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ANDREA ALLEN
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AFTER RECORDING RETURN TO:

Kirton McConkie
Attn: Robert C. Hyde
50 E. South Temple
Salt Lake City, Utah 84111

(space above for Recorder's Office)

Parcel Serial Numbers:

39:310:0101 – 39:310:0123 (Village 1A Plat); 35:840:0122 – 35:840:0291 (Village 2 Plat); 58:041:293 (Village 3); 58:041:0239 (Village 4); 58:041:0227 (Village 5); 58:041:0228 (Village 6); 58:041:0241 (Village 7); 58:041:0295 (Village 8).

AMENDED AND RESTATED

**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR
BEACON POINTE, A RESIDENTIAL COMMUNITY**

AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR BEACON POINTE, A RESIDENTIAL COMMUNITY

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EXHIBITS

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Exhibit C	Depiction or Description of Village 1A Common Areas
Exhibit D	Fence Guidelines

**AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR BEACON POINTE, A RESIDENTIAL COMMUNITY**

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR BEACON POINTE, A RESIDENTIAL COMMUNITY (this “Declaration”) is executed this 11th day of March 2025 (the “Effective Date”), by Land Reserve, Inc., a Utah corporation, formerly known as Suburban Land Reserve, Inc. (hereinafter referred to as “Declarant”), to amend, restate, and replace in its entirety the “Original Declaration” as defined in Article 1 below.

RECITALS

A. Section 16.2.1 of the Original Declaration permits Declarant to unilaterally amend the Original Declaration prior to the termination of the Declarant Control Period (as defined in the Original Declaration).

B. As of the Effective Date, the Declarant Control Period remains in effect.

C. Declarant now deems it necessary and desirable to amend and restate the Original Declaration in its entirety in order to address certain aspects of the development and operation of that certain integrated residential community project known as Beacon Pointe (the “Project”), which Project is located on that certain real property located in the City of Saratoga Springs (the “City”), Utah County, Utah, as more particularly described on Exhibit A attached hereto and incorporated herein by this reference (as further defined below, the “Real Property”).

**ARTICLE 1
DEFINITIONS**

The terms used in this Declaration shall generally be given their natural, commonly accepted definitions, except as otherwise specified. Capitalized terms shall be defined as set forth below.

1.1. “Accessory Dwelling Unit” means a residential unit that is located on the same Lot as a single-family dwelling unit and is (a) internal to a single-family dwelling, (b) attached to a single-family unit (e.g., an addition), or (c) part of a detached garage or accessory building. An Accessory Dwelling Unit cannot be a stand-alone structure and must be part of the main dwelling or part of an accessory building or detached garage. In order to qualify as an Accessory Dwelling Unit, the Accessory Dwelling Unit must comply with law, and be a complete housing unit with a separate entrance, kitchen, sleeping area, closet space, bathroom facilities, separately metered utilities (electricity, gas, and culinary water), and dedicated off-street parking.

1.2. “Act” means the Community Association Act (Utah Code Ann. § 57-8a-101 *et seq.*), as amended from time to time.

1.3. “ARC” shall mean the architectural review committee appointed by Declarant or the Board (to the extent applicable) to review and approve applications for proposed Improvements and Minor Improvements, all as more particularly described in this Declaration.

1.4. “Articles of Incorporation” mean and refer to the Articles of Incorporation of Beacon Pointe Owners’ Association, Inc., as they may be amended from time to time.

1.5. “**Assessment(s)**” means a charge imposed or levied by the Association on and against a Lot and its Owner pursuant to the terms of this Declaration or any other Governing Document, and includes Base Assessments, Special Assessments, Townhome Assessments, and Reinvestment Fees.

1.6. “**Association**” shall mean and refer to the Beacon Pointe Owners’ Association, Inc., a Utah nonprofit corporation.

1.7. “**Base Assessment(s)**” shall mean and refer to assessments levied in accordance with Section 14.1.2 of this Declaration.

1.8. “**Beacon Pointe Community Plan**” means that certain community plan for the Project dated November 2018 and approved by the City on December 4, 2018, commonly referred to as the Beacon Pointe Community Plan.

1.9. “**Board**” means the board of directors of the Association.

1.10. “**Bulk Service Agreement**” shall have the definition ascribed in Section 11.1.

1.11. “**Bylaws**” mean and refer to the bylaws of the Association, as they may be amended from time to time.

1.12. “**City**” shall mean and refer to the City of Saratoga Springs, Utah.

1.13. “**COA**” shall mean and refer to the Condominium Ownership Act (Utah Code Ann. § 57-8-1 *et seq.*).

1.14. “**Common Area(s)**” shall mean real and personal property that the Association now or hereafter owns or otherwise holds for the common use or benefit of Owners within the Project, which Common Area is exclusively designated, or consented to, by Declarant pursuant to a plat, deed, supplement to this Declaration, or other recorded instrument, as determined in Declarant’s sole and absolute discretion. For clarification purposes, as of the recording of this Declaration, the Common Areas include that certain real property located within Village 1A specifically described or depicted on Exhibit C, attached hereto and incorporated herein by this reference. Common Area shall not include (a) any roads and associated utilities dedicated to and accepted by a municipality, (b) any open space and/or parks dedicated to and accepted by a municipality, or (c) any open space, parks, real property or other landscaped areas owned or controlled by a separate owners’ association. Notwithstanding the foregoing, if a separate recorded document executed by Declarant and the City or the applicable owners’ association designates any such areas described in (a) through (c) above as Common Areas under this Declaration, such areas shall be subject to the maintenance obligations of the Association and the applicable Assessments described herein.

1.15. “**Common Area Improvements**” shall mean all landscaping, structures, improvements, and other items placed within the Common Area, including, but not limited to, any (a) building, shed, casita, pergola, swimming pool, playground equipment, hot tub, screening wall, accessory building, fence, or wall; (b) walkway, road, park strip, median, driveway or parking area; (c) paving, exterior lights, curbing, trees, shrubs, hedges, grass, windbreak, or other landscaping improvements of any type and kind; (d) excavation, fill, retaining wall or other thing or device which affects the natural flow of surface water or the flow of water in a natural or artificial stream, wash or drainage channel, and related fixtures and equipment; and (e) other structure of any kind or nature.

1.16. “**Common Area Rules and Regulations**” shall have the definition ascribed in Section 5.4.4.

1.17. “**Common Expense(s)**” shall mean and refer to the actual and estimated expenses incurred by the Association in maintaining the Common Areas and any Common Area Improvements located thereon for the general benefit of all Owners within the Project, including, without limitation, any reasonable reserve, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration, the Bylaws, and the Articles of Incorporation, and may include, without limitation, when determined by the Board, in the Board’s sole and absolute discretion, expenses incurred in bringing or defending lawsuits and any other litigation expenses incurred by the Association.

1.18. “**Community-Wide Standard**” shall mean and refer to the most stringent of: (a) the standard of use, conduct, architecture, landscaping, or aesthetic matters generally prevailing in the Project, (b) the minimum standards described in this Declaration, (c) those standards set forth in the Beacon Pointe Community Plan, or (d) the Design Guidelines. Declarant may record additional guidelines clarifying the Community-Wide Standard and subject the Project, or portions thereof, to such design standards. The Community-Wide Standard may contain both objective elements, such as specific maintenance requirements, and subjective elements. Declarant shall initially establish such standard(s); however, the Community-Wide Standard may evolve as development progresses and as the Project changes.

1.19. “**County**” shall mean and refer to Utah County, Utah.

1.20. “**Declarant**” shall mean and refer to Land Reserve, Inc., a Utah corporation, formerly known as Suburban Land Reserve, Inc., and its successors and assigns.

1.21. “**Declarant Affiliate(s)**” shall mean The Church of Jesus Christ of Latter-day Saints, a Utah corporation sole, and any entity or Person controlling, controlled by or under common control with the same.

1.22. “**Declaration**” shall mean and refer to this Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Beacon Pointe, a Residential Community.

1.23. “**Design Guidelines**” shall mean those standards for design, landscaping, and aesthetics promulgated by Declarant or the ARC (if applicable). The Design Guidelines shall at all times be subject to the Beacon Pointe Community Plan.

1.24. “**Effective Date**” shall mean the date set forth in the introductory paragraph.

1.25. “**Fence Restrictions**” shall have the definition ascribed in Section 8.6.3.

1.26. “**Governing Documents**” shall mean and refer to this Declaration, any Supplement, the Bylaws, the Articles of Incorporation, the Design Guidelines, the Beacon Pointe Community Plan, the Common Area Rules and Regulations, the Rules, and all other documents executed by Declarant or the Association for the orderly administration of the Project.

1.27. “**Improvement(s)**” shall mean all site work, landscaping, structures, improvements, and other items placed on a Lot in a manner or location visible from the outside of any existing structures on the Lot.

1.28. “**Landscape Deposit**” shall have the definition ascribed in Section 6.3.2.

1.29. “**Law(s)**” shall mean and refer to any and all current and future local, state, and federal laws, statutes, regulations, ordinances, referendums, resolutions, orders, and decrees.

1.30. “**Limited Common Area(s)**” shall mean certain portions within the Project that are designated and restricted in accordance with the provisions of this Declaration for the exclusive use of certain Lots within the Project.

1.31. “**Lot(s)**” shall mean and refer to a separately numbered and individually described plot of land shown on the Plat and designated as a Lot for private ownership. For purposes of this Declaration, “**Lot(s)**” shall not include Common Areas, Limited Common Areas, or any real property owned by Declarant or a Declarant Affiliate.

1.32. “**Minor Improvements**” shall mean exterior remodels, changes, and/or revisions to existing exterior Improvements located on any Lot.

1.33. “**Mortgage**” means a mortgage, a deed of trust, a deed to secure debt, or any other form of security deed.

1.34. “**Mortgagee**” means a beneficiary or holder of a Mortgage.

1.35. “**Neighborhood(s)**” shall mean and refer to any collection of Lots and Plats formed into a sub-association.

1.36. “**Neighborhood Association**” shall mean and refer to any separate condominium or homeowners association created by Declarant, which may include multiple Villages, for the purpose of administering additional covenants, conditions, and restrictions applicable to a particular portion of the Project.

1.37. “**Neighborhood Declarations**” shall mean and refer to any additional restrictions, obligations and amenities on the land described therein that Declarant deems necessary for the use and enjoyment of certain Neighborhoods. Any such Neighborhood Declarations shall (i) be recorded against applicable portions of Neighborhoods, (ii) run with the land, and (iii) be enforceable by Declarant or the Association.

1.38. “**Original Declaration**” means, collectively, that certain Declaration of Covenants, Conditions, and Restrictions for Beacon Pointe, a Residential Community, dated March 10, 2020 and recorded on March 13, 2020 in the Official Records of the Utah County Recorder as Entry No. 32176:2020, as amended by that certain First Supplement to Master Declaration of Covenants, Conditions, and Restrictions for Beacon Pointe, a Residential Community dated December 15, 2020 and recorded on January 6, 2021 in the Official Records of the Utah County Recorder as Entry No. 2299:2021.

1.39. “**Owner(s)**” shall have the definition ascribed in Section 3.5.

1.40. “**Parcel(s)**” shall mean and refer to one or more legally subdivided Lots within the Project as designated on the Plat.

1.41. “**Period of Administrative Control**” shall mean and refer to the period of time commencing on the date of the Original Declaration and terminating upon the first of the following to occur: (i) when Declarant no longer owns real property that is subject to this Declaration; or (ii) when, in its discretion, Declarant so determines and declares in a recorded instrument that the Period of Administrative Control is terminated.

1.42. “**Person(s)**” shall mean and refer to a natural person, a corporation, a partnership, a trustee, or any other legal entity.

1.43. “**Plat**” shall mean and refer to any recorded plat of any portion of the Project.

1.44. “**Project**” shall have the definition ascribed in Recital C.

1.45. “**Real Property**” shall mean and refer to the real property more particularly described on Exhibit A, attached hereto and incorporated herein by this reference, less and excluding the Temple Lot and any further real property that is removed from the lien of this Declaration pursuant to the provision of Section 2.7 hereof.

1.46. “**Reinvestment Fee Covenant**” shall mean and refer to, collectively, that certain Reinvestment Fee Covenant which authorizes the charging of a Reinvestment Fee, recorded on May 26, 2020 in the Official Records of the Utah County Recorder as Entry No. 70693:2020, together with that certain Notice of Reinvestment Fee Covenant recorded on May 26, 2020 in the Official Records of the Utah County Recorder as Entry No. 70865:2020. Notwithstanding the foregoing, following the recording of this Declaration, Declarant shall re-record the Reinvestment Fee Covenant against the Real Property in the Official Records of the Utah County Recorder, at which time all references to the “Reinvestment Fee Covenant” herein shall instead refer to the re-recorded Reinvestment Fee Covenant. To the extent the re-recorded Reinvestment Fee Covenant is subsequently invalidated for any reason, in whole or in part, the original Reinvestment Fee Covenant shall apply.

1.47. “**Reinvestment Fee(s)**” shall mean and refer to a “reinvestment fee” as that term is defined by Utah Code Ann. § 57-1-46(1)(i), as it may be amended or supplemented from time to time. Reinvestment Fees may be assessed against individual Lots to for the benefit of the Lot and the Association, including payment for: (i) common planning, facilities, and infrastructure; (ii) obligations arising from an environmental covenant; (iii) community programming; (iv) resort facilities; (v) open space; (vi) recreation amenities; (vii) charitable purposes; or (viii) the Association’s expenses.

1.48. “**Related Party(ies)**” shall mean and refer to the Association, Declarant, Declarant Affiliate, and their respective officers, directors, partners, co-venturers, committee members, servants, agents, representatives and employees.

1.49. “**Rules**” shall have the definition ascribed in Section 8.4.

1.50. “**Service Area(s)**” shall mean and refer to any portion of the Project designated by Declarant or the Association to receive special benefits or services specific to that portion of the Project.

1.51. “**Service Area Expenses**” shall mean all expenses that the Association incurs or expects to incur in connection with the ownership, maintenance, and operation of benefits specifically related to a Service Area, including any operating reserve or any reserve for repair and replacement of capital items maintained for the benefit of the Service Area.

1.52. “**Special Assessment(s)**” shall mean and refer to assessments levied in accordance with Article 14 of this Declaration.

1.53. “**Supplement**” shall mean and refer to any amendment or supplement to this Declaration executed by or consented to by Declarant which may, but need not, impose, expressly or by reference, additional restrictions and obligations on the land described therein, or may modify or delete any restriction or obligation of this Declaration as the same applies to the land described therein.

1.54. “**Temple Lot**” shall have the definition ascribed in Section 2.7.

1.55. “**Townhome**” or “**Townhomes**” shall mean one or more dwelling units in a row of at least two such units (i) that share a common wall located on or about a Lot line, (ii) whose roofs are one integrated structure, (iii) where each unit has its own front access to the outside, (iv) where no unit is located over another unit, and (v) where each unit is designed and intended for separate, independent use and occupancy as a residence.

1.56. “**Townhome Assessment**” shall mean an assessment levied against the Townhomes.

1.57. “**Village(s)**” shall mean those portions of the Project referenced in the Beacon Pointe Community Plan.

ARTICLE 2 DECLARATION

2.1. Scope and Applicability. Declarant hereby declares that all of the Real Property shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the desirability of the Real Property, and which shall (i) run with the Real Property, (ii) be binding on all parties having any right, title, or interest in the Project or any part thereof, and their heirs, successors, successors-in-title, and assigns, and (iii) inure to the benefit of each Owner thereof. All of the Real Property shall be held, sold and conveyed subject to this Declaration. By acceptance of a deed or by acquiring any interest in any of the Real Property, each Person, for himself, herself or itself, and his, her or its heirs, personal representatives, successors, transferees and assigns, binds himself, herself or itself, and his, her or its heirs, personal representatives, successors, transferees and assigns, to all of the provisions, restrictions, covenants, conditions, rules and regulations now or hereafter imposed by this Declaration. In addition, each such Person by so doing acknowledges that this Declaration sets forth a general scheme for the development and use of the Project and indicates his, her or its agreement that all the restrictions, conditions, and covenants contained in this Declaration shall run with the land and be binding on all subsequent and future Owners, grantees, purchasers, assignees, lessees and transferees thereof. Furthermore, each such Person fully understands and acknowledges that this Declaration shall be mutually beneficial, prohibitive and enforceable by Declarant, the Association, and all Owners.

2.2. Additional Covenants. Declarant or its assigns may impose additional covenants on the Real Property that Declarant or its assigns deems reasonably necessary for the orderly administration of the Project. If the provisions of any such additional covenants are more stringent than the provisions of this Declaration, the more stringent provisions shall control. Declarant shall have standing and the power, but not the obligation, to enforce any such additional covenants.

2.3. Conflicts. If there are conflicts between any of the Governing Documents and Utah law, Utah law shall control. If there are conflicts between or among any of the Governing Documents, the Declaration shall control. If there are conflicts between the Governing Documents and any additional covenants recorded on any Real Property (or the rules or policies adopted pursuant to any such additional covenants), the Governing Documents will control.

2.4. No Condominium Association. Declarant and each Owner hereby agree and understand that the Project is not, by execution and recording of this Declaration, being submitted to the provisions of the COA, and that no association is being created whereby this Declaration and the Project would be subject to the COA. This Declaration does not constitute a declaration as provided for in the COA.

2.5. Readjustment of Lot and Parcel Boundaries. Declarant hereby reserves for itself, the Declarant Affiliates and Declarant’s successors and assigns, the right to effectuate minor realignment and adjustment

of the boundary lines between Lots and Common Areas or Limited Common Areas for purposes of proper configuration and final engineering of the Project; provided that any such realignment and adjustment does not detrimentally affect any existing Lot or Improvement (other than landscaping) on the affected Parcel. The authority to realign and adjust such Parcel boundary lines shall be exclusively reserved to Declarant, the Declarant Affiliates and Declarant's successors or assigns, in their sole and reasonable discretion, subject to the other provisions of this Section 2.5. All Owners specifically acknowledge and agree that they shall cooperate with Declarant to effectuate such minor realignment and adjustment of their respective Parcel boundary lines by deed, in the form and including content as requested by Declarant for the purposes of proper configuration and final engineering of the Lots in relationship to the development of the Project. Further, all Owners acknowledge and agree that no amendment to this Declaration or any Plat shall be required to effectuate any Parcel boundary line adjustments so long as such adjustments are made pursuant to the Laws.

2.6. Development Plan. Notwithstanding any other provision of this Declaration to the contrary, and subject to the requirements of the appropriate governmental authority, Declarant, without obtaining the consent of any other Owner or Person, shall have the right to make changes or modifications to its plan of development with respect to any Parcels owned by Declarant in any way that Declarant desires, including, but not limited to, changing all or any portion of the Parcels owned by Declarant or changing the nature or extent of the uses to which such Parcels may be devoted.

2.7. Excluded Property. Notwithstanding anything to the contrary in this Declaration, Declarant hereby declares that (i) a portion of the Real Property more particularly described on Exhibit B, attached hereto and incorporated herein by this reference (the "Temple Lot"), and (ii) any additional real property designated by Declarant as excluded property, shall not be subject to, or encumbered by, the terms, conditions, responsibilities, and obligations of this Declaration, unless Declarant records a subsequent instrument stating that the subject real property is subject to the terms of the Declaration and no longer excluded from the Declaration. Notwithstanding the foregoing, the owner of the Temple Lot may initiate and prosecute appropriate legal proceedings against an offending Owner and/or occupant to enforce compliance with the terms and conditions of this Declaration, including compliance with any of the provisions, restrictions, covenants, conditions, rules and regulations now or hereafter imposed by this Declaration, or to recover damages for noncompliance therewith. Declarant shall have the authority, in Declarant's sole and absolute discretion, to amend this Declaration without consent of any Owners to effectuate the intent and purpose of this Section 2.7.

ARTICLE 3 COMMUNITY ADMINISTRATION

3.1. Declarant. The Beacon Pointe Community Plan and Declarant have set forth the founding principles that will guide the Project. Declarant may submit property to this Declaration as more particularly described in Article 16. Declarant has reserved various rights in the Governing Documents with respect to development and administration of the Project, which right may be exercised so long as Declarant or any Declarant Affiliate owns fee simple title to any Real Property or has the ability to expand the Project pursuant to Article 16. Declarant may assign its status and rights as Declarant under the Governing Documents to any Person who takes title to any portion of the Real Property for the purpose of development and/or sale. Such assignment shall be made only in a recorded instrument signed by both Declarant and its assignee.

3.2. Period of Administrative Control. By taking title to a Lot, each Owner acknowledges that Declarant has reserved certain rights that may be exercised by Declarant only during the Period of Administrative Control.

3.3. The Association. The administration of the Project shall be performed by the Association, which shall exist for the sole purpose of performing the functions and providing the services contemplated in this Declaration. The Association has (i) organized as required by the Utah Revised Nonprofit Corporation Act (Utah Code Ann. § 16-6a-1, *et seq.*), (ii) adopted the Articles of Incorporation and the Bylaws, and (iii) registered the Association with the Utah Department of Commerce. The Association shall continue to operate as a nonprofit corporation and shall be governed by the Board and the officers authorized by the Bylaws. The Board may amend and revise from time to time the Bylaws, which shall constitute written procedures for the regulation or management of the affairs of the Association; provided, however, that no provision of the Bylaws shall substantially alter or amend the rights or obligations of the Owners set forth in this Declaration (as may be amended). The Association may exercise all rights and powers which the Governing Documents and Utah law expressly grant to it, as well as any rights and powers that may reasonably be implied under the Governing Documents. It may also take any action reasonably necessary to effectuate any such right or privilege.

3.4. The Board. On most matters, the Association acts through the Board. However, in some instances the Governing Documents or applicable Laws limit the Board's ability to act without the approval of the Association's members. Unless the Governing Documents or Utah law specifically provide otherwise, the Board may exercise the Association's rights and powers without a vote of the Owners. The Board may institute, defend, settle, or intervene on behalf of the Association in mediation, binding or non-binding arbitration, litigation, or administrative proceedings in matters pertaining to (i) the Common Areas and Limited Common Areas, (ii) enforcement of the Governing Documents, or (iii) any other civil claim or action. However, the Board has no legal duty to institute litigation or any other proceeding on behalf of or in the name of the Association or its members. In exercising the Association's rights and powers, making decisions on the Association's behalf (including, without limitation, deciding whether to file a lawsuit or take other legal action under any circumstances), and conducting the Association's affairs, Board members and the Association's officers are required to comply with, and shall be judged by, the standards set forth in the Bylaws.

3.5. Owner(s). Each Person(s) who holds record title to a Lot is referred to in the Governing Documents as an "Owner(s)." However, a Person who holds title merely as security for the performance of an obligation (such as a lender holding a Mortgage or similar security instrument) is not considered an "Owner." If a Lot is sold under a recorded contract of sale, and the contract specifically so states, the purchaser (rather than the holder of fee simple title) will be considered the Owner. If a Lot has more than one Owner, all co-Owners are jointly and severally obligated to perform the responsibilities of the Owner under the Governing Documents.

3.6. Neighborhood Associations. Declarant, in Declarant's sole and absolute discretion, shall have the right to create any Neighborhood Association that Declarant deems necessary for the orderly development of the Project or portions of the Project by recording additional Neighborhood Declarations against portions of the Project. Upon the creation of any Neighborhood Associations, Declarant shall be a third-party beneficiary of any Neighborhood Declarations and shall have the express right to enforce any provisions in such Neighborhood Declarations. However, nothing in this Declaration requires the creation of a Neighborhood Association, the jurisdiction of any Neighborhood Association shall be subordinate to that of Declarant and the Association, and the Neighborhood Declaration shall be subordinate to this Declaration. Neighborhood Associations, if any, are responsible for administering the additional covenants applicable to the property within their jurisdiction and for maintaining, in accordance with those standards set forth herein, any property which they own or which their respective covenants designate as being for the common benefit of their members.

ARTICLE 4

ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

4.1 Membership; Voting Rights. Every Owner shall be a member of the Association. Where an Owner is comprised of more than one Person, that Owner's voting right shall be exercised by one individual designated from time to time by the Owner in a written instrument provided to the secretary of the Association. Each Lot shall be entitled to one vote by the Owner of that Lot.

4.2 Class of Membership. The Association shall have two (2) classes of membership, Class "A" Members and Class "B" Member as follows:

4.2.1 Class "A" Member. Class "A" Members shall be all Owners of a Lot, including Declarant (but Declarant shall be a Class "A" Member only during the period in which Declarant owns any portion of the Real Property), with the exception of the Class "B" Member, if any. However, there shall be only one (1) membership per Lot. If an Owner is a corporation, a partnership, or other legal entity, its membership rights may be exercised by any officer, director, partner, or trustee, or by an individual the Owner designates from time to time in a writing to the Association. Declarant may, by Supplement, create additional classes of membership comprised of the Owners of Lots within any portion of the additional property submitted to this Declaration. Declarant shall specify in any such Supplement the rights, privileges, and obligations of the members of any class of membership created by that Supplement.

4.2.2 Class "B" Member. Declarant holds the sole Class "B" membership. The Class "B" membership shall terminate upon the earlier to occur of (i) expiration of the Period of Administrative Control, or (ii) the surrender of Class "B" membership status by the express written action of Declarant. Upon termination of Declarant's Class "B" membership, Declarant's Class "A" membership shall remain, but only to the extent Declarant owns any portion of the Real Property.

4.3 Voting. Each Lot is assigned one (1) equal vote, subject to the limitations on voting set forth in this Declaration and the other Governing Documents. Declarant's consent, as the Class "B" Member, shall be required for all actions taken by the Board, the membership, and committees during such time as there is a Class "B" membership.

4.4 Suspension of Voting Rights. Except for Declarant's voting rights, the Board may elect to prohibit an Owner from exercising any voting rights as an Owner of the Association during any period in which the Owner is delinquent in the payment of any Assessments.

4.5 Appurtenant Right. Membership shall be appurtenant to and shall run with the property interest which qualifies the Owner thereof for membership, and membership may not be severed from, or in any way transferred, pledged, mortgaged, or alienated, except together with the title to such property interest.

ARTICLE 5

COMMUNITY STRUCTURE AND ORGANIZATION

5.1. Designation of Properties Comprising the Project.

5.1.1. Lots. The Governing Documents refer to the homes and home sites located within the Project as Lots. The term "Lot" refers to the land, if any, which is part of the Lot, as well as to any structures or other Improvements on the Lot. A parcel of land is considered a single Lot until such time as a subdivision plat, survey, or condominium instrument is recorded subdividing it into more than one Lot.

5.1.2. Common Areas. Common Areas within the Project shall be created in accordance with Section 1.14 hereof and shall have the meaning set forth therein. The Common Areas also include any property that the Association holds under a lease, as well as any easements in favor of the Association or designated on any plat for use by the Association.

5.1.3. Limited Common Areas. Certain portions of the Project may be designated as Limited Common Areas and assigned for the exclusive use or primary benefit of specific Lots in a specified portion of the Project. Declarant may designate property as Limited Common Areas and assign it to particular Lots on the Plat depicting such property.

5.2. Neighborhoods. Declarant may assign Lots to a specific Neighborhood in a Supplement (by name, Plat, or other identifying designation), including, without limitation, the right to combine Neighborhoods or portions of Neighborhoods into existing Neighborhoods. In addition, Declarant may unilaterally record a Supplement, an amendment to this Declaration, or any previously recorded Supplement to designate or change Neighborhood boundaries.

5.3. Service Areas. Lots may also be part of one or more Service Areas in which the Lots share or receive special benefits or services, with such benefits or services paid through Service Area Expenses. A Lot may be assigned to more than one Service Area depending on the number and types of special benefits or services it receives. A Service Area may be comprised of Lots of more than one housing type and may include Lots that are not contiguous. Declarant may initially designate Service Areas (by name or other identifying designation) and assign Lots to a particular Service Area in a Supplement. Declarant may unilaterally amend this Declaration or any Supplement to change Service Area boundaries at any time without consent of the Owners or the Association.

5.4. Rights in Common Areas.

5.4.1 Common Area. Every Owner shall have a right and nonexclusive easement of use, access and enjoyment in and to the Common Area, subject to:

(a) this Declaration as it may be amended from time to time, any applicable Supplement, and any restrictions or limitations contained in any deed conveying the Common Area to the Association;

(b) the right of the Board to limit the number of guests who may use the Common Area and to adopt other rules regulating the use and enjoyment of the Common Area;

(c) the right of the Board to suspend the right of an Owner to use the Common Area Improvements (i) for any period during which any charge against such Owner's Lot remains delinquent, or (ii) for a period not to exceed thirty (30) days for a single violation, or for a longer period in the case of any continuing violation, of this Declaration or the other Governing Documents, after notice and a hearing pursuant to the Bylaws, but subject to Section 9.2.1 herein;

(d) the right of the Association, acting through the Board, to dedicate or transfer all or any part of the Common Area to the extent expressly authorized herein; and

(g) the right of Declarant or the Association to grant to certain Owners the exclusive use of portions of the Common Area.

Subject to the provisions of this Declaration, any Owner may delegate his, her, or its right of use and enjoyment to his, her, or its rights to the Common Areas pursuant to a lease or license, subject to reasonable regulation by the Board and in accordance with procedures it may adopt under this Declaration or the other Governing Documents. An Owner who leases his, her, or its Lot or the Improvements located thereon shall be deemed to have delegated all such rights to the Lot's Lessee.

5.4.2 Control of Common Area. The Association shall be responsible for the exclusive management and control of the Common Areas, all Common Area Improvements thereon (including, without limitation, furnishings and equipment related thereto and common landscaped areas), and the exterior elements of the Townhomes, and shall keep them in good, clean, attractive, and sanitary condition, order, and repair, pursuant to the terms and conditions hereof and consistent with the Community-Wide Standard.

5.4.3 Personal Property and Real Property for Common Use. The Association, through action of its Board, may acquire, hold, and dispose of tangible and intangible personal property and real property. The Board, acting on behalf of the Association, shall accept any real or personal property, leasehold, or other property interests within or benefiting the Project conveyed to it by Declarant.

5.4.4 Rules and Regulations. The Board is hereby specifically authorized to adopt, amend, modify, cancel, limit, create exceptions to, expand, or enforce such reasonable rules and regulations (i) applicable to the operation and use of the Common Areas and Limited Common Areas within the Project, and (ii) that it deems beneficial to the Project (the "**Common Area Rules and Regulations**"); provided:

(a) The Common Area Rules and Regulations may not be incompatible with the provisions of this Declaration;

(b) The Board may adopt the Common Area Rules and Regulations without first giving notice to the Owners if there is an imminent risk of harm to the Common Area, Limited Common Areas, or the Owners;

(c) The Board has no obligation to call a meeting of the Owners to consider disapproval of any action to adopt, amend, modify, cancel, limit, create exceptions to, expand, or enforce any Common Area Rules and Regulations, unless Owners submit a petition for a special meeting to be held in the manner prescribed in this Declaration. Upon the Board receiving a petition for a special meeting as provided in the preceding sentence, the effect of the Board's action is: (i) stayed until after the meeting is held; and (ii) subject to the outcome of the special meeting;

(d) The Association may, through the Common Area Rules and Regulations: (i) regulate the use, maintenance, repair, replacement, and modification of the Common Area, Common Area Improvements, and the Limited Common Areas; and (ii) impose and receive any payment, fee, or charge for the use, rental, or operation of the Common Areas or Limited Common Areas; and

(e) If permitted by applicable law, the Board may modify the conditions and stipulations set forth in subsections (a) through (d) above.

ARTICLE 6

ARCHITECTURAL AND LANDSCAPE CONTROL

6.1. General. All Improvements and Minor Improvements are subject to the Community-Wide Standard, as well as the Design Guidelines and the approval procedures set forth in this Article 6. No prior

approval is necessary to repaint the exterior of structures on any Lot using the most recently approved color scheme or to rebuild or restore any damaged structures on a Lot in a manner consistent with the plans and specifications most recently approved for such structures. Generally, no approval is required for work done to the interior of a structure; however, modifications to the interior of screened porches, patios, and any other portions of a Lot visible from outside a structure may require prior approval. Any dwelling constructed on a Lot shall be designed by and built in accordance with the plans and specifications of a licensed architect unless Declarant or its designee otherwise approves. Approval under this Article 6 is not a substitute for any approvals or reviews required by the City or any municipality or governmental agency or entity having jurisdiction over architectural or construction matters. This Article 6 shall not apply to Declarant's or any Declarant Affiliate's design and construction activities.

6.2. Design Review Authority.

6.2.1. Declarant. Declarant has exclusive authority to review and act upon all applications for review of proposed Improvements and Minor Improvements, except as provided herein, until the later of (i) the expiration of the Period of Administrative Control, or (ii) such time as all Lots planned for the Real Property have been improved with dwellings for which a certificate of occupancy has been issued. Declarant may designate one or more Persons to act on its behalf in reviewing any application. In reviewing and acting upon any request for approval, Declarant and its designee shall act solely in Declarant's interest and shall owe no duty to any other Person. From time to time, Declarant may delegate any or all of its rights under this Article 6 to other Persons or a committee. Any such delegation shall (i) be in writing, (ii) specify the scope of responsibilities delegated, and (iii) be subject to (a) Declarant's right to revoke such delegation at any time and reassume its prior control, but only if the Period of Administrative Control remains in effect, and (b) Declarant's right to veto any decision which it determines to be inappropriate or inadvisable, in its sole discretion. So long as Declarant has any rights under this Article 6, the jurisdiction of others shall be limited to such matters as Declarant specifically delegates. Declarant may establish and charge reasonable fees for its review of applications and may require that such fees be paid in advance. Such fees may also include reasonable costs incurred in having professionals review any application.

6.2.2. ARC. Upon Declarant's delegation of authority pursuant to Section 6.2.1, Declarant shall appoint, or upon expiration or termination of Declarant's rights under this Article 6, the Board shall appoint, the ARC to assume jurisdiction over matters within the scope of the delegated authority of this Article 6, as applicable. The ARC shall consist of at least three (3), but not more than seven (7), persons who shall serve and who may be removed and replaced in the Board's discretion. ARC members need not be Owners or representatives of Owners. The ARC may, but need not, include architects, engineers, or similar professionals. The Association may compensate ARC members in such manner and amount, if any, as the Board may determine appropriate. Until expiration of Declarant's rights under this chapter, the ARC shall notify Declarant in writing within three (3) business days of any action (*i.e.*, approval, partial approval, or disapproval) it takes under this Article 6. A copy of the application and any additional information Declarant may require shall accompany the notice. Declarant shall have ten (10) days after receipt of such notice to veto any such action, in its discretion, by written notice to the ARC. The Association shall have no jurisdiction over architectural matters unless and until such a time as (a) Declarant delegates all or a portion of its reserved rights to the ARC, or (b) Declarant's rights under this Article 6 terminate.

6.3. Guidelines and Procedures.

6.3.1. Design Guidelines. Declarant may prepare the initial Design Guidelines, which may contain both general provisions applicable to all of the Project and specific provisions that vary among uses or locations within the Project. The Design Guidelines shall conform to any entitlement for the Project established by the City. Declarant has sole and full authority to amend the Design Guidelines so long as Declarant has the authority to do so under Section 6.2.1. Declarant's right to amend the Design Guidelines

shall continue even if it delegates reviewing authority to the ARC, unless Declarant also delegates its power to amend to the ARC. Upon termination or delegation of the Declarant's right to amend, the ARC may amend the Design Guidelines with the Board's consent. Any amendments to the Design Guidelines shall be prospective only. They shall not require modifications to, or removal of, any structures previously approved once the approved construction or modification has begun. However, any new work on such structures must comply with the Design Guidelines as amended. There shall be no limitation on the scope of amendments to the Design Guidelines, and such amendments may remove requirements previously imposed or otherwise make the Design Guidelines less restrictive. In Declarant's discretion, the Design Guidelines may be recorded, in which event the recorded version, as it may be amended from time to time, shall control in the event of any dispute as to which version of the Design Guidelines was in effect at any particular time.

6.3.2. Landscaping Guidelines. As part of each Owner's improvement of a Lot, each Owner shall submit a landscaping plan to the ARC or its designee identifying how the Lot will be fully improved with landscaping. Landscaping should be considered an extension of a residence and viewed as a series of outdoor rooms. Yards, especially those areas visible from the street, should complement the architecture of the residence while also expressing the individuality of each homeowner. All Owners shall comply with the Governing Documents set forth in the Declaration, including the Community Plan and related Village plan(s), as well as the following rules and guidelines as they pertain to each Lot's landscaping:

(A) By taking title to a Lot, each Owner covenants and agrees that all rear landscaping for a Lot shall be installed and completed within six (6) months of taking title to a Lot (subject to a three (3)-month extension in the event of inclement weather); and

(B) At the time an Owner takes title to a Lot after the initial construction of a residence, the Owner shall deliver to the Association a security deposit in an amount to be determined by the Board (the "**Landscape Deposit**") to ensure that the Owner installs sprinklers, sod, and landscaping in the rear of the Owner's Lot, as well as completes any necessary construction clean-up. In the event that an Owner fails to commence and diligently pursue to complete all approved landscape improvements, the Association shall be authorized, after notice to the Owner, to enter upon the Lot and complete any incomplete landscaping. The parties agree that the Landscape Deposit may be released to the Association for purposes of covering the costs borne by the Association to complete any unfinished landscape improvements pursuant to this Section 6.3.2. In the event that the Landscape Deposit does not cover all of the costs to complete the landscape improvements in accordance with the Association's requirements and standards, the parties agree that the Association may assess all costs incurred over and above the Landscape Deposit against the Lot and the Owner thereof as a Special Assessment in accordance with this Declaration. In furtherance of the foregoing, the Association may adopt any additional rules and/or policies the Association deems necessary or desirable with respect to the retention, application, and release of the Landscape Deposit.

6.3.3. Reviewer. For purposes of this chapter, the entity having the authority to review and approve compliance with the Design Guidelines and the landscaping plan pursuant to this Declaration shall be the ARC. The ARC may establish and charge reasonable fees for its review of applications and may require that such fees be paid in advance. Such fees may also include reasonable costs incurred by the ARC in having professionals review any application. The Board may include the compensation of such persons in the Association's annual operating budget.

6.3.4. Procedures. Unless the Design Guidelines provide otherwise, no landscaping or Improvements may be constructed, or Minor Improvements undertaken, on any portion of the Project until a written application is submitted to and approved by the ARC. The application must be accompanied by

plans and specifications and such other information as the ARC or the Design Guidelines require. In reviewing each application, the ARC may consider any factors it deems relevant, including, without limitation, harmony of the proposed external design with the surrounding structures and environment. Decisions may be based on purely aesthetic considerations. Each Owner acknowledges that such determinations are purely subjective and that opinions may vary as to the desirability and/or attractiveness of particular landscaping plans, Improvements, or Minor Improvements. The ARC shall have the discretion to make final, conclusive, and binding determinations on matters of aesthetic judgment, and such determinations shall not be subject to dispute resolution nor judicial review, so long as they are made in good faith and in accordance with required procedures. The ARC shall make a determination on each application after receipt of a completed application with all required information. The ARC may permit or require that an application be submitted or considered in stages, in which case a final decision shall not be required until after the final, required submission.

The ARC may (i) approve the application with or without conditions; (ii) approve a portion of the application and disapprove other portions; or (iii) disapprove the entire application. The ARC shall in good faith attempt to notify the applicant in writing of the final determination on any application within thirty (30) business days after its receipt of a completed application and all required submissions. Notice shall be deemed given at the time the envelope containing the response is deposited in the U.S. mail. Hand delivery, electronic mail, or similar delivery of such written notice also shall be sufficient and shall be deemed given at the time of confirmed delivery to the applicant. If the ARC fails to respond in a timely manner, approval shall be deemed given. However, no approval, whether expressly granted or deemed granted, shall be inconsistent with the Design Guidelines unless a written variance has been granted pursuant to Section 6.5.

As part of any approval, the ARC may require that construction and/or installation commence within a specified time period. If construction and/or installation does not commence within the required period, the approval shall expire and the Owner must reapply for approval before commencing any activities. Once construction and/or installation is commenced, it shall be diligently pursued to completion. Notwithstanding the foregoing, all work shall be completed within one (1) year of commencement thereof, unless (i) the deadline for completion is otherwise specified in the notice of approval, or (ii) the ARC, in its discretion, grants an extension in writing. The ARC may exempt certain activities from the application and approval requirements of this Article 6, provided such activities are undertaken in compliance with the Design Guidelines and the Community-Wide Standard.

6.3.5. Appeals Process. After the Board's appointment of the ARC, an applicant may appeal any disapproval of its application to the Board. To request an appeal, the applicant must submit to the Association, no later than fifteen (15) days after the delivery of the notification of disapproval, a copy of the original application, the notification of disapproval, and a letter requesting review of the decision. The appeal request shall also contain a response to any specific concerns or reasons for disapproval listed in the notification of disapproval. The Board may (i) affirm the ARC's decision, (ii) affirm a portion and overturn a portion of the ARC's decision, or (iii) overturn the ARC's entire decision. The Board shall notify the applicant and the ARC in writing of its decision no later than thirty (30) days after its receipt of the request for appeal, along with all required information. The Board's decision shall include a description of its reasons for overturning the ARC's decision. During the appeal process, the Owner shall not commence any work requiring approval hereunder.

6.4. No Waiver of Future Approvals. The people reviewing applications under this Article 6 will change from time to time, and opinions on aesthetic matters, as well as interpretation and application of the Design Guidelines, may vary accordingly. It may not always be possible to identify objectionable features until work is completed. In such cases, Declarant may elect not to require changes to objectionable features, and Declarant may refuse to approve similar proposals in the future. Approval of applications or plans shall

not constitute a waiver of the right to withhold approval as to any similar applications, plans, or other matters subsequently or additionally submitted for approval.

6.5. Variances. Declarant may authorize variances from compliance with any of the Design Guidelines and any procedures related thereto when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require the same, but only in accordance with duly adopted rules. No variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) prevent Declarant from denying a variance in other circumstances.

6.6. Limitation of Liability. This Article 6 establishes standards and procedures as a mechanism for maintaining and enhancing the overall aesthetics of the Project; they do not create any duty to any Person beyond the duties or obligations created under this Declaration. Review and approval of any application pursuant to this Article 6 may be based purely on aesthetic considerations. Declarant is not responsible for (i) the structural integrity or soundness of approved construction or modifications, (ii) compliance with building codes and other governmental requirements, (iii) ensuring that all dwellings are of comparable quality, value, size, or design, or (iv) ensuring that all dwellings are aesthetically pleasing or otherwise acceptable to other Owners. Neither Declarant, nor any committee, nor any member of any of the foregoing shall be liable for (a) soil conditions, drainage, or other general site work; (b) any defects in plans revised or approved hereunder; (c) any loss or damage arising out of the action, inaction, integrity, financial condition, or quality of work of any contractor or its subcontractors, employees, or agents, whether or not Declarant has approved or featured such contractor; or (d) any injury, damages, or loss arising out of the manner or quality or other circumstances of approved construction on or modifications to any.

6.7. Certificate of Compliance. Any Owner may request in writing that Declarant issue a certificate of compliance for its Lot, certifying that there are no known violations of this Article 6 or the Design Guidelines with respect thereto. Declarant shall either grant or deny such written request within thirty (30) days after receipt thereof and may charge a reasonable administrative fee to evaluate the request and/or issue a certificate of compliance. Issuance of such a certificate shall prevent Declarant from taking enforcement action against an Owner for any condition known to the Association on the date of such certificate.

ARTICLE 7

MAINTENANCE, REPAIR, AND REPLACEMENT

7.1 Maintenance by Owners. Except as otherwise provided herein, each Owner will maintain and repair the exterior elements of his or her Lot, including (i) any landscaping (i.e. grass, trees, shrubs, or other landscaping material) located thereon or within the park strip located adjacent to said Lot, and (ii) the Limited Common Areas associated with that Lot, in a good, attractive, clean, and sanitary condition, and in accordance with the Community-Wide Standard. Each Owner shall comply with any and all applicable Laws and shall not cause or permit any private or public nuisance on his or her Lot, such as excessive noise, odor, dust, vibration, or any other activity that would reasonably disturb other Owners within the Project. Except as provided herein, each Owner shall also be responsible for maintaining and irrigating the landscaping within that portion of any adjacent Common Area, Limited Common Area, or public or private right-of-way lying between the Lot boundary and any wall, fence, or curb located on the Common Area, Limited Common Area, or public or private right-of-way; provided, however, trees within the area may be irrigated with the City or the Association's irrigation system, if one is provided. However, Owners may not remove or replace trees, shrubs, or similar vegetation from this area without Declarant's prior approval. Notwithstanding anything to the contrary herein, Declarant reserves the right for itself and the Association to maintain those park strips within the Project located adjacent to Founder's Boulevard (with such costs incurred by Declarant or the Association to be assessed against the Owners).

7.2 Responsibility for Repair and Replacement. Each Owner shall carry property insurance for the full replacement cost of all insurable Improvements on his, her or its Lot, less a reasonable deductible. Within three (3) months of any damage to, or destruction of, a structure on a Lot, the Lot's Owner shall promptly repair or reconstruct the damaged structure in a manner consistent with the original construction, or such other plans and specifications as are approved. Alternatively, the Owner shall clear the Lot of debris and maintain it in a neat and attractive condition consistent with the Community-Wide Standard and this Declaration. The Owner shall pay any costs arising from or related to the damage or destruction that insurance proceeds do not cover. Additional recorded covenants applicable to any Neighborhood or Service Area may establish (i) additional insurance requirements and/or (ii) more stringent standards for (a) rebuilding or reconstructing structures on Lots, and/or (b) for clearing and maintaining the Lots in the event the structures are not rebuilt or reconstructed.

7.3 Maintenance and Repair of Party Walls and Similar Structures.

7.3.1 General Maintenance of Party Walls. Each Owner of a Townhome shall maintain and repair the surface and non-structural elements of any party wall that separates the Owner's Townhome from the adjoining Townhomes.

7.3.2 Structural Repair and Maintenance. The costs to maintain and repair the structural elements of any party wall that separates any two (2) adjoining Townhomes shall be equally shared by the adjoining Owners. In the event an Owner owns two adjacent Townhomes separated by a party wall, the Owner may alter the party wall to create an aperture between the two commonly owned Townhomes, subject to the ARC's prior review and approval and the following conditions: (i) the alteration cannot impair the structural integrity or mechanical systems of the Townhome(s); (ii) the alteration cannot reduce the support of any portion of the Common Areas or Limited Common Areas; (iii) the alteration cannot violate any government authority's ordinances or codes; (iv) the Owner shall submit an opinion by a licensed civil engineer as to the foregoing; and (v) the Owner shall pay a fee to the Association to cover the Association's costs and expenses to process and review the application. If the Townhomes are ever sold or become under separate ownership, the aperture shall be removed and the party wall shall be restored consistent with the original construction.

7.3.3 Owners' Insurance; Casualty. By virtue of taking title to a Townhome subject to the terms of this Declaration, each Owner of a Townhome covenants and agrees with all other Owners and with the Association that each Owner of a Townhome shall maintain an HO-6 policy of insurance insuring furnishings, equipment, personal property, and contents within the Owner's Unit (commonly known as "all-in" coverage).

7.3.4 Damage and Destruction. If a party wall is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner of a Townhome adjoining the party wall may repair and restore the same. If any Owner of an adjoining Townhome thereafter makes use of the party wall, such Owner shall contribute its proportionate share toward the cost of repair and restoration. Notwithstanding the above, the Owner who repaired and restored the party wall may require a larger contribution from any Owner under any rule of law regarding liability for negligent or willful acts or omissions. In the event any damage or destruction is covered by insurance, the party receiving any insurance proceeds hereby waives right of recovery and of subrogation against the other adjoining Owner(s).

7.3.5 Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

7.3.6 Arbitration. In the event any dispute arises concerning a party wall, or otherwise arises under the provisions of this Section, each Owner will attempt in good faith to amicably resolve the dispute, including participating in mediation. If the dispute cannot be resolved informally or amicably, each Owner agrees to participate in arbitration to resolve the dispute. Each Owner involved in the dispute shall appoint one (1) arbitrator. Should any Owner refuse to appoint an arbitrator within ten (10) days after written request by the Board, the Board shall appoint an arbitrator for the refusing Owner. The arbitrators will then mutually appoint one (1) or two (2) additional arbitrators so that the total number of arbitrators is an odd number. The decision by a majority of the arbitrators shall be binding upon the Owners and shall be a condition precedent to any right of legal action that either Owner may have against another Owner. The costs of the arbitrators and the arbitration shall be assessed against the non-prevailing Owner(s) in the arbitration.

7.4 Utility Lines. Any utility lines that exclusively serve a Lot shall be maintained and repaired by the Owner of the Lot served by such utility lines. Any utility lines that service more than one Lot shall be maintained and repaired by the Association, to the extent such lines are not maintained by a utility company or governmental entity. The cost of any such maintenance and repair attributable to the Association under this Section 7.4 shall either be allocated (i) among all of the Lots as part of the Base Assessments, or (ii) to the Owners of the Lots that are served by such utility lines, in an equitable manner as decided by the Association in its sole discretion, as part of a Special Assessment. Notwithstanding the above, to the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

7.5 Common Areas and Limited Common Areas.

7.5.1 By the Association. The Association shall maintain, or cause to be maintained, the Common Areas and the Common Area Improvements, and if applicable, facilities related to a Service Area, in accordance with the Community-Wide Standard. Maintenance of the Common Area and the Common Area Improvements shall include the following: (a) all landscaping and other flora, including, but not limited to lawns, shrubs, trees, irrigation systems, etc., (b) all paved surfaces, (c) fences or walls, and (d) any recreation facilities, improvements, or equipment. The Association shall not be liable for any damage or injury occurring on, or arising out of the condition of, property it does not own except to the extent that it has been grossly negligent in performing its maintenance responsibilities. If any Owner causes damage to the Common Areas, Common Area Improvements, Limited Common Areas, or facilities related to a Service Area, other than normal wear and tear, either through negligence or intentional act, the Association may assess the cost and expense to repair such damage to said Owner as a Special Assessment. Any costs or expenses the Association incurs in the performance of its duties under this Section 7.5.1 shall be included as a Common Expense. Except as otherwise specifically provided herein, all costs associated with maintenance, repair and replacement of Common Areas, Common Area Improvements, Limited Common Areas, or facilities related to a Service Area shall be a Common Expense to be allocated among all Lots as part of the Base Assessment, notwithstanding that the Association may be entitled to reimbursement from the Owner(s) pursuant to this Declaration, other recorded covenants, or agreements with the owners thereof. Notwithstanding the foregoing, all costs associated with the maintenance, repair and replacement of the exterior elements of any Townhome shall be a Townhome Assessment levied against the applicable Townhome development only. If any Owner causes damage to Common Areas, Common Area Improvements, Limited Common Areas, or facilities related to a Service Area either through negligence or intentional act, other than normal wear and tear, the Association may assess the cost and expense to repair such damage to the Owner as a Special Assessment.

7.5.2 By Neighborhood Association. The Association may, in the Association's sole and absolute discretion, assign to a Neighborhood Association the Association's maintenance and repair

obligations for specific portions of the Common Areas, the Common Area Improvements, Limited Common Areas, or facilities related to Service Areas. Upon assignment of said obligations, the applicable Neighborhood Association shall maintain and repair the applicable portions of the Common Areas, the Common Area Improvements, the Limited Common Areas, and/or facilities related to Service Areas in accordance with the Community-Wide Standard, and any costs and expenses incurred by the Neighborhood Association in performing such obligations shall be reimbursed by the Association within fifteen (15) days of written request therefor.

7.5.3 By Declarant. During the Period of Administrative Control, Declarant, in Declarant's sole and absolute discretion, may (i) assume responsibility for all maintenance, repair, and replacement obligations associated with the Common Areas, the Common Area Improvements, and/or the Limited Common Areas, or (ii) enter into service agreements with the City for the maintenance, repair, and replacement of the Common Areas, the Common Area Improvements, the Limited Common Areas, or any portions thereof. If Declarant assumes responsibility for maintaining and repairing the Common Areas, the Common Area Improvements, or the Limited Common Areas, the following shall apply:

(A) The Association shall continue to be responsible for the orderly enforcement and administration of this Declaration, except for the obligation to maintain and repair the Common Areas, the Common Area Improvements, and/or the Limited Common Areas;

(B) The Association shall indemnify, defend, and hold harmless Declarant from any and all claims, liabilities, damages, loss, costs, expenses, suits and judgments of whatsoever kind, including reasonable attorneys' fees, whether incurred prior to, during or after proceedings in a court of competent jurisdiction, resulting, directly or indirectly, from Declarant maintaining and repairing the Common Areas, the Common Area Improvements, or the Limited Common Areas;

(C) Declarant shall maintain and repair the Common Areas, the Common Area Improvements, or the Limited Common Areas in accordance with the Community-Wide Standard; and

(D) The Association shall reimburse Declarant within fifteen (15) days of request for all costs and expenses incurred by Declarant in maintaining and repairing the Common Areas, the Common Area Improvements, or the Limited Common Areas.

7.5.4 Maintenance of Limited Common Area. Notwithstanding anything herein to the contrary, the Owner of each Lot shall be solely responsible to maintain the Limited Common Area located on such Owner's Lot consistent with the standards otherwise set forth herein; provided, however, if an Owner fails to maintain the Limited Common Area, Declarant or the Association may perform such responsibilities and assess the cost thereof against such Owner. Declarant and the Association shall have a temporary license to enter upon each Lot, including the Limited Common Area, to exercise the foregoing rights.

ARTICLE 8

PERMITTED USES AND OCCUPANCY

8.1. Use and Occupancy.

8.1.1. Residential and Related Uses. Lots may be used only for residential and related purposes, except as Declarant may otherwise authorize. A business activity shall be considered "related" to a residential use and thus permitted under this Section 8.1 only if conducted by a person or persons residing on the Lot and only if the business activity:

- (A) is not apparent or detectable by sight, sound, or smell from outside of a permitted structure;
- (B) complies with applicable zoning requirements;
- (C) does not involve regular visitation of the Lot by employees who do not reside on the Lot, or by clients, customers, suppliers, or other business invitees;
- (D) does not involve door-to-door solicitation within the Project; and
- (E) is consistent with the Project's residential character, does not constitute a nuisance or a hazardous or offensive use, and does not threaten the security or safety of others, as the Board determines in its discretion.

“Business” shall have its ordinary, generally accepted meaning and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis that involves providing goods or services to Persons other than the family of the producer for a fee, compensation, or other form of consideration, regardless of whether (i) such activity is engaged in full-time or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required.

8.1.2. Lease Agreements. For purposes of this Article, the terms “lease” and “leasing” shall refer to the short-term or long-term occupancy of a Lot or Accessory Dwelling Unit by any Person other than the Owner, for which the Owner receives any consideration or benefit. By taking title to a Lot, each Owner acknowledges and agrees that the leasing of a Lot or an Accessory Dwelling Unit in its entirety shall be permitted subject to the terms and conditions of this Declaration, the Beacon Pointe Community Plan, and all applicable Laws. Declarant or the Association shall have the right to declare the lease or leasing of a Lot or Accessory Dwelling Unit or any portion thereof not in compliance with this Section 8.1.2 null and void. In furtherance of the foregoing, if an Owner elects to lease its Lot or an Accessory Dwelling Unit located on such Owner's Lot, (i) the Lot or Accessory Dwelling Unit shall be leased in its entirety for a period of time no less than thirty (30) days, and (ii) all leases permitted under this Section 8.1.2 shall comply with the Beacon Pointe Community Plan and all applicable Laws governing Accessory Dwelling Units, including, without limitation, Title 19 of the City of Saratoga Springs Land Development Code:

- (A) All leases shall be in writing and shall disclose that the tenants and all occupants of the leased Lot or Accessory Dwelling Unit, as applicable, are bound by, and obligated to comply with, the Governing Documents. However, the Governing Documents shall apply regardless of whether such a provision is specifically set forth in the lease;
- (B) Occupants of Accessory Dwelling Units shall not be considered “Owners” for purposes of this Declaration; and
- (C) Within ten (10) days of a lease being signed, the Owner of the leased Lot or Accessory Dwelling Unit shall notify the Board or the Association's managing agent and provide any additional information the Board may reasonably require. The Owner must give its tenant copies of the Governing Documents. The Association or the Board may adopt additional rules governing leasing and subleasing which are consistent with this subsection.

8.1.3. Subdivision and Combination of Lots. No Person other than Declarant or those whom Declarant may authorize shall subdivide or change the boundary lines of any Lots or combine Lots without the Board's prior written approval. Any such action that the Board approves shall be effective only upon

recording a Plat or other legal instrument reflecting the subdivision or new boundaries of the affected Lot(s). In the absence of any such recorded instrument, adjacent Lots owned by the same Owner shall continue to be treated as separate Lots for purposes of voting and assessment, even though such Lots may be improved with a single dwelling.

8.1.4. Timesharing. No Lot shall be used for operation of a timesharing, fraction-sharing, or similar program whereby the right to exclusive use of the Lot rotates among participants in the program on a fixed or floating time schedule over a period of years unless such program is established by Declarant or with Declarant's prior written approval.

8.2. Quiet Enjoyment. No noxious or offensive activity, as reasonably determined by Declarant, shall be carried on any Lot, nor shall anything be done thereon which (i) may be or may become an annoyance or nuisance to the Owners, (ii) shall in any way interfere with the quiet enjoyment of each of the Owners, or (iii) shall in any way increase the rate of insurance for the Project.

8.3. Use of Common Areas. Each Owner of a Lot shall be permitted to use the Common Areas and Limited Common Areas for their intended purpose as further described in the Beacon Pointe Community Plan and as provided herein. Except as expressly permitted pursuant to the foregoing sentence, Owners are hereby prohibited and restricted from using any of the Common Areas or Limited Common Areas. It is expressly acknowledged and agreed by all parties concerned that this restriction is for the mutual benefit of all Owners and is necessary to protect the interests of all said Owners in and to the Common Areas and Limited Common Areas.

8.4. Rulemaking Authority and Procedures. The Governing Documents establish a framework of covenants and conditions that govern the Project. In addition to the requirements, uses, restrictions, and prohibitions set forth in this Article 8, Section 14.1.10, and otherwise in this Declaration, Declarant or the Association (upon the expiration of the Period of Administrative Control) may promulgate, amend, modify, terminate, or add additional rules and regulations governing the Project (the "Rules"). The Board is authorized to change the Rules in accordance with the procedures set forth in this Section 8.4, subject to the limitations set forth in Section 8.5. Additionally, it is expressly intended that the ARC, under the Declaration, and the Board, as appropriate, have the discretion to approve or disapprove items, or to enforce or not enforce technical violations of the Governing Documents based upon aesthetic or other considerations consistent with the established guidelines. As such, while something may be approved or permitted for one Lot under one set of circumstances, the same thing may be disapproved for another Lot under a different set of circumstances. The exercise of discretion in approving or enforcing shall not be construed as a waiver of approval or enforcement rights nor shall it preclude the Board from taking enforcement action in any appropriate circumstances.

8.4.1. Board Authority. Subject to (a) the notice requirements in Section 8.4.3, (b) Declarant's prior approval during the Period of Administrative Control, and (c) the Board's duty to exercise judgment and reasonableness on behalf of the Association and its members, the Board may adopt new Rules and modify or rescind existing Rules by majority vote of the directors at any Board meeting.

8.4.2. Membership Authority. Subject to the notice requirements in Section 8.4.3, a majority of the votes of the total members eligible to vote in the Association may also adopt new Rules and modify or rescind existing Rules at any meeting of the Association duly called for such purpose, regardless of the manner in which the original Rule was adopted. However, any such action shall also be subject to Declarant's approval during the Period of Administrative Control.

8.4.3. Notice. The Board shall send notice to all Owners concerning any proposed Rule change at least five (5) business days prior to the meeting at which such action is to be considered. At any such

meeting, the members shall have a reasonable opportunity to be heard before the proposed action is put to a vote.

8.4.4. Existing Rules. The Rules existing under the Original Declaration are hereby adopted and shall be the Rules under this Declaration.

8.5. Protection of Owners and Others. Except as may be set forth in this Declaration (either initially or by amendment), all Rules shall comply with the following provisions:

8.5.1. Similar Treatment. Similarly situated Lots shall be treated similarly; however, the Rules may vary by Neighborhood or Service Area;

8.5.2. Household Composition. No Rule shall interfere with an Owner's freedom to determine household composition, except that the Association may impose and enforce reasonable occupancy limitations and conditions based on Lot size, facilities and fair share use of the Common Areas;

8.5.3. Activities Within Dwellings. No Rule shall interfere with the activities carried on within a dwelling, except that the Association may prohibit activities not normally associated with residential property. It may also restrict or prohibit activities that (i) create monetary costs for the Association or other Owners, (ii) create a danger to anyone's health or safety, (iii) generate excessive noise or traffic, (iv) create unsightly conditions visible from outside the dwelling, or (v) are an unreasonable source of annoyance; and

8.5.4. Abridging Existing Rights. No Rule shall require that an Owner dispose of personal property kept in or on a Lot in compliance with the Rules in effect at the time such personal property was brought onto the Lot. This exemption shall apply only during the period of such Owner's ownership of the Lot and shall not apply to subsequent Owners who take title to the Lot after adoption of the Rule.

8.6. Restricted Activities.

8.6.1. General. Beacon Pointe shall be used only for residential and related purposes consistent with this Declaration and any Supplement. Notwithstanding the foregoing, such related purposes may include, without limitation, an information center and/or a sales office for any real estate broker retained by Declarant or residential developers to assist in the sale of the Real Property, offices for any property manager retained by the Association, and business offices for Declarant or the Association.

8.6.2. Signs. Except to the extent permitted by applicable Law, no sign, flag, banner, display, or advertisement of any kind (including, without limitation, religious signs, anti-religious signs, and/or political signs) shall be permitted, without the approval of the Board, except (a) such signs as may be used by Declarant and residential developers in connection with the development of the Project and the sale of Lots, (b) such signs of customary and reasonable dimensions as may be displayed in any area designated by the Association advertising a Lot for sale or lease (which shall be limited in number to one sign per Lot), (c) such signs and markers as are reasonably appropriate to warn people of an emergency or dangerous condition, and (d) any display of the American flag. Notwithstanding the foregoing, the Board may adopt any additional rules and regulations with respect to the display of signs, flags, banners, displays or advertisements that the Board deems necessary or desirable, in its sole discretion.

8.6.3. Fencing. All fencing constructed on or within the Project, and any Lots developed therein, shall be designed and constructed in compliance with the following (collectively, the "Fence Restrictions"): (i) all fencing shall be made of natural wood and stained natural driftwood gray finish (e.g. Cabot Bleaching Stain in Natural Driftwood Gray); and (ii) all fencing design and construction shall be performed according to, and in compliance with, the fencing guidelines set forth on Exhibit D. To the extent

the Fence Restrictions conflict with any provision in the Declaration or any other Governing Document, the Fence Restrictions shall control.

8.6.4. Nuisances; Violation Constitutes a Nuisance. Declarant or the Association shall have the authority, in its reasonable discretion, to classify specific acts or omissions as nuisances. Without limiting the foregoing, any act or omission whereby any restriction, condition or covenant as set forth in this Declaration is violated, in whole or in part, is hereby declared to be, and shall constitute, a nuisance. Any nuisance may be abated by affected property Owners and such remedy shall be deemed to be cumulative and nonexclusive.

8.6.5. Restricted Activities. Unless expressly authorized by, and then subject to such conditions as may be imposed by, the Board, the following activities or conditions are prohibited within the Project:

- (A) Parking any vehicles on public or private streets or thoroughfares, or parking of commercial vehicles or equipment, mobile homes, recreational vehicles, golf carts, boats and other watercraft, trailers, stored vehicles, or inoperable vehicles in places other than enclosed garages. Notwithstanding the foregoing, (i) construction, service and delivery vehicles shall be exempt from this provision during normal business hours for such period of time as is reasonably necessary to provide service or to make a delivery to a Lot or the Common Area, and (ii) visitors to Beacon Pointe may park in driveways or along the side of the street for the duration of their visit, provided that no parked vehicle shall block any sidewalk within the Project;
- (B) Parking of Owners' business vehicles in excess of 3/4 ton trucks in front of Lots overnight;
- (C) Raising, breeding, or keeping animals; provided, however, a reasonable number of dogs, cats, or other usual and common household pets may be permitted on a Lot. However, those pets which make objectionable noise, endanger the health or safety of, or constitute a nuisance or inconvenience to, the occupants of other Lots shall be removed upon the Board's request. If the pet owner fails to honor such request, the Board may remove the pet. Dogs shall be kept on a leash or otherwise confined in a manner acceptable to the Board whenever outside the dwelling and all pet owners shall be responsible for immediately removing and disposing of any pet waste. Pets shall be registered, licensed, and inoculated as required by Law;
- (D) Any activity that emits foul or obnoxious odors outside the Lot or creates noise or other conditions that tend to disturb the peace or threaten the safety of the occupants of other Lots;
- (E) Any activity that violates any applicable Laws; however, the Board shall have no obligation to take enforcement action in the event of a violation;
- (F) Pursuit of hobbies or other activities that tend to cause an unclean, unhealthy, or untidy condition to exist outside of enclosed structures on the Lot;
- (G) Any noxious or offensive activity, or belligerent, provocative language which, in the reasonable determination of the Board, tends to cause embarrassment, discomfort, annoyance, or nuisance to persons using the Common Area or to the occupants of other Lots;
- (H) Outside burning of trash, leaves, debris, or other materials, except during the normal course of constructing a dwelling on a Lot;

(I) Use or discharge of any radio, loudspeaker, horn, whistle, bell, or other sound device so as to be audible to occupants of other Lots, except alarm devices used exclusively for security purposes;

(J) Accumulation of rubbish, trash, or garbage, except between regular garbage pick ups, and then only in approved containers which must be stored in an enclosed garage except on the regular day for garbage collection;

(K) Discharge of firearms; provided, the Board shall have no obligation to take action to prevent or stop such discharge;

(L) On-site storage of fuel; provided, however, that a reasonable amount of fuel may be stored on each Lot for emergency purposes and operation of lawn mowers and similar tools or equipment, and the Association shall be permitted to store fuel for operation of maintenance vehicles, generators, and similar equipment;

(M) Any activities which materially disturb or destroy the vegetation, wildlife, wetlands, or air quality within the Project or which use excessive amounts of water or which result in unreasonable levels of sound or light pollution;

(N) Conversion of any carport or garage to finished space for use as an apartment or other integral part of the living area on any Lot;

(O) Vehicle maintenance in areas that are not an enclosed garage, to the extent possible, and when vehicle maintenance must be performed in a driveway, such maintenance must occur only during daylight hours and the vehicle upon which maintenance is being performed must be placed in an enclosed garage at the end of each day;

(P) Outside television or radio aerial or antenna, or other similar device for reception or transmission on the exterior of any Lot, except pursuant to written approval of the Board, which approval shall be site-specific and non-precedent setting;

(Q) Any window mount evaporative coolers or air conditioners;

(R) General storage within the Lot garages, which must be used for overnight vehicle parking;

(S) Leaving trash receptacles outside within view of the community streets, except for trash collection days;

(T) Not covering the Lot interior windows within thirty (30) days of occupancy with permanent window coverings, white or off white in color (as seen from the exterior);

(U) General storage, hanging and drying of laundry, placing decorative items visible from adjoining Lots or public streets on Lot patios and balconies;

(V) Plants, animals, devices, or other things of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature that may diminish or destroy the enjoyment of the Project; and

(W) Structures, equipment, or other items on the exterior portions of a Lot which have become rusty, dilapidated, or otherwise fallen into disrepair, including, but not limited to, worn, peeling, or chipped paint on the exterior portion of a Lot.

8.7. Owners' Acknowledgment and Notice to Purchasers. By accepting a deed or acquiring any interest in any of the Real Property, each Owner acknowledges and agrees that the use, enjoyment, and marketability of his, her or its Lot is limited and affected by the Governing Documents, which may change from time to time. All Lot purchasers are hereby notified that the Association may have adopted changes to the Governing Documents and that such changes may not be set forth in a recorded document. A copy of the current Governing Documents and all administrative policies are available from the Association upon request. The Association may charge a reasonable fee to cover its reproduction costs.

ARTICLE 9 COMPLIANCE AND ENFORCEMENT

9.1. Compliance. Every Owner, occupant, and visitor to a Lot must comply with the Governing Documents and shall be subject to sanctions for violations as described in this Article 9. Each Owner shall be responsible for, and may be sanctioned for, all violations of the Governing Documents by the occupants of or visitors to their Lot and for any damage to the Common Areas, Common Area Improvements, Limited Common Areas, or Service Areas that such occupants or visitors cause.

9.2. Remedies for Non-Compliance. The Association, Declarant, the Declarant Affiliates, the owner of the Temple Lot, and every affected Owner shall have the right to file suit at law or in equity to enforce the Governing Documents. In addition, the Board may impose sanctions for violations of the Governing Documents, including those listed below and any and all others described elsewhere in the Governing Documents.

9.2.1. Sanctions Requiring Prior Notice and Hearing. After written notice and an opportunity for a hearing in accordance with the Bylaws, the Board may:

(A) Impose reasonable monetary fines, which shall constitute a lien upon the violator's Lot. In the event that any occupant, guest, or invitee of a Lot violates the Governing Documents and a fine is imposed, the fine may, but need not, first be assessed against the violator; provided, if the fine is not paid by the violator within the time period set by the Board, the Owner shall pay the fine promptly upon notice from the Board;

(B) Suspend an Owner's right to vote (except that no hearing is required if the Owner is more than ninety (90) days delinquent in paying any Assessment);

(C) Suspend services the Association provides (except that no hearing is required if the Owner is more than sixty (60) days delinquent in paying any Assessment or other charge owed to the Association);

(D) Exercise self-help or take action to abate any violation of the Governing Documents in a non-emergency situation (including removing personal property that violates the Governing Documents);

(E) Levy Special Assessments to cover costs the Association incurs in bringing a Lot into compliance with the Community-Wide Standard or other requirements under the Governing Documents; and

(F) Record a notice of violation with respect to any Lot on which a violation exists.

9.2.2. Other Sanctions. The Board may take the following actions to obtain compliance with the Governing Documents without prior notice or a hearing:

(A) Exercise self-help or take action to abate a violation on a Lot in any situation which requires prompt action to avoid potential injury or damage or involves unreasonable inconvenience to other Persons or their property (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations);

(B) Require an Owner, at its own expense, to perform maintenance or to remove any structure or Improvement on such Owner's Lot or on the Neighborhood Association's property, respectively, that is in violation of the Community-Wide Standard or other requirements under the Governing Documents, and restore the property to its previous condition;

(C) Enter the Lot and exercise self-help to remove or cure a violating condition if an Owner or Neighborhood Association fails to take action as required pursuant to subsection (B) above within ten (10) days after receipt of written notice to do so, and any such entry shall not be deemed a trespass; and

(D) Bring suit at law for monetary damages and/or in equity to stop or prevent any violation.

9.2.3. Neighborhood Associations. Declarant and the Association also shall have the power to require specific action to be taken by any Neighborhood Association in connection with its obligations and responsibilities, such as requiring specific maintenance or repairs or the effectuation of certain aesthetic changes. A Neighborhood Association shall take appropriate action when required by Declarant or the Association in a written notice within the reasonable time frame set forth in the notice. If the Neighborhood Association fails to comply, Declarant or the Association shall have the right to effect such action on behalf of the Neighborhood Association and levy Special Assessments to cover the costs thereof, along with an administrative charge and sanctions.

9.2.4. Board Decision to Pursue Enforcement Action. The decision to pursue enforcement action in any particular case shall be left to the sole and absolute discretion of the Board, except that the Board shall not act in an arbitrary or capricious manner. A decision not to enforce a particular provision shall not prevent the Board from enforcing the same provision at a later time or prevent the enforcement of any other covenant, restriction, or rule.

9.2.5. Attorneys' Fees and Costs. In any action to enforce the Governing Documents or the applicable Neighborhood Declarations, if the Declarant or the Association prevails, it shall be entitled to recover all costs, including, without limitation, attorneys' fees and court costs, reasonably incurred in such action.

ARTICLE 10

PROPERTY MANAGEMENT

10.1. Acceptance and Control of Common Areas.

10.1.1. Transfers and Conveyances by Declarant. Declarant, its designees, or any Declarant Affiliate may transfer or convey to the Association interests in real or personal property within or for the benefit of the Project, and the Association shall accept such transfers and conveyances. Such property may be improved or unimproved and may consist of fee simple title, easements, leases, licenses, or other real or personal property interests. Upon Declarant's written request, the Association shall reconvey to Declarant any unimproved real property that Declarant originally conveyed to the Association for no payment, to the extent the unimproved real property was conveyed in error or is needed to make minor adjustments in property lines or accommodate changes in the development plan.

10.1.2. Management and Control. The Association is responsible for the management, operation, and control of the Common Areas and the Common Area Improvements, subject to any covenants set forth in the deed or other instrument transferring the property to the Association, or in any open space maintenance agreement. The Association may enter into leases, licenses, operating agreements with respect to portions of the Common Areas or the Common Area Improvements, or any open space maintenance agreement, for payment or no payment, as the Board deems appropriate. The Association may permit use of the Common Areas and the Common Area Improvements by persons other than Owners and occupants of Lots, and may charge use fees therefor in such amounts as the Board may establish.

10.1.3. Discontinuation of Operation. The Association shall maintain the Common Area Improvements in continuous operation (subject to reasonable hours and closures for repairs) unless the Owners of Lots representing sixty-seven percent (67%) of the total votes in the Association consent in writing to discontinue such operation. If the property is Limited Common Area, any discontinuation shall also require the approval in writing of at least sixty-seven percent (67%) (or such higher percentage as a Supplement may require) of the Owners to whom such Limited Common Area is assigned. During the Period of Administrative Control, Declarant's consent is required to discontinue operations of Common Areas.

ARTICLE 11
PROVISION OF SERVICES

11.1. Provision of Services to Lots. The Association may arrange for or provide services to Owners and their Lots, directly or through contracts with Declarant or any other third-party, including the City and any other governmental entity. The Association may (i) enter into bulk service agreements by which a particular service is provided to all or some of the Lots, (ii) offer various services at the option of each Owner, or (iii) both ("Bulk Service Agreement"). By way of example and not limitation, such services might include such things as cable television, utilities, fire protection, security, trash collection, landscape maintenance, pest control, caretaker services and technology services. Any Association contract for services may require individual Owners or occupants to execute separate agreements directly with the Persons providing components or services in order to gain access to or obtain specified services. Such contracts and agreements may contain terms and conditions that, if violated by the Owner or occupant of a Lot, may result in termination of services provided to such Lot. Any such termination shall not relieve the Owner of the continuing obligation to pay Assessments for any portion of the charges for such service that are assessed against the Lot as a Common Expense or Service Area Expense. In its discretion, the Board may discontinue offering particular services and may modify or cancel existing contracts for services, subject to the contract terms and any provision that may exist elsewhere in the Governing Documents requiring the Association to provide such services.

11.2. Provision of Services to Service Areas.

11.2.1. Service Areas Designated by Declarant. The Association may provide services to Lots within any Service Area designated by Declarant pursuant to this Declaration, or as required by the terms of any Supplement applicable to the Service Area.

11.2.2. Service Areas Designated by Board. In addition to Service Areas which Declarant may designate, any group of Owners may petition the Board to designate their Lots as a Service Area for the purpose of receiving from the Association (i) special benefits or services which are not provided to all Lots, or (ii) a higher level of service than the Association otherwise provides. Any such petition shall be signed by Owners of a majority of the Lots within the proposed Service Area. Upon receipt of such petition, the Board shall investigate the terms upon which the requested benefits or services might be provided, and notify the Owners in the proposed Service Area of such terms and the initial fees for providing the requested service, which may include a reasonable administrative charge. If Owners of at least sixty-seven percent (67%) of the Lots within the proposed Service Area approve the proposal in writing, the Board shall designate the Lots as a Service Area and include the fees for such service as a line item in the Service Area budget as Service Area Expenses.

11.3. Bulk Service Agreements.

11.3.1. Contracting. The Board, acting on behalf of the Association, shall have the right, power and authority to enter into one or more Bulk Service Agreements with one or more Bulk Service Agreement providers, for such term(s), at such rate(s) and on such other terms and conditions as the Board deems appropriate, all with the primary goal of providing to Owners within the Project, or within one or more portions thereof, cable television, community satellite television, high speed Internet, security monitoring or other electronic entertainment, information, communication or security services, or any concierge or other personal services.

11.3.2. Assessments. If all Lots within the Project are to be served by a particular Bulk Service Agreement, the Board shall have the option either to: (a) include the Association's costs under such Bulk Service Agreement in the budget for each applicable fiscal year, and thereby include such costs in the Base Assessments for each such applicable year; or (b) separately bill to each Owner his, her or its proportionate share of the Association's costs under such Bulk Service Agreement, as reasonably determined by the Board, and with such frequency as may be determined by the Board, but no more often than monthly. Such "separate billing" may be made as one or more separate line items on billings or invoices from the Association to the affected Owner(s) for Assessments or other charges. If not all Lots within the Project will be served by a particular Bulk Service Agreement, the Board shall have only the billing option described in clause (b) above.

11.3.3. No Avoidance of Payment. No Owner of a Lot covered by a Bulk Service Agreement shall be entitled to avoid or withhold payment of amounts charged by the Board to such Owner or such Owner's Lot, whether on the basis that such Owner does not use, accept or otherwise benefit from the services provided under such Bulk Service Agreement, or otherwise. Notwithstanding the above, the Board shall have the right, at its option, to exempt a Lot from payment of an assessment related to the Bulk Service Agreement if such Lot is not serviced by such Bulk Service Agreement provider.

11.3.4. Approval of Bulk Service Agreement. The Board shall not, without the approval of at least fifty-one percent (51%) of the Owners then entitled to vote, represented in person or by proxy at an annual or special meeting of the Association, enter into a Bulk Service Agreement which imposes on the Association or the Owners any obligation to pay the direct costs of construction of any cable, lines or other facilities or equipment for any cable television, community satellite television, high speed internet, security monitoring or electronic entertainment, information, communication or security services.

ARTICLE 12

INSURANCE

12.1 Association Insurance.

12.1.1 Insurance Policies. The Association shall obtain and maintain in effect the following insurance coverage, if reasonably available, or if not reasonably available, the most nearly equivalent coverage as is reasonably available:

(A) Commercial general liability insurance on the Common Areas and if applicable, Limited Common Areas and Service Areas, insuring the Association and its Owners for damage or injury caused by the negligence of the Association or any of its Owners, employees, agents, or contractors while acting on its behalf, with limits reasonably determined by the Board, but not less than One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) general aggregate, with respect to bodily injury, personal injury, and property damage. Such coverage may be provided through a combination of primary and umbrella policies. However, if additional coverage and higher limits are available at reasonable cost, such that a reasonably prudent person would obtain such additional coverage and higher limits, the Association shall obtain such additional coverage or limits;

(B) Blanket property insurance or guaranteed replacement cost insurance on the physical structures constructed within the Common Areas, the physical structure of all Townhomes, and if applicable, Limited Common Areas and Services Areas, within the Project, insuring against all risks of direct physical loss commonly insured against, including fire and extended coverage perils. Each Owner of a Townhome will be an insured person under the Association's property insurance policy. The total amount of coverage provided by blanket property insurance or guaranteed replacement cost insurance maintained by the Association may not be less than 100% of the full replacement cost of the insured property at the time the insurance is purchased and at each renewal date, excluding items normally excluded from property insurance policies. Property insurance shall include coverage for any fixture, improvement, or betterment installed at any time to or on a Common Area, Townhome or Limited Common Area, whether installed in the original construction or in any remodel or later alteration, including a floor covering, cabinet, light fixture, electrical fixture, heating or plumbing fixture, paint, wall covering, window, and any other item permanently part of or affixed to a Common Area, Townhome or a Limited Common Area. Except as provided herein, if a loss occurs that is covered by a property insurance policy in the name of the Association and another property insurance policy in the name of an Owner, the Association's policy shall provide primary insurance coverage and the Owner shall be responsible for the Association's policy deductible. In addition to the foregoing, the building property coverage of the Owner's separate property insurance policy, often referred to as coverage "A", will apply and cover that portion of the loss that is subject to the deductible under the Association's property insurance policy.

An Owner who owns a Townhome that has suffered damage as part of a covered loss is responsible for an amount calculated by applying the lot damage percentage for that Townhome to the amount of the deductible under the Association's property insurance policy. If an Owner does not pay the amount required in the preceding sentence within thirty (30) days after substantial completion of the repairs to, as applicable, the Lot, the Townhome, or the Limited Common Area appurtenant to the Townhome, the Association may levy an assessment against the Owner for that amount. The Association shall provide notice to each Owner of the Owner's obligations for the Association's policy deductible and of any change in the amount of the deductible. If the

Association fails to provide the notice set forth in the immediately preceding sentence, the Association will be responsible for the amount of the deductible increase that the Association could have assessed the Owner to whom notice was not sent, but only to the extent that the Owner does not have insurance coverage that would otherwise apply under this Section. The Association's failure to provide notice shall not be construed to invalidate any other provision in this Section or this Declaration. The term "covered loss" means a loss, resulting from a single event or occurrence, that is covered by the Association's property insurance policy. The term "lot damage" means damage to any combination of a Lot, Improvements on a Lot, or the Limited Common Area appurtenant to a Lot. The term "lot damage percentage" means the percentage of total damage resulting in a covered loss that is attributable to Lot damage.

If, in the exercise of the business judgment rule, the Board determines that a covered loss is likely not to exceed the Association's property insurance policy deductible, and until it becomes apparent that the covered loss exceeds the master property insurance deductible and a claim is submitted to the Association's property insurance insurer: (a) for a Townhome to which a loss occurs, the Owner's policy is considered the policy for primary coverage for the damage to that Townhome; (b) an Owner who does not have a policy to cover the damage to the Owner's Townhome is responsible for damage to that Townhome, and the Association may, as provided herein, recover any payments the Association makes to remediate and repair the Townhome as provided above; and (d) the Association need not tender the claim to the Association's insurer. Notwithstanding the preceding, if the Association provides notice of the Association's policy deductible but fails to provide notice of a later increase in the amount of the deductible, the Association is responsible only for the amount of the increase for which notice was not given.

The insurer under a property insurance policy issued to the Association shall adjust with the Association a loss covered under the Association's policy. Notwithstanding the above, the insurance proceeds for a loss under the Association's property insurance policy: (i) are payable to an insurance trustee that the Association designates, or, if no trustee is designated, to the Association; and (ii) may not be payable to a holder of a security interest.

An insurance trustee or the Association shall hold any insurance proceeds in trust for the Association, the Owners, and any lien holders. If damaged property is to be repaired or restored, insurance proceeds shall be disbursed first for the repair or restoration of the damaged property. After the disbursements are made and the damaged property has been completely repaired or restored, or the Project has been terminated, any surplus proceeds are payable to the Association, the Owners and any lien holders as provided in this Declaration;

(C) Workers' compensation insurance and employers' liability insurance, if and to the extent required by Law;

(D) Directors and officers liability coverage; and

(E) Commercial crime insurance, including fidelity insurance covering all Persons responsible for handling Association funds, in an amount determined in the Board's business judgment but no less than an amount equal to one-sixth of the annual Base Assessments on all Lots plus reserves on hand. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation.

12.1.2 Deductibles. The Association's policies may contain a reasonable deductible, which shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of this Article 12. In the event of an insured loss, the deductible shall be treated as a Common

Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the Bylaws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may assess the full amount of such deductible against such Owner(s) and their Lots as a Special Assessment.

12.1.3 Policy Requirements. All Association policies shall provide for a certificate of insurance to be furnished to the Association and, upon request, to each Owner. To the extent available at reasonable cost and terms, all Association insurance shall:

- (A) Be written with a company authorized to do business in Utah which satisfies the requirements of the Federal National Mortgage Association, or such other secondary mortgage market agencies or federal agencies as the Board deems appropriate;
- (B) Be written in the name of the Association as trustee for the benefited parties. All policies shall be for the benefit of the Association and its members, as their interests may appear;
- (C) Not be brought into contribution with insurance purchased by Owners, occupants, or their Mortgagees individually;
- (D) Contain an inflation guard endorsement;
- (E) Include an agreed amount endorsement, if the policy contains a co-insurance clause;
- (F) Provide that each Owner is an insured person with respect to liability arising out of such Owner's status as a member of the Association;
- (G) Provide a waiver of subrogation against any Owner or household member of an Owner; and
- (H) Include an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any act or omission of one or more Owners, unless acting on the Association's behalf within the scope of their authority, or on account of any curable defect or violation, without prior written demand to the Association and allowance of a reasonable time to cure the defect or violation.
- (I) In addition, the Board shall use reasonable efforts to secure insurance policies that list the Owners as additional insureds.

12.1.4 Insurance Premiums; Deductible. Premiums, including deductible payments, for all Association insurance shall be a Common Expense, unless the Board reasonably determines that other treatment of the premiums is more appropriate; provided, however, the cost to obtain and maintain the property insurance on any Townhome to be carried by the Association, including reasonable deductibles for any Townhome, shall not be included as a Base Assessment, but instead shall be included as part of the Townhome Assessments. The deductible on a claim made against the Association's property insurance policy shall be paid by the Owner who would be liable for the loss, damage, claim, or repair in the absence of insurance, and in the event multiple Lots are damaged, the deductible will be the sole responsibility of the Owner of the Lot where the loss originated. To the extent required by applicable law, the Owner's property insurance policy, if any, applies to that portion of the loss attributable to the Association's policy deductible.

12.1.5 Earthquake & Flood Insurance. The Association shall have the right, but not the obligation, to maintain earthquake and/or flood insurance for the Townhomes and/or elements of the Common Area, such as any club house. After expiration of the Period of Administrative Control, the Association shall obtain earthquake and flood insurance if approved through an affirmative vote of at least sixty-seven percent (67%) of the members of the Association that are Owners of Townhomes as to insurance maintained on the Townhomes or by the Association. The earthquake and/or flood insurance shall be administered in a similar manner as property insurance, and the costs thereof shall be allocated to the Owners in the same manner as the costs of property insurance.

ARTICLE 13

DAMAGE AND DESTRUCTION

13.1 Adjustment of Claims. Immediately after damage or destruction by fire or other casualty to all or any part of the Project, Common Area, Common Area Improvements or Townhomes covered by insurance where the Association is the insured party or a loss payee, the Board or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance, and shall obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed portions of the Project, Common Area, Common Area Improvements or Townhomes within the Project. Repair or reconstruction, as used in this paragraph, means repairing or restoring the Project, Common Area, Common Area Improvements or Townhomes to substantially the same condition in which they existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes.

13.2 Repair. If a portion of the Project, Common Area, Common Area Improvements or Townhomes for which insurance is required to be maintained by the Association in this Declaration or the Act is damaged or destroyed, the Association shall repair or replace the portion within a reasonable amount of time unless: (a) the Project is terminated; (b) the repair or replacement would be illegal under a state statute or local ordinance governing health or safety; or (c) (i) at least seventy-five percent (75%) of the allocated voting interests of the members in the Association vote not to rebuild; and (ii) each owner of a Townhome and the Limited Common Area appurtenant to that Townhome that will not be rebuilt votes not to rebuild. If a portion of the Project, Common Area, Common Area Improvements or Townhomes is not repaired or replaced because the Project is terminated, the termination provisions of applicable law and the Governing Documents apply. The cost of repair or replacement of any Townhome in excess of insurance proceeds and reserves will be part of a Townhome Assessment, only to the extent the Association is required to provide insurance for the Townhome. The cost of repair or replacement of any Common Area in excess of insurance proceeds and reserves shall be a Common Expense. Unless otherwise provided in the Act, no Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Project shall be repaired or reconstructed.

13.3 No Repair. In the event it is determined in the manner described above that the damage or destruction to the Project, the Common Area, the Common Area Improvements or the Townhomes shall not be repaired or reconstructed and no alternative improvements are authorized, the affected portion of the Project shall be cleared of all debris and ruins and maintained by the Association in a neat and attractive, landscaped condition consistent with the terms and conditions of this Declaration.

13.4 Disbursement of Proceeds. If the damage or destruction for which the proceeds of the Association's insurance policies are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction. The Association shall distribute the insurance proceeds attributable to the Townhomes that are not repaired or

reconstructed to the Owners of such Townhomes that are not repaired or reconstructed or to any Mortgagees holding security interests in such Townhomes. Any proceeds remaining after defraying such costs of repair or reconstruction and after distributing any proceeds to the Owners of Townhomes that were not repaired and/or reconstructed, shall be retained by and for the benefit of the Association and either (i) placed in a capital improvements account, or (ii) distributed by the Association to all the Owners or Mortgagees of the applicable Lots in proportion to the allocation of Base Assessments or Townhome Assessments attributable thereto. If the Owners vote not to rebuild the Improvements, the affected Lots' allocated interests shall thereafter be automatically reallocated as if the Lot and its improvements had been condemned, and the Association shall prepare, execute, and submit for recording an amendment to this Declaration reflecting the reallocations described above. This is a covenant for the benefit of any Mortgagee of a Lot and may be enforced by such Mortgagee.

13.5 Insufficient Proceeds for Restoration of the Common Area. If insurance proceeds are paid to repair or reconstruct damage or destruction to the Common Area or Common Area Improvements, and such proceeds are not sufficient to defray the cost thereof, the Board shall, without the necessity of a vote of the members of the Association, levy a Special Assessment against the Owners. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

13.6 Insufficient Proceeds for Restoration of Townhomes. If insurance proceeds are paid to repair or reconstruct damage or destruction to the Townhomes, and such proceeds are not sufficient to defray the cost thereof, the Board shall, without the necessity of a vote of the members of the Association, levy a Special Assessment against the Owners of the Townhomes. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

ARTICLE 14 ASSOCIATION FINANCES

14.1 Assessments.

14.1.1 Creation of Assessments. There are hereby created Assessments for the Association, as may from time to time specifically be authorized by the Board, to be commenced at the time and in the manner further set forth herein. There shall be the following Assessments: (a) Base Assessments to fund Common Expenses for the benefit of all Owners within the Association; (b) Townhome Assessments that are assessed against the Owners of the Townhomes to reimburse the Association for costs incurred thereby related solely to the Townhomes; (c) Special Assessments as further described herein; and (d) Reinvestment Fees. Each Owner, by acceptance of a deed, is deemed to covenant and agree to pay these Assessments. All Assessments, together with (i) interest at the greater of (y) fifteen percent (15%) per annum, or (z) the prime lending rate (as published in The Wall Street Journal) plus four hundred (400) basis points (provided that the interest rate cannot exceed the maximum rate allowed by Utah law), as computed from the date the delinquency first occurs, (ii) late charges, (iii) costs, and (iv) reasonable attorneys' fees, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each Assessment is made until paid. Each such Assessment, together with the charges in subsections (i) through (iv) above, shall also be the personal obligation of the Person who was the Owner of such Lot at the time the Assessment arose, and, in the event of a transfer of title, his, her or its grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance. Notwithstanding the foregoing, no first Mortgagee who obtains title to a Lot pursuant to the remedies provided in the Mortgage shall be liable for unpaid Assessments which accrued prior to such acquisition of title.

The Association shall, upon demand at any time, furnish to any Owner liable for any type of Assessment a certificate in writing setting forth whether such Assessment has been paid as to any

particular Lot. Such certificate shall be conclusive evidence of payment to the Association of any Assessments therein stated to have been paid. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate, which fee shall not exceed the maximum fee permitted by applicable Law.

Assessments shall be paid in such manner and on such dates as may be fixed by the Board. If any Owner is delinquent in paying any Assessments or other charges levied on its Lot, the Board shall require any unpaid installments of any Assessments to be paid in full immediately, unless exceptional circumstances exist (as determined by the Board in its sole discretion). No Owner may waive or otherwise exempt itself from liability for the Assessments provided for herein, including, by way of illustration and not limitation, by non-use of Common Areas or Common Area Improvements or the abandonment of its Lot. The obligation to pay Assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of any Assessment or set-off shall be claimed or allowed by reason of (i) any alleged failure of the Association or Board to take an action or perform a function required to be taken or performed by the Association or Board under this Declaration or the Governing Documents, (ii) inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or (iii) any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

14.1.2 Computation of Base Assessment. It shall be the duty of the Board, at least sixty (60) days before the beginning of each fiscal year, to prepare a budget covering the estimated Common Expenses of the Association during the coming fiscal year. The budget shall include a capital contribution establishing a reserve fund in accordance with a separately prepared budget, as further described herein. The Base Assessments shall be equally allocated to all Lots within the Project. Notwithstanding the above, the Board may, in its sole discretion, reduce the Base Assessments determined pursuant to the above formula by taking into account commercially reasonable factors.

The Board shall cause a copy of the Common Expenses budget and notice of the amount of the Base Assessment to be presented to the Owners at a meeting of the Association. The budget and the amount of the Base Assessment shall become effective unless disapproved by at least fifty-one percent (51%) of all the allocated voting interests of the Owners in the Association. The budget may also be disapproved if within forty-five (45) days after the date of the meeting where the budget is presented, there is a vote of disapproval by at least fifty-one percent (51%) of all of the allocated voting interests of the Owners in the Association, and the vote is taken at a special meeting called for that purpose by Owners under this Declaration or the Governing Documents. If the budget is disapproved, the budget that the Board last adopted that was not disapproved by the Owners continues as the budget until and unless the Board presents another budget to the Owners and that budget is not disapproved. Notwithstanding the above, the Board shall have the right to approve the budget without Owner approval if the budget does not increase by more than ten percent (10%) in any given year.

Notwithstanding the foregoing, however, in the event the proposed budget is disapproved or the Board fails for any reason to determine the budget for any fiscal year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the immediately preceding fiscal year, increased by ten percent (10%), shall continue for the current fiscal year.

14.1.3 Computation of Townhome Assessment. It shall be the duty of the Board, at least sixty (60) days before the beginning of each fiscal year, to prepare a budget covering the estimated costs to be incurred by the Association related solely to the Townhomes during the coming fiscal year.

The Board shall cause a copy of the Townhome expense budget and notice of the amount of the Townhome Assessment to be presented to the Owners of the Townhomes at a meeting of the Association.

The budget and the amount of the Townhome Assessment shall become effective unless disapproved by at least fifty-one percent (51%) of all of the allocated voting interests of the Owners of the Townhomes in the Association. The budget may also be disapproved if within forty-five (45) days after the date of the meeting where the budget is presented, there is a vote of disapproval by at least fifty-one percent (51%) of all of the allocated voting interests of the Owners of the Townhomes in the Association, and the vote is taken at a special meeting called for that purpose by Owners of the Townhomes under this Declaration or the Governing Documents. If the budget is disapproved, the budget that the Board last adopted that was not disapproved by the Owners of the Townhomes continues as the budget until and unless the Board presents another budget to the Owners of the Townhomes and that budget is not disapproved. Notwithstanding the foregoing, during the Period of Administrative Control, the Owners of the Townhomes may not disapprove of a budget. Additionally, notwithstanding anything to the contrary herein, if the Association is required by law to carry insurance and/or incur costs associated with the Townhomes, the Owners of the Townhomes cannot disapprove of expenses that the Association is legally obligated to incur.

Notwithstanding the foregoing, however, in the event the proposed budget is disapproved or the Board fails for any reason so to determine the budget for any fiscal year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the immediately preceding fiscal year shall continue for the current fiscal year.

14.1.4 Special Assessments.

(A) Entire Membership. The Association may levy Special Assessments against all the Owners as follows:

- (i) For purposes of defraying, in whole or in part, the cost of any action or undertaking on behalf of the Association in connection with any construction or replacement of a specific capital improvement upon the Common Areas or for the Common Area Improvements, including the necessary fixtures and personal property related thereto;
- (ii) For purposes of collecting transfer fees to reflect changes of ownership, tenancy or occupancy on the records of the Association, including, but not limited to, a fee for providing the Association payoff information needed in connection with the financing, refinancing, or leasing of an Owner's Lot, which amount shall not exceed the maximum amount allowed by applicable law; and
- (iii) For purposes of providing any necessary funds for the restoration and repair of damaged or destroyed Common Areas, Common Area Improvements, or Limited Common Areas, in accordance with the provisions hereof;
- (iv) For purposes of collecting plan fees and other fees associated with reviewing, processing and approving applications for architectural approval, which fee may not exceed the actual cost of reviewing, processing and approving such applications; and
- (v) For purposes of collecting fines from time to time established by the Association for any violation of this Declaration or other Governing Documents.

Special Assessments levied against all the Owners shall be equally allocated to the Lots unless the Board determines that another method is more equitable. Special Assessments pursuant to this paragraph shall be payable in such manner and at such times

as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved, if the Board so determines.

(B) Less Than All Members. The Association may levy a Special Assessment against any Owner individually and against such Owner's Lot to reimburse the Association for costs incurred in bringing an Owner and his, her or its Lot or the Limited Common Areas related to the Owner's Lot into compliance with the provisions of this Declaration and the other Governing Documents. Such a Special Assessment may be levied upon the vote of the Board in compliance with this Declaration.

(C) Service Areas. The Association may levy Special Assessments against Owners of Lots within Service Areas as follows:

(i) For purposes of defraying, in whole or in part, the cost of any action or undertaking on behalf of the Association in connection with any maintenance, repair, construction or replacement of a specific capital improvement upon a Service Area and those improvements constructed therein;

(ii) For purposes of providing any necessary funds for the maintenance, restoration and repair of damaged or destroyed Service Areas; or

(iii) For purposes of collecting fines from time to time established by the Association for any violation of this Declaration or other Governing Documents.

14.1.5 Reinvestment Fee Covenant. By taking title to a Lot, each Owner acknowledges that (i) each Lot is subject to a Reinvestment Fee Covenant imposed by the Association, and (ii) the buyer or seller of a Lot may be required to pay a Reinvestment Fee to the Association at the time of closing or settlement of the sale of said Lot. Any portion of the Real Property owned by Declarant or a Declarant Affiliate is exempt from the Reinvestment Fee Covenant.

14.1.6 Payment: Waiver. Any Assessment authorized herein is due and payable immediately upon the occurrence of the event giving rise to liability for same. Failure of the Association to impose or collect any Assessment is not grounds for any action against the Association or their respective directors, officers, agents or employees, and does not constitute a waiver of the right to exercise authority to collect any Assessments in the future. For good cause shown, as determined in the sole opinion of the Board, the Board may waive, wholly or partially, the imposition of any Assessment authorized by this Article 14; provided, however, any such waiver must be conditioned upon payment in full of all remaining monetary obligations, or receipt of written commitment that same will be paid within a specified period of time.

14.1.7 Reserve Budget and Capital Contribution. Under the Original Declaration, the Board has prepared a reserve fund analysis as required by the Act, and the Association may, if necessary, update the reserve fund analysis in accordance with the Act. Based upon the reserve fund analysis, the Board shall establish a reserve budget. The Board will provide a copy of the reserve fund analysis and any update thereto to any Owner requesting the same. The Board shall set the required capital contribution in an amount sufficient to permit meeting the projected needs of the Association, as shown on the budget, with respect both to amount and timing of annual Base Assessments over the period of the budget. The capital contribution required, if any, shall be fixed by the Board and shall be included and distributed with the applicable budget and notice of Assessments. The reserve funds shall not be used for daily maintenance expenses or for any purpose other than the purpose for which the reserve fund was established, unless a majority of Owners vote to approve the use of the reserve funds for that purpose. The reserve fund shall

be maintained separate from other Association funds. The Board will update the reserve fund analysis as required by the Act.

14.1.8 Date of Commencement of Assessments. The obligation to pay the Assessments provided for herein shall commence as to each Lot on the first day of the month. Assessments shall be due and payable in a manner and on a schedule as the Board may provide. The first annual Base Assessment levied on a Lot shall be adjusted according to the number of months remaining in the fiscal year at the time Assessments commence on the Lot.

14.1.9 Written Statement of Unpaid Assessment. The Association will issue a written statement indicating any unpaid Assessment with respect to a Lot covered by the request upon the written request of any Owner, together with the payment of a reasonable fee not to exceed the maximum amount permitted by applicable law.

14.1.10 Fines. The Board may assess a fine against any Owner for a violation of the Governing Documents, subject to the following: (a) before assessing a fine, the Board will (i) notify the Owner of the violation as provided herein, and (ii) inform the Owner that a fine will be imposed if the violation is not remedied by a date certain. Any unpaid fines shall be treated as Special Assessments, and such fines shall be subject to any applicable interest and late fees commencing as of the later of (1) the date of the assessment, or (2) if the Owner requests a hearing, the date of the final decision following the hearing. If an Owner disputes the assessment of a fine, the Owner may request an informal hearing to protest or dispute the fine within fourteen (14) days from the date of the notice of the fine. For any of the fines imposed against the offending Owner, the offending Owner shall be barred from challenging the validity of the fine if the Owner does not deliver a written hearing request to the Board within fourteen (14) days of the notice of the fine. At any such informal hearing, the Board shall make a reasonable determination, based on the information provided by the Owner and any other information available to the Board, whether to rescind, reduce, or waive the fine.

14.1.11 Lien for Assessments. The Association has a lien on a Lot for Assessments and, except as otherwise provided in this Declaration, for fines, fees, charges, and costs associated with collecting an unpaid Assessment, including, without limitation, court costs and reasonable attorneys' fees, late charges, interest, and any other amount that the Association is entitled to recover under this Declaration, at law, or pursuant an administrative or judicial decision, plus a fine that the Association may impose against the Owner. The obligation to pay Assessments hereunder is part of the purchase price of each Lot when sold to an Owner; an express vendor's lien is hereby retained to secure the payment thereof and is hereby transferred and assigned to the Association. Additionally, a lien with a power of sale is hereby granted and conveyed to the Association to secure the payment of such Assessments. The recording of this Declaration constitutes record notice and perfection of the above-described lien. If an Assessment is payable in installments, the lien will be for the full amount of the Assessment from the time the first installment is due, unless the Association provides otherwise in a notice of Assessment. An unpaid Assessment or fine accrues interest at the rate provided in this Declaration. The lien provided in this Section 14.1.11 has priority over each other lien and encumbrance on a Lot except: (a) a lien or encumbrance recorded before this Declaration is recorded; (b) a first or second security interest on the Lot secured by a Mortgage that is recorded before a recorded notice of lien by or on behalf of the Association; or (c) a lien for real estate taxes or other governmental assessments or charges against the Lot. To evidence any lien hereunder, the Association may prepare a written notice of an Assessment lien, which shall be signed by an officer of the Association and may be recorded in the Official Records of Utah County, Utah. The written notice of the Assessment lien will set forth (i) the description of the Lot, (ii) the name of the Owner of the Lot, and (iii) the amount of the Assessment, together with any other amounts due and owing with respect to the Lot subject to such Assessments.

14.1.12 Enforcement of a Lien. In accordance with Utah Code Ann. §§ 57-8a-301 *et seq.*, the Association may cause a Lot to be sold through non-judicial foreclosure as though the lien were a deed of trust, in the manner provided by Utah Code Ann. §§ 57-1-24, 57-1-25, 57-1-26, and 57-1-27 (as may be amended from time to time) and the Act, or foreclose the lien through a judicial foreclosure in the manner provided by Law for the foreclosure of a Mortgage. For purposes of a non-judicial or judicial foreclosure, the Association is considered to be the beneficiary under a trust deed, and the Owner is considered to be the trustor under a trust deed. In the event of the election by the Board to foreclose the liens herein provided for nonpayment of secured sums, then, at the request of the Board (which request shall be presumed by a request by the President of the Association), it shall be the duty of the trustee, or his successor, as hereinabove provided, to enforce this trust and to sell such Lot and all rights appurtenant thereto. Notwithstanding the foregoing, the Association may bring an action against an Owner to recover an amount for which a lien is created under Utah Code Ann. § 57-8a-301 (as may be amended from time to time) or from taking a deed in lieu of foreclosure, if the action is brought or the deed is taken before the sale or foreclosure of the Owner's Lot. At any judicial foreclosure or non-judicial foreclosure, the Association shall be entitled to bid up to the amount of the sum secured by its lien, together with interest, costs, and expenses of sale, including trustee's and attorneys' fees and other amounts due and owing, and to apply as a cash credit against its bid all sums due to the Association covered by the lien foreclosed. The Association need not pursue a judicial foreclosure or non-judicial foreclosure to collect an unpaid Assessment, but may file an action to recover a money judgment for the unpaid Assessment without waiving the lien or any of the rights and remedies provided herein or available at law or in equity.

The Association's non-judicial foreclosure of a Lot is governed by Utah Code Ann. §§ 57-1-19 through 57-1-34 to the same extent as though the Association's lien were a trust deed. If there is a conflict between a provision of the Act and a provision of Utah Code Ann. §§ 57-1-19 through 57-1-34 with respect to the Association's non-judicial foreclosure of a Lot, the Act shall control.

A court entering a judgment or decree in a judicial action brought by the Association shall award the prevailing party its costs and reasonable attorneys' fees incurred before the judgment or decree and, if the Association is the prevailing party, the Court shall award the Association any costs and reasonable attorneys' fees that the Association incurs collecting the judgment. In a non-judicial foreclosure, the Association may include in the amount due, and collect, all costs and reasonable attorneys' fees incurred in collecting the amount due, including the costs of preparing, recording, and foreclosing a lien.

14.1.13 Subordination of the Lien. The lien of Assessments, including interest, late charges (subject to the limitations of Utah law), and costs (including attorneys' fees and costs) provided for herein, shall be subordinate to tax liens and to the lien of any first Mortgage upon any Lot. The sale or transfer of any Lot shall not affect the Assessment lien. However, the sale or transfer of any Lot pursuant to judicial or non-judicial foreclosure (i.e., power of sale) of a first Mortgage shall extinguish the lien of such Assessments as to payments which became due prior to such sale or transfer, unless the Owner against whom the original Assessment was made is the purchaser at the foreclosure sale (in which event such lien shall remain in full force and effect). Where the Mortgagee holding a first Mortgage of record or other purchaser of a Lot obtains title pursuant to judicial or non-judicial foreclosure of the Mortgage, such Mortgagee shall not be liable for the share of the Common Expenses or Assessments by the Association chargeable to such Lot which became due prior to such acquisition of title. Such unpaid share of Common Expenses or Assessments shall be deemed to be Common Expenses collectible from the Owners of all the Lots, including such acquirer, its successors and assigns.

14.1.14 Property Manager. The Board may contract with an independent third-party professional property manager to provide the services and/or to perform the duties of the Association herein, and in connection therewith, by contract or resolution, assign to such property manager the right to set the amounts of, and to receive payments of, the applicable charges. The property manager so engaged shall be an

independent contractor and not an agent or employee of the Association. The obligation to contract with a property manager may not be waived, cancelled, modified, or amended in any way. The right and authority of any property manager to set the amounts and receive payment as aforesaid is deemed to be assigned to the property manager by virtue of contracting with the same to provide the associated functions and services, but only for so long as the applicable contract remains in effect, unless the applicable contract expressly provides otherwise. Subject to the aforesaid notice requirement as to a property manager and as required regarding this Declaration, the Board or its property manager, as applicable, may adopt, amend, revise and repeal any such charges from time to time without notice.

14.1.15 Enforcement. The Board shall use its reasonable judgment to determine whether to exercise the Association's powers to impose sanctions or pursue legal action for a violation of the Governing Documents, including, without limitation: (a) whether to compromise a claim made by or against the Board or the Association; and (b) whether to pursue a claim for an unpaid Assessment. The Association may not be required to take enforcement action if the Board determines, after fair review and acting in good faith and without conflict of interest, that under the particular circumstances: (i) the Association's legal position does not justify taking any or further enforcement action; (ii) the covenant, restriction, or rule in the Governing Documents is likely to be construed as inconsistent with current law; (iii) a technical violation has or may have occurred, and the violation is not material as to a reasonable person or does not justify expending the Association's resources; or (iv) it is not in the Association's best interests to pursue an enforcement action, based upon hardship, expense, or other reasonable criteria. If the Board decides to forego enforcement, the Association is not prevented from later taking enforcement action, and any inaction by the Board or the Association shall not be deemed a waiver of any rights to take any enforcement action in the future. In taking or not taking enforcement action, the Board's acts may not be arbitrary, capricious, or against public policy.

14.1.16 Exempt Property. Notwithstanding anything to the contrary herein, the following portions of the Real Property shall be exempt from payment of Base Assessments and Special Assessments: (i) Common Areas; (ii) all property dedicated to and accepted by any governmental authority or public utility, including, without limitation, public schools, public streets, and public parks, if any; and (iii) all property, Lots, Parcels, and portions of the Real Property held in fee simple or leased by Declarant or a Declarant Affiliate.

ARTICLE 15 EASEMENTS

15.1. Encroachments. Subject to the terms of this Declaration, each Lot, Limited Common Area, and the Common Area shall be subject to an easement for encroachments created by construction, settling and overhangs, as designed or constructed by Declarant. A valid easement for said encroachments and for the maintenance of same, so long as they stand, shall and does exist. In the event any structure located within a Common Area is partially or totally destroyed and then rebuilt, the Owners of the Lots so affected agree that minor encroachments of parts of the adjacent Lots, Limited Common Areas, or Common Areas due to construction shall be permitted and that a valid easement for said encroachments and the maintenance thereof shall exist.

15.2. Use of Common Areas. Declarant reserves the right to execute agreement(s) which may confer on itself or adjacent landowners or owners' associations the right to use Common Areas, Common Area Improvements and/or other common facilities.

15.3. Easement for Declarant. Upon the recording of the conveyance of any portion of the Common Areas to the City, Declarant shall have a transferable easement over and on the Common Areas and facilities

and utilities for the purposes of (i) making improvements on the Real Property or on any additional land under the Declaration, or any development, related or unrelated, on land described herein or adjacent to the Real Property, (ii) maintaining the Common Areas and Common Area Improvements, and (iii) doing all things reasonably necessary and proper in connection with the same.

15.4. Easement for Cross-Drainage. All portions of the Project shall be burdened with easements for natural drainage of stormwater runoff from other portions of the Project; provided, however, no Person shall alter the natural drainage on any Lot to materially increase the drainage of stormwater onto adjacent portions of the Project without the consent of the Owner(s) of the affected property and Declarant, as long as it owns any property subject to the Declaration.

15.5. Association Easement. There is hereby created a nonexclusive easement in favor of the Association for ingress and egress over the entire Project, including, but not limited to, the Limited Common Areas and the Common Area (except the interior of an occupied dwelling unit), for the purpose of enabling the Association and its contractors to implement the provisions of this Declaration. The rights of access established in this Section 15.5 shall be exercised so as to reasonably minimize interference with the quiet enjoyment of a Lot by its Owner. Every Lot and Limited Common Area is also hereby subjected to a nonexclusive easement for overspray and runoff of water from any irrigation systems serving the Common Areas. Under no circumstance will the Association be responsible for any property damage or personal injury resulting from any overspray or from the operation of the irrigation systems serving the Common Areas.

15.6. Other Easements. The easements provided for in this Article 15 shall in no way affect any other recorded easement.

ARTICLE 16

EXPANSION OF COMMUNITY

16.1. Expansion by Declarant. From time to time, Declarant may submit additional property to the terms of this Declaration by recording a Supplement describing the additional property to be submitted. Declarant may record such a Supplement without the consent of any Person except the owner of such property, if not Declarant. Declarant's right to expand the Project under this Section expires upon expiration of the Period of Administrative Control; provided, however, nothing in this Declaration shall require Declarant or any successor to submit additional property to this Declaration.

16.2. Expansion by the Association. The Association also may submit additional property to this Declaration by recording a Supplement describing the additional property. Any Supplement which the Association records must be approved by Owners representing more than fifty percent (50%) of the total votes in the Association, including Declarant during the Period of Administrative Control, at a meeting duly called for such purpose, and also approved by the owner of the property to be submitted.

16.3. Additional Covenants and Easements. Any Supplement that Declarant records may impose additional covenants and easements on the property described in such Supplement, such as covenants obligating the Association to maintain and insure such property and authorizing the Association to recover its costs through Assessments. Such provisions may be included in a Supplement submitting new property to this Declaration or may be set forth in a separate Supplement applicable to property previously submitted to this Declaration. If someone other than Declarant owns the property, then the Supplement must be signed by such Owner evidencing such Owner's consent. Any Supplement may add to, create exceptions to, or otherwise modify the terms of this Declaration as it applies to the property described in the Supplement, in order to reflect the different character and intended use of such property.

16.4. Effect of Filing a Supplement. A Supplement shall be effective upon recording unless otherwise specified in the Supplement. On the effective date of the Supplement, any additional property made subject to this Declaration shall be assigned voting rights in the Association and Assessment liability in accordance with the provisions of this Article.

ARTICLE 17

ADDITIONAL RIGHTS RESERVED TO DECLARANT

17.1. Common Area. At any time and from time to time during the Period of Administrative Control, Declarant may convey to the Association fee simple or easement interests in real property, improved or unimproved. Upon such conveyance to the Association and the recording of a Supplement to this Declaration setting forth such real property interest as Common Area, the Association shall accept the real property interest as Common Area and thereafter shall maintain the same as a Common Expense.

17.2. Withdrawal of Property. During the Period of Administrative Control, Declarant may amend this Declaration to remove any unimproved portion of the Project from the coverage of this Declaration. Such amendment shall not require the consent of any Person other than the Owner(s) of the property to be withdrawn, if not Declarant. If the property is a Common Area, the Association shall consent to such withdrawal.

17.3. Marketing and Sales Activities. Notwithstanding anything in the Governing Documents to the contrary, during the Period of Administrative Control, Declarant and its designees or assigns may construct, use, and maintain upon portions of the Project owned and controlled by Declarant and/or any other property Declarant and/or its designees or assignees own, such facilities and activities that, in Declarant's opinion, may reasonably be required, convenient, or incidental to the construction or sale of Lots.

17.4. Right to Approve Changes in Beacon Pointe Standards. During the Period of Administrative Control, no amendment to, or modification of, any Rules or Design Guidelines shall be effective without prior notice to, and the written approval of, Declarant.

17.5. Exclusive Rights to Use Name "Beacon Pointe". No Person shall, in any printed or promotional material, use the name "Beacon Pointe" or any derivative of such name or in any logo or depiction associated with the Project without Declarant's prior written consent. However, Owners may use the name "Beacon Pointe" in printed or promotional material where such term is used solely to specify that particular property is located within the Project.

17.6. Right to Transfer or Assign Declarant Rights. Any or all of Declarant's rights and obligations set forth in this Declaration or the Bylaws may be transferred by Declarant in whole or in part to other Persons. However, such a transfer shall not reduce such obligation or enlarge such right beyond that which Declarant has under this Declaration or the Bylaws. No such transfer or assignment shall be effective unless it is in a recorded instrument executed by Declarant. The foregoing sentence shall not preclude Declarant from permitting other Persons to exercise, on a one-time or limited basis, any right reserved to Declarant in this Declaration where Declarant does not intend to transfer such right in its entirety. In such case, it shall not be necessary to record any written assignment unless necessary to evidence Declarant's consent to such exercise.

17.7. Right to Approve Changes in Community-Wide Standard. No amendment or modification to the Community-Wide Standard shall be effective without the prior written consent of both Declarant and the

owner of the Temple Lot at the time of such amendment, which consent may be withheld in their sole and absolute discretion.

17.8. Easement to Inspect and Right to Correct. Declarant reserves for itself, and others it may designate, the right, but not the obligation, to inspect, monitor, test, redesign, and correct any structure, improvement, or condition which may exist on any portion of the Real Property, including the Lots, and a perpetual nonexclusive easement of access throughout the Project to the extent reasonably necessary to exercise such right. Except in an emergency, entry onto a Lot shall be only after reasonable notice to the Owner, and no entry into an enclosed structure shall be permitted without the Owner's consent. The Person exercising this easement right shall promptly repair, at such Person's own expense, any damage he or she causes. Nothing in this paragraph shall relieve an Owner of the responsibility for the maintenance and repair of its Lot.

17.9. Self-Help. In the event the Association fails to fulfill its obligations, Declarant or a Declarant Affiliate may, upon not less than fifteen (15) days' written notice to the Association, undertake to complete the Association's obligations under this Declaration. If Declarant or a Declarant Affiliate exercises its self-help rights herein, then the Association shall reimburse Declarant or said Declarant Affiliate for all costs and expenses incurred in performing the Association's obligations within fifteen (15) days of written request therefor.

ARTICLE 18

TERMINATION AND AMENDMENT OF DECLARATION

18.1. Term and Termination. This Declaration shall be effective for a minimum of thirty (30) years from the date after the Period of Administrative Control terminates. After the aforementioned thirty (30)-year period, this Declaration shall be extended automatically for successive ten (10)-year periods unless at least sixty-seven percent (67%) of the then-Owners sign a document stating that the Declaration is terminated and that document is recorded within the year prior to the scheduled extension. In such case, this Declaration shall terminate on the date specified in the termination document.

18.2. Amendment.

18.2.1. By Declarant. In addition to specific amendment rights granted elsewhere in this Declaration, until the termination of the Period of Administrative Control, Declarant may unilaterally amend this Declaration for any purpose. After the Period of Administrative Control terminates, Declarant may unilaterally amend this Declaration if such amendment is necessary (a) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (b) to enable any reputable title insurance company to issue title insurance coverage on the Lots; (c) to enable any institutional or governmental lender, purchaser, insurer, or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure, or guarantee mortgage loans on the Lots; or (d) to satisfy the requirements of any local, state, or federal governmental agency. However, any amendment under this paragraph shall not adversely affect the title to any Lot(s) unless the Owner(s) shall consent in writing.

18.2.2. By Owners. Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Owners representing sixty-seven percent (67%) of the total Class "A" votes of the Association. In addition, during the Period of Administrative Control, any such amendment shall also require Declarant's written consent.

18.2.3. Validity and Effect. No amendment may remove, revoke, or modify any right or privilege of Declarant or a Declarant Affiliate without the written consent of Declarant or said Declarant Affiliate, respectively (or the assignee of such right or privilege). No amendment may remove, revoke, or modify any right or privilege of the owner of the Temple Lot without the written consent of said owner, and in particular no amendment to this Declaration revising Articles 2, 6, 7, 8, 9, and 18 will be effective without the express written consent of the owner of the Temple Lot. If an Owner consents to any amendment to this Declaration or the Bylaws, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third-party will affect the validity of such amendment. Any amendment shall become effective upon recording unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six (6) months of its recordation, or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

ARTICLE 19

CHANGES IN COMMON AREA

19.1. Condemnation. Whenever all or any part of the Common Area is taken (or conveyed by the Board in lieu of, and under threat of, condemnation), each Owner shall be entitled to notice thereof. A decision by the Board to convey a part of the Common Area under threat of condemnation shall be binding on the Association so long as it is made in good faith. The award made for such taking shall be payable to the Association, as trustee for all Owners, and shall be disbursed as follows:

19.1.1. If the taking involves a portion of the Common Area on which recreational improvements have been constructed, then, unless within sixty (60) days after such taking, both Declarant and the Owners representing at least sixty-seven percent (67%) of the total Class "A" votes of the Association shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Area to the extent lands are available therefor, in accordance with plans approved by the Board. Neither the Board nor Declarant shall have any obligation to obtain or dedicate any Common Area in order to accomplish such a repair or restoration if such land is not available at the time of the condemnation. Notwithstanding the above, the Association shall restore any improvements or property required to be restored by the City or any other applicable governmental authority.

19.1.2. If the taking does not involve any recreational improvements on the Common Area, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

19.2. Transfer or Dedication of Common Area. The Association may (i) dedicate portions of the Common Area to the County, the City, or to any other local, state, or federal governmental or quasi-governmental entity, any religious organization, or any land trust or organization dedicated to the preservation and protection of natural resources; (ii) subject Common Area to a security interest; or (iii) transfer or convey Common Area as follows: (a) if Common Area other than Limited Common Area, upon the written direction of at least sixty-seven percent (67%) of the total Class "A" votes in the Association and Declarant; or (b) if Limited Common Area, upon written approval of Owners of at least sixty-seven percent (67%) of the Lots to which such Limited Common Area is assigned. The proceeds from the sale or mortgaging of Common Area other than Limited Common Area shall be an asset of the Association to be used as the Board determines. The proceeds from the sale or mortgaging of Limited Common Area shall be disbursed in the manner approved by the Owners of Lots to which the Limited Common Area is assigned at the time such sale or mortgage is authorized. No conveyance or encumbrance of Common Area may deprive any Lot of rights of access or support.

ARTICLE 20
GENERAL PROVISIONS

20.1 Successors and Assigns. Each easement, restriction and covenant contained herein shall be appurtenant to, and for the benefit of, all portions of the Project and shall be a burden thereon, for the benefit of all portions of the Project, and shall run with the land. This Declaration and the restrictions, easements, covenants, benefits and obligations created hereby shall inure to the benefit of and be binding upon Declarant, Owners and their successors, transferees and assigns. Notwithstanding the foregoing, if any Owner transfers all of its interest in a Lot or Parcel, the transferee thereof shall automatically be deemed to have assumed and agreed to be bound by the covenants and agreements herein contained, and the transferor shall thereupon be released and discharged from any and all obligations under this Declaration accruing after the date of transfer.

20.2 No Dedication to Public. Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Project to the general public or for the general public or for any public purposes whatsoever, it being the intention of Declarant that this Declaration shall be strictly limited to and for the purposes herein expressed.

20.3 No Cancellation. No breach of this Declaration shall entitle any Owner to cancel, rescind or otherwise terminate this Declaration, but such limitation shall not affect in any manner any other rights or remedies which such Owner may have hereunder by reason of any breach of this Declaration.

20.4 Survival. If any clause, sentence or other portion of this Declaration shall become illegal, null or void for any reason, or shall be held by any court of competent jurisdiction to be so, the remaining portions hereof shall remain in full force and effect.

20.5 No Merger. The ownership of the entire Project by the same party shall not affect the termination of this Declaration.

20.6 Mortgagee Protection. Breach of any of the covenants or restrictions contained in this Declaration shall not defeat or render invalid the lien of any Mortgage made in good faith and for value as to the Project or any part thereof, including a Lot, but all of the foregoing provisions, restrictions and covenants shall be binding upon and effective against any Owner whose title thereto is acquired by foreclosure, trustee's sale, deed in lieu of foreclosure or otherwise.

20.7 Remedies. Declarant and any Owner of any portion of the Project may prosecute any proceedings at law or in equity against any Person or entity violating or attempting to violate any of the agreements, covenants, conditions and restrictions herein, to prevent it, him or them from so doing and/or to recover damages from or on account of such violation. All costs and expenses of any such suit or proceedings, including attorneys' fees, as well as any judgment thereof, shall be assessed against the losing party and shall constitute a lien against the real property or the interest therein in the Project belonging to such party as provided in Article 14 above, which the prevailing party may foreclose in the manner provided in such Article 14. All remedies set forth herein or otherwise available at law or equity shall be cumulative.

20.8 Third-Party Beneficiaries. By taking title to a Lot, each owner acknowledges and agrees that (i) the right to enforce the terms and conditions of this Declaration, as granted to the owner of the Temple Lot, shall run with and benefit the Temple Lot and shall burden the Real Property; (ii) the owner of the Temple Lot shall be an express third-party beneficiary to the enforcement rights of this Declaration; (iii) any other Declarant Affiliates are intended third-party beneficiaries to the enforcement rights of this Declaration; and

(iv) no rights, privileges or immunities set forth herein shall inure to the benefit of any other customer, employee, guest, licensee or invitee of any Owner, tenant or any other occupant of any portion of the Project, nor shall any other customer, employee, guest, licensee or invitee of such Owner, tenant or occupant be deemed to be a third-party beneficiary of any of the provisions contained herein.

20.9 Captions/Rules of Construction. The captions heading the various Articles of this Declaration are for convenience and identification only, and shall not be deemed to limit or define the contents of their respective sections. Singular words shall connote the plural as well as the singular, and plural words shall connote the singular as well as the plural, and the masculine shall include the feminine and the neuter, as the context may require. The terms "include," "including" and similar terms shall be construed as if followed by the phrase "without limitation."

20.10 Consent. Unless otherwise set forth herein, any approval or consent required or requested of Declarant or the Association may be withheld in their sole and absolute discretion. Unless otherwise specified herein, any approval or consent required to be obtained hereunder by any Owner, other than Declarant or the Association, shall not be unreasonably withheld and shall be given or withheld within thirty (30) days after delivery of the request therefor. In the event an Owner whose approval or consent is sought pursuant to the immediately preceding sentence fails to respond within the applicable time period, such Owner shall be deemed to have approved of, or consented to, the matter in question.

20.11 Assignment. Except as otherwise expressly set forth herein, no Owner shall have the right to assign all or any portion of its rights, benefits, duties or obligations under this Declaration except in connection with a transfer or conveyance by such Owner of its interest in the Real Property (and any conveyance made by deed of trust, Mortgage or other security instrument as security for any obligation or indebtedness shall not be deemed to be a transfer or conveyance within the meaning of the foregoing).

20.12 Notices. Any notice, demand, request or other communication required or permitted to be given by an Owner to another Owner or to Declarant shall be in writing, signed by the party giving the notice, and shall be given by delivering the same in person, by a recognized overnight courier service which maintains delivery records (such as Federal Express) or by depositing the same in the United States mail, registered or certified, return receipt requested, first-class postage, and postage prepaid. All notices shall be sent to the respective mailing addresses of the parties hereto at the following addresses, until such addresses are changed as hereinafter provided:

Declarant: Land Reserve, Inc.
Attn: Asset Manager
51 South Main Street, Suite 301
Salt Lake City, Utah 84111

To any other Owner: At such address as such Owner shall designate in writing to Declarant, or, if such Owner shall fail to designate in writing another address to Declarant, at such Owner's address in the Project.

Any Owner may change its mailing address at any time by giving written notice of such change to Declarant in the manner provided herein at least ten (10) days prior to the date such change is effective. Personal service and service by recognized overnight courier service will be deemed to be complete upon receipt, and service by mail will be deemed complete on deposit of said notice in the United States mail.

20.13 Jurisdiction. Any matter arising under this Declaration shall be governed by and determined in accordance with the Laws of the State of Utah.

20.14 Other Agreements. Nothing contained in this Declaration shall be construed as a limitation on Declarant's right to enter into any supplemental agreement with the grantee or lessee of any Lot or Parcel (or portion thereof) on terms and conditions more favorable to Declarant or otherwise different than those contained herein; provided, however, in all events, any such agreement shall be subordinate to this Declaration.

20.15 Severability. If any provision of this Declaration is held to be invalid by any court, the invalidity of such provision shall not affect the validity of the remaining provisions hereof. If for any reason judicial proceedings finally result in (i) invalidation of this Declaration or of any portion hereof, or (ii) the priority of this Declaration not relating back to the Original Declaration, then at Declarant's discretion the Original Declaration shall revive and shall apply to the Real Property, and the Real Property shall again be held, conveyed, hypothecated, encumbered, leased, rented, improved, used, and occupied subject to the Original Declaration, as if the Original Declaration had been continuously in effect. Such revival of the Original Declaration shall not require consent of the Owners, but shall occur solely on recording of notice by Declarant of the revival of the Original Declaration.

(Signature and Acknowledgement to follow)

IN WITNESS WHEREOF, Declarant has executed this Declaration to be effective as of the Effective Date.

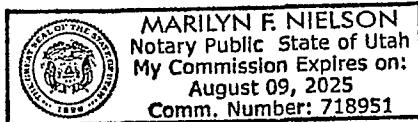
DECLARANT:

LAND RESERVE, INC.,
a Utah corporation, formerly known as
SUBURBAN LAND RESERVE, INC.

By: 
Name: Tyler L. Buswell RB
Its: President

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

On this 13 day of Jan., 2025, before me personally appeared Tyler L. Buswell, whose identity is personally known to or proved to me on the basis of satisfactory evidence, and who, being duly sworn (or affirmed), did say that he is the President of LAND RESERVE, INC., a Utah corporation, formerly known as SUBURBAN LAND RESERVE, INC., and that the foregoing document was signed by him on behalf of said corporation in his capacity as President.



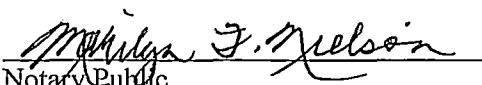

Notary Public

EXHIBIT A

DESCRIPTION OF REAL PROPERTY

Parcel 1

LOCATED IN SECTIONS 26 AND SECTION 35, TOWNSHIP 5 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT LOCATED S0°44'19"E ALONG THE SECTION LINE 967.56 FEET AND EAST 1548.07 FEET FROM THE NORTHWEST CORNER OF SECTION 35, TOWNSHIP 5 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN; THENCE NORTH 1265.18 FEET; THENCE EAST 1018.02 FEET TO THE WEST RIGHT-OF-WAY LINE OF REDWOOD ROAD; THENCE ALONG SAID RIGHT-OF-WAY LINE THE FOLLOWING FOUR (4) COURSES: S0°30'20"W 302.54 FEET; THENCE S2°05'00"E 807.82 FEET; THENCE N9°14'09"E 13.75 FEET; THENCE S2°02'58"E 249.46 FEET; THENCE S87°57'02"W 2.36 FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF A 16.00 FOOT RADIUS NON-TANGENT CURVE TO THE RIGHT (RADIUS BEARS: S87°56'05"W) 25.71 FEET THROUGH A CENTRAL ANGLE OF 92°03'55" (CHORD: S43°58'02"W 23.03 FEET); THENCE WEST 51.25 FEET; THENCE S82°52'30"W 394.63 FEET; THENCE WEST 541.17 FEET; THENCE ALONG THE ARC OF A 15.00 FOOT RADIUS CURVE TO THE RIGHT 23.56 FEET THROUGH A CENTRAL ANGLE OF 90°00'00" (CHORD: N45°00'00"W 21.21 FEET); THENCE NORTH 130.99 FEET; THENCE WEST 38.50 FEET TO THE POINT OF BEGINNING.

Cked by JJB 13 May 2019

CONTAINS: ±33.00 ACRES

Parcel 2

LOCATED IN SECTIONS 34 AND 35, TOWNSHIP 5 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT LOCATED S0°44'19"E ALONG THE SECTION LINE 1354.59 FEET AND WEST 11.67 FEET FROM THE NORTHEAST CORNER OF SECTION 34, TOWNSHIP 5 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN; THENCE EAST 1516.24 FEET; THENCE SOUTH 593.45 FEET; THENCE ALONG THE ARC OF A 583.50 FOOT RADIUS CURVE TO THE LEFT 374.51 FEET THROUGH A CENTRAL ANGLE OF 36°46'29" (CHORD: S18°23'14"E 368.12 FEET); THENCE S36°46'29"E 27.73 FEET; THENCE ALONG THE ARC OF A 506.50 FOOT RADIUS CURVE TO THE RIGHT 224.97 FEET THROUGH A CENTRAL ANGLE OF 25°26'56" (CHORD: S24°03'01"E 223.13 FEET); THENCE N75°03'56"E 9.49 FEET TO THE NORTHWEST CORNER OF TANNER LANE CHURCH SUBDIVISION; THENCE ALONG SAID SUBDIVISION THE FOLLOWING TWO (2) COURSES: SOUTHEASTERLY ALONG THE ARC OF A 272.00 FOOT RADIUS NON-TANGENT CURVE TO THE RIGHT (RADIUS BEARS: S75°03'56"W) 70.90 FEET THROUGH A CENTRAL ANGLE OF 14°56'04" (CHORD: S7°28'02"E 70.70 FEET); THENCE SOUTH 49.29 FEET TO THE NORTH LINE OF PHASE 1, SARATOGA HILLS SUBDIVISION; THENCE ALONG SAID NORTH LINE THE FOLLOWING FIVE (5) COURSES: N89°34'13"W 378.03 FEET; THENCE S89°22'30"W 118.07 FEET; THENCE S77°53'30"W 328.70 FEET; THENCE N48°24'30"W 62.62 FEET; THENCE N89°48'45"W 538.51 FEET TO THE SOUTHEAST CORNER OF SARATOGA HILLS 1,3 SUBDIVISION; THENCE ALONG SAID SUBDIVISION BOUNDARY THE FOLLOWING FIVE (5) COURSES: N0°11'15"E 111.12 FEET; THENCE N38°22'21"W 472.34 FEET; THENCE S66°59'35"W 270.81 FEET; THENCE S22°42'35"E 120.69 FEET; THENCE S67°17'25"W 28.00 FEET; THENCE N22°42'35"W 125.45 FEET; THENCE ALONG THE ARC OF A 484.50 FOOT RADIUS CURVE TO THE RIGHT 575.62 FEET THROUGH A CENTRAL ANGLE OF 68°04'17" (CHORD: N11°19'33"E 542.36 FEET); THENCE N45°21'42"E 29.10 FEET; THENCE ALONG THE ARC OF A 293.00 FOOT RADIUS CURVE TO THE LEFT 231.97 FEET THROUGH A CENTRAL ANGLE OF 45°21'42" (CHORD: N22°40'51"E 225.96 FEET); THENCE NORTH 179.87 FEET TO THE POINT OF BEGINNING.

Cked by JJB 13 May 2019

CONTAINS: ±47.47 ACRES

Parcel 3

LOCATED IN SECTIONS 26, 34 AND SECTION 35, TOWNSHIP 5 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT LOCATED S0°44'19"E ALONG THE SECTION LINE 1354.59 FEET AND WEST 11.67 FEET FROM THE NORTHWEST CORNER OF SECTION 35, TOWNSHIP 5 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN; THENCE NORTH 1652.18 FEET; THENCE EAST 1554.74 FEET; THENCE SOUTH 1265.18 FEET; THENCE EAST 38.50 FEET; THENCE SOUTH 130.99 FEET; THENCE WEST 77.00 FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF A 15.00 FOOT RADIUS NON-TANGENT CURVE TO THE RIGHT (RADIUS BEARS: WEST) 23.56 FEET THROUGH A CENTRAL ANGLE OF 90°00'00" (CHORD: S45°00'00"W 21.21 FEET); THENCE SOUTH 95.00 FEET; THENCE SOUTHEASTERLY ALONG THE ARC OF A 15.00 FOOT RADIUS NON-TANGENT CURVE TO THE RIGHT (RADIUS BEARS: SOUTH) 23.56 FEET THROUGH A CENTRAL ANGLE OF 90°00'00" (CHORD: S45°00'00"E 21.21 FEET); THENCE SOUTH 131.01 FEET; THENCE WEST 1516.24 FEET TO THE POINT OF BEGINNING.

CONTAINS: ±58.82 ACRES

Checked by JJB 13 May 2019

Parcel 4

LOCATED IN SECTION 26, 27, 34 AND 35, TOWNSHIP 5 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT LOCATED S89°45'41"E ALONG THE SECTION LINE 756.02 FEET AND NORTH 99.71 FEET FROM THE NORTH QUARTER CORNER OF SECTION 34, TOWNSHIP 5 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, (SAID QUARTER CORNER BEING LOCATED N89°45'41"W 2687.71 FEET FROM THE NORTHEAST CORNER OF SAID SECTION 34); THENCE EAST 294.76 FEET; THENCE ALONG THE ARC OF A 1252.50 FOOT RADIUS CURVE TO THE LEFT 1133.77 FEET THROUGH A CENTRAL ANGLE OF 51°51'52" (CHORD: N64°04'04"E 1095.46 FEET); THENCE N38°08'08"E 71.51 FEET; THENCE S51°51'52"E 399.73 FEET; THENCE ALONG THE ARC OF A 461.50 FOOT RADIUS CURVE TO THE LEFT 307.17 FEET THROUGH A CENTRAL ANGLE OF 38°08'08" (CHORD: S70°55'56"E 301.53 FEET); THENCE EAST 14.00 FEET; THENCE SOUTH 1832.05 FEET; THENCE ALONG THE ARC OF A 293.00 FOOT RADIUS CURVE TO THE RIGHT 231.97 FEET THROUGH A CENTRAL ANGLE OF 45°21'42" (CHORD: S22°40'51"W 225.96 FEET); THENCE S45°21'42"W 29.10 FEET; THENCE ALONG THE ARC OF A 484.50 FOOT RADIUS CURVE TO THE LEFT 575.62 FEET THROUGH A CENTRAL ANGLE OF 68°04'17" (CHORD: S11°19'33"W 542.36 FEET); THENCE S22°42'35"E 125.45 FEET TO THE NORTH LINE OF SARATOGA HILLS 1, 3 SUBDIVISION; THENCE ALONG SAID SUBDIVISION BOUNDARY THE FOLLOWING FOUR (4) COURSES: THENCE S67°17'25"W 28.00 FEET; THENCE S22°42'35"E 32.92 FEET; THENCE ALONG THE ARC OF A 499.00 FOOT RADIUS CURVE TO THE RIGHT 186.63 FEET THROUGH A CENTRAL ANGLE OF 21°25'47" (CHORD: S11°59'41"E 185.55 FEET); THENCE S1°16'48"E 28.95 FEET MORE OR LESS TO THE NORTH LINE OF BENCHES PLAT 1, SUBDIVISION; THENCE N89°45'56"W ALONG THE NORTH LINE OF THE BENCHES PLATS 1-3 AND 10, 1687.72 FEET; THENCE N2°59'33"E 158.94 FEET; THENCE N28°09'01"E 600.67 FEET; THENCE S61°50'59"E 18.35 FEET; THENCE N28°09'01"E 113.55 FEET; THENCE ALONG THE ARC OF A 1397.50 FOOT RADIUS CURVE TO THE LEFT 548.30 FEET THROUGH A CENTRAL ANGLE OF 22°28'46" (CHORD: N16°54'38"E 544.79 FEET); THENCE N2°17'40"W 387.31 FEET; THENCE NORTHWESTERLY ALONG THE ARC OF A 1397.50 FOOT RADIUS NON-TANGENT CURVE TO THE LEFT (RADIUS BEARS: S79°44'25"W) 571.84 FEET THROUGH A CENTRAL ANGLE OF 23°26'41" (CHORD: N21°58'56"W 567.86 FEET); THENCE S56°18'37"W 154.00 FEET; THENCE N34°06'22"W 29.56 FEET; THENCE S61°50'59"W 37.73 FEET; THENCE N34°11'20"W 321.37 FEET; THENCE NORTHWESTERLY ALONG THE ARC OF A 250.00 FOOT RADIUS NON-TANGENT CURVE TO THE RIGHT (RADIUS BEARS: N55°48'26"E) 149.19 FEET THROUGH A CENTRAL ANGLE OF 34°11'34" (CHORD: N17°05'47"W 146.99 FEET); THENCE NORTH 221.07 FEET TO THE POINT OF BEGINNING.

CONTAINS: ±103.58 ACRES

Checked by JJB 13 May 2019

Parcel 5

LOCATED IN SECTION 34 AND SECTION 27, TOWNSHIP 5 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT LOCATED N89°50'00"W ALONG THE SECTION LINE 869.33 FEET AND NORTH 94.03 FEET FROM THE NORTH QUARTER CORNER OF SECTION 34, TOWNSHIP 5 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, (SAID QUARTER CORNER BEING LOCATED N89°45'41"W 2687.71 FEET FROM THE NORTHEAST CORNER OF SAID SECTION 34); THENCE EAST 1625.33 FEET; THENCE SOUTH 221.07 FEET; THENCE ALONG THE ARC OF A 250.00 FOOT RADIUS CURVE TO THE LEFT 149.19 FEET THROUGH A CENTRAL ANGLE OF 34°11'34" (CHORD: S17°05'47"E 146.99 FEET); THENCE S34°11'34"E 321.37 FEET; THENCE S61°50'59"W 234.82 FEET; THENCE S68°54'04"W 73.34 FEET; THENCE WEST 1063.29 FEET; THENCE SOUTH 504.04 FEET; THENCE WEST 558.00 FEET; THENCE NORTH 599.11 FEET; THENCE ALONG THE ARC OF A 1810.00 FOOT RADIUS CURVE TO THE RIGHT 226.38 FEET THROUGH A CENTRAL ANGLE OF 7°09'58" (CHORD: N3°34'56"E 226.23 FEET); THENCE N7°09'58"E 147.66 FEET; THENCE ALONG THE ARC OF A 2000.00 FOOT RADIUS CURVE TO THE LEFT 297.87 FEET THROUGH A CENTRAL ANGLE OF 8°32'00" (CHORD: N2°53'58"E 297.60 FEET) TO THE POINT OF BEGINNING.

Ckcd by JJB 13 May 2019

CONTAINS: ±36.57 ACRES

Parcel 6

LOCATED IN SECTIONS 34 AND 35, TOWNSHIP 5 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT LOCATED N89°50'00"W ALONG THE SECTION LINE 358.93 FEET AND SOUTH 669.06 FEET FROM THE NORTH QUARTER CORNER OF SECTION 34, TOWNSHIP 5 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, (SAID QUARTER CORNER BEING LOCATED N89°45'41"W 2687.71 FEET FROM THE NORTHEAST CORNER OF SAID SECTION 34); THENCE EAST 1063.29 FEET; THENCE N68°54'04"E 73.34 FEET; THENCE N61°50'59"E 272.53 FEET; THENCE S34°11'34"E 19.00 FEET; THENCE ALONG THE ARC OF A 1243.50 FOOT RADIUS CURVE TO THE RIGHT 10.56 FEET THROUGH A CENTRAL ANGLE OF 0°29'12" (CHORD: S33°56'59"E 10.56 FEET); THENCE N56°18'37"E 154.00 FEET; THENCE SOUTHEASTERLY ALONG THE ARC OF A 1397.50 FOOT RADIUS NON-TANGENT CURVE TO THE RIGHT (RADIUS BEARS: S56°17'44"W) 571.84 FEET THROUGH A CENTRAL ANGLE OF 23°26'41" (CHORD: S21°58'56"E 567.86 FEET); THENCE S2°17'40"E 387.31 FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF A 1397.50 FOOT RADIUS NON-TANGENT CURVE TO THE RIGHT (RADIUS BEARS: N84°19'45"W) 548.30 FEET THROUGH A CENTRAL ANGLE OF 22°28'46" (CHORD: S16°54'38"W 544.79 FEET); THENCE S28°09'01"W 113.55 FEET; THENCE N61°50'59"W 18.35 FEET; THENCE S28°09'01"W 600.67 FEET; THENCE S2°59'33"W 158.94 FEET MORE OR LESS TO THE NORTH LINE OF BENCHES PLAT 10, SUBDIVISION; THENCE N89°45'56"W ALONG THE NORTH LINE OF SAID SUBDIVISION 846.93 FEET TO THE NORTHWEST CORNER OF THE BENCHES PLAT 10 SUBDIVISION, SAID POINT ALSO BEING HELD AS THE CENTER OF SECTION 34, TOWNSHIP 5 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN; THENCE N89°50'07"W ALONG THE QUARTER SECTION LINE 210.01 FEET TO THE SOUTHEAST CORNER OF PLAT "A", QUESTAR BENCHES MINOR SUBDIVISION; THENCE ALONG SAID SUBDIVISION THE FOLLOWING THREE (3) COURSES: N0°23'17"W 65.00 FEET; THENCE N89°50'07"W 110.00 FEET; THENCE S0°23'17"E 65.00 FEET TO SAID QUARTER SECTION LINE; THENCE N89°50'07"W ALONG SAID QUARTER SECTION LINE 609.23 FEET; THENCE NORTHWESTERLY ALONG THE ARC OF A 3000.00 FOOT RADIUS NON-TANGENT CURVE TO THE RIGHT (RADIUS BEARS: N86°09'41"E) 200.98 FEET THROUGH A CENTRAL ANGLE OF 3°50'19" (CHORD: N1°55'09"W 200.95 FEET); THENCE NORTH 1287.68 FEET; THENCE EAST 558.00 FEET; THENCE NORTH 504.04 FEET TO THE POINT OF BEGINNING.

Ckcd by JJB 13 May 2019

CONTAINS: ±92.34 ACRES

Parcel 7

LOCATED IN SECTIONS 34 AND 35, TOGETHER WITH SECTIONS 26 AND 27, TOWNSHIP 5 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT LOCATED N89°50'00"W ALONG THE SECTION LINE 969.97 FEET AND NORTH 113.74 FEET FROM THE NORTH QUARTER CORNER OF SECTION 34, TOWNSHIP 5 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, (SAID QUARTER CORNER BEING LOCATED N89°45'41"W 2687.71 FEET FROM THE NORTHEAST CORNER OF SAID SECTION 34); THENCE EAST 2020.73 FEET; THENCE ALONG THE ARC OF A 1232.50 FOOT RADIUS CURVE TO THE LEFT 1115.67 FEET THROUGH A CENTRAL ANGLE OF 51°51'52" (CHORD: N64°04'04"E 1077.96 FEET); THENCE N38°08'08"E 101.51 FEET; THENCE S51°51'52"E 419.73 FEET; THENCE ALONG THE ARC OF A 431.50 FOOT RADIUS CURVE TO THE LEFT 287.20 FEET THROUGH A CENTRAL ANGLE OF 38°08'08" (CHORD: S70°55'56"E 281.93 FEET); THENCE EAST 2587.03 FEET TO THE WEST RIGHT-OF-WAY LINE OF REDWOOD ROAD; THENCE S0°30'20"W ALONG SAID RIGHT-OF-WAY LINE 30.00 FEET; THENCE WEST 2586.77 FEET; THENCE ALONG THE ARC OF A 461.50 FOOT RADIUS CURVE TO THE RIGHT 307.17 FEET THROUGH A CENTRAL ANGLE OF 38°08'08" (CHORD: N70°55'56"W 301.53 FEET); THENCE N51°51'52"W 399.73 FEET; THENCE S38°08'08"W 71.51 FEET; THENCE ALONG THE ARC OF A 1252.50 FOOT RADIUS CURVE TO THE RIGHT 1133.77 FEET THROUGH A CENTRAL ANGLE OF 51°51'52" (CHORD: S64°04'04"W 1095.46 FEET); THENCE WEST 1920.09 FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF A 2000.00 FOOT RADIUS NON-TANGENT CURVE TO THE RIGHT (RADIUS BEARS: S88°37'58"W) 297.87 FEET THROUGH A CENTRAL ANGLE OF 8°32'00" (CHORD: S2°53'58"W 297.60 FEET); THENCE S7°09'58"W 147.66 FEET; THENCE ALONG THE ARC OF A 1810.00 FOOT RADIUS CURVE TO THE LEFT 226.38 FEET THROUGH A CENTRAL ANGLE OF 7°09'58" (CHORD: S3°34'59"W 226.23 FEET); THENCE SOUTH 1886.79 FEET; THENCE ALONG THE ARC OF A 3000.00 FOOT RADIUS CURVE TO THE LEFT 200.98 FEET THROUGH A CENTRAL ANGLE OF 3°50'19" (CHORD: S1°55'09"E 200.95 FEET) TO THE QUARTER SECTION LINE; THENCE N89°50'07"W ALONG SAID QUARTER SECTION LINE 100.24 FEET; THENCE NORTHWESTERLY ALONG THE ARC OF A 3100.00 FOOT RADIUS NON-TANGENT CURVE TO THE RIGHT (RADIUS BEARS: N86°17'27"E) 200.69 FEET THROUGH A CENTRAL ANGLE OF 3°42'33" (CHORD: N1°51'17"W 200.65 FEET); THENCE NORTH 1886.79 FEET; THENCE ALONG THE ARC OF A 1910.00 FOOT RADIUS CURVE TO THE RIGHT 238.89 FEET THROUGH A CENTRAL ANGLE OF 7°09'58" (CHORD: N3°34'59"E 238.73 FEET); THENCE N7°09'58"E 147.66 FEET; THENCE ALONG THE ARC OF A 1900.00 FOOT RADIUS CURVE TO THE LEFT 305.37 FEET THROUGH A CENTRAL ANGLE OF 9°12'32" (CHORD: N2°33'42"E 305.05 FEET) TO THE POINT OF BEGINNING.

Ckd by JJB 13 May 2019

CONTAINS: ± 10.09 ACRES

EXHIBIT B

DESCRIPTION OF TEMPLE LOT

Lot 121 of Founders at Beacon Pointe Plat A recorded on March 3, 2020, as Entry No. 27310:2020, Map 16979, in the Official Records of the Utah County Recorder's Office.

EXHIBIT C

DESCRIPTION AND DEPICTION OF COMMON AREAS

Depiction of Village 1A

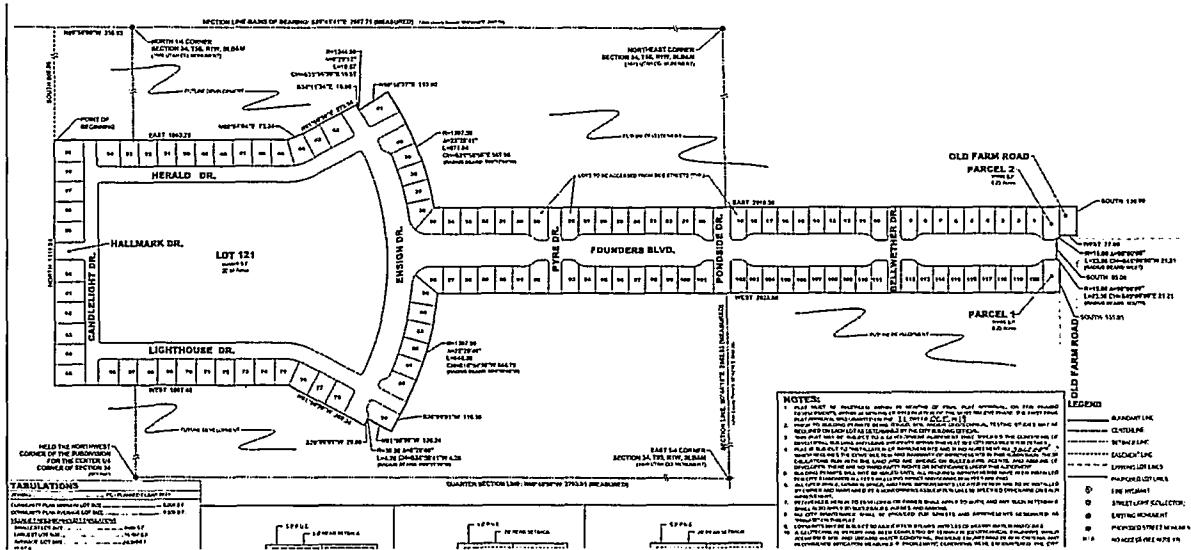
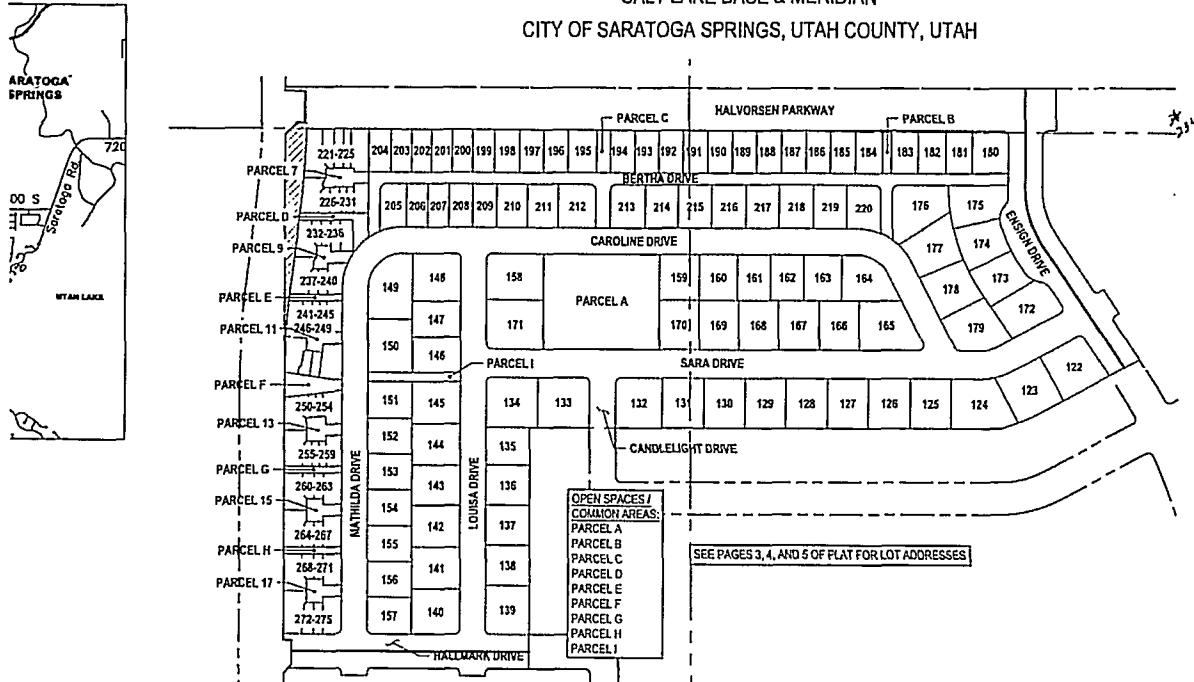


EXHIBIT C

DEPICTION OR DESCRIPTION OF COMMON AREAS
(cont.)*Depiction of Village 2 Plat and Common Area***BEACON POINTE VILLAGE 2**

LOCATED IN SECTION 34, TOWNSHIP 5 SOUTH, RANGE 1 WEST,
SALT LAKE BASE & MERIDIAN
CITY OF SARATOGA SPRINGS, UTAH COUNTY, UTAH

Common Area (Village Open Space) Parcels*

Parcels A, B, C, D, E, F, G, H, and I of Beacon Pointe Village 2 Subdivision recorded on December 21, 2023, as Entry No. 82644:2023, Map 16979, in the Official Records of the Utah County Recorder's Office.

Common Area (Driveway) Parcels*

Parcels 7, 9, 11, 13, 15, and 17 of Beacon Pointe Village 2 Subdivision recorded on December 21, 2023, as Entry No. 82644:2023, Map 16979, in the Official Records of the Utah County Recorder's Office.

***Note:** Pursuant to Note 19 on that certain Plat Map recorded on December 21, 2023 as Entry No. 82644:2023 in the Office of the Utah County Recorder, the following open space will be owned and maintained by the Association: connecting trails, paseos, neighborhood park, and the entirety of the slip lane median along Ensign Drive and 800 South (also commonly known as Halvorsen Parkway), all within the boundaries of Village 2. At this time, no open space within Village 2 will be owned or maintained by the City.

EXHIBIT C

DEPICTION OR DESCRIPTION OF COMMON AREAS
(cont.)

In addition, Common Areas shall include the following depicted Common Areas:

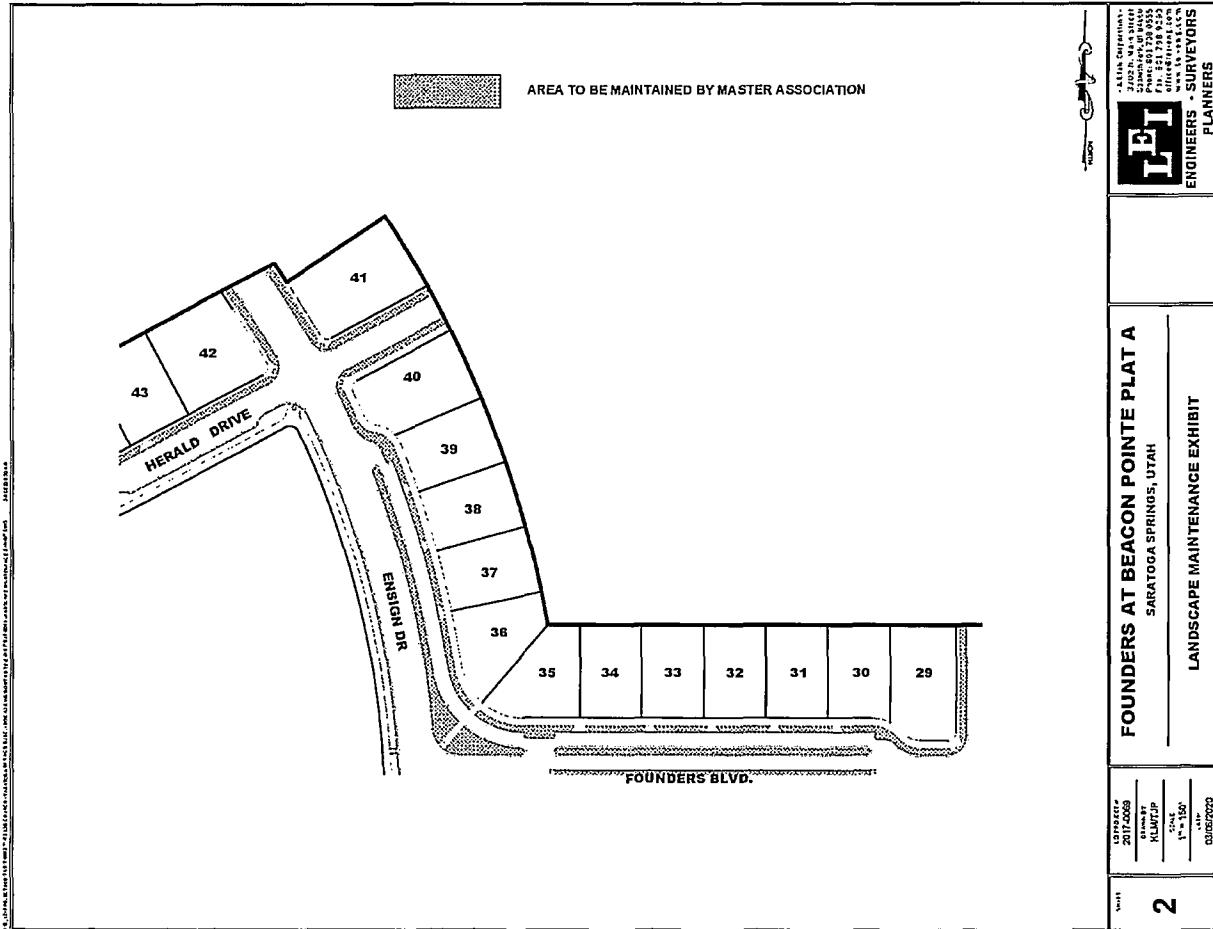


EXHIBIT C

DEPICTION OR DESCRIPTION OF COMMON AREAS
(cont.)

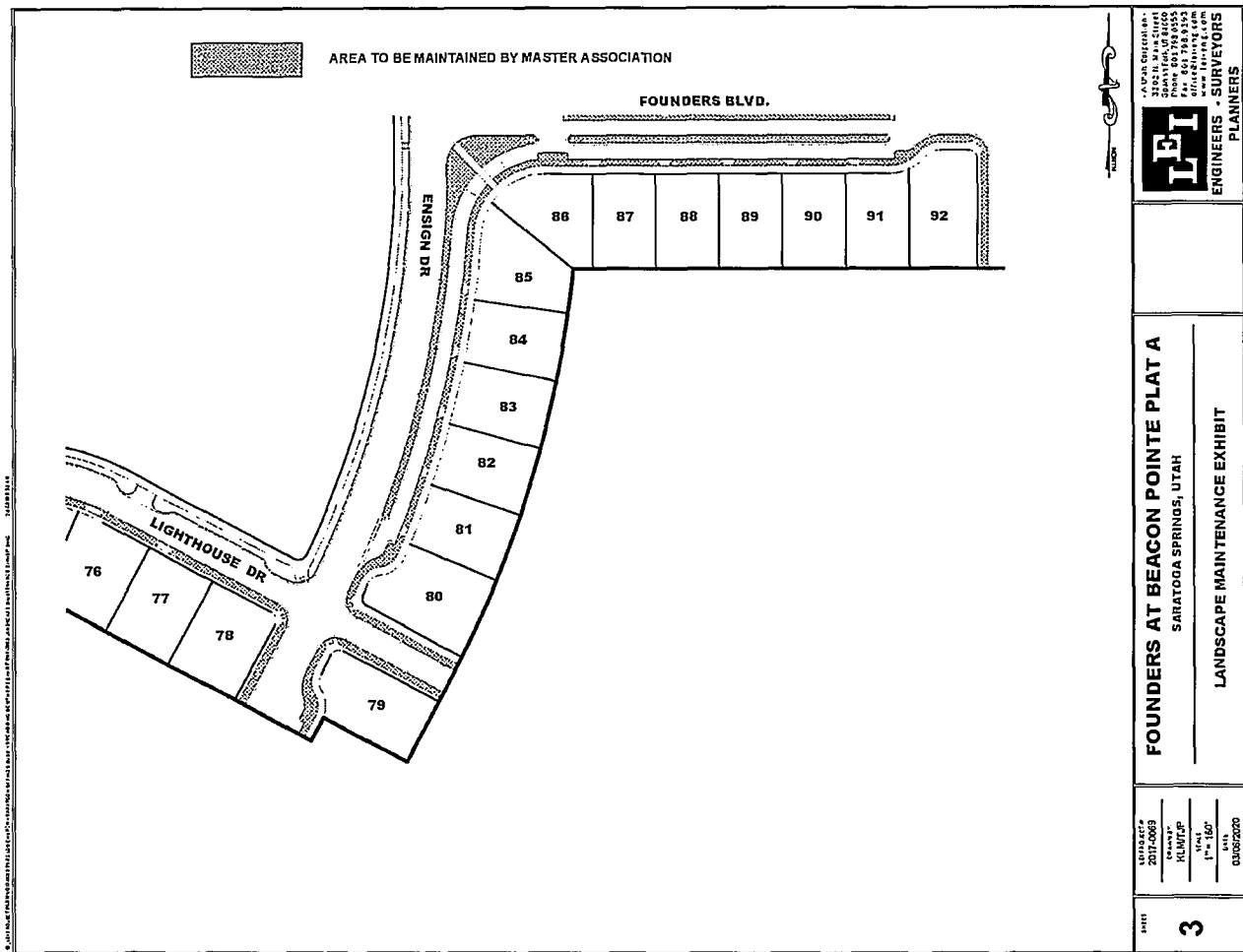


EXHIBIT C

DEPICTION OR DESCRIPTION OF COMMON AREAS
(cont.)

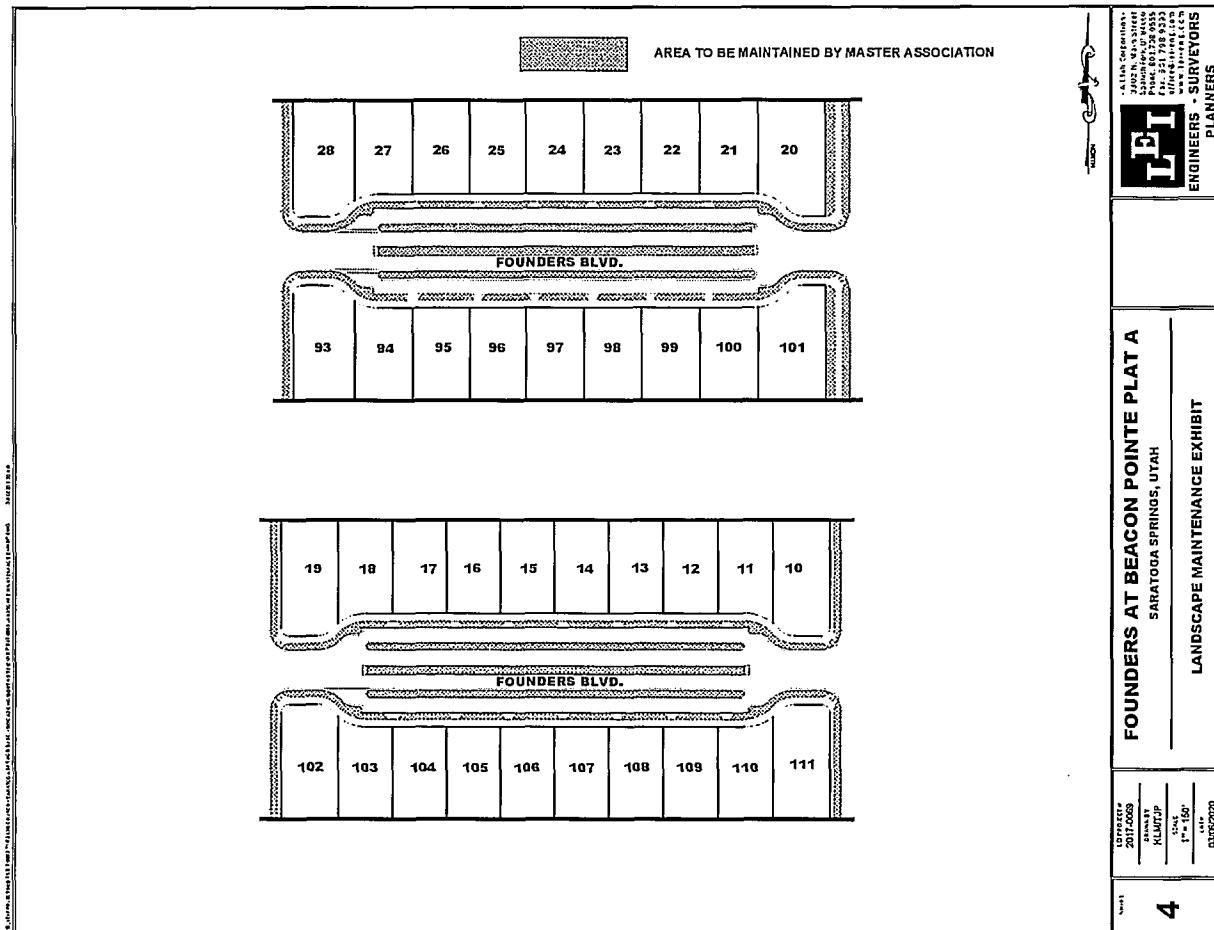


EXHIBIT C

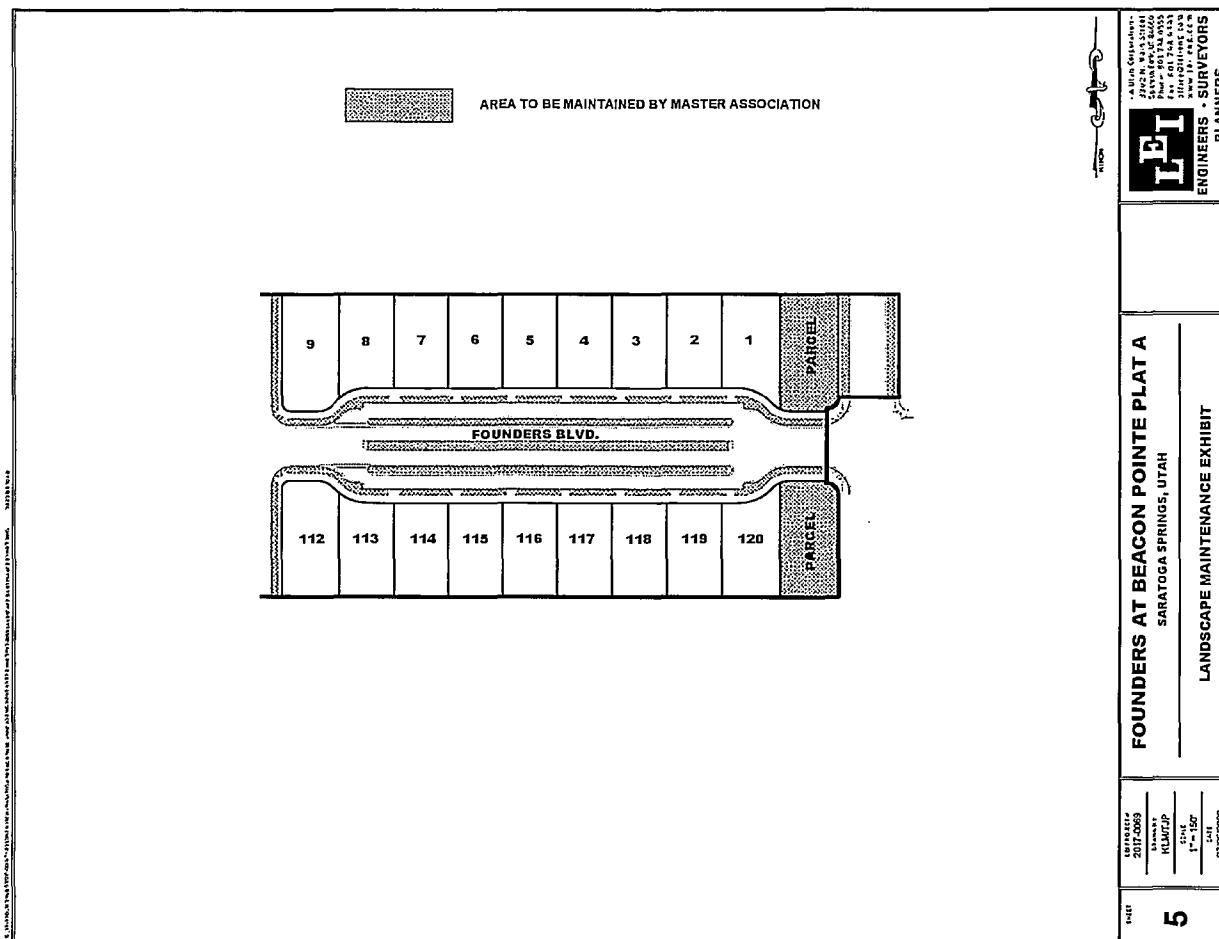
DEPICTION OR DESCRIPTION OF COMMON AREAS
(cont.)

EXHIBIT C

DEPICTION OR DESCRIPTION OF COMMON AREAS
(cont.)

Depiction of Bertha Drive

Parcel No. 35:840:0291

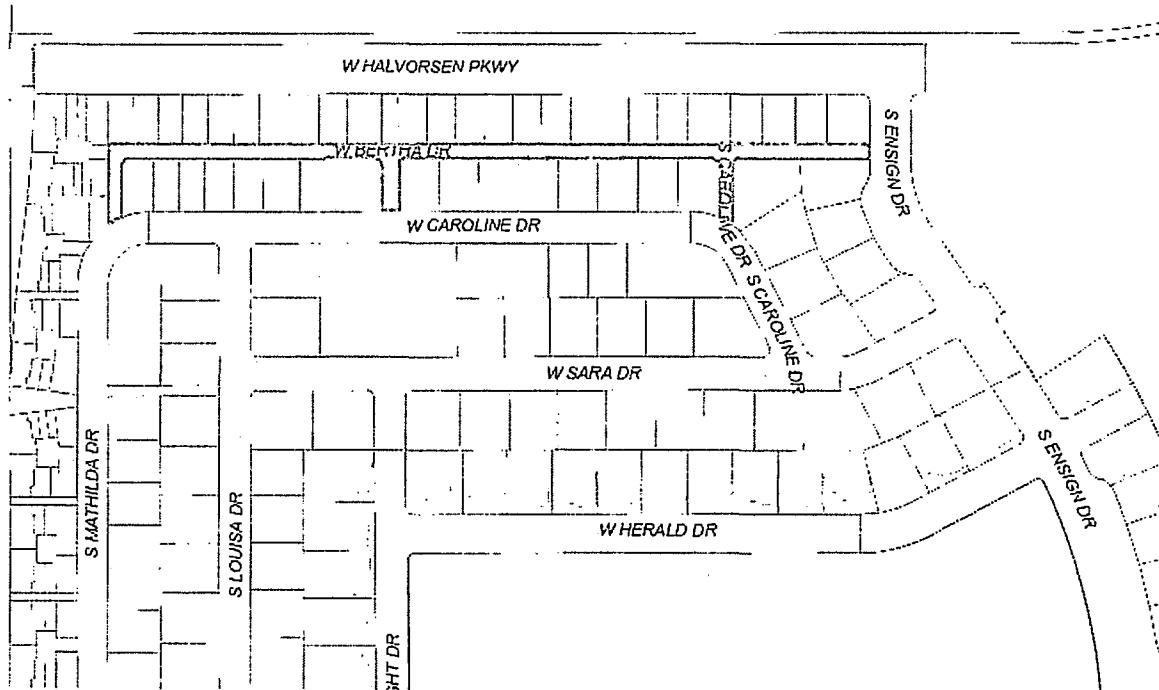


EXHIBIT D
Approved Fencing Examples

BEACON POINTE | Approved Fencing Examples

