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Rhonda Francis Summit County Recorder

11/16/2021 11:54:28 AM Fee \$100.00

By BARTLETT TITLE INSURANCE AGENCY, INC.

Electronically Recorded

After Recording Return To:

Craig T. Jenson

Snell & Wilmer L.L.P.

15 West South Temple, Suite 1200

Salt Lake City, UT 84101

SCVC-8-P1-1

SCVC-8-P1-40

Affects Parcel Nos. ~~SCVC-8-P1-1~~ through ~~SCVC-8-P1-40~~

BT-17735HUB

**TRACT DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
SILVER CREEK VILLAGE**

This **TRACT DECLARATION** is made this 15 day of November, 2021, by **VILLAGE DEVELOPMENT GROUP INC.**, a Utah corporation ("Declarant"), and **FIELDSTONE SILVER CREEK TOWNHOMES, LLC**, a Delaware limited liability company ("Developer Owner").

WHEREAS Declarant hereunder is "Declarant" pursuant to that certain Master Declaration of Covenants, Conditions, Restrictions, and Easements for Silver Creek Village (the "Master Declaration") recorded with the Summit County Recorder's Office as Entry No. 01067652 on April 20, 2017, which Master Declaration encumbers and has reference to certain real property described therein.

WHEREAS Declarant is the owner of that certain real property located in Summit County, Utah described in Exhibit A hereto (the "Property"), which Property is a part of the initial Covered Property described in the Master Declaration.

WHEREAS Declarant and Developer Owner have entered into that certain Purchase and Sale Agreement dated October 29, 2019 (as amended, collectively, the "Purchase Agreement"), whereby Declarant will sell, and Developer Owner will purchase, the Property in accordance with the Purchase Agreement.

WHEREAS the Purchase Agreement provides that the parties will execute, acknowledge, and cause this Tract Declaration to be recorded with the Summit County Recorder's Office at the Closing (as defined in the Purchase Agreement).

WHEREAS the Property is subject to all terms and provisions of said Master Declaration, all in accordance with the more specific terms and provisions thereof.

WHEREAS, unless otherwise defined herein, capitalized terms used herein shall have the same meanings as used in the Master Declaration.

NOW THEREFORE, it is hereby declared, established, and agreed as follows:

1. **Tract Declaration.** This Tract Declaration shall be deemed a "Tract Declaration" pursuant to the terms and provisions of the Master Declaration, and is subsidiary and supplementary to the Master Declaration. If any provision of this Tract Declaration is inconsistent with any provision of the Master Declaration, the provision of the Master Declaration shall control except for conflicting provisions, if any, in Section 4 and 6 below.

2. **Land Use Classification.** Pursuant to Section 5.1 of the Master Declaration, the Land Use Classifications for the Property are hereby declared to be forty (40) Townhouse Residential Use Lots.

3. **Compliance with the Development Agreement; Affordable Housing Units.**

(a) Developer Owner shall proceed in good faith to complete the Improvements on the Property in full compliance with the Development Agreement and the Master Declaration, specifically including but not limited to, the timing requirements as may be set forth under any provision of the Development Agreement, as may be modified or extended. Developer Owner hereby agrees to comply with and perform all of the obligations set forth in the Development Agreement with respect to the Property.

(b) Ten (10) of the Townhouse Residential Lots within the Property shall be restricted as affordable housing units, as provided for and in accordance with the Master Declaration and Section 5 of the Development Agreement. The ten (10) affordable housing unit Townhouse Residential Lots shall be specifically designated within the Property by Developer Owner.

4. **District Declaration or Benefitted Use Area.** Declarant is currently in the process of amending the Master Declaration to, among other things, allow Developer Owner and similarly situated parties to either: (i) prepare and record a District Declaration, establishing a sub-association or sub-associations to the Master Declaration, or (ii) elect that their property becomes a benefitted use area, or similar designation, under the Master Declaration and in the Master Association, which is anticipated to establish or allow for (a) the ownership, operation, maintenance, repair, and replacement of the common areas of the applicable property; and (b) the ownership, operation, maintenance, repair, and replacement of the applicable property's common areas, including, without limitation, the alley roadways, infrastructure, water, sewer, and other utilities depicted on the final subdivision plat(s) for the applicable property, by the Master Association as a benefitted use area. Declarant agrees to promptly complete such amendment to the Master Declaration, subject to Declarant's commercially reasonable discretion as the form and substance of such amendment to the Master Declaration. Prior to the issuance of a certificate of occupancy for the Improvements on the Property, Developer Owner shall, in Developer Owner's sole and absolute discretion, either: (i) prepare a proposed District Declaration, establishing a sub-association or sub-associations to the Master Association, for all of the Property, to be responsible for, at a minimum, (a) the ownership, operation, maintenance, repair, and replacement of the common areas of the Townhouse Residential Lots within the Property; and (b) the ownership, operation, maintenance, repair, and replacement of the Property's common areas, including, without limitation, the alley roadways, infrastructure, water, sewer, and other utilities depicted on the final subdivision plat(s) for the Property and interior to the Property, or (ii) elect that the Property is included as a benefitted use area in the Master Association pursuant to Declarant's amendment to the Master Declaration described above. There may be one or more District Declaration(s) or benefitted use area(s) for the Property. Developer Owner shall prepare all such District Declaration(s) for Declarant's review and reasonable approval if Developer Owner elects that option.

5. **Enforcement Rights.** In the event Developer Owner shall at any time be in default with respect to its obligations under this Tract Declaration, Declarant shall have the right and authority, but not the obligation, to enforce the provisions of this Tract Declaration against Developer

Owner (including any successor owner) by an action for specific performance, injunctive relief, or other appropriate equitable remedy, the parties acknowledging that Developer Owner's breach or potential breach of the provisions of this Tract Declaration would constitute irreparable harm to Declarant. Declarant need not provide a bond in connection with obtaining equitable relief under this section. A breach of this Tract Declaration may also result in a claim for damages in a court of law, and the existence of a claim for damages shall not limit Declarant's ability to obtain equitable relief to enforce the provisions of this Tract Declaration against owners of the Property. The prevailing party in any action under this Tract Declaration is entitled to their reasonable attorney's fees and costs.

6. **Amendment.** This Tract Declaration may be amended with the written consent of Declarant so long as Declarant owns any portion of the Covered Property or Annexable Property as defined in the Master Declaration. After such time as Declarant no longer owns any portion of the Covered Property or Annexable Property as defined in the Master Declaration, this Tract Declaration may be amended with the written consent of Owners representing at least sixty-seven percent (67%) of the total Class A votes of Owners of land within the Property and the consent of the Board of the Master Association.

Notwithstanding the foregoing, Declarant may at any time while Declarant owns any portion of the Covered Property or Annexable Property as defined in the Master Declaration, and without the consent or approval of any other person or entity, amend the provisions hereof to correct any error or ambiguity, and may for any reason amend the provisions of Section 3 above; provided, however, any such amendments may not materially affect Developer Owner's rights set forth in this Tract Declaration without Developer Owner's prior written consent, which consent shall not be unreasonably withheld, conditioned, or delayed. After Declarant no longer owns any portion of the Covered Property or Annexable Property the Board may make such amendments.

In all events, Declarant shall not amend the Master Declaration in such a way that materially and adversely affects Developer Owner's rights set forth in this Tract Declaration without Developer Owner's prior written consent, which consent shall not be unreasonably withheld, conditioned, or delayed.

[Signatures to Follow]

DATED as of the date first set forth above.

DECLARANT:

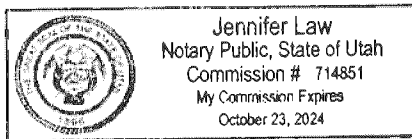
VILLAGE DEVELOPMENT GROUP INC.,
a Utah corporation



Matthew J. Lowe, President

STATE OF UTAH)
COUNTY OF Salt Lake)ss.

The foregoing Tract Declaration was acknowledged before me this 15th day of November, 2021, by Matthew J. Lowe, the President of Village Development Group Inc., a Utah corporation.



NOTARY PUBLIC

Residing at: 310 E 4500 S Suite 100
Murray UT 84107

DEVELOPER OWNER:

FIELDSTONE SILVER CREEK
TOWNHOMES, LLC, a Delaware limited
liability company

Jason Harris, Assistant Secretary

STATE OF UTAH)
COUNTY OF SALT LAKE)ss.

The foregoing Tract Declaration was acknowledged before me this ____ day of November, 2021, by Jason Harris, Assistant Secretary of FIELDSTONE SILVER CREEK TOWNHOMES, LLC, a Delaware limited liability company

NOTARY PUBLIC

Residing at: _____

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Exhibit A

Legal Description of the Property

Lots 1 through 40, SILVER CREEK VILLAGE CENTER LOT 8 PHASE 1 SUBDIVISION, Park City, Utah, according to the official plat thereof on file and of record in the Summit County Recorder's Office, Utah.