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11/20/2017 1:10:00 PM \$30.00  
Book - 10621 Pg - 4346-4354  
ADAM GARDINER  
Recorder, Salt Lake County, UT  
US TITLE  
BY: eCASH, DEPUTY - EF 9 P.

WHEN RECORDED RETURN TO:  
Cottage Place, L.L.C.  
308 E 4500 S #200  
Murray, Utah 84107  
(801) 506-9611

16-29-329-003-0000, 16-29-329-004-0000, 16-29-329-069-0000,  
16-29-329-070-0000, 16-29-182-003-0000

**DECLARATION OF ACCESS EASEMENT  
AND  
PRIVATE DRIVEWAY MAINTENANCE AGREEMENT  
AND  
MASTER WATER METER**

This Declaration of Access Easement and Private Driveway Maintenance Agreement and Master Water Meter is executed by Cottage Place, L.L.C. (the "Declarant").

**RECITALS**

A. Declarant is the owner of that certain real property located in Salt Lake County, Utah and described with particularity on Exhibit "A" attached hereto and incorporated herein by this reference (the "Property").

B. The Plat Map (the "Plat") for Cottage Court Subdivision (the "Subdivision") was prepared by Dennis P. Carlisle, a professional licensed surveyor, certificate number 172675 according to the official records of the State of Utah.

C. This document affects Lot 101, Lot 102, Lot 103, Lot 104, Lot 105, Lot 106, Lot 107, and Lot 108, in the Subdivision (each a "Lot" and collectively "Lots").

D. An access easement and private driveway maintenance agreement and master water meter for the Lots which provides for the common use and maintenance of a shared private driveway as shown with particularity, as "28.0' PUE & DRIVEWAY EASEMENT" on Exhibit "B" (the "Common Driveway") and for a right-of-access over, across and through the Common Driveway in perpetuity is required.

E. The Lots and Common Driveway are depicted on the Plat and Site Plan copies of which are marked Exhibit "B," attached hereto and incorporated herein by this reference.

F. Declarant desires to create an access easement and private driveway maintenance agreement and master water meter hereby.

G. Declarant desires to provide that charges associated with the master water meter that serve the lots are to be paid for through assessments shown in the Cottage Court Budget attached as Exhibit "C."

## AGREEMENT

NOW THEREFORE, for the reasons recited above and based upon the promises and covenants set forth below, and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, Declarant and any and all future owners, grantees, assigns, or successors in interest in and to the Property (each an "Owner" and collectively the "Owners") shall be subject to and bound by following terms and provisions with regard to the Property:

**1. Declarant's Property Subject to the Easements.** Declarant hereby declares that the Declarant's Property shall be held, sold, conveyed, transferred, constructed, operated, maintained, leased, and occupied subject to or as applicable, together with, the easements, rights-of-way and maintenance obligations set forth herein (collectively "Easement"). Further, in the event of any sale, conveyance, or transfer of the Declarant's Property to a third party, no further actions or agreements shall be necessary to effectuate such Easement and said Easement shall remain effective against and for the Declarant's Property in perpetuity.

**2. Grant of Easement.** Declarant grants, declares, and covenants that the Common Driveway shall hereinafter be appurtenant to the Property and that Lot 101, Lot 102, Lot 103, Lot 104, Lot 105, Lot 106, Lot 107, and Lot 108 of the Subdivision shall be benefited and burdened by a perpetual, non-exclusive easement for ingress and egress by vehicular and pedestrian traffic over and across such portions of each of the respective Lots as are included in the Common Driveway. Lot 101, Lot 102, Lot 103, Lot 104, Lot 105, Lot 106, Lot 107, and Lot 108, shall be subject to all the benefits, burdens, rights, restrictions and costs described herein (collectively, the "Benefits and Burdens").

**3. Benefits and Burdens.** The mutual benefits and burdens herein include:

a. A non-exclusive easement over, across and through the Common Driveway for the purpose of pedestrian and vehicular traffic between each Lot and the road as shown on the Plat.

b. No Owner shall permit or suffer to be constructed or placed upon any portion of the Common Driveway any fence, wall, barricade, or other obstruction, whether temporary or permanent in nature, which would unreasonably limit or impair vehicular or pedestrian traffic from one portion of the Common Driveway to another or shall otherwise unreasonably obstruct or interfere with the movement of vehicles upon or over the Common Driveway, except (i) as may be reasonably necessary or appropriate during periods that construction activities are ongoing or (ii) to the extent that it may be necessary to do so temporarily to prevent a public dedication of, or the accrual of any rights in the public in any portion of any Lot or to the extent objectively necessary to prevent eminent damage to the Common Driveway, provided that any obstruction or interference permitted under this clause shall be done in a manner reasonably calculated to minimize its impact upon, and in reasonable cooperation with, the Owners of the other Lots comprising the Property.

**4. Restrictions of Use and Development.**

a. No Owner shall construct any building or other structure of whatsoever nature or allow any use of their respective portions of the Property if such construction or use would impair the use of the Common Driveway or violate any law, ordinance, or regulation.

b. The Common Driveway and the easements and other rights granted herein shall not be used for parking, except to the extent such an Owner is able to park on the Lot owned by such Owner without impeding or impairing in any way access to a Lot owned by another Owner.

c. The Common Driveway shall not be considered as parking available for any development or use of the Owner's Lot for purposes of compliance with parking laws, regulations, or ordinances, and each Lot must be used and developed with adequate parking facilities associated with each individual Lot.

d. No parking of any vehicle of any kind shall be allowed that could block access by fire or other emergency vehicles, equipment or personnel.

**5. Maintenance.**

a. The Owners shall be jointly and severally responsible for maintaining the Common Driveway, with the Owners of each Lot being responsible for their prorata share of the costs of such maintenance (for a total of 100%). A capital reserve account shall be established for future repairs and replacement.

b. The Common Driveway shall be maintained in (i) a condition that allows emergency vehicles, including without limitation ambulances, police and fire vehicles, access to all of the Lots on the Property and (ii) at least as good as the condition that is required for streets maintained by the county.

c. No Owner shall be liable for maintenance costs unless such maintenance costs are (i) reasonably necessary to satisfy the requirements of Paragraph 5(b) and (ii) requested in writing by at least 50% of all Lot Owners either required or electing, by choice or default as set forth in Paragraph 2, to access their Lots via the Common Driveway.

d. If any Owner fails to pay for such Owner's percentage share of reasonably necessary maintenance costs as required pursuant to a written request in accordance with subparagraph (c) above, then the other Owners shall be entitled (i) to obtain an injunction or court order requiring such payment of costs, or (ii) to undertake all reasonably necessary maintenance and bill each Owner for such Owner's percentage share of the maintenance costs. If an Owner has not paid such Owner's respective percentage share of the reasonably necessary maintenance costs within thirty (30) days of receiving the written invoices for the costs of such maintenance, any other Owner actually paying for such costs shall have a lien against the Lot of the Owner who refuses to pay such costs in the amount of the unpaid percentage share of such costs plus interest at the rate of five percent (5%) from the date such costs were incurred. For purposes of enforcing this Declaration, the Owners shall be deemed to be an association as defined in Utah Code § 57-8a-102(2)(a), as said statute may be amended or supplemented, with regard to the right to maintain and foreclose a lien in the amount of the percentage share of the costs of maintaining the Common Driveway. Each Owner shall be deemed to be the manager and agent of such association for the purposes of foreclosing the lien pursuant to the procedures set forth in Utah Code section 57-8a-302, as amended or supplemented.

**6. Water Meter.** The Property is served by a master water meter for both culinary and irrigation water. Each lot owner shall be responsible for 1/8<sup>th</sup> of the monthly cost of water used. The homeowner association Budget shall include a monthly assessment for water usage.

**7. Easements Appurtenant.** Each and all of the easements and rights granted or created herein are appurtenant to the affected portions of the entire Lot and none of the easements and rights may be transferred, assigned, or encumbered, except as an appurtenance to such Lot. For the purposes of such easements and rights, the entire Lot which is benefited by such easements shall constitute the dominant estate and the particular areas of the entire Lot which are burdened by such easements and rights shall constitute the servient estate.

**8. Nature and Effect of Easements.** Each and all of the easements, restrictions and covenants, and provisions contained in this Declaration: (a) are made for the direct, mutual, and reciprocal benefit of the respective Lots; (b) create mutual equitable servitudes upon each Lot in favor of the other; (c) constitute

covenants running with the land; (d) shall bind every person or entity that may have, or acquire any fee, leasehold or other interest in any portion of the Property at any time or from time to time to the extent that such interest is affected or bound by the easement, covenant, restriction or provision or to the extent that such easement, covenant, restriction, or provision is to be performed by such person.

**9. Taxes.** The Owner of each Lot shall pay or cause to be paid all real estate taxes and special assessments which are levied against that portion of the Common Driveway on the Owner's respective Lot prior to delinquency of such taxes or special assessments.

**10. No Third-Party Enforcement.** It is the intent of this Declaration that only the parties hereto or their successors or assigns in title shall be entitled to enforce or bring an action to enforce the terms hereof and no tenant, occupant or other third party is an intended beneficiary hereof, and any benefits flowing to such persons are merely incidental. In addition, it is the intent of Grantor that no third party shall have an independent right of action hereunder.

**11. Duration.** The easements, covenants, restrictions and other provisions of this Declaration shall become effective upon the recording of this Declaration in the Office of the Salt Lake County Recorder and shall continue in perpetuity.

**12. Discharge of Rights and Duties Upon Transfer.** In the event of assignment, transfer or conveyance of the whole of the interest of any Owner in and to any Lot, without retaining any beneficial interest other than under the terms of a deed of trust, mortgage or similar instrument, the powers, rights and obligations created hereunder will be deemed assigned, transferred and conveyed to such transferee, and such powers, rights and obligations will be deemed assumed by such transferee, effective as of the date of transfer. The obligations and rights of the transferor shall immediately thereafter be deemed discharged as to any such rights and obligations arising after transfer of the interest.

**13. Amendment.** This Declaration or any easement, covenant, restriction or undertaking contained herein, may be terminated, extended or amended by recording of an appropriate document in the Office of the Salt Lake County Recorder, State of Utah, which document must be executed in a recordable form by the Owners and the county.

**14. No Public Dedication.** Nothing contained in this Declaration shall, constitute a gift or dedication of any portion of any Lot to the general public or for any public purpose whatsoever.

**15. Waiver.** No waiver of any breach of any of the terms hereof shall be construed or constitute a waiver of any other breach or acquiescence in or consent to any further or succeeding breach of the same or other covenant or term of this Declaration.

**16. Enforcement and Severability.** If any party to this Declaration takes action to enforce the terms of this Declaration, the substantially prevailing party shall be entitled to recover his, her or its reasonable attorney's fees and costs incurred in any reasonable enforcement of this Declaration. If any term or provision hereof shall, to any extent, be held invalid or unenforceable, the remaining terms and provisions of this Declaration shall not be affected thereby, but each remaining term and provision shall be valid and enforced to the fullest extent permitted by the law.

**17. No Merger.** It is the express intent of Declarant that this Declaration remain in full force and effect and that the Easements herein granted not be deemed to have merged with any other estate now held or which may in the future be held by Declarant or its successor-in-interest, notwithstanding the fact that Declarant is the owner of all of the Declarant's Property and may presently or may in the future have the sole right to possess or sell and divest itself of all of the Declarant's Property.

18. **Governing Law.** This Declaration shall be construed in accordance with and governed by the laws of the State of Utah.

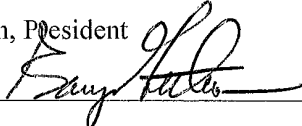
19. **Entire Agreement.** This Declaration contains all of the agreements of the undersigned with respect to matters covered or mentioned herein and no prior agreement, letters, representations, warranties, promises, or understandings pertaining to any such matters shall be effective for any such purpose.

*(signature page follows)*

IN WITNESS WHEREOF, the Association has executed this instrument the 20<sup>th</sup> day of NOVEMBER 2017.

DECLARANT:

By: Hamlet Homes IV Corporation  
Its Manager

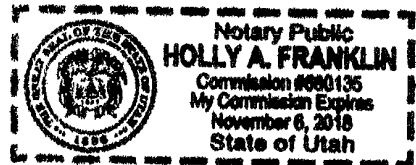
Barry Gittleman, President  
Signature: 

ACKNOWLEDGMENTS

STATE OF UTAH )  
ss:  
COUNTY OF SALT LAKE )

The foregoing instrument was acknowledged before me this 20<sup>th</sup> Day of NOVEMBER 2017 by BARRY GITTLEMAN the MANAGER of Cottage Place, L.L.C, a Utah limited liability company, and said MANAGING MEMBER duly acknowledged to me that said Company executed the same.

NOTARY PUBLIC 



**EXHIBIT "A"**  
**LEGAL DESCRIPTION PREPARED**  
**COTTAGE COURT PARCELS**  
**SALT LAKE CITY, UTAH**

LEGAL DESCRIPTION

A portion of Lot 4, Block 28, 10 Acre Plat "A", Big Field Survey, more particularly described as follows:

Beginning at the Southwest corner of Lot 4, Block 28, 10 Acre Plat "A," Big Field Survey located  $N0^{\circ}12'27''E$  along the monument line of 900 East Street 1,180.27 feet and East 27.94 feet from a Salt Lake County monument at 3900 South; thence  $N0^{\circ}02'53''E$  along said Block line and the easterly line of 900 East Street 191.40 feet; thence  $N89^{\circ}48'44''E$  217.59 feet to the west line of HILLCREST GARDENS Subdivision, according to the Official Plat thereof on file in the Office of the Salt Lake County Recorder; thence  $S0^{\circ}03'04''W$  along said plat 191.40 feet to the south line of said lot; thence  $S89^{\circ}48'44''W$  along the south line of said lot 217.58 feet to the point of beginning.

Contains: 0.96+/-acres





**EXHIBIT "C"**

**BUDGET**

**2017 Budget Cottage Court**  
11/15/2017

	<b>Annual</b>	<b>Monthly</b>	<b>8 homes per home/mo</b>
<b>Monthly Assessment</b>	<b>9,504.00</b>	<b>792.00</b>	<b>99.00</b>
<b>General &amp; Administrative</b>			
Management/Admin Fees	2,200.00	183.33	22.92
License, Taxes Fees	250.00	20.83	2.60
Insurance	550.00	45.83	5.73
Office Supplies	100.00	8.33	1.04
Miscellaneous	75.00	6.25	0.78
<b>Total</b>	<b>3,175.00</b>	<b>264.58</b>	<b>33.07</b>
<b>Utilities</b>			
Power	0.00	0.00	0.00
Sewer annual fee	175.00	14.58	1.82
Storm drain annual fee	104.00	8.67	1.08
Internet	0.00	0.00	0.00
Water - Master Meter/Interior/Exterior	4,850.00	404.17	50.52
Trash Removal (individual homes)	0.00	0.00	0.00
<b>Total</b>	<b>5,129.00</b>	<b>427.42</b>	<b>53.43</b>
<b>Maintenance</b>			
Grounds Maintenance	0.00	0.00	0.00
Landscaping	0.00	0.00	0.00
Sprinklers	0.00	0.00	0.00
Snow Removal- Sidewalks & Driveway	0.00	0.00	0.00
	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>
<b>Reserves</b>			
Reserves Driveway	1,200.00	100.00	12.50
<b>Total</b>	<b>1,200.00</b>	<b>100.00</b>	<b>12.50</b>
<b>Total Expenses</b>	<b>9,504.00</b>	<b>792.00</b>	<b>99.00</b>
<b>Reinvestment Fee (3 mos dues)</b>			<b>297.00</b>