

Recorded at the Request of:
Sandy Highlands Homeowners' Association Inc.

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AMEND- AMENDMENT
Rashelle Hobbs, Recorder, Salt Lake County, Utah
Return To: JENKINS BAGLEY SPERRY, PLLC
285 W TABERNACLE ST STE 301ST GEORGE, UT 84770

**Record against the real property
described in Exhibit A.**

After Recording, Return to:
Jenkins Bagley Sperry, PLLC
Attn: Quinn A. Sperry
5383 South 900 East, Suite 205
Salt Lake City, UT 84117

**FIRST AMENDMENT
TO THE
SECOND AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
SANDY HIGHLANDS,
A PLANNED UNIT DEVELOPMENT**

This FIRST AMENDMENT TO THE SECOND AMENDED & RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF SANDY HIGHLANDS, A PLANNED UNIT DEVELOPMENT (this "First Amendment to Declaration") is entered by the Sandy Highlands Homeowners' Association, Inc., a Utah nonprofit corporation (the "Association").

RECITALS

A. A RECORD OF SURVEY MAP, or Plat, for Sandy Highlands, a Planned Unit Development, was recorded in the Salt Lake County Recorder's office on April 12, 1977, as Entry No. 2930491.

B. A DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS SANDY HIGHLANDS, A PLANNED UNIT DEVELOPMENT was recorded in the Salt Lake County Recorder's office in January 1979, as Entry No. 3219519.

C. An AMENDED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF SANDY HIGHLANDS, A PLANNED UNIT DEVELOPMENT was recorded with the Salt Lake County Recorder's office on March 16, 1989, as Entry No. 4747164 in Book 6110 beginning at Page 2196.

D. An AMENDMENT TO THE AMENDED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF SANDY HIGHLANDS, A PLANNED UNIT DEVELOPMENT was recorded with the Salt Lake County Recorder's office on February 09, 1996, as Entry No. 6276775 in Book 7327 beginning at Page 459.

E. An AMENDMENT TO THE AMENDED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF SANDY HIGHLANDS, A PLANNED UNIT DEVELOPMENT was recorded with the Salt Lake County Recorder's office on October 9, 1998, as Entry No. 7114940 in Book 8121 beginning at Page 919.

F. A SECOND AMENDED & RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF SANDY HIGHLANDS, A PLANNED UNIT DEVELOPMENT (the "Second Restated Declaration") was recorded with the Salt Lake County Recorder's office on January 20, 2017, as Entry No. 12458083 in Book 10522 beginning at Page 2683.

G. The Association desires to amend the Second Restated Declaration as set forth in this First Amendment to Declaration to, among other things: (i) allow Owners to install fences appurtenant to the their Dwellings; (ii) treat Common Area enclosed by fences as Limited Common Area; (iii) identify maintenance responsibilities for fences and fenced-in Limited Common Areas; and (iv) authorize the Association, and its Board, to adopt further Rules regulating fences and the fenced-in Limited Common Areas.

H. This First Amendment to Declaration affects the real property located in Salt Lake County, State of Utah, described with particularity on Exhibit A, which exhibit is attached hereto and incorporated herein by reference.

I. This First Amendment to Declaration amends and is supplemental to the Second Restated Declaration, and all remaining provisions of the Second Restated Declaration, as may have been previously supplemented and amended or which may be amended from time to time, remain in full force and effect. Notwithstanding the foregoing, in the case of any conflict between the provisions of this First Amendment to Declaration and the provisions of the Second Restated Declaration, the provisions of this First Amendment to Declaration shall govern and control.

J. Unless otherwise set forth herein, the capitalized terms shall have their same meanings and definitions as stated in the Second Restated Declaration. The definitions in the Second Restated Declaration are supplemented by the definitions in the Act, and in the event of any conflict, the definition(s) in the more specific restrictive and definition shall apply and control.

K. Pursuant to Article XXI, Section 21.7 of the Second Restated Declaration, the undersigned hereby certifies that this First Amendment to Declaration was approved by Owners holding no less sixty percent (60%) of the total votes in the Association.

NOW, THEREFORE, in consideration of the foregoing Recitals, the Association hereby executes this First Amendment to Declaration, which shall be effective as of its recording date with the Salt Lake County Recorder's office.

AMENDMENTS

The following amendments add to, replace, and/or supersede provisions of the Second Restated Declaration as set forth herein:

AMENDMENT NO. 1: Article V (Fences) of the Second Restated Declaration is deleted in its entirety and replaced with the following language for Article V:

ARTICLE V FENCES

5.1 Fences Allowed. Owners may, after receiving Association approval, erect a fence with a gate, enclosing a portion of the Common Area located appurtenant to the Dwelling located on the Owner's Lot. Any Dwellings sharing a Party Wall must utilize a shared fence if the Owners of the two Dwellings erect a fence in the Common Area appurtenant to each Dwelling.

5.2 Rules and Architectural Controls. The Board may adopt Rules regulating the location of where fences may be installed, location of the gate installed with the fence, materials, height, color, style of fence and gate, maintenance standards, and other architectural controls and design standards for fences and gates in the Project. Unless otherwise set forth in the Rules, fences and gates installed within the Project must match in color, materials, height, and style and model of fence and gates. The Board may establish in the Rules a minimum and maximum amount of square footage which may be fenced-in appurtenant to a single Dwelling and any set back requirements for fences being installed near perimeter fencing or other Improvements of the Project.

(a) Notwithstanding any Rules adopted by the Board, no fence may extend past the front of any Dwelling and no fence installed by an Owner may connect to any perimeter fencing of the Project.

(i) Any Pre-Existing Fences (as defined in Section 5.10) which do not comply with restrictions in subsection 5.2(a) may remain in place until such time that the portion of the Pre-Existing Fence extending past the front of the Dwelling or connected to the perimeter fencing is removed or replaced (or needs replacement and the Association must take action to effectuate the needed repairs). At such time that the Owner removes or replaces the portion of the Pre-Existing Fence which does not comply with the provisions of subsection 5.2(a), the Owner must then bring the fence into compliance with the provisions of subsection 5.2(a) and the right of the Owner to retain the Pre-Existing Fence in violation of restrictions in subsection 5.2(a) is terminated.

(b) Fences installed by Owners of adjacent Lots must extend to the same rear and front boundaries, unless the Board grants a variance to this requirement due to special or extenuating circumstance or to maintain the aesthetics of the Project.

(c) The Board may further adopt Rules regulating what personal property may be stored in any fenced-in Limited Common Area, what Improvements may be made in the fenced-in Limited Common Area, what activities may be conducted in such fenced-in Limited Common Areas (e.g.: trampolines may be prohibited in such Limited Common Area to minimize any liability to the Association), whether any animals may be kept unattended in any fenced-in Limited Common Area, and maintenance standards and responsibilities for the lawn, trees, shrubs, and other landscaping elements and Improvements located within any fenced-in Limited Common Area.

5.3 ACC Approval Required Prior to Fence Installation. An Owner must receive ACC approval, pursuant to Article XV of the Declaration, before installing a fence to enclose any portion of the Common Area appurtenant to the Owner's Dwelling. If the Owner of a Dwelling sharing a Party Wall decides to build a fence within two years after the Owner of the adjacent Dwelling (with the Party Wall) installs a fence enclosing a portion of the Common Area with one side of the enclosure consisting of the previously installed fence by the Owner of the adjacent Dwelling, the ACC may require the Owner submitting the subsequent (or later) fence request to reimburse the adjacent Dwelling's Owner one-half (1/2) of the costs of the shared fence section, unless the two Owners otherwise agree that such reimbursement is unnecessary.

5.4 Costs of Fence Installation. The Owner of the Dwelling for which the fence is installed is responsible for the costs of installing and maintaining such fence and gate. The Owner will further be responsible for paying any costs of adjusting and/or relocating sprinkler heads and lines, if necessary, to accommodate the installation of the fence. For any shared fence, the Owners of the two appurtenant Dwellings are joint and severally responsible for the costs of maintaining the shared fence. In the event an Owner, or any Person acting on behalf of the Owner, damages any Common Area or Common Area utility lines or equipment during the installation or repair of a fence, the Owner shall reimburse the Association any costs associated with the repair of such utility line. Owners are responsible to locate any buried utility line prior to installation or repair of a fence.

5.5 Installation of Fence by Licensed Contractor. All fences installed at the request of an Owner shall be completed by a licensed contractor in accordance with Section 13.3 of the Declaration.

5.6 Enclosed Area Constitutes Limited Common Area. Any portion of the Common Area enclosed within a fence, approved by the Association, shall be considered and treated as Limited Common Area for the exclusive use of the Owner of the Lot appurtenant to the fence, even if no such designation for this particular Limited Common Area is designated on the Plat. Such enclosed area shall be considered Limited Common Area as such term is used in Section 1.0(P), Section 2.2, Section 4.1, and other provisions of the Declaration. The Owner of the Lot appurtenant to such Limited Common Area is granted a license by the Association to use such Limited Common Area; however, the Association retains ownership of such Limited Common Area.

5.7 Maintenance of Fences. Owners enclosing a portion of the Common Area under a license provided in this Article, and with approval from the ACC, are responsible, at their own cost, for the maintenance, repair, and replacement of the fences enclosing the Limited Common

Area appurtenant to the Owner's Dwelling. For any shared fences, the Owners of the adjacent Dwellings shall equally share such maintenance costs. If an Owner fails or otherwise refuses to maintain the fence enclosing the Limited Common Area, the Association may pursue any remedy available to it under the Association's Governing Documents, including, but not limited to levying fines, repairing the fence and charging the Owner for all costs and expenses incurred, and removing the fence pursuant to Section 5.11.

5.8 Maintenance of Enclosed Limited Common Area. Owners enclosing a portion of the Common Area under a license provided in this Article, and with approval from the ACC, are responsible to maintain, at their own cost, the fenced-in Limited Common Area as set forth in this Section. If an Owner fails or otherwise refuses to maintain the Limited Common Area, the Association may pursue any remedy available to it under the Association's Governing Documents, including, but not limited to levying fines, performing such maintenance, and charging the Owner for all costs and expenses incurred in performing such maintenance or otherwise bringing the Owner and Limited Common Area into compliance with the Governing Documents.

(a) Owners must maintain such Limited Common Area pursuant to the standards established by the Board and in substantially the same condition as the Limited Common Area existed at the time it was enclosed, without making improvements thereto which materially alter the nature of the Limited Common Area, unless the ACC grants approval for Improvements. Any Owner who chooses to alter the nature and conditions of the enclosed Limited Common Area exclusive to the Owner's Lot may do so by seeking approval from the ACC after submitting detailed plans for the improvements in the same manner set forth in Article XV of the Declaration

(b) Owners shall maintain landscaped areas within enclosed Limited Common Area, including the lawn, shrubs, trees, and flower beds, in a way consistent with the Association's standard of maintenance of unenclosed Common Area, including watering, mowing, trimming, removal and replacement of such landscaping and plants (including trees), fertilization, weed and soil control, using reasonably accepted landscaping methods. If an Owner chooses to install a watering system or sprinkler system for the fenced-in Limited Common Area, the Owner must not connect any such system to any Common Area watering system maintained by the Association, and all costs associated with the Owner's separate watering system shall be borne by the Owner without any right of offset against amounts the Owner owes to the Association.

(c) Owners are responsible for maintaining, repairing, and replacing any sprinkler heads located in the enclosed Limited Common Area appurtenant to the Owner's Dwelling and repairing and replacing any sprinkler lines, cables, and other utility lines or equipment which the Owner, or a Person for whom the Owner is responsible, damages. Such maintenance costs shall be borne by the Owner without any right of offset against amounts the Owner owes to the Association.

(1) Notwithstanding the foregoing language, the Association shall remain responsible for the long-term maintenance, repair, and replacement of the sprinkler lines (including winterizing the sprinkler lines) located within any

enclosed Limited Common Area. The Association may access the enclosed Limited Common Area pursuant to Section 2.2 of the Declaration. If, after giving notice to the Owner, the Association, or any Person hired by the Association to complete the maintenance of such sprinkler lines, is unable to access the enclosed Limited Common Area to complete such maintenance, whether such access is impeded due to the gate being locked, the presence of an unrestrained dog or other animal in the Limited Common Area, the actions of the Owner or other person for whom the Owner is responsible, or for any other reason, the Association may assess the Owner for any additional charges or costs which the Association incurs due to rescheduling and performing such maintenance.

(d) Owners shall maintain the Limited Common Area appurtenant to the Owner's Lot in a clean and sanitary condition in the same manner required of the Owner's Dwelling and Improvements under Section 6.5 of the Declaration and pursuant to any additional Rules adopted by the Board. Owners may not allow enclosed Limited Common Area to accumulate debris, garbage, rubbish, pet or animal waste, construction materials, or be used to store items not typically associated with a well-kept patio, yard, or other outdoor living space.

(e) The Board may establish Rules authorizing the Association to complete certain maintenance responsibilities (such as lawn maintenance) in the Limited Common Area otherwise allocated to the Owner if (1) the Owner elects to have the Association perform such maintenance and (2) the Owner agrees that the Association may levy a charge against the Owner, and the Owner's Lot, for such maintenance service in an amount established by the Board and set forth in the Rules.

5.9 Owner Insurance for Limited Common Area. To the extent it is reasonably available, Owners shall obtain insurance at each Owner's own expense: (i) providing coverage upon the Limited Common Area appurtenant to the Owner's Lot and all activities conducted on, in, and over such Limited Common Area, and (ii) naming the Association as an additional insured on the Owner's policy. The Owner's insurance policy will provide primary coverage for such Limited Common Area. If Owner fails to obtain insurance as required under this Section and a Person brings a claim against the Association for any injury or damage suffered in the Limited Common Area appurtenant to the Owner's Lot, which claim should have otherwise been covered by the Owner's insurance policy if the Owner had obtained such a policy (as required herein), then the Owner is responsible to indemnify and hold harmless the Association for any damages the Association suffers, including, but not limited to, any attorney's fees and costs the Association incurs in investigating and defending itself against such claim(s) or any amounts paid by the Association to settle or otherwise resolve such claim(s). The Association may assess the Owner and the Owner's Lot for such damages incurred by the Association.

5.10 Pre-Existing Fences. Fences in existence at the time the First Amendment to Declaration was recorded with the Salt Lake County Recorder's office in 2021 (each a "Pre-Existing Fence") are not required to conform to the approval and installation requirements applicable to new fences set forth in Article V of the Declaration. However, if more than 50% of any Pre-Existing Fence is destroyed or needs replacement, then prior to the repair or replacement of the section of the Pre-Existing Fence, the Owner of the appurtenant Lot shall submit new plans

to the ACC pursuant to Article XV of the Declaration prior to repairing or replacing the section of the Pre-Existing Fence, and the ACC may require that the replaced or repaired section of the Pre-Existing Fence comply with the provisions applicable to new fences as set forth in Article V of the Declaration and other sections of the Association's Governing Documents. Notwithstanding the foregoing exception to certain approval and installation requirements for Pre-Existing Fences, Owners of Lots with appurtenant Pre-Existing Fences are subject to and required to comply with provisions of Sections 5.2(c), 5.4, 5.5, 5.6, 5.7, 5.8, and 5.9 of the Declaration.

5.11 Fence Removal. If an Owner fails to comply with the terms of this Article V and the Rules applicable to fences by failing to obtain approval for the fence before it is installed, failure to maintain a fence (including any Pre-Existing Fence), or failure to adhere to any other requirement applicable to fences in the Governing Documents, the Association may require the Owner to remove such fence. If the Owner refuses, or otherwise fails, to remove the fence, the Association may exercise its right remove the fence and assess the Owner the costs of such removal and any other damages incurred by the Association related to such removal, including, but not limited to legal fees incurred related to the violation and enforcement process. Prior to the Association taking action to remove a fence under this Section, the Association must provide a notice pursuant to Section 6.6 of this Declaration.

AMENDMENT NO. 2: The first sentence of Section 6.2 of the Second Restated Declaration is deleted in its entirety and replaced with the following language (with the subsections of Section 6.2 remaining unchanged):

6.2 Maintenance by the Association. Except for the maintenance responsibilities of any enclosed Limited Common Area assigned to an Owner under Sections 5.7 and 5.8 of the Declaration, the Association shall furnish and be responsible for, at the Association's expense, the maintenance, repair, and replacement of the following:

AMENDMENT NO. 3: The following language is added as an additional sentence to Section 13.3 of the Second Restated Declaration:

If required by the Rules, Owners hiring contractors to complete work on the Owner's Lot, Dwelling, and appurtenant Limited Common Area shall provide the Association, upon the Association's request, a copy of the contractor's proof of liability and workers compensation insurance, contractor's license information, and a contractor's agreement to indemnify the Association from any and all claims including injury and financial damages, arising from or related to the contractor's work in the Project.

AMENDMENT NO. 4: The following language is added to the end of Section 15.2(b) of the Second Restated Declaration:

If the Board, or ACC, submits the plans to an engineer, architect, attorney, or other professional for review, then the Board's, or ACC's, then the 15-day response time period is tolled until the professional Person completes the review of the plans and provides the professional's analysis or opinion regarding the plans to the Board, or ACC.

AMENDMENT NO. 5: The following language is added to the Second Restated Declaration establishing Sections 15.7 and 15.8:

15.7 Plan Review Fee. The Association may charge an Owner a plan review fee which is equivalent to the costs of reviewing the plans submitted by the Owner to the ACC pursuant to Section 15.2 of the Declaration. The ACC's costs of reviewing the plans may include, but are not necessarily limited to, any costs incurred by the Association to have an engineer, architect, attorney, or other professional review and opine on the plans before the ACC makes a decision whether to approve the plans.

15.8 Owner's Compliance with Applicable Laws. Any Owner making any approved Improvement is responsible for obtaining any required permits from any municipal authority, contacting Blue Stakes to survey and mark the subject area, and complying with any other provisions of applicable building codes, zoning ordinances, and other statutes and laws relating to the Improvement.

AMENDMENT NO. 6: The following language is added to the Second Restated Declaration establishing Section 21.11:

21.11 Rule Against Perpetuities. The rule against perpetuities and the rule against unreasonable restraints on alienation of real estate may not defeat or otherwise void a provision of this Declaration or other Governing Documents of the Association. If for any reason this Declaration does not comply with the Act, such noncompliance does not render a Lot or Common Area unmarketable or otherwise affect the title thereof if the failure is insubstantial.

IN WITNESS WHEREOF, the Association executed this First Amendment to Declaration on the date indicated below. In addition, the undersigned officer of the Association and member of the Board certifies that this First Amendment to Declaration was approved by Owners representing not less than sixty percent (60%) of the total votes of the Association as required under Section 21.7 of the Second Restated Declaration.

DATED as of the 17th day of December, 2021.

SANDY HIGHLANDS HOMEOWNERS' ASSOCIATION, INC.

By: *Darren C. Faulkner*
Name: DARRIN FAULKNER
Its: BOARD MEMBER

STATE OF UTAH)
) :ss
COUNTY OF SALT LAKE)

On this 17th day of December, 2021, personally appeared before me, Darren Faulkner, whose identity is personally known to me (proven on the basis of satisfactory evidence), and who by me duly sworn/affirmed, did say that she/he is an officer and director of the Sandy Highlands Homeowner's Association, Inc. (the "Association"), that said document was signed by her/him on behalf of the Association with all necessary authority, and acknowledged to me that said Association executed the same.

Sarah Tidwell
Notary Public



EXHIBIT A

(Legal Description of Property)

BEGINNING AT A POINT ON THE EAST RIGHT OF WAY LINE OF 1000 EAST STREET SAID POINT MORE SPECIFICALLY DESCRIBED AS BEING NORTH 0°10'00" EAST 1533.70 FEET AND EAST 33.00 FEET FROM THE SOUTH QUARTER CORNER OF SECTION 32, TOWNSHIP 2 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, AND RUNNING THENCE NORTH 0°10'00" EAST 130.30 FEET; THENCE EAST 297.00 FEET; THENCE NORTH 0°10'00" EAST 331.30 FEET; THENCE NORTH 89°56'41" EAST 667.30 FEET; THENCE SOUTH 0°7'30" WEST 659.82 FEET; THENCE SOUTH 89°58'30" WEST 535.77 FEET; THENCE NORTH 0°10'00" EAST 198.00 FEET; THENCE SOUTH 89°58'30" WEST 429.00 FEET TO THE POINT OF BEGINNING.

Parcel Tax I.D. Nos

22-32-403-24 through 065;

22-32-405-004 through 013; and

22-32-404-001 through 021.