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E# 3079116 PG 1 OF 7
LEANN H KILTS, WEBER COUNTY RECORDER
25-AUG-20 9:59 AM FEE \$58.00 DEP TN
REC FOR: LEWIS PEAK

Recording requested by:

The Lewis Peak Owners Association, Inc.
788 E 1550 N
North Ogden, UT 84404

For recorder's use only

**SECOND AMENDMENT
TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
LEWIS PEAK PRUD**

THIS SECOND AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS – LEWIS PEAK PRUD (“**Second Amendment**”) is made and executed as of August 20, 2020, by The Lewis Peak Owners Association, Inc., a Utah nonprofit corporation (the “**Association**”).

RECITALS

- A. On December 17, 2008, Lyman C. Barker and Laurie Barker, on behalf of Lewis Peak, LLC, a Utah limited liability company (“**Lewis Peak**”) executed that certain subdivision plat map entitled “Lewis Peak PRUD Phase 1” which was recorded in the Weber County Recorder’s Office on December 31, 2008 in Book 69 at Pages 60 and 61 as Entry No. 2382889 (the “**Phase 1 Map**”).
- B. On or about December 17, 2008, Lewis Peak, as the “**Declarant**,” made and executed that certain Declaration of Covenants, Conditions and Restrictions for Lewis Peak PRUD Phase 1, which was recorded in the Weber County Recorder’s Office on December 31, 2008 as Entry No. 2382892 (the “**Declaration**”).
- C. The Declaration governed that certain residential subdivision known as Lewis Peak (the “**Project**”) which included all residential Lots and any Common Area Lots identified on the Phase 1 Map (the “**Phase 1 Lots**”). A legal description of the Phase 1 Lots is attached to and made part of this Second Amendment as Exhibit “A.”
- D. On December 15, 2009, Lyman C. Barker and Laurie Barker, on behalf of Lewis Peak, executed that certain subdivision plat map entitled “Lewis Peak PRUD Phase 1 1st Amendment Amending Lots 1-5 Lewis Peak PRUD Phase 1” which was recorded in the Weber County Recorder’s Office on December 15, 2009 in Book 20 at Page 74 as Entry No. 2449824 (the “**Amended Phase 1 Map**”).

- E. The purpose of the Amended Phase 1 Map was to re-subdivide Lots 1 through 5 (as identified on the Phase 1 Map) into Lots 1A through 4A (as identified on the Amended Phase 1 Map). The Declaration continued to govern Lots 1A through 4A, which continued to be part of the Project.
- F. On or about May 12, 2011, Lewis Peak, as the "**Declarant**," made and executed that certain First Amendment to Declaration of Covenants, Conditions and Restrictions for Lewis Peak PRUD Phase 1, which was recorded in the Weber County Recorder's Office on May 13, 2011 as Entry No. 2526932 (the "**First Amendment**").
- G. On July 21, 2014, Jay Stocking, as a Member/Manager of Lewis Peak, executed that certain subdivision plat map entitled "Lewis Peak PRUD Phase 2" which was recorded in the Weber County Recorder's Office on August 19, 2014 in Book 76 at Page 18 as Entry No. 2699013 (the "**Phase 2 Map**").
- H. Article 14 of the Declaration granted the Declarant the option to subdivide all or any part of the Additional Land described under an Exhibit to the Declaration, and subsequently add such Additional Land to the Project by recording with the Weber County Recorder's Office a supplemental declaration stating that such Additional Land has been added to the Project and is subject to the terms and conditions of the Declaration.
- I. The Exhibit to the Declaration that was intended to describe and identify the Additional Land (labeled as "Exhibit D") erroneously failed to include any description or depiction of the Additional Land. Nonetheless, the Additional Land was intended to comprise the parcel of land Declarant eventually subdivided into 16 residential Lots (Lots 21 through 36) and certain Common Area Lots (including Parcel "A") as identified on the Phase 2 Map. The 16 residential Lots and any such Common Area Lots identified on the Phase 2 Map are collectively referred to in this Second Amendment as the "**Phase 2 Lots**."
- J. The Declarant's intent to add the Phase 2 Lots to the Project is clearly evidenced by continuation of the numbering of the residential Lots identified in the Phase 1 Map (Lots 1 through 21) into the residential Lots identified in the Phase 2 Map (Lots 21 through 36). Inclusion of the Phase 2 Lots in the Project is further evidenced by the ongoing participation in Association affairs by the Owners of the residential Phase 2 Lots including, for example, the payment of Assessments as set forth under Article 9 of the Declaration and the exercise of Owner voting rights pursuant to the Bylaws of the Association.
- K. The purpose of this Second Amendment is to amend Section 14.1 of the Declaration to (i) grant the Association authority to add/annex the Phase 2 Lots into the Project, and (ii) declare that the Phase 2 Lots may be added/annexed into the Project by the recording of a Declaration of Annexation that has been executed by the Association and by Owners of the Phase 2 Lots.
- L. As required under Section 17.5 of the Declaration, this Second Amendment has been consented to and agreed upon by Owners holding at least fifty-one percent (51%) of the Total Votes of the Association at a meeting of the Owners duly held in accordance with the provisions of the Articles, Bylaws and the Declaration.

NOW, THEREFORE, the Association hereby declares as follows:

1. Recitals. The foregoing recitals are hereby incorporated into this Second Amendment in their entirety.
2. Expansion of Project. Section 14.1 of the Declaration is hereby deleted in its entirety and replaced with the following:

14.1 Expansion of Project. Declarant has acquired and subdivided that certain real property more particularly described under Exhibit D ("Additional Land") which is attached to this Declaration and incorporated herein by this reference. The Additional Land has been subdivided by the Declarant's execution and recording of that certain subdivision plat map entitled "Lewis Peak PRUD Phase 2" which was recorded in the Weber County Recorder's Office on August 19, 2014 in Book 76 at Page 18 as Entry No. 2699013. Notwithstanding any other provision of this Declaration, all or any portion of the Additional Land may be subjected to this Declaration, and become part of and annexed into the Project, by the recording of a Declaration of Annexation stating that such Additional Land, or any part thereof, has been added to the Project and is subject to the terms and conditions of this Declaration. The Association may add/annex the Additional Land to the Project by causing the Declaration of Annexation to be executed by the Owners of Lots located on the Additional Land and subsequently recording the Declaration of Annexation in the Weber County Recorder's Office as set forth in this Section 14.1.

Prior to its recordation in the Weber County Recorder's Office, the Declaration of Annexation shall be executed by (A) the President and Secretary of the Association, and (B) the Owner(s) of each residential Lot located on the Additional Land. Execution of the Declaration of Annexation by the President and Secretary of the Association shall confirm the Association's approval of the Declaration of Annexation and its recordation against any and all Common Area Lots located on the Additional Land. The Declaration of Annexation shall not be recorded against any residential Lot unless the Declaration of Annexation has been executed by the Owner of that residential Lot. The Declaration of Annexation shall be executed by the Owners by attaching to the Declaration of Annexation a separate signature page for each Owner with his or her residential Lot identified below the Owner's signature. The failure of any particular Owner(s) to execute the Declaration of Annexation shall not preclude or prohibit the Declaration of Annexation from being recorded against any Lots owned by Owners who have executed the Declaration of Annexation. Immediately upon recordation of the Declaration of Annexation against any particular residential Lot(s), the Owner(s) of such Lot(s) shall automatically become Members of the Association to the same extent as the Owners of all other Lots in the Project. Immediately upon recordation of the Declaration of Annexation against any Lots located on the Additional Land (including residential Lots and Common Area Lots) those Lots shall become part of the "Subject Land" as that term is defined and used throughout this Declaration.

3. Exhibit D / Additional Land. The legal description of the Additional Land, which is attached to and made part of the Declaration as Exhibit D is hereby deleted in its entirety and replaced with the following legal description:

The entirety of any real property (including any residential Lots and any Common Area Lots) located and identified on that certain subdivision plat map entitled "Lewis Peak PRUD Phase 2" which was recorded in the Weber County Recorder's Office on August 19, 2014 in Book 76 at Page 18 as Entry No. 2699013.

4. Phase 2 Lots / Subject Land. As used in this Second Amendment, the term "Phase 2 Lots" describes the same real property as the term "Additional Land" under the Declaration. Accordingly, consistent with Section 14.1 of the Declaration, as amended above, immediately upon recordation of the Declaration of Annexation against all or any of the Phase 2 Lots, those Lots shall be deemed part of the "Subject Land" as that term is defined and used throughout the Declaration.

5. Capitalized Terms. Unless otherwise defined in this Second Amendment, any capitalized terms used in this Second Amendment shall be defined as set forth under the Declaration.

6. Effect of Second Amendment. To the extent the terms of this Second Amendment modify or conflict with any provisions of the Declaration, the terms of this Second Amendment shall control. All other terms of the Declaration that are not modified by this Second Amendment shall remain unchanged. This Second Amendment shall be recorded in the office of the Weber County Recorder against the Subject Land and is intended to and shall be deemed to run with the land and, together with the Declaration, shall be binding upon and shall inure to the benefit of all successors and assigns of any and all Owners of any Lots within the Project.

IN WITNESS WHEREOF, the Board of Trustees of The Lewis Peak Owners Association has caused this Second Amendment to be adopted and executed, on behalf of the Association, by its duly executed officers as of the date first written above.

THE LEWIS PEAK OWNERS ASSOCIATION, INC.,
a Utah nonprofit corporation

By: David Leonard
Name: David Leonard
Title: President

By: Sherman Crowell
Name: Sherman Crowell
Title: Secretary

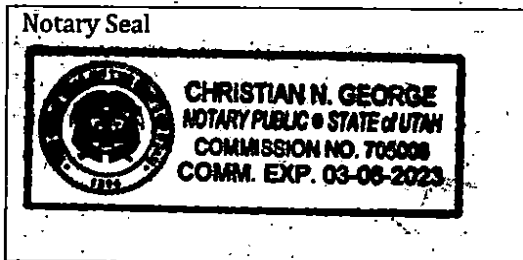
ACKNOWLEDGEMENT
(The Lewis Peak Owners Association, Inc.)
President

STATE OF UTAH)
)ss.
COUNTY OF Weber)

On this 20 day of August in the year 2020, before me
CHRISTIAN N GEORGE, a notary public, personally appeared
Notary Public Name

DAVID LEONARD proved on the basis of satisfactory evidence
Name of Document Signer

to be the person(s) whose name(s) (is/are) subscribed to this instrument, and
acknowledged (he/she/they) executed the same. Witness my hand and official seal



Christian N. George
(Signature of Notary)

My Commission Expires 30 03-06-2023

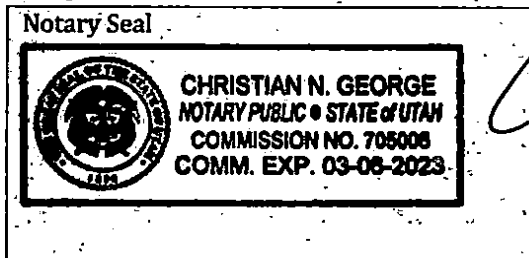
ACKNOWLEDGEMENT
(The Lewis Peak Owners Association, Inc.)
Secretary

STATE OF UTAH)
) ss.
COUNTY OF Weber)

On this 20th day of August in the year 2020, before me
Christian George, a notary public, personally appeared
Notary Public Name

Sherman Crowell proved on the basis of satisfactory evidence
Name of Document Signer

to be the person(s) whose name(s) (is/are) subscribed to this instrument, and
acknowledged (he/she/they) executed the same. Witness my hand and official seal



[Handwritten Signature]
(Signature of Notary)

My Commission Expires 20-03-06-2023

Exhibit "A"
to
Amended and Restated Declaration of Covenants, Conditions and Restrictions
for Lewis Peak PRUD

Legal Description of Phase 1 Lots

The entirety of any real property (including any residential Lots and any Common Area Lots) and any easements or improvements located upon such real property (including, without limitation, any and all improvements located on any residential Lots and any Common Facilities located on any Common Area Lots) located within that certain Planned Residential Unit Development located in the City of North Ogden, Weber County, State of Utah, commonly known as "Lewis Peak" as depicted and identified in the following subdivision plat maps:

Lewis Peak PRUD Phase 1 recorded in the Weber County Recorder's Office on December 31, 2008 in Book 69 at Pages 60 and 61 as Entry No. 2382889

Lewis Peak PRUD Phase 1 1st Amendment Amending Lots 1-5 Lewis Peak PRUD Phase 1 recorded in the Weber County Recorder's Office on December 15, 2009 in Book 20 at Page 74 as Entry No. 2449824

Weber County Parcel Nos.

113-86-0006, 113-86-0007, 113-86-0008, 113-86-0009, 113-86-0010, 113-86-0011,
113-86-0012, 113-86-0013, 113-86-0014, 113-86-0015, 113-86-0016, 113-86-0017,
113-86-0018, 113-86-0019, 113-86-0020

113-90-0001, 113-90-0002, 113-90-0003, 113-90-0004