Time Limit. All necessary consents must be obtained prior to the expiration of 90 days from the time the first written consent is obtained; and

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

7.03 Amendment.

(a) By Owners. Except as provided elsewhere in this Declaration, the affirmative vote of at least a Majority of the Owners shall be required and shall be sufficient to amend the Declaration. Any amendment so authorized shall be accomplished through the recordation of an instrument executed by a Majority of the Owners.

(b) By Declarant. Until the expiration of the Administrative Control Period, Declarant may unilaterally amend this Declaration or the Plat for any purpose that Declarant deems to be in the best interest of the Project.

7.04 Violation Constitutes Nuisance. The violation of the provisions of this Declaration is deemed to be a nuisance, and the Owner of the Property on which the violation occurs is responsible for the removal or abatement of the nuisance.

7.05 Remedies.

(a) Equitable Relief. Any single or continuing violation of the covenants contained in this Declaration may be enjoined in an action brought by the Declarant (during the Administrative Control Period) or by any other Owner. In any action brought to enforce these covenants, the prevailing party shall be entitled to recover as part of its judgment all of the reasonable costs of enforcement, including attorneys' fees and costs of litigation.

(b) Remedies are not Limited. Nothing in this Declaration shall be construed as limiting the rights and remedies that may exist at common law or under applicable federal, state, or local laws and ordinances pertaining to health, safety, abatement of nuisances or other matters. The remedies available under this Declaration are to be construed as being in addition to all other remedies available at law.

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

(d) No Waiver. The delay or failure by anyone to take enforcement action with respect to any violation of this Declaration shall not be construed as a waiver of the covenants contained in this Declaration with respect to such violation or with respect to any other violations.

7.06 Pre-Litigation Requirements.

(a) Disclaimer. Every Owner is capable of obtaining an inspection and is permitted to perform, or pay someone else to perform, any inspection on any Lot that Owner is purchasing or any aspect of the Project; all prior to purchasing a Lot. Moreover, if any warranty has been provided, it identifies the only items that are warranted by Declarant. Having had the ability to inspect a Lot prior to purchasing a Lot, having received a written warranty (if any warranty is provided), and having paid market price for a Lot in the condition the Lot and the Project are in at the time of purchase, Owner acknowledges and agrees that it would be inequitable to later seek to have Declarant and/or its respective contractors and subcontractors performing work in the Project to change, upgrade, or perform any additional work to the Project outside of any express warranty obligation. Moreover, the Owners acknowledge and agree that litigation is an undesirable method of resolving Disputes (as defined below) because litigation can be slow, expensive, uncertain, and can often negatively impact the sale value and ability to obtain financing for the purchase of Lots for years, unfairly prejudicing those Owners who must or want to sell their Lots during any period when litigation is pending. For this reason, the Owners (by purchasing a Lot) acknowledge and agree that before any Dispute is pursued through litigation, the "Pre-Litigation Requirements" set forth below shall be satisfied. In addition, the Owners (by purchasing a Lot) acknowledge and agree that each takes ownership and

possession of the Lots AS IS, with no warranties of any kind (except as set forth in a written warranty, this Declaration or as otherwise required as a matter of law). To the fullest extent permitted by applicable law, Declarant specifically disclaims any warranties of merchantability, fitness for a particular use, or of habitability.

(b) Notice of Claim and Opportunity to Cure (Applicable to All Owners). All claims and disputes of any kind that any Owner may have involving the Declarant or any its agents, employees, executing officers, managers, affiliates or owners, or any engineer or contractor involved in the design or construction of the Project, which arises from or is in any way related to a Lot, Dwelling or any other component of the Project (a “Dispute”), shall first be identified in a written notice of claim that sets forth with specificity the facts and the legal basis upon which the claim or dispute is asserted (a “Notice of Claim”), which Notice of Claim shall be delivered to Declarant, and Declarant shall have 150 days to cure or resolve the claim or defect or to try to get the builder or the appropriate subcontractor to cure or resolve the claim or defect, prior to the initiating of any formal court action. If additional, different or modified claims, damages, calculations, supporting information, or descriptions are added, provided to, or asserted against Declarant that were not included in any previously submitted Notice of Claim, the right to cure period provided for in this Section shall immediately apply again, and any pending action or proceedings shall be stayed during the 150-day period. For purposes of clarity, this Section and the requirements set forth herein shall not apply to any actions or legal proceedings filed by individual Owners relating solely to their own Lots. Individual Owners, however, shall not be allowed to file or pursue any actions or claims on behalf of other Owners.

7.07 Severability. Each of the covenants, conditions, restrictions and provisions contained in this Declaration shall be independent of the others, and in the event that any covenant, condition, restriction or provision of this Declaration is found to be invalid, unenforceable or illegal by a court of competent jurisdiction, the remaining covenants, conditions, restrictions and provisions of this Declaration shall remain in full force and effect.

7.08 Limited Liability. Neither the Declarant nor any Owner shall have personal liability to any other Owner for actions or inactions taken pursuant to the terms of this Declaration, provided that any such actions or inactions are the result of the good faith exercise of their judgment or authority under this Declaration and without malice.

7.09 Term of Declaration. The term of this Declaration shall be perpetual.

7.10 Mortgagee Not Bound. No amendment to this Declaration will be binding upon the holder of any mortgage or trust deed on any Lot which mortgage or trust deed is of record at the time of the amendment, unless the mortgage or trust deed holder joins in the amendment. This Declaration may not be repealed by amendment.

7.11 Constructive Notice. Every Person who owns, occupies, or acquires any right, title or interest in any Lot in the Subdivision is conclusively deemed to have notice of this Declaration and its contents, and to have consented to the application and enforcement of each of the provisions of this Declaration against such Owner’s Lot, whether or not there is any reference to this Declaration in the instrument by which such Owner acquires an interest in any Lot.

**EXHIBIT A
TO
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
OSPREY POINT PLAT A LOTS 132 AND 133, PLAT C LOTS 201 - 217, 219 - 221 AND
228 - 235, AND PLAT D LOTS 236 - 273**

Legal Description of Lots

That certain real property located in Provo City, Utah County, Utah more particularly described as follows:

Osprey Point Plat A Lots 132 and 133

Osprey Point Plat C Lots 201 - 217, 219 - 221 and 228 – 235

Osprey Point Plat D Lots 236 - 273