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LEANN H KILTS, WEBER COUNTY RECORDER
21-AUG-19 2:01 PM FEE \$60.00 DEP 26
REC FOR: GREEN COMMUNITY LLC

**FIRST SUPPLEMENT
TO THE
Master Declaration
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
AND
RESERVATION OF EASEMENTS
FOR
THE GREEN FARM MASTER PLANNED COMMUNITY**

(Adding The Grove at Green Farm - Phase 1)

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This First Supplement to the Master Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for The Green Farm Master Planned Community ("Supplemental Declaration") is made and executed this _____ day of _____, 2019, by Green Community, LLC, a Utah limited liability company ("Declarant"). The purpose of this Supplemental Declaration is to add Phase 1 of The Grove at Green Farm subdivision to the Project.

RECITALS

WHEREAS, on October 31, 2018, the Master Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for the Green Farm Master Planned Community (hereinafter the "Master Declaration"), was recorded in the office of the County Recorder of Weber County, State of Utah, as Entry No. 2949910; and

WHEREAS, the Master Declaration was originally recorded against the twenty-nine (29) Lots that are part of The Fields at Green Farm Phase 1A (hereinafter the "The Fields"); and

WHEREAS, the Master Declaration provides that the Declarant may unilaterally add additional property to the Project by filing a supplemental declaration against the Lots that are part of the Project and any additional property; and

WHEREAS, Declarant is the owner in fee simple of real property described in Exhibit "A", attached to this Supplemental Declaration, which real property is part of The Grove at Green Farm - Phase 1 (hereinafter the "Additional Property" or "The Grove"); and

WHEREAS, the Master Declaration contains provisions declaring the Project to be an expandable subdivision and Declarant desires to record this Supplemental Declaration to expand the Project to add the Additional Property and the Lots in the Additional Property to the Project; and

WHEREAS, Declarant intends to expand the Project by adding the Additional Property to the Project, which Additional Property shall consist of twenty-six (26) Lots; and it is Declarant's intent to

subject the twenty-six Lots located within the Additional Property, and the twenty-nine Lots located within The Fields, to the provisions of this Supplemental Declaration to accomplish that purpose.

NOW, THEREFORE, for such purposes, Declarant hereby executes this Supplemental Declaration and declares that all of the Additional Property (the property described in Exhibit "A", attached) is held and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved subject to the provisions of the Master Declaration and the following covenants, conditions, restrictions, uses, limitations and obligations, all of which are declared and agreed to be in furtherance of a plan for the improvement of said property and shall be deemed to run with the land and shall be binding upon the current Lot Owner, all successors and assigns, and any person acquiring or owning an interest in the real property and improvements, their grantees, successors, heirs, executors, administrators, devisees and assigns.

The above Recitals are incorporated herein by reference and made a part hereof. Capitalized words used herein shall have the same meaning, as defined in Article I of the Master Declaration unless the context clearly indicates otherwise.

The Master Declaration and any amendments thereto are hereby amended, and the following provisions shall apply to all of the property described in the attached Exhibit "B", including the Lots within The Fields and the Additional Property and Lots located in The Grove.

ARTICLE I DESCRIPTION OF ADDITIONAL LAND

The additional real property which is hereby submitted to the provisions of the Master Declaration and this Supplemental Declaration, and which shall be held, transferred, sold, conveyed and occupied subject to the provisions of the Master Declaration as amended by this Supplemental Declaration, consists of the real property situated in West Haven City, Weber County, State of Utah, and described in Exhibit "A", attached hereto.

ARTICLE II EFFECT OF FOREGOING SUBMISSION

The Declarant hereby declares that the real property described in Exhibit "A" hereto shall be annexed to and become subject to the provisions of the Master Declaration which upon recordation of this Supplemental Declaration shall constitute and effectuate the expansion of the Project, making the Additional Property described in Exhibit "A" to this Supplemental Declaration subject to the functions, power, rights, duties and jurisdiction of The Green Farm Master Association, a Utah nonprofit corporation. The Additional Property described in Exhibit "A" shall, in conjunction with the existing Lots in The Fields, constitute the Project, and all the property and/or Lots described in Exhibit "B" shall be subject to the provisions of both the Master Declaration and this Supplemental Declaration.

**ARTICLE III
LOTS CREATED BY EXPANSION**

As shown on the Plat Map for The Grove at Green Farm - Phase 1, which will be recorded at the same time, or shortly before or after this Supplemental Declaration is recorded, an additional twenty-six (26) Lots are created on the Additional Property described in Exhibit "A" to this Supplemental Declaration. Upon the recordation of this Supplemental Declaration the total number of Lots in the Project will be fifty-five (55).

**ARTICLE IV
OPEN SPACE**

The "Open Space," as shown on the Plat for The Grove, shall continue to be owned by the Declarant. The Declarant reserves the right, at any future point in time, to (1) transfer the Open Space to The Green Farm Master Association, or (2) transfer the Open Space to the City of West Haven. If the Declarant transfers the Open Space to The Green Farm Master Association, the Open Space shall become Common Area, and shall thereafter be maintained by The Green Farm Master Association. If the Open Space is transferred to West Haven City, then the Open Space shall be owned and maintained by West Haven City, and shall no longer be subject to the Master Declaration or this Supplemental Declaration.

**ARTICLE V
CONSOLIDATED LEGAL DESCRIPTION**

The legal description of all the Lots in the Project as expanded by the recordation of this Supplemental Declaration consists of the Lots described in Exhibit "B" to this Supplemental Declaration and as also set forth in the Maps recorded at the Weber County Recorders Office in conjunction with The Fields at Green Farm - Phase 1(A) and The Grove at Green Farm - Phase 1. All fifty-five (55) Lots located in The Fields and the Grove shall be subject to the Master Declaration and this Supplemental Declaration.

**ARTICLE VI
EXPANSION**

- 6.1 **Right to Expand.** The first phase of the Project (The Fields) contains twenty-nine (29) Lots. The second phase of the Project (The Grove) will include twenty-six (26) additional Lots, which shall each contain a Dwelling, as defined in the Master Declaration. The requirements described in Article VI of the Master Declaration, which deal with architectural and design guidelines and requirements, shall apply to the new Lots that are part of the Additional Property. Except as to the total number of Lots, there is no limitation as to the nature and location or locations of any improvements that may be made on any portions of the additional land. No assurances are made as to what improvements may be made or required in conjunction with construction of additional Lots and Dwellings. As described in the Master Declaration, Declarant continues to have the right and authority to add additional property, Lots and Common Area to the Project.

- 6.2 **Expansion of Definitions.** In connection with this expansion, the definitions used in the Master Declaration automatically shall be expanded to encompass and refer to the Project as so expanded, e.g., “real property” shall mean the real property described in the Master Declaration and/or this Supplemental Declaration. All conveyances of Lots after such expansion shall be effective to transfer rights in the Project, as expanded, by references to this Supplemental Declaration and any supplemental Maps.
- 6.3 **Master Declaration Operative on New Lots and Dwellings.** The new Lots created by this Supplemental Declaration shall be subject to all the terms and conditions of (1) the Master Declaration, (2) any amendments or supplements to the Master Declaration, and (3) this Supplemental Declaration. However, Declarant or Declarant’s successor in interest shall not be obligated to pay any Common Expense assessment or any other assessment to the Association until the Lot has been conveyed to a third party and a Dwelling has been constructed on the Lot.
- 6.4 **Equal Ownership, Voting and Assessments.** Except for the Class B Member pursuant to Article IV of the Master Declaration, each Lot Owner shall be entitled to one vote in the Association. As stated in Article IV of the Master Declaration, Class B Members shall be entitled to ten (10) votes for each Lot in which Declarant possesses an interest. As described in Section 9.1 of the Master Declaration, the Owner of each Lot (including all Lots in both the Fields and the Grove) shall be required to pay an equal portion of all Common Assessments and Special Assessments. Notwithstanding any other language herein, Declarant or Declarant’s successor in interest or assigns shall not be obligated to pay any Common Expense assessment or any other assessment to the Maser Association. Assessments shall begin to assessed on a Lot when the Lot has been conveyed to a third party and a Dwelling has been constructed on the Lot.
- 6.5 **Approval.** Declarant represents that it is its intent to create the Grove at Green Farm - Phase 1, by expanding the existing Project to include The Grove. The property within The Grove is currently owned by Declarant. The Grove will be part of the Project at such time as this Supplemental Declaration is recorded in the Weber County Recorders Office.
- 6.6 **Owner’s Association.** All Lots and Lot Owners within the Project shall be members of the Green Farm Master Association. All fifty-five Lots and all Lot Owners shall be subject to the Master Declaration and this Supplemental Declaration.

**ARTICLE VII
DISPUTE RESOLUTION**

- 7.1 **Statement of Intent.** Prior to purchasing a Lot, every Owner is capable of obtaining an inspection and is permitted to perform, or pay someone else to perform, any inspection on any Lot and Dwelling the Owner is purchasing regarding any aspect of the Project. Moreover, if any warranty is provided, it identifies only those items warranted by the Declarant (for the purposes of this Article VII, the term Declarant shall refer to both the

Declarant and any entity related to Declarant). Having had the ability to inspect prior to purchasing a Lot, having received a written warranty if any warranty is provided, and having paid market price for a Lot in the condition the Lots and Easement Area are in at the time of purchase, it is acknowledged that it is unfair and improper to later seek to have the Declarant or any agent, employee, executing officer, manager, affiliate or owner of the Declarant, and/or any subcontractor performing work in the Project to change, upgrade, or add additional work to the Project outside of any express warranty obligation. Moreover, the Owners (by purchasing a Lot) and the Declarant acknowledge and agree that litigation is an undesirable method of resolving disputes and conflicts in that it can be slow, expensive, uncertain, and can often negatively impact the sale value and ability to obtain financing for the purchase of Lots for years, unfairly prejudicing those Owners who must or want to sell their Lot during any period when litigation is pending. For this reason, the Owners by purchasing a Lot and the Declarant agree and acknowledge that claims and disputes shall not be pursued through court action, but shall be asserted and resolved only through certain specific alternative dispute resolution mechanisms and only after full disclosure, right to cure periods, and knowing approval of the Owners, as set forth herein. In addition, the Association and the Owners agree that they take ownership and possession of the Lots and Easement Areas AS IS, with no warranties of any kind except as otherwise required as a matter of law. The Declarant, or any agent, employee, executing officer, manager, affiliate or owner of the Declarant, specifically disclaim any warranties of merchantability, fitness for a particular use, or of habitability, to the full extent allowed by law.

7.2 **Arbitration.** To the fullest extent permitted by law, all claims and disputes of any kind that any Owner or the Association may have involving the Declarant or any agent, employee, executing officer, manager, affiliate or owner of the Declarant, or any engineer or contractor involved in the design or construction of the Project, which arises from or is in any way related to a Lot, Dwelling, Easement Area, or any other component of the Project (a "Dispute"), shall be submitted to final and binding arbitration. Binding arbitration shall be the sole remedy for resolving claims and disputes between or involving the Declarant and any Owner or between or involving the Declarant and the Master Association. Arbitration proceedings shall not be commenced unless the Pre-Arbitration Requirements set forth in Section 6.3 below have been satisfied in full. Without in any way limiting the foregoing, Disputes subject to binding arbitration shall include:

- (a) Any allegation that a condition in any of the Lots, Dwellings, or Easement Area is a construction defect;
- (b) Any disagreement as to whether an alleged construction defect has been corrected;
- (c) Any disagreement about whether any warranties, including implied warranties, are applicable to the subject matter of any Dispute;
- (d) Any disagreement as to the enforceability of any warranties alleged to be applicable to the subject matter of any Dispute;
- (e) Any disagreement about whether any warranty alleged to be applicable to the subject matter of any Dispute has been breached;
- (f) Any alleged violations of consumer protection, unfair trade practice, or other statutes;
- (g) Any allegation of negligence, strict liability, fraud, and/or breach of duty of good

- faith, and all other claims arising in equity or from common law;
- (h) Any allegation that any condition existing in the Project or created by the Declarant, including construction-related noise, dust, and traffic, is a nuisance;
- (i) Any disagreement concerning the issues that should be submitted to binding arbitration;
- (j) Any disagreement concerning the timeliness of performance of any act to be performed by Declarant;
- (k) Any disagreement as to the payment or reimbursement of any fees associated with binding arbitration;
- (l) Any other claim or disagreement arising out of or relating to the sale, design, or construction of any of the Lots, Dwellings, or Easement Areas.

7.3 **Pre-Arbitration Requirements.** An Owner or the Association may only pursue a claim against the Declarant or any agent, employee, executing officer, manager, affiliate or owner of the Declarant, to the extent described herein or by law after the following dispute resolution efforts have been completed:

- (a) **Right to Cure:** the Owner shall provide to the Declarant a written Notice of Claim (defined below) and permit the Declarant one hundred eighty (180) days to cure or resolve the claim or defect or to try to get the builder or the appropriate subcontractor to cure or resolve the claim or defect, prior to initiating any formal arbitration proceedings;
- (b) If the dispute is not resolved within the 180-day Right to Cure period, the parties agree to mediate the dispute prior to taking further action or commencing arbitration. If additional, different, or modified claims, damages, calculations, supporting information, or descriptions are added, provided to, or asserted against the Declarant that were not included in any previously submitted Notice of Claim, the Right to Cure period provided for in this section shall immediately apply again and any pending action or proceedings, including any mediation or arbitration, shall be stayed during the 180-day period.
- (c) "Notice of Claim" shall mean and include the following information: (1) an explanation of the nature of the claim, (2) a specific breakdown and calculation of any alleged damages, (3) a specific description of the claim along with any supporting opinions, information, or factual evidence upon which the claim is based, (4) photographs of any alleged condition, if applicable, (5) samples of any alleged defective conditions or materials, (6) all efforts taken to avoid, mitigate, or minimize the claim or any alleged damages arising therefrom, and (7) the names, phone numbers, and address of each person providing factual information, legal or factual analysis, or legal or factual opinions related to the claim.

7.4 **Binding Arbitration.** If a claim or dispute has not been resolved after satisfying and complying with the above-described "Pre-Arbitration Requirements," then the claimant (Owner or Association) shall have the right to proceed with binding arbitration; however, the

Association shall not pursue or commence binding arbitration unless such action is first approved by a majority of the total votes of the Association after first obtaining a written opinion from legal counsel advising the Association of the likelihood of success on the merits of the claims, the anticipated costs and legal fees, the anticipated expert witness fees, and the likelihood of recovery if the Association prevails. The written opinion from legal counsel, addressing these topics, must be provided to all Owners before the formal vote on whether to proceed with binding arbitration. The binding arbitration shall be conducted by a member of the American Arbitration Association's Panel of Construction Arbitrators, or by a different arbitrator or arbitration service provider if mutually approved by the parties. The binding arbitration shall be conducted according to the rules and procedures set forth in the Construction Industry Arbitration Rules promulgated by the American Arbitration Association. The award of the arbitrator shall be final and may be entered as a judgment by any court of competent jurisdiction.

- 7.5 **Arbitration Attorney Fees.** Each party shall bear its own attorney fees and costs (including expert witness costs) for the arbitration. The arbitrator shall not award attorney fees or expert witness fees to the prevailing party. The arbitration filing fee and other arbitration fees shall be divided and paid equally as between the parties.
- 7.6 **No Waiver.** If any Owner, the Association, the Declarant, or any related entity files a proceeding in any court to resolve any Dispute, such action shall not constitute a waiver of the right of such party, or a bar to the right of any other party, to seek arbitration of that or any other Dispute and such court shall, upon motion of any party to the proceeding, stay the proceeding before it and direct that such Dispute be arbitrated in accordance with the terms set forth herein.
- 7.7 **Subrogation.** The Association and each Owner waives any right to subrogation against the Declarant, and any builder and engineer in the Project. This waiver shall be broadly construed and applied to waive, among other things, any attempt by any insurer of any Owner or of the Association from pursuing or exercising any subrogation rights, whether arising by contract, common law, or otherwise, against the Declarant, the engineer, and builder, and their officers, employees, owners, and representatives. To the full extent permitted by law, the Association and Owners hereby release Declarant, the Project engineer, and builder, their respective officers, employees, owners, and representatives from any and all liability to the Association and all Owners, and anyone claiming through or under them by way of subrogation or otherwise, for any loss, injury, or damage to property, caused by fire or any other casualty or event, even if such fire or other casualty shall have been caused by the fault or negligence of the Declarant or builder, their officers, employees, owners, and representatives. The Association and each Owner agrees that all policies of insurance shall contain a clause or endorsement to the effect that this release and waiver of subrogation shall not adversely affect or impair such policies or prejudice the right of the Association or any Owner to recover thereunder. The Association and all Owners shall indemnify and defend the Declarant, the builder, and any of their officers, employees, owners, or representatives from any claims barred or released by this provision, including but not limited to any claim brought under any right of subrogation.

- 7.8 **No Right of Action Created.** Nothing in this Supplemental Declaration or in this Article shall grant or otherwise create a right of action by the Association against the Declarant, the developer or the builder, that does not otherwise already exist under Utah law.

**ARTICLE VIII
SEVERABILITY**

- 8.1 **Application of Entire Document.** If any of the provisions of this Supplemental Declaration or any paragraph, sentence, clause, phrase or word or the application thereof in any circumstance be invalidated, such invalidity shall not affect the validity of the remainder of the Supplemental Declaration and the application of any such provision, paragraph, sentence, clause, phrase or word in any other circumstances shall not be affected thereby.
- 8.2 **Application to Each Phases.** If any of the provisions of this Supplemental Declaration or any paragraph, sentence, clause, phrase or word or the application thereof in any circumstance be invalidated in application to any Lot, such invalidity shall not affect the validity of the other provision in this Supplemental Declaration or in the Master Declaration.

**ARTICLE IX
EFFECTIVE DATE**

The effective date of this Supplemental Declaration shall be the date on which said instrument is filed for record with the office of the County Recorder of Weber County, State of Utah.

[Signatures on Next page]

IN WITNESS WHEREOF, Declarant has executed this instrument on the day and year first above written.

DECLARANT:

GREEN COMMUNITY, LLC.

BY: Bruce L. Nilson

Bruce L. Nilson

ITS: Manager

STATE OF UTAH)
 : ss.
COUNTY OF WEBER)

On the 15th day of July, 2019, personally appeared before me, Bruce L. Nilson, who acknowledged to me that he is authorized to, and did in fact execute this Supplemental Declaration on behalf of Green Community, LLC.

Amy Roskelley
NOTARY PUBLIC

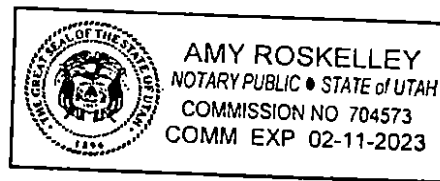


EXHIBIT "A"

The real property added to the Project pursuant to this Supplemental Declaration is located in West Haven City, Weber County, Utah, and is described as follows:

A PORTION OF LAND LOCATED IN THE EAST HALF OF SECTION 5, TOWNSHIP 5 NORTH, RANGE 2 WEST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY. MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTH LINE OF JONI ACRES SUBDIVISION, SAID POINT LIES S89°16'46"E ALONG THE EAST QUARTER SECTION LINE, BETWEEN THE CENTER QUARTER CORNER AT THE EAST QUARTER CORNER OF SECTION 5, 972.02 FEET AND S00°43'14"W 1021.95 FEET FROM THE CENTER QUARTER CORNER OF SAID SECTION 5; AND RUNNING THENCE N01°17'22"E 10.19 FEET; THENCE ALONG A TANGENT CURVE TURNING TO THE RIGHT WITH A RADIUS OF 60.00 FEET, AN ARC LENGTH OF 122.61 FEET, A CHORD BEARING OF N59°50'00"E, AND A CHORD LENGTH OF 102.36 FEET; THENCE ALONG A REVERSE CURVE TURNING TO THE LEFT WITH A RADIUS OF 30.00 FEET, AN ARC LENGTH OF 14.28 FEET, A CHORD BEARING OF S75°15'20"E, AND A CHORD LENGTH OF 14.14 FEET; THENCE S88°53'19"E 145.63 FEET; THENCE N00°06'42"W 235.79 FEET; THENCE N01°19'11"E 100.07 FEET; THENCE ALONG A CURVE TURNING TO THE RIGHT WITH A RADIUS OF 280.00 FEET, AN ARC LENGTH OF 34.72 FEET, A DELTA ANGLE OF 07°06'18", A CHORD BEARING OF N03°27'24"E, A RADIAL BEARING OF N89°54'15"E, AND A CHORD LENGTH OF 34.70 FEET; THENCE N83°00'23"W 132.51 FEET; THENCE N16°09'39"E 131.44 FEET; THENCE N34°29'44"E 131.44 FEET; THENCE N48°00'33"E 102.58 FEET; THENCE ALONG A NON-TANGENT CURVE TURNING TO THE LEFT WITH A RADIUS OF 149.41 FEET, AN ARC LENGTH OF 46.84 FEET, A CHORD BEARING OF N68°45'02"W, AND A CHORD LENGTH OF 46.65 FEET; THENCE N13°21'50"E 221.73 FEET; THENCE N88°51'38"W 18.10 FEET TO A POINT ON THE EXTENSION OF THE EAST LINE OF THE JOHN W. PETERSON TRUST PROPERTY, SAID POINT ALSO BEING DEFINED BY AN ANCIENT FENCE LINE; THENCE N00°37'47"E MORE OR LESS ALONG SAID EAST PROPERTY LINE AND FENCE LINE AND ITS EXTENSION 390.02 FEET; THENCE S88°51'38"E 837.33 FEET; THENCE S01°08'22"W 150.00 FEET; THENCE S49°50'08"W 90.90 FEET; THENCE S18°59'32"W 100.00 FEET; THENCE S28°02'09"W 60.07 FEET; THENCE S36°01'43"W 106.11 FEET; THENCE S38°52'29"W 110.91 FEET; THENCE S45°36'17"W 109.50 FEET; THENCE S47°47'23"W 200.00 FEET; THENCE S42°12'37"E 179.33 FEET; THENCE S75°10'48"W 409.80 FEET; THENCE S75°42'17"W 61.75 FEET; THENCE S03°15'39"E 68.13 FEET; THENCE S00°06'42"E 229.27 FEET; THENCE S04°31'18"W 68.09 FEET TO A POINT ON THE EXTENSION OF THE NORTH LINE OF JONI ACRES SUBDIVISION; THENCE N88°53'19"W ALONG THE EXTENSION OF SAID NORTH LINE, 310.69 FEET TO THE POINT OF BEGINNING.

CONTAINING 660,533 SQUARE FEET OR 15.16 ACRES MORE OR LESS

EXHIBIT "B"

The real property which shall be included in the Project, and is part of (1) The Fields at Green Farm - Phase 1(A), and (2) The Grove at Green Farm - Phase 1, pursuant to this Supplemental Declaration, located in West Haven City, Weber County, Utah, and is described as follows:

The Fields at Green Farm - Phase 1(A):

ALL OF LOTS 101 THROUGH 129, THE FIELDS AT GREEN FARM PHASE 1A, WEST HAVEN CITY, WEBER COUNTY, UTAH.

[08-604-0001 through 08-604-0029] 08-604-0001 & 08-604-0003 THRU 29 BT DB

The Grove at Green Farm - Phase 1: 08-617-0001 thru 0027 kl

A PORTION OF LAND LOCATED IN THE EAST HALF OF SECTION 5, TOWNSHIP 5 NORTH, RANGE 2 WEST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY. MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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CONTAINING 660,533 SQUARE FEET OR 15.16 ACRES MORE OR LESS