

WHEN RECORDED RETURN TO:

Promontory Development, LLC
8758 North Promontory Ranch Road
Park City, UT 84098

ENTRY NO. 01121065

11/01/2019 03:50:20 PM B: 2538 P: 0525

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RHONDA FRANCIS, SUMMIT COUNTY RECORDER

FEE 44.00 BY PROMONTORY DEVELOPMENT LLC



**SUPPLEMENTAL DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS FOR
PROMONTORY**

**THE PINNACLE AT PROMONTORY PHASE II
SUMMIT COUNTY, UTAH**

THIS SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR PINNACLE AT PROMONTORY is made as of this 1st day of ^{November} ~~October~~, 2019, by PROMONTORY DEVELOPMENT, LLC (fka PIVOTAL PROMONTORY DEVELOPMENT, LLC), an Arizona limited liability company, referred to below as "Declarant."

RECITALS:

- A. Promontory Development, LLC is the Declarant under that certain Declaration of Covenants, Conditions and Restrictions for Promontory dated January 2, 2002 and recorded January 3, 2002 as Entry Number 607465 in Book 01426 at Page 522 of the Official Records of the Summit County Recorder (the "Declaration"), as amended by Entry No. 807234 at Book 1853, Page 771 of the Summit County Recorder's records on March 15, 2007; and as Entry No. 982758 on at Book 2214, Page 989 of the Summit County Recorder's records on October 30, 2013. All capitalized terms contained herein shall have the definitions set forth herein or in the Declaration.
- B. Declarant holds both legal and equitable title to the real property located in Park City, Summit County, State of Utah, more particularly described on the attached Exhibit A (the "Property"), upon which Declarant desires to develop a Resort Area Village as described in the Declaration, known as Pinnacle at Promontory (the "Project" or the "Subdivision"). Recorded previously or simultaneously herewith is a Subdivision Plat of the Project or a Phase of the Project as required by law.
- C. Declarant has organized and caused the Promontory Conservancy, ("Conservancy") to be incorporated as a Utah non-profit corporation, which Conservancy will maintain the Common Areas and Facilities within the Project as hereinafter described, provide for the management and operation of the Common Areas and Facilities, including Limited Common Areas, levy and collect Common Assessments and other Assessments, and administer and enforce the terms of the Declaration and this Supplemental Declaration.

D. The covenants, conditions and restrictions contained in the Declaration, as amended, this Supplemental Declaration, and in the Exhibits hereto are intended to be enforceable equitable servitudes and to run with the land.

All of the foregoing Recitals are incorporated into and made a part of this Supplemental Declaration for all purposes.

NOW, THEREFORE, Declarant hereby declares that all of the Lots within Phase II of the Subdivision shall be held, sold, conveyed, encumbered, leased, used, occupied and improved subject to the protective covenants, conditions, restrictions and equitable servitudes set forth in the Declaration, the terms of which Declaration are deemed incorporated herein by this reference, as modified by this Supplemental Declaration. The covenants, conditions and restrictions of the Declaration and this Supplemental Declaration are intended to, and shall in all cases run with the title of the land, and be binding upon the successors, assigns, heirs, lien holders, and any other person holding any interest in the Lots within the Subdivision, and shall inure to the benefit of all other Lots in Promontory which are subject to the Declaration and this Supplemental Declaration. The covenants, conditions and restrictions of the Declaration and this Supplemental Declaration shall be binding upon the Declarant as well as its successors in interest, and may be enforced by the Declarant or by any Owner of a benefited Lot to the extent provided in the Declaration and this Supplemental Declaration.

DEFINITIONS

1. Definitions. Unless the context clearly indicates otherwise, certain terms as used in this Supplemental Declaration and the foregoing Recitals shall have the meanings set forth in the Declaration, as amended, or this Supplemental Declaration.
 - 1.1. "Design Guidelines" shall have the meaning given in Article II.
 - 1.2. "Supplemental Design Guidelines" shall mean the Supplemental Design Guidelines for Pinnacle at Promontory that are specific to the Lots within the Pinnacle at Promontory.
 - 1.3. "Supplemental Declaration" shall mean this Supplemental Declaration of Covenants, Conditions and Restrictions for the Pinnacle at Promontory, as recorded with each phase and as amended from time to time.

2. CREATION OF PINNACLE AT PROMONTORY

- 2.1. The Project and Property, as shown on the Plat, including all phases of Pinnacle at Promontory, is created in accordance with Utah law.
- 2.2. The Project and Property, as shown on the Plat, including all phases of Pinnacle at Promontory, is hereby designated as a separate Village in accordance with Section 6.4(a) of the Declaration. The Village shall be known as "Pinnacle at Promontory."
- 2.3. Lots. The Project, as planned, may consist of Sixty-Four (64) Lots, platted in phases, plus Limited Common Area that may consist of open space, gates, utilities and an amenity building

that may include a concierge service area, parking areas and related support improvements that are part of the Limited Common Areas and Facilities. Phase II contains 12 residential Lots. The Lots and any residences constructed on the Property shall comply with both the Design Guidelines for Promontory as well as the Supplemental Design Guidelines for Pinnacle at Promontory and all requirements stated on the Plat.

- 2.4. Those Lots in the Subdivision designated by the symbol (ID) on the applicable Plat are designated as Incentive Density units as described in the Development Agreement for the Promontory Specially Planned Area (recorded as Entry No 538272 in Book 1355 Pages 1154-1247 in Summit County records). Incentive Density units in the Subdivision may be made available for overnight stay and short-term occupancy. Nightly and weekly rental of Incentive Density units within the Subdivision is permitted. Lots without the Incentive Density designation shall not be used for short term rentals.
- 2.5. Phasing. The Project will be developed in phases, and modifications may be made prior to or after the recording of each phase of the Project.
- 2.6. Village Assessments. The Lots within the Project shall be subject to additional Village Assessments by the Conservancy in accordance with Section 8.2 of the Declaration, in addition to all other assessments by the Conservancy as described in the Declaration. Village Assessments shall be used to pay for Village Expenses.

3. DESCRIPTION AND OWNERSHIP OF LIMITED COMMON AREAS AND FACILITIES

- 3.1. Limited Common Areas. The Limited Common Areas and Facilities shall mean and include those portions of the Project not included as part of any Lot, including, but not by way of limitation: the community gate areas, the amenity building and related facilities and amenities, including, but not limited to, the concierge area, swimming pool, spa and related facilities; the driveway and parking area related to the amenity building; the pumps, tanks, motors, fans, storm drainage structures, compressors, ducts, and, in general, all apparatus, installations, and in general, all other parts of the Project designated by Declarant as Limited Common Area existing for the common use of the Owners or occupants of Lots within the Project; The monument sign at the entrance to the Project is part of the Limited Common Area and such sign may include lighting. In the event of a conflict between this Supplemental Declaration and the Plat regarding the designation Limited Common Areas, the provisions of this Supplemental Declaration shall control.

4. MANAGEMENT

- 4.1. Pursuant to Section 3.20 of the Conservancy Bylaws, the Conservancy Board may, at its option, employ a professional management agent or agents to manage any or all aspects of the Pinnacle at Promontory Village, including for the operation of any amenities.

5. ACKNOWLEDGEMENT & ACCEPTANCE OF MOUNTAIN CONDITIONS

5.1. Assumption of Risk, Waiver and General Release of Claims. Each Owner, by his, her or its purchase of a Lot, hereby acknowledges that the Project is part of a mountain community with certain activities, which may include, without limitation: trails for skiing, hiking, walking, cycling, open spaces, wildlife, pets, rugged terrain, snowmaking, horses and horseback riding, games and activities, running, snow-shoeing, and other club-type facilities, events, activities and programs (collectively, "Activities"), and each such Owner expressly assumes the risk of noise, nuisances, hazards, personal injury, or property damage related to any and all Activities, including without limitation: (a) noise from maintenance equipment (it being specifically understood that such maintenance may take place at any time(s) of the day or night), (b) noise caused by activities and participants, (c) noise from snow removal and trail grooming machinery, (d) construction and development activities, (e) view restrictions caused by installation, relocation and maturation of trees and shrubbery, and the construction of other buildings and facilities, (f) reduction in privacy, including that related to maintenance activities, (g) errant equipment, including golf, landscaping, and mountain bikes, and (h) facilities design and construction activities. Each such Owner agrees that neither Declarant, the Conservancy, any Manager, any committee created by the Conservancy, any of the Declarant's affiliates or agents, nor any Activities participant (unless acting recklessly or in a willfully wrongful manner) shall be liable to Owner, other owners, or any other person claiming any loss or damage, including, without limitation, indirect, special, or consequential loss or damage arising from personal injury, destruction of property, trespass, loss of enjoyment, or any other alleged wrong or entitlement to remedy based upon, due to, arising from, or otherwise related to: (i) the proximity of an Owner's Lot to any equestrian trail, ski trail, bike trail, hiking trail, or other venue; (ii) any claim arising in whole or in part from the negligence of Declarant, any of Declarant's affiliates or agents, any Manager, the Conservancy, or any committee created by the Conservancy (and all of their respective affiliates, subsidiaries, parent companies and other related companies, and all of their respective past and present directors, officers, shareholders, members, managers and all of their respective agents, representatives, attorneys, and employees of any of the foregoing) (collectively referred to herein as "Released Parties"); or (iii) any Activity (collectively referred to herein as the "Waived Claims"). Each Owner, on behalf of itself, and his, her or its heirs, administrators, representatives, successors, affiliates, agents, and assigns (hereinafter, "Releasers"), does hereby fully, finally, and unconditionally release, and forever discharge the Released Parties from and waives all actions, causes of action, lawsuits, appeals, claims, charges, complaints, debts, obligations, demands, rights, grievances, promises, liability, damages, costs and/or fees whatsoever in law or equity related to the Activities and all Waived Claims asserted by such Owner and/or by such Owner's guests. Each Owner and guest understands and agrees that the waiver and release set forth in this Article is intended to be a "general release" and is not an admission of wrongdoing or liability by or on the part of any Released Party. Nothing in this Article shall in any way be construed as an admission by any Released Party that it acted wrongfully with respect to the Releasers. Each Owner and guest agrees that he, she or it will not, directly or indirectly, disparage, defame, or make defamatory or disparaging statements to any

person or entity, including the press, regarding the Released Parties, any Waived Claim, or Declarant's past or present management, directors, officers, employees, and agents. If any covenant or provision of this Article is declared invalid, illegal, or incapable of being enforced by reason of any rule of law, administrative order, judicial decision, or public policy, all other covenants and provisions herein shall, nevertheless, remain in full force and effect.

5.2. Off -Site and On-Site Disturbance.

- 5.2.1. By acceptance of a deed to a Lot, each Owner hereby agrees and acknowledges, that, inasmuch as an Owner may be purchasing a Lot during a period of construction at the Project, and the acquisition of the Lot may occur prior to the completion of the construction on other Lots and improvements at the Project, there may be certain inconveniences, including, but not limited to, interruption of travel caused by road construction, noise, dust, odors and debris associated with construction, until all construction within the Project is complete. Each Owner waives all claims against the Released Parties with respect to any such inconveniences and nuisances.
- 5.2.2. Living in a mountain community development entails living in close proximity to other persons and recreational facilities, with attendant limitations on solitude and privacy. Owners may experience light entering the Lots from other residential lighting in proximity to the windows and doors of the Lots.
- 5.2.3. Each Owner acknowledges that (i) there are no protected views in the Project, and no Lot is assured the existence or unobstructed continuation of any particular view, and (ii) any construction, landscaping or other installation of improvements by the Declarant or owners of other property in the vicinity of the Project, including, without limitation, owners of the adjacent Lots or property, may impair the view from any Lot, and each Owner consents to such view impairment.

5.3. Gates. Installation and maintenance of any gate, security or traffic access device, operation, or method, shall not create any presumption or duty whatsoever of the Declarant or the Conservancy (or their respective officers, directors, managers, employees, agents, and/or contractors) with regard to security or protection of persons or property within or adjacent to the Project. Each Owner, by acceptance of a deed to a Lot, whether or not so stated in the deed, shall be deemed to have agreed to take any and all protective and security measures and precautions which such Owner would have taken if the Project had been located within public areas and not gated.

5.4. Notice Regarding Mountain Regional Water Special Service District. All lot owners served by Mountain Regional Water Special Service District (the District) within this subdivision agree to abide by all of the Rules, Regulations, and other Construction related Standards and Specifications of the District, including payment of all necessary fees prior to the issuance of a building permit. Lot owners also recognize that the District's service area spans a large mountainous area with extreme vertical relief resulting in numerous pressure regulation facilities.

As such, the owners recognize that fluctuations (albeit infrequent) in water pressure may pose a risk to properties served by said system. Owners agree to install and be responsible for the proper operation of any necessary pressure regulation and backflow devices to protect any plumbing facilities and fire sprinkling systems. Further, the District shall have the right to install, repair, maintain, replace, enlarge, extend, and operate their equipment above and below ground and all other related facilities within any easements identified on this plat as may be necessary or desirable in providing water services within and without the lots identified herein, including the right of access to such facilities and the right to require removal of any obstructions including structures and trees, that may have been placed within the easements. The District may require the lot owner to remove all structures and vegetation within the easement at the lot owner's expense, or the District may remove such structures and vegetation at the lot owner's expense. At no time may any permanent structures, including trees and retaining walls, be placed within the easements or any other obstruction which interferes with the access and use of the easements without the prior written approval of the District. The District is further granted rights of access to any and all non-exclusive easements, including emergency or non-emergency access roads contained within this Subdivision to enlarge and/or extend its services to any adjoining properties and plats.

6. Lot Combination. The combination of two adjacent lots into a single lot may be permitted in certain areas as determined by the Declarant or the Conservancy, in the exercise of the Declarant's or Conservancy's sole discretion. If an owner purchases two adjacent and contiguous lots, and the proposed house location straddles a lot line or extends beyond the boundaries of the Design Reviewer's predetermined building envelope on either lot, it will be necessary to have the revised building envelope approved by the Design Reviewer in connection with the approval of a specific house plan. The approval or disapproval of the Design Reviewer may be made in the exercise of its sole discretion. Further, the combination of lots will require the approval of Summit County for a lot line adjustment, modification of the platted building envelope, or any other amendment to the Plat. Request for such approval may not be submitted to Summit County without prior written approval of the Design Reviewer. If two lots are combined for purposes of building a single home on the two lots the combined homesite will still be responsible for payment of two lot assessments to the Promontory Conservancy, plus village assessments, just as though it remained two separate lots.

THIS SUPPLEMENTAL DECLARATION was executed as of the date stated above.

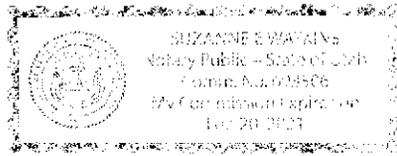
PROMONTORY DEVELOPMENT, LLC, an Arizona
limited liability company

By: Promontory Development, LLC

By: Robin J. Milne
Name: Robin J. Milne
Its: General Manager

State of Utah)
 :SS
County of Summit)

On this 1st day of November in the year 2019, personally appeared before me Robin Milne, whose identity is personally known to me or proven on the basis of satisfactory evidence and who by me duly sworn, did say that she is the General Manager of Promontory Development, LLC and that this document was signed by her in behalf of said Company by Authority of its Operating Agreement or Resolution, and said Robin Milne acknowledged to me that Promontory Development, LLC executed the same. Witness my hand and official seal



Suzanne E. Watkins
Notary Public

EXHIBIT A

The Pinnacle at Promontory Phase 2 Subdivision

A parcel of land located in the Southwest Quarter of Section 1, the Southeast Quarter of Section 2 and the Northwest Quarter of Section 12 Township 1 South, Range 4 East, Salt Lake Base and Meridian, Summit County, Utah more particularly described as follows:

Beginning at a point which is South 89°20'39" East 240.63 feet along the section line and North 00°39'21" East 365.04 feet from the Southwest Corner of Section 1, Township 1 South, Range 4 East, Salt Lake Base and Meridian, and running thence South 71°04'49" West 307.02 feet to a point on the boundary of Pete Dye Canyon Golf Course; thence along said boundary the following seven (7) courses: 1) North 37°10'04" West 127.66 feet; 2) North 00°16'54" East 434.15 feet; 3) North 28°20'00" West 233.82 feet; 4) North 02°40'57" West 226.88 feet; 5) North 14°47'57" East 294.53 feet; 6) North 39°36'30" East 151.77 feet; 7) North 58°28'53" East 164.92 feet; thence South 29°47'34" East 276.50 feet; thence South 61°59'08" West 7.23 feet to a point on a 225.00 foot radius curve to the left, the center of which bears South 28°00'52" East; thence Southwesterly 253.95 feet along the arc of said curve through a central angle of 64°40'05" (chord bears South 29°39'06" West 240.68 feet); thence South 02°40'57" East 272.44 feet to a point on a 125.00 foot radius curve to the left, the center of which bears North 87°19'03" East; thence Southeasterly 183.93 feet along the arc of said curve through a central angle of 84°18'22" (chord bears South 44°50'08" East 167.78 feet); thence South 86°59'19" East 133.42 feet to a point on a 175.00 foot radius curve to the right, the center of which bears South 03°00'41" West; thence Southeasterly 168.02 feet along the arc of said curve through a central angle of 55°00'35" (chord bears South 59°29'01" East 161.64 feet) to a point on a 475.00 foot radius reverse curve to the left, the center of which bears North 58°01'16" East; thence Southeasterly 192.17 feet along the arc of said curve through a central angle of 23°10'47" (chord bears South 43°34'07" East 190.86 feet); thence South 55°09'31" East 272.29 feet to a point on a 975.00 foot radius curve to the left, the center of which bears North 34°50'29" East; thence Southeasterly 159.64 feet along the arc of said curve through a central angle of 09°22'52" (chord bears South 59°50'56" East 159.46 feet) to a point on a 125.00 foot radius reverse curve to the right, the center of which bears South 25°27'38" West; thence Southerly 349.64 feet along the arc of said curve through a central angle of 160°15'41" (chord bears South 15°35'28" West 246.30 feet) to a point on a 475.00 foot radius reverse curve to the left, the center of which bears South 05°43'19" West; thence Westerly 301.23 feet along the arc of said curve through a central angle of 36°20'05" (chord bears South 77°33'16" West 296.20 feet) to a point on a 125.00 foot radius compound curve to the left, the center of which bears South 30°36'46" East; thence Southwesterly 143.76 feet along the arc of said curve through a central angle of 65°53'43" (chord bears South 26°26'22" West 135.97 feet); thence South 83°29'31" West 25.00 feet; thence North 82°32'02" West 95.74 feet to a point on a 133.00 foot radius curve to the left, the center of which bears South 07°27'58" West; thence Westerly 93.56 feet along the arc of said curve through a central angle of 40°18'20" (chord bears South 77°18'48" West 91.64 feet); thence North 32°29'40" West 84.78 feet; thence North 15°46'27" East 304.99 feet; thence North 82°50'51" West 147.30 feet to the Point of Beginning.

Containing 858,560 square feet or 19.71 acres, more or less.

Creating 12 Lots.

Basis of Bearing

South 89°20'39" East between the Northwest and the Northeast Corners of Section 12,
Township 1 South, Range 4 East, Salt Lake Base and Meridian.