

AFTER RECORDING RETURN TO:

David Weekley Homes  
392 E. 6400 South, #200  
Murray, UT 84107

**DECLARATION AND GRANT OF  
EXCLUSIVE USE EASEMENT AND MAINTENANCE EASEMENT**

Tax i.d. #'s 26-23-308-008, 26-23-308-007, 26-23-308-006, 26-23-308-002  
STATE OF TEXAS § 26-23-308-005, 26-23-308-004, 26-23-308-003  
§ KNOW ALL PERSONS BY THESE PRESENTS:  
COUNTY OF HARRIS §

This Declaration and Grant of Exclusive Use Easement and Maintenance Easement ("**Declaration**") is made by WEEKLEY HOMES, LLC, a Delaware limited liability company ("**Weekley**").

**WITNESSETH:**

WHEREAS, Weekley is the sole owner of the lots more particularly described on **Exhibit A** attached hereto (the "**Lots**") and made a part hereof for all purposes; and

WHEREAS, Weekley desires to grant the Exclusive Use Easement (as defined below) and Maintenance Easement (as defined below) on the Lots to provide for the most favorable development and use of the Lots and in order to maximize the use, enjoyment and recreation of each owner of the Lots, pursuant to the terms and conditions set forth herein.

NOW, THEREFORE, for and in consideration of the recitals and Ten Dollars (\$10.00) and other good and valuable consideration, Weekley hereby declares, grants and agree as follows:

1. **Definitions.**
  - a. "**Burdened Lot**" is a Lot described on **Exhibit A** that is burdened by having an Exclusive Use Easement thereon.
  - b. "**Benefited Lot**" is a Lot described on **Exhibit A** that is benefited by the Exclusive Use Easement located on the adjacent Burdened Lot.
  - c. "**Use Owner**" is the owner of a Benefited Lot.
  - d. "**Maintenance Owner**" is the owner of a Burdened Lot.

2. **Declaration and Grant of Exclusive Use Easements.** Weekley hereby declares, establishes and grants an exclusive use easement (the "**Exclusive Use Easement**") of variable width over the Burdened Lots located between the property line shared with the applicable Benefited Lot (the "**Property Line**") and a line running approximately parallel to the Property

Line the full depth of the Burdened Lot, and upon which the nearest exterior wall of the residence situated on the Burdened Lot is located as generally described and depicted on **Exhibit A** and **Exhibit B** (each, a "**Use Easement Area**"). The Exclusive Use Easement is granted to the applicable Use Owner for the purpose of providing the Use Owner the right and obligation to occupy, maintain (i.e. mow, trim, etc.), use, enjoy, place personalty upon, and construct and maintain fences (including staining of Use Owner's side of the fence) and other improvements, provided, however: (i) the Use Owner shall not alter the drainage or grade between such Lots; (ii) the Use Owner shall not install any improvements within the Use Easement Area. No landscaping installed within the Use Easement Area shall be allowed to come into contact with any structure located upon the Burdened Lot. No garbage, refuse, rubbish or cuttings, trash and refuse containers shall be deposited or kept within the Use Easement Area. No tanks of any kind, either elevated or buried, shall be erected, placed or permitted upon any Use Easement Area, including but not limited to barbecue grill tanks; (iii) the Use Owner shall not enter, and shall keep trash and debris from entering, any window wells; (iv) the Use Owner shall not interfere with any air conditioning unit, gas meter, hose bib or other such attachments that may be situated on the Burdened Lot; (v) the Use Owner shall not construct, install, attach, or affix anything on or about the exterior of any residential improvements located upon the Burdened Lot. The Use Owner shall not conduct any activities that will or could cause any object to impact on or against the exterior of any residential improvements located upon the Burdened Lot; (vi) the Use Owner shall not in any way adversely impact the residence located on the Burdened Lot, or the structural integrity thereof; (vii) the Use Owner shall not materially impede or hinder the Maintenance Owner from realizing the benefit for which the Maintenance Easement (as defined below) has been created (i.e., to maintain the exterior of its residential structure which is situated adjacent to the Exclusive Use Easement); (viii) the Use Owner shall keep the Use Easement Area free of noxious and hazardous materials, including fire-hazardous materials; (ix) the Use Owner, at their sole cost and expense, shall ensure that appropriate landscaping, in accordance with all covenants, conditions and restrictions applicable to the Lots, is maintained in the Use Easement Area, as originally installed (i.e. sod, gravel, etc.) by the Maintenance Owner; (x) the Use Owner shall ensure that any landscaping, drainage, and irrigation systems within the Use Easement Area are installed and maintained in such manner that the soil surrounding any improvements constructed on the Burdened Lot shall not become so impregnated with water that they cause expansion or shifting of the soils supporting such improvements or other damage to such improvements and foundation on the Burdened Lot; (xi) the Use Owner shall not plant trees, shrubbery or foliage or stack wood in the Use Easement Area; (xii) the Use Owner shall remain responsible for maintaining the Benefitted Lot; and (xiii) all uses by Use Owner shall be otherwise in accordance with all applicable codes and regulations along with the covenants, conditions and restrictions established in the Community Charter for Daybreak, as supplemented and amended, recorded in the Recorder's Office of Salt Lake County, Utah.

3. **Maintenance Easement.** Weekley hereby declares, establishes and grants a Maintenance Easement over the Lots as described on **Exhibit A** and depicted on **Exhibit B** of variable width situated between the Property Line and a line running parallel to the Property Line the full depth of the Benefitted Lot (the "**Maintenance Easement**") in order to ensure the Maintenance Owner is able to maintain and repair its residence which it cannot practically or economically complete from other portions of the Burdened Lot. The Maintenance Owner shall have the right, upon notice and during reasonable hours (unless an emergency dictates otherwise), to enter upon so much of the area covered by the Maintenance Easement as is

reasonably necessary to maintain or repair its residence or to install landscaping and an irrigation system. The Maintenance Owner shall be responsible for staining Maintenance Owner's side of any fence and maintaining the grade of the land burdened by the Exclusive Use Easement.

4. Taxes. The Maintenance Owner, as the record owner of the Use Easement Area, shall be obligated to pay all real estate property taxes and assessments related to the Burdened Lot, including the Use Easement Area.

5. Indemnities.

- a. The Use Owner, on behalf of itself and its tenants, subtenants, occupants, invitees and guests ("Permittees") (but not on behalf of other third parties), shall save, defend, indemnify, hold harmless, and waive and release any and all claims, rights and causes of action against the Maintenance Owner, and their successors and assigns, for loss of life, personal injury, property damage or otherwise which arises or may arise in connection with the use of the Use Easement Area by the Use Owner or its Permittees and from and against any and all damages or destruction caused to the surface area of the Use Easement Area or to any improvement located on the Burdened Lot, in the exercise of such Use Owner's or Permittee's rights with respect to the Use Easement Area. The Use Owner, on behalf of themselves and their Permittees, hereby knowingly assume any risk of loss related to or associated with their use of the Use Easement Area.
- b. The Maintenance Owner, on behalf of itself and its Permittees (but not on behalf of other third parties), shall save, defend, indemnify, hold harmless, and waive and release any and all claims, rights and causes of action against the Use Owner, and their successors and assigns, for loss of life, personal injury, property damage or otherwise which arises or may arise in connection with the use of the Maintenance Easement by the Maintenance Owner or their Permittees and from and against any and all damages or destruction caused to the surface area of the Maintenance Easement or to any improvement located on the Benefited Lot, in the exercise of such Maintenance Owner's or Permittee's rights with respect to the Maintenance Easement. The Maintenance Owner, on behalf of themselves and their Permittees, hereby knowingly assume any risk of loss related to or associated with their use of the Maintenance Easement.

6. No Interest in Condemnation Awards or Other Payments. In the event of any exercise of eminent domain or transfer in lieu thereof for any Lot, the award or payment made in connection with such exercise of eminent domain or transfer in lieu thereof shall be payable only to the parties then owning fee simple title to the Lot, and no claim or award shall be made to any other party by virtue of rights granted under this Declaration.

7. Covenants Running with the Land. The grants and obligations, benefits and burdens of the parties hereto shall be covenants appurtenant to and running with the land affected hereby, and shall apply to, and be binding upon and inure to the benefit of all owners of the Lots, and their heirs, successors, and assigns.

8. No Merger. It is expressly understood and agreed that the parties hereto do not intend that there be, and there shall in no event be, a merger of the Use Owner and Maintenance Owner tenements hereunder by virtue of the ownership of any of said tenements being vested in the same person or entity, but do intend that the easement servitudes granted as to each Lot shall not be extinguished thereby and that the said Use Owner and Maintenance Owner tenements shall be kept separate for the benefit of the individuals and entities referred to herein.

9. No Public or Third Party Benefit. The party hereto specifically acknowledges that this Declaration creates private easements and is not for a dedicated public street, road or right-of-way. This Declaration is not intended nor shall it be construed to create any third party beneficiary rights to, or in favor of, any person or entity who is not a party hereto unless otherwise expressly provided herein.

IN WITNESS WHEREOF, the parties have executed this Declaration as of the 11 day of September, 2018.

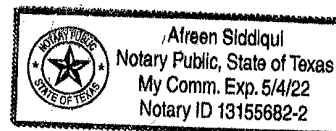
WEEKLEY HOMES, LLC,  
a Delaware limited liability company

By: [Signature]  
Its: General Counsel

STATE OF TEXAS           §  
  §  
COUNTY OF HARRIS   §

This instrument was acknowledged before me on the 11 day of September, 2018 by John Burchfield, as General Counsel of WEEKLEY HOMES, LLC, a Delaware limited liability company, on behalf of such limited liability company.

[Signature]  
Notary Public in and for the State of Texas

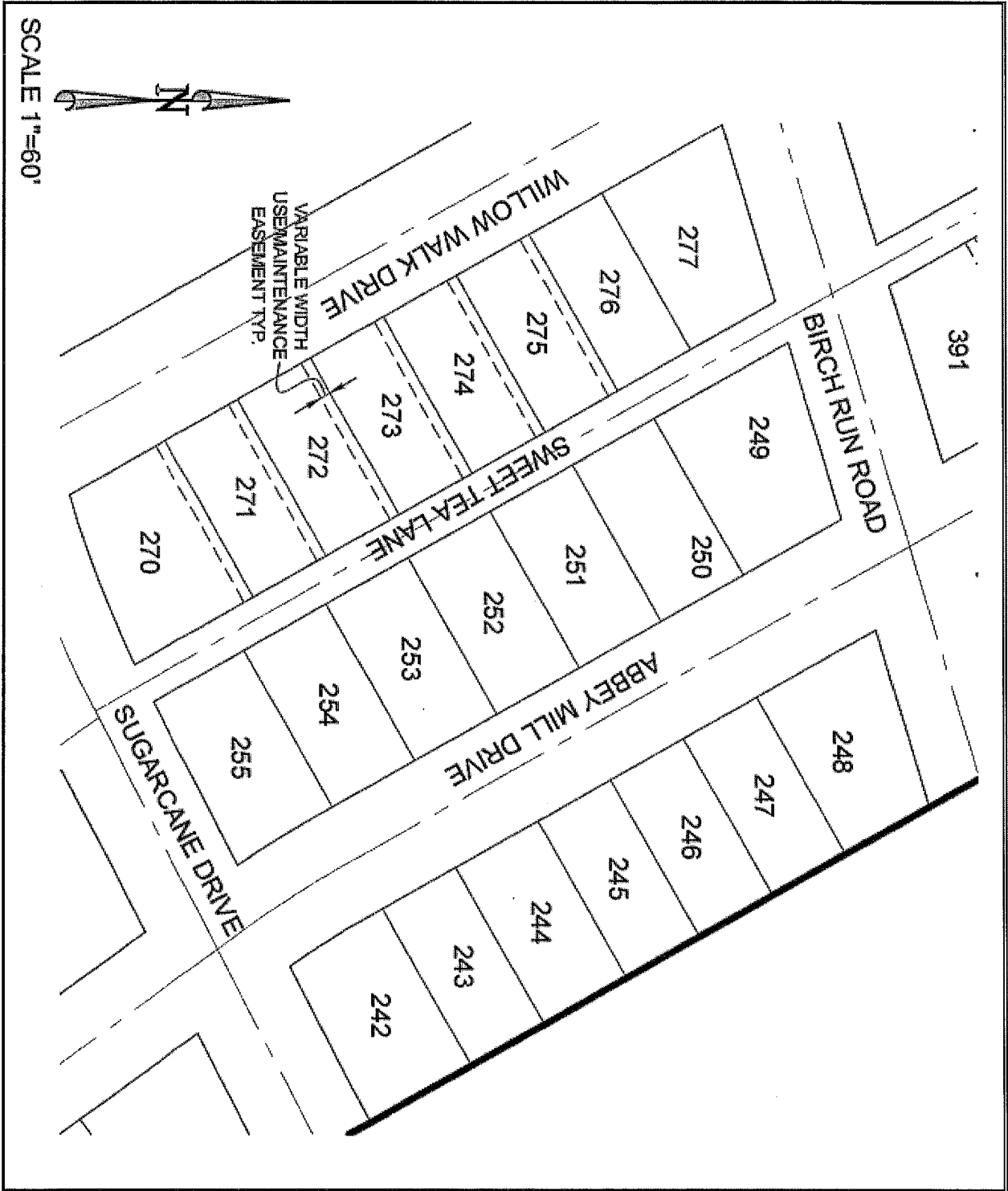


**EXHIBIT A**

Lot descriptions according to Daybreak Village 8 Plat 3 Amending Lots Z101, Z102, Z103 and Z105 of the VP Daybreak Operations-Investments Plat 1, Also Amending a Portion of Daybreak Village 8 Plat 2 Subdivision, Also Amending a Portion of Kennecott Daybreak Village 7 Subdivision, recorded #12633398 in the Recorder's Office, Salt Lake County, Utah.

Lot upon which Exclusive Use Easement is located (Burdened Lot)	Use Owner's Lot (Benefited Lot)		Lot upon which Maintenance Easement is located (Benefited Lot)	Maintenance Owner's Lot (Burdened Lot)
LOT NUMBER	LOT NUMBER		LOT NUMBER	LOT NUMBER
270	271		271	270
271	272		272	271
272	273		273	272
273	274		274	273
274	275		275	274
275	276		276	275

**EXHIBIT B**



SCALE 1"=60'



VARIABLE WIDTH  
USE/MAINTENANCE  
EASEMENT TYP.



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**USE & MAINTENANCE EASEMENTS  
LOTS 270-276  
VILLAGE 8 PLAT 3**

PREPARED FOR: WEEKLEY HOMES