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**DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS, RESERVATIONS AND EASEMENTS FOR
LAKEVIEW BUSINESS PARK**

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, RESERVATIONS AND EASEMENTS FOR LAKEVIEW BUSINESS PARK

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, RESERVATIONS AND EASEMENTS FOR LAKEVIEW BUSINESS PARK (this “**Declaration**”) is made as of this 1 day of ^{July} 2022, by and among (i) RG Lakeview, LLC, a Utah limited liability company (“**Developer**”), (ii) Raceway 112 LLC, a Utah limited liability company (“**Raceway 112**”), (iii) Boyer 136 Grantsville Land, L.C., a Utah limited liability company (“**Boyer Parcel 1 Owner**”), and (iv) LBP Building 1, LLC, a Utah limited liability company (“**LBP Owner**”).

WHEREAS, prior to the date hereof, Developer and Raceway 112, an affiliate of Developer, acquired, in a series of transactions, fee simple title to that certain real property located in Tooele County, Utah, and being more particularly described on Exhibit A attached hereto and incorporated herein by reference (the “**Property**”), for the purpose of developing the Property into a commercial industrial business park to be known as Lakeview Business Park (the “**Park**”).

WHEREAS, subsequent to Developer’s acquisition of the Property, Developer transferred and conveyed fee simple title to a portion of the Property to each of LBP Owner and Boyer Parcel 1 Owner (respectively, the “**LBP Parcel**” and the “**Boyer Parcel**”), and granted an option to purchase an additional portion of the Property (the “**Boyer Option Parcel**”), to Boyer Owner or its affiliate (the “**Boyer Parcel 2 Owner**” and, together with the Boyer Parcel 1 Owner and their respective successors and/or assigns, collectively, “**Boyer**”). The LBP Parcel, Boyer Parcel and Boyer Option Parcel comprise a portion of the Property and are described and/or depicted on Exhibit B attached hereto.

WHEREAS, Developer is hereby designated as the “**Declarant**” for purposes of this Declaration, with all rights, titles and duties associated therewith.

WHEREAS, Developer, Boyer Owner and LBP Owner each desire to subject the Property to the protective covenants, conditions, restrictions and reservations set forth hereinafter, which are for the purpose of ensuring the safe and orderly development of the Park, protecting the value and desirability of the Property as a whole, and each Lot (as hereinafter defined) individually.

NOW, THEREFORE, Developer, LBP Owner and Boyer Owner do each hereby proclaim, publish and declare that the Property shall be held, conveyed, hypothecated, encumbered, rented, used, occupied and improved subject to this Declaration, the terms of which shall run with the land and shall be binding upon the parties and upon all parties having or acquiring any right, title or interest in or to any part of the Property, and shall inure to the benefit of each owner thereof.

Article I. CERTAIN DEFINITIONS

The following words or terms, when used in this Declaration, shall have the meanings set forth below:

Section 1.01 Additional Property. All those tracts or parcels of land now owned or hereafter acquired by Developer or its successors or assigns which are adjacent or contiguous to, or within two (2) miles of, the Property and may be hereafter subjected to this Declaration.

Section 1.02 Affiliate. Affiliate of any specified Person means any other Person directly or indirectly controlling or controlled by or under common control with such specified Person.

Section 1.03 City. City of Grantsville located in Tooele County, Utah.

Section 1.04 County. Tooele County, Utah.

Section 1.05 Declaration. This Declaration of Covenants, Conditions, Restrictions, Reservations and Easements for Lakeview Business Park, as amended from time to time.

Section 1.06 Design Review Committee. The Design Review Committee established under **Section 6.01** hereof.

Section 1.07 Developer. Developer and its successors and shall include any person or entity designated as a successor or assignee by specific assignment of its rights and duties under this Declaration pursuant to the provisions hereof.

Section 1.08 Deed. Any deed, assignment, lease, or other instrument conveying fee title or a leasehold interest in any part of the Property.

Section 1.09 Force Majeure Event. Causes or conditions beyond the control of the party(ies) to be charged, including, but not limited to: (a) acts of God (including, without limitation, earthquakes, drought, heat, cold, floods, storms, sandstorms, wind, air turbulence, rain, lightning, hurricanes, tornadoes, cyclones, any other aspects of weather, sunspots, solar flares, solar or cosmic radiation, environmental pollution (including, without limitation, smog, smoke, the presence of radiation in the general area, and all other pollutants present in the general area) not directly caused by the act of the party(ies) to be charged, climate changes, subsidence not directly caused by the act of the party(ies) to be charged, mudslides not directly caused by the act of the party(ies) to be charged, landslides not directly caused by the act of the party(ies) to be charged, any objects falling from the sky or from the heavens not directly caused by the act of the party(ies) to be charged, and/or consequential damage whatsoever to any property or Persons or systems caused by any of same); (b) acts of war; (c) riots; (d) insurrections; (e) acts of terrorism; (f) criminal acts by third parties; (g) strikes, lock outs, and other labor disputes; (h) inability to obtain materials; (i) failure of transportation; (j) any actions or inactions of any governmental or regulatory authority (including, without limitation, the issuance of any injunction or order by a court with jurisdiction, governmental embargo restrictions, and any other actions or inactions of any governmental or regulatory authority); or (k) any other cause whatsoever beyond the control of said party(ies). For purposes hereof, an event shall not be deemed to be within the control of the party concerned on the ground that that party could have prevented that event by acceding to any unreasonable demands (excluding any demand that can be satisfied by the expenditure of money in accordance with good business practices) of any governmental or regulatory (including, without limitation, any court) or other authority, corporation, trade union, association or other Person.

Section 1.10 Improvements. “Improvement” or “Improvements” shall mean, with respect to any Lot, any building, structure or construction which may affect the appearance of such Lot, including by way of illustration, but not limitation, all land preparation or excavation, fill and grading, utilities, pipes, lines, wires, rail, rail bed and other facilities, landscaping, buildings (whether fully or partially enclosed), garage, parking structures, parking areas, curbing, paving, exterior paint or material or colors, trackage, fences, walls exterior screening, poles, towers, antenna, aerials, lighting, driveways, ponds, lakes, fountains, signboard, walkways, jogging paths, signs, glazing or reglazing of exterior windows, exterior communications equipment and facilities, and any construction which affects the exterior color of the appearance of any building or structure. The term “Improvements” includes both original improvements that may be permanent or temporary, stationary or moveable, or that may be above, on or below ground level.

Section 1.11 Lineage Parcel. Shall mean that portion of the Property legally described on Exhibit C attached hereto.

Section 1.12 Lot. Shall mean a tract of land within the Park, the size, boundaries and dimensions of which are established by (i) the legal description of such tract contained in the recorded instrument conveying title from Developer to the first fee owner of such tract subsequent to Developer; or (ii) the legal description of such tract contained in an instrument in writing executed, acknowledged and recorded by the Developer (or LBP Owner or Boyer Owner, as applicable) following the date hereof, such as a plat map, which designates a tract of land as a Lot for purposes of this Declaration. If two or more contiguous Lots, as defined above, are acquired by the same Owner in fee, such commonly owned contiguous Lots may, at the option of said Owner and subject to compliance with applicable laws, be combined and treated as a single Lot for purposes of this Declaration.

Section 1.13 Lot Spur. All rail infrastructure Improvements intended to provide rail service to a single Rail Served Lot, including without limitation rail tracks, crossings, runaround tracks, switches (but not switches connecting directly to the Railroad Facilities), spurs to individual Improvements, loading or unloading or storage areas, lighting, automatic equipment identification readers, permanently affixed safety equipment and/or any and all other permanently affixed equipment and/or facilities connected with or providing any service(s) regarding any of the foregoing and intended, designed or used to provide rail service within the Lot. A Lot Spur shall not include any portion of the Railroad Facilities.

Section 1.14 Mortgage. Any mortgage, deed of trust, security deed or other security agreement secured in whole or in part by all or any portion of the Property.

Section 1.15 Official Records. The official deed records or public records for Tooele County, Utah.

Section 1.16 Owner. Any Person who is a record owner of any Lot. In the event that fee simple title to a Lot is held by multiple Persons, either as the result of creation of a tenancy-in-common or the creation of an estate for at least forty (40) years, pursuant to which one Person is a ground lessor and the other Person is a ground lessee, such multiple Persons shall appoint and authorize one such Person to act on behalf of all owners for that Lot. Each Owner, in such Owner's sole and absolute discretion, may convey title or lease portions of the Property to certain persons or entities; provided, however, that it is the express intention of the Owner that all of the Property, whether conveyed absolutely or subject to a leasehold estate, shall at all times be subject to the covenants, conditions and restrictions hereinafter set forth and all other terms and provisions of this Declaration, as amended or otherwise modified from time to time.

Section 1.17 Person. Any individual, corporation, partnership, joint venture, association, trust, limited liability company, unincorporated organization or any other form of entity.

Section 1.18 Pond. A facility designed and constructed to contain, slow or prevent the release of stormwater from the Property according to the requirements of the City, County or other governmental entity.

Section 1.19 Prohibited Use. The term "**Prohibited Use**" shall have the meaning set forth in **Section 3.01(b)** below.

Section 1.20 Railroad Easement. Shall mean the easements on and over areas on the Rail Served Lots at any time and from time to time as provided in Section 5.05, to provide for rail service within, to and from the Rail Served Lots.

Section 1.21 Railroad Facilities. All rail infrastructure improvements to provide rail common carrier service and appurtenant to the main line throughout the Park, including without limitation rail tracks, crossings, runaround tracks, switches (including switches connecting directly to Lot Spurs), loading or unloading or storage areas, lighting, automatic equipment identification readers, permanently affixed safety equipment and/or any and all other permanently affixed equipment and/or facilities connected with or providing any service(s) regarding any of the foregoing situated within a Rail Easement on a Rail Served Lot and intended, designed or used to provide rail service within, to and from the Park or any Rail Served Lot.

Section 1.22 Rail Served Lots. Shall mean the Lots that are part of the Park designated on Exhibit D attached hereto and incorporated herein by reference, to receive rail service, regardless of whether the Owner of the Lot requires or elects to receive rail service. Exhibit D may not be amended without the consent of the Rail Service Operator, which may be withheld in its sole discretion.

Section 1.23 Rail Service Operator. The rail service provider, or its successor, which is either publicly owned and/or controlled or privately owned which has been granted or assigned the right to provide rail services within the Park pursuant to a separate agreement with Developer or, after Developer no longer owns a Lot within the Park, with the Design Review Committee; provided, however, that neither the Developer nor the Design Review Committee may terminate or replace the Rail Service Operator except as set forth in a separate written agreement between the Rail Service Operator and Developer or the Design Review Committee, as applicable.

Section 1.24 Roadway Easement. Shall mean the easements for roads, driveways, curb cuts and for ingress and egress throughout the Property for the benefit of all Owners, their guests, employees and invitees which is not intended to be dedicated to the City, but specifically excluding all private drives located within a Lot for the benefit solely of the Owner owning (or party leasing or subleasing, as the case may be) such Lot or an adjacent Lot.

Section 1.25 State. The State of Utah.

Section 1.26 Transload Operator. The transload service provider, or its successor, which has been granted or assigned the exclusive right to provide transload services within the Park pursuant to a separate agreement with Developer or, after Developer no longer owns a Lot within the Park, with the Design Review Committee; provided, however, that neither the Developer nor the Design Review Committee may terminate or replace the Transload Operator except as set forth in a separate written agreement between the Transload Operator and Developer or the Design Review Committee, as applicable.

Section 1.27 Transload Facilities. All improvements intended to provide transload services for multiple Lots within the Park or for users outside of the Park, including, without limitation, loading, unloading, and storage areas, lighting, equipment, and facilities used by the Transload Operator.

Article II. PURPOSE AND ADDITIONAL PROPERTY

Section 2.01 Purpose. The Property is hereby made subject to the covenants, conditions, restrictions, reservations and easements contained in this Declaration, all of which shall be deemed to run with the Property and with each and every Lot within the Property, and shall burden and bind the Property for the duration hereof or for such duration as may be otherwise expressly stated herein, in order to insure proper use and appropriate development, maintenance and improvements of the Property; to prevent the erection within the Property of improvements constructed of improper or unsuitable materials, quality or methods of construction; to encourage the construction of attractive and harmoniously designed improvements within the Property which provide a high quality, first class business park development; to protect the

present and future value of the Property; and to generally promote the welfare and safety of the Owners.

Section 2.02 Option to Submit Additional Property.

- (a) Developer hereby reserves unto itself the option, which may be exercised in its sole discretion at any time and from time to time, to submit, or cause to be submitted, Additional Property, or any portion or portions thereof to the covenants and restrictions of this Declaration and thereof to cause the Additional Property, or such portion or portions thereof so submitted, to become a part of the Park. This option may be exercised by Developer at any time and from time to time until such time as Developer no longer owns any portion of the Property (including any Additional Property). In the event Developer elects not to submit or subject the Additional Property, or any portion or portions thereof, to this Declaration, Developer shall not be obligated to impose, or cause to be imposed, any covenants or restrictions on such Additional Property, or any portion or portions thereof.
- (b) The Additional Property, or such portion or portions thereof as may be submitted to this Declaration from time to time in the manner prescribed herein, shall be submitted to this Declaration by filing for record by Developer and any such owner of the Additional Property, or such portion or portions thereof as may be submitted to this Declaration, a supplementary declaration of covenants and restrictions with respect to the Additional Property, or the portion or portions thereof, to be submitted to this Declaration to the Additional Property, or the portion or portions thereof so submitted. Such supplementary declarations may contain such complementary modifications of the covenants and restrictions contained in this Declaration and such other complementary additional provisions as may be necessary to reflect the different character, if any, of the Additional Property. In no event, however, shall such supplementary declarations revoke, modify or add to the covenants and restrictions hereby made applicable to the Property unless specifically set forth therein and otherwise permitted elsewhere in this Declaration.
- (c) At such time as Developer no longer owns any portion of the Property, then additional property may be made subject to this Declaration in accordance with the provisions set forth in **Article VIII** below.

Article III. GENERAL COVENANTS AND RESTRICTIONS

Section 3.01 Use.

- (a) Each Lot and all Improvements thereon shall be used for or in support of (i) industrial, office, transload, distribution and warehouse purposes or (ii) any other commercial purposes which are allowed by applicable zoning regulations and approved in advance by the Design Review Committee, with all the design, layout and location of all Lot Spurs on a Rail Served Lot, if any, approved by the Rail Service Operator. In order to maintain consistency and uniformity among various permitted uses contemplated for the Property, Declarant may (but shall not be under any obligation to) group certain permitted uses together throughout the Park; provided, however, unless otherwise agreed in writing by Boyer as evidenced by a supplement to this Declaration, Boyer will not be required to group any uses on the Boyer Parcel or the Boyer Option Parcel, and, without limiting the generality of the foregoing, will be permitted to develop the Boyer Parcel or the Boyer Option Parcel for any uses permitted hereunder. By means of illustration only, research and development operations of different Owners may be strategically placed within a certain segment or portion of the Park.
- (b) No Lot or Improvements thereon shall be used for a "**Prohibited Use**", which, for purposes

hereof, shall mean:

- (i) A residential use, including, without limitation, mobile homes or trailer courts (provided the foregoing will not prevent the manufacturing of any mobile homes or trailers); junk or salvage yards; unscreened outside storage of materials or supplies (except as otherwise permitted herein); labor camps; distillation of bones; dumping, disposal, incineration or reduction of garbage; dead animals or refuse; fat rendering; stockyard or slaughter of animals; smelting of iron, tin, zinc, or other ores; refining of petroleum or of its products; cemeteries or mausoleums; jail, penal, detention or correction farms; temporary or portable sawmill; community fair; noncommercial club or lodge; privately operated sanitary landfill, sewage or treatment plant; boarding and breeding kennels; temporary religious meetings; funeral home; sanatorium, convalescent, rest or retirement home; adult bookstore or other establishment engaged in the business of selling, exhibiting or delivering pornographic or obscene materials (provided the foregoing will not prevent a delivery, warehousing or parcel service which may ship such materials); game room or arcade (except as incidental to an otherwise permitted use); off-track betting parlor; pawn shop; flea market; auditorium; sports or other entertainment viewing facility; dance hall or night cub; billiard parlor; or bars and lounges;
- (ii) Unless approved in advance by the Design Review Committee, billboards or other commercial advertising (other than customary building and monument signage), or television or other transmission tower;
- (iii) Any use which, in the ordinary course of business, creates an actionable nuisance (which are not typical to uses permitted under Section 3.01(a)) to, or trespass against, any adjoining Lot, or its Owners, users, lessees or sublessees;
- (iv) Any use which would create a substantial likelihood of waste to any Lot;
- (v) Any use deemed to be dangerous or unsafe by the Design Review Committee in its sole but reasonable discretion compared to those uses typically found in a commercial industrial business park similar to the Park; or
- (vi) Any use which involves the generation, treatment, storage or disposal of Hazardous Substances (as defined below) in violation of Environmental Laws (as defined below), or which poses a substantial risk of release of any Hazardous Substances into the ground, air, surface water, ground water or any other medium that would be in violation of Environmental Laws.

Section 3.02 Animals. No birds (including, without limitation, poultry), livestock, animals, insects or fish shall be kept or maintained on any Lot without the express written consent of the Design Review Committee.

Section 3.03 Temporary Structures. No temporary building, trailer, garage, or building under construction, or other temporary Improvements shall be occupied or located, for any purpose, on any Lot; provided, however, that, notwithstanding the provisions of Section 3.01 to the contrary, (i) a temporary "construction trailer" shall be allowed on a Lot and occupied during a period of construction upon said Lot (ii) one or more shipping or freight containers may be used on a Lot for the purpose of storing and transporting goods or materials to and from such Lot, and (iii) shipping trailers may be kept in the parking areas on a Lot. This **Section 3.03** shall not apply to Improvements constructed or used by the Transload

Operator or the Rail Service Operator in connection with providing rail or transload services within the Park or in connection with operating the Railroad Facilities or Transload Facilities.

Section 3.04 Approvals, Waivers and Variances. It is the intent of this Declaration that the regulation of Lots within the Property as set forth in this **Article III** be strictly adhered to by all Owners. Notwithstanding that intent, it is recognized that particular circumstances may from time to time and on a case-by-case basis necessitate the waiving or varying of certain of the requirements set out in this **Article III**; provided, however, any such rules and regulations shall be enforced on a non-discriminatory basis and waivers or variances shall be granted or denied on a non-discriminatory basis. Therefore, for good cause shown, the Design Review Committee may, in its sole discretion, waive or vary the requirements and standards set forth in this **Article III** on a case-by-case basis so long as such waiver or variance does not violate the overall scheme and intent of this **Article III** and are not granted or denied on a discriminatory basis. Any waiver or variance, when granted by the Design Review Committee, shall be final and binding upon all Owners. The granting of a waiver or variance to one Owner shall not automatically entitle another Owner to the same waiver or variance, it being understood that each request for a waiver or variance shall be treated on its own merits. Further, the granting of a waiver or variance to an Owner shall not automatically entitle that Owner to any subsequent or additional waiver or variance. All approvals, waivers and variances by the Design Review Committee shall be in writing and signed by at least two (2) members of the Design Review Committee and, if requested by the applicant, shall be in recordable form. No approval, waiver or variance in any other form shall be binding on the Design Review Committee or Developer. Notwithstanding the foregoing, if any waiver or variance relates to the Lot Spurs or rail service, approval of the Rail Service Operator shall also be required, which approval may be granted or withheld in the sole discretion of the Rail Service Operator.

Section 3.05 Zoning. No Owner shall seek to rezone its Lot or seek to modify or amend in any respect the zoning applicable to its Lot without the prior written approval of the Design Review Committee, which approval shall not be unreasonably withheld, conditioned or delayed. Developer reserves the right to rezone the Property then owned by Developer or have the existing zoning applicable to the Property then owned by the Developer modified or amended without the consent of the other Owners but subject to the other terms, conditions and restrictions of this Declaration.

Section 3.06 Initial Construction Period and Developer's Right of Reentry. If an Owner (other than Boyer for so long as Boyer owns the Boyer Parcel or the Boyer Option Parcel) fails to commence construction of a building on its unimproved Lot within eighteen (18) months from the date of the Deed conveying the Lot from Developer for any reason other than a Force Majeure Event, then Developer, its successors and assigns, at any time thereafter shall have the continuing right to repurchase the Lot by giving the Owner written notice of its election to repurchase ("**Repurchase Notice**"), at a repurchase price equal to the price paid by the Owner to Developer when the Lot was purchased by the Owner from Developer; provided that (i) the Repurchase Notice must be given by Developer within four (4) years after the sale to the Owner, and (ii) the Owner has not commenced construction of a building on its unimproved Lot as of the date of the Repurchase Notice. On the date which is thirty (30) days from and after the date of the Repurchase Notice ("**Repurchase Date**"), Developer shall pay to the Owner the repurchase price in cash and the Owner shall reconvey the Lot to Developer by delivery of a limited warranty deed duly executed and acknowledged by the Owner in recordable form, conveying good and indefeasible fee simple title to the Lot to Developer, containing no exceptions to title other than the exceptions contained in the original Deed from Developer; provided however, if Owner has granted any easements that burden the Lot, then Developer shall have the right to revoke its Repurchase Notice if Developer determines in its sole and absolute discretion, upon a title and survey review, that said easements are not acceptable to Developer. In addition, at the Owner's expense, the Owner shall deliver to Developer an ALTA 2006 Extended Coverage Owner's Title Insurance Policy in the amount of the repurchase price insuring fee simple, indefeasible title to the Lot to Developer, containing no exceptions

to title other than those contained in the original title policy delivered from Developer to the Owner when the Lot was purchased from Developer by the original Owner, together with those new easements approved by Developer. Ad valorem taxes and general assessments against the Lot for the calendar year in which the repurchase occurs shall be prorated on and as of the Repurchase Date. The Owner and Developer covenant and agree to execute and deliver to each other such additional document as may be reasonably necessary to consummate the reconveyance of the Lot to Developer. The right of Developer to repurchase the Lot shall be binding upon the original Owner and the Owner's successors and assigns and shall be considered a covenant running with the Lot. If the Owner fails to reconvey the Lot to Developer as provided for in this Section, Developer shall have the right to any and all remedies at law or equity, including the right to specifically enforce the conveyance of the Lot to Developer and shall be entitled to recover reasonable attorneys' fees and court costs incurred in connection with enforcement of its rights under this Section. Notwithstanding the foregoing, Developer agrees to subordinate the option reserved by it as set forth in this **Section 3.06** to the lien and security title of any mortgage placed on such Lot if, and only if (a) the indebtedness secured by such mortgage does not exceed the purchase price theretofore paid by the Owner to Developer for such Lot, (b) the promissory note evidencing the indebtedness secured by the Mortgage expressly permits prepayment of the indebtedness evidenced thereby without penalty or notice, and (c) the holder of the mortgage and the promissory note evidencing the indebtedness secured thereby expressly in writing agrees that, if Developer exercises its option reserved in this **Section 3.06**, said holder will accept payment by Developer, or its assignee of the option herein contained, of the principal balance and accrued interest evidenced by said promissory note and immediately upon receipt thereof release its lien and security title in and to said Lot. Notwithstanding the foregoing provisions of this **Section 3.06** to the contrary, the provisions of this **Section 3.06** will not apply to Boyer, the Boyer Parcel or the Boyer Option Parcel for so long as Boyer owns such parcels.

Section 3.07 Completion of Construction and Lot Work. Once commenced, all construction of Improvements shall be diligently pursued to completion. Such construction of Improvements may not be left in a partly finished condition any longer than is reasonably necessary. In the event construction of a building is commenced upon any Lot (as evidenced by the pouring of foundations for such building, but not any earthwork or grading work) and is subsequently interrupted for a period exceeding six (6) months (other than due to a Force Majeure Event), and such failure continues for thirty (30) days after Developer has provided such Owner, and any Mortgagee of record written notice of the same, the Owner owning said Lot shall promptly remove the partially completed Improvements and restore the Lot to the condition in which it existed prior to commencement of construction. In the event of violation of the provisions of this **Section 3.07**, Developer or its agents or employees shall have the right to go upon any such Lot, without liability or trespass therefor and, at the Owner's expense, to remove said partially completed improvements and restore the Lot to its prior condition; the actual, documented reasonable out of pocket cost of such work shall be promptly paid by such Owner upon receipt of a statement therefor, and, until paid in full, such cost shall be a lien upon the Lot involved. Such lien may be enforced by sale or foreclosure by Developer, who is hereby appointed as trustee for each Owner, conducted in accordance with the provisions of law applicable to the exercise of powers of sale or foreclosure of deeds of trust or mortgages, nonjudicial foreclosure of assessment liens under the Utah Community Association Act, Utah Code Title 57, Chapter 8a, or in any other manner permitted by law including, without limitation, the method recognized under the laws of the State of Utah for the enforcement of a mechanics lien, Utah Code Title 38, Chapter 1, as amended from time to time. In the event any Mortgagee has delivered notice to Developer that it has commenced a foreclosure proceeding against such Lot, the foregoing notice and cure period will be extended until the date which is six (6) months after the completion of such foreclosure. This **Section 3.07** shall not apply to construction of the Railroad Facilities or Transload Facilities.

Section 3.08 Accumulation of Refuse. Without the consent of the Design Review Committee and except as otherwise permitted in **Section 3.03**, no articles, goods, bulk materials, incinerators, storage

tanks, lumber or metals (other than inventory being stored for sale or distribution in the ordinary course of business) shall be kept, stored, or allowed to accumulate on any Lot, except building materials during the course of construction of any Improvements. Moreover, except as otherwise permitted in **Section 3.03**, no outside storage of any type shall be allowed on any Lot without the prior written consent of the Design Review Committee. No refuse or trash shall be kept, stored, or allowed to accumulate, except if trash or other refuse is to be disposed of by being stored in receptacles pending its being picked up and removed from a Lot. Any trash or refuse being held for removal from a Lot shall be stored in appropriate containers at a place and in a manner so that the container or receptacles, as nearly as practicable, are not visible from adjacent and surrounding Lots. The Design Review Committee, in its sole and absolute discretion, may adopt and promulgate reasonable, non-discriminatory rules and regulations relating to the type and appearance of permitted trash receptacles, the screening thereof by fences or otherwise, and the manner of storage of permitted trash receptacles on the Property, provided that said rule and regulations do not conflict with the terms of this Declaration or modify requirements relating to uses on a Lot prior to the adoption of such rules and regulations.

Section 3.09 Lot Work. In the event any Owner deposits or removes any dirt or fill on or from any Lot in accordance with the terms hereof, or cuts or fills any Lot or otherwise engages in any excavation work on any Lot, that Owner shall do so only in accordance with plans previously approved by the Design Review Committee and the Owner shall slope the same to grade in accordance with the terms of the plans approved by the Design Review Committee and take such measures as are reasonably necessary to control erosion which would result from the cuts or fills.

Section 3.10 Landscaping.

- (a) In the event any Owner desires to install landscaping on any portion of such Owner's Lot(s), or desires to materially alter the landscaping already installed on said Lot(s) in a manner that is materially inconsistent with the plan approved by the Design Review Committee, that Owner shall do so only in accordance with landscaping plans previously approved by the Design Review Committee pursuant to the procedures outlined in **Article VI** hereof.
- (b) On those portions of a Lot held for future development, if any, the Owner owning (or leasing or subleasing, as the case may be) such Lot must remain in its current state or such Owner may install grass, native vegetation or ground cover approved by the Design Review Committee over the entire area.

Section 3.11 Pipes. Except with prior written permission from the Design Review Committee, no water, gas, sewer or drainage pipe shall be installed or maintained on any Lot above the surface of the ground and outside of a building, except garden type hoses and movable pipes used for irrigation purposes.

Section 3.12 Aboveground Utilities. Except for above-ground utilities currently installed, or to be installed by Developer in connection with its initial development of, the Property, no Owner shall erect or grant to any Person the right, license or privilege to erect or use, or permit the use of, overhead wires, poles, or overhead facilities of any kind for electrical or telephone service on any Lot (other than communications equipment located on top of a building), without first obtaining the prior written consent of the Design Review Committee. Nothing herein shall be construed to prohibit overhead street lighting or ornamental lawn lighting, where service is provided by underground wires or cables. Moreover, all public utilities such as electric power lines, telephone lines, water lines, sewer lines, gas mains, drainage pipes, etc. up to the perimeter of a Lot shall be installed underground within already cleared areas such as road rights-of-way and driveways which serve the Property.

Section 3.13 Connection Points for Utility Service Lines. Each Owner agrees to connect utility service lines (including, but not limited to, gas, water, sewer, and electricity) at points within public utility areas and approved by the public utility.

Section 3.14 Parking. Each Owner shall use its best efforts to insure that its guests and/or invitees utilize the parking areas provided on the Lot of said Owner; provided, however, that Developer, for so long as it is an Owner, and thereafter the Design Review Committee, shall have the right, but not the obligation, to approve and permit an Owner to provide offsite parking of automobiles and/or trailers for the benefit of one of such Owner's Lots on one or more other Lots owned or leased by such Owner, subject to plans and specifications, and an overall parking plan, approved by Developer or the Design Review Committee, as applicable, no parking will be permitted in any public or private right of way in the Park. Each Owner shall provide adequate off-street parking facilities on the Lot or Lots owned by such Owner or its affiliates so as to eliminate any need for vehicle parking on public streets adjoining the Property, on public or private streets within the Property, or on any other Lot (except in cases where parking on abutting lots is specifically authorized in writing by the Design Review Committee or is on a Lot owned by such Owner or its affiliate, in which case the approval of the Design Review Committee shall not be required). All such off-street parking shall be in compliance in all respects with all applicable zoning ordinances, as from time to time amended. The location and compliance of all parking areas with applicable laws shall be approved by the Design Review Committee in connection with its review of submitted site plans, taking into account, without limitation, the intended use of the Lot and its suitability for other uses.

Section 3.15 Environmental Matters.

(a) For purposes of this Declaration:

- (i) **"Contamination"** as used herein means the presence of or release of Hazardous Substances (as hereinafter defined) into any environmental media from, upon, within, below, into or on any portion of the Property so as to require remediation, cleanup or investigation under any applicable Environmental Law (as hereinafter defined).
- (ii) **"Environmental Laws"** means any federal, state or local law, statute, ordinance, or regulation pertaining to health, industrial hygiene, or environmental conditions, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Sections 9601, *et seq.*; the Resource Conservation and Recovery Act of 1976, 42 U.S.C. Sections 6901, *et seq.*; the Toxic Substances Control Act of 1976, 15 U.S.C. Sections 2601, *et seq.*; the Superfund Amendments and Reauthorization Act of 1986, Title III, 42 U.S.C. Sections 11001, *et seq.*; the Hazardous Materials Transportation Act, 49 U.S.C. Sections 1801, *et seq.*; the Clean Air Act, 42 U.S.C. Sections 7401, *et seq.*; the Federal Water Pollution Control Act, 33 U.S.C. Sections 1251, *et seq.*; the Safe Drinking Water Act, 42 U.S.C. Sections 300f, *et seq.*; the Solid Waste Disposal Act, 42 U.S.C. Sections 3251, *et seq.*; and any other federal, state or local law, statute, ordinance, or regulation now in effect or hereafter enacted which pertains to health, industrial hygiene, or the regulation or protection of the environment, including, without limitation, ambient air, soil, groundwater, surface water, and/or land use.
- (iii) **"Hazardous Substance"** means any material, waste, substance, pollutant, or contaminant which may or could pose a risk of injury or threat to health of the environment, including, without limitation: (w) those substances included within the definitions of "hazardous substance", "hazardous waste", "hazardous material", "toxic

substance”, “solid waste”, or “pollutant or contaminant” in, or otherwise regulated by any Environmental Law; (x) those substances listed in the United States Department of Transportation Hazardous Materials Table (49 CFR 172.101, including appendices and amendments thereto), or by the Environmental Protection Agency (or any successor agency) as hazardous substances (40 CFR Part 302 and amendments thereto); (y) such other substances, materials, or wastes which are or become regulated or classified as hazardous or toxic under federal, state, or local laws or regulations; and (z) any material, waste, or substance which is (A) petroleum or refined petroleum products; (B) asbestos in any form; (C) polychlorinated biphenyls; (D) flammable explosives; (E) radioactive materials; or (F) radon. Any reference in these definitions to statutory or regulatory sections shall be deemed to include any amendments to such sections and any successor sections.

- (b) Each Owner covenants that all its activities, and the activities of such Owner or its agents on the Property will be conducted in compliance with Environmental Laws. Each Owner, at such Owner’s sole cost and expense, shall at all times comply with the terms and conditions of all required permits, licenses, approvals, notifications, and registrations and with any other applicable Environmental Laws.
- (c) No Owner shall cause or permit the release of any Hazardous Substances by such Owner or such Owner’s agents into any environmental media such as air, water or land, or into or on the Property in any manner that violates any Environmental Laws. If such release shall occur, such member shall (i) take all steps reasonably necessary to contain and control such release and any associated Contamination, (ii) clean up or otherwise remedy such release and any associated Contamination to the extent required by, and take any and all other actions required under, applicable Environmental Laws and (iii) notify and keep other Owner’s reasonably informed of such release and response.
- (d) Under no circumstances whatsoever, shall any Owner cause or permit (i) any activity on the Lot which would cause the Lot to become subject to regulation as a hazardous waste treatment, storage or disposal facility under RCRA or the regulations promulgated thereunder, or any other Environmental Law, (ii) the discharge of Hazardous Substances into the storm sewer system serving the Property or (iii) the installation of any underground storage tank or underground piping on or under the Property unless approved in writing by the Design Review Committee, and each of (i), (ii) and (iii) shall be deemed a Prohibited Use under **Section 3.01(b)**.

Section 3.16 Fuel Storage. Fuel storage and dispensing facilities may be installed on a Lot only after prior written authorization from the Design Review Committee, which authorization shall not be unreasonably withheld, conditioned or delayed. The Owner of the Lot on which such facilities are installed shall be fully responsible for ensuring that such facilities and their installation comply fully with all applicable laws and regulations, and the provisions of this Article.

Section 3.17 Rail and Transload Exemption. No restrictions under this **Article III** shall apply, and no rules or regulations may be adopted hereunder, with respect to the Rail Service Operator, Railroad Facilities, Transload Operator or Transload Facilities.

Article IV. COVENANTS FOR MAINTENANCE

Section 4.01 Maintenance. Each Owner of a Lot, at its sole cost and expense, shall keep such Lot, including the Improvements, and including any area between the property line of that Lot and any adjacent street curbs in a safe, clean, neat and attractive condition at all times and shall comply with all

governmental health, fire and safety statutes, ordinances, regulations or requirements applicable from time to time to the Lot and Improvements thereon. Each Owner's obligations include, but shall in no way be limited to, the following:

- (a) All rubbish, trash and other waste shall be stored in clean and sanitary solid waste receptacles and shall be removed promptly from the Lot prior to its accumulation.
- (b) All exterior lighting and mechanical facilities shall be kept in good working order.
- (c) All parking areas shall be striped, and all parking areas, driveways and roads shall be kept in good repair and swept to the extent necessary to keep such areas clean and clear of debris.
- (d) All exteriors to any Improvements shall be kept in good repair, including replacements, if necessary, ordinary wear and tear excepted.
- (e) All trees, grass, shrubs, flowers and other landscaping shall be maintained in compliance with the requirements of **Exhibit G** attached hereto and incorporated herein by reference, and any and all irrigation systems and all other facilities utilized in the maintenance of such landscaping within the perimeter of such Lot owned (or leased or subleased, as the case may be) by each Owner.

Section 4.02 Failure to Maintain. If, in the reasonable opinion of the Developer or, after Developer no longer owns a Lot, the Design Review Committee, any Owner fails to properly maintain and preserve all Lots owned (or leased or subleased, as the case may be) by such Owner in accordance with **Section 4.01** hereof, the Developer or Design Review Committee, as applicable, may give written notice thereof to such Owner (the "**Violating Owner**"). The Violating Owner shall have fifteen (15) days to cure such violation, or to commence to cure and thereafter diligently pursue said cure to completion if the violation cannot be cured within said fifteen (15) day period. If the Violating Owner fails to so cure said violation within the cure period to the reasonable satisfaction of the Developer or Design Review Committee, the Developer or the Design Review Committee, as applicable, shall have the right, through its agents and employees, and a non-exclusive license, to enter upon the Lot in question, with or without process of law and without liability or trespass therefor, and repair, maintain, repaint and restore such Lot, such improvements or such landscaping thereon, in such a manner necessary to comply with the provisions of this Declaration, and the cost thereof shall be a binding, personal obligation of the Violating Owner secured by a lien against the Lot. Such lien may be enforced by sale or foreclosure by Developer or the Design Review Committee, as applicable, who is hereby appointed as trustee for each Owner, conducted in accordance with the provisions of law applicable to the exercise of powers of sale or foreclosure of deeds of trust or mortgages, nonjudicial foreclosure of assessment liens under the Utah Community Association Act, Utah Code Title 57, Chapter 8a, or in any other manner permitted by law including, without limitation, the method recognized under the laws of the State of Utah for the enforcement of a mechanics lien, Utah Code Title 38, Chapter 1, as amended from time to time. This **Section 4.02** shall not apply to the maintenance of Railroad Facilities, so long as a Rail Service Operator has been designated, or Lot Spurs, which maintenance is governed by **Section 4.03** and **Section 4.04**, respectively.

Section 4.03 Railroad Facilities. So long as a Rail Service Operator has been designated, the Rail Service Operator shall maintain and repair the Railroad Facilities within the Park. The Rail Service Operator shall maintain: (a) the Railroad Facilities in compliance with all state and federal statutes, rules and regulations when construction thereof is complete; and (b) the rail track that is part of the Railroad Facilities, to at least Class 1 standards, as defined in Federal Railroad Administration regulations (49 C.F.R. § 213.9(a)), and capable of operating speeds of at least ten (10) miles per hour. Further, all repairs will be coordinated and directed by the Rail Service Operator and the Rail Service Operator will directly oversee any third-party contractors hired to perform maintenance, repairs, and replacement of the

Railroad Facilities. The Rail Service Operator shall pay the costs of such maintenance, repairs, and replacements of the Railroad Facilities, including any costs required to comply with any new regulatory requirements that require capital investment in the Property or the Railroad Facilities (collectively, the “**Rail Costs**”), directly and submit statements to each Owner of a Rail Served Lot for reimbursement for such Rail Served Lot Owner’s proportionate share of Rail Costs. Such amounts shall be paid within thirty (30) days of receipt of the statement from the Rail Service Operator. As used herein, a Rail Served Lot Owner’s “proportionate share” shall be a fraction, the numerator of which shall be one (1), and the denominator of which shall be the total number of Rail Served Lots. If Rail Costs are unpaid for more than thirty (30) days after written notice from the Rail Service Operator that such amounts are past due, the Rail Service Operator may discontinue rail service to the respective Owner and Rail Served Lot. Additionally, there shall be a lien upon the applicable Rail Served Lot in favor of the Rail Service Operator for all unpaid Rail Costs, together with late fees, interest and costs (including attorneys’ fees) as reasonably charged by the Rail Service Operator. The lien for unpaid Rail Costs and related charges shall be effective upon recordation in the Official Records of Tooele County, Utah of a written notice of lien by the Rail Service Operator. The written notice of lien shall set forth the amount of the Rail Costs, the date(s) due, the amount remaining unpaid, the name of the Owner of the Rail Served Lot and a description of the Rail Served Lot. No notice of lien shall be recorded until there is a delinquency in payment of the Rail Costs beyond thirty (30) days as provided herein. Such lien may be enforced by sale or foreclosure by the Rail Service Operator, who is hereby appointed as trustee for each Owner, conducted in accordance with the provisions of law applicable to the exercise of powers of sale or foreclosure of deeds of trust or mortgages, nonjudicial foreclosure of assessment liens under the Utah Community Association Act, Utah Code Title 57, Chapter 8a, or in any other manner permitted by law including, without limitation, the method recognized under the laws of the State of Utah for the enforcement of a mechanics lien, Utah Code Title 38, Chapter 1, as amended from time to time.

Section 4.04 Lot Spurs. Unless an Owner of a Rail Served Lot has entered into a separate agreement with the Rail Service Operator for the maintenance of Lot Spurs, such Owner shall maintain and repair such Lot Spurs in accordance with this **Section 4.04**. Within a Rail Served Lot, the Owner shall maintain: (a) the Lot Spurs in compliance with all state and federal statutes, rules and regulations when construction thereof is complete; (b) any portion of the rail track not part of the Railroad Facilities, to at least Class 1 standards, as defined in Federal Railroad Administration regulations (49 C.F.R. § 213.9(a)), and capable of operating speeds of at least ten (10) miles per hour; and (c) as required by the Rail Service Operator. Notwithstanding the foregoing, if an Owner fails to properly maintain a Lot Spur and has not entered into a separate agreement with the Rail Service Operator for such maintenance, the Rail Service Operator may maintain the same as if the Lot Spur was part of the Railroad Facilities, with reimbursement and lien rights as set forth in **Section 4.03** above.

Article V. GENERAL EASEMENTS

Section 5.01 Drainage.

- (a) Each Owner shall be required to construct facilities and improvements on such Owner’s Lot as necessary to retain and contain storm water drainage from such Owner’s Lot as required by the City. No Owner may construct any Improvements or alter any existing or future Improvements upon its Lot or otherwise divert the flow of water from such Owner’s Lot onto another Lot. The provisions hereof shall not be construed to impose any obligation upon Developer to create any specific drain ways upon the Property or any Lot located on the Property.
- (b) Except with prior written permission from the Design Review Committee, drainage flow shall not be obstructed nor diverted from drainage sewers, storm sewers and/or utility easements as designated herein or as hereinafter established by plat or otherwise. The areas reserved for Ponds

or volume control basins by plat or otherwise shall serve such purposes for all Lots comprising the Property.

Section 5.02 Landscape and Access Easements. Declarant hereby declares, grants and creates and reserves unto itself, an easement for unrestricted, non-exclusive access over and across any areas of a Lot located outside of a building for the purposes of maintenance and landscaping if any portion of the Property which the Declarant is expressly required or permitted to maintain and/or landscape hereunder, which easement in favor of the Declarant shall remain in effect until the Declarant is no longer an Owner.

Section 5.03 Roadway Easement. For purposes of creating and maintaining ingress and egress throughout the Park, each Owner for itself, its heirs, successors, and assigns does hereby grant to the Developer the right to establish the Roadway Easement for the purposes of installing and maintaining roads, driveways, curb cuts and ingress and egress throughout the Property and specifically over an Owner's Lot as necessary. Each Roadway Easement shall run with the land and the Owner's title to the Lot, and be binding on the Owner and its heirs, successors, and assigns and any Person who shall thereafter take title to the Lot. The Roadway Easement may be changed (expanded, contracted, reconfigured and/or relocated) as required by state or local governmental entities. Notwithstanding the foregoing to the contrary, no such easements under this **Section 5.03** are granted with respect to the Lineage Parcel, LBP Parcel, the Boyer Parcel or the Boyer Option Parcel unless otherwise agreed in a recorded instrument executed by or consented to by the Owner of such parcels.

Section 5.04 Utility Easements. Developer hereby declares, grants and creates for the benefit of the Property, on, over and under a strip of land (i) twenty (20) feet in width along the boundary lines of each Lot which abuts a street right-of-way, (ii) twenty (20) feet in width along the boundary lines of each Lot which does not abut another Lot or a street right-of-way, (iii) ten (10) feet in width along all other boundary lines of each Lot, and (iv) with respect to above ground electricity transmission lines and poles, thirty-five (35) feet in width along the boundary lines of each Lot which abuts a street right-of-way. Such easement areas shall be for the purpose of providing access for fire control and for the construction, installation, maintenance, repair and replacement of underground or above ground lines, wires, poles, pipes, and related necessary or appropriate facilities for telephone, gas, sewer, water, electricity, and other public or private utility service within such easement areas, together with a temporary nonexclusive easement over and across such portion of each Lot adjacent to the aforesaid easement areas as may be necessary or appropriate for access to said easement areas and/or the construction, installation, maintenance, repair and placement of such utilities; provided that with respect to any such easement areas which abuts a street right of way such easement area may also be used for the purposes of the installation and maintenance of landscaping and permanent building identification signage. This reservation of right and easement expressly includes the right to cut and remove any trees, bushes or shrubbery, to excavate, remove and relocate any soil, to remove and replace driveways, curving and paved areas and to take any other similar action reasonably necessary for the construction, installation maintenance and repair of such utilities or other improvements; provided however, that the area in which any such action occurs shall be restored to good condition. In the event that two or more adjoining Lots are owned by the same Owner, and said Owner submits to the Design Review committee plans for construction of a structure across the property lines common to the Lot owned by said Owner which are approved by the Design Review Committee, Developer (or the Design Review Committee, if Developer is no longer an Owner) shall release the easement along said common property line(s) reserved under this **Section 5.04**.

If it becomes clear that additional utility, drainage or other easements, whether or not contemplated or mentioned in this Declaration, between or across portion of the Property are reasonably necessary and desirable to effectuate the purposes of this Declaration, then upon request of Developer, or the Design Review Committee, if Developer is no longer an Owner, and provided such proposed additional easements will not unreasonably interfere with the development, use and occupancy of any Lot,

unreasonably affect access to or operation of, any Lot or materially increase the operations costs of any such Lot, each Owner agrees to grant such additional easements across its Lot, without charge therefore, subject to such reasonable terms and condition as shall be agreed upon between Developer or the Design Review Committee and such Owner. Any such new easement or easements shall be signed by Developer, if Developer is still an Owner, and all Owners of portions of the property which comprise the land within any such new easement areas and shall be recorded in the Official Records. Notwithstanding the foregoing to the contrary, no such easements under this **Section 5.04** are granted with respect to the Lineage Parcel, LBP Parcel, the Boyer Parcel or the Boyer Option Parcel unless otherwise agreed in a recorded instrument executed by or consented to by the Owner of such parcels, including, but not limited to, a recorded plat.

Section 5.05 Railroad Easement. For purposes of constructing, installing and maintaining Railroad Facilities and creating and maintaining rail service to, from and between the Rail Served Lots within the Park, Developer hereby declares and each Rail Served Lot Owner for itself, its heirs, successors, and assigns does hereby grant and establish Railroad Easements throughout the Property and specifically over the Rail Served Lots for the benefit of the Rail Service Operator. Each Railroad Easement shall run with the land and the Owner's title to the Rail Served Lot, with the Rail Served Lot being burdened thereby, and be binding on the Rail Served Lot Owner and its heirs, successors, and assigns and any Person who shall thereafter take title to the Rail Served Lot as the servient estate. It is anticipated that the Railroad Easements will be located generally in the locations provided on **Exhibit E** and shall be thirty (30) feet wide; provided, however, that the Railroad Easements may be changed (expanded, contracted, reconfigured and/or relocated) as required by the mutual agreement of the Rail Service Operator and Developer in their sole discretion; and provided further that a Railroad Easement shall not be relocated on a Rail Served Lot after the initial conveyance by Developer of such Rail Served Lot without the Owner's written approval. Notwithstanding the foregoing to the contrary, no such Railroad Easements under this **Section 5.05** or in any other provision of this Agreement are or may be granted with respect to the Lineage Parcel or LBP Parcel unless shown on **Exhibit E** attached hereto, or the Boyer Parcel or the Boyer Option Parcel, unless, in each case, otherwise agreed in a recorded instrument executed by or consented to by the Owner of such parcels, including, but not limited to, a recorded plat. Notwithstanding anything in this Declaration to the contrary, any enforcement of a lien created by this Declaration by Developer or the Design Review Committee shall not foreclose out, void, abrogate, or otherwise affect any Railroad Easement. Moreover, any deed of trust or mortgage recorded against a Lot by an Owner shall be junior and subordinate to any Railroad Easement. Each Owner of a Rail Served Lot desiring to have rail services provided to such Owner's Rail Served Lot shall be responsible to enter into a separate agreement directly with the Rail Service Operator for the provision of such rail services and payment of the fees and costs associated therewith.

Section 5.06 Easements for the Benefit of Governmental Agencies and Public Utilities; Future Easements. Certain easements (in perpetuity or otherwise) have been and may in the future be granted by Developer to certain entities, or established for the benefit of the development of the Property, including, without limitation, easements for open space, drainage, sewer and water lines and other utilities, and roadways or drive aisles for the efficient flow of traffic throughout the Property, which easements may affect all or some of the Lots. Developer shall be entitled, without the consent of any Owner, to grant any such future easements as it determines are in the best interests of the development of the Property; provided, however, that (a) such easements shall be limited only to the location, scope and size reasonably necessary to accomplish the stated purpose of such easement, or to comply with any relevant governmental requirements, and (b) no such easements under this **Section 5.06** are granted with respect to the Lineage Parcel, LBP Parcel, the Boyer Parcel or the Boyer Option Parcel unless otherwise agreed in a recorded instrument executed by or consented to by the Owner of such parcels, including, but not limited to, a recorded plat. Each Owner shall fully and faithfully comply with all requirements of said governmental or public agencies in connection with the easements granted pursuant to this **Section 5.06**.

Developer agrees that all such easements will be located so as to reasonably minimize, consistent with applicable governmental requirements, the impact on the access and use (including the ability to construct improvements on the Lot) by any Owner of its particular Lot and the improvements thereon and that no such easement will be located under any building footprint. Developer further agrees that no such easement may be granted without the consent of the Owner of such Lot if it will materially affect the value of such Lot.

Section 5.07 Other Easements. Developer (together with its duly appointed agents) shall have an easement for full right of ingress and egress at all times within the Property (but outside of any building) for the exercise of rights under this Declaration and for the carrying out of their other rights, functions, duties and obligations as set forth in this Declaration. Any such entry by Declarant or its duly appointed agents upon the Property shall not materially adversely interfere with the operations of the Owner or any of its tenants, subtenants or other users. Further, there is hereby established a nonexclusive easement in perpetuity over, upon and across any Lot for the benefit of Declarant, the Design Review Committee, and their respective agents, employees and contractors to inspect any Lot to ascertain whether such Lot, the Improvements thereon and the uses thereof are in compliance with the provisions of this Declaration. With respect to the easement established pursuant to this **Section 5.07**, the Developer or the Design Review Committee (if Developer no longer owns a Lot) shall have the full and free right at all times to enter and re-enter the land thereby encumbered, with or without vehicles or on foot, and to come upon said land as often as it deems reasonably necessary to effectuate the purpose of such easements during reasonable hours and upon reasonable notice and subject to reasonable security and safety requirements.

Section 5.08 Minimize Interference. Developer hereby agrees to use its good faith efforts to minimize interference with Owners or their guests, invitees and/or employees in connection with the Developer's use of the easements described in this **Article V**.

Article VI. DESIGN REVIEW COMMITTEE

Section 6.01 Design Review Committee. A Design Review Committee is hereby established for the purposes set forth in this Declaration and shall be composed of three (3) or more individuals designated from time to time as follows: (i) for so long as Developer is still an Owner of one or more Lots, by Developer in its sole discretion; and (ii) at such time as Developer is no longer an Owner of one or more Lots, by a majority vote of the Owners in an election held pursuant to **Section 6.06** below; provided, however, that if Developer is no longer an Owner of one or more Lots, one (1) member of the Design Review Committee may be designated or appointed by Boyer for so long as Boyer is an owner of a Lot. The affirmative vote of a majority of the membership of the Design Review Committee shall be required in order to take any action required of the Design Review Committee pursuant to this Declaration. The decision of a majority of the members of the Design Review Committee with respect to any matter before it shall be deemed conclusive and binding on the party(ies) bringing the matter before the Design Review Committee. The Design Review Committee, in its sole and absolute discretion, may adopt and promulgate reasonable, non-discriminatory rules and regulations relating to the matters brought before it for approval pursuant to the terms hereof. Said rules and regulations, upon their adoption, shall automatically apply to any matter brought before the Design Review Committee for review after the date of adoption of said rules and regulation, provides that said rules and regulations do not conflict with the terms of this Declaration.

The Design Review Committee may, but is not obligated to, adopt and implement reasonable, non-discriminatory design guidelines and development standards and criteria for the Property (the "**Design Guidelines**"), which may be amended by the Design Review Committee from time to time; provided, however, that any such amendments may not require modifications to any Improvements previously approved by Developer or the Design Review Committee. The Design Guidelines may only address the

Lot Spurs and rail services to the extent the same are approved by the Rail Service Operator, in its sole discretion. Further, the Design Guidelines, if any, shall be adhered to by all Owners with respect to Improvements constructed from and after the approval and adoption of such Design Guidelines. The Design Review Committee will use the Design Guidelines in evaluating the proposed work and to facilitate administration of such work under this Article. A copy of any Design Guidelines adopted by the Design Review Committee will be available from the Design Review Committee or the Declarant upon request. An initial draft of the Design Review Guidelines pertaining to the construction of any Improvement on the Property is attached hereto as **Exhibit F**.

Section 6.02 Function of the Design Review Committee; Payment of Expenses. The Design Review Committee shall have the sole authority and responsibility to approve and regulate the design and construction of all Improvements within the Property so as to assure compliance with the intent and purpose of this Declaration; provided, however, that all Lot Spurs shall be reviewed and approved by the Rail Service Operator. All reasonable expenses related to such review shall be paid by the Owner proposing the Improvements.

Section 6.03 Approval Required.

- (a) No improvements (other than Improvements within a building that has been approved by the Design Review Committee) shall be constructed, erected, placed upon, moved to or permitted to remain on any Lot, nor shall the exterior of any existing Improvements upon any Lot be altered in any way that materially changes the exterior appearance thereof, unless plans and specifications thereof shall have been submitted to and approved in writing by the Design Review Committee, and plans related to the Lot Spurs shall have been submitted to and approved in writing by the Rail Service Operator. The plans and specifications to be submitted shall include, without limitation:
- (i) a site plan that shows the property lines, the right-of-way lines, boundary lines of easements, building footprint, building set backs, and proposed landscaping;
 - (ii) conceptual construction plans and specifications;
 - (iii) drawing showing all elevation for improvements, including front, side and rear elevations
 - (iv) detailed identification of exterior materials and colors;
 - (v) details of any signage;
 - (vi) a landscaping plan, including a complete underground irrigation system, for the Lot; and
 - (vii) a statement setting forth the use for which the proposed improvement is to be constructed.
- (b) No sign or other advertising device of any nature shall be placed upon the Property except as provided herein. The Design Review Committee, in its sole and absolute discretion, may adopt and promulgate reasonable, non-discriminatory rules and regulations related to the usage or standardization of signs thought the Property, which upon their adoption, shall automatically apply to all Lots, provides that said rules and regulations do not conflict with the terms of this Declaration. Unless modified or otherwise altered by the rules and regulations of the Design

Review Committee (provided, such rules and regulations shall not require modification or alteration to any signage that existed prior to the adoption of such rules and regulations), sign and other advertising devices may be erected and maintained upon any portion of the Property if approved, or deemed to be approved under this Article VI, by the Design Review Committee, as to color, location, nature, number size and other characteristics of such signs to devices.

- (c) The Design Review Committee shall approve or disapprove any request within thirty days (30) after receipt of said written request. If the Design Review Committee fails to respond to a request within said thirty (30) day period, the requesting Owner may give written notice thereof to the Design Review Committee (a "Second Notice"), and if the Design Review Committee fails to respond within ten (10) days after receipt of a second notice, the Design Review Committee shall be deemed to have approved said request. In any case where the Design Review Committee shall disapprove any plans and specifications submitted hereunder, or shall approve the same only as modified or upon specified conditions, such disapproval or qualified approval shall be accompanied by a reasonably detailed statement of the grounds upon which such action was based. In any such case the Design Review Committee shall if requested, makes reasonable efforts to assist and advise the applicant in order that an acceptable proposal can be prepared and submitted for approval.
- (d) The Design Review Committee may disapprove plans and specification for any reasonable cause, including, but no limited to, the following:
- (i) the style of the Improvement to be located upon the Lot is materially inconsistent with an industrial park similar to the Park;
 - (ii) the materials to be used in such constructions, and their harmony with existing Improvements once incorporated into the proposed Improvement, do not comply with the Design Guidelines;
 - (iii) the availability of parking (which will be limited to parking requirements of applicable law) and access to the Improvements;
 - (iv) the proposed signage, lighting and landscaping upon the Lot; and
 - (v) the purpose for which the proposed Improvements were to be constructed is not consistent with the permitted uses in this Declaration or permitted under applicable law.
- (e) The Design Review Committee shall have the right, and is hereby granted an irrevocable license, to enter on such Owner's Lot upon reasonable notice during construction of any improvements by such Owner to determine if such construction complies with this Declaration. If requested by such Owner, any such inspection shall be accompanied by a representative of the Owner. No such entry will interfere with the operations of the Property.
- (f) In addition to any other remedy provided for in this declaration, Developer, so long as Developer is still an Owner, or any Owner, may bring suit to enjoin the commencement of construction of any Improvements for which the Design Review Committee has not previously approved plans and specification and may also bring suit to enjoin the continuance of construction of such Improvements that are not being constructed substantially in accordance with approved plans and specifications.

- (g) Notwithstanding anything herein to the contrary, all Improvements located on the LBP Parcel as of the date of this Declaration, and all plans and specifications for such Improvements, are hereby approved by the Developer and need not be separately approved by the Design Review Committee.

Section 6.04 Certification of Design Review Committee. Upon written request by an Owner, the Design Review Committee shall, within thirty (30) days, issue and furnish to such Owner a written certification stating, as the case may be, that (i) any improvement upon any Lot has been (or has not been, as the case may be) approved pursuant to this Article VI, and the Design Review Committee has no knowledge of any violation of any regulation or rules of the Design Review Committee or this Declaration or, if there is a violation, an explanation of such violation. The Design Review Committee may make a reasonable, non-discriminatory charge for the issuance of such certificate which must be paid at the time the request for such certificate is made. Any such certificate, when duly issued as herein provided, shall be conclusive with regard to any matter therein states as between the Design Review Committee and any bona fide purchaser or lessee, or lender, the Lot in question.

Section 6.05 No Liability. No action by the Design Review Committee shall be deemed to constitute any representation or warranty as to the adequacy, safety soundness, compliance with laws or fitness of any plans and specifications or of the proposed construction in accordance with such plans and specifications. Neither the Design Review Committee nor their respective successors or assigns, nor any agent of the Design Review Committee, shall be liable for any damage, loss or prejudice suffered or claimed by an applicant or any third party on account of: (a) any defects in any plans or specifications submitted, revised or approved in accordance with the foregoing provisions, nor for any structural or other defects in any work done according to such plans and specifications; (b) the approval or disapproval of any plans, drawings and specifications, whether or not defective; (c) the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications; and (d) the development of any Lot within the Property.

Neither Developer nor any member of the Design Review Committee or the employees or agents thereof shall be liable for damages to anyone submitting plans to it for approval or to any Owner or other Person by reason of any: (i) mistake in judgment; (ii) negligence or nonfeasance arising in connection with the approval or disapproval of any plans; (iii) the execution and filing of an estoppel certificate; or (iv) the performance of any other duties of the Design Review Committee, contemplated by this Declaration, unless performed in bad faith or in violation of the terms of this Declaration. Anyone who submits plans to the Design Review Committee shall be deemed to have agreed by submission of such plans, and every Owner and Person by acquiring title and/or possessor rights to any Lot, improvements or portion thereof agrees, that he will not bring any action or suit against Developer, any member of the Design Review Committee or any other person for the recovery of damages by reason of any employees or agents of Developer acting as the Design Review Committee by reason of such approval or disapproval of such plans or by reason of any mistake in judgment, negligence or nonfeasance arising in connection with the performance by the Design Review Committee of any duties contemplated by this Declaration.

Section 6.06 Election. In the event a vacancy on the Design Review Committee needs to be filled by a vote of the Owners, any Owner may call a meeting by providing notice to each Owner specifying the time, place and purpose of such meeting (which time shall not be less than twenty (20) and not more than sixty (60) days after the giving of such notice). Such meeting shall be held in Tooele County, Utah. Each Owner shall have one (1) vote for each Lot owned by such Owner. At said meeting, each Owner present or properly represented (as by the holder of a written proxy from an Owner) shall be entitled to cast such Owner's votes in favor of as many candidates for the Design Review Committee membership as there are vacancies to be filled, and a plurality shall be sufficient for the election of a candidate. Any member of the Design Review Committee may be removed, for any reason, by a meeting of the Owners called for

such purpose in accordance with this **Section 6.06**. Following any election, the Design Review Committee shall promptly provide all Owner's with notice of the address to use for notice purposes for such committee hereunder.

Section 6.07 Fees. The Design Review Committee may assess fees to applicants or others who require or use Design Review Committee services. If assessed, the fees shall reasonably reflect the costs and expenses of the Design Review Committee to perform its duties, including compensation to Design Review Committee members and shall be assessed against all Owners on a uniform basis. The Design Review Committee may disapprove plans for failure of the applicant to prepay fees. Should any function of the Design Review Committee require, in their sole discretion, the engagement of any third-party consultants including, without limitation, architects, engineers, space planners or other consultants, the Design Review Committee shall select such consultants and the Owner requesting such review shall engage and be responsible for all reasonable out of pocket costs and expenses associated with the review by such consultants.

Section 6.08 Variances. The Design Review Committee in its sole discretion may grant variances to the provisions of this Article and the standards of approval due to undue hardship, extraordinary or exceptional circumstances, or if the granting of the variance will not significantly undermine or adversely affect the intent and purposes of this Declaration. No variances granted by the Design Review Committee shall be deemed to create a variance from (or right of noncompliance with) any applicable ordinance, law, rule or regulation of a governmental agency with jurisdiction.

Section 6.09 Exemption. Railroad Facilities and Transload Facilities shall not be subject to approval by the Design Review Committee or otherwise be governed by this Article VI.

Article VII. SPECIAL DEVELOPER RIGHTS

Section 7.01 Special Developer Rights. Developer for itself and its Affiliates hereby reserves all reasonable and necessary rights to complete the development of the Property and the Park in accordance with the plans and specifications approved by the applicable county and municipal authorities, including the rights, (i) to complete improvements indicated on any subdivision map describing the Property or otherwise required by law or by this Declaration; (ii) to have reasonable access to any portion of the Property for the purpose of making Improvements within the Property, to the extent expressly permitted herein.

Any or all of the rights reserved to Developer and its Affiliates pursuant to this **Section 7.01** may be transferred to other Persons; provided, however, that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein, and provided further, no such transfer shall be effective unless it is in a written instrument signed by the Developer and recorded in the Public Records.

Section 7.02 Developer's Construction Activities. Declarant and its Affiliates, from time-to-time, are undertaking the work of constructing, developing, selling, and leasing the Property. Such work will be done at Declarant's or its Affiliates' sole cost and expense unless agreed in writing otherwise. The completion of that work is essential to the establishment and welfare of the Park as an attractive and desirable development. In order that such work may be completed, and the Property be established as a fully occupied high quality Park, nothing in this Declaration shall be understood or construed to:

(a) Prevent Developer, its Affiliates and their contractors or subcontractors from undertaking within the Property whatever is reasonably necessary or advisable in connection with the completion of such work;

(b) Prevent Developer, its Affiliates or their representatives from erecting, constructing, maintaining and repairing on any part or parts of the Property such Improvements as may be reasonable and necessary for the conduct of its business of completing its work, establishing the Property as a high quality industrial, business, and commercial center and selling and/or leasing portions thereof;

(c) Prevent Developer and its Affiliates in any other manner from conducting on any part of the Property its business of completing the Property as a high-quality Park, and of selling and/or leasing the Property and/or portions thereof;

(d) Prevent Developer and its Affiliates from maintaining such sign or signs within any part of the Property as may be necessary or desirable for the sale, lease or disposition thereof; provided, however, that the maintenance of any such sign shall not unreasonably interfere with the use by any Owner of its Lot; or

(e) Otherwise prevent Developer and its Affiliates from exercising any of the rights set forth in this Article VII.

Notwithstanding anything to the contrary contained in this Declaration, (a) Developer and its Affiliates make no representation or warranty, express or implied, with respect to the construction of the Property or completion of the Park, and (b) nothing herein shall be deemed to permit Developer or its Affiliates to construct any Improvements, install any signage, or take any other action on the Lineage Parcel, LBP Parcel, Boyer Parcel or Boyer Option Parcel except as otherwise expressly permitted in this Declaration (other than the general provisions of this Section 7.02). Without limiting the generality of the foregoing, Developer and its Affiliates disclaim (i) any obligation to construct any improvements, and (ii) any obligation to develop or cause the development of any portion of the Property; provided, however, the foregoing will not relieve Developer or its affiliates from constructing any improvements pursuant to any separate agreement between Developer or its Affiliates and an Owner. Although an Owner has or may have been advised of certain proposed, planned or intended development of the Property, Developer and its Affiliates shall be under no obligation whatsoever to construct or develop any portion of the Property and it is anticipated that each Owner will be responsible for constructing and completing Improvements on such Owner's Lot; provided, however, the foregoing will not relieve Developer or its affiliates from constructing any improvements pursuant to any separate agreement between Developer or its Affiliates and an Owner.

Article VIII. DEDICATION, ANNEXATION AND DEANNEXATION

Section 8.01 Dedication.

- (a) Notwithstanding any other provision of this Declaration, Developer hereby reserves to itself, acting alone, the right to dedicate, release, alienate or otherwise transfer to the County or the City, if acceptable to such entity, all or any portion of any private street from time to time connecting any two public thoroughfares, for such purposes and upon such terms as Developer in its sole discretion, reasonably exercised, deems fit; provided, however, no such right will exist with respect to all or any portion of the Lineage Parcel, LBP Parcel, Boyer Parcel or Boyer Option Parcel. Similarly, and subject to the provisions of this Declaration, Developer reserves to itself, acting alone, the right to dedicate, release, alienate or otherwise transfer to the County or City, if acceptable to such entity, any Property owned by Developer.
- (b) The Owners shall each, to the extent necessary and permitted in Section 8.01(a), join in the execution of such instruments as Developer, in its sole discretion, determines are desirable or required in order to effectuate widening of the peripheral streets, the installation of utilities, and

the granting of easements on, under, over, across and through portions of their respective Lots for purposes of such widening and installations.

Section 8.02 Annexation Pursuant to Approval. If Developer no longer owns any portion of the Property, then additional real property may be annexed to the Project and made subject to this Declaration with the consent (by vote or written consent) of a majority of the Owners (by the giving of notice and holding of a meeting) generally pursuant to the provisions of **Section 6.06** above. Any instrument of annexation contemplated above may contain such complementary additions and modifications of the covenants and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the annexed properties and as are not inconsistent with the scheme of this Declaration. In no event, however, shall any such instrument of annexation, merger or consolidation, revoke, modify or add to the covenants established by this Declaration with respect to the real property already subject to this Declaration, except as herein otherwise contained.

Section 8.03 Deannexation – General Provision. Developer may, at any time or from time to time during the pendency of this Declaration for any portion of the real property it owns, remove real property from the real property which is covered by this Declaration; provided, however, that no such removal shall be consummated which would have the effect of limiting, curtailing or eliminating any easement rights benefiting the Lot of any Owner unless all such affected Owners approve such removal, and if any such removal would limit, curtail, or eliminate the rights of the Rail Service Operator, the approval of the Rail Service Operator shall also be required, which approval may be withheld in its sole discretion. Upon the recording of a certificate of deannexation of real property containing the provisions set forth in this Section, this Declaration shall no longer apply to the deannexed real property.

The certificate of deannexation of real property which is referred to in this Section shall contain, without limitation, the following provisions:

- (i) a reference to this Declaration, which reference shall state the date of recording hereof and the document number hereof in the records of Tooele County, Utah;
- (ii) a statement that the provisions of this Declaration shall no longer apply to the deannexed real property;
- (iii) an exact legal description of the deannexed real property; and
- (iv) such additional matters as the Developer may desire to state in the certificate.

Section 8.04 Limitation on Dedication and Annexation. Neither any dedication by Developer pursuant to nor any annexation by Developer nor any complementary addition or modification established by Developer pursuant to the provisions hereof shall unreasonably revoke, unreasonably modify, or unreasonably add to the restrictions, reservations of easements, equitable servitudes or other limitations established under this Declaration. For the purposes of clarity, the determination of whether a revocation, modification or addition is reasonable shall be made by Developer in its sole but reasonable discretion; provided, however, that to the extent the same affects the Railroad Facilities or operation of rail service within the Park, such determination shall be made by the Developer and the Rail Service Operator in their sole but reasonable discretion.

Article IX. GENERAL

Section 9.01 Indemnity for Damages. Each and every Owner and future Owner, by its acceptance of a Deed or contract for any Lot, agrees to be liable for, and to indemnify Developer and Rail Service

Operator against any damage caused by such Owner, or the contractor, agent, or employees of such Owner, to roads, streets, gutters, walkways, Railroad Facilities or other aspects of public ways, including all surfacing thereon, or to water, drainage or storm sewer lines or sanitary sewer lines owned by Developer, or for which Developer has responsibility, at the time of such damage. Developer agrees to be liable for, and to indemnify each and every Owner and Rail Service Operator against, any damage caused by Developer, or the contractor, agent, or employees of Developer, to roads, streets, gutters, walkways, Railroad Facilities, Lot Spurs, or other aspects of public ways, including all surfacing thereon, or to water, drainage or storm sewer lines or sanitary sewer lines owned by an Owner or Rail Service Operator, or for which such Owner or Rail Service Operator has responsibility, at the time of such damage.

Section 9.02 Severability. Every one of the provisions of this Declaration is hereby declared to be independent of, and severable from the rest of the provisions and of and from every combination of the provisions. Invalidation by any court of any provision in this Declaration shall in no way affect any of the other provisions which shall remain in full force and effect.

Section 9.03 Amendments. For so long as Developer (or any Affiliate thereof) is an Owner of an undeveloped Lot or portion of the Property, this Declaration may be modified only by the recordation, in the Public Records, of an agreement or document of modification executed by (a) the then record Owner or Owners of at least fifty-one percent (51%) of the Lots, (b) Declarant, if applicable (c) any Required Mortgagee (as defined below), (d) if a Rail Service Operator has been designated and such modification would affect the Railroad Facilities, the provision of rail services within the Park or the rights or obligations of the Rail Service Operator, by such Rail Service Operator, and (e) if a Transload Operator has been designated and such modification would affect the Transload Facilities, the provision of transload services within the Park or the rights or obligations of the Transload Operator, by such Transload Operator, and (f) if such modification would affect a provision directly benefitting the Lineage Parcel, LBP Parcel, Boyer Parcel or Boyer Option Parcel, the record owner of such parcel. After such date that Developer (or any Affiliate thereof) is no longer an Owner of an undeveloped Lot or portion of the Property, this Declaration may be modified only by the recordation, in the Public Records, of an agreement or document of modification executed by (i) the record Owners of at least sixty-seven percent (67%) of the Lots, (ii) if applicable, any Required Mortgagee, (iii) if a Rail Service Operator has been designated and such modification would affect the Railroad Facilities, the provision or rail services in within the Park or the rights or obligations of the Rail Service Operator, by such Rail Service Operator, and (iv) if a Transload Operator has been designated and such modification would affect the Transload Facilities, the provision of transload services within the Park or the rights or obligations of the Transload Operator, by such Transload Operator, and (v) if such modification would affect a provision directly benefitting the Lineage Parcel, LBP Parcel, the Boyer Parcel or the Boyer Option Parcel, the record owner of such parcel. Notwithstanding the provisions of this Section, no amendment shall be made to the Declaration without the written agreement of a Lot Owner if such amendment would impose a greater restriction on the use or development of the Lot or Lots owned by such Owner.

A first Mortgage may, by its terms, require that a termination or amendment of this Declaration (or certain specified amendments) be approved in writing by the holder of the Mortgage (a “**Required Mortgagee**”). In such event, a termination or amendment (or, if applicable, the specified amendment) shall not be effective as against such Required Mortgagee without its prior written approval or consent.

Section 9.04 Captions. The captions preceding the various sections and subsections, if any, of this Declaration are for the convenience of reference only, and none of them shall be used as an aid to the construction of any provision of the Declaration. Wherever and whenever applicable, the singular form of any word shall be taken to mean or apply to the plural, and the masculine form shall be taken to mean or apply to the feminine or to the neuter.

Section 9.05 Effect of Violation on Mortgage Lien. No violation of this Declaration shall defeat or render invalid the lien or security title of any Mortgage made in good faith and for value upon any portion of the Property; provided, however, that any lender in actual possession, or any purchaser acquiring title to any portion of the Property by deed in lieu of foreclosure, or at foreclosure, shall be bound by and subject to this Declaration as fully as any other owner of any portion of the Property.

Section 9.06 No Reverter. No provision of this Declaration is intended to be, or shall be construed as, a condition subsequent or as creating a possibility of reverter.

Section 9.07 Duration. This Declaration shall run with and bind the Property, shall inure to the benefit of and shall be enforceable by Developer, the Design Review Committee, any Owner, and the owner of any Lot included in the Property, their respective legal representatives, heirs, successors and assigns until the date which is fifty (50) years following the date on which this Declaration is initially recorded in the Official Records, after which time said Declaration shall be automatically extended for successive periods of ten (10) years each, unless the term of this Declaration is amended or modified in accordance with **Section 9.03** hereof. Notwithstanding the foregoing, all easements created in this Declaration shall be perpetual to the fullest extent of the law, unless otherwise specifically stated herein.

Section 9.08 Enforcement. In the event of a violation or breach of any terms or conditions of this Declaration by Developer or any Owner (or employee, agent, or lessee of any Owner), then Developer (so long as it is an Owner), their successors and assigns, or any Owner, shall have the right to proceed at law or in equity to compel compliance with the terms and conditions hereof, to prevent the violation or breach of this Declaration, to sue for and recover damages or other dues, or take all such courses of action at the same time, or such other legal remedy it may deem appropriate. No delay or failure on the part of an aggrieved party to initiate an available remedy set forth herein shall be held to be a waiver by that party or an estoppel of that party or of any other party to assert any right available to such party upon the recurrence or continuation of said violation or the occurrence of a different violation. A breach by an Owner of this Declaration would cause irreparable and continuing injury to the other Owners and, in the event of such breach, monetary damages may be insufficient to compensate such other Owners for their injuries. Accordingly, in the event of any breach or threatened breach of this Declaration by an Owner, each affected Owner shall have the right (without the necessity of posting bond) to injunctive relief or to the issuance of an order to compel performance to enforce the provisions set forth herein; provided, however, such right shall be cumulative of any other rights and remedies under this Declaration, at law or equity.

Section 9.09 No Waiver. The failure of any party entitled to enforce any of the terms or conditions herein contained shall in no event be considered a waiver of the right to do so thereafter, as to the same violation or breach or as to such a violation or breach occurring prior or subsequent thereto.

Section 9.10 Assignability. Developer may assign all its rights and obligations hereunder to any Person to which Developer simultaneously conveys its interest in all or substantially all the Property owned by Developer as of the date of such assignment and conveyance. By the acceptance of such conveyance, the grantee thereof shall be conclusively deemed to have accepted such assignment and to have assumed and agreed to perform and be bound by the obligations of Developer hereunder, and shall thereafter have the same rights and be subject to the same obligations as are given to and assumed by Developer herein. Upon such assignment, Developer shall be released from all obligations hereunder which shall arise thereafter, but not from obligations arising prior to such assignment.

Section 9.11 Notices. All notices, requests, consents, claims, demands, waivers, and other communications hereunder (each, a "Notice") shall be in writing and shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if

sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by facsimile or E-mail (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient; or (d) on the third day after the date mailed, by certified or registered mail (in each case, return receipt requested, postage pre-paid). Notices must be sent to the respective parties at the following addresses (or at such other address for a party as shall be specified in a Notice given in accordance with this **Section 9.11**):

If to Developer: RG Lakeview, LLC
2265 E Murray Holladay Rd
Salt Lake City, Utah 84117
Attn: Anthon Stauffer
Email: anthon@theromneygroup.com

with a copy to: Cheney Law Group
10808 S. River Front Pkwy, Suite 365
South Jordan, Utah 84095
Attn: Brian C. Cheney
Email: bcheney@cheneylawgroup.com

If to an Owner (other than Developer): The most recent address shown on the tax rolls of the taxing jurisdiction in which the Lot is located.

If to the Design Review Committee: To Developer, until such time as Developer is not an Owner. Thereafter, to the address provided by the Design Review Committee.

Section 9.12 Governing Law. The provisions of this Declaration shall be liberally construed together, to effectuate the purpose of creating a uniform plan for the development and operation of the Property. All provisions shall be construed so as to be in conformance with, and shall be governed by, Utah law. This Declaration shall not be taken as permitting any action or thing prohibited by the applicable zoning laws, or any laws, ordinances or regulations of any governmental authority, or by specific restrictions imposed by any deed. In the event of any conflict, the most restrictive provision of same shall be taken to govern and control.

Section 9.13 Mortgagee Protection. The lien of any amounts payable by any Owner provided for herein shall be subordinate to the lien of any Mortgagee. Sale or transfer of any Lot shall not affect said lien. However, the sale or transfer of any Lot pursuant to a foreclosure or any proceeding in lieu thereof by the Mortgagee shall extinguish the lien of such amount as to payments which become due for a period prior to such sale or transfer. No such sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the Lien thereof. The foregoing subordination shall not relieve an Owner whose Lot has been subjected to a Mortgage from the personal obligation to pay all assessments and charges falling due during the time when the Owner is or was the owner of such Lot.

Section 9.14 Condemnation. If any Lot or portion thereof is made the subject matter of any condemnation or eminent domain proceeding, no provision of this Declaration or equivalent documents

will entitle the Owner of a Lot to priority over a holder of any first mortgage lien or equivalent security interest on a Lot with respect to any distribution except relocation funds from the proceeds of any award or settlement or entitle an Owner to any claim with respect to a taking of all or a portion of another Owner's Lot.

Section 9.15 Attorneys' Fees. In the event of any action to interpret or enforce the terms and provisions of this Declaration, the prevailing party or parties shall be entitled to its costs and reasonable attorneys' fees from the non-prevailing party or parties.

Section 9.16 Time is of the Essence. Time is of the essence for each and every provision of this Declaration.

[Signatures on Following Pages]

IN WITNESS WHEREOF, Developer, Raceway 112, Boyer Owner and LBP Owner have each executed this Declaration as of the date set forth above.

DEVELOPER:

RG LAKEVIEW, LLC,
a Utah limited liability company

By: RG IV, LLC, a Utah limited liability company
Its: Sole/Managing Member

By: Thane Smith
Name: Thane Smith
Title: Authorized Representative

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

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me, a Notary Public, by Thane Smith, the Authorized Representative of RG IV, LLC, the Sole/Managing Member of RG Lakeview, LLC this 1st day of August, 2022.

WITNESS my hand and official seal.

Michael P Chabries

NOTARY PUBLIC

My Commission Expires:



RACEWAY 112:

RACEWAY 112 LLC
a Utah limited liability company

By: PRAIRIE VILLAGE APARTMENTS,
an Oklahoma limited liability company
Its: Sole Member

By: *Thane Smith*
Name: Thane Smith
Title: Authorized Representative

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

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me, a Notary Public, by Thane Smith, the Authorized Representative of Prairie Village Apartments, LLC, the Sole Member of Raceway 112 LLC, this 1st day of August, 2022.

WITNESS my hand and official seal.

Michael P Chabries
NOTARY PUBLIC

My Commission Expires:



BOYER OWNER:

BOYER 136 GRANTSVILLE LAND, L.C.,
a Utah limited liability company, by its manager

The Boyer Company, L.C., a Utah limited liability
company

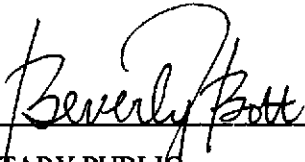


By: _____
Name: Brian Gochnour
Title: Manager

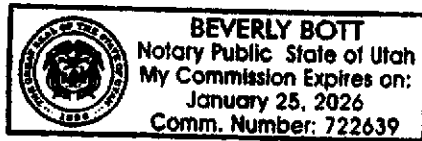
STATE OF UTAH)
) ss.
COUNTY OF SALT LAKE)

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me, a Notary Public, by Brian Gochnour, a Manager of The Boyer Company, L.C., the Manager of Boyer 136 Grantsville Land, L.C. this 28th day of July, 2022.

WITNESS my hand and official seal.



NOTARY PUBLIC
My Commission Expires: 1/25/2026



LBP OWNER: LBP BUILDING 1, LLC,
a Utah limited liability company

By: RG LAKEVIEW, LLC, a Utah limited liability company
Its: Manager

By: NPD MANAGEMENT, LLC, a Missouri limited liability company
Its: Manager

By: RG IV, LLC, a Utah limited liability company
Its: Sole/Managing Member

By: _____
Name: Nathaniel Hagedorn
Title: Manager

By: Thane Smith
Name: Thane Smith
Title: Authorized Representative

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

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me, a Notary Public, by Thane Smith, the Authorized Representative of RG IV, LLC, the Sole/Managing Member of RG LAKEVIEW, LLC, a Manager of LBP Building 1, LLC this 1st day of August, 2022.

WITNESS my hand and official seal.

Michael P Chabres

NOTARY PUBLIC

My Commission Expires: 8-27-2023



STATE OF _____)
) ss.
COUNTY OF _____)

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me, a Notary Public, by Nathaniel Hagedorn, the Manager of NPD Management, LLC, a Manager of LBP Building 1, LLC this ____ day of _____, 2022.

WITNESS my hand and official seal.

NOTARY PUBLIC
My Commission Expires:

CONSENT AND SUBORDINATION

The undersigned, as the holder of a Mortgage over the LBP Parcel, does hereby consent to the terms of, and subordinates all of its right, title, and interest in LBP Parcel to, the rights, and interests granted and created under this Declaration of Covenants, Conditions, Restrictions, Reservations and Easements for Lakeview Business Park.

UMB BANK, N.A., a national banking association

By: Charles Gonzalez
Name: Charles Gonzalez
Title: Senior Vice President

STATE OF MISSOURI)
) ss.
COUNTY OF JACKSON)

On this 28 day of July, 2022, before me personally appeared Charles Gonzalez, to me personally known, who being by me duly sworn did say that he/she is the Sr. Vice President of UMB Bank, N.A., a national banking association, and that said instrument was signed and delivered on behalf of said banking association and acknowledged to me that he/she executed the same as the free act and deed of said banking association.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

Melvetta Walter
NOTARY PUBLIC

My Commission Expires:

Feb. 8, 2025

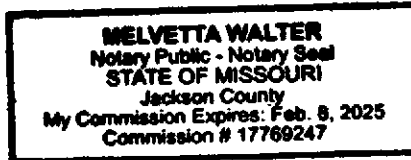


EXHIBIT ALEGAL DESCRIPTION AND DEPICTION OF PROPERTY

That Certain real property located in Tooele County, State of Utah, more particularly described as follows:

Overall Parcel 1 (East of Sheep Lane)

A parcel of land located in a portion of Section 1 and in a portion of Section 12, Township 3 South, Range 5 West, Salt Lake Base and Meridian, Tooele County, Utah, more particularly described as follows:

BEGINNING at a point on the east boundary and right-of-way line of Sheep Lane as shown on that certain Road Dedication Plat for Sheep Lane - SR 112 to SR 138, dated 2-APR-2019, which is 427.31 feet South 00°39'55" East along the section line (basis of bearings) and North 89°20'05" East 50.00 feet from the Northwest corner of said Section 1, and running thence South 84°23'36" East 5283.88 feet to the east line of said Section 1; thence South 00°22'10" East 1673.05 feet along the Section line to the Southeast corner of said Section 1; thence South 00°20'45" East 2635.35 feet along the Section line to the Southeast corner of said Section 1; thence South 00°21'26" East 2640.77 feet along the Section line to the East Quarter corner of said Section 12; thence South 00°22'15" East 1060.00 feet along the Section line; thence South 89°36'48" West 2604.73 feet to a point on a 2827.53 foot radius non-tangent curve to the right and to an existing fence line; thence Northwesterly 51.23 feet along the arc of said curve, and fence through a central angle of 01°02'17" (chord bears North 47°17'19" West 51.23 feet) to a non-tangent line; thence South 89°36'48" West 1884.92 feet to the Easterly boundary and right-of-way line of said Sheep Lane; thence North 00°22'15" West 2631.04 feet along said Sheep Lane to a point of curvature with a 3050.00 foot radius curve to the left; thence Northwesterly 1286.65 feet along the arc of said curve and Sheep Lane through a central angle of 24°10'13" (chord bears North 12°27'22"W 1277.13 feet) to a tangent line; thence North 24°32'28" West 450.88 feet along said Sheep Lane to a point of curvature with a 2950.00 foot radius curve to the right; thence Northerly 1229.08 feet along the arc of said curve and Sheep Lane through a central angle of 23°52'17" (chord bears North 12°36'20" West 1220.21 feet) to a tangent line; thence North 00°40'11" West 470.50 feet along said Sheep Lane to the Southwest corner of Lot 2, Miller Motorsports Business Park PUD No. 1 as recorded 4/14/09 as Entry No. 324129 in the Office of the Tooele County Recorder; thence North 89°40'28" East 1505.84 feet, more or less, along said Lot 2 to the Southeast corner of said Lot 2; thence North 00°19'32" West 1065.00 feet along said Lot 2 to the Northeast corner of said Lot 2 and the southerly boundary of Lot 1, Lakeview Business Park Subdivision Final Plat Phase 1 as recorded 11/03/2020 as Entry No. 526245 in the Office of the Tooele County Recorder; thence South 89°40'28" West 1512.18 feet along the north boundary of said Lot 2 and south boundary of said Lot 1 to said east boundary and right-of-way of Sheep Lane; thence North 00°39'55" West 1506.49 feet along said road to the POINT OF BEGINNING.

LESS AND EXCEPTING THEREFROM:

A parcel of land located in the Southwest Quarter of Section 12, Township 3 South, Range 5 West, Salt Lake Base and Meridian in Grantsville City, Tooele County, Utah, more particularly described as:

BEGINNING at a point on the Easterly boundary and right-of-way line of Sheep Lane as shown on that certain unrecorded Road Dedication Plat for Sheep Lane – SR 112 to SR 138, dated 2-APR-2019, which

is 1021.10 feet South 00°05'44" East along the Section line and 770.21 feet North 89°54'16" East from the West Quarter corner of said Section 12 (the basis of bearings is South 00°05'44" East 2650.78 feet measured between said West Quarter corner and the Southwest corner of said Section 12); and running thence North 00°22'15" West 355.66 feet along said road; thence North 89°36'48" East 396.17 feet; thence South 00°22'15" East 355.66 feet; thence South 89°36'48" West 396.17 feet to the POINT OF BEGINNING.

(Being Tooele County Parcel Numbers: 21-048-0-000A, 17-022-0-009C, 17-022-0-006A, 17-022-0-00A1, 01-128-0-0002, 01-128-0-0004, 01-128-0-0007, 01-128-0-0010, 01-133-0-0001, 01-133-0-0005, 01-133-0-0006, 01-133-0-0009, 22-026-0-0004, 22-026-0-0005, 22-026-0-0006, 22-026-0-0007, 22-026-0-0008, 22-026-0-0009, 22-026-0-0010, 22-026-0-0011, 22-026-0-0012, 22-031-0-001A, and 22-031-0-001B)

Overall Parcel 2 (West of Sheep Lane)

A parcel of land located in the North Half of Section 2 and Section 3, Township 3 South, Range 5 West, the Southeast Quarter of Section 34 and the Southwest Quarter of Section 35, Township 2 South, Range 5 West, Salt Lake Base and Meridian, more particularly described as follows:

BEGINNING at a point being South 00°39'55" East 426.31 feet along the east line of Section 2 (basis of bearings), Township 3 South, Range 5 West, Salt Lake Base and Meridian from the Tooele County Dependent Resurvey monument marking the Northeast Corner of said Section 2, and thence along said east line South 00°39'55" East 2185.26 feet; thence South 89°59'46" West 2247.13 feet; thence North 82°37'30" West 141.69 feet; thence South 89°38'53" West 2954.65 feet; thence South 00°13'35" East 68.10 feet to the Tooele County Dependent Resurvey monument marking the West Quarter corner of said Section 2; thence along the quarter section line South 89°35'44" West 2669.13 feet; thence South 00°03'27" East 1876.25 feet to the northerly right of way line of State Highway 112; thence along said line North 59°22'23" West 3105.07 feet to the west line of said Section 3; thence along said west line North 00°07'13" East 275.54 feet to the Tooele County Dependent Resurvey monument marking the West Quarter corner of said Section 3; thence along the west line of said Section 3 North 00°07'22" East 1320.18 feet; thence North 89°38'44" East 39.50 feet ; thence North 00°33'47" West 16.44 feet; thence North 00°33'47" West 1347.90 feet; thence North 89°39'47" East 2668.35 feet; thence South 00°03'37" East 10.72 feet; thence North 89°56'36" East 989.29 feet; thence North 89°56'36" East 1689.11 feet; thence North 00°55'40" West 2623.04 feet; thence North 89°55'32" East 150.00 feet; thence South 00°46'18" East 1421.79 feet; thence South 37°43'59" East 1671.48 feet; thence North 89°39'44" East 1464.74 feet; thence South 83°48'21" East 2680.83 feet to the POINT OF BEGINNING.

TOGETHER WITH:

A parcel of land located in the Southwest Quarter of Section 3, Township 3 South, Range 5 West, Salt Lake Base and Meridian, more particularly described as follows:

BEGINNING at the Southwest corner of Section 3, Township 3 South, Range 5 West, Salt Lake Base and Meridian, and running thence along the west line of said Section 3 North 00°07'13" East 528.87 feet (basis of bearings); thence South 89°52'47" East 47.80 feet; thence North 00°07'13" East 1687.68 feet to a point on the southerly right of way line of State Highway 112; thence along said line South 59°22'23" East 3050.03 feet to a point on the quarter section line; thence along said quarter section line South

00°03'27" East 642.85 feet to the South Quarter corner of said Section 3; thence South 89°34'37" West 2677.74 feet along the south line of said Section 3 to the POINT OF BEGINNING.

(Being Tooele County Parcel Numbers: 14-043-0-0006, 01-129-0-0004, 01-134-0-0010, 01-134-0-0011, 01-130-0-0011, 01-130-0-0001, 01-130-0-0002, 01-130-0-0003, 01-130-0-0005, 01-130-0-0012, 01-130-0-0013, 22-037-0-0002, and 22-037-0-0003)

Boyer Parcel

All of Lots 9 & 10, Lakeview Business Park Subdivision Final Plat Phase 3 according to the official plat thereof recorded June 7, 2022 as Entry No. 574167 in the office of the Tooele County Recorder.

(Being Tooele County Parcel Numbers: 22-026-0-0009 and 22-026-0-0010)

Boyer Option Parcel

All of Lot 11, Lakeview Business Park Subdivision Final Plat Phase 3 according to the official plat thereof recorded June 7, 2022 as Entry No. 574167 in the office of the Tooele County Recorder.

(Being Tooele County Parcel Number: 22-026-0-0011)

LBP Building 1 Parcel

All of Lot 1A and Lot 1B, Lakeview Business Park Subdivision Final Plat Phase 1, Lot 1 Amended and Extended according to the office plat thereof recorded June 21, 2022 as Entry No. 575194 in the office of the Tooele County Recorder.

(Being Tooele County Parcel Number: 22-031-0-001A)

Lineage Parcel

A parcel of land located in Lot 6, Deseret Peak Subdivision Phase 3 recorded July 16, 2002 as Entry No. 184434 in Book 766 at Page 11 in the office of the Tooele County Recorder, a part of the Northeast Quarter of Section 2, Township 3 South, Range 5 West, Salt Lake Base and Meridian, Tooele County, Utah, described as follows:

BEGINNING at a point on the north line of Lot 6, Deseret Peak Subdivision Phase 3, said point being South 00°39'55" East 119.11 feet along the east line of Section 2, Township 3 South, Range 5 West, Salt Lake Base and Meridian as it is depicted on the Tooele County Dependent Resurvey Plat of said Township and Range and South 89°20'05" West 2553.68 feet from the Tooele County Dependent Resurvey monument representing the Northeast Corner of said Section 2; and running thence South 65°10'34" East 393.73 feet; thence South 00°16'57" East 1205.66 feet; thence South 89°40'06" West 1234.69 feet; to a point of curvature with a 39.00 foot radius to the right; thence northwesterly 61.26 feet along the arc of said curve through a central angle of 89°59'38" (chord bears North 45°20'05" West 55.15 feet) thence North 00°20'16" West 1346.30 feet to the north line of said Lot 6, Deseret Peak Subdivision Phase 3; thence North 89°39'44" East 810.44 feet along said line; thence South 83°48'21" East 108.74 feet along said line to the POINT OF BEGINNING.

(Being also known as Lot 3, Lakeview Business Park Subdivision Final Plat Phase 2, according to the official plat thereof recorded July 27, 2022 as Entry No. 577198 in the office of the Tooele County Recorder.)

(Being Tooele County Parcel Number: 22-037-0-0003)

Raceway 112 LLC Parcels

PARCEL 1:

BEGINNING at the brass cap found marking the Southwest Corner of Section 3, Township 3 South, Range 5 West, Salt Lake Base and Meridian and running thence North 00°08'16" East along the section line 528.87 feet; thence South 89°51'44" East 47.80 feet; thence North 00°08'16" East 1687.68 feet to a point on the Southerly right of way line of State Highway 112; thence South 59°21'20" East along said right of way line 3050.04 feet to a point on the quarter section line; thence South 00°02'25" East along said quarter section line 642.90 feet to the brass cap found marking the South Quarter Corner of said Section 3; thence South 89°35'45" West along the section line 2677.74 feet to the POINT OF BEGINNING.

PARCEL 2:

BEGINNING at a point North 89°36'50" East along the section line 868.91 feet from the brass cap found marking the West Quarter Corner of Section 3, Township 3 South, Range 5 West, Salt Lake Base and Meridian and running thence North 89°36'50" East along said section line 1800.61 feet to the calculated Center of said Section 3; thence South 00°02'25" East along the Section line 1876.23 feet to a point on the northerly right of way line of State Highway 112; thence North 59°21'20" West along said right of way line 2096.51 feet; thence north 00°07'55" East 795.49 feet to the POINT OF BEGINNING.

(Being Tooele County Parcel Numbers: 01-130-0-0013 & 01-130-0-0012)

EXHIBIT B

LEGAL DESCRIPTION OF BOYER PARCEL, BOYER OPTION PARCEL AND LBP PARCEL

That Certain real property located in Tooele County, State of Utah, more particularly described as follows:

Boyer Parcel

All of Lots 9 & 10, Lakeview Business Park Subdivision Final Plat Phase 3 according to the official plat thereof recorded June 7, 2022 as Entry No. 574167 in the office of the Tooele County Recorder.

(Being Tooele County Parcel Numbers: 22-026-0-0009 and 22-026-0-0010)

Boyer Option Parcel

All of Lot 11, Lakeview Business Park Subdivision Final Plat Phase 3 according to the official plat thereof recorded June 7, 2022 as Entry No. 574167 in the office of the Tooele County Recorder.

(Being Tooele County Parcel Number: 22-026-0-0011)

LBP Building 1 Parcel

All of Lot 1A, Lakeview Business Park Subdivision Final Plat Phase 1, Lot 1 Amended and Extended according to the office plat thereof recorded June 21, 2022 as Entry No. 575194 in the office of the Tooele County Recorder.

(Being Tooele County Parcel Number: 22-031-0-001A)

EXHIBIT C

LEGAL DESCRIPTION OF LINEAGE PARCEL

That certain real property located in Tooele County, State of Utah, more particularly described as follows:

Lineage Parcel

A parcel of land located in Lot 6, Deseret Peak Subdivision Phase 3 recorded July 16, 2002 as Entry No. 184434 in Book 766 at Page 11 in the office of the Tooele County Recorder, a part of the Northeast Quarter of Section 2, Township 3 South, Range 5 West, Salt Lake Base and Meridian, Tooele County, Utah, described as follows:

BEGINNING at a point on the north line of Lot 6, Deseret Peak Subdivision Phase 3, said point being South 00°39'55" East 119.11 feet along the east line of Section 2, Township 3 South, Range 5 West, Salt Lake Base and Meridian as it is depicted on the Tooele County Dependent Resurvey Plat of said Township and Range and South 89°20'05" West 2553.68 feet from the Tooele County Dependent Resurvey monument representing the Northeast Corner of said Section 2; and running thence South 65°10'34" East 393.73 feet; thence South 00°16'57" East 1205.66 feet; thence South 89°40'06" West 1234.69 feet; to a point of curvature with a 39.00 foot radius to the right; thence northwesterly 61.26 feet along the arc of said curve through a central angle of 89°59'38" (chord bears North 45°20'05" West 55.15 feet) thence North 00°20'16" West 1346.30 feet to the north line of said Lot 6, Deseret Peak Subdivision Phase 3; thence North 89°39'44" East 810.44 feet along said line; thence South 83°48'21" East 108.74 feet along said line to the POINT OF BEGINNING.

(Being also known as Lot 3, Lakeview Business Park Subdivision Final Plat Phase 2, according to the official plat thereof recorded July 27, 2022 as Entry No. 577198 in the office of the Tooele County Recorder.)

(Being Tooele County Parcel Number: 22-037-0-0003)

EXHIBIT D

RAIL SERVED LOTS

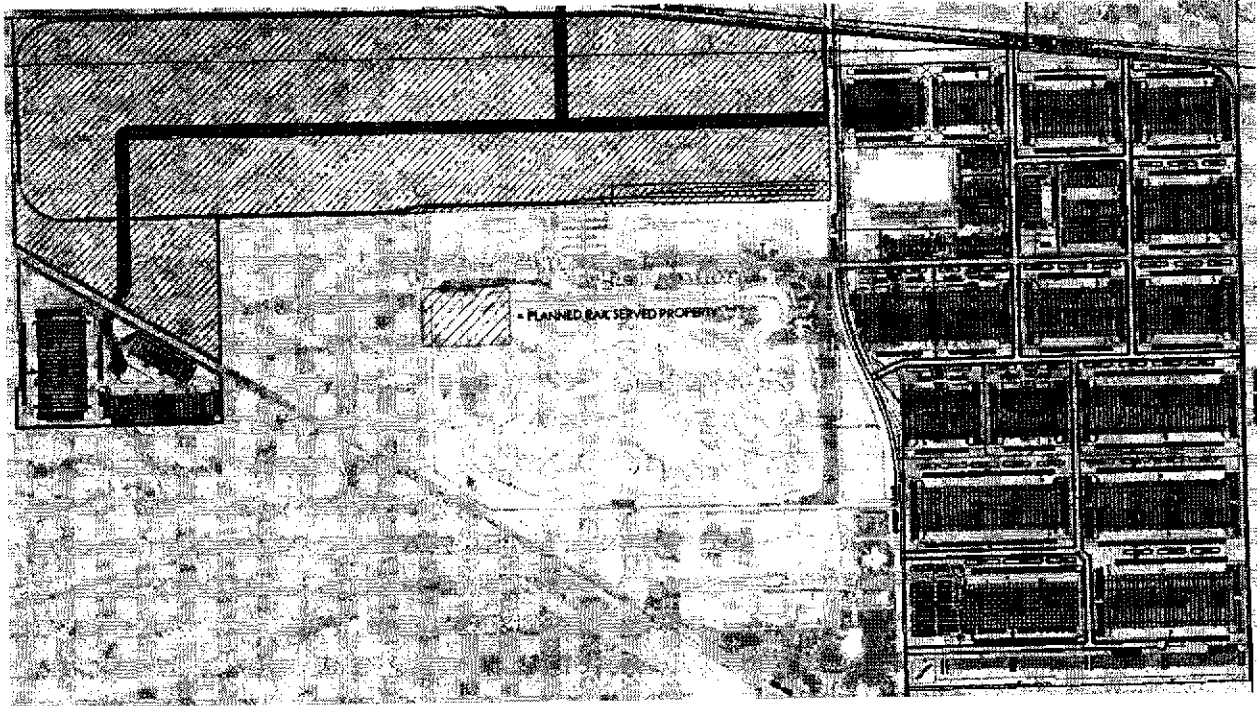


EXHIBIT E

DEPICTION OF RAILROAD EASEMENTS

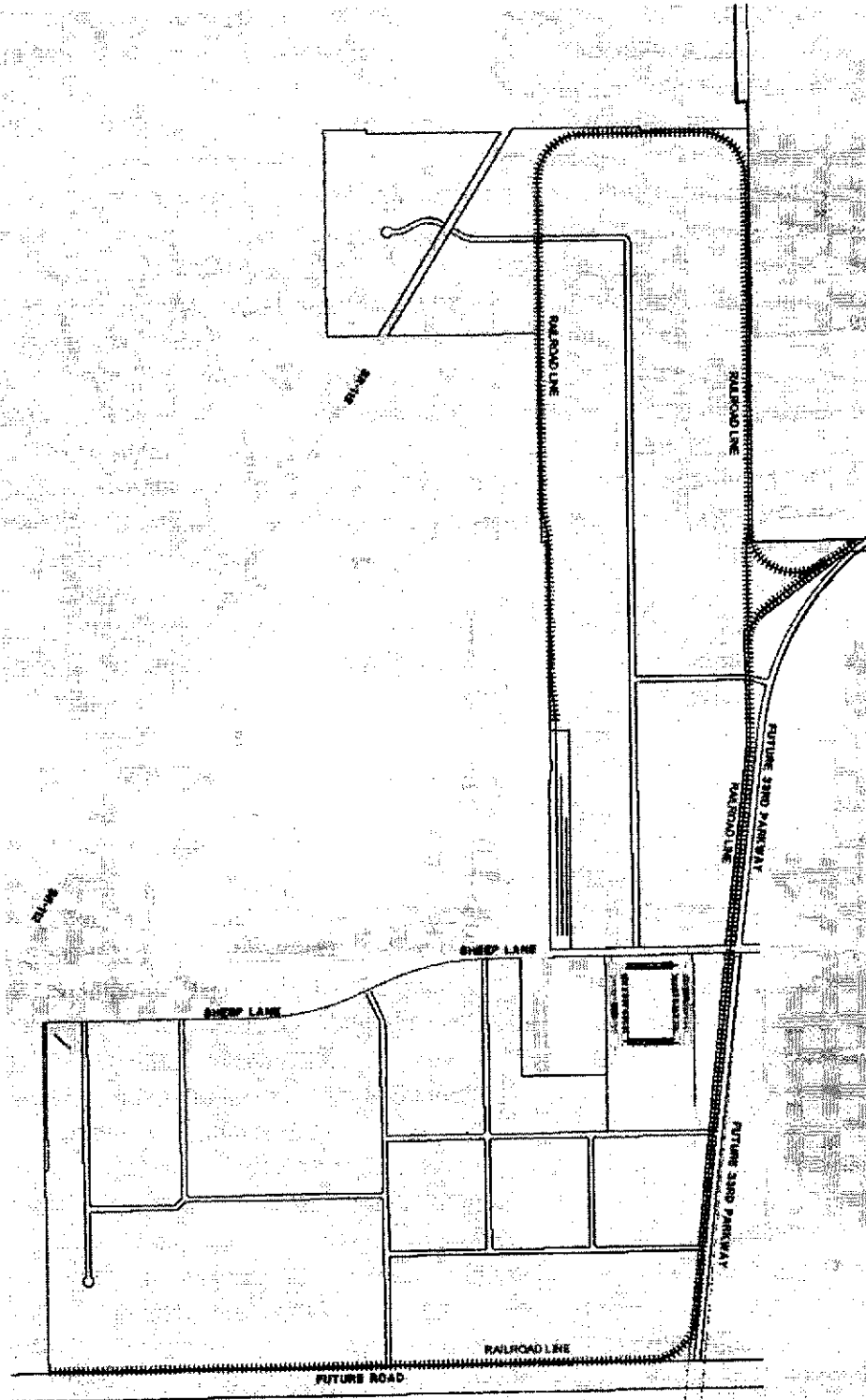


EXHIBIT F

Design Guidelines

The following are the initial Design Guidelines promulgated by the Design Review Committee. However, the Design Review Committee, in its sole and absolute discretion, approve variances to said guidelines in accordance with the Declaration. The materials and improvements on each site shall be maintained in good order by each Member.

- **Building Materials and Colors.**
 - All exterior building materials shall conform to the following:
 - Concrete tilt up, precast concrete, masonry, insulated panelized steel
 - Wood, aluminum, glass, and other durable materials may be used as accents
 - Colors shall predominantly earth tones in the brown, gray and white variations on the color wheel with accents allowed from other colors on the color wheel
- **Structural Surface Materials.**
 - All structural surface materials shall conform to the following:
 - Concrete and asphalt for all wearable driving surfaces
 - Clean gravel may be used for storage yards
- **Landscaping Materials.**
 - All landscaping shall be Xeriscape
 - Drip irrigation
 - Drought tolerant trees, shrubs, and ornamental grasses
 - Gravel much of complementary color to the surrounding buildings
 - Drought tolerant natural grasses in non-mulched areas
- **Fencing, Security and/or Screening Materials.**
 - All screening/fencing materials adjacent to or within 300 feet of a public right of way shall conform to the following:
 - Concrete precast
 - Masonry
 - Wrought Iron or similar
 - Well maintained wood
 - All fencing beyond 300 feet of a public right of way may also include, in addition those referenced above, the following materials:
 - Chain Link
 - All security fencing, in addition those referenced above, may consist of the following:
 - Chain Link with barbed wire, razor wire or similar
- **Onsite Rail Improvements**
 - All materials including the base material, railroad ties, and steel rail shall conform to the rail standards provided by the Rail Service Provider.

EXHIBIT GLANDSCAPING MAINTENANCE REQUIREMENTS

All landscaping shall be Xeriscape, with drip irrigation only. Trees, shrubs and ornamental grasses must be drought tolerant and gravel or similar material must be of complementary color to the surrounding buildings.

Growing Season:

Each Owner shall maintain the landscaping treatment of such Owner's Lot(s) and shall perform the following duties throughout the growing season (approximately April 1 through October 31).

Trim	Manually trim around all Improvements, trees, poles, fences and other obstacles during each servicing.
Edge	Mechanically edge all walks, curbs, driveways, etc. upon each servicing.
Weed	Remove all weeds from bed areas as needed.
Insect and Disease Control	To be controlled as needed at a level which protects the aesthetics, health, and vigor of landscaping. During the growing season, inspections may be performed for damaging insect populations.
Clean Up	Remove all clippings from walks, drives, and parking. All debris shall be cleaned up, removed, and disposed of at the completion of each day's work.
Shrub Pruning	Prune all shrubbery as needed to maintain and promote a manicured and healthy appearance (at least two (2) times annually).
Tree Pruning	Pruning of all trees as required to remove damaged branches, sucker growth, dead wood, etc.
Replacement	Any plant, tree, shrub, or other landscape material installed as part of the original construction on a members Lot which dies shall be removed and replaced with material similar in size and species by the next planting season.

Off Season:

Each Owner shall maintain the landscaping treatment of such Owner's Lot(s) and shall perform the following duties during the off season (approximately November 1 through March 31):

Leaf Removal	Collect and remove all fallen leaves (Approximately three (3) to four (4) times annually).
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Mulching

Apply mulch twice annually to all bed areas to cover entire planting areas with a minimum of one inch (1") of mulching material (Late fall and spring).