

WHEN RECORDED RETURN TO:

Warner Gateway Homeowner's Association
 Jay Rice, Agent
 4968 South Holiday Pines Ct.
 Holiday, Utah 84117

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

First Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Warner Gateway Subdivision

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**FIRST AMENDED AND RESTATED DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS FOR
WARNER GATEWAY SUBDIVISION**

This First Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Warner Gateway Subdivision ("Declaration") is made on the date executed below by Declarant, Warner Gateway, LLC, a Utah limited liability company, and Warner Gateway Homeowner's Association, a Utah nonprofit corporation.

RECITALS

- A. Warner Gateway Subdivision is a planned unit development located in Washington City, Washington County, Utah.
- B. Declarant, Warner Gateway, LLC, a Utah limited liability company, has sold and intends to sell to various purchasers, the fee title to the individual Lots (defined below) within the Property (defined below), subject to the following covenants, conditions, restrictions, easements, and limitations in this Declaration, which are hereby declared to be for the benefit of the Property and the Owners (defined below), their successors and assigns.
- C. These covenants, conditions, restrictions, easements, and limitations shall run with the land described in **Exhibit "A"** and shall be binding on and burden all parties having or acquiring any right, title, or interest to the land or any part thereof and create servient tenements on the land. These covenants, conditions, restrictions, easements, and limitations shall also benefit all parties having or acquiring any right, title, or interest to the land and constitute dominant tenements on the land.
- D. All Owners, guests, invitees, agents, and residents shall abide by the provisions of this Declaration.
- E. This Declaration amends and replaces the Declaration of Covenants, Conditions and Restrictions for Warner Gateway Subdivision recorded with the Washington County Recorder on September 19, 2016, as Doc. No. 20160034654 ("Original Declaration"), and any other amendments and supplements to the Original Declaration, whether or not recorded with the Washington County Recorder.
- F. The Original Declaration was recorded against an unsubdivided parcel of property, identified by the Washington County Recorder as parcel number W-5-3-1-320, and the Original Declaration designated this parcel as the Warner Gateway Subdivision ("Subdivision").
- G. The Original Declaration provides for the phased development of the Subdivision into an anticipated 150 Lots, as shown on a preliminary plat map of the Subdivision, attached to the Original Declaration as Exhibit B.
- H. After the Original Declaration was recorded, a portion of the Subdivision was subdivided into Warner Gateway Phase 1, as shown on the plat map filed with the Washington County Recorder on February 17, 2017, as Entry No. 20170007256, and Phase 1 contains 30 Lots.

I. Article XIII, sect. 8.5 (p. xxi), and Article XIII, sect. 13.1 (p. xxviii), of the Original Declaration¹ provide that the Original Declaration may be amended by the approval of the Owners of 67% of the Lots—including both subdivided and unsubdivided Lots.

J. The Declarant is the Owner of at least 67% of the 150 anticipated Lots (those 150 Lots being compromised of the 30 Lots in Phase 1 and the anticipated 120 Lots in future phases).

K. These Recitals shall be deemed covenants as well as recitals.

NOW THEREFORE, for the benefit of the Property and the Owners, the covenants, conditions, restrictions, easements, and limitations apply to and are binding on the Property:

1 DEFINITIONS

Capitalized terms used in the Governing Documents have the following meanings:

1.2 Articles

Articles mean the Articles of Incorporation for Warner Gateway Homeowner's Association, as amended or restated from time to time.

1.3 Association

Association means the Warner Gateway Homeowner's Association, a Utah non-profit corporation. Failure of the Association to maintain its corporate status will not result in dissolution of the Association. The Association may renew its corporate status, reinstate its corporate status, or incorporate without Owner approval. Any actions taken during any period of un-incorporation shall be binding.

1.4 Board

Board means the Board of Directors. The Board governs the Property as well as the business, architectural control, and affairs of the Association.

1.5 Bylaws

Bylaws mean the bylaws of the Association, as amended or restated from time to time.

1.6 Common Areas

Common Areas mean the private roads, if any; all open spaces; any areas not shown on the Map; the pool area; pickleball courts; recreation area; all open spaces; any areas not shown on the Map as Lots; any other areas shown or described on the Map as Common Areas or open space. The Common Areas may consist of landscaping, irrigation equipment, walkways, paving, and other improvements. The Association owns all Common Areas. Streets and sidewalks are dedicated to Washington City. However, use of the streets and sidewalks are subject to the Governing Documents.

1.7 Common Expenses

Common Expenses mean all sums spent to administer, maintain, or replace the Common Areas; expenses agreed upon as common expenses by a majority of a quorum of Owners; expenses authorized by the Governing Documents or the Community Association Act as common expenses; any other expenses necessary for the common benefit of the Owners.

¹ The Original Declaration contains two articles titled "Article XIII."

1.8 Community Association Act

Community Association Act means Utah Code § 57-8a-1, et seq. Any reference to the Community Association Act is to the Community Association Act as amended, supplemented, or replaced from time to time.

1.9 Declarant

Declarant means Warner Gateway, LLC, a Utah limited liability company, its successors and any Person to which it shall have assigned any rights under this Declaration. A Person that acquires all or substantially all of the right, titles and interest of Warner Gateway, LLC, in the Property by foreclosure, judicial sale, bankruptcy proceedings, or by other similar involuntary transfer, shall automatically be deemed a successor and assign of Warner Gateway, LLC, as the Declarant under this Declaration.

1.10 Declaration

Declaration means this document, as amended, annexed, supplemented, or restated from time to time.

1.11 Director

Director means a member of the Board of Directors.

1.12 Governing Documents

Governing Documents mean the Declaration, Bylaws, Articles of Incorporation, Map, and Rules & Regulations.

1.13 Individual Assessment

Individual Assessment means the assessment set forth in Section 6.9 of this Declaration.

1.14 Living Unit

Living Unit means a structure on a Lot that is designed and intended for use and occupancy as a single-family residence, together with all improvements located on that Lot that are used in conjunction with the Living Unit.

1.15 Lot

Lot means a separately numbered parcel of property designated for private ownership, identified on the Map, and any unsubdivided parcel of property that the Declarant intends to subdivide in future phases of development of the Property. Lots include the Living Unit and all utility lines and other installations exclusively serving the Lot whether under or over the Common Areas or not.

1.16 Map

Map means: (a) the plat map for Warner Gateway Phase 1, filed with the Washington County Recorder on February 17, 2017, as Entry No. 20170007256, including any amendments or supplements thereto; and (b) the plat maps for future phases, including any amendments or supplements thereto.

1.17 Member

Member means an Owner. If an Owner is not a natural person, the Owner may designate, in writing, a natural person to act as its representative. If no representative is designated, then an officer, trustee, director, manager, or member as shown in the entity's formative documents shall be its representative.

1.18 Nonprofit Act

Nonprofit Act means Utah Code § 16-6a-101, et seq. Any reference to the Nonprofit Act is to the Nonprofit Act as amended, supplemented, or replaced from time to time.

1.19 Owner

Owner means the Person holding fee simple title to a Lot as shown in the records of the Washington County Recorder, and where the context requires, includes the Declarant, as owner of the portions of the Property intended for development in future phases.

1.20 Person

Person means an individual, corporation, partnership, association, trustee, or other legal entity.

1.21 Property

Property means the real property described in **Exhibit "A."**

1.22 Resident

Resident means any Person living or staying at the Property. Residents include without limitation: Owners, tenants, family members of Owners and tenants, and guests.

1.23 Rules & Regulations

Rules & Regulations mean all reasonable rules and regulations as may be adopted and promulgated by the Board.

1.24 Turnover Meeting

Turnover Meeting means the meeting described in Section 9.1.

2 SUBMISSION AND WITHDRAWAL

2.1 Submission

The Property is bound by the Governing Documents, the Community Association Act, and the Nonprofit Act. All Owners shall take title subject to the Governing Documents, the Community Association Act, and the Nonprofit Act. All Residents, invitees, licensees, and other users of the Property are subject to the Governing Documents and the Community Association Act.

2.2 Future Phases

The Declarant intends to designate four additional phases within the Property (not including Phase 1). The Declarant will have a plat maps recorded for each phase. A supplemental declaration of covenants, conditions, and restrictions and reservation of easements or similar instrument may be recorded but is not necessary to subject any future phase to this Declaration because Property is already subject to this Declaration.

2.3 Withdrawal

Before the Turnover Meeting, the Declarant may withdraw any property it owns (excluding, however, any Common Areas conveyed to the Association by the Declarant) from the Property. Any withdrawn property shall no longer be subject to this Declaration except for any easements, rights, reservations, exemptions, power, or privileges reserved to the Declarant pursuant to this Declaration, which burdens the withdrawn property for the benefit of any property that is subject to the Declaration. Withdrawal must be made by recording a supplement to this Declaration with the Washington County Recorder's Office, withdrawing the effect of the of the Governing Documents from the withdrawn property. The withdrawn property may be utilized by the Declarant for any lawful purpose.

3 PROPERTY RIGHTS IN LOTS

3.1 Use and Occupancy

Except as otherwise expressly provided in the Governing Documents, the Owner shall be entitled to the exclusive use and benefit of such Lot and Living Unit as a single-family residence. Each Lot shall be bound by, and the Owner shall comply with, the Governing Documents for the mutual benefit of the Owners.

3.2 Easements Reserved

In addition to the easements shown on the Map or provided for under this Declaration, the Bylaws or law, the following easements are hereby reserved for the benefit of the Owners and the Association:

3.2.1 Right of Entry. The Association and any person authorized by the Association may at any reasonable time, and from time to time at reasonable intervals, enter upon any Lot for the purpose of performing maintenance and determining whether or not the Lot complies with the Governing Documents. Requests for entry shall be made in advance. Entry shall be made at a time convenient to the Owner, except in the case of an emergency when such right shall be immediate. No such entry shall be deemed to constitute a trespass or otherwise create any right of action in the Owner of such Lot. The right of entry granted by this subsection is in addition to the Association's enforcement rights and applies only to Lots upon which the Association has maintenance responsibilities as provided for in the Governing Documents.

3.2.2 Easement for Encroachment. If any part of the Common Areas encroaches on a Lot, an easement for the encroachment and for maintenance shall exist. If any part of a Lot encroaches upon the Common Areas, an easement for the encroachment and for maintenance shall exist. Such encroachments will not be considered to be encumbrances to the Common Areas or Lots. Encroachment causes include, without limitation, errors in the original construction; errors in the Map; settling, rising, or shifting of the earth; or changes in position caused by good faith mistakes in the repair or reconstruction of the Property.

3.2.3 Utility Easements. The Association and any public utility provider shall have an easement over all Lots for the installation, maintenance, and development of utilities and drainage facilities. The easement area of each Lot and all improvements therein shall be maintained continuously by the Owner of the Lot in accordance with the terms of the Governing Documents, except for those improvements for which a public authority or utility provider is responsible.

3.3 Easements Shown on Map

Lots shall be subject to the easements shown on the Map.

4 PROPERTY AND USE RIGHTS IN COMMON AREAS

4.1 Owner's Right of Enjoyment

4.1.1 The Property will have Common Areas as designated in the Map for the benefit of all Owners. Every Owner shall have a non-exclusive right and easement for the use, benefit, and enjoyment of the Common Area, and this nonexclusive right and easement shall be appurtenant to and shall pass with the title to every Lot, subject to the restrictions set forth in this Declaration.

4.1.2 Subject to the Governing Documents, each Resident and that Resident's invited guests have the right to ingress and egress across the Common Areas necessary for access to the Lot. The rights described in this Section are appurtenant to and pass with title to the Lot.

4.1.3 No portion of the Common Areas may be used exclusively by any Owner or Owners for personal gardens, storage facilities, or for any other purpose.

4.2 Delegation of Right of Use

Any member of the Association may delegate its rights to the use and enjoyment of the Common Areas to Residents, all subject to such reasonable Rules & Regulations which the Association may adopt.

4.3 Compliance with Covenants and Restrictions and Rules & Regulations

Each Owner and Resident shall comply with the covenants and restrictions imposed by this Declaration on the use and enjoyment of the Common Area. Further, each Owner and Resident shall comply with the Rules & Regulations applicable to use of the Common Area, as such Rules & Regulations are from time to time adopted by the Association for the safety, care, maintenance, good order, and cleanliness of the Common Area.

5 MAINTENANCE

5.1 Association Responsibility

The Association shall improve, develop, supervise, manage, operate, examine, insure, inspect, care for, repair, replace, restore, and maintain the Common Areas.

The Association shall maintain the front yard landscaping (weeding, mowing, trimming (trees to 10 feet), raking, etc.) to the front foundation line of the Living Unit. All other landscaping maintenance, repair, and replacement shall be the responsibility of the Owner.

The Board, after notice and opportunity for hearing, or in the case of an emergency immediately, may assume the maintenance responsibility over a Lot or Living Unit if, in the opinion of the Board, the Owner is unwilling or unable to adequately provide such maintenance. Should the Board exercise its right under this provision, it shall not be liable for trespass or nuisance and shall have the right to levy an Individual Assessment to recover its maintenance costs.

5.2 Owner Responsibility

All maintenance, repair, and replacement of the Lots and Living Units shall be the sole responsibility of the Owner, who shall maintain that Owner's Lot and Living Unit in good repair and in accordance with the Governing Documents and Community Standards. Maintenance, repair, and replacement responsibility shall include, by way of illustration only: all interior, exterior and structural components; roof; exterior walls; doors; garage doors; windows, window frames, window casing; exterior light fixtures, exterior electrical outlets, light bulbs; HVAC installations; plumbing installations; electrical installations; landscaping; and any other component of the Living Unit or Lot not expressly assumed by the Association. The Owners shall also be responsible to maintain the patios in a clean and orderly manner.

The Owner shall be responsible for the front yard irrigation system, plants (removal and replacement), trees over 10 feet and rock replacement and anything not covered by the Association's front yard maintenance responsibility. The Owner shall maintain all landscaping in the side and rear yard to the standard of the front yard maintenance. Side and rear yard landscaping shall be paid for and installed by the Owner within six months of the date of purchase of the Living Unit. All such side and rear yard landscape installation shall be approved in writing, by the Board before installation.

5.3 Party Walls, Fences, Gates, etc.

Each wall or fence used as the dividing line between Lots is a party wall. Nothing in this section shall alter or limit the general rules of law regarding party walls and liability for damage due to negligence, or willful acts or omissions. The cost of reasonable repair and maintenance of party walls shall be shared by the Owners who use the party wall in proportion to their use. If a party wall is destroyed or damaged by any casualty, and is not a covered loss under insurance, either Owner may restore the wall and the other Owner shall contribute to the cost of restoration in proportion to the damage sustained by the Owner compared to all damage to the party wall. The right of an Owner to contribution from any other Owner for party wall costs shall be appurtenant to and run with the land and shall pass to an Owner's successor in title. Walls must be made of colors and materials similar to the walls constructed by Declarant. Gates are to be metal, no wood or vinyl.

6 ASSESSMENTS

6.1 Covenant for Assessment

By accepting a deed or other conveyance, each Owner covenants and agrees to pay the Association all regular assessments, special assessments, supplemental assessments, individual assessments, late penalties, and collection costs (including attorney fees) whether or not a lawsuit is commenced. No Owner may exempt himself from liability for assessments by abandonment of his Lot, failure of the Association to maintain the Common Areas, or non-use of the Common Areas. Except for foreclosures, the personal obligation for unpaid assessments, late fees, interest, and collection costs, including attorney fees, shall pass to the successor in title. A successor in title is entitled to a statement from the Association setting forth the amounts due by the prior owner. The amounts set forth in the statement shall be binding upon the Association. If an Owner loses his Lot to foreclosure or voluntarily conveys it, he shall remain personally liable for unpaid assessments, late fees, interest, and collection costs (including attorney fees).

6.2 Apportionment of Assessments

Regular, special, and supplemental assessments shall be apportioned equally among the Lots. Individual assessments shall be apportioned exclusively to the Lots benefitted or affected.

6.3 Declarant's Covenant for Assessments

Declarant shall not be obligated to pay assessments. However, during the period that Declarant owns any Lots, it shall provide the difference between the Association's expenses and actual assessment collections. Declarant may provide the difference with money, services, or in kind.

6.4 Annual Budget

The Board shall prepare an annual budget for the Association. The annual budget shall provide for: the maintenance, repair, and replacement of the Common Areas; maintenance of other areas required to be maintained by the Association; insurance; all other Common Expenses; and the administration, management, operation, and reserves of the Association. If the Board fails to adopt an annual budget, the last adopted budget shall continue in effect.

6.5 Reserve Account

The Association shall establish a reserve account to fund long-term maintenance and replacement items. The Board shall use reasonable efforts, subject to the Owners' rights under the Community Association Act, to fund the reserve account. The Board shall not be personally liable for failure to fund the reserve unless gross negligence or intentional misconduct is proven in a court of law.

6.6 Regular Assessment

The Association may collect the regular assessment on an annual basis, semi-annual basis, quarterly basis, or monthly basis. Written notice of the regular assessment amount and payment schedule shall be sent to Owners at least 30 days before the beginning of the fiscal year for which the regular assessment will be due. Apart from the initial notice of regular assessment, the Association is not obligated to send periodic invoices for regular assessments. If the Board fails to adjust a regular assessment, the amount of the last regular assessment and payment schedule will continue in effect, whether or not notice is sent.

6.7 Special Assessment

The Association may levy a special assessment for the purpose of defraying in whole or in part the cost of any construction, reconstruction, maintenance, repair, or replacement of the Common Areas or exteriors of Living Units. The Association may levy a special assessment up to 50% of the annual budget without approval from the Owners. If a special assessment exceeds 50% of the annual budget, it must be approved by a majority of a quorum of Owners.

6.8 Supplemental Assessment

If the regular assessments are inadequate to pay the Common Expenses, the Board shall determine the amount of the shortfall. Once the amount of the shortfall is determined, the Board shall adopt a supplemental budget. The Association may levy a supplemental assessment to fund the supplemental budget. The Association may levy a supplemental assessment up to 50% of the original annual budget without approval from the Owners. If a supplemental assessment exceeds 50% of the original annual budget, it must be approved by a majority of a quorum of Owners.

6.9 Individual Assessment

Any expenses attributable to less than all the Lots may be assessed exclusively against the affected Lots. Individual Assessments include, without limitation:

6.9.1 Assessments levied against a Lot to reimburse the Association for costs incurred in correcting a violation of the Governing Documents;

6.9.2 Fines, late fees, interest, and collection costs (including attorney fees);

6.9.3 Services provided to a Lot: due to an Owner's failure to maintain the Lot; for emergency repairs; or to protect the health, safety, and welfare of adjoining Lots and Common Areas; and

6.9.5 Any charge described as an Individual Assessment by the Governing Documents.

6.10 Nonpayment of Assessment

Assessments not paid within 10 days after the due date established by the Board will be late and subject to interest at 18% per annum on any delinquent balance and a \$25.00 late fee. Late fees may only be charged once per missed payment, and the amount of the late fee may be adjusted by the Board from time to time.

6.11 Application of Payments

Payments shall be credited first to collection costs (including attorney fees), then to interest and late fees, then to the oldest assessments, and then the most recent assessments.

6.12 Acceleration

If an Owner fails to pay his assessments for 61 days or more, the Board may elect to accelerate the remainder of the Assessments due that year.

6.13 Suspension of Voting Rights

If an Owner has a delinquent assessment balance, the Association may suspend the Owner's right to vote. The Board shall establish procedures for suspending voting rights, which shall comply with the Community Association Act.

6.14 Lien for Assessments

In accordance with and subject to the Utah Community Association Act Section 301, the Association has a lien on each Lot for all assessments, late fees, interest, and collection costs (including attorney fees) not timely paid, which shall be a charge and continuing lien upon each Lot against which the assessment is made.

6.15 Enforcement of Lien

Without waiving its right to personally pursue an Owner for unpaid assessments, the Association may foreclose its lien in the same manner as deeds of trust, mortgages, or any other manner permitted by Utah law.

6.16 Termination of Utilities/Access to Recreational Facilities

If an Owner fails to pay his assessments, the Association may terminate any utility services paid in common and access to recreational facilities, if any. The Board shall establish procedures for terminating utilities and access to recreational facilities, which shall comply with the Community Association Act.

6.17 Collection of Rent from Tenant

If an Owner rents the Owner's Lot and fails to pay the Owner's assessments, the Association may demand the tenants to pay the Association any rent owed to the Owner. Payment of rent to the Association shall not be a violation of the lease by the tenant. The Board shall establish procedures for collecting rent from tenants, which shall comply with the Community Association Act.

6.18 Appointment of Trustee

The Owners hereby convey and warrant pursuant to Utah Code Sections 57-1-20 and 57-8a-402 to a member of the Utah State Bar, with power of sale, the Lot and all improvements to the Lot for the purpose of securing payment of assessments under the terms of the Declaration.

6.19 Subordination of Lien

All Association liens have priority over each other lien and encumbrance on a Lot except: (a) a lien or encumbrance recorded before the declaration was recorded; (b) a first or second security interest on the Lot secured by a mortgage or trust deed 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.

6.20 Reinvestment Fee

In addition to all other assessments and upon the conveyance of a Lot, a reinvestment fee shall be charged to the buyer or seller upon and as a result of a transfer of a Lot, for the purposes of enabling the Association to pay for one or more of the items identified in Utah Code § 57-1-46(1)(i)(ii)(A)-(H), as amended or supplemented from time to time. No reinvestment fee shall be imposed on the initial transfer of a Lot from the Declarant to a buyer.

7 RESTRICTIONS ON USE

7.1 Use of Lots - Residential Use

Each of the Lots in the Property are for single-family use and also limited to those uses allowed by municipal zoning code. Each Lot and Owner is subject to the uses and restrictions imposed by such restrictions (including any parking restrictions). No portion of any Lot shall be sublet, nor shall any Lot be used for transient, vacation, or hotel purposes. A lease for a period of less than 12 months shall be deemed to be for transient purposes. No Owner shall lease less than his entire Lot.

7.2 No Obstruction of Common Areas

There shall be no obstructions of the Common Areas by the Owners, Residents, and their guests, or invitees without the prior written consent of the Board. The Board may by Rules & Regulations prohibit or limit the use of the Common Areas as may be reasonably necessary for protecting the interests of all the Owners or protecting the Lots or the Common Areas.

Nothing shall be kept or stored on any part of the Common Areas without the prior written consent of the Board. Nothing shall be altered on, constructed in, or removed from the Common Areas except upon the prior written consent of the Board.

7.3 Cancellation of Insurance, Illegal Activity

Nothing shall be done or kept in any Lot or in the Common Areas that would result in the cancellation of the insurance on the Property or any part thereof or increase the rate of the insurance on the Property or any part thereof over what the Board, but for such activity, would pay, without the prior written consent of the Board.

Nothing shall be done or kept in any Lot or in the Common Areas that violates the Declaration, Rules & Regulations, or any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body. No Owner or their guests or invitees shall commit any damage to, or waste of, the Common Areas or any part thereof. Each Owner shall indemnify and hold the Board and other Owners harmless against all losses resulting from any such damage or waste caused by that Owner or that Owner's guests or invitees.

7.4 Nuisances

No Resident shall create, maintain, or permit a nuisance in, on, or about a Lot or the Property. For purposes of this section a "nuisance" includes behavior that annoys, disturbs, or interferes with other Residents or interferes with other Residents' right to the quiet and peaceful enjoyment of their property. A nuisance includes but is not limited to the following:

- 7.4.1 The development of any unclean, unhealthy, unsightly, or unkempt condition on, in or about a Lot or the Common Areas;
- 7.4.2 The storage of any item, property, or thing that will cause any Lot or the Common Areas to appear to be in an unclean or untidy condition or that will be noxious to the senses.
- 7.4.3 The accumulation of rubbish, unsightly debris, garbage, weeds, equipment, or other things or materials so as to constitute an eyesore as reasonably determined by the Board;
- 7.4.4 The storage of any substance, thing, or material upon any Lot or in the Common Areas that will emit any foul, unpleasant, or noxious odors, or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the other Residents;
- 7.4.5 The creation or maintenance of any noxious or offensive condition or activity in or about any Lot or the Common Areas;
- 7.4.6 Actions or activities tending to cause embarrassment, discomfort, annoyance, distress, or a disturbance to any other Residents or their guests or invitees, particularly if the police or sheriff must be called to restore order;
- 7.4.7 Maintaining any plants, animals, devices or items, instruments, equipment, machinery, fixtures, or things of any sort which activities or existence is illegal, noxious, dangerous, unsightly, unpleasant, or of a nature that diminishes or destroys the enjoyment of the Property by other Residents or their guests or invitees;
- 7.4.8 Excessive noise in, on or about any Lot or the Common Areas, especially after 10:00 p.m. and before 7:00 a.m.;
- 7.4.9 Excessive traffic in, on or about any Lot or the Common Areas, especially after 10:00 p.m. and before 7:00 a.m.;
- 7.4.10 Allowing a pet to be unleashed while outside the Living Unit, except in fenced rear yards;
- 7.4.11 Continuous barking, meowing, or other animal noises;
- 7.4.12 Allowing a pet to urinate or defecate in the Lot or Common Areas and failing to immediately clean up any feces deposited by a pet in the Lot or Common Areas.

7.5 Rules and Regulations

No Owner or Resident shall violate the Rules & Regulations for the use of the Lots and of the Common Areas. An Owner shall be responsible to advise the Owner's guests, family members, tenants, and invitees about the Rules & Regulations and shall be responsible for the Owner's guests, family members, tenants, and invitees compliance with the Rules & Regulations.

7.6 Structural and Landscape Alterations

Except for initial construction and landscaping performed by an agent of Declarant, without the prior written approval of the Board: (a) no improvements, alterations, repairs, excavation, or other work that in any way alters the exterior appearance of a Lot or the improvements located on the Lot shall be made; (b) no building, fence, wall, or other structure shall be erected, maintained, improved, altered, made, or done (including choice of exterior color scheme and building materials); and (c) no landscaping addition or alteration shall be made. Plans and specifications for the foregoing, showing the nature, kind, shape, height, width, color, materials, location, etc., shall be submitted to the Board, together with such fees for review and inspection as the Board may reasonably require.

7.7 Window Coverings

The Board, by rule, may require that certain colors and types of window coverings be used. Under no circumstances shall any cardboard, bedding materials, brightly colored materials, or tinfoil be used as window coverings in the Property. Additionally, no stickers or non-holiday decorations will be permitted in windows. Holiday decorations may only be placed for the reasonable period of the holiday as determined by the Board and removed not later than 14 days after the holiday.

7.8 Signs

No signs shall be erected or maintained in the Common Areas without the prior written consent of the Board. After Declarant control period, only one professionally made "For Sale" or "For Rent" sign, neither to exceed three square feet in size, may be placed on a Lot.

7.9 Pets

No animals, livestock, birds, insects, or poultry of any kind shall be raised, bred, or kept on any Lot, except that not more than two domesticated dogs or cats shall be allowed as long as those animals do not unreasonably bother or constitute a nuisance to others, are immediately cleaned up after, kept on a leash when outside (except in fenced rear yards and provided such animals are otherwise kept in compliance with the Rules & Regulations). Kennels or outdoor enclosures for animals are prohibited. If a pet owner violates any of the pet Rules & Regulations, the Board shall have the express authority to issue citations or levy assessments and fines, and collect these by judgment, lien, or foreclosure. In extreme cases, the Board may require that the Owner or Resident remove his pet from the premises.

7.10 Storage and Parking of Vehicles

The driving, parking, standing, or storing of motor vehicles in, on, or about the Property or Lot shall be subject to the following:

- 7.10.1 The parking Rules & Regulations adopted by the Board from time to time.

7.10.2 No recreational vehicle, including but not limited to, boats, personal watercrafts, RVs, ATVs, and UTVs; trailers; or commercial or oversized vehicles shall be allowed within the Property or Lot unless the vehicle or trailer is: (a) kept at all times within the garage, and the garage door is closed; (b) at the side of a home behind the front foundation of the home provided it is parked on concrete with concrete approach from the street and behind a screened gate six-feet high as approved in writing by the Board; or (c) for purposes of loading or unloading passengers or supplies for a period of time up to four hours in any seven-day period.

7.10.3 No vehicle or trailer, including but not limited to any car, automobile, truck, van, or any other transportation device of any kind may be parked or stationed in such a manner so as to block access to any Lot or parking space or to create an obstacle.

7.10.4 Residents may only park their daily-use motor vehicles within their garages, concrete driveways, designated concrete parking areas, or in accordance with any parking Rules & Regulations created by the Association. No parking permitted on landscape or landscape materials.

7.10.5 No Resident shall permit a vehicle or trailer that is not currently licensed, operable, or being repaired or restored, on a Lot (unless it is in the garage) or the Common Areas, except for emergency repairs, and then only to the extent necessary to enable movement to a proper repair facility.

7.10.6 No garage may be altered in such a manner that the number of motor vehicles which may reasonably be parked therein after the alteration is less than the number of motor vehicles that could have been reasonably parked in the garage as originally designed and constructed.

Vehicles parked in violation of the Governing Documents may be impounded or towed without further notice, and at the Owner's sole expense.

7.11 Aerials, Antennas, Satellite Dishes and Solar Panels

Owners may not install aerials, antennas, and satellite dishes larger than one meter in diameter. Except for aerials, antennas, and satellite dishes installed by Declarant or the Association, aerials, antennas, and satellite dishes may not be installed on Common Areas. One antenna or satellite dish smaller than one meter in diameter may be installed within the Lot on the rear roof or fascia or on the side of the roof or fascia as far back from the street as possible to maintain reception. The Association may create other policies to create a hierarchy of preferred installation locations to protect the aesthetics of the Property. The hierarchy of preferred installation locations may not interfere with reception. Solar panels may only be installed on the rear roof of a Living Unit.

7.12 Timeshares

Timeshares and time-sharing of Lots within the Property is prohibited, and under no circumstances shall any Lot be owned or used for time sharing, including but not limited to a "Timeshare Interest" as that term is defined in Utah Code Ann. § 57-19-2(17), as amended from time to time.

7.13 Temporary Structures, Outbuildings, etc.

No structure of a temporary character, or trailer, camper, tent, shack, garage, or other outbuilding shall be used on any Lot at any time as a residence either temporarily or permanently, unless first approved in writing by the Board. Outbuildings (such as sheds), if permitted by the Board in writing, must be of the same design, materials (stucco, deco brick, tile roof) and construction as the Living Unit.

7.14 Subdivision of Lots

No Lot or Living Unit shall be further subdivided or separated into smaller Lots or Living Units or parcels by any Owner, the Declarant excepted, and no portion less than all of a Lot shall be conveyed or transferred by any Owner without the prior written approval of the Board. No Lot may be converted into a condominium or cooperative or other similar type of entity without the prior written approval of the Board. No further covenants, conditions, restrictions, or easements shall be recorded against any Lot without the prior written consent of the Board as evidenced on the recorded instrument containing such covenants, conditions, restrictions, or easements. Without such approval, covenants, conditions, restrictions, or easements shall be null and void. No applications for rezoning, variances, or use permits shall be filed without the prior written approval of the Board and then only if such proposed use complies with the Governing Documents.

7.15 Trash Receptacles and Clothes Drying Facilities

Other than on trash collection day, trash receptacles must be stored out of view from the street. Trash receptacles may be stored in the garage, on a concrete pad in the rear yard, or in the side yard if screened from view by a wall at least six-feet high and at least fifteen feet behind the front foundation line of the Living Unit. Outside clotheslines or other outside facilities for drying or airing clothes shall not be erected, placed or maintained on a Lot except in the rear yard or other reasonably sited location on the Lot.

7.16 Front Porches

Front porches and yards are required to be maintained in a clean and tidy fashion. Any outdoor furniture kept on the front porch shall be well maintained and in good condition. The Association may require worn furniture or furniture that detracts from the aesthetics of the Property to be removed from the front porch.

Front porches shall not be used for storage. Examples of items prohibited from being kept on front porches include, without limitation, bicycles, toys, barbecues, trash receptacles, ash trays, and anything else which appears unkempt, dirty, or detracts from the appearance of the Property.

7.17 Firearms and Projectile Weapons

The use of firearms, airsoft guns, BB guns, pellet guns, archery equipment, or any other projectile weapon, however powered, is prohibited.

8 MEMBERSHIP AND ASSOCIATION

8.1 Association

The Association through its Board shall be responsible for the supervision and administration of the Property and the Governing Documents.

8.2 Membership

Every Owner is a Member of the Association. Membership in the Association is mandatory, is appurtenant to the Lot, and shall not be separated from the Lot.

8.3 Management

The Association through its Board may enter into a contract with a manager. The Board may delegate its duties and authority to the manager subject to the restrictions in the Governing Documents.

8.4 Voting Rights

Voting is governed by the Bylaws.

8.5 Status and Authority of Board

The Board is the governing body of the Association. It is obligated to manage, operate, and maintain the Property and to enforce the Governing Documents. The Board has exclusive authority to act in the Association's name. Any action taken by the Board on behalf of the Association will be deemed to be done in the Association's name. The rights and powers of the Board are governed by the Bylaws.

8.6 Composition and Selection of Board

The Bylaws govern how the Board is established and selected.

8.7 Adoption of Bylaws

The Association has adopted Bylaws which are being recorded with this Declaration.

9 DECLARANT RIGHTS

9.1 Administrative Control of Association

Declarant has full administrative control of the Association through an appointed interim Board, which shall serve until the Turnover Meeting. The Turnover Meeting shall be held at the Declarant's option and sole discretion but shall not be held later than three years from the date the last Lot to be developed in the Property is sold by the Declarant. Declarant may elect to relinquish control of the Association at an earlier time by written notice to Owners, and the Turnover Meeting shall be held within 90 days of such notice.

9.2 Other Rights

In addition to any other rights under the Governing Documents, as long as Declarant owns at least one Lot within the Property, Declarant:

9.2.1 Sales Office and Model. Shall have the right to maintain a sales office and model on one or more of the Lots that Declarant owns. Declarant and prospective purchasers and their agents shall have the right to use and occupy a sales office and models during reasonable hours any day of the week.

9.2.2 "For Sale" Signs. May maintain a reasonable number of "For Sale" signs, the size of which may be determined by Declarant, at reasonable locations in the Property, including without limitation, the Common Areas.

9.2.3 Declarant Exemption. Unless specifically and expressly bound by a provision of the Governing Documents, Declarant shall be exempt from the provisions of the Governing Documents. As provided for in the Community Association Act Section 217(6), this exemption includes, but is not limited to, exemption from the Rules & Regulations and rulemaking procedure.

9.3 Easements Reserved to Declarant

In addition to any other rights under the Governing Documents, the Declarant has the following rights, reservations, and easements:

9.3.1 The reservation to Declarant, its successors and assigns, of non-exclusive easements and rights-of-way over those strips or parcels of land designated or to be designated on the Map as "public utility easement," or otherwise designated as an easement area over any road or Common Areas within the Property, and over those strips of land running along the front, rear, side, and other Lot lines of each Lot shown on the Map.

9.3.2 An easement for the installation, construction, maintenance, reconstruction, and repair of public and private utilities to serve the Property and the Lots, including but not limited to, the mains, conduits, lines, meters, and other facilities for water, storm sewer, sanitary sewer, gas, electric, telephone, cable television, and other public or private services or utilities deemed by Declarant to be necessary or advisable to provide service to any Lot, or in the area or on the area in which the same is located.

9.3.3 And easement granting the privilege of entering upon the Common Areas for such purposes and making openings and excavations thereon, which openings and excavations shall be restored in a reasonable period of time, and for such alterations of the contour of the land as may be necessary or desirable to affect such purposes.

9.3.4 A non-exclusive easement and right-of-way in, through, over, and across the Common Areas for the purpose of the storage of building supplies and materials, and for all other purposes reasonably related to the completion of construction and development of the Property and the provision of utility services and related services and facilities.

9.3.5 The right to grant easements, rights-of-way and licenses to any person, individual, corporate body or municipality, to install and maintain pipelines, underground or above-ground lines, with the appurtenances necessary thereto for public utilities, or quasi-public utilities or to grant such other licenses or permits as the Declarant may deem necessary for the improvement of the Community in, over, through, upon, and across any and all of the roads, streets, avenues, alleys, and open space and in, over, through, upon, and across each and every Lot in any easement area set forth in this Declaration or as shown on the Map.

9.3.6 The right to dedicate all of the roads, streets, alleys, rights-of-way, or easements, including easements in the areas designated as "open space" and storm water management reservation, to public use all as shown on the Map. No road, street, avenue, alley, right of way or easement shall be laid out or constructed through or across any Lot or Lots in the Property, except as set forth in this Declaration or as laid down and shown on the Map, without the prior written approval of the Board.

9.3.7 The right at or after the time of grading of any street or any part thereof for any purpose, to enter upon any abutting Lot and grade a portion of that Lot adjacent to such street, provided such grading does not materially interfere with the use or occupancy of any structure built on such Lot, but Declarant has no obligation or duty to do such grading or to maintain any slope.

9.3.8 The right, notwithstanding any other provision of the Declaration, to use any and all portions of the Property other than those Lots conveyed to Owners, including any Common

Areas which may have previously been conveyed to the Association, for all purposes necessary or appropriate to the full and final completion of construction of the Property.

The Declarant will take reasonable steps to avoid unduly interfering with the beneficial use of the Lots by Owners.

10 COMPLIANCE AND ENFORCEMENT

10.1 Compliance

Each Owner or Resident of a Lot shall comply with the provisions of the Governing Documents and any applicable statute. Failure to comply shall be grounds for an action or suit maintainable by the Association or an aggrieved Owner.

10.2 Remedies

Violation of any provisions of the Governing Documents, or of any decision of the Association made pursuant to the Governing Documents, shall give the Board the right, in addition to any other rights set forth in the Governing Documents or under law, to do any or all of the following:

10.2.1 After reasonable notice and an opportunity to be heard, to enter the Lot as to which such violation exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing, or condition that may exist contrary to the intent and meaning of the Governing Documents, and the Board shall not thereby be deemed guilty of any manner of trespass, provided that judicial proceedings shall be instituted before any items of construction may be altered or demolished. Costs and attorney fees shall be an Individual Assessment;

10.2.2 To enjoin, abate, or remedy such thing or condition by appropriate legal proceeding;

10.2.3 After giving notice and an opportunity to be heard, to levy reasonable fines pursuant to a schedule of fines adopted by rule of the Board;

10.2.4 To terminate the right to receive utility services paid for out of assessments, if any, or to terminate the right of access to and use of recreational and service facilities of the Association, until the correction of the violation has occurred; or

10.2.5 The right of the Association to suspend the voting rights and the rights to use of the Common Areas after notice and a hearing for any period not to exceed sixty (60) days for any infraction of any of the Governing Documents; or

10.2.6 Bring suit or action against the Owner on behalf of the Association to enforce the Governing Documents. Costs and attorney fees shall be an Individual Assessment.

10.3 Action by Owners

Subject to any limitation imposed under the Governing Documents or Utah law, an aggrieved Owner may bring an action against such other Owner or the Association to recover damages or to enjoin, abate, or remedy such thing or condition by appropriate legal proceedings.

10.4 Injunctive Relief

Nothing in this Section shall prevent an Owner, the Association, or other interested party from filing a lawsuit or resort to a court of competent jurisdiction in those instances where injunctive relief may be appropriate.

10.5 Hearing

The Board shall, by rule, promulgate procedures for hearings. When a hearing is requested or required, the hearing shall be conducted in accordance with the Board's rule on hearings.

11 INSURANCE

11.1 Types of Insurance Maintained by the Association

- 11.1.1 Property and liability insurance for the Common Areas as required by Community Association Act Sections 401 through 407;
- 11.1.2 Directors and officers for at least \$1,000,000.00; and
- 11.1.3 Fidelity bond or dishonest acts insurance for at least the value of the reserves and operating capital of the Association.
- 11.1.3 Workers Compensation for zero employees to cover volunteers and full Workers Compensation for any employee of the Association.

The Board may adopt insurance rules and policies to maintain the insurability of the Property, keep the premiums reasonable, and enforce responsibilities of the Owners.

11.2 Insurance Company

The Association shall use an insurance company, knowledgeable with community association insurance, that is licensed in Utah.

11.3 Premium as Common Expense

The premiums for the Association's insurance policies shall be a Common Expense.

11.4 Insurance by Owner

Owners shall obtain insurance for their dwelling to 100% of any reconstruction, personal property, contents, and personal liability.

11.5 Payment of Deductible

The deductible on a claim made against an Association policy shall be allocated amongst the parties to the loss as described in Community Association Act Section 405.

11.6 Right to Adjust Claims

The Association has the right and authority to adjust claims.

11.7 Damage to the Property/Insurance Proceeds

If the Property is damaged or destroyed, the Association shall follow Community Association Act Section 407 to determine whether to rebuild and how to use insurance proceeds. Damage caused as a result of the negligence, gross negligence, or willful misconduct of a Resident, guest, or invitee shall be the sole responsibility of the Owner and the cost of such damage, including professional fees, shall be charged to the Owner as an Individual Assessment.

12 AMENDMENT

12.1 Amendments

12.1.1 Approval Required. Except as otherwise provided in this Declaration, this Declaration may be amended by approval of Owners holding sixty-seven percent (67%) of the voting rights of the Association.

12.1.2 Execution and Recordation. An amendment shall not be effective until the amendment is certified by the president and secretary of the Association as being adopted in accordance with this Declaration and is recorded in the Washington County Recorder's Office, Utah.

12.1.3 Declarant's Right to Amend. Notwithstanding anything in this Declaration, so long as the Declarant owns any Lot in the Property, the written consent of the Declarant is required to amend this Declaration or the Map. Also, as long as Declarant owns any Lot, the Declarant has the unilateral right to amend the Declaration.

13 MISCELLANEOUS PROVISIONS

13.1 Invalidity; Number; Captions

The invalidity of any part of this Declaration shall not impair or affect in any manner the validity, enforceability, or effect of the balance of this Declaration. As used herein, the singular shall include the plural and the plural the singular. The masculine and neuter shall each include the masculine, feminine, and neuter, as the context requires. All captions are intended solely for convenience of reference and shall in no way limit any of the provisions of this Declaration.

13.2 Joint Owners

In any case in which two or more Persons share the ownership of any Lot, regardless of the form of ownership, the responsibility of such persons to comply with this Declaration shall be a joint and several responsibility and the act or consent of any one or more of such Persons shall constitute the act or consent of the entire ownership interest; provided, however, that if such Persons disagree among themselves as to the manner in which any vote or right of consent held by them shall be exercised with respect to a pending matter, any such Person may deliver written notice of such disagreement to the Board, and the vote or right of consent involved shall then be disregarded completely in determining the proportion of votes or consents given with respect to such matter in accordance with the Bylaws, except to determine whether a quorum exists.

13.3 Lessees and Other Invitees

Residents, guests, invitees, contractors, family members, and other individuals entering the Property under rights derived from an Owner shall comply with all of the provisions of the Governing Documents. The Owner shall be responsible for obtaining such compliance and shall be liable for any failure of compliance by such persons in the same manner and to the same extent as if the failure had been committed by the Owner.

13.4 Covenants Run with the Land

The Declaration contains covenants that run with the land and create equitable servitudes. The Declaration shall be binding upon and inure to the benefit of the Association, all parties who hereafter acquire any interest in or occupy a Lot or any part of the Property, their heirs, successors, assigns, grantees, devisees, personal representatives, guests, and invitees. Each Owner or Resident shall comply with the Governing Documents. All interests in the Lots shall be subject to the Governing Documents. Failure to comply shall be grounds for an action for damages or injunctive relief by the Association or an Owner. By acquiring any interest in a Lot, each Owner or Resident agrees to be bound by the Governing Documents.

13.5 Waiver, Precedent, and Estoppel

No restriction, condition, obligation, or provision contained in this Declaration or the Rules & Regulations shall be deemed to have been abrogated or waived by the Association or any Owner by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur, and any failure to enforce the same shall not be deemed to constitute precedent or estoppel impairing the right of the Association or Owner as to any similar matter.

13.6 Notice of Sale, Mortgage, Rental, or Lease

Immediately upon the sale, mortgage, rental, or lease of any Lot, the Owner shall promptly inform the secretary or manager of the name and address of the grantee, vendee, mortgagee, lessee, or tenants.

13.7 Taxes on Lots

Each Owner shall pay all taxes which may be assessed against him or his Lot.

13.8 Service of Process

The registered agent of the Association will be the Person named in the corporate records on file with the Utah State Department of Commerce.

If the corporate status of the Association expires, the president shall be the successor agent. The name and address of the president shall be kept with the Association's records at its principal place of business.

13.9 Conflicts

If the Declaration conflicts with the Community Association Act, the Community Association Act shall control. If the Declaration conflicts with the Map, the Map shall control. If the Declaration conflicts with the Bylaws, Articles, or Rules & Regulation, the Declaration shall control.

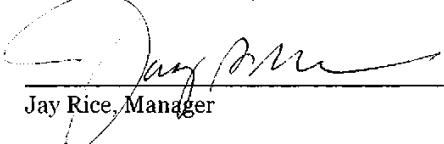
Dated this 11th day of July, 2018.

[Certification page follows]

CERTIFICATION

Warner Gateway, LLC, as Declarant, certifies that it is the Owner (as that term in the Original Declaration) of at least 67% of the Lots, and that Declarant approves of this First Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Warner Gateway Subdivision.

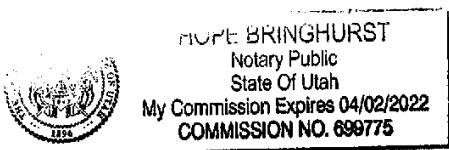
WARNER GATEWAY, LLC:



Jay Rice, Manager

STATE OF UTAH)
:ss.
COUNTY OF WASHINGTON)

On this 11th day of July, 2018, personally appeared before Jay Rice who being by me duly sworn, did say that he is a manager of Warner Gateway, LLC, a Utah limited liability company, that this Declaration was signed by him on behalf of the company, and that he is authorized by the company to execute this Declaration

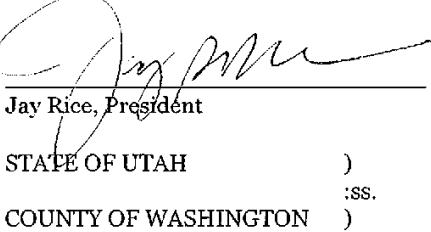




NOTARY PUBLIC

The President of the Warner Gateway Homeowner's Association, a Utah nonprofit corporation, certifies that the foregoing First Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Warner Gateway Subdivision was approved by the Owners of at least 67% of Lots.

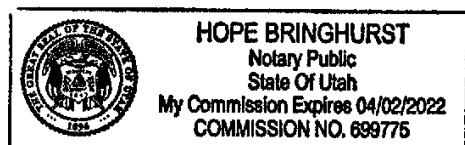
WARNER GATEWAY HOMEOWNER'S ASSOCIATION:

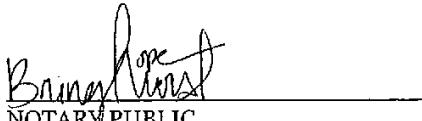


Jay Rice, President

STATE OF UTAH)
:ss.
COUNTY OF WASHINGTON)

On this 11th day of July, 2018, personally appeared before me Jay Rice who being by me duly sworn, did say that he is the President of Warner Gateway Homeowner's Association, a Utah nonprofit corporation, that this Declaration was signed by him on behalf of the Association, and that he is authorized by the Association to execute this Declaration.





NOTARY PUBLIC

Exhibit A
Legal Description

This First Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Warner Gateway Subdivision affects the following real property, all located in Washington County, State of Utah:

This legal description includes two areas located within Washington County, State of Utah:

AREA 1

Warner Gateway Phase 1 with Parcel Numbers:

W-WARG-1-1
W-WARG-1-98 THROUGH W-WARG-1-103
W-WARG-1-114 THROUGH W-WARG-1-118
W-WARG-1-129 THROUGH W-WARG-1-133
W-WARG-1-134-A
W-WARG-1-135
W-WARG-1-136-A
W-WARG-1-137 THROUGH W-WARG-1-140
W-WARG-1-145 THROUGH W-WARG-1-150

AREA 2

All of Lot 15 of Section 1, Township 43 South, Range 15 West, Salt Lake Base and Meridian with Parcel Number:

W-5-3-1-320

Less and Excepting

Warner Gateway Phase 1 with Parcel Numbers:

W-WARG-1-1
W-WARG-1-98 THROUGH W-WARG-1-103
W-WARG-1-114 THROUGH W-WARG-1-118
W-WARG-1-129 THROUGH W-WARG-1-133
W-WARG-1-134-A
W-WARG-1-135
W-WARG-1-136-A
W-WARG-1-137 THROUGH W-WARG-1-140
W-WARG-1-145 THROUGH W-WARG-1-150

All less and excepting that portion conveyed to the Utah Department of Transportation by Warranty Deed Recorded as Entry No. 20150008305, 20150008306, 20150008307 and 20150008308 of Official Records.