HARRISVILLE CITY

363 W. Independence Blvd · Harrisville, Utah 84404 · 801-782-4100
www.cityofharrisville.com

MAYOR:
Michelle Tait

COUNCIL MEMBERS:
Grover Wilhelmsen
Steve Weiss
Blair Christensen
Max Jackson
Karen Fawcett

CITY COUNCIL AGENDA
July 9th, 2024
Zoom Meeting Link
Meeting ID: 881 9891 4586
Passcode: 964820

6:00 PM Open House

1. 750 West Complex
2. Adjourn

7:00 PM City Council Meeting

Presiding: Mayor Michelle Tait
Mayor Pro Tem: Steve Weiss

1. **Call to Order** [Mayor Tait]
2. **Opening**
   - **a.** Pledge of Allegiance [Council Member Jackson]
3. **Consent Items**
   - **a.** Approval of meeting minutes for June 11th, 2024 City Council Meeting as presented.
4. **Recognition**
   - **a.** Bill Smith – Years of Service on Planning Commission
5. **Business Items**
   - **a.** Affordable Housing Discussion. [Jason Harris]
   - **b.** Discussion/possible action to adopt Harrisville Ordinance 558; an ordinance adopting a Master Development Agreement for Oak Hollow Subdivision located at approximately 265 Larsen Lane. [Brody Flint]
   - **c.** Splash Pad Discussion. [Bryan Fife]
   - **d.** 750 West City Complex Discussion [Jennie Knight]
   - **i.** Discussion/possible action to authorize the purchase of Western Irrigation Water Shares. [Jennie Knight]
6. **Public Comment**
7. **Mayor/Council Follow-up**
8. **Adjournment**

The foregoing City Council agenda was posted and can be viewed at City Hall, on the City's website www.cityofharrisville.com, and at the Utah Public Notice Website at http://pmn.utah.gov. Notice of this meeting has also been duly provided as required by law.

In accordance with the Americans with Disabilities Act, the City of Harrisville will make reasonable accommodations for participation in the meeting. Requests for assistance may be made by contacting the City Recorder at (801) 782-4100, at least three working days before the meeting.

Posted: By: Jack Fogal, City Recorder.

MINUTES
HARRISVILLE CITY COUNCIL
June 11, 2024
363 West Independence Blvd
Harrisville, UT 84404

Minutes of a regular Harrisville City Council meeting held on June 11th, 2024 at 7:00 P.M. in the Harrisville City Council Chambers, 363 West Independence Blvd., Harrisville, UT.

Present: Mayor Michelle Tait, Council Member Karen Fawcett, Council Member Grover Wilhelmsen, Council Member Blair Christensen, Council Member Max Jackson, Council Member Steve Weiss.

Excused:

Staff: Jennie Knight, City Administrator, Brody Flint, City Attorney, Justin Shinsel, Public Works Director, Jack Fogal, City Recorder, Mark Wilson, Chief of Police, Jessica Hardy, Finance Director, Jill Hunt, Treasurer, Sergeant Nick Taylor, Detective Jason Keller, Officer Landon Silverwood, Officer Chris Paradis, Bryan Fife Parks and Recreation Director,

Visitors: Arnold Tait, Marcus Keller, Blaine Barrow, Jayna Frost, Christina Palmer, Mark Knight, Leon Roche, Susan Silverwood, Ashlyn Silverwood, Steve Silverwood, Elaine Andushko, Gary Farr, Michelle Singleton, Paul Davis, Stacey Schultz, Stef S., Kim Engelby, Eric Engelby, Mike Dalpias, Gayle Dalpias, Debra Lindell, Craig Adam, Ruth Pearce, Jeff Pearce, Joy Wiese, Douglas Wiese, Michael Lesley, Christine Robinson, Jan Oakey, Mryna Hodson, Sandy Cole, Jacob Hodson, N. Eden, Rick Wetz, Rhonda Wetz, Sherry Farrell, Mike Farrell, Betsy Halvorsen, Frances Hood, John Gaz, Linda Gaz, David Anderson, Kathleen Hohosh, Steve Hood, Janet Varble, Saundra Dinsdale, Beverly Foulger, John Blanchard, Greg Montgomery, John Perry, Amy Walker, Trever Kreutzer, Larry Lilly, Michelle Burn, Debra Allred, Madeline Eden, , , Brian Palmer, Kevin Varble, Marvin Farrell, Jeff Dunn, Francis H, Mark Luile, Kathy Saunders, Gary Saunders, Jason Hadley.

1. **Call to Order.**

Mayor Tait called the meeting to order and welcomed all in attendance.

2. **Opening Ceremony.**

Council Member Christensen opened with the Pledge of Allegiance.

3. **Consent Items**
   a. **Approval of Meeting Minutes for May 14th, 2024 City Council Meeting and Work Session as presented.**

Motion: Council Member Wilhelmsen made a motion to approve the meeting minutes for May 14th, 2024 City Council Meeting and Work Session as presented, second by Council Member Fawcett.

The vote on the motion was as follows:

Council Member Wilhelmsen, Yes
Council Member Weiss, Yes
Council Member Christensen, Yes
Council Member Jackson, Yes
Council Member Fawcett, Yes

The motion passed unanimously

4. **Employee Recognition**
    a. **Bill Smith – Years of Service**

Mayor Tait thanked Bill Smith for his years of service on the Harrisville City Planning Commission.

    b. **Jason Keller Special Event Planner and Part 107 Certification**

Chief Mark Wilson awarded Detective Jason Keller a Special Event Planner Award and his part 107 Unmanned Aircraft Certification.

5. **Oath Of Office**
    a. Jack Fogal conducted the Oath Of Office for Landon Silverwood.

6. **Business Items.**
    a. **Public Hearing – To receive public comment for and/or against Harrisville Resolution 24-09; amending the FY 2024 budget.**

Jessica Hardy explained two times a year municipalities are allowed to reopen their budget. Council Member Jackson inquired if we are shifting line items. Jessica Hardy answered yes, we are not increasing the budget just fixing some shortfalls.

Motion: Council Member Jackson made a motion to open the public hearing for Harrisville Resolution 24-09; a resolution amending the FY 2024 budget, second by Council Member Weiss.

The vote on the motion was as follows:

Council Member Wilhelmsen, Yes
Council Member Weiss, Yes
Council Member Christensen, Yes
Council Member Jackson, Yes
Council Member Fawcett, Yes

The motion passed unanimously.

There was no public comment offered.

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Motion: Council Member Weiss made a motion to close the public hearing for Harrisville Resolution 24-09; a resolution amending the FY 2024 budget, second by Council Member Wilhelmsen.

The vote on the motion was as follows:

Council Member Wilhelmsen, Yes
Council Member Weiss, Yes
Council Member Christensen, Yes
Council Member Jackson, Yes
Council Member Fawcett, Yes

The motion passed unanimously.

b. Discussion/possible action to adopt Harrisville Resolution 24-09; a resolution amending the FY 2024 budget.

Jessica Hardy explained this is the vote from the public hearing amending the FY 2024 budget.

Motion: Council Member Christensen made a motion to adopt Harrisville Resolution 24-09; a resolution amending the FY 2024 budget, second by Council Member Weiss.

The vote on the motion was as follows:

Council Member Wilhelmsen, Yes
Council Member Weiss, Yes
Council Member Christensen, Yes
Council Member Jackson, Yes
Council Member Fawcett, Yes

The motion passed unanimously.

c. Public Hearing – To receive public comment for and/or against the Executive Officers Compensation Increase.

Jennie Knight explained this is new legislation from the state that requires a standalone public hearing for executive officers' compensation. This is a proposed 3% COLA and 2% merit based increase. The adoption of this item will occur with the adoption of the final budget in August.

Motion: Council Member Wilhelmsen made a motion to open the public hearing for the Executive Officers Compensation Increase, second by Council Member Weiss.

The vote on the motion was as follows:

Council Member Wilhelmsen, Yes
Council Member Weiss, Yes
Council Member Christensen, Yes
Council Member Jackson, Yes
Council Member Fawcett, Yes

The motion passed unanimously.

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Larry Lily feels the City is against its citizens. He is concerned about the garbage can increase. He feels they are against the citizens and for the employees. The message he is getting is that they do not care about citizens.

Motion: Council Member Weiss made a motion to close the public hearing for the Executive Officers Compensation Increase, second by Council Member Fawcett.

The vote on the motion was as follows:

Council Member Wilhelmsen, Yes
Council Member Weiss, Yes
Council Member Christensen, Yes
Council Member Jackson, Yes
Council Member Fawcett, Yes

The motion passed unanimously.

d. Public Hearing – To receive public comment for and/or against the issuance of lease revenue bonds.

Jennie Knight explained this public hearing is about the resolution adopted during the May Council Meeting that allows up to $10,000,000 in lease revenue bonds. The City acquired property on 750 West in 2004. There has been a projected City Hall on that property since it was acquired. Gene Bingham recommended in 2016 to start building a new municipal complex when he retired. The expansion opportunities for the current building are limited. There is no room to grow to the North, South, and West. Expansion to the East would eliminate the parking lot. Due to the BCI requirements it creates requirements for all city employees because of the access to the Police Department. . All office space in the building is at maximum occupancy. All indications from financial advisors it is unlikely that we would ever outpace interest rates and construction costs. This would cause increased costs if the new complex is delayed. An example is during the 2008 housing crash construction costs stabilized but never decreased. Once it stabilized construction costs have continually risen. Council Member Jackson inquired if the current building is ADA compliant. Jennie Knight explained we are not currently ADA compliant. Council Member Jackson inquired if we had an estimated cost to make this building ADA and BCI compliant. Jennie Knight stated we do not have a current cost. Council Member Fawcett inquired about what could be built with the current bonds. Jennie Knight explained staff has meet with the architect. The new cost estimate is approximately $14,600,000 instead of the original $18,000,000. Staff has also ordered appraisals for City owned property that would go towards the cost of this project.

Motion: Council Member Weiss made a motion to open the public hearing for the issuance of lease revenue bonds, second by Council Member Fawcett.

The vote on the motion was as follows:

Council Member Wilhelmsen, Yes
Council Member Weiss, Yes
Council Member Christensen, Yes
Council Member Jackson, Yes
Council Member Fawcett, Yes

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The motion passed unanimously.

Kathy Whitten feels like citizens are not heard. They see the needs for new buildings. They want to know exactly what the money is going to be used for. She would like to vote on items as citizens.

Larry Lily supports what the last speaker said. He wonders if Council even hears what the citizens say. The last bond was done right. It was on the ballot. His concern is that this new bond will not be on the ballot. A bond should go to the voters. They should decide. Council is afraid of what the people will say. You know the people will reject it again. This seems shady or tyrannical. The Council is supposed to be the go between to mediate between the citizens and the city staff.

Rick Wetz explained the previous bond was voted down. He does not want a recreation facility. Let the residents vote on this. A city government does not produce revenue. The only way to pay for this is a tax increase. Please do not go down this road.

John Perry explained in March of this year Council voted to create the Harrisville Building Authority. The building authority gives the council the ability to create taxes and issue bonds without consulting the citizens. The building authority can incur debt without going through the people. They are subverting the voice of the people. The people have the right and responsibility to make the decision for themselves. The city needs to plan and save for the future. That is the problem with government agencies. They do not take responsibility for city's money.

Kathleen Hahosh thanked council for their service but reminded them that they each took an oath to the constitution. The Council gets their power from the people. The powers granted by them are for the citizens benefits. Two years ago, citizens voted against the bond. Our founding fathers wanted any debt that is created to be paid off during that generation. If not, it is theft. Consent of the governed, we have a voice. We the people voted against and it should go back to a vote again.

Will Slade has lived in the City for 18 years. He wants to see the plan. He wants to see how money is allocated to each component of the project. He would be very interested to know how much is going to compliance, and how much is going to actual needs, and what is being spent on wants.

Jayna Frost explained that the recreation center was voted down because the negative view of the splash pad. When calling about the splash pad the number said it was not available. When she called there was not a lot of information about what this actually looks like. We want to know what we are paying for and what the full plan is. We do not want another splash pad fiasco.

Debra Lindell believes that we need a jail that is compliant. We could build a jail that is compliant and leave city hall where it is. She is against a recreation center.

Christine Robinson is retired from the Utah State Tax Commission. This was voted down and it is being forced on residents anyway. The economy is in the toilet. She is on a fixed income and is driving a semi to make ends meet. The North View Fire will increase taxes as well to construct their new building.

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Craig Adam wants to address affordable housing. These taxes and bonds will not help people with affordable housing. This will not help new home owners get into houses. He understands there are requirements that are outside of the Council's control. Please listen to the people.

Michelle Singleton's husband served on the planning commission for 6 years. Citizens have offered you their time and sweat. When the bond was going through, she emailed all the council members and did not get a response back. She has volunteered her time. There are citizens that try to support the city. When she has asked about other options they have not been pursued. I cannot get a phone call or an email back. If we use the citizens and the skills they possess. Citizens helped clean up the park and maintain it. It was sad seeing the sprinklers on 1100 N. flooding the mud. Please listen to us.

Beverly Foulger appreciates the police presence around her house. She received the newsletter. The newsletter keeps asking for money. Cutting the garbage is not going to help. The park on Independence used to be beautiful. The splash pad is recreation and it is not working. She walked to it with her two grandchildren and it was not working. She does not appreciate the bond issue.

Joy Wiese remembers many nights and discussions from her father who was a past mayor of Harrisville. He was so concerned about bringing the sewer into the city. Her father was so excited to have the first little house for the City. Her father was so concerned about the citizens. This Council feels that the residents do not understand what is going on. It is disappointment that we are not being listened to or supported.

Michelle Bun has lived in Harrisville for two months. She was hoping to escape the HOA but is not happy here. Her favorite quote is the only constant is change. She supports the police department but not a recreation building. Since the pandemic why are we working at the office and not remotely. Remote work can be done. The economy is hitting everyone's pocket book.

David Anderson lives on North Harrisville Rd. Each time he has spoken here he has not been listened to. The tax increase that we received was more than he thought was needed. Where is the money for this coming from. He is on a fixed income. He cannot afford it. He was hoping to have a comfortable retirement. The bond was voted down two years ago. Let's itemize the things that the citizens need. North Harrisville Rd should not be a speed trap. No one can afford a bond at this interest rate.

Doug Wiese made a request for a line-item budget. How is the city going to spend the $10,000,000. If you want support provide a line-item budget. When you get a bid back it will have line-item costs. How do you intend to spend that money.

Mike Dalpias would like to see options. He wants the City to have a 10-year plan.

Chad Davis commented the city can't keep three bathrooms open at the park so why give you money.

Sandy Cole explained this is a small community. There are no rich people. There are seniors that cannot afford these bonds.

Blaine Barrow has heard a lot of comments tonight. He agrees with a lot of these comments. The City is not telling the people what is going on. He has a lot of people ask him about

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information pertaining to the buildings. He wants to see a graph of how much taxes will increase when these new buildings are added. The real cost is not stated. He has never heard from the City what the taxation will be. He does not get the information from the meetings that he needs. Let's build these so they are affordable.

Linda Gaz has lived in Harrisville for over 50 years. Residents want to know how this is going to be paid for. She believes 99% are worried about how this will be paid for. They are worried how they will be able to live. It is not all going to come from individual pockets. She does not believe people are trying to hide things but they want to know how this will be paid for. She voted for a recreation building. She wants her children in this neighborhood. She does not want them going to another City.

Motion: Council Member Wilhelmsen made a motion to close the public hearing for the issuance of lease revenue bonds, second by Council Member Jackson.

The vote on the motion was as follows:

Council Member Wilhelmsen, Yes
Council Member Weiss, Yes
Council Member Christensen, Yes
Council Member Jackson, Yes
Council Member Fawcett, Yes

The motion passed unanimously.

e. Ben Lomond Views Discussion

Jennie Knight explained a preconstruction meeting will be held for Millenium Park. The construction will be done in two phases so it does not interfere with the irrigation season. Staff has meet with potential buyers for the development. There has been some apprehension on the developer's part to cover insurance on the park and not purchase it. Due to it being a regional detention basin the City cannot sell it. Staff's recommendation is to have the HOA pay a fee and City staff maintain the park. Currently the sewer is being put in on Highway 89. They must have it completed by Mid-July. All of the buyers have indicated that the density allowed in the development will not support the commercial element. Staff is looking at what type of negotiations Council would be willing to do if any. Council Member Jackson inquired if potential buyers would come do a presentation to Council. Jennie Knight stated yes, one is willing to do a presentation. Council Member Wilhelmsen stated he would like the presentation to be at Council Meeting so the public can be aware of it. Council Member Christensen inquired if the commercial area could be moved to the Highway. Jennie Knight explained not unless we renegotiate Phase 2A which has been approved already. Council Member Fawcett stated she would like to have the conversation. Council asked to have the developer attend Council Meeting and present.

f. Risk Assessment

Jill Hunt explained the risk assessment is required by the State Auditor. This helps us to eliminate potential risks. They audit the policies we have in place and whether or not we follow them. We are working on two policies which when completed will get us to a maximum of 395 out of 395. Our current score is 385 out of 395.

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Motion: Council Member Weiss made a motion to accept the risk assessment as presented, second by Council Member Christensen.

The vote on the motion was as follows:

Council Member Wilhelmsen, Yes
Council Member Weiss, Yes
Council Member Christensen, Yes
Council Member Jackson, Yes
Council Member Fawcett, Yes

The motion passed unanimously.

g. Discussion/possible action to adopt Harrisville Resolution 24-10; a resolution updating the Consolidated Fee Schedule.

Jennie Knight explained the Consolidated Fee Schedule has two updates. One is the second garbage can price will be updated to match the first can price. The second item is that the business license prices will be added to the fee schedule. Council Member Wilhelmsen inquired why the second can prices needed to be raised. Jennie Knight stated the garbage fund as pointed out in the audit was in a deficit. It is an enterprise fund. It must be self-sustaining. The City pays the same tipping fee for the first can and any additional cans. It was no longer financially feasible for the City to pay the difference for the second can.

Motion: Council Member Wilhelmsen made a motion to adopt Harrisville Resolution 24-10; a resolution updating the Consolidated Fee Schedule, second by Council Member Weiss.

The vote on the motion was as follows:

Council Member Wilhelmsen, Yes
Council Member Weiss, Yes
Council Member Christensen, Yes
Council Member Jackson, Yes
Council Member Fawcett, Yes

The motion passed unanimously.

h. 750 West Police Department Building Discussion

Jennie Knight explained this is not an action item; only a discussion. Staff has met with the architect to reduce the cost to approximately $14,600,000. Appraisals for City property are being completed and should be available at the July Meeting. There is a meeting that will cover expected cost analysis. We received our certified tax rate; it has decreased to .001486. If Council decides to recapture the .0015 rate the approximately property tax increase would be $3.41. Council Member Jackson inquired if there will be a holding cell in the police facility. Chief Wilson explained no; the building will not have holding cells. There are different laws to abide by when you start having holding cells. It would be a waste of money with the jail so close. Jennie Knight explained some items that were eliminated for cost were the multi-purpose wall that cuts off the community room from the council chambers. Reduced infrastructure costs, reduced parking for staff, reduced number of gates and whether automated or not, combined office spaces that could be built out at a later date, added cubicles instead of private offices, removed the sally port from the police side, combined office spaces between sergeants and detectives,

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sharing space with North View Fire Gym, mechanical system cost savings in the HVAC, structural systems, braces, and framing. The architect is getting a cost breakdown so we know that we can start and finish the building. Council Member Fawcett inquired about the recreational building. Jennie Knight explained there will be no recreational facility in any of the phasing in this bond scenario. Council Member Wilhelmsen inquired if we have a cost for just the police department. Jennie Knight explained some of these areas are dual purpose. A final number cannot be provided currently but an estimate would be over $8,000,000. Council Member Weiss asked what was cut back in the police department. Jennie Knight explained the sally port, an evidence return area, combined offices between sergeants and detectives, reduced the court offices, sharing interview rooms with court offices, reduced footprint of the multi-purpose room, and removed the wellness room.
Council Member Jackson inquired if evidence and property would be separate. Chief Wilson explained the sally port would have been one of those storage areas for property for example bikes. The secure evidence return area was removed. It would have been a space that would reduce interaction of personnel with the public during evidence returns. Particularly because the evidence custodian is not a law enforcement officer and the goal was to limit interactions between them and people picking up their property. Council Member Weiss inquired about the cost of the evidence return and sally port. Chief Wilson explained we can come up with options like a locker system. The sally port would be easier to add on later. Council Member Weiss stated he wants to put in the needs for this building. If we wait for some of these things the cost will only go up. He would like to know the cost with the security measures.
Marcus Keller, Crews and Associates, clarified there will be no parks or recreation center in this project for bonds. You need to consider cost inflation which increases every day. A project that was bid out in Southern Utah at $60,000,000 six years ago now costs over $90,000,000. He agrees with Council Member Weiss if these add-ons will be done in a short time it would be better to include in the initial build. Council Member Christensen stated we need to look at it two ways. He wants to see it with the whole project and the police station while keeping this current building for City offices. Council Member Fawcett thanked Marcus Keller for the clarification on the bond language. Marcus Keller stated these public hearings are required by state law so we can receive the public comment. Council Member Weiss inquired can we get an estimate if we would wait on the City Hall for three to five years. Council Member Christensen inquired could we have a broken-down line item for the City Hall and Police as separate phases. Jennie Knight explained the cost for just doing architectural services would be roughly $500,000. Staff has not moved past the programing phase. The architect may not be willing to show their proprietary software to do line by line costs until we have paid the full amount. Council Member Christensen inquired if we wait would it be too late to issue the bond. Marcus Keller clarified we would get final numbers then issue bonds if that is what Council decides. The resolution allows up to $10,000,000 in bonds. If only $2,000,000 is needed then that's what the City can bond for, or after receiving final costs the City can take a step back and not issue bonds at all. Council is not obligated to issue bonds we have only started the legal process to issue them if desired. Council Member Fawcett questioned if we get the line-item list can we post it. Jennie Knight clarified that if we purchased the services and were going out to bid, we can publish them. Marcus Keller explained providing a breakdown of each phase could be helpful to Council, we could not provide a line by line yet but a generalized breakdown. Council Member Wilhelmsen inquired how does the legality work if the public decides they want to vote on it. Marcus Keller explained the law referenced is on any bond. Any bond issued can have a referendum which would put the bond to a vote. Council Member Wilhelmsen inquired about the timeframe and when does it start. Marcus Keller stated Brandon Johnson would know better but it started when the resolution passed last month. Council Member Fawcett stated that the Council wanted to see what options are and get citizens feedback. Marcus Keller encouraged those in attendance

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to review the May 14th, 2024 Council Meeting Minutes. His team will have a breakdown in July. Justin Shinsel stated when looking at phasing the project, we would be better served constructing the whole building and not finishing the City side of the building. Building two separate buildings greatly increases the cost of the building. It is fiscally irresponsible to do two separate buildings. He feels it would be more beneficial to look at the programing phase and not do the City Hall side of the project. Council Member Fawcett stated just roughing in areas until we are ready to expand. Justin Shinsel answered, yes, that is what he is suggesting. If we can only do one element it should be the actual building and finish inside elements at a later date. Council agreed with Justin Shinsel's assessment. Jennie Knight said she will invite the architect to the meeting in July. Council Member Wilhelmsen stated he felt that one message is that the public wants to know information and wants the City to provide it.

7. **Closed Executive Session – A closed Executive Session for the purposes described under UCA §52-4-205(1)(d); strategy sessions to discuss the purchase, exchange, or lease of real property, including any form of a water right or water shares, or discuss a proposed development agreement, project proposal, or financing proposal related to the development of land owned by the state, if the public discussion would prevent the public body from completing the transaction on the best possible terms**

Motion: Council Member Weiss made a motion to enter a Closed Executive Session for the purposes described under UCA §52-4-205(1)(d); strategy sessions to discuss the purchase, exchange, or lease of real property, including any form of a water right or water shares, or discuss a proposed development agreement, project proposal, or financing proposal related to the development of land owned by the state, if the public discussion would prevent the public body from completing the transaction on the best possible terms, second by Council Member Christensen.

The vote on the motion was as follows:

Council Member Wilhelmsen, Yes
Council Member Weiss, Yes
Council Member Christensen, Yes
Council Member Jackson, Yes
Council Member Fawcett, Yes

The motion passed unanimously.

The Mayor and Council convened into a Closed Executive Session.

Motion: Council Member Jackson made a motion to adjourn a Closed Executive Session for the purposes described under UCA §52-4-205(1)(d); strategy sessions to discuss the purchase, exchange, or lease of real property, including any form of a water right or water shares, or discuss a proposed development agreement, project proposal, or financing proposal related to the development of land owned by the state, if the public discussion would prevent the public body from completing the transaction on the best possible terms, second by Council Member Wilhelmsen.

The vote on the motion was as follows:

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Council Member Wilhelmsen, Yes
Council Member Weiss, Yes
Council Member Christensen, Yes
Council Member Jackson, Yes
Council Member Fawcett, Yes

The motion passed unanimously.

8. **Business Items (Cont.)**
    i. **Discussion/possible action to approve the property acquisition for extension of Wahlen Way.**

Motion: Council Member Weiss made a motion to table the property acquisition for extension of Wahlen Way, second by Council Member Fawcett.

The vote on the motion was as follows:

Council Member Wilhelmsen, Yes
Council Member Weiss, Yes
Council Member Christensen, Yes
Council Member Jackson, Yes
Council Member Fawcett, Yes

The motion passed unanimously.

    j. **Discussion/possible action to authorize the purchase of Western Irrigation Water Shares.**

Motion: Council Member Weiss made a motion to table the purchase of Western Irrigation Water Shares, second by Council Member Fawcett.

The vote on the motion was as follows:

Council Member Wilhelmsen, Yes
Council Member Weiss, Yes
Council Member Christensen, Yes
Council Member Jackson, Yes
Council Member Fawcett, Yes

The motion passed unanimously.

9. **Public Comment**

Mayor Tait opened the public comment period.

Kevin Varble has lived in Harrisville for 43 years. He has a few concerns. If residents do automatic withdrawals from Bona Vista, they do not get the Harrisville Happenings Newsletter. He found out how to sign up but is concerned some will be unable to figure it out. He thanked Public Works for fixing holes in the road so quickly. Everyone wants to have a clear understanding. We need things to improve.

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Larry Lilly explained the meeting format is very difficult. There is no two-way communication. Why were the rates increased two months ago and it's still not in the black. The people are what drives decisions. You have to take their voice into account. Once you eliminate the people's voice that is tyranny. That is taxation without representation. We want to be able to vote on things. People that are rich don't come to these meetings. These extras are what the concern is.

Rick Wetz explained they were provided an agenda that was inaccurate. If you want a public hearing and our opinion you need to provide us accurate data to talk to. The police station is a need and not in compliance. We have no communication. You get to dictate to us what we can or cannot say. This is not a dictatorship. Give us the correct data to talk to.

Jayna Frost inquired why the open house is only scheduled for one hour. You have to make it available to residents. It needs to have numbers and how you are being fiscally responsible. We will work with you and not against you if you do these things.

Beverly Foulger explained there was an error in the Harrisville Happenings how soon will Council Members be able to get the word out to the community. Waiting for the July newsletter is not efficient. How do you expect a family of five to live with only one garbage can. She did not ask for her grandchildren to come live with her. She will not pay for another can.

John Perry asked if other facilities have been toured. Other police stations and city facilities. What access or relationship should the police have with the rest of the city offices. Erecting a structure with rough in does not save much money. When you come back in to finish a building the needs have changed. What was roughed in does not change anymore. Street lights in the city are in dire repair. The ones down the street from him are not on. The ones by his house work off and on. The city is responsible to fix them except on Highway 89. The residents do not want or need the most glorious city building. There is a difference between wants and needs. If you have toured other facilities, you would know what would work and what would not. We should create a ten- or twenty-year plan that notifies citizens of progress for that plan.

Michelle Singleton explained if circumstances stay the same it would be more cost effective to build it now and not wait. In the political arena we have now, we cannot project if it will be more expensive in three to five years. Residents in Harrisville remember doing it for this building. Why are we doing it again. Have we taken the steps for the old building that we have for the new buildings. As you can see with just the Ben Lomond Golf Course construction is volatile. We are not saying you are doing it wrong but it cannot be done right now. These developers had unforeseen costs and could not make it work. Help us work together to not live on the fine line.

Mike Farrell commented that people go to the power company, they can report lights that are out. Maybe the City can educate residents on that.

Marvin Farrell has attended several meetings. There are the public comments then discussion with the City. If we can get a different system, we could avoid miscommunication. It could have been straightened out and the public know about. What happened with business items i and j.

Mayor Tait closed the public comment period.

10. Mayor/Council Follow-up

Mark Wilson explained Lexipol gave the department Gold Status. It is based on policy and how officers apply it. This is the third year of gold status. Officer Paradis completed his training on

non-lethal methods and can instruct others now. All officers are up to date on their forty hours of training. We are up roughly one thousand calls from this time last year. We are looking for a new officer to replace one that is leaving. The department is looking to fill the position of a victim advocate.

Justin Shinsel addressed some public comment. Rocky Mountain and the city share responsibility for street lights. Please call the city and let us know so we can get a work order in to get the light fixed. It is a busy time of year. There is a lot of development going on in the City. If you see sidewalk in your vicinity that is breaking up let us know so we can fix it. If you see issues with the roads, please let us know so we can fix them.

Bryan Fife updated Council about the splash pad. They turned it on May 20th, an electrical component went out. The part was installed today. The Health Department will be doing their inspection tomorrow. Hopefully it will be open Friday. The park on 1100 N. was hydro seeded. It was watered heavily per the recommendation of the manufacturer. There is a movie in the park Friday.

Jennie Knight explained the moderate-income housing report is due by the end of July. We will be working to get our plan finished with what we have done over the last twelve months to meet our goals. We might need to have a general plan work session with strategic plans from department heads. The last plan was adopted in 2019. They need to be adopted every ten years but staff feels like it may be relevant to adopt it sooner. Last year legislatures passed a law fining cities if they do not meet the moderate-income housing needs.

Council Member Wilhelmsen reported on the senior luncheon. There were about 35 people. During the meeting a citizen mentioned that a stop sign would be nice on 2550 West and 600 North.

11. Adjournment

Council Member Weiss motioned to adjourn the meeting, second by Council Member Wilhelmsen.

The vote on the motion was as follows:

Council Member Wilhelmsen, Yes
Council Member Weiss, Yes
Council Member Christensen, Yes
Council Member Jackson, Yes
Council Member Fawcett, Yes

The motion passed unanimously.

The meeting adjourned at 9:57 P.M.

MICHELLE TAIT
Mayor

ATTEST:

DRAFT

Jack Fogal
City Recorder
Approved this 9th day of July, 2024

DRAFT

HARRISVILLE CITY
ORDINANCE 558

AN ORDINANCE OF HARRISVILLE CITY, UTAH, ADOPTING A MASTER DEVELOPMENT AGREEMENT FOR OAK HOLLOW SUBDIVISION LOCATED AT APPROXIMATELY 265 LARSEN LANE; SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Harrisville City (hereinafter "City") is a municipal corporation duly organized and existing under the laws of the State of Utah;

WHEREAS, *Utah Code Annotated* §10-8-84 and §10-8-60 allow municipalities in the State of Utah to exercise certain police powers, including but not limited to providing for safety and preservation of health, promotion of prosperity, improve community well-being, peace and good order for the inhabitants of the City;

WHEREAS, Title 10, Chapter 9a of the *Utah Code Annotated* enables municipalities to regulate land use and development and *Utah Code Ann.* §10-9a-532 allows municipalities to enter into a development agreement for lawful purposes;

WHEREAS, the City has received an application for a Master Development Agreement for the Oak Hollow Subdivision located at approximately 265 Larsen Lane, identified as Weber County Parcel Numbers 11-027-0104, 11-027-0118, 11-027-0023, 11-027-0022, 11-027-0004, 11-027-0061 and 11-027-0024, filed by the putative property owner, JLM Development Amber LLC;

WHEREAS, the Master Development Agreement is attached as Exhibit "A";

WHEREAS, after publication of the required notice the Planning Commission held its public hearing on June 12th, 2024, to take public comment on this proposed ordinance and gave its recommendation to _____ this Ordinance;

WHEREAS, the City Council received the recommendation from the Planning Commission and held its public meeting on _____, 2024, to act upon this Ordinance;

NOW, THEREFORE, be it Ordained by the City Council of Harrisville City, Utah as follows:

Section 1: **Adoption of Master Development Agreement.** The Master Development Agreement attached wherein as Exhibit "A" which is hereby adopted and incorporated herein by this reference. Any development must substantially conform to this Master Development Agreement

Section 2: **Severability**. If a court of competent jurisdiction determines that any part of this ordinance is unconstitutional or invalid, then such portion of this Ordinance, or specific application of the ordinance, shall be severed from the remainder which remainder shall continue in full force and effect.

Section 3: **Effective Date**. This Ordinance takes effect immediately after approval and posting.

DRAFT

PASSED AND APPROVED by the City Council on this_____ day of_____, 2024

_____
MICHELLE TAIT, Mayor

ATTEST:

_____
JACK FOGAL, City Recorder

RECORDED this___day of_____. 2024.
PUBLISHED OR POSTED this____day of_____, 2024.

CERTIFICATE OF PASSAGE AND PUBLICATION OR POSTING

According to the provision of UCA §10-3-713, 1953 as amended, I, the municipal recorder of Harrisville City, hereby certify that the foregoing ordinance was duly passed and published, or posted at 1) City Hall 2) 2150 North, and 3) Harrisville Cabin on the above reference dates.

_____ **DATE**: _____
City Recorder

DRAFT

Harrisville City Planning Commission

Harrisville City Offices
Wednesday, June 12, 2024 – 7 PM

Commissioners:	Nathan Averill	**Staff:**	Jennie Knight (City Administrator)
	Chad Holbrook		Cynthia Benson (Deputy Recorder)
	Brad Elmer		Justin Shinsel (Public Works Director)
	Jordan Read		Brody Flint (City Attorney)

Visitors: Glade McCombs, William Brechbill, Paul Davis, Judeane Caulford, David Conley, Greg Montgomery, Shannon Rich, Aaron Field, Craig North, Marvin Farrell, Tawna Field.

1. **CALL TO ORDER**

Chair Averill welcomed all in attendance.

2. **CONSENT APPROVAL –** of Planning Commission minutes from May 8, 2024.

MOTION: Commissioner Holbrook motioned to approve Planning Commission minutes from May 8, 2024. Commissioner Read seconded the motion. The motion passed with all voting in the affirmative.

Nathan Averill	**Yes**
Chad Holbrook	**Yes**
Brad Elmer	**Yes**
Jordan Read	**Yes**

The motion passed with all voting in the affirmative.

3. **PUBLIC HEARING** – in accordance with Utah Code §10-9a-502, the Harrisville City Planning Commission will hold a public hearing on Wednesday, June 12, 2024, at 7 PM, to take comments for and/or against a Master Development Agreement for Oak Hollow Subdivision.

Chair Averill read through the rules for a public hearing before entertaining a motion to open the public hearing period.

MOTION: Commissioner Read motioned to open the public hearing. Commissioner Elmer seconded the motion.

Nathan Averill	**Yes**
Chad Holbrook	**Yes**
Brad Elmer	**Yes**
Jordan Read	**Yes**

The motion passed with all voting in the affirmative.

Jennie Knight, City Administrator, updated the commission on an appeal the city received for this

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project. The appeal hearing was held on May 14, 2024, where it was determined the process in which the city used to adopt Ordinance #551 was missing a few state statue steps resulting in the need to present the Master Development Agreement (MDA) before the commission tonight. Since your last view of the MDA, staff and the developer have been able to clean up the MDA and remove language which was not applicable.

Greg Montgomery expressed his concerns on the process and his understanding of what the city is trying to accomplish. It is his understanding the city is approving a Master Development Agreement and not a cluster subdivision which was the original presentation. He feels the city is not paying homage to its own ordinances. Under the ordinance, this development would have been a 14-15 lot subdivision. Now under the development agreement this is a 30-lot development where negotiations have taken place. Why is the city not following its own ordinances? Why is this now a development agreement? He feels the process is not being referred to by the right title in the noticing. He was not aware of a preliminary plat being filed nor any fees being paid for a subdivision application. He asked for clarification on what is being approved tonight. Is this a concept with a development agreement or a preliminary subdivision? He feels there is language in the development agreement which allows the developer to modify the housing type without having to obtain city approval. He stated his concerns about the current plan not allowing the option for some property line homeowners to add amenities to their property due to a smaller rear setback distance. He concluded his comments by asking what the notice will be for those who utilize the irrigation ditches.

Aaron Fields understands the state is requiring cities to provide more affordable housing. His thinking is the ordinances are there to protect. He feels the city has tossed the ordinances out to approve the development. He stated his concerns about lot sizes and the quantity. It is unfair to change the rulebook for the new development when the standards his house was built were different. He asked the existing ordinances to be followed to protect all the parties involved. Chair Averill asked to see the picture Mr. Fields took today from his back deck where three lots, one being a retention pond, were to be placed. Mr. Fields restated his concern about cramming so many lots into a small parcel of land making it feel more like New York.

William Brechbill asked if the development agreement is online for him to review since this was the first time he had heard about the project. Commissioner Read and Chair Averill explained where the meeting packet is located and how to access it on the city website.

MOTION: Chair Averill motioned to close the public hearing. Commissioner Holbrook seconded the motion.

Nathan Averill	**Yes**
Chad Holbrook	**Yes**
Brad Elmer	**Yes**
Jordan Read	**Yes**

The motion passed with all voting in the affirmative.

4. **DISCUSSION/ACTION/RECOMMEND** – to recommend adoption of Ordinance 558; an ordinance adopting a Master Development Agreement for Oak Hollow Subdivision located at approximately 265 Larsen Lane.

Commissioner Holbrook said he feels there is a false dichotomy on whether the city is following the ordinances. He feels there needs to be an explanation about how the ordinances will be contained within the MDA protecting those parties involved.

Brody Flint, City Attorney, explained under state law, and through a lot of pressure by the state legislation, the law was changed to allow development agreements to occur outside of existing ordinances. The option now is for developers and the city to complete a development agreement which is a contract between the developer and the city. The benefits to this are flexibility to create housing options which would not otherwise meet ordinances and for faster approvals. The development agreement governs the development as it moves forward.

Chair Averill asked if it would be possible to redo the process under the cluster ordinance. Mr. Flint stated clearly the commission cannot undo the process. It is the landowner's prerogative to develop the land as they see fit. They now have the option to create a development agreement to obtain their desired goal for any given property within the city. If the City Council wishes to start all over despite the Planning Commission's recommendation, that is still an option. Chair Averill stated he wanted to understand the process since both a cluster subdivision and development agreement have been presented. Mr. Flint continued saying this is where the Appeal Authority comes in. The agreement before you is the developer's choice for the development to move forward.

Commissioner Elmer asked for clarification on whether or not the concerns on the legal side and on the city side have been appeased. Mr. Flint answered the development agreement is essentially the same as what has already been approved through the City Council. To the developer's credit, he did not ask for changes. The only items changed were items found by the appeal authority, verbiage which was not applicable to the subdivision and added clarification on what ordinances and codes are to be followed within the agreement. Whether or not we call this a subdivision or an agreement, it is essentially the same. The difference is right now we are operating under the statutes of a development agreement which is a legislative decision. Chair Averill added the last time this was presented the statues were both legislative and executive creating the dichotomy mentioned.

Commissioner Read added it was his understanding the development agreement has some fluid decisions which still need to be made as the development continues through the process. Mr. Flint agreed. He explained the future subdivision process comes later. Chair Averill explained the stage this development is in is the concept stage. The preliminary stage will come later. Mr. Flint said the developer has the concept and is now working through that plan to obtain the approvals necessary. Ms. Knight clarified the agreement will allow lots number to move between phases, but the approved number will not change. There is language specifying this development to be single family. The developer would not be allowed to change to twin homes, or a multi-family home nor would he be able to change the any part of the agreement without going through the approval processes outlined by ordinance. Mr. Flint emphasized that the agreement cannot be unilaterally changed without the city approval process based on contract law. If the developer asks for any change, they would have to start the approval process all over again.

Commissioner Holbrook stated he understood a development agreement is to allow the city more control over what the final product of any given development will be. By having these agreements in place, the city is protecting itself and its residents.

Glade McCombs expressed his appreciation for the commission. He continued his remarks with clarification on the MDA. During the public hearing a comment was made stating if we approve an MDA, we slight all the city ordinances. He firmly disagrees. He further explained the state has streamlined the approval process by allowing developers to submit MDAs, but they still must pass through the city planning authority and all necessary approvals as outline by city ordinance. When the development team found out they needed to resubmit the project, the development team decided to leave the plan unchanged despite their opportunity to ask for more. The only item repositioned on the concept is where the pickle ball courts are to go based off a request stated the last time they were before the commission. He reiterated the submission itself has not changed. To take it back through the process of a cluster, which they met, would not make sense. The calculations for the development were based off the developed area. He stated the development team only wishes to build this development in order to create something nice for the community.

Chair Averill reviewed the public comments to verify all were addressed before calling for a motion.

MOTION: Commissioner Holbrook motioned to forward a positive recommendation of Ordinance 558; an ordinance adopting a Master Development Agreement for Oak Hollow Subdivision located at approximately 265 Larsen Lane subject to any staff or agency comments. Commissioner Elmer seconded the motion.

Nathan Averill	**Yes**
Chad Holbrook	**Yes**
Brad Elmer	**Yes**
Jordan Read	**Yes**

The motion passed with all voting in the affirmative.

5. **DISCUSSION/ACTION/RECOMMEND** – to grant preliminary plat approval of Harrisville Fields Subdivision Phase 1 located at approximately 867 North Harrisville Road.

Ms. Knight updated the street addresses for this phase will be 390 West North Street and reviewed the engineer's memo. The reason we are here is for the preliminary plat approval for Harrisville Fields Phase 1. After this approval, if obtained, the remaining approvals will be processed through the Administration Land Use Authority.

Chair Averill asked if the length of the top cul-de-sac, 600 North, is an issue. Justin Shinsel, Public Works Director, stated all stubbed roads on the plat are for future developments to the west and the lengths are less than 600 feet per code.

Chair Averill asked for the reason 400 North is dedicated to Ogden instead of Harrisville. Mr. Shinsel replied this section of North Street is currently in Ogden thus creating the reason. After this point there is a road shift where North Street goes back to Harrisville City to maintain. Ogden is to maintain the road to this point. The roads within the subdivision will be city maintained.

MOTION: Commissioner Read motioned to approve preliminary plat approval of

Harrisville Fields Subdivision Phase 1 located at approximately 867 North Harrisville Road subject to Engineer's memo dated June 6, 2024, and any other staff or agency comments. Commissioner Holbrook seconded the motion.

Nathan Averill Yes
Chad Holbrook Yes
Brad Elmer Yes
Jordan Read Yes

The motion passed with all voting in the affirmative.

6. **DISCUSSION/ACTION/RECOMMEND –** to grant preliminary plat approval of Harrisville Fields Subdivision Phase 2 located at approximately 867 North Harrisville Road.

Chair Averill began the discussion by asking about the extra-long cul-de-sac, 850 North Street, within this phase. Ms. Knight responded that this concern was addressed through the appeal authority for a variance at the beginning of the approval processes. It was granted due to the limitations the flood plain caused the developer. Chair Averill asked if the flood plain needs to be shown on the plat. Ms. Knight said this is addressed in the engineer's comments and will need to occur before final approval can be granted. Mr. Shinsel said the commission needs to keep in mind the flood plain is categorized as an A zone not an AE zone. Currently, the developer does not have the study completed to know what the base elevation levels are for this development. Once this is known, the homes will be built at that elevation or above.

Ms. Knight added there is language on this plat which will be updated. For instance, streets instead of lanes and so on. Also, there is not an HOA for this development.

Chair Averill asked if the skinny street, 3750 W Street, was given a variance for a fire turnaround. The comment on the plat shows this cul-de-sac does not meet code requirements. Mr. Shinsel answered this was caught during the engineer's comments and will be addressed in future reviews.

Chair Averill asked if Four Mile Creek will be open or in pipe. Mr. Shinsel replied Four Mile Creek and Dixon Creek merge in this phase. Piping of the creek will require a stream alteration permit since placing the ditch in pipe will be altering the stream. The creeks will follow their normal course through the properties and remain in either open space or in the flood plain. There will not be any building on top of the creeks.

Chair Averill asked for clarification on the remaining open space and whether it will be dedicated to the city. Ms. Knight said this area has been identified as a new park with a regional detention basin. The appearance of the basin has not been determined at this time.

MOTION: Commissioner Elmer motioned to approve preliminary plat approval of Harrisville Fields Subdivision Phase 2 located at approximately 867 North Harrisville Road subject to Engineer's memo dated June 6, 2024, and any other staff or agency comments. Commissioner Read seconded the motion.

Nathan Averill Yes

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Chad Holbrook Yes
Brad Elmer Yes
Jordan Read Yes

The motion passed with all voting in the affirmative.

7. **DISCUSSION/ACTION/RECOMMEND** – to grant preliminary plat approval of Harrisville Complex Subdivision located at approximately 750 W 1750 North.

Ms. Knight stated the purpose is to realign the area to create a lot 2, which will be sold to North View Fire as a future substation, and to dedicate the road structure to the city outside of the area where the Public Works Facility is being constructed. Through the programming phase with the architect, and with North View Fire, the substation will now be a separate building. This will put the substation closer to Highway 89.

Commissioner Elmer asked what the time frame is for the substation. Ms. Knight answered North View Fire adopted their Strategic Plan in February 2024 with possible completion within five (5) years. The city is not certain of their exact time frames since they are a separate entity.

Commissioner Read asked of this partnership will change the fire fees paid out for fire services in the future. Ms. Knight said North View Fire did a comprehensive study which defined Harrisville in need of a substation. However, how they plan on paying for it is not known currently.

Chair Averill asked how the addressing will be for these lots. Ms. Knight replied both lots will most likely be addressed off 1750 North which currently is under construction. The addressing will be determined by the city engineer.

MOTION: Chair Averill motioned to grant preliminary plat approval of Harrisville Complex Subdivision located at approximately 750 W 1750 North subject to the Engineer's Memo dated June 6, 2024, at to any staff or agency comments. Commissioner Holbrook seconded the motion.

Nathan Averill Yes
Chad Holbrook Yes
Brad Elmer Yes
Jordan Read Yes

The motion passed with all voting in the affirmative.

Commissioner Read was excused.

8. **PUBLIC COMMENTS – (3 minute maximum)**

Greg Montgomery added to his earlier comments his concerns about application fees for development agreements. He has not seen any fees collected for this process, which has taken a lot of city staff time to complete as the commission has seen here tonight. He did not see any fee structure for developments and feels there should be. He wished to further clarify whether or not the development meets the ordinances. He mentioned the appeal process never ruled if the

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development meets the city ordinances. He greed the city will not allow homes to be built outside of buildable areas. However, because of the setbacks the new homeowners will not be able to add onto their home such as a sunshade, deck, etc.

9. COMMISSION/STAFF FOLLOW-UP

Ms. Knight began by stating the MDA fee is not included in the current fee schedule. This is a new update through state legislation. Typically, the city will pass along any costs to the developer which exceed the collected application fees before final approvals can be obtained. Chair Averill pointed out there is a section in the MDA which addresses this.

Ms. Knight informed the commission Mayor Tait received a resignation letter from Bill Smith in May. There are now two openings for the commission. If anyone is interested in filling those positions, they can fill out an application on the city website.

Commissioner Holbrook inquired about the golf course. Ms. Knight mentioned the sewer line installation is underway. Staff have met with the developer about the updates to Millenium Park installation. As of now, the ditch which runs on the south side of the property, will remain as is throughout the watering season before any construction is completed. They will be adding restrooms, playground equipment, sod, and sprinklers. The city has been working with the lender to accomplish this.

Commissioner Holbrook asked if there was any intent to place a sidewalk on the west side of Highway 89. Ms. Knight said the sidewalks will be added during development of the parcels. Currently there are no other plans to do so.

10. ADJOURN

MOTION: Chair Averill motioned to adjourn the meeting. Commissioner Elmer seconded.

Nathan Averill Yes
Chad Holbrook Yes
Brad Elmer Yes

All voted in the affirmative.

The meeting adjourned at 7:58 pm.

Nathan Averill
Chair

Cynthia Benson
Deputy Recorder

DRAFT

To: Harrisville City Planning Commission
Date: June 11,2024
Subject: Public Hearing Master Development Agreement for Oak Hollow Subdivision
From: Greg Montgomery, 231 Larsen Lane

In the movie "Pirates of the Caribbean" a term "parlay" was used to signify a code of conduct that was meant to be followed. However, as the movie went on "parlay" was described as only a suggestion and at the discretion of the one being asked to enforce the rule.

The consideration before you tonight, which was once thought by the citizens of the community as a review following the cluster development regulations of the zoning code for the last few months is now being presented as it was really intended, as a development agreement where any standard is negotiated by terms of a development agreement and the cluster ordinance regulations are no longer in play, they were only suggestions to get to this point. (See attached finding of appeal made on the approval of the Oak Hollow project.)

The State Code regarding development agreements was amended and the revisions became effective on May 1, 2024. The key word in the language is the municipality **may** enter into a development agreement. The City is not required to enter into an agreement, it is a matter of choice that is before you tonight. The actions of the Commission in January to not recommend the mixed use plan amendment was all about the mixed use allowing plan negotiations rather than following the development options allowed by the zoning regulations. Now with the new state options, mixed use does not need to be the tool to allow negotiations of the city regulations but any development or subdivision can now fall into negotiations rather than standards before it ever reaches the Commission and public. This is a process that is frustrating to the developer as well as the neighbors once the public becomes involved. A clear expectation is what both groups need.

Neighboring development properties know that undeveloped land will develop at some point and trust that the zoning ordinances will provide some common expectations of how the development will be. Negotiations remove any neighborhood expectations on setbacks from property line or uses along the boundary of existing development based on the zone.

The title of the development agreement you are considering is "A MASTER DEVELOPMENT AGREEMENT FOR OAK HOLLOW SUBDIVISION LOCATED AT APPROXIMATELY 265 LARSEN LANE". The concerns that the neighbors brought up in March 13 Planning Commission meeting about the irrigation and drainage ditch and placement of homes over those ditches were dismissed as they would be addressed in the subdivision phase. If this is now approving a subdivision in the development agreement format, these issues now need to be addressed and the standards for subdivision review need to be followed of submittal of application fees, plan submittal requirements and all the things that go with a subdivision submittal. If this is only a concept for the subdivision then the development will still need to follow the subdivision process recognizing the smaller lots and setbacks found in the development agreement. This needs to be clarified as the title says this is a subdivision development agreement. The

prescribed easements need to be shown and if any realignment is being proposed, the irrigation shareholders need to agree to a realignment and the new easement. These need to be added to the plans of the development submitted as part of the development agreement if this is truly the being considered as a preliminary subdivision development agreement. The other required engineering plan requirements should be submitted also as part of a preliminary approval. One technical concern is that the depth of the ditch to function and the subgrade needed for the road may not be adequate to prevent frost heave of the road and will be an ongoing city maintenance concern in the future.

The second concern deals with the phrase of the development agreement that it is "providing community well being". The well being is that the homes built along the west property line should have adequate rear yard setback so that there will not be future problems of home owners wanting to have a covered patio in their west facing rear yard and not being able to do that because the patios would be too close to property lines to build any type of shade structure because of building code regulations making that difficult. The codes uses distance for allowing such things as well as construction methods which the development agreement cannot waive. This concern is based on the lots being only 71 feet deep and if the city is going to require a 20 foot front yard setback along the street. This would mean the homes will only have an 8 to 13 foot rear yard setback based on the house plans. Now is the time to consider what that rear setback would be since no dimension is shown on the plans of how far the building envelope is from property lines.

A third concern with the language of the development agreement is that a residential dwelling unit can be single family, attached dwellings and townhomes (1.2.36 of the development agreement) and the agreement allows the transfer of residential dwelling units once the agreement is approved (2.5.7 of the development agreement) without any approvals required by the city so long as the 30 unit limit is maintained. This should be clarified that the only transfer is of single family detached homes or the open space areas.

One other opportunity to consider at this time since this is a negotiated plan, is to extend a public pedestrian access easement over the utility lines that will connect to 700 North and allow this development and other development north of the area access through the block since there will be public streets allowing pedestrians into the development and the development goes from Larsen Lane to 700 North.

Conclusion

1. Deny the development agreement as not being in the best interest of the community and follow the existing zoning regulations that allow development options as a cluster.

2. If pursuing the development agreement is considered the best option for the general city well being then require being added to the development agreement:

    a. A specified setback distance along the west property line that would allow the homes enough distance to create a covered patio area.

b. Require the ditch easements to be shown on the master plan if it is being approved as a subdivision at this point.
c. Clarify that the subdivision is only in the concept review phase.
d. revise development agreement language that only single family detached homes and open space can be transferred without city approval in the development
e. Create a public pedestrian access easement from the public sidewalk to 700 North over the public utility easements which will be required for this development.

OAK HOLLOW

Plant Your Roots Here

Master Development Agreement

for

Oak Hollow Development

Clustered Development Sub-zone

Between

Harrisville City, Inc.

and

JLM Development Amber, LLC

on this ____of _____ of 2024

MASTER DEVELOPMENT AGREEMENT FOR
Oak Hollow

THIS MASTER DEVELOPMENT AGREEMENT is made and entered as of this
_____ of _____ of 2024
by and between HARRISVILLE CITY and JLM Development Amber, LLC.

RECITALS

A. The capitalized terms used in this MDA are defined in Section 1.2, below.

B. Master Developer is under a contract to purchase and will own as of the Effective Date the Property and is developing the Project on the Property.

C. Contemporaneously with the approval of this MDA the City has approved the Master Plan.

D. The City finds that this MDA and the Master Plan conform with the intent of the City's General Plan.

E. The City has processed this MDA and the Master Plan pursuant to the applicable provisions of Section 10-9a-532, *et seq.*, of the Act as a land use regulation including holding hearings on the MDA and the Master Plan before the Planning Commission and the City Council.

F. Master Developer and the City desire that the Property be developed in a unified and consistent fashion pursuant to the Master Plan.

G. The Parties acknowledge that development of the Property pursuant to this MDA will result in significant planning and economic benefits to the City, and its residents by, among other things requiring orderly development of the Property as a master planned development and

increasing property tax and other revenues to the community based on improvements to be constructed on the Property. In addition, the development will provide a much needed moderate income housing option for the members of the community, which is much needed in the present housing climate.

H. The Parties desire to enter into this MDA to specify the rights and responsibilities of Master Developer to develop the Property as expressed in this MDA and the rights and responsibilities of the City to allow and regulate such development pursuant to the requirements of this MDA.

I. The Parties understand and intend that this MDA is a "development agreement" within the meaning of the Act and entered into pursuant to the terms of the Act.

NOW, THEREFORE, in consideration of the foregoing Recitals, the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby conclusively acknowledged, the City and Master Developer hereby agree to the following:

TERMS

1. Incorporation of Recitals and Exhibits/Definitions.

1.1. **Incorporation.** The foregoing Recitals and Exhibits "A" – "N", whether or not specifically referenced herein are hereby incorporated into this MDA.

1.2. **Definitions.** As used in this MDA, the words and phrases specified below shall have the following meanings:

1.2.1. **Act** means the Land Use, Development, and Management Act, Utah Code Ann. § 10-9a-101 (2020), *et seq.*

1.2.2. **Administrator** means the person designated by the City as the Administrator of this MDA.

1.2.3. **Applicant** means a person or entity submitting a Development Application.

1.2.4. **Subdivision** means a community reinvestment area created by the City to use certain tax increment financing for City-related infrastructure.

1.2.5. **Buildout** means the completion of all the development on the entire Subdivision project in accordance with the approved plans.

1.2.6. **City** means Harrisville City, a Utah municipality.

1.2.7. **City Consultants** means those outside consultants employed by the City in various specialized disciplines such as engineering, planning, traffic, hydrology, or drainage for reviewing certain aspects of the development of the Project.

1.2.8. **City's Future Laws** means the ordinances, policies, standards, and procedures which may be in effect as of a particular time in the future when a Development Application is submitted for a part of the Project and which may or may not be applicable to the Development Application depending upon the provisions of this MDA.

1.2.9. **City's Vested Laws** means the ordinances, policies, standards, and procedures of the City in effect as of the date the City approves this MDA.

1.2.10. **Council** means the elected City Council of the City.

1.2.11. **Default** means a material breach of this MDA as specified herein.

1.2.12. **Denial** means a formal denial issued by the final administrative decision-making body of the City for a Development Application but does not include review comments or "redlines" by City staff.

1.2.13. **Design and Site Standards** means those standards for the design, look,

and feel of the Project more fully specified in Exhibit "G".

1.2.14. **Development** means the development of a portion of the Property pursuant to an approved Development Application.

1.2.15. **Development Area** means one of the areas that are a part of the Project as conceptually illustrated in the Master Plan.

1.2.16. **Development Application** means an application to the City for development of a portion of the Project including a Subdivision or any other permit, certificate or other authorization from the City required for development of the Project.

1.2.17. **Development Report** means a report containing the information specified in Sections 2.5.8 – 2.5.10.

1.2.18. **Effective Date** means the date that this MDA becomes effective as specified in Section 27, below.

1.2.19. **Final Plat** means the recordable map or other graphical representation of land prepared in accordance with the Act or any successor provision, and approved by the City, effectuating a Subdivision of any portion of the Project.

1.2.20. **Four Mile SSD** means a special service district to be created by the City to provide approved public services to the Project, including secondary water (pressurized irrigation), if Developer is unable to arrange for such water through Pineview Water District.

1.2.21. **Intended Uses** means the use of all or portions of the Project for single-family and multi-family residential units, restaurants, public facilities, businesses, commercial areas, professional and other offices, services, open spaces, parks, trails, and other uses as more fully specified in Exhibit "B-2".

1.2.22. **Master Developer** means JLM Development Amber, LLC.

1.2.23. **Master Plan** means the conceptual layout for Residential Dwelling Units, Open Space, and Public Infrastructure for the Project.

1.2.24. **Maximum Residential Units** means the maximum number of Residential Dwelling Units that may be developed on the Property, as detailed in Section 2.2 below, consistent with the Property zoning and as generally depicted in the Master Plan.

1.2.25. **MDA** means this Master Development Agreement including all the Exhibits.

1.2.26. **Multi-Family Site Plan** means a site plan for a multi-family Development where no Subdivision is required.

1.2.27. **Notice** means any notice to or from any Party to this MDA that is either required or permitted to be given to another party.

1.2.28. **Open Space** shall have the meaning specified in Section 11.01.060 of the City's Municipal Code.

1.2.29. **Outsourcing** means the process of the City contracting with City Consultants or paying overtime to City employees to provide technical support in the review and approval of the various aspects of a Development Application as is more fully set out in this MDA.

1.2.30. **Party/Parties** means, in the singular, Master Developer or the City; in the plural Master Developer and the City.

1.2.31. **Planning Commission** means the City's Planning Commission.

1.2.32. **Project** means the total development to be constructed on the Property pursuant to this MDA with the associated public and private facilities, and all the other aspects approved as part of this MDA.

1.2.33. **Property** means the real property owned by and to be developed by

Master Developer more fully described in Exhibit "A".

1.2.34. **PTOS Plan** means the plan for developing, managing, preserving, and improving the neighborhood parks, trails, and open space in the Project as more fully specified in Exhibit "B-2".

1.2.35. **Public Infrastructure** means those elements of infrastructure that are planned to be dedicated to the City or other governmental entity as a condition of the approval of a Development Application including, but not limited to, public streets, culinary water utility lines, secondary water utility lines, sanitary sewer lines and storm water facilities.

1.2.36. **Residential Dwelling Unit** means a structure or portion thereof designed and intended for use as a single-family residence, an attached residence, including a condominium and town house, as illustrated on the Master Plan.

1.2.37. **Standards Deviations** means those deviations from existing City development, design, engineering, and other standards, including but not limited to those standards that are included in the City's Vested Laws, which are specified in the following documents and which are subject to the provisions of Sections 2.1 and 5.1, below.

1.2.38. **Sub-developer** means a person or an entity not "related" (as defined by Section 165 of the Internal Revenue Code) to Master Developer which purchases a Development Area for development.

1.2.39. **Subdivision** means the division of any portion of the Project into developable lots pursuant to the Act and/or the Zoning Ordinance.

1.2.40. **Subdivision Application** means the application to create a Subdivision.

1.2.41. **Zoning** means the Residential zoning for the Property adopted by the City on contemporaneously with the approval of this MDA.

1.2.42. **Zoning Ordinance** means the City's Land Use and Development

Ordinance adopted pursuant to the Act that was in effect as of the date of this MDA as a part of the City's Vested Laws.

2. Development of the Project.

2.1. Compliance with the Master Plan, Design Standards, and this MDA. Development of the Project shall be in accordance with the City's Vested Laws (except as specified in the following documents), the City's Future Laws (to the extent that these are applicable as otherwise specified in this MDA), the Master Plan, the Design Standards, and this MDA. If there is any conflict between this MDA and the City's Vested Laws, then this MDA shall be controlling.

2.2. Maximum Residential Units/Intended Uses. At Buildout of the Project, Master Developer shall be entitled to have developed the Maximum Residential Units of 30.

2.3. Limitation and No Guarantee. Master Developer acknowledges that the development of the Maximum Residential Units and every other aspect of the Master Plan requires that each Development Application comply with the City's Vested Laws, the Master Plan, the Design Standards, and this MDA. The City's entry into this MDA does not guarantee that the Master Developer will be able to construct the Maximum Residential Units or any other aspect of the Project until and unless all the applicable requirements of the City's Vested Laws are complied with.

2.4. Design Standards for Development Units.

The Parties acknowledge that the precise design standards for the single family homes, pickleball courts and related parking areas, as shown on the Master Plan are not yet completed. The Design and Site Standards, Exhibit "G", includes some renderings and other details and design concepts. The Parties shall work cooperatively to amend this MDA within a period consistent with the sequencing outlined in Section 2.5.5, to include detailed and reasonable design standards for these building and uses to work toward final building exterior designs.

2.5. Sequencing and Relationship of Residential and Commercial Uses.

2.5.1. General Statement. The Parties acknowledge that, separate from and related to the City's interest in the development of Residential Uses within the Development, the City has an interest in the development of areas designated on the Master Plan to include Single Family Residences configured as Patio Homes and 2-Story Homes, and recognizing that such development is subject to market/economic forces beyond the control of Master Developer, desires certain assurances that Master Developer is and will remain committed to develop the full development, including the amenities, in a timely manner. To that specific end, the Parties agree to the following sequencing plan and related mutual goals:

2.5.2. Prompt Platting/Approval. Master Developer will use its best commercially reasonable efforts actively and promptly to pursue the platting and approval of all residential subdivisions within the Development, including the layout of roads and general infrastructure within those subdivisions, with the goal of satisfying all requirements for approvals, of each intended phase (per the attached phasing plan as outlined in Exhibit F-2), within a period of not more than 120 days from the Effective Date of this Agreement. For its part, the City will actively and promptly engage in all reasonable and required review and analysis of Master Developer's subdivision applications with the goal of providing required approvals within the stated target period.

2.5.3. Timely Application Review. The Parties acknowledge that an accelerated sequencing of sub-development to the Parties mutual benefit, including the City's proper and timely review, analysis and consideration of Master Developer's anticipated and separate residential subdivisions within the period stated in subsection 2.5.2. In consideration of, and to offset the additional expenses likely to be incurred by the City in those efforts, the Master Developer will pay any additional fees as required by the accelerated request. Additional fees will be agreed upon ahead of time between Developer and the City.

2.5.4. Infrastructure Development. Upon approval of the subdivision by all governmental entities necessary to the approval process, and subject at all times to the requirements and reservations outlined in Subsection 2.5.7 below, Master Developer will promptly and actively, as commercially reasonable, pursue the development and installation of all infrastructure for the entire Development, beginning with the excavation and development of roadways and, conditional upon approval by the applicable utility, continuing with the installation of electric, sewer, water (including secondary water) and cable or fiber lines. Assuming necessary approvals from the City and all utilities by July 9, 2024, Master Developer projects, without guarantee, completion of residential infrastructure within twelve (12) months of approval, with appropriate and reasonable adjustments to that timeframe for any delays in approvals.

2.5.5. Single Family Buildings Design.

Separately, Master Developer and the City, through its Planning Commission, will actively and in good faith engage in such charrettes as may be necessary to finalize acceptable architectural

designs and drawings for the single family homes, and other common area features, to be constructed in locations generally consistent with the conceptual site plan designs presented by Master Developer within the area of the Master Plan designated for those units. Assuming necessary approvals from the City by July 9, 2024, Master Developer projects, without guarantee, completion of designs and drawings for all buildings and related amenities within twelve (12) months of the effective date of this agreement, with appropriate and reasonable adjustments to that timeframe for any delays in approvals.

2.5.6. Building Sequencing. Master Developer shall commence development and construction of the buildings as follows:

2.5.6.1. Phase 1: Construction of Units 1-13 and Units 26-30, including 18 single family homes, completed with reception of certificates of occupancy. All required roads and infrastructure will be completed as required for safe access to all Units and any other required public safety improvements as required by the Fire Department..

2.5.6.2. Phase 2: Construction of Units 14-25, including 12 Patio Homes completed with reception of certificates of occupancy, the pickleball courts, the pavilion and other common areas. All roads and utility improvements will be completed for the entire subdivision as required to complete Phase 2 developments.

2.5.6.3. Development Area Sales. The City acknowledges that the precise location and details of the public improvements, lot layout and design and any other similar items regarding the development of a particular Development Area, may not be known at the time of the creation of or sale of a Development Area. Master Developer may obtain approval of a division or partition of the Property as is provided in Section 10-9a-103(65)(c)(v) of the Act that does not create any individually developable lots in the Development Area without being subject to any requirement in the City's Vested Laws to

complete or provide security for any Public Infrastructure at the time of such subdivision. The responsibility for completing and providing security for completion of any Public Infrastructure in the Development Area shall be that of the Master Developer or a Sub-developer upon a subsequent re-Subdivision of the Development Area that creates individually developable lots. However, construction of improvements shall not be allowed until the Master Developer or Sub-developer complies with the City's Vested Laws.

2.5.7. Transfers of Residential Dwelling Units and Other Intended Uses. The Master Plan provides that Residential Dwelling Units and Other Intended Uses may be transferred between or among Development Areas by Master Developer subject to certain limited and specified parameters as a matter of right without any approvals being required by the City (unless applicable to the subdivision purposed).

2.5.8. Accounting for Residential Dwelling Units and Other Intended Uses for Development Areas developed by Master Developer. At the recordation of a Final Plat for any Development Application for areas to be developed by Master Developer, Master Developer shall provide the City a Development Report showing any Residential Dwelling Units or other Intended Uses used with the Development Application and the number of Residential Dwelling Units and other Intended Uses remaining with Master Developer for the remaining Project. The Development Report shall also account for any required Open Space.

2.5.9. Accounting for Residential Dwelling Units and Other Intended Uses for Development Areas Sold to Sub-developers. Any Development Area sold by Master Developer to a Sub-developer shall include the transfer of a specified portion of the Maximum Residential Units and, for any non-residential Intended Use, shall specify the amount and type of any such other use sold with the Development Area. At the recordation of a Final Plat or other document of conveyance for any Development Area sold to a Sub-developer, Master Developer

shall provide the City a Development Report showing the ownership of the Development Area(s) sold, the portion of the Maximum Residential Units and/or other type of Intended Use transferred with the Development Area(s), the amount of the Maximum Residential Units and other Intended Uses remaining with Master Developer and any material effects of the sale on the Master Plan.

2.5.10. Return of Unused Residential Dwelling Units or Other Intended Uses. If any portion of the Maximum Residential Units or other Intended Uses transferred to a Sub-developer are unused by the Sub-developer at the time the Development Areas transferred with such Density receives approval for a Development Application for the final portion of such transferred Development Areas, the unused portion of the transferred Maximum Residential Units or other Intended Uses shall automatically revert back to Master Developer and the Master Developer shall file with the City a Development Report.

3. Vested Rights.

3.1. Vested Rights Granted by Approval of this MDA. To the maximum extent permissible under the laws of Utah and the United States and at equity, the Parties intend that this MDA grants Master Developer all rights to develop the Project in fulfillment of this MDA, the City's Vested Laws, the Zoning, and the Master Plan, except as specifically provided herein. The Parties specifically intend that this MDA grant to Master Developer "vested rights" as that term is construed in Utah's common law and pursuant to Section 10-9a-509 of the Act.

3.2. Exceptions. The restrictions on the applicability of the City's Future Laws to the Project as specified in Section 3.1 are subject to only the following exceptions:

3.2.1. Master Developer Agreement. City's Future Laws that Master Developer agrees in writing to the application thereof to the Project;

3.2.2. State and Federal Compliance. City's Future Laws which are

generally applicable to all properties in the City, and which are required to comply with State and Federal laws and regulations affecting the Project;

3.2.3. Codes. Any City's Future Laws that are updates or amendments to existing building, plumbing, mechanical, electrical, dangerous buildings, drainage, flood plain or similar construction or safety related codes, such as the International Building Code, the APWA Specifications, AAHSTO Standards, the Manual on Uniform Traffic Control Devices, the International Residential Code or similar standards that are generated by a nationally or statewide recognized construction/safety organization, or by the State or Federal governments and are required to meet legitimate concerns related to public health, safety or welfare;

3.2.4. Regulations of other service providers. Any changes in laws, rules or regulations of any other entity that provides services to the Project.

3.2.5. Taxes. Taxes, or modifications thereto, so long as such taxes are lawfully imposed and charged uniformly by the City to all properties, applications, persons, and entities similarly situated;

3.2.6. Fees. Changes to the amounts of fees for the processing of Development Applications that are generally applicable to all development within the City (or a portion of the City as specified in the lawfully adopted fee schedule) and which are adopted pursuant to State law;

3.2.7. Impact Fees. Impact Fees or modifications thereto which are lawfully adopted, and imposed by the City and which meet all requirements of the U. S. Constitution, Utah Constitution, law, and applicable statutes, including but not limited to Utah Code Ann. § 11-36a-101 (2020), *et seq.*;

3.2.8. Planning and Zoning Modification. Changes by the City to its planning principles and design standards, provided that such changes do not work to reduce the

Maximum Residential Units, are generally applicable across the entire City and do not materially and unreasonably increase the costs or net financial results of any Development Area; or

3.2.9. Compelling, Countervailing Interest. Laws, rules, or regulations that the City's land use authority finds on the record, are necessary to avoid jeopardizing a compelling, countervailing public interest pursuant to Utah Code Ann. § 10-9a-509(1)(a)(i) (2020).

4. Term of Agreement This MDA shall expire on December 31, 2031. If Master Developer has not been declared to be currently in Default as of December 31, 2031 (and if any such Default is not being cured), then this MDA shall be automatically extended until December 31, 2036. This MDA shall also terminate automatically at Buildout.

5. Public Infrastructure.

5.1. Construction by Master Developer. Master Developer shall have the right and the obligation to construct or cause to be constructed and installed all Public Infrastructure reasonably and lawfully required as a condition of approval of the Development Application. The Public Infrastructure shall be designed and constructed in Compliance with all applicable standards in the City's Vested Laws (except for those exceptions specified in the Master Development Agreement) and, also, with any other Federal, State, or County laws, rules, or regulations. The Public Infrastructure shall be consistent with and fulfill the purposes of adopted plans for such infrastructure that are a part of the City's Vested Laws.

5.2. Bonding. If and to the extent required by the City's Vested Laws, unless otherwise provided by the Act, security for any required improvements shall be provided in a form acceptable to the City as specified in the City's Vested Laws. Partial releases of any such required security shall be made as work progresses based on the City's Vested Laws.

6. Parks, Trails and Open Space. Master Developer shall be responsible for creating, dedicating, and improving the parks, trails and open space in the Project as specified in the PTOS Plan.

7. Processing of Development Applications.

7.1. Processing of Development Applications. Within ten (10) business days after receipt of a Development Application and upon the request of Applicant, the City and Applicant will confer in good faith concerning the projected timeline for processing the application and to determine the scope of any supplementation or outsourcing that may be necessary to meet the desired schedule. If the City determines that outsourcing is necessary and appropriate to the timely processing of any Development Application as agreed between the Parties, then the City shall promptly estimate the reasonably anticipated differential cost of outsourcing in the manner selected by the Master Developer or Sub-developer in good faith consultation with the City. This may include either an agreement to pay overtime to the City employees or the hiring of a City Consultant acceptable to the Parties and selected in the manner consistent with that provided in Section 7.3 below for expert consultants. If the Master Developer notifies the City that it desires to proceed with the outsourcing based on the City's reasonable estimate of costs, the Master Developer shall deposit the estimated funds as as required for the completion of Phase One, as detailed in Section 2.5.3 in advance with the City and any costs will be charged against the deposit. Any additional costs, above the City's estimate, will be paid for by the Master Developer. Similarly, if a Sub-developer notifies the City that it desires to proceed with the Outsourcing based on the City's estimate of costs, then the Sub-developer shall deposit in advance with the City the estimated differential cost. In either case, with deposits secured, the City shall promptly proceed with having the work Outsourced in a manner agreed. Upon completion of the Outsourcing services and the provision by the City of an invoice (with such reasonable supporting documentation as may be requested by Master

Developer or Sub-developer) for the actual differential cost of Outsourcing, Master Developer or the Sub-developer shall, within ten (10) business days pay or receive credit (as the case may be) for any difference between the estimated differential cost deposited for the Outsourcing and the actual cost differential. If at any time the Applicant becomes delinquent in the payment of any Outsourcing fees, the City may postpone all work until the Applicant is paid current with the City for all outstanding fees related to the Development Application.

7.2. Acceptance of Certifications Required for Development Applications. Any Development Application requiring the signature, endorsement, or certification and/or stamping by a person holding a license or professional certification required by the State of Utah in a particular discipline shall be so signed, endorsed, certified, or stamped signifying that the contents of the Development Application comply with the applicable regulatory standards of the City. The City should endeavor to make all redlines, comments or suggestions at the time of the first review of the Development Application unless any changes to the Development Application raise new issues that need to be addressed.

7.3. Independent Technical Analyses for Development Applications. If the City needs technical expertise beyond the City's internal resources to determine impacts of a Development Application such as for structures, bridges, site infrastructure, and other similar matters which are not required by the City's Vested Laws to be certified by such experts as part of a Development Application, the City may engage such experts as City Consultants with the actual and reasonable costs being the responsibility of Applicant. The City Consultant undertaking any review by the City required or permitted by this MDA shall be selected from a list generated by the City for each such City review pursuant to a "request for proposal" process or as otherwise allowed by City ordinances or regulations. Applicant may, in its sole discretion, strike from the list of qualified proposers any of such proposed consultants so long as at least three (3) qualified proposers remain for selection. The anticipated cost and timeliness of such

review may be a factor in selecting the City Consultant. The actual and reasonable costs of a City Consultant shall be the responsibility of Applicant. The work of the City Consultant shall be completed in a commercially reasonable time.

7.4. Processing of Residential Subdivisions, Commercial Site Plans and Multi-Family Site Plans. Residential Subdivisions shall be processed by the "Land Use Authority", pursuant to the standards and processes of Chapter 11.22, subject to Standards Deviations, and shall be approved if they are in compliance with the Master Plan.

7.5. City Denial of a Development Application. If the City issues a Denial of a Development Application, the City shall provide a written determination advising the Applicant of the reasons for denial including specifying the reasons the City believes that the Development Application is not consistent with this MDA, the Zoning and/or the City's Vested Laws (or, if applicable, the City's Future Laws).

7.6. Meet and Confer regarding Development Application Denials. The City and Applicant shall meet within ten (10) business days after any Denial to resolve the issues specified in the Denial of a Development Application.

7.7. City Denials of Development Applications Based on Denials from Non-City Agencies. If the City's denial of a Development Application is based on the denial of the Development Application by a non-City agency, Applicant shall appeal any such denial through the appropriate procedures for such a decision and not through the processes specified below.

7.8. Mediation of Development Application Denials.

7.8.1. Issues Subject to Mediation. Issues resulting from the City's Denial of a Development Application for reasons other than denials from non-City agencies and that the parties are not able to resolve by "Meet and Confer" shall be mediated and include, but

are not necessarily limited to, the following:

7.8.1.1. the location of On-Site Infrastructure, including utility lines and stub outs to adjacent developments,

7.8.1.2. right-of-way modifications that do not involve the altering or vacating of a previously dedicated public right-of-way,

7.8.1.3. interpretations, minor technical edits, or inconsistencies necessary to clarify or modify documents consistent with their intended purpose of the Development Standards,

7.8.1.4. Justifications for, selection of and costs of Outsourcing under Sections 7.1 and 7.4;

7.8.1.5. the scope, conditions and amounts of any required development or infrastructure bond or related security and any impact fees; and

7.8.1.6. the issuance of subdivision applications and related review of project-wide systems designs.

7.8.2. Mediation Process. If the City and Applicant are unable to resolve a disagreement subject to mediation, the parties shall attempt within fifteen (15) calendar days to appoint a mutually acceptable mediator with knowledge of the legal issue in dispute. If the City and Applicant are unable to agree on a single acceptable mediator, they shall each, within fifteen (15) calendar days, appoint their own representative. These two representatives shall, between them, choose the single mediator. Applicant and the City shall split the fees of the chosen mediator, each Party paying 50% of the fees. The chosen mediator shall, within fifteen (15) calendar days, review the positions of the parties regarding the mediation issue and promptly attempt to mediate the issue between the parties. If the parties are unable to reach agreement, the mediator shall notify the parties in writing of the resolution that the mediator deems appropriate.

The mediator's opinion shall not be binding on the parties.

7.9. Arbitration of Development Application Objections.

7.9.1. Arbitration Process. If the City and Applicant are unable to resolve an issue through mediation, the parties may then attempt within fifteen (15) calendar days to appoint a mutually acceptable arbitrator with knowledge of the legal issue in dispute. If the parties are unable to agree on a single acceptable arbitrator, they shall each, within fifteen (15) calendar days, appoint their own individual appropriate expert. These two experts shall, between them, choose the single arbitrator. Applicant and the City shall split the fees of the chosen arbitrator, each Party paying 50% of the fees. The chosen arbitrator shall within fifteen (15) calendar days, review the positions of the parties regarding the arbitration issue and render a decision. The arbitrator shall ask the prevailing party to draft a proposed order for consideration and objection by the other side. Upon adoption by the arbitrator, and consideration of such objections, the arbitrator's decision shall be final and binding upon both parties. If the arbitrator determines as a part of the decision that the City's or Applicant's position was not only incorrect but was also maintained unreasonably and not in good faith, then the arbitrator may order the City or Applicant to pay the arbitrator's fees.

8. **Application Under City's Future Laws.** Without waiving any rights granted by this MDA, Master Developer may at any time, choose to submit a Development Application for all or part of the Project under the City's Future Laws in effect at the time of the Development Application so long as Master Developer is not in current breach of this Agreement.

9. Default.

9.1. Notice. If Master Developer or a Sub-developer or the City fails to perform their respective obligations hereunder or to comply with the terms hereof, the Party believing that a Default has occurred shall provide Notice to the other

Party. If the City believes that the Default has been committed by a Sub-developer, then the City shall also provide a courtesy copy of the Notice to Master Developer.

9.2. Contents of the Notice of Default. The Notice of Default shall:

9.2.1. Specific Claim. Specify the claimed event of Default;

9.2.2. Applicable Provisions. Identify with particularity the provisions of any applicable law, rule, regulation, or provision of this MDA that is claimed to be in Default;

9.2.3. Materiality. Identify why the Default is claimed to be material; and

9.2.4. Optional Cure. If the City chooses, in its discretion, it may propose a method and time for curing the Default which shall be of no less than thirty (30) calendar days duration.

9.3. Meet and Confer, Mediation, Arbitration. Upon the issuance of a Notice of Default the parties shall engage in the "Meet and Confer" and "Mediation" processes specified in Sections 7.6 and 7.8. If the claimed Default is subject to Arbitration as provided in Section 7.9, then the parties shall follow such processes.

9.4. Remedies. If the parties are not able to resolve the Default by "Meet and Confer" or by "Mediation", and if the Default is not subject to arbitration, then the parties may have the following remedies:

9.4.1. Law and Equity. All rights and remedies available at law and in equity, including, but not limited to, injunctive relief and/or specific performance.

9.4.2. Security. The right to draw on any security posted or provided in connection with the Project and relating to remedying of the Default.

9.4.3. Future Approvals. The right to withhold all further reviews,

approvals, licenses, building permits and/or other permits for development of the Project in the case of a default by Master Developer, or in the case of a default by a Sub-developer, development of those Development Areas owned by the Sub-developer until the Default has been cured or a bond has been posted to secure satisfaction of the default. Building permits or Certificates of Occupancy may not be withheld from any Development Area sold to a Sub-developer based on any Default of the Master Developer unless that Default of the Master Developer is such that the Public Infrastructure required to service a Development Area owned by a Sub-Developer is not available to service the Development Area. Nor shall any Default by a Sub-developer permit the withholding of any Development Applications for Master Developer or any other Sub-developer that is not in Default.

9.5. Public Meeting. Before any remedy in Section 9.4 may be imposed by the City, the party allegedly in Default shall be afforded the right to attend a public meeting before the City Council and address the City Council regarding the claimed Default.

9.6. Emergency Defaults. Anything in this MDA notwithstanding, if the City Council finds on the record that a default materially impairs a compelling, countervailing interest of the City and that any delays in imposing such a default would also impair a compelling, countervailing interest of the City, then the City may impose the remedies of Section 9.4 without the requirements of Section 9.5. The City shall give Notice to Master Developer and/or any applicable Sub-developer of any public meeting at which an emergency default is to be considered and the Master Developer and/or any applicable Sub-developer shall be allowed to address the City Council at that meeting regarding the claimed emergency Default.

9.7. Extended Cure Period. If any Default cannot be reasonably cured within thirty (30) calendar days, then such cure period shall be extended so long as the defaulting party pursuing a cure with reasonable diligence.

9.8. Default of Assignee. A default of any obligations assumed by an assignee shall not be deemed a default of Master Developer.

9.9. Limitation on Recovery for Default – No Damages. Anything in this MDA notwithstanding, no Party shall be entitled to any claim for any monetary damages as a result of any breach of this MDA and each Party waives any claims thereto. The sole remedy available to Master Developer or any Sub-developer shall be that of specific performance.

10. **Notices.** All notices required or permitted under this MDA shall, in addition to any other means of transmission, be given in writing by certified mail and regular mail to the following address:

To the Master Developer:

JLM Development Amber, LLC
James Bradshaw
2097 E Cedar Fort Drive
Eagle Mountain, UT 84005

With a Copy to:

Glade McCombs
6169 E Hummingbird Pt
Huntsville, UT 84317

To the City:

Harrisville City
363 W. Independence
Harrisville, UT 84404

11. **Effectiveness of Notice.** Except as otherwise provided in this MDA, each Notice shall be effective and shall be deemed delivered on the earlier of:

11.1. Hand Delivery. Its actual receipt, if delivered personally, by courier service,

or by facsimile provided that a copy of the facsimile Notice is mailed or personally delivered as set forth herein on the same day and the sending party has confirmation of transmission receipt of the Notice. If the copy is not sent on the same day, then notice shall be deemed effective the date that the mailing or personal delivery occurs.

11.2. Electronic Delivery. Its actual receipt if delivered electronically by email provided that a copy of the email is printed out in physical form and mailed or personally delivered as set forth herein on the same day and the sending party has an electronic receipt of the delivery of the Notice. If the copy is not sent on the same day, then notice shall be deemed effective the date that the mailing or personal delivery occurs.

11.3. Mailing. On the day the Notice is postmarked for mailing, postage prepaid, by First Class or Certified United States Mail and actually deposited in or delivered to the United States Mail. Any party may change its address for Notice under this MDA by giving written Notice to the other party in accordance with the provisions of this Section.

12. **Secondary Water/Consent to Four Mile SSD**. If required, Master Developer shall be responsible to furnish sufficient water rights to support secondary water service sufficient to satisfy requirements for the Project. If such service is not available from or through Pineview Water District, Master Developer agrees to coordinate such service from the Four Mile SSD, previously formed to provide authorized services to areas of the City including the Project, including any Project-specific services for which the Oak Hollow development is required, but may be unable, to provide under applicable CC&Rs.

13. **Headings**. The captions used in this MDA are for convenience only and are not intended to be substantive provisions or evidence of intent.

14. **No Third-Party Rights/No Joint Venture.** This MDA does not create a joint venture relationship, partnership or agency relationship between the City or Master Developer.

Further, the parties do not intend this MDA to create any third-party beneficiary rights. The Parties acknowledge that this MDA refers to a private development and that the City has no interest in, responsibility for or duty to any third parties concerning any improvements to the Property or unless the City has accepted the dedication of such improvements at which time all rights and responsibilities—except for warranty bond requirements under City's Vested Laws and as allowed by state law—for the dedicated public improvement shall be the City's.

14.1. **Hold Harmless.** Master Developer hereby covenants to indemnify, defend, and hold the City harmless from any claims made by any third parties regarding the City's entry into this MDA and the City's performance of any of its obligation under this MDA.

14.2. **Assignability.** The rights and responsibilities of Master Developer under this MDA may be assigned in whole or in part, respectively, by Master Developer with the consent of the City as provided herein, which consent may not unreasonably be withheld.

14.3. **Sale of Lots.** Master Developer's selling or conveying lots in any approved Subdivision or Development Areas to builders, users, or Sub-developers, shall not be deemed to be an "assignment" subject to the above-referenced approval by the City unless specifically designated as such an assignment by Master Developer.

14.4. **Related Entity.** Master Developer's transfer of all or any part of the Property to any entity "related" to Master Developer (as defined by regulations of the Internal Revenue Service in Section 165), Master Developer's entry into a joint venture for the development of the Project or Master Developer's pledging of part or all of the Project as security for financing shall also not be deemed to be an "assignment" subject to the above-referenced approval by the City unless specifically designated as such an assignment by the Master Developer. Master Developer shall give the City Notice of any event specified in this

sub-section within fifteen (15) calendar days after the event has occurred. Such Notice shall include providing the City with all necessary contact information for the newly responsible party.

14.5. **Notice.** Master Developer shall give Notice to the City of any proposed assignment and provide such information regarding the proposed assignee that the City may reasonably request in making the evaluation permitted under this Section. Such Notice shall include providing the City with all necessary contact information for the proposed assignee.

14.6. **Time for Objection.** Unless the City objects in writing within fifteen (15) calendar days of notice, the City shall be deemed to have approved of and consented to the assignment.

14.7. **Partial Assignment.** If any proposed assignment is for less than all of Master Developer's rights and responsibilities, then the assignee shall be responsible for the performance of each of the obligations contained in this MDA to which the assignee succeeds. Upon any such approved partial assignment Master Developer shall not be released from any future obligations as to those obligations which are assigned but shall remain responsible for the performance of any obligations herein.

14.8. **Denial.** The City may only withhold its consent to an assignment of Master Developer's rights hereunder if the City is not reasonably satisfied of the proposed assignee's financial ability to perform the obligations of Master Developer proposed to be assigned or there is an existing breach of a development obligation owed to the City by the assignee or related entity that has not either been cured or in the process of being cured in a manner acceptable to the City. Any refusal of the City to accept an assignment shall be subject to "Meet and Confer" and "Mediation" processes specified in Sections 7.6 and 7.8.1. If the denial arises in the context of any dispute that is subject to Arbitration, then the Parties shall follow such processes.

14.9. **Assignees Bound by MDA.** Any assignee shall consent in writing to be bound by the assigned terms and conditions of this MDA as a condition precedent to the

effectiveness of the assignment. That consent shall specifically acknowledge the provisions of Section 2.

15. **Binding Effect.** If Master Developer sells or conveys Development Areas of lands to Sub-developers or related parties, the lands so sold and conveyed shall bear the same rights, privileges, configurations, and number of Residential Dwelling Units as applicable to such Development Area and be subject to the same limitations and rights of the City when owned by Master Developer and as set forth in this MDA without any required approval, review, or consent by the City except as otherwise provided herein.

16. **No Waiver.** Failure of any Party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such party to exercise at some future date any such right or any other right it may have.

17. **Severability.** If any provision of this MDA is held by a court of competent jurisdiction to be invalid for any reason, the Parties consider and intend that this MDA shall be deemed amended to the extent necessary to make it consistent with such decision and the balance of this MDA shall remain in full force and effect.

18. **Force Majeure.** Any prevention, delay or stoppage of the performance of any obligation under this Agreement which is due to strikes, labor disputes, inability to obtain labor, materials, equipment or reasonable substitutes therefor; acts of nature, governmental restrictions, regulations or controls, judicial orders, enemy or hostile government actions, wars, civil commotions, fires or other casualties, governmental delays or restrictions resulting from COVID-19 or other declared pandemic, or other causes beyond the reasonable control of the Party obligated to perform hereunder shall excuse performance of the obligation by that Party for a period equal to the duration of that prevention, delay or stoppage.

19. **Time is of the Essence.** Time is of the essence to this MDA and every right or

responsibility shall be performed within the times specified.

20. **Appointment of Representatives.** To further the commitment of the Parties to cooperate in the implementation of this MDA, the City and Master Developer each shall designate and appoint a representative to act as a liaison between the City and its various departments and the Master Developer. The initial representative for the City shall be the City Planner as the Administrator of the MDA as defined in Section 1.2.2. The initial representative for Master Developer shall be Lane Monson or Glade McCombes. The Parties may change their designated representatives by Notice. The representatives shall be available at all reasonable times to discuss and review the performance of the Parties to this MDA and the development of the Project.

21. **Entire Agreement.** This MDA, and all Exhibits thereto, is the entire agreement between the Parties and may not be amended or modified except either as provided herein or by a subsequent written amendment signed by all Parties.

22. **Estoppel Certificate.** Upon ten (10) calendar days' prior written request by Master Developer or a Sub-developer, the City will execute an estoppel certificate to any third party certifying that Master Developer or a Sub-developer, as the case may be, at that time is not in default of the terms of this Agreement.

23. **Mutual Drafting.** Each Party has participated in negotiating and drafting this MDA and therefore no provision of this MDA shall be construed for or against any Party based on which Party drafted any portion of this MDA.

24. **Effective Date.** This MDA shall become effective upon Master Developer giving Notice to the City that Master Developer or its Assigns has (have) acquired the Property. Barring a written agreement between the Parties otherwise, if Master Developer has not given the City such Notice on or before _____ , then this MDA shall become null, void and of no effect.

25. **Recordation and Running with the Land.** This MDA shall be recorded in the

chain of title for the Project after the Effective Date. This MDA shall be deemed to run with the land.

26. **Authority.** The Parties to this MDA each warrant that they have all of the necessary authority to execute this MDA. Specifically, on behalf of the City, the signature of the Mayor of the City is affixed to this MDA lawfully binding the City pursuant to Ordinance No. _____adopted by the City on_____, 2024.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by and through their respective, duly authorized representatives as of the day and year first herein above written.

* * * * * * SIGNATURE PAGE FOLLOWS * * * * * *

MASTER DEVELOPER

JLM Development Amber, LLC

_____

By: James Bradshaw

Its: Manager

Date: _____

CITY

Harrisville City

_____

By: Michelle Tait

Its: City Mayor

Date: _____

Approved as to form and legality:

_____

City Attorney

Attest:

City Recorder

CITY ACKNOWLEDGMENT

STATE OF UTAH)

:ss.

COUNTY OF WEBER)

On the____day of_____, 2024 personally appeared before me_____ who being by me duly sworn, did say that she is the City Mayor of Harrisville City, a political subdivision of the State of Utah, and that said instrument was signed in behalf of the City by authority of its City Council and said City Mayor acknowledged to me that the City executed the same.

_____

NOTARY PUBLIC

My Commission Expires: _____

Residing at: _____

MASTER DEVELOPER ACKNOWLEDGMENT

STATE OF UTAH)

:ss.

COUNTY OF WEBER)

On the___day of_____, 2024, personally appeared before me_____ , who being by me duly sworn, did say that he is the Manager of JLM Development Amber, LLC, and that the foregoing instrument was duly authorized by the company at a lawful meeting held by authority of its operating agreement and signed in behalf of said company.

_____

NOTARY PUBLIC

My Commission Expires: _____

Residing at: _____

TABLE OF EXHIBITS

Exhibits:[1]

A	Legal Description of Property	
B	Master Plan Packet	
	B-1	Master Plan
	B-2	Overall Land Use
	B-3	*Roadway Plan*
	B-4	Landscape Plan
C	Cluster Development Sub Zone Land Use Regulations	
D	Transportation Plan and ROW Standards - To Be Completed before application	
	D-1	Narrative
	D-2	Site Plan
	D-3	Trip Distribution Volumes
	D-4	Conclusion
	D-5	*Roadway Plan*
	D- 6	City Future Transportation Plan
E	Phasing Plan	
	F-1	Narrative
	F-2	Phasing Map
F	Design and Site Standards and Renderings	
	Narrative	
	F-1	Residential Development and Design Standards - To be Completed
	F-2	Preliminary Residential Renderings

[1] Duplicate copies of italicized Exhibits may be included as elements of separate categories of documents required under Harrisville Ord. # 11.11.030.

G	HOA Organizational Documents	
H	HOA CC&Rs	
I	Geotechnical Report (Printed Separately)	
J	Phase I Environmental Study	
K	Parks, Trails and Open Spaces (PTOS)	
	K-1	Narrative Plan
	K-2	PTOS Plan
	K-3	Landscape Design Plan
L	Maximum Residential Units Table	
M	Development Areas	
N	Maintenance Plan	

EXHIBIT A
Legal Description

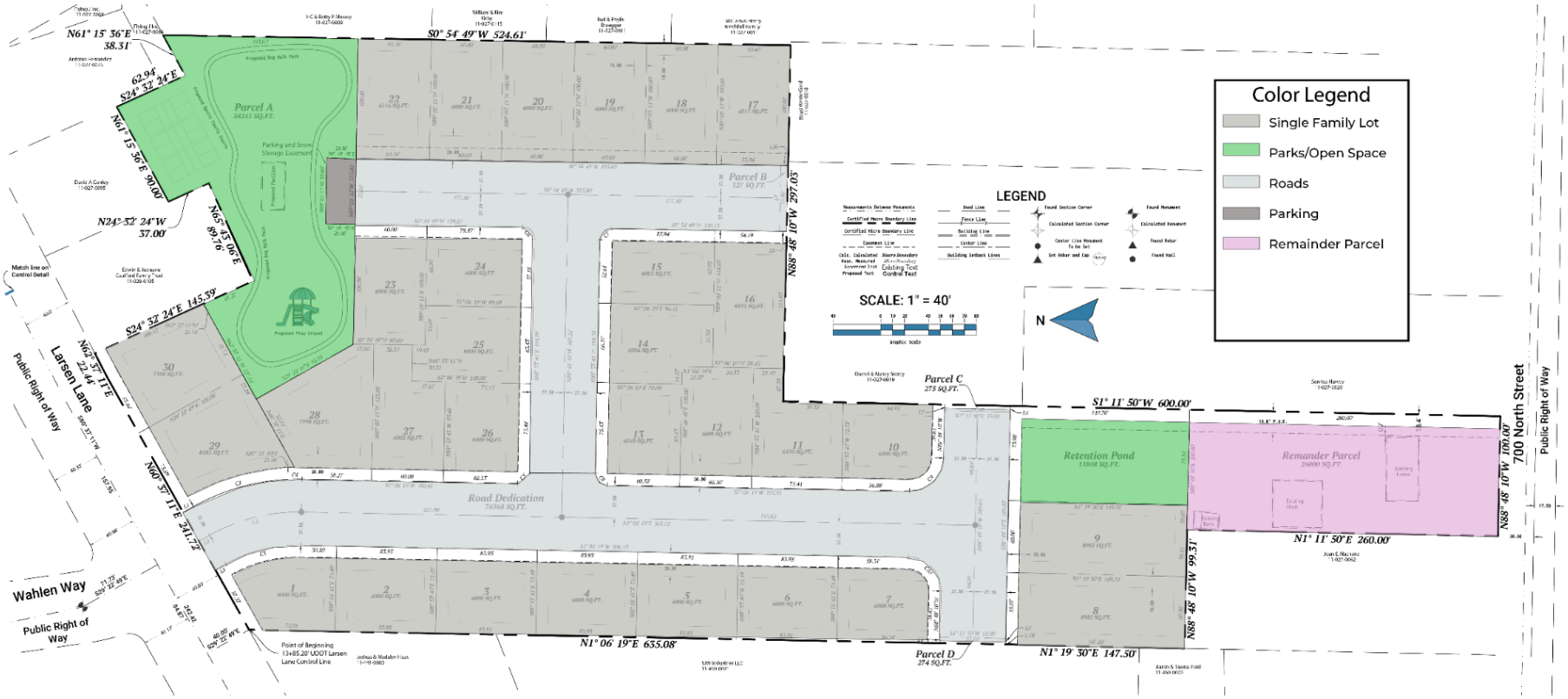
A parcel of ground being a part of the Northeast Quarter of Section 8, Township 6 North, Range 1 West, Salt Lake Base and Meridian, U.S. Survey being more particularly described as follows.

Beginning at a point on the South Right-of-Way Line of Larsen Lane, said point being retraced at station 13+85.20 according to the official Right-of-Way maps completed by Utah Department of Transportation in 2018, known, as project number F-LC57(26), said point also being measured 660.63 feet North 88°47'41" West along the Section Line and 163.36 feet South 1°09'38" West along the Center Line of Washington Boulevard to a Center Line monument found at the intersection of Washington Boulevard and 1100 North Street and 779.66 feet South 01°09'49" West along the Center Line of Washington Boulevard to the control line of said UDOT project and continuing along the control line 70.64 feet North 88°50'23" West to a point of curvature to the left having a radius of 135.00 feet and a central angle of 30°12'47" and Westerly along said arc a distance of 71.19 feet note (Chord equals South 76°03'13" West 70.37 feet) and 579.11 feet South 60°56'50" West and 368.00 feet South 62°37'11" West and 242.42 feet South 60°37'11" West and leaving the control line 40.00 feet South 29°22'49" East from the Northeast Corner of said Section 8 (Basis of bearing being North 1°09'38" West along the Center Line Washington boulevard between found monument within the intersections of 1100 North and Lockwood Drive) and running thence along the South Right-of-Way of Washington Boulevard North 60°37'11" East 241.72 feet to Station 16+28.32; thence continuing along said South Right-of-Way North 62°37'11" East 22.44 feet to station 16+50.76; thence South 24°32'24" East 145.39 feet to an old barb wire fence; thence along said fence North 65°43'06" East 89.76 feet; thence North 24°32'24" West 37.00 feet; thence North 61°15'36" East 90.00 feet; thence South 24°32'24" East 62.94 feet to the Southwest corner of land conveyed to Flying J Inc found at Entry No. 2171137; thence along said conveyance North 61°15'36" East 38.31 feet to a long standing barbed wire fence; thence South 00°54'49" West along said fence 524.61 feet to a point 2650.65 feet along the section line South 0°18'56" West and 1293.95 feet South 88°39'20" East and 623.81 feet North 1°11'50" East and 2.97 feet more or less North 88°48'10" West from the North Quarter Corner of Said Section 8; thence North 88°48'10" West 297.03 feet; thence South 01°11'50" West 600.00 feet; thence North 88°48'10" West 100.00 feet; thence North 01°11'50" East 260.00 feet; thence North 88°48'10" West 99.31 feet to a point at the extension of Jennings Subdivision 1st Amendment; thence North 01°19'30" East 147.50 feet along said subdivision and its extension; thence continuing along said subdivision North 01°06'19" East 635.08 feet to the Point of Beginning.

Containing 346,021.60 square feet or 7.9436 acres, more or less.

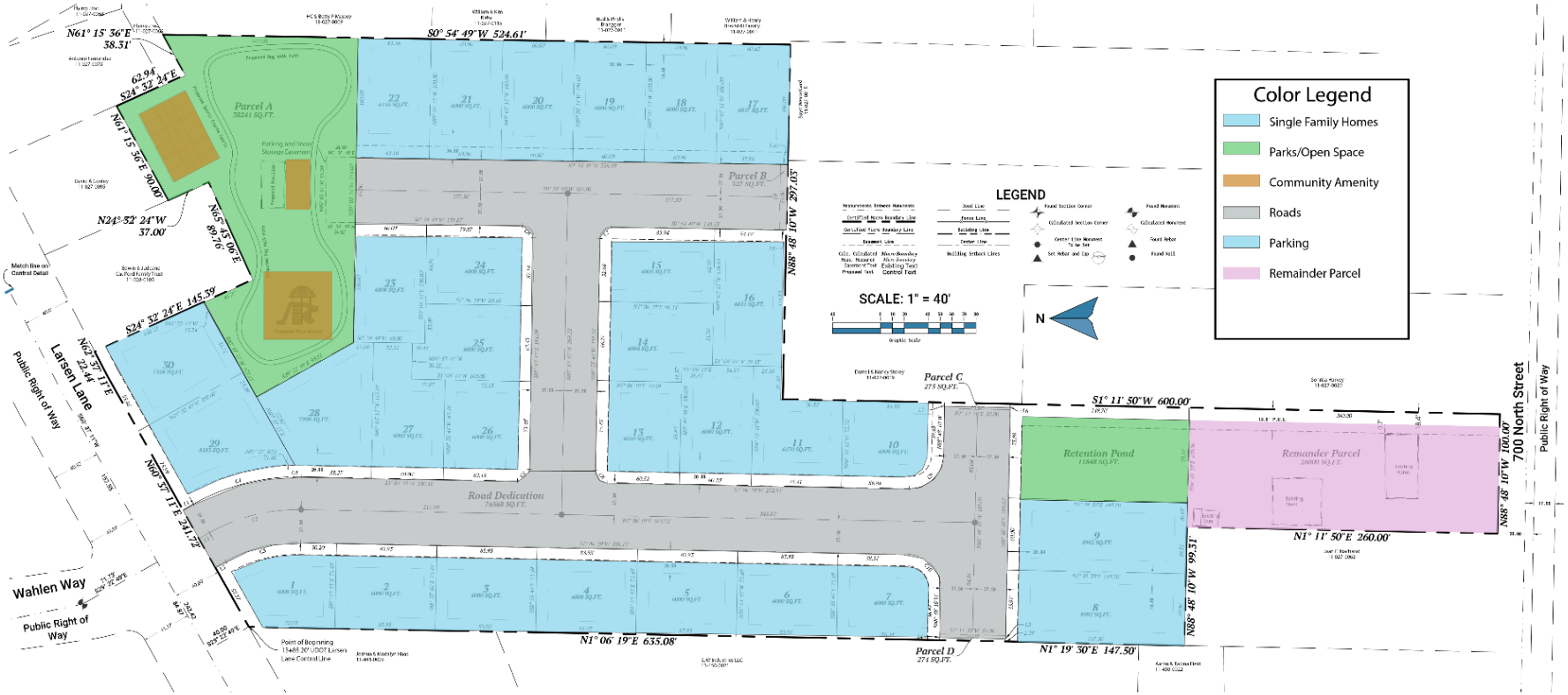
APN's: **110270023**
110270104
110270118
110270061

Exhibit B
Master Plan Packet



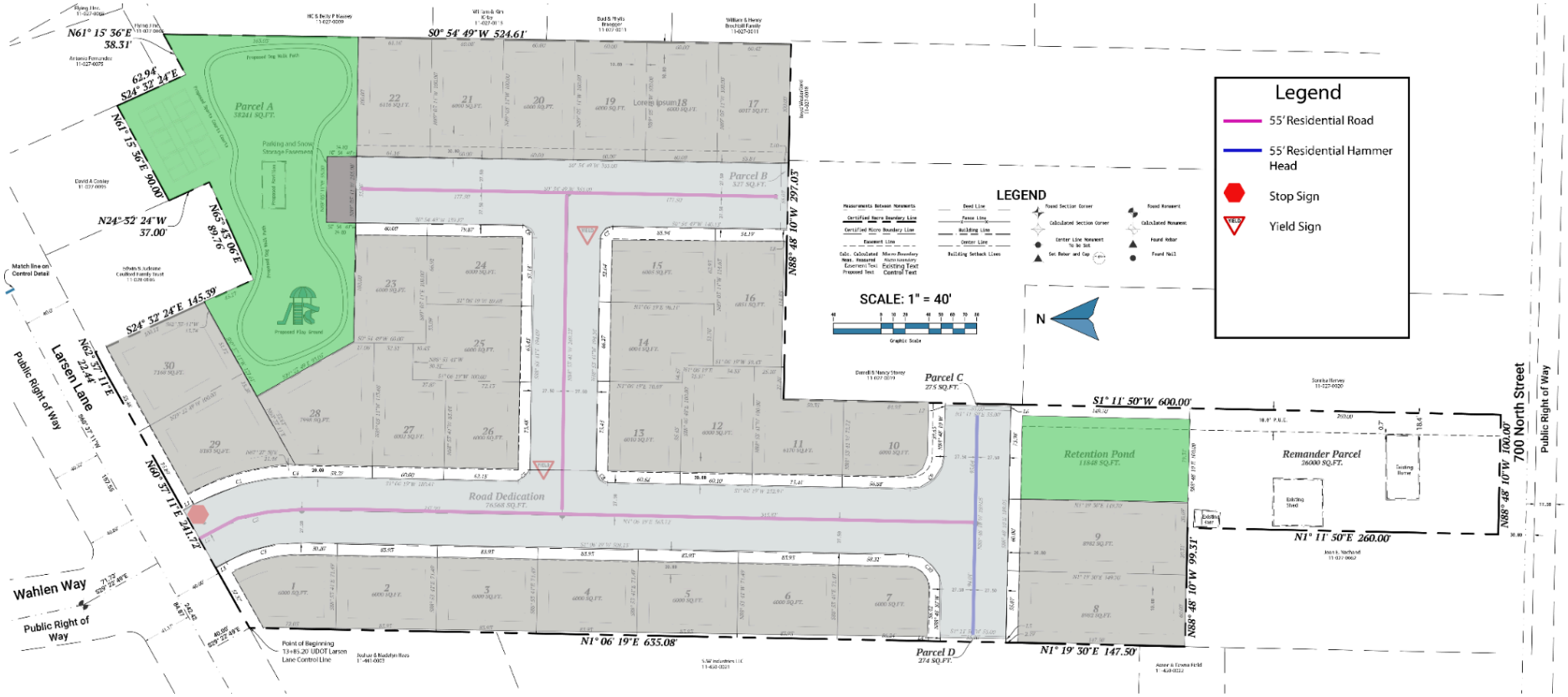
Master Development Plan
Exhibit B-1

OAK HOLLOW
Plant Your Roots Here



Land Use Plan
Exhibit B-2

OAK HOLLOW
Plant Your Roots Here

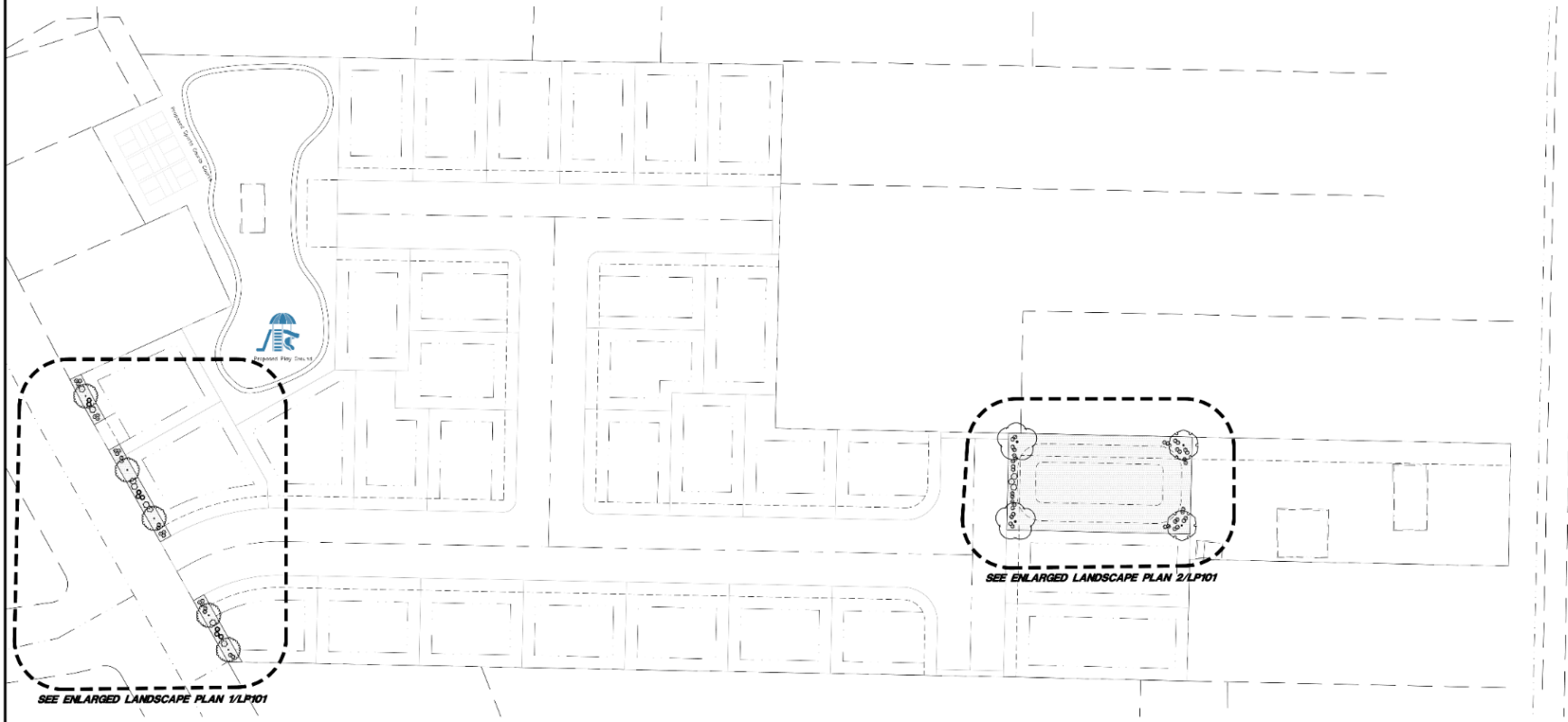


Roadway Plan
Exhibit B-3

OAK HOLLOW
Plant Your Roots Here

LANDSCAPE PLAN

EXHIBIT B-4



REV	DATE	DESCRIPTION

STATE OF UTAH
JAMES D. ZAUGG
38B5284
LICENSED LANDSCAPE ARCHITECT

GREAT BASIN ENGINEERING
5746 SOUTH 1475 EAST OGDEN, UTAH 84403
MAIN (801)394-4515 S.L.O (801)521-0222 FAX (801)392-7544
WWW.GREATBASINENGINEERING.COM

Overall Landscape Plan

Oak Hollow Subdivision

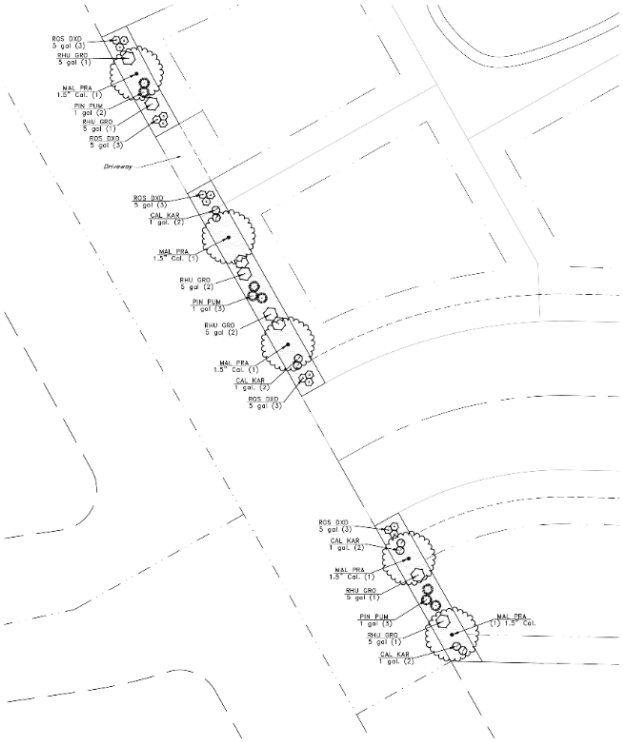
Approx. 269 Larson Lane
Harrisville City, Utah, 84404 Weber County, Utah
A part of Section 08, T6N, R1W, SLB&M, U.S. Survey

03 Apr, 2024

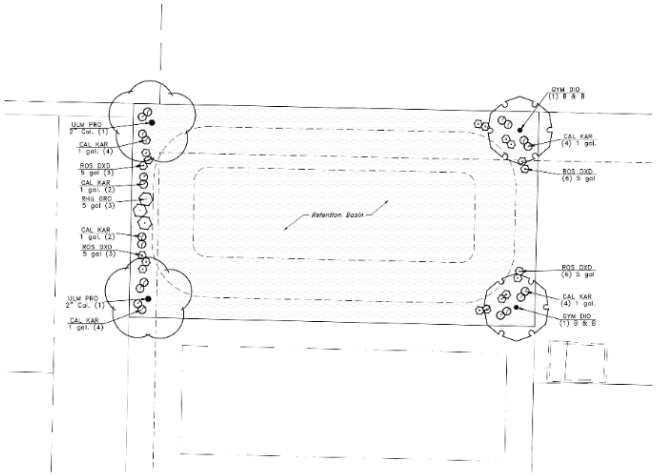
SHEET NO.

LP100

16N729



1 ENLARGED LANDSCAPE PLAN



2 ENLARGED LANDSCAPE PLAN

PLANTING NOTES

1. EXAMINE THE SITE CONDITIONS, THE SUBGRADE AND VERIFY THE DEPTHS OF TOPSOIL AND MULCH. NOTIFY THE ARCHITECT IN WRITING OF ANY UNSATISFACTORY CONDITIONS. DO NOT BEGIN LANDSCAPE WORK UNTIL UNSATISFACTORY CONDITIONS HAVE BEEN RESOLVED.
2. ALL PLANTS SHOWN GRAPHICALLY ARE REQUIRED. ANY PLANT QUANTITIES ARE FOR CONVENIENCE ONLY, CONTRACTOR TO VERIFY PLAN QUANTITIES PRIOR TO BIDDING.
3. SPACING BETWEEN PLANTS AND BETWEEN PLANTS AND PAVING ARE BASED ON THE MATURE SPREAD OF THE PLANTS. PRIOR TO PLANTING, VERIFY ROOM TO ACCOMMODATE MATURE PLANT WITHOUT OVERCROWDING AND ENCROACHING ON PAVING.
4. VERIFY LOCATIONS OF ALL UTILITIES PRIOR TO ANY DIGGING. ANY DAMAGE TO EXISTING UTILITIES CAUSED BY THIS CONTRACTOR SHALL BE REPAIRED AT NO ADDITIONAL EXPENSE TO THE OWNER.
5. TOPSOIL IS TO BE [IMPORTED (HARVESTED AND STOCKPILED ON SITE) TO THE SITE.] SUBMIT TOPSOIL TEST. SCREEN AND AMEND TO MEET THE FOLLOWING STANDARDS:
   - 5.1. ORGANIC MATTER: GREATER THAN 1.0%
   - 5.2. SOLUBLE SALTS: LESS THAN 4 dS/m
   - 5.3. PH: BETWEEN 5.0 AND 8.2
   - 5.4. TEXTURE: SAND: 15–60%, SILT: 10–60% CLAY 5–30%.
   - 5.5. SODIUM ADSORPTION RATIO (SAR): BELOW 10 FOR SANDY CLAY LOAM, SANDY LOAM AND LOAM. BELOW 7 FOR SILT LOAM, SILTY CLAY LOAM, AND CLAY LOAM.
   - 5.6. COARSE FRAGMENTS 2mm AND SMALLER: LESS THAN 5%.
   - 5.7. NO ROCKS OVER 1.5"
6. CONTRACTOR IS RESPONSIBLE FOR PROVIDING 4" OF TOPSOIL FOR TURF AND 12" OF TOPSOIL FOR SHRUBS AND TREES.
7. THE LANDSCAPE CONTRACTOR IS RESPONSIBLE FOR FINISH GRADE ELEVATIONS. ALLOW FOR SPECIFIED TOPSOIL AND MULCH LAYER THICKNESS. COORDINATE ROUGH GRADING WITH THE GENERAL CONTRACTOR.
8. ALL PLANT MATERIAL MUST MEET THE SIZES AS INDICATED ON THE PLANT SCHEDULE. PLANT MATERIAL THAT DOES NOT MEET THE QUALITY STANDARDS OF THE PROJECT WILL BE REFUSED BY THE LANDSCAPE ARCHITECT.
9. TURFGRASS SOD SHALL BE CERTIFIED NUMBER 1 QUALITY/PREMIUM SOD – SEE SPECIFICATIONS.

PLANT SCHEDULE

CODE	QTY	BOTANICAL / COMMON NAME	CONT	CAL
TREES				
GYM DIO	2	Gymnociadus dioica 'Espresso' / Kentucky Coffeetree	B & B	2"Cal
MAL PRA	5	Malus x 'Prairifire' / Prairifire Crabapple	1.5" Cal.	
ULM PRO	2	Ulmus wilsoniana 'Prospector' / Prospector Elm	2" Cal.	B&B

CODE	QTY	BOTANICAL / COMMON NAME	SIZE
SHRUBS			
PIN PUM	8	Pinus mugo 'Pumilio' / Mugo Pine 4'H 4'W	1 gal
RHU GRO	11	Rhus aromatica 'Gro-Low' / Gro-Low Fragrant Sumac	5 gal
ROS DXD	33	Rosa x 'Groundcover Pink' / Pink Groundcover Rose	5 gal
GRASSES			
CAL KAR	28	Calamagrostis x acutiflora 'Karl Foerster' / Feather Reed Grass	1 gal.

SYMBOL	QTY	BOTANICAL / COMMON NAME	CONT	TYPE	SPACING
GROUND COVERS					
	13,725 sf	Decorative Gravel Mulch / 3/4"-1" Washed Gravel Place 4" deep over 12" deep topsoil around plants and weed barrier fabric. Color by owner.	Stone Mulch	Stone	

REV	DATE	DESCRIPTION

GREAT BASIN ENGINEERING
5746 SOUTH 1475 EAST OGDEN, UTAH 84403
MAIN (801)394-4515 SLC (801)521-0222 FAX (801)393-7544
WWW.GREATBASINENGINEERING.COM

Enlarged Landscape Plan

Oak Hollow Subdivision

Approx. 292 Larson Lane
Harrisville City, Utah, 84404 Weber County, Utah
A part of Section 08, T6N, R1W, SLB&M, U.S. Survey

03 Apr, 2024

SHEET NO.
LP101

16N729

EXHIBIT C - City of Harrisville Land Use Code for Development Agreement

11.11.060 Development Agreement

1. Contents. A Development Agreement, provided by the City, shall include the items specified in this Section.
2. Legislative Action. The City Council, in its legislative discretion, shall exercise its general policy determination functions in considering and may make any modifications to the proposed Development Agreement that it deems appropriate before approving the Development Agreement and applying it to the property as a part of the creation and mapping of the Sub-zone.
3. Required Elements. The Development Agreement shall include:

a. A master development plan for the entire property of the project showing:

i. The general areas of each intended use and the approximate intensity of each such use such as the approximate number of each type of residential or support use.

ii. The general areas of each intended use and the approximate intensity of each use such as the approximate number of each type of commercial, office, or retail use;

iii. The approximate location of infrastructure such as roads, parking, storm water facilities, flood control, utilities, and other infrastructure.

iv. The general location size and type of support uses, open space, recreational amenities, pathways or trails, and related amenities.

v. Designation of any present or proposed FEMA floodplain and wetland area.

b. Proposed development standards for the various types of residential, commercial, retail office, or other uses proposed including parking areas, dimensions and setbacks.

c. Proposed design standards addressing building height, massing and orientation, open space, natural resource protection, architectural design and materials, landscaping and buffering standards, parking, and signage.

d. Proposed plan for maintenance of the project including appropriate costs for the same to be incurred by an owner's association, that accounts for implementation costs and long-term maintenance projections.

e. Proposed plan for implementing, administering, enforcing the proposed project.

f. A hold harmless provision ensuring that the City, and other public entities servicing the project, cannot be held liable for any damages arising out of the Development Agreement.

g. Any other items that the City Engineer or City Attorney deems appropriate.

HISTORY
Adopted by Ord. 503 on 1/14/2020
Amended by Ord. 508 on 5/12/2020

EXHIBIT D

Traffic Impact Study

EXHIBIT D-1

To: Harrisville City

From: Jason Watson, PE, PTOE
FOCUS Engineering & Surveying, LLC

File: Oak Hollow Date: April 8, 2024

Reference: Oak Hollow Traffic Statement

INTRODUCTION

This traffic statement is for the Oak Hollow development located in Harrisville, Utah. The purpose of this memorandum is to provide the number of vehicles that will be entering and exiting the proposed Oak Hollow development during typical peak hours of a typical week day. The proposed development is situated on roughly 7.8 acres of land and is located along Larsen Lane, between Washington Blvd and Harrisville Road (SR 89).

The Oak Hollow development is planned for 30 single-family homes. The proposed development is planned for one access onto Larsen Lane and with future connections to surrounding future developments. The Main Access is located to the north of the development and provides access to Larsen Lane. At full build-out of this development, it is assumed all the traffic generated will use the Main Access onto Larsen Lane. Future connections are uncertain at this time.

Exhibit 1 illustrates the vicinity map and surrounding roadways of the Oak Hollow development.

EXISTING CONDITIONS

Surrounding Land Uses

The proposed Oak Hollow development is located along Larsen Lane between Harrisville Road (SR 89) and Washington Boulevard. Residential homes surround the proposed development on the south, east and west with Larson Lane to the north. The parcel of land for the proposed development currently consists of vacant land. The proposed access to this site is planned to align with Wahlen Way. The proposed development is located within the city limits of Harrisville.

Existing Roadways

<u>Washington Boulevard:</u> Washington Boulevard is a major arterial roadway that is owned and maintained by Utah Department of Transportation (UDOT). Washington Boulevard runs north and south and becomes 400 East in the south providing connection to Harrisville Road (SR 89). Washington Boulevard currently consists of two lanes in each direction with a center two-way left turn lane. The posted speed limit is 45 mph.

Harrisville Road (SR 89): Harrisville Road is also a major arterial roadway that is owned and maintained by Utah Department of Transportation (UDOT). Harrisville Road runs north and south and provides connectivity throughout Harrisville and Ogden. Harrisville Road currently consists of two lanes in each direction with a center two-way left turn lane. The posted speed limit is 45 mph.

Larsen lane: Larsen Lane is a collector roadway that is owned and maintained by Harrisville City. Larsen Lane runs along the north boundary of this project and runs east to west, providing connection to Harrisville Road in the west and Washington Boulevard to the east. Larsen Lane currently consists of one lane in each direction with a center two way left turn lane and bike lanes. The posted speed limit in the area is 35 MPH.

Wahlen Way: Wahlen Way is a residential roadway that provides access onto Larsen Lane for local residents. Wahlen Way is located north of the development and runs southeast to northwest. Wahlen Way is wide enough to allow for one lane in each direction but is currently not striped. The posted speed limit in the area is 25 MPH.

Exhibit 1 – Project Vicinity Map

PROPOSED SITE CONDITIONS

The proposed Oak Hollow Development will consist of 30 single-family homes. It will be situated on roughly 7.8 acres of land. The proposed development is planned with the main access onto Larsen Lane. Future connections are planned with this development as surrounding future developments occur. For purposes of this traffic generation statement, these future connections were not considered as the surrounding future developments are not certain at this time.

At the Main Access to the development, it is expected 50% of traffic will enter and exit the development to and from the west and the other 50% will enter and exit to and from the east. Larsen Lane provides connectivity to both Harrisville Road (US 89) and also Washington Blvd. Both of these roadways provide the quickest and safest routes to surrounding places of employment, schools, I-15 and shopping.

It is anticipated the proposed Oak Hollow development will be built-out and occupied by 2026. Refer to Exhibit 2 for the proposed layout of Oak Hollow.

TRIP GENERATION

The proposed Oak Hollow development will consist of 30 single-family homes. Using land use code 210 for Single-family Detached Housing, trip generation rates were determined using the 11th Edition of the Trip Generation Manual. This manual is an information report, published by the *Institute of Transportation Engineers (ITE)*. The Peak Hour of Adjacent Street Traffic rates are used to generate the AM and PM peak traffic volumes. The trip generation for housing is typically determined based on the number of Dwelling Units (D.U.). The trips generated from the proposed development are presented in Table 1.

Table 1 - Trip Generation – Average Weekday Traffic Volumes

ITE Land Use Code	Land Use	Land Use Description	Size	Daily	Trip Generation (AM)		Trip Generation (PM)	
				(AADT)	Enter	Exit	Enter	Exit
210	Single-Family Detached Housing	D.U.	30	283	6	17	19	11
Total				**283**	**6**	**17**	**19**	**11**

FOCUS
ENGINEERING & SURVEYING, LLC
6949 South High Tech Drive
Suite 200
Midvale, UT 84047
801.352.0075

As illustrated in Table 1, it is anticipated the total number of trips generated during the AM peak hour will be 23. It is anticipated of these 23 trips during the AM peak hour, 6 will be entering the development and 17 will be exiting the development. During the PM peak hour, it is anticipated 30 trips will be generated, with 19 entering and 11 exiting the development. It is anticipated on a typical weekday; the Oak Hollow Development will generate 283 total daily trips (ADT). Using the project distribution percentage explained previously in this traffic statement, Exhibit 3 illustrates the projected traffic volumes the proposed development will add to the surrounding roadways and the anticipated direction these trips will be traveling to and from as they enter and exit the development.

6949 South High Tech Drive
Suite 200
Midvale, UT 84047
801.352.0075

Exhibit D- 2 – Site Plan for Oak Hollow

Midvale, UT 84047
801.352.0075

FOCUS©
ENGINEERING AND SURVEYING, LLC
6949 S. HIGH TECH DRIVE SUITE 200
MIDVALE, UTAH 84047 PH: (801) 352-0075
www.focusutah.com

OAK HOLLOW DEVELOPMENT

EXHIBIT 3 - TRIP DISTRIBUTION VOLUMES

N
S

T:\2024\24-8005 Oak Hollow TIS\transportation\traffic\figures\EXHIBIT 3 - TRIP DISTRIBUTION VOLUMES.dwg

EXHIBIT D-4

CONCLUSION

The new proposed Oak Hollow Development will consist of 30 single-family homes. It is anticipated to generate roughly 23 vehicles in the AM peak hour, with 6 entering and 17 exiting the proposed development. In the PM peak hour, the Oak Hollow Development is anticipated to generate 30 vehicles with 19 entering and 11 exiting the development. The Oak Hollow Development is anticipated to generate 283 daily trips on a typical weekday.

With the planned connection to Larsen Lane and future stub connections to surrounding future developments to the east, west and south the Oak Hollow Development will provide connectivity and access to the surrounding roadways. With the minimal amount of traffic anticipated from Oak Hollow, the surrounding roadways are expected to experience very minimal impacts or delays beyond what is currently being experienced. With an existing two-way left turn lane along Larsen Lane, and the proposed Main Access aligning with Wahlen Way, vehicles will be able to enter and exit the site with minimal impacts to vehicles along Larsen Lane.

Please feel free to contact me with any questions or comments.

Sincerely,

FOCUS ENGINEERING & SURVEYING, LLC

Jason Watson, PE, PTOE
Transportation Department Manager
801.352.0075
jwatson@focusutah.com

REGISTERED PROFESSIONAL ENGINEER
No. 9720756-2202
JASON WATSON
04/08/24
STATE OF UTAH

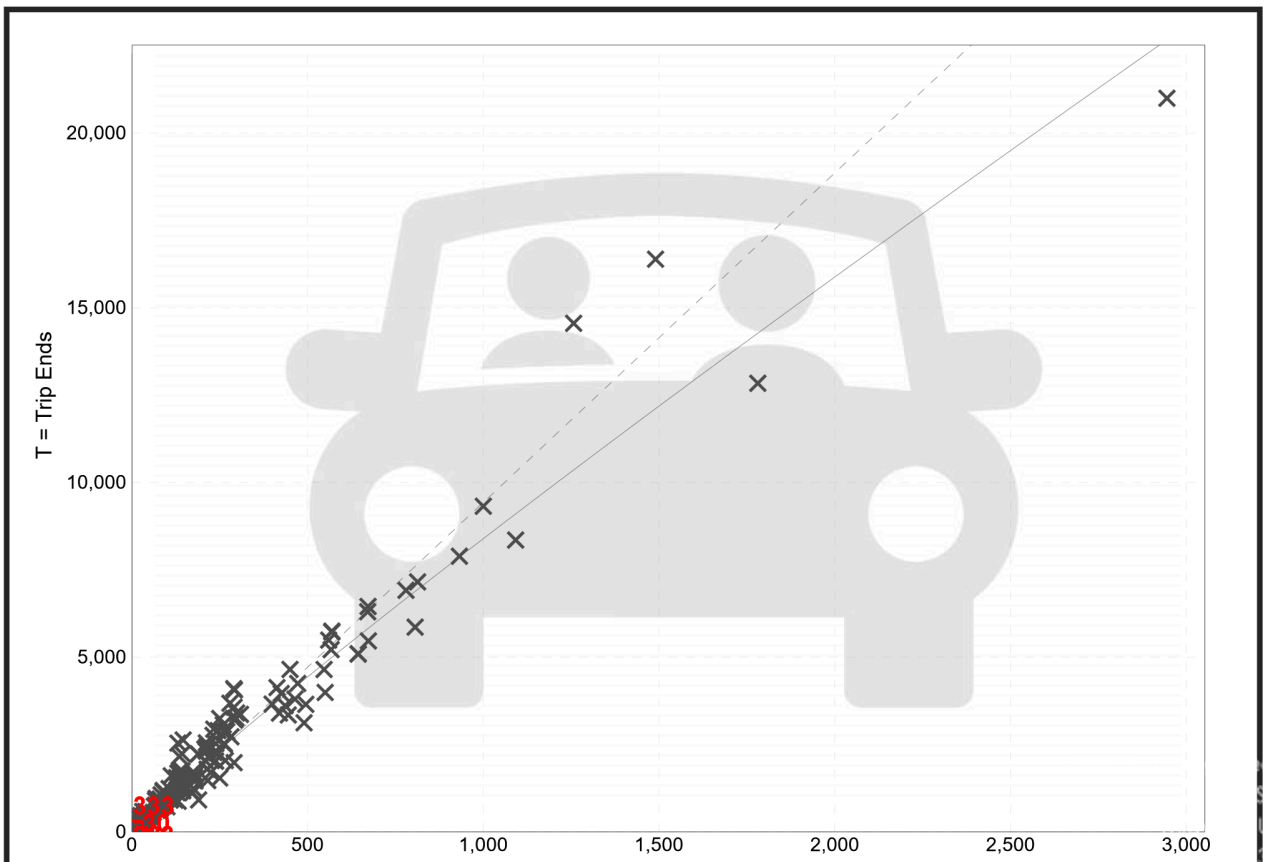
Single-Family Detached Housing
(210)

Vehicle Trip Ends vs:	**Dwelling Units**
On a:	**Weekday**
Setting/Location:	**General Urban/Suburban**
Number of Studies:	174
Avg. Num. of Dwelling Units:	246
Directional Distribution:	50% entering, 50% exiting

Vehicle Trip Generation per Dwelling Unit

Average Rate	Range of Rates	Standard Deviation
9.43	4.45 - 22.61	2.13

Data Plot and Equation



Fitted Curve Equation: Ln(T) = 0.92 Ln(X) + 2.68 **R^2= 0.95**

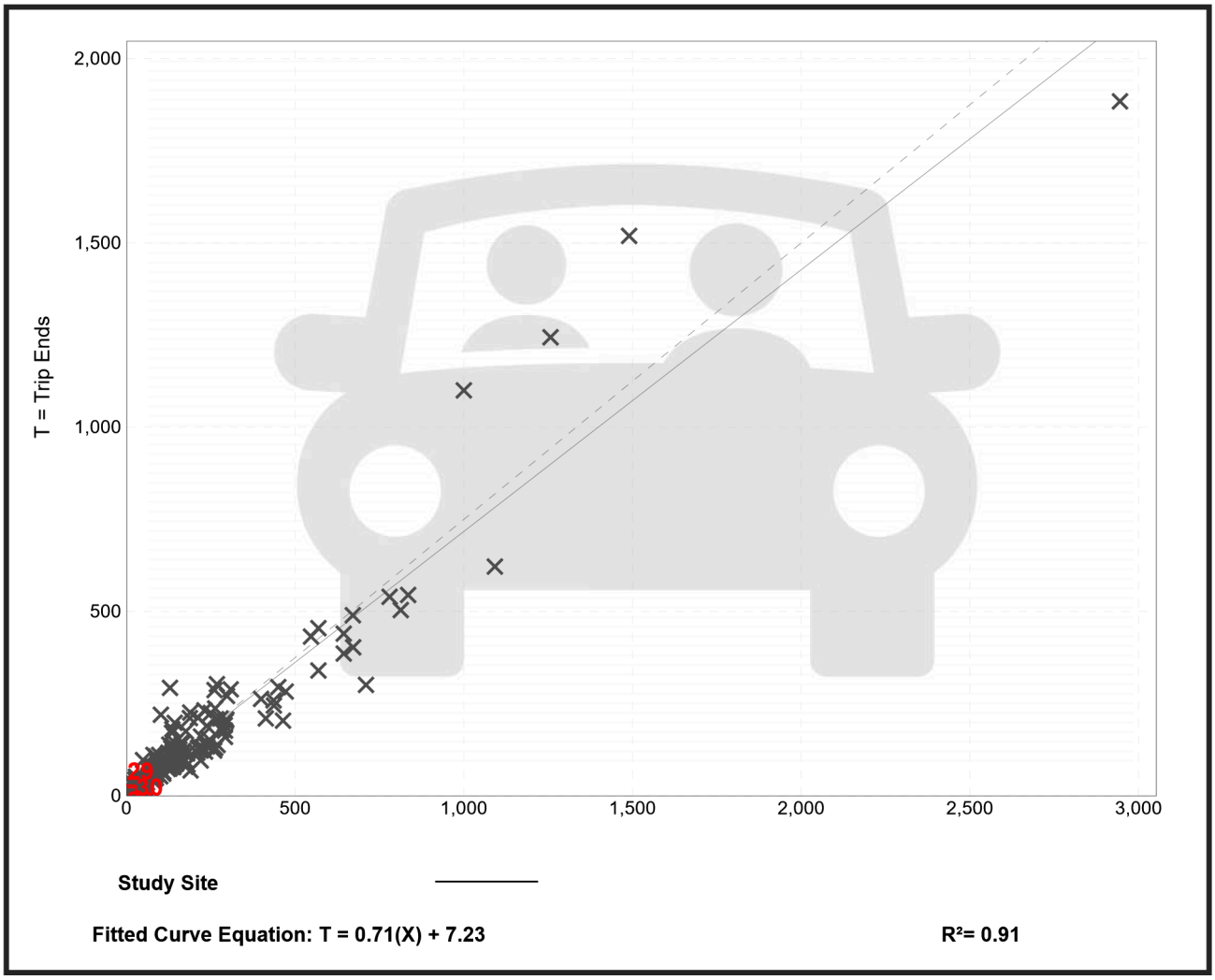
Single-Family Detached Housing (210)

Vehicle Trip Ends vs:	**Dwelling Units**
On a:	**Weekday, AM Peak Hour of Generator**
Setting/Location:	**General Urban/Suburban**
Number of Studies:	169
Avg. Num. of Dwelling Units:	217
Directional Distribution:	26% entering, 74% exiting

Vehicle Trip Generation per Dwelling Unit

Average Rate	Range of Rates	Standard Deviation
0.75	0.34 - 2.27	0.25

Data Plot and Equation



Single-Family Detached Housing
(210)

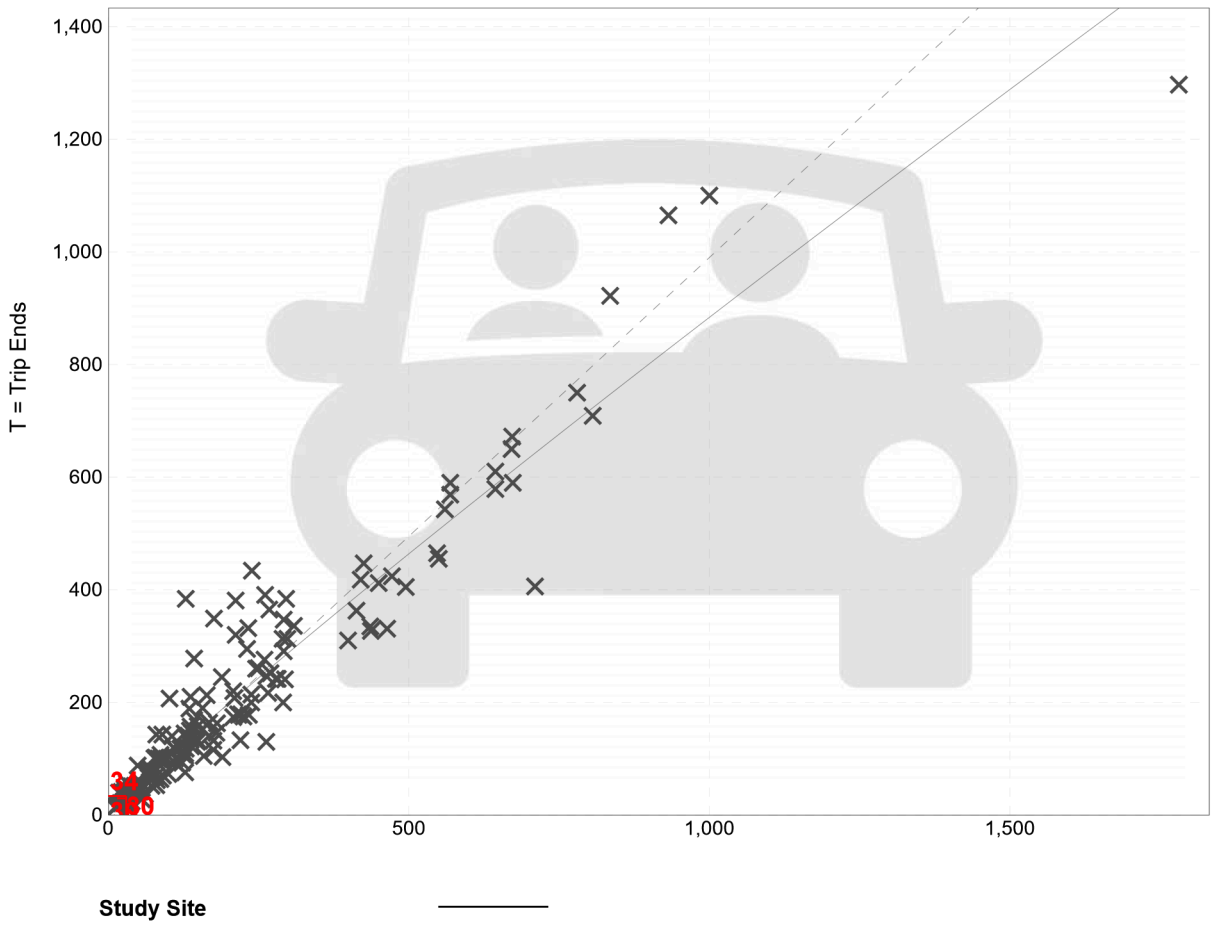
Vehicle Trip Ends vs:	**Dwelling Units**
On a:	**Weekday, PM Peak Hour of Generator**
Setting/Location:	**General Urban/Suburban**
Number of Studies:	178
Avg. Num. of Dwelling Units:	203
Directional Distribution:	64% entering, 36% exiting

Vehicle Trip Generation per Dwelling Unit

Average Rate	Range of Rates	Standard Deviation

0.99	0.49 - 2.98	0.28

Data Plot and Equation



Fitted Curve Equation: Ln(T) = 0.93 Ln(X) + 0.36 **R^2= 0.92**

Roadway Plan
Exhibit D-5

OAK HOLLOW
Plant Your Roots Here

FUTURE TRANSPORTATION MAP

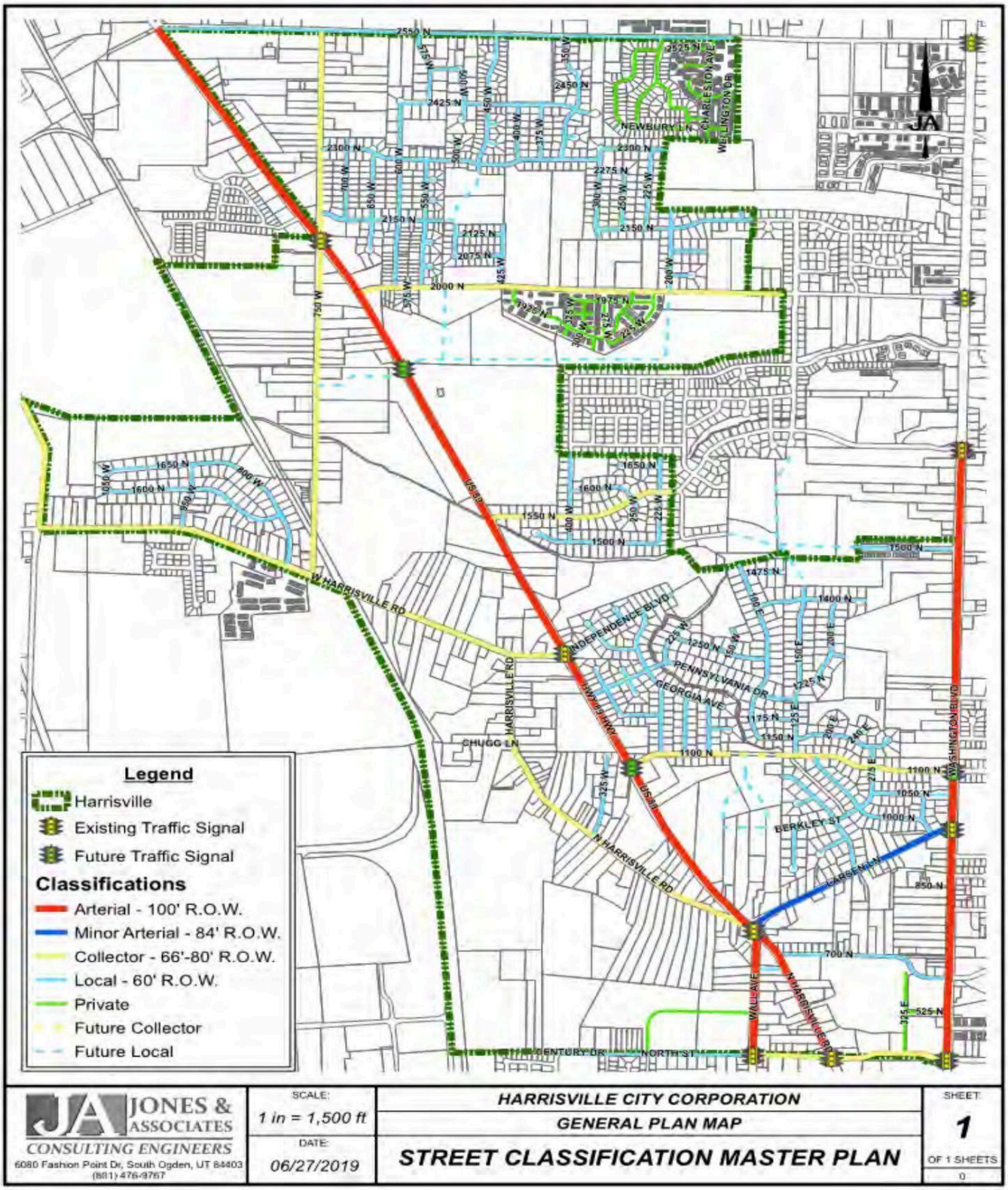


EXHIBIT D-6 City Future Transportation Plan

EXHIBIT E-1

PHASING PLAN

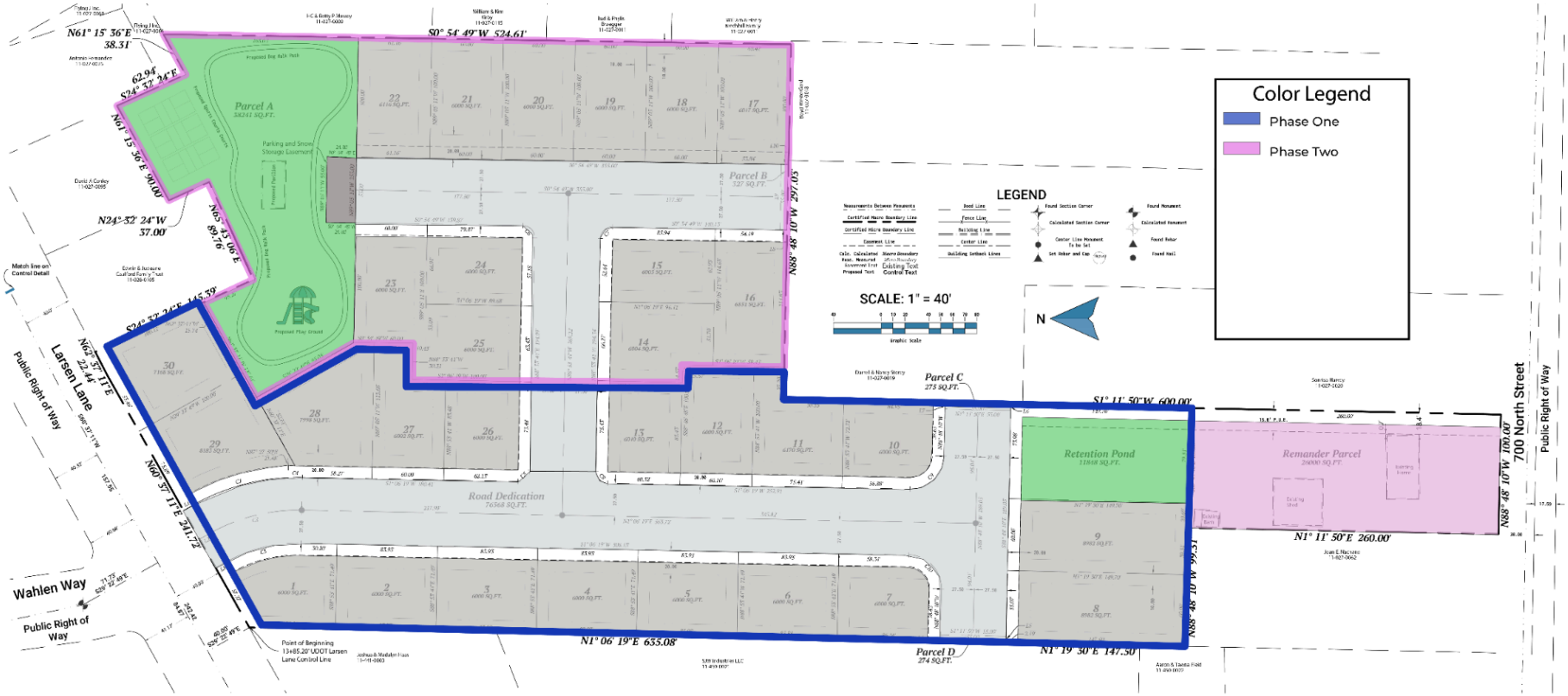
PHASING NARRATIVE

It is anticipated that the Oak Hollow subdivision will be completed in three phases as follows:

Phase One - This phase will include units 1-13 and units 26-30, including the installation of underground utilities, storm drains, rough grading of the roadway, and the platting of the lots.

Phase Two - This phase will include units 14-25, the pickleball courts, pavilion and common area around the pickleball courts, including the installation of underground utilities, storm drains, rough grading of the roadway, and the platting of the lots.

The phasing may be adjusted as the development proceeds.



Phasing Plan
Exhibit E-2

OAK HOLLOW
Plant Your Roots Here

Exhibit F-1

Design and Site Standards and Renderings

Narrative

Exhibit F consists of:

1. F-2 Residential Design and Site Standards. These Standards will be supplemented by a Residential Design Guide to be used by the Home Owner's Association Design Review Committee to review sub-developer applications for residential building permits. The Guide will be completed prior to completion of residential subdivision horizontal infrastructure construction.
2. F-3 Preliminary Residential Rendering. These will be supplemented with additional renderings provided during negotiations with individual sub-developers and during the development process.

Exhibit F-2

This information will be provided prior to final plat approval

Oak Hollow

Elevation Plans

Exhibit F-3

These elevation plans are preliminary designs. The full design plans will be completed prior to construction.

OAK HOLLOW SUBDIVISION – Harrisville Utah

PLAN: ALPINE
2314 SF | 4 BED | 2.5 BATH | 2-CAR GARAGE | 2-STORY

FEATURES:

FRONT COVERED PORCH
2-CAR GARAGE
MAIN LEVEL

- STUDY
- DINING
- FAMILY ROOM

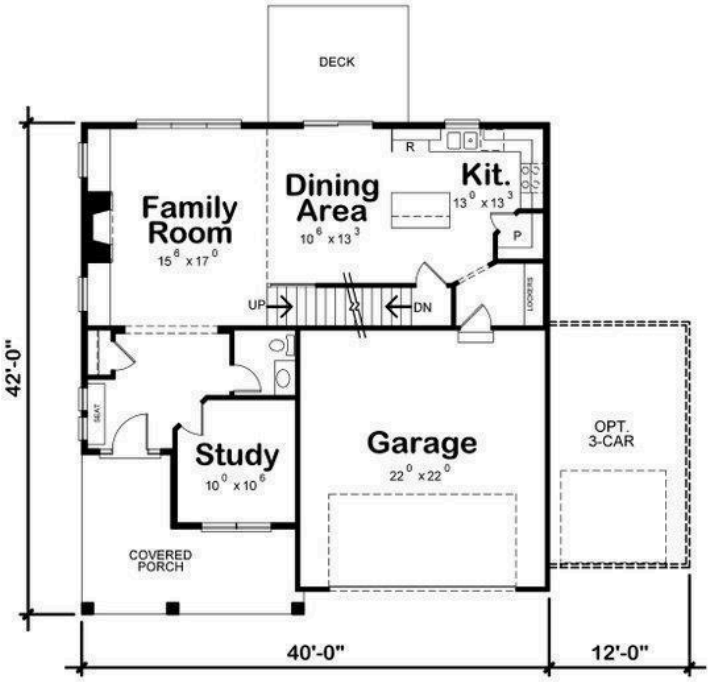
- KITCHEN
- ½ BATH
- REAR DECK

UPPER LEVEL

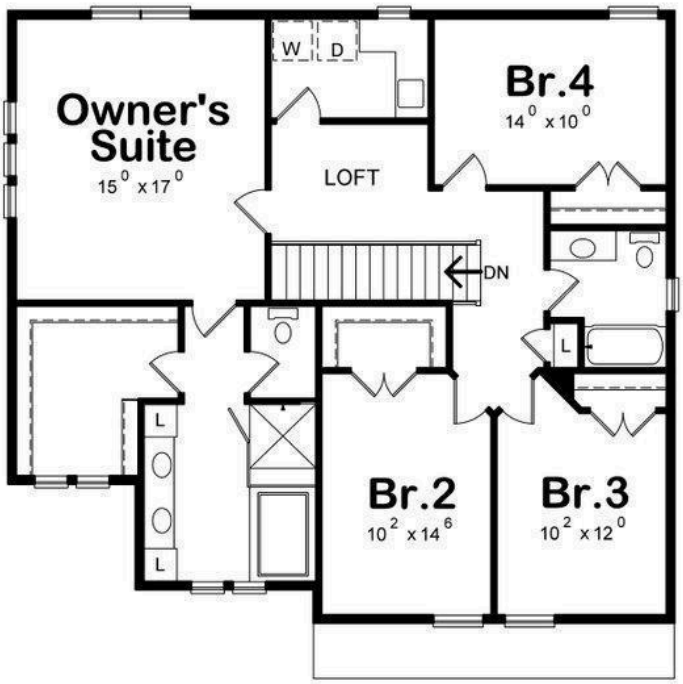
- OWNER’S SUITE
- 3 BEDROOMS
- 2 BATHS
- LOFT
- LAUNDRY

PLAN: ALPINE

LEVEL ONE



LEVEL TWO



OAK HOLLOW SUBDIVISION – Harrisville Utah

PLAN: LUPINE
2314 SF | 4 BED | 2.5 BATH | 2-CAR GARAGE | 2-STORY

FEATURES:

FRONT COVERED PORCH
2-CAR GARAGE
MAIN LEVEL

- STUDY
- DINING
- FAMILY ROOM
- KITCHEN
- ½ BATH
- REAR DECK

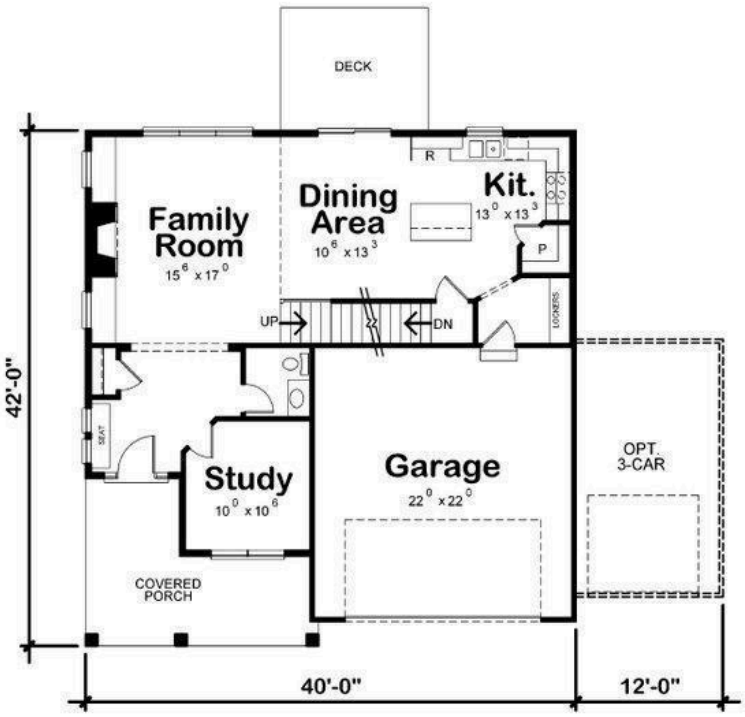
UPPER LEVEL

- OWNER'S SUITE
- 3 BEDROOMS
- 2 BATHS
- LOFT
- LAUNDRY

PLAN: LUPINE

LEVEL ONE

LEVEL TWO



OAK HOLLOW SUBDIVISION – Harrisville Utah

PLAN: BEN LOMOND
2498 SF | 5 BED | 3.5 BATH | 2-CAR GARAGE | 2-STORY

FEATURES:

2-CAR GARAGE
REAR DECK
MAIN LEVEL

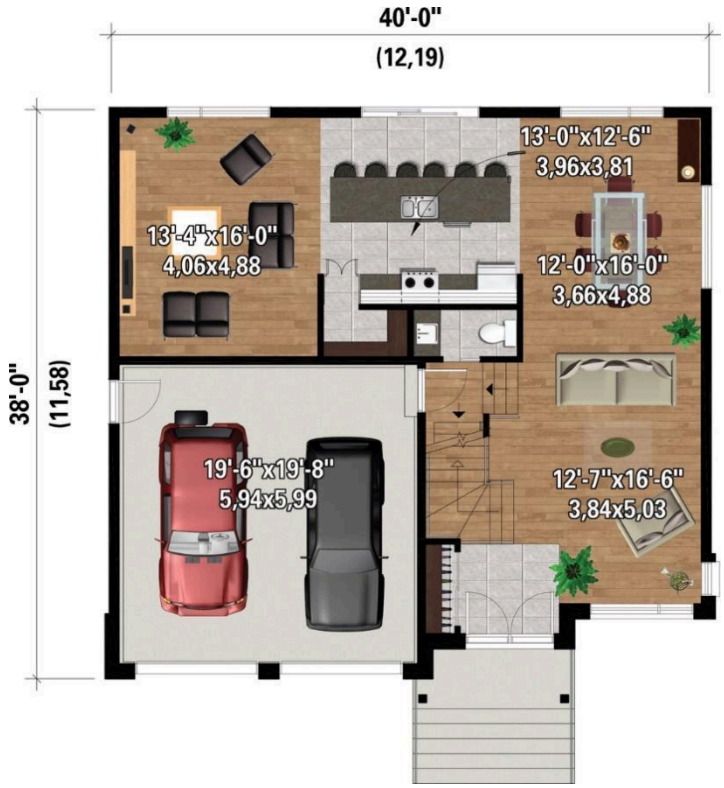
- LIVING
- DINING
- FAMILY ROOM
- KITCHEN
- ½ BATH

UPPER LEVEL

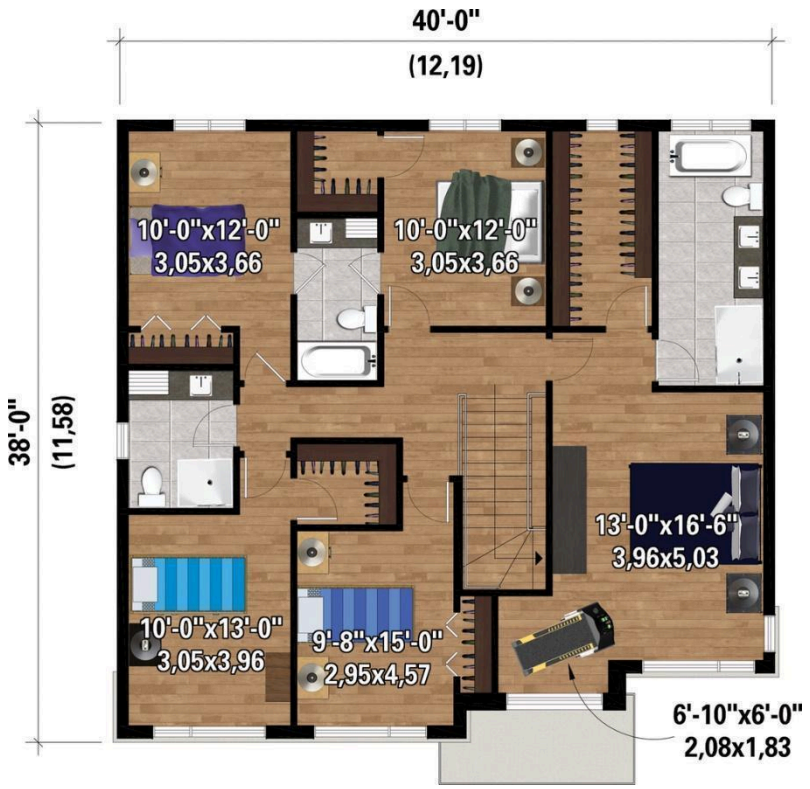
- OWNER'S SUITE
- 4 BEDROOMS
- 3 BATHS
- LAUNDRY

PLAN: BEN LOMOND

LEVEL ONE



LEVEL TWO



AK HOLLOW SUBDIVISION – Harrisville Utah

PLAN: HARRIS
2314 SF | 4 BED | 2.5 BATH | 2-CAR GARAGE | 2-STORY

FEATURES:

2-CAR GARAGE
COVERED PORCH
MAIN LEVEL

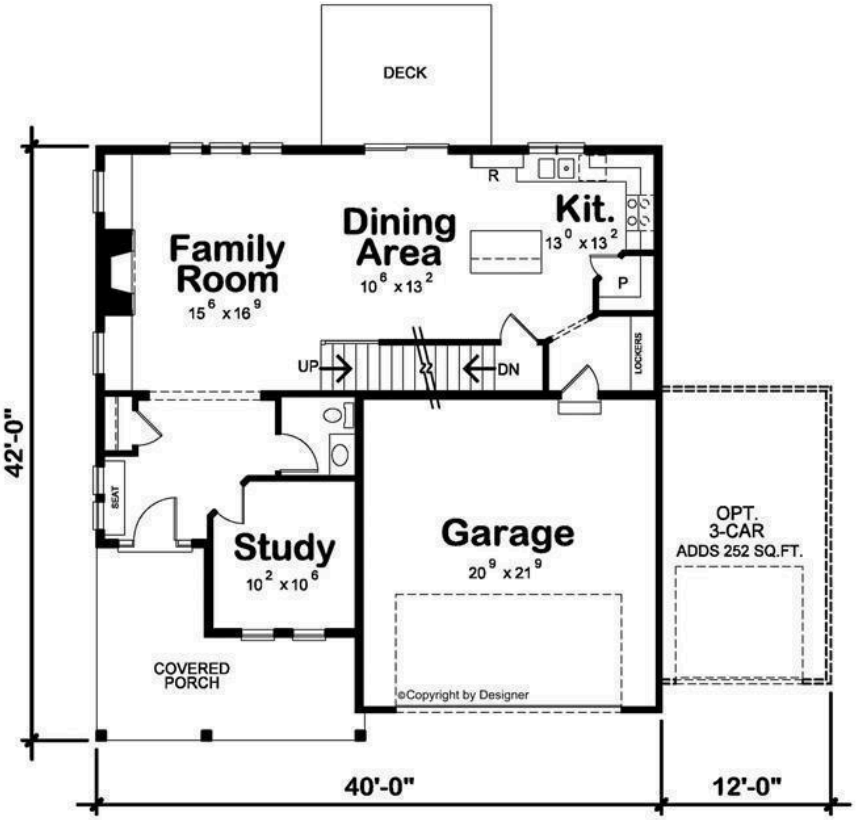
- FAMILY ROOM
- DINING
- KITCHEN
- STUDY
- ½ BATH
- REAR DECK

UPPER LEVEL

- OWNER'S SUITE
- 3 BEDROOMS
- 2 BATHS
- LOFT
- LAUNDRY

PLAN: HARRIS

LEVEL ONE



LEVEL TWO

OAK HOLLOW SUBDIVISION – Harrisville Utah

PLAN: ASPEN
2309 SF | 4 BED | 2.5 BATH | 2-CAR GARAGE | 2-STORY

FEATURES:

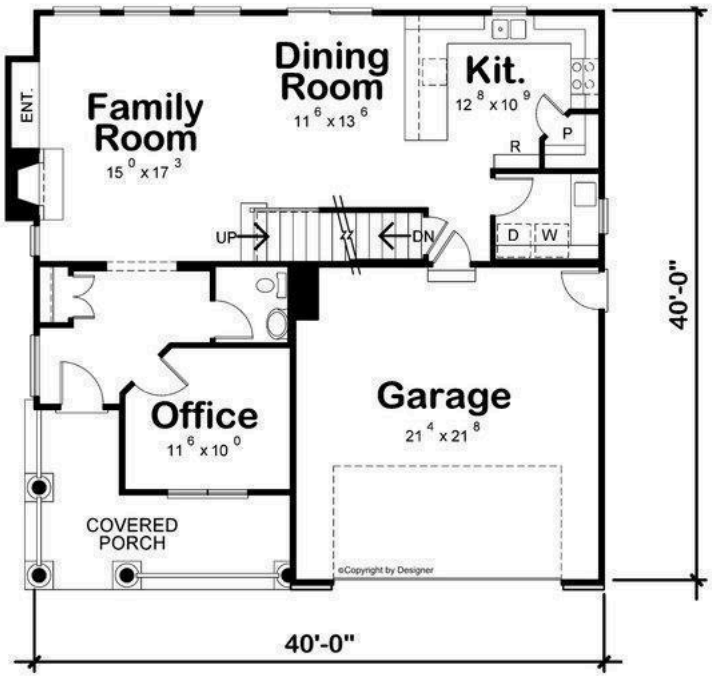
2-CAR GARAGE
COVERED PORCH
MAIN LEVEL

- OFFICE
- FAMILY ROOM
- DINING
- KITCHEN
- LAUNDRY
- ½ BATH

UPPER LEVEL

- OWNER'S SUITE
- 3 BEDROOMS
- 2 BATHS
- LOFT

PLAN: HARRIS
LEVEL ONE



LEVEL TWO

OAK HOLLOW SUBDIVISION – Harrisville Utah

PLAN: SPRUCE
3102 SF | 5 BED | 2.5 BATH | 2-CAR GARAGE | 2-STORY

FEATURES:

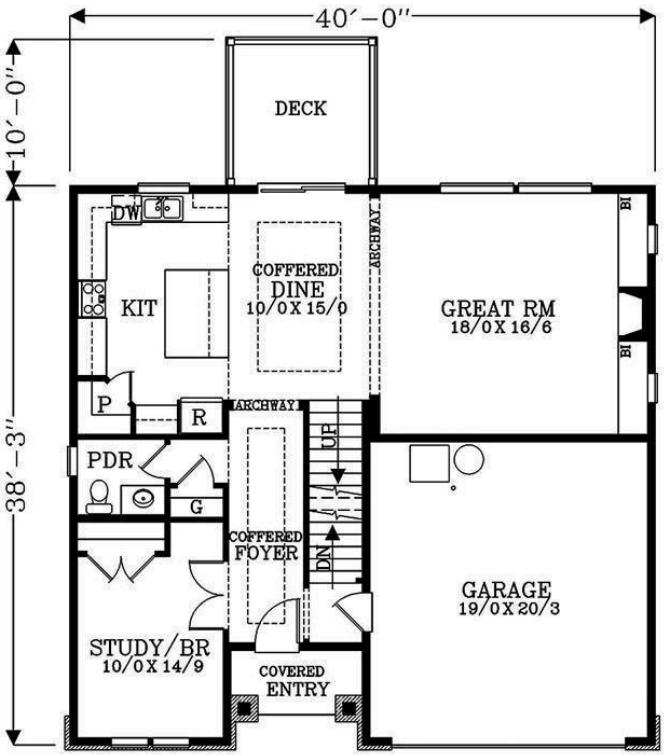
2-CAR GARAGE
COVERED ENTRY
MAIN LEVEL

- STUDY/BEDROOM
- GREAT ROOM
- DINING
- KITCHEN
- ½ BATH

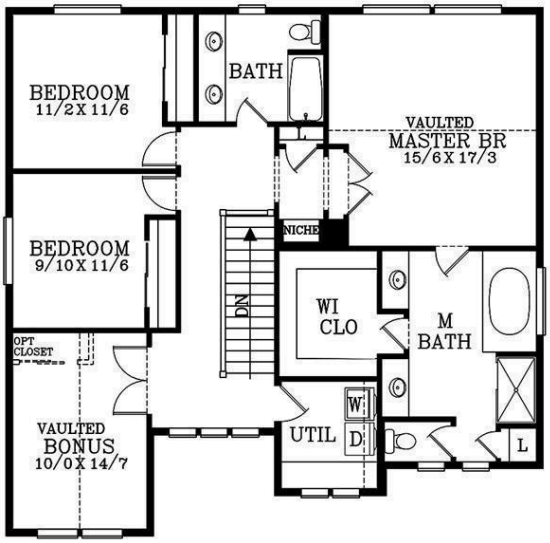
UPPER LEVEL

- OWNER'S SUITE
- 2 BEDROOMS
- 2 BATHS
- LAUNDRY
- OPTIONAL BONUS ROOM

PLAN: SPRUCE
MAIN LEVEL



UPPER LEVEL



OAK HOLLOW SUBDIVISION – Harrisville Utah

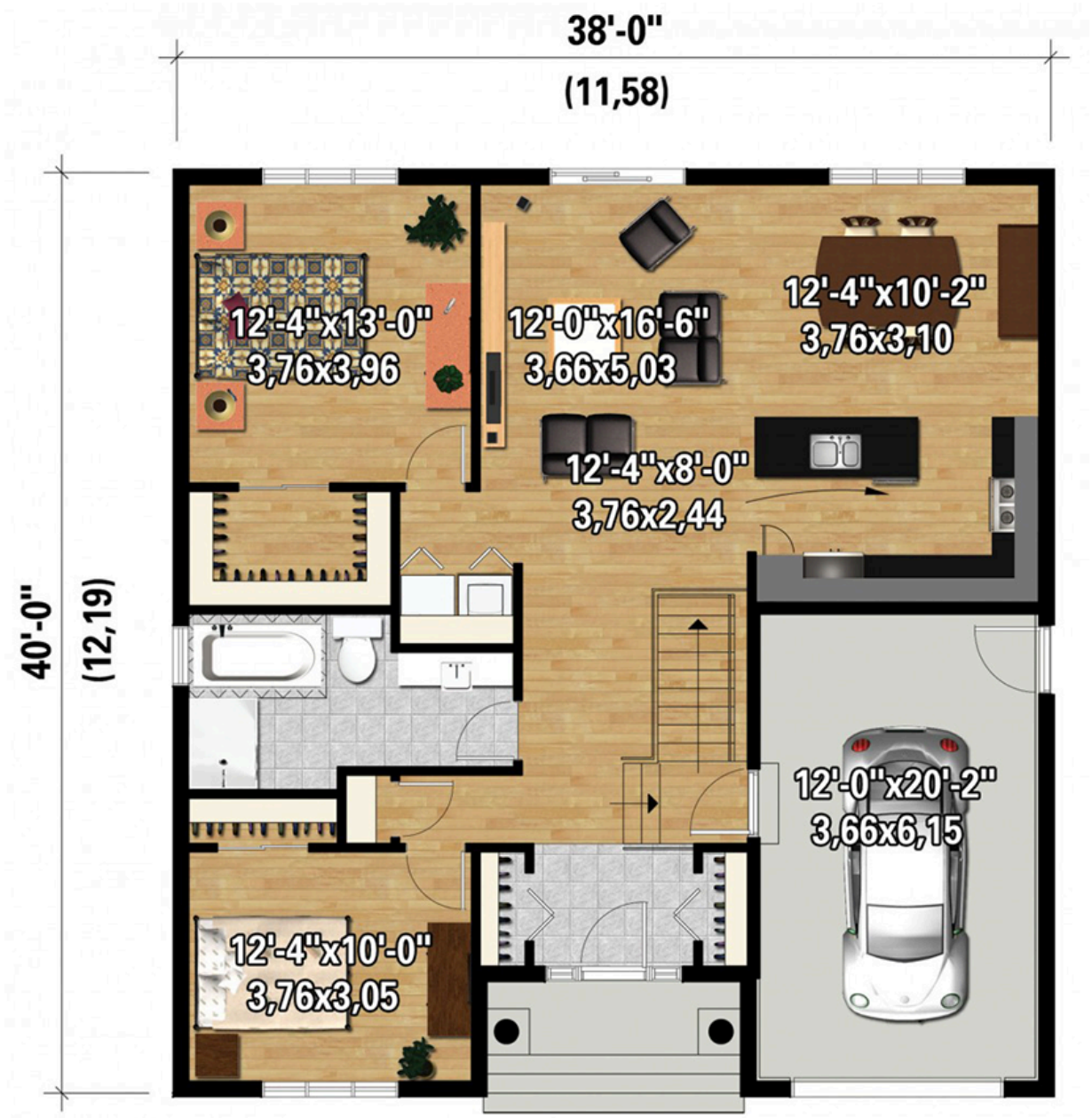
PLAN: BIRCH
1197 SF | 2 BED | 1 BATH | 1-CAR GARAGE | 1-STORY

FEATURES:

1-CAR GARAGE
MAIN LEVEL

- OWNER'S SUITE
- BEDROOM
- GREAT ROOM
- DINING
- KITCHEN
- FULL BATH
- LAUNDRY

PLAN: BIRCH
FLOORPLAN



OAK HOLLOW SUBDIVISION – Harrisville Utah

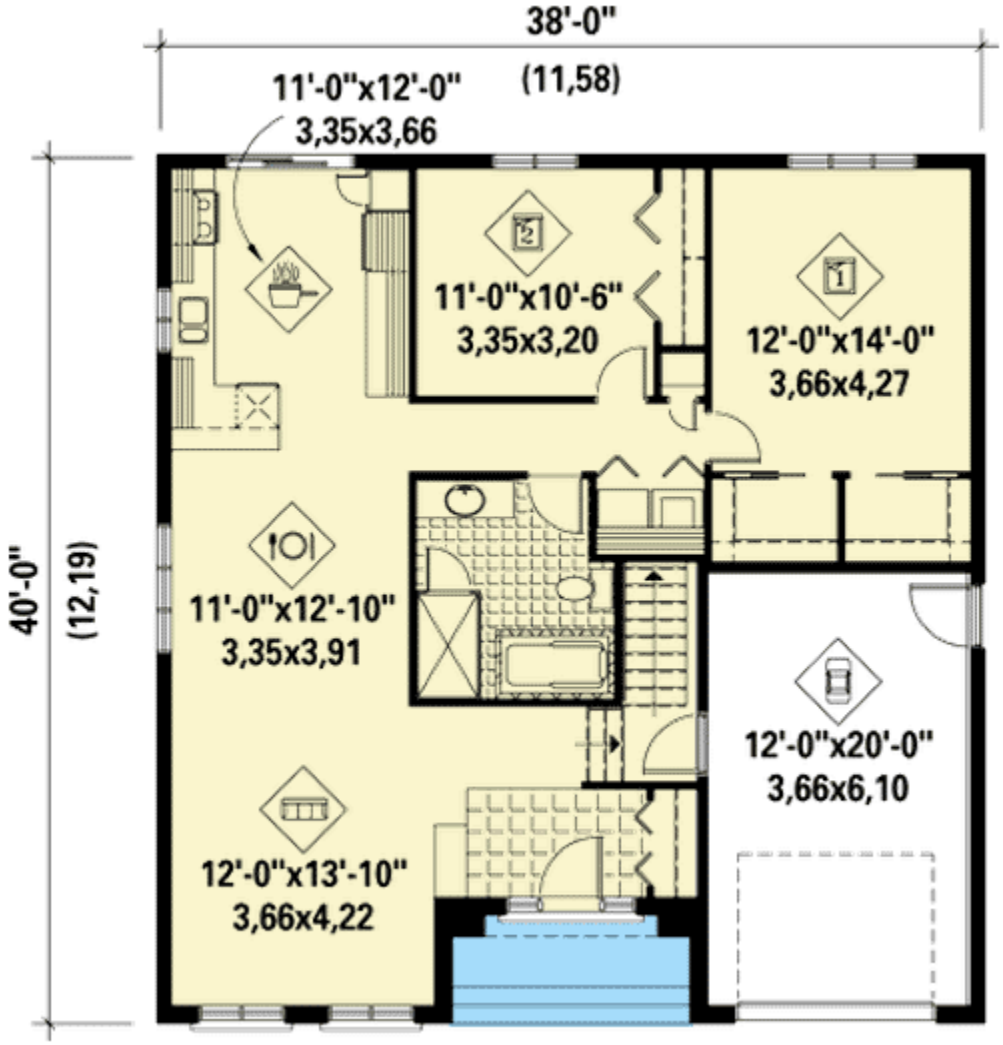
PLAN: CEDAR
1197SF | 2 BED | 1 BATH | 1-CAR GARAGE | 1-STORY

FEATURES:

1-CAR GARAGE
MAIN LEVEL

- OWNER'S SUITE
- BEDROOM
- FAMILY ROOM
- DINING
- KITCHEN
- FULL BATH
- LAUNDRY

PLAN: CEDAR
FLOORPLAN



OAK HOLLOW SUBDIVISION – Harrisville Utah

PLAN: OAKWOOD
1675 SF | 3 BED | 2 BATH | 2-CAR GARAGE | 1-STORY

FEATURES:

2-CAR GARAGE
COVERED FRONT PORCH
REAR PORCH
MAIN LEVEL

- GREAT ROOM
- DINING
- KITCHEN
- MASTER SUITE
- 2 BATHROOMS
- LAUNDRY
- WALK-IN CLOSET

PLAN: OAKWOOD
MAIN LEVEL

OAK HOLLOW SUBDVISION – Harrisville Utah

PLAN: REDWOOD
1498 SF | 3 BED | 2 BATH | 2-CAR GARAGE | 1-STORY

FEATURES:

2-CAR GARAGE
COVERED FRONT PORCH
PATIO
MAIN LEVEL

- GREAT ROOM
- DINING
- KITCHEN
- PANTRY
- MASTER SUITE
- 2 BATHROOMS
- LAUNDRY
- WALK-IN CLOSET

PLAN: REDWOOD
MAIN LEVEL

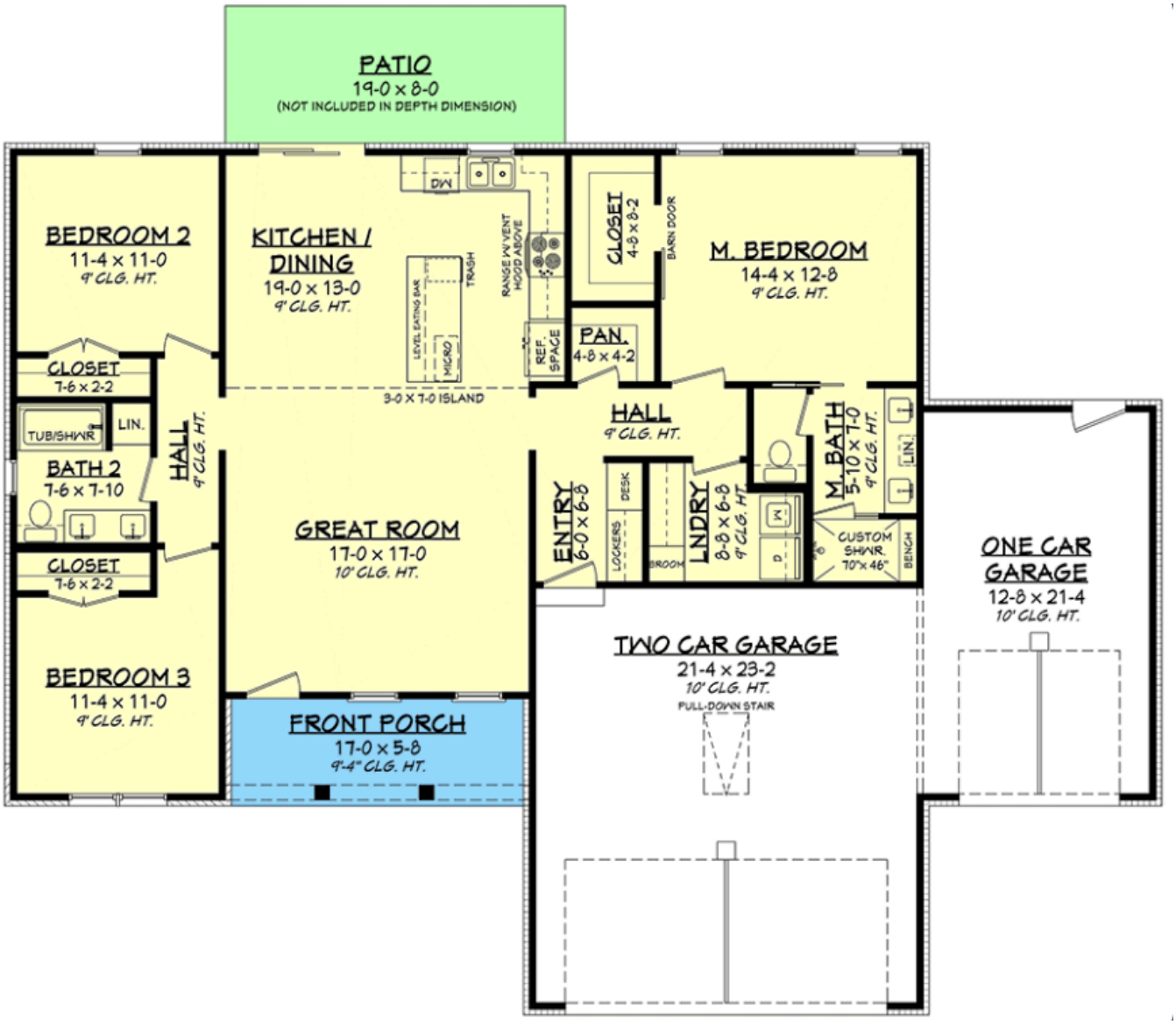


EXHIBIT G

ARTICLES OF INCORPORATION OF OAK HOLLOW OWNERS ASSOCIATION

A Utah Non-Profit Corporation

(Pursuant to the provisions of Utah Code § 16-6a-202)

I, the undersigned natural person, being of the age of eighteen years or more, acting as incorporator under the Utah Revised Non-Profit Corporation Act, Utah Code § 16-6a-101 *et seq.* ("Nonprofit Act"), adopt the following Articles of Incorporation for such Corporation.

ARTICLE I NAME

The name of this Corporation is **Oak Hollow Owners Association** ("Corporation").

ARTICLE II DURATION

The duration of this Corporation shall be perpetual.

ARTICLE III PURPOSE

The Corporation is organized exclusively for non-profit purposes to provide for the maintenance, preservation, and architectural control of the real estate project located in Weber County, State of Utah, known as Oak Hollow; collect and disburse the assessments and charges provided for in the Declaration and Bylaws; administer, enforce, and carry out the terms, covenants, and restrictions of the Declaration and the provisions of the Bylaws; have and to exercise any and all powers, rights, and privileges which a corporation organized under the Nonprofit Act may now or hereafter have or exercise; and generally provide for and promote the health, safety, and welfare of the Corporation's Members.

ARTICLE IV MEMBERS & VOTING

The Corporation shall have Members. The Corporation will not issue shares evidencing membership. All Lot Owners in the Project shall be members of the Corporation. The terms and conditions of membership and voting will be set forth in the recorded Declaration and Bylaws of the Corporation.

ARTICLE V
DIRECTORS

The affairs of the Corporation shall be managed and governed by a Board of Directors. Pursuant to Utah Code § 16-6a-801(2)(b), JLM Development Amber, LLC (the "Declarant") is hereby authorized to exercise all of the powers and perform all the duties of the Board of Directors during the Control Period set forth in the Declaration. In lieu of acting as the Board of Directors, the Declarant, in its sole discretion, may also appoint and remove individual Directors and officers of the Corporation during the Control Period. Declarant may voluntarily surrender its right to appoint and remove Directors and officers prior to the expiration of the Control Period, but, in that event, Declarant may require, for the remainder of the Control Period, that specific actions of the Corporation or Board, as described in an instrument executed by Declarant, be approved by Declarant before they become effective. Following the Control Period, the Board of Directors shall be elected by the Members as more particularly set forth in the Bylaws.

Each Director shall hold office until his/her successor has been duly appointed/elected and qualified, or until a Director is removed or resigns as provided in the Bylaws. The Board of Directors shall exercise such powers as are provided by these Articles of Incorporation, the Bylaws, the Declaration, and applicable laws of the State of Utah. The Board of Directors shall exercise all powers on behalf of the Corporation, except for those powers specifically reserved for the vote of the Members.

ARTICLE VI
OFFICERS

The Board of Directors is authorized to elect and appoint officers and agents of the Corporation as shall be necessary and appropriate. Such officers and agents shall hold office until their successors are duly elected or appointed and qualified, or until they are removed or they resign. All officers and agents of the Corporation, as between themselves and the Corporation, shall have such authority and perform such duties in the management of the affairs of the Corporation as may be provided in these Articles of Incorporation, the Bylaws, the Declaration, or as may be determined by resolution of the Board of Directors, so long as such resolution is not inconsistent with these Articles of Incorporation, the Bylaws, or the Declaration.

ARTICLE VII
CORPORATION POWERS

The Corporation shall have such powers and authority as are provided by the Nonprofit Act and other applicable laws and acts. Specifically, the Corporation shall have power and authority to sue or be sued and defend the Corporation's name; maintain a corporate seal; receive gifts, devises, or bequests for personal and real property; to purchase or lease personal or real property and to otherwise acquire, hold, improve, use, and possess the same; to convey, mortgage, pledge, lease, exchange,

transfer, bargain, or otherwise dispose of any or all of its property and assets; to secure and acquire loans in the name of the Corporation; to conduct its normal and ordinary affairs, transact business, and carry on operations with such offices as are necessary; to elect Directors to the Board, and to appoint officers and agents of the Corporation and to define their duties, by bylaw or otherwise; to defend, indemnify, and hold harmless any Director, officer, or agent of the Corporation for expenses actually and necessarily incurred in furthering the activities and operations of the Corporation or in defense of any litigation or action in which any said Director, officer, or agent is made a party; and to exercise all other powers necessary and reasonably convenient to effect any and all of the purposes for which the Corporation is now authorized or hereafter may be authorized by the laws of the United States and the State of Utah.

ARTICLE VIII
LIMITATIONS ON DISPOSITION OF EARNINGS AND ASSETS

The Corporation's objectives are not for pecuniary profit and no part of the net earnings of the Corporation, if any, shall inure to the benefit of any Director, officer, or Member of the Corporation or any other individual, and no Director, officer, or Member of the Corporation or any private individual shall be entitled to share in the distribution of any of the corporate assets on dissolution or liquidation of the Corporation. Notwithstanding any other provision of these Articles of Incorporation to the contrary, the Corporation shall not carry on any other activities not permitted to be carried on by a corporation exempt from federal income taxes under Section 501(c) of the Internal Revenue Code.

ARTICLE IX
BYLAWS

Provisions for managing the business and regulating the affairs of the Corporation shall be set forth in the Corporation's adopted Bylaws and/or Declaration recorded in the office of the Weber County Recorder. The Bylaws and Declaration may be amended from time to time pursuant to the terms therein.

ARTICLE X
DISSOLUTION

The Corporation may be dissolved only upon the termination of the Declaration in accordance with the terms thereof and with the assent given in writing and signed by Members holding not less than ninety percent (90%) of the voting interests of the Corporation. Upon dissolution, the assets of the Association shall be divided among all the Members as provided in the Declaration or otherwise required by law.

ARTICLE XI
LIABILITY

The Board, Directors, officers, employees, and Members of this Corporation shall not be liable, either jointly or severally, for any obligation, indebtedness, or charge

against the Corporation to the maximum extent allowed by and consistent with the terms of the Nonprofit Act, specifically § 16-6a-823. This provision shall apply to former Directors, officers, employees, and Members including, without limitation, those appointed by the Declarant during the Control Period.

ARTICLE XII
INDEMNITY OF DIRECTORS AND OFFICERS AND COMMITTEE MEMBERS

The Corporation shall defend, indemnify, and hold harmless any and all of its Directors and officers and committee members, or former Directors and officers and committee members against all expenses, claims, and losses to the maximum extent permitted by law, and shall advance expenses incurred by such Directors, officers, and committee members, as referenced in § 16-16a-904 of the Nonprofit Act, as the same may be amended from time to time, to the maximum extent permitted by law. Such defense, indemnification, and hold harmless shall not be deemed exclusive of any or all other rights to which those indemnified may be entitled, under the Declaration or Bylaws, or other law, agreement, vote, or otherwise. This provision shall apply to Directors, officers, and committee members both prior to, during, and after the Control Period.

ARTICLE XIII
INCORPORATOR

The name and address of the Incorporator is:

JLM Development Amber, LLC

2097 E Cedar Fort Drive

Eagle Mountain, UT 84005

ARTICLE XIV
REGISTERED OFFICE AND AGENT

The Corporation's Registered Agent and the address of the Corporation's registered office shall be:

JLM Development Amber, LLC

2097 E Cedar Fort Drive

Eagle Mountain, UT 84005

Such office may be changed at any time by the Board of Directors without amendment to these Articles of Incorporation.

ARTICLE XV
PRINCIPAL ADDRESS

The Corporation's principal address shall be:

JLM Development Amber, LLC

2097 E Cedar Fort Drive

Eagle Mountain, UT 84005

ARTICLE XVI
MISCELLANEOUS

1. Amendment. During the Control Period, these Articles may be amended by Declarant, in its sole discretion. No other amendment shall be valid or enforceable during the Control Period unless the Declarant has given written consent to such amendment. Following the Control Period, any amendment to these Articles must be authorized and approved by at least sixty-seven percent (67%) of the voting interests of the Corporation. Any amendment so authorized and approved shall be accomplished in conformity with the Nonprofit Act and other applicable laws.

2. Defined Terms. Capitalized terms used herein, shall have the same meaning and effect as defined and used in the Declaration and Bylaws of the Corporation.

3. Interpretation. The captions preceding the various portions of these Articles are for convenience and shall in no way affect the manner in which any provision hereof is construed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, and any gender shall include both genders. The invalidity or unenforceability of any provision contained in these Articles shall not affect the validity or enforceability of the remainder hereof. These Articles have been prepared in conjunction with the Declaration and should be read in light of that fact and liberally so as to effect the purposes of both instruments. In the event of a conflict between the provisions of these Articles and the provisions of the Declaration, the provisions of the Declaration shall prevail.

ARTICLE XVII
CERTIFICATION

In Witness Whereof, _____ has executed these Articles of Incorporation on behalf of the Incorporator this _ day of _____, 2024 and says:

> That I am authorized by the incorporator herein to execute these Articles, which I have read and know of the contents thereof, and that the same are true to the best of my knowledge and belief. Furthermore, these Articles of Incorporation have been duly approved by the Corporation.

JLM Development Amber, LLC

_____

Title: _____

EXHIBIT H

DECLARATION
OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
OAK HOLLOW

A Planned Development in
Weber County

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EXHIBIT A - LEGAL DESCRIPTION

EXHIBIT B - BYLAWS

EXHIBIT C - MAINTENANCE ALLOCATION CHART

This DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR Oak Hollow ("Declaration") is hereby adopted and shall be effective when recorded with the Weber County Recorder's Office by JLM Development Amber, LLC, a Utah limited liability company, ("Declarant").

RECITALS

A. The real property situated in Weber County, Utah, described in Exhibit A, attached to and incorporated in this Declaration by reference, is hereby submitted, together with all buildings and improvements previously, now, or hereafter constructed, and all easements and rights appurtenant thereto, to a residential development consisting of Lots and related Common Areas pursuant to Utah Code § 57-8a-101 *et seq*. that shall be known as Oak Hollow (the "Project").

B. Declarant is the owner of the real property subject to this Declaration. By signing this Declaration, Declarant consents to subjecting the real property within the Project to the terms, covenants and restrictions contained herein.

C. Declarant hereby desires to establish for the mutual benefit of all future Owners and Occupants of the Project, certain covenants, conditions, restrictions, easements, rights, privileges, assessments and liens as set forth herein, which shall run with and be a burden upon the Project.

D. Declarant desires to create an association of homeowners, which entity shall possess the power to maintain and administer the Common Areas, collect and disburse assessments and charges hereinafter provided for, and administer and enforce the provisions of this Declaration. It is intended that this Declaration shall serve as a binding contract between the Association and each Owner; however, nothing herein is intended to create a contractual relationship between Declarant and the Association or Declarant and any Owner, or to inure to the benefit of any third-party. Additionally, it is not intended that this Declaration be read in conjunction with any deed or real estate purchase contract to create privity of contract between Declarant and the Association.

E. Declarant intends that the Owners, Occupants, Mortgagees, and all other persons hereafter acquiring any interest in the Project shall at all times enjoy the benefits of, and shall hold their interest subject to this Declaration, which is recorded in furtherance of establishing a general plan of governance of the Project, and for establishing rules for the use, occupancy, management, and enjoyment thereof.

F. Declarant explicitly reserves for itself the option in the future to expand the Project.

ARTICLE I. DEFINITIONS

The capitalized terms used in this Declaration shall have the meanings set forth in this Article. Unless the context clearly requires otherwise, the masculine, feminine and neuter genders and the singular and the plural shall be deemed to include one another, as appropriate.

1.1. **Act** shall mean the Utah Community Association Act, codified at Utah Code § 57-8a-101, *et seq.*, as the same may be amended from time to time.

1.2. **Additional Land** shall mean and refer to, without limitation, any parcel of land that is annexed into the Project by the Declarant.

1.3. **Articles** shall mean and refer to the Articles of Incorporation for the Association, as amended and restated from time to time.

1.4. **Assessments** shall mean any monetary charge or fee imposed or levied by the Association against Owners as provided in this Declaration or other Governing Documents.

1.5. **Association** shall mean the Oak Hollow Owners Association, a Utah non-profit corporation. Failure of the Association to maintain its corporate status will not result in the dissolution of the Association. The Association's Board may renew or reinstate its corporate status without Owner approval.

1.6. **Benefitted Area** shall mean a geographical area in the Project in which the Lots within that area receive special benefits or services from the Association that the Association does not provide to all Lots within the Project.

1.7. **Board** or **Board of Directors** shall mean and refer to the Board of Directors of the Association as duly elected in accordance with the terms and conditions of the Articles of Incorporation and Bylaws. The Board is the governing body of the Association.

1.8. **Board Member** shall mean a duly qualified and elected or appointed individual member of the Board of Directors of the Association.

1.9. **Bylaws** shall mean the Bylaws of the Association that are attached hereto as Exhibit B, as the same may be amended from time to time. No amendment to the Bylaws shall be effective until it is recorded.

1.10. **Common Areas** shall mean all land, and the improvements situated thereon, within the Project that the Association now or hereafter owns in fee for the benefit of Owners for as long as the Association is the owner of the fee, which may include without obligation or limitation: private roads, common sidewalks, Association signs or monuments, open space, landscaped areas, sewer lift station, utility facilities, and any real property or improvements within the Project that the Association has the obligation to maintain, repair, or replace for the common benefit of the Owners, as the Board shall determine in its sole and exclusive discretion, including, without limitation, all utility and service lines and similar improvements, whether public or private-company owned, intended to serve more than one Residence, whether located on a Lot, Common Area, public roadway, or lying inside of the exterior boundaries of the Residence.

1.11. **Common Expenses** shall mean (a) all sums lawfully assessed against Owners; (b) expenses of administration, maintenance, management, operation, repair and replacement of the Common Areas which are maintained by the Association; (c) expenses allocated by the Association among the Owners; (d) expenses agreed upon as common expenses by the Association or its Board of Directors; (e) expenses declared common expenses by the Declaration; and (f) other miscellaneous charges incurred by the Association or the Board pursuant to the Act, or the Governing Documents.

1.12. **Declarant** shall mean JLM Development Amber, LLC, a Utah limited liability company, and any successor or assign.

1.13. **Declaration** shall mean this Declaration of Covenants, Conditions and

Restrictions for Oak Hollow, as may be amended from time to time.

1.14. **Design Guidelines** shall mean the requirements governing the location, color, materials, and architectural design of dwellings, structures, and improvements within the Project as adopted by the Board as provided herein.

1.15. **Governing Documents** shall mean collectively, the Declaration, Articles of Incorporation, Bylaws, Plat, Design Guidelines, and any Rules adopted by the Board.

1.16. **Limited Common Areas** shall mean the Common Area reserved for the use and benefit of a designated Lot or Residence to the exclusion of other Owners. Whether or not indicated on the Plat, the Limited Common Areas shall include facilities appurtenant to the Residences including porches, balconies, driveways, and portions of the Common Area bounded by approved fences (if any). Limited Common Areas may also be assigned to all Lots within a Benefitted Area generally, rather than to individual Lots. The right to the exclusive use of the Limited Common Area shall be appurtenant to each respective Lot and may not be severed from the ownership of the Lot. All installations or modifications of Limited Common Areas shall be approved by the Association and shall be subject to the provisions in this Declaration and the Design Guidelines. The Board shall have the power and discretion to determine the Limited Common Area boundaries or assign Limited Common Area use if the Plat or other Governing Documents are found ambiguous or if there is a dispute over their boundaries. If the Limited Common Areas depicted on the Plat differ in size or locations from the as built Limited Common Areas, then the as built dimensions or structures installed by Declarant shall supersede anything depicted on the Plat.

1.17. **Lot** shall mean each of the individual Lots within the Project, as shown on the Plat, with the exception of the Common Areas. A Lot shall include any Residence or other improvement constructed thereon. Each Lot consists generally of all structures on or within the boundary of the Lot. Subject to dividing lines between Lots, any above-ground structure that extends beyond the vertical plane of the ground-level boundary of the Lot is part of the Lot if it: (1) is part of and an integral part of the Residence's structure (such as bay windows, pop-outs, eves, etc., not to include fences, or other appurtenant structures that merely connect to the structure); or (2) was constructed as part of the original construction of the Residence on the Lot. Unless specifically indicated otherwise, the use of the term "Lot" in this Declaration shall apply to Lots with detached residences.

1.18. **Manager** shall mean a person, persons, or entity, if any, selected by the Board to manage the affairs of the Association and Project.

1.19. **Member** shall mean and refer to a Lot Owner.

1.20. **Mortgage** shall mean any mortgage, deed of trust, or trust deed or the act of encumbering any Lot or any property by a mortgage, trust deed, or deed of trust.

1.21. **Mortgagee** shall mean and refer to any person or entity named as a mortgagee of a mortgage or beneficiary under or holder of a deed of trust.

1.22. **Occupant** shall mean any Person, living, dwelling, visiting, or staying in a Residence. This includes, but is not limited to, all lessees, tenants, and the family members, agents, and representatives living, dwelling, visiting, or staying in a Residence. Occupants shall be bound by the Restrictions in this Declaration and shall be liable for any fines that are

assessed for violations of the Governing Documents.

1.23. **Owner** shall mean the record owner, whether one or more Persons, of fee simple title to any Lot which is a part of the Project, including contract sellers, but excluding those having an interest merely as security for the performance of an obligation.

1.24. **Party Wall** shall mean a wall, including without limitation a foundation wall, that forms part of a Residence and is located on or adjacent to a boundary line between two or more adjoining Residences that are owned by more than one (1) Owner and is used or is intended to be used by the Owners of the benefitted Residences as a structural partition wall. A Party Wall may be separated by a sound board between two or more Residences.

1.25. **Period of Declarant Control** shall mean the period of time during which the Declarant may act as the Board of Directors, or appoint Board Members. Such period of time shall commence on the date this Declaration is recorded and terminate on the occurrence of the earliest of the following events: (i) six (6) months after the date on which all of the Lots and all of the Additional Land, have been conveyed to Persons other than Declarant or its successors, assigns, and affiliates, regardless of whether such Additional Land has been added hereto; or (ii) the Declarant executes and records a written waiver of its right to control the Association. The Special Declarant Rights contained within this Declaration may last beyond the Period of Declarant Control for the maximum length permitted by law. If the Declarant elects to waive one or more, but not all, of its Special Declarant Rights, then all Special Declarant Rights not waived shall remain in full force and effect.

1.26. **Person** shall mean and refer to a natural individual, corporation, business entity, estate, partnership, trustee, association, joint venture, government, governmental subdivision, or agency or other legal entity capable of holding title to real property.

1.27. **Plat** shall mean all of the official subdivision plat(s) of the Oak Hollow Subdivision that are filed and recorded in the official records of the Weber County Recorder. The term Plat shall specifically include any additional, amended, or supplemental plat(s) that may be recorded in the future comprising the Additional Land. The Plat is hereby incorporated into and made an integral part of this Declaration, and all requirements and specifications set forth on the Plat and required by the Act are deemed included in this Declaration. If any conflict exists between the Plat and this Declaration, the Declaration shall control.

1.28. **Project** shall include the real property described in Exhibit A and all Additional Land, together with the buildings, improvements, and permanent fixtures located thereon, and all easements and rights appurtenant thereto and shall at any point in time mean and refer to the entire Oak Hollow Subdivision development. The Project shall also include any Additional Land annexed into the Association and made subject to this Declaration.

1.29. **Residence** shall mean a structure intended for use and occupancy as a single-family residence, together with the garage and all improvements located on or with respect to the Lot concerned which are used in connection with such residential structure. The Residence shall include, without limitation, the roofs and all exterior surfaces, exterior trim, gutters, downspouts, structural members, and foundations. The Residence shall also include any mechanical equipment and appurtenances located within any one Residence or located without said Residence but designed to serve only that Residence, such as appliances, air

conditioning compressors, sprinkler systems, antennas, fixtures and the like. All pipes, wires, conduits, or other utility lines or installations constituting a part of the Residence or serving only the Residence shall be deemed to be a part of the Residence.

1.30. **Restrictions** shall mean the covenants, conditions, assessments, easements, liens, and restrictions set forth in this Declaration.

1.31. **Rules** shall mean and refer to the rules, resolutions, regulations, policies, architectural guidelines, etc. adopted by the Board.

1.32. **Supplemental Declaration** shall mean a written instrument recorded in the records of the Weber County Recorder, which refers to this Declaration and which amends, modifies, or supplements this Declaration in accordance with its terms.

ARTICLE II. PROJECT DESCRIPTION

2.1. **Submission**. The real property described with particularity on Exhibit A attached hereto and incorporated herein by this reference is hereby submitted to the Act. The Declarant declares that the Project and all of the Lots shall be held, conveyed, transferred, sold, mortgaged, encumbered, occupied, used, and improved subject to the Restrictions, which Restrictions shall constitute covenants and conditions running with the land and shall be binding upon and inure to the benefit of the Declarant, the Association, and each Owner, including their respective heirs, successors, and assigns.

2.2. **Name**. The Project, as submitted to the provisions of this Declaration, shall be known as Oak Hollow. The Project is not a cooperative.

2.3. **Description of Improvements**. The major improvements contained in the Project will initially include 30 Patio Home or 2-story Residences that are constructed on detached home Lots. Other Lots or Common Area upon the Additional Land may be added as reserved by the Declarant. There are also open space areas, a clubhouse, pickleball courts, and other improvements detailed on the Plat. All improvements have been and shall continue to be constructed in a style and of materials architecturally compatible with the other improvements in the Project. The Lots, their locations, and approximate dimensions are indicated on the respective Plats.

2.4. **Benefitted Areas**. The Declarant may create and place Lots into one or more Benefitted Areas in which the Lots share Limited Common Areas or receive special benefits or services from the Association that it does not provide to all Lots within the Project. The creation of a Benefitted Area, the designation of Lots subject to a Benefitted Area, and the scope of services to be performed for a Benefitted Area may be set forth in a Board resolution, or similar Association document. A Lot may be assigned to more than one Benefitted Area, depending on the number and types of special benefits or services it receives. A Benefitted Area may be comprised of Lots of more than one housing type and may include Lots that are not contiguous. The Declarant may designate Benefitted Areas and assign Lots to a particular Benefitted Area at any time prior to the expiration of the Period of Declarant Control. Declarant may also unilaterally amend Benefitted Area boundaries. Following the Period of Declarant Control, the Board may, by a resolution, designate Benefitted Areas and assign Lots to them upon the affirmative vote of Owners exceeding

sixty-seven percent (67%) of the Lots affected by the proposed designation.

2.6. **Expansion of Project**. The Project may be expanded by the Declarant by the recording of a Supplemental Declaration to annex any Additional Land that Declarant determines to be added.

ARTICLE III. MEMBERSHIP AND VOTING RIGHTS

3.1. **Membership**. Every Owner shall be a Member of the Association with one membership interest per Lot. Membership in the Association shall be mandatory, shall be appurtenant to the Lot in which the Owner has the necessary interest, and shall not be separated from the Lot to which it appertains. Membership in the Association shall not be transferred, pledged, or alienated in any way, except upon the transfer of ownership of the Lot to which it is appurtenant, and then only to the new Owner. Any attempt to make a prohibited transfer is void. In the event an Owner fails or refuses to transfer the membership registered in such Owner's name to the purchaser of the Lot, the Association shall have the right to record the transfer upon its books and thereupon the old membership outstanding in the name of the seller shall be null and void.

3.2. **Voting Rights**. Except as otherwise disallowed in this Declaration or the Bylaws, or limited by the Special Declarant Rights, Owners shall be entitled to one vote per Lot owned.

3.3. **Multiple Ownership Interests**. If there is more than one Owner of a Lot, the vote relating to such Lot shall be exercised as such Owners may determine among themselves. A vote cast by any of such Owners, whether in person or by proxy or by written ballot, shall be conclusively presumed to be the vote attributable to the Lot concerned unless an objection is immediately made by another Owner of the same Lot. In the event such an objection is made or if there are conflicting votes from the same Lot, the vote involved shall not be counted for any purpose, except towards establishing a quorum.

3.4. **Record of Ownership**. Every Owner shall promptly notify the Association of any change in ownership of a Lot by providing the conveyance information to the Secretary of the Association who shall maintain a record of ownership of the Lots. Any cost incurred by the Association in obtaining the information about an Owner as specified herein which is not furnished by such Owner shall nevertheless be at the expense of such Owner and shall be reimbursed to the Association as an Individual Assessment.

ARTICLE IV. EASEMENTS AND RIGHTS IN COMMON AREAS

4.1. **Easement of Enjoyment**. Each Owner shall have a right and easement of use and enjoyment in and to the Common Areas. Such right and easement shall be appurtenant to and shall pass with title to each Lot and in no event shall be separated therefrom. Any Member may delegate the right and easement of use and enjoyment described herein to any permitted Occupant(s) who reside in such Owner's Residence. The rights and privileges of such delegee or assignee shall be subject to suspension in the same manner and to the same degree as those of an Owner. This right of easement shall not extend to the Limited Common Area or privately owned Lots of other Owners.

4.2. **Title to Common Areas**. The Declarant may convey title to the Common Areas to the Association, the City, or to any other entity in the discretion of the Declarant; however, neither this conveyance nor any other provision of the Declaration shall be construed to create a contractual relationship between the Association and Declarant.

4.3. **Limitation on Easement**. A Member's right and easement for the use and

enjoyment of the Common Areas shall be subject to the following:

(a) The right of the Association to impose reasonable limitations on the number of guests per Member who at any given time are permitted to use the Common Areas;

(b) The right of the Association to charge reasonable admission and other fees for the use of the recreational facilities situation upon the Common Areas;

(c) The right of any governmental or quasi-governmental body having jurisdiction over the Project to access and rights of ingress and egress over and across any street, parking area, walkway, or open area contained within the Project for purposes of providing police and fire protection, transporting school children, and providing any other governmental or municipal service.

(d) The right of the Association to suspend voting rights and right to use the Common Areas by an Owner for any period during which any Assessments against his Lot remain unpaid, and for a period not to exceed sixty (60) days for any infraction of the Rules.

(e) The right of the Association to dedicate or transfer all or any part of the Common Areas, and any sewer, water and storm drain lines to any public agency or authority for such purposes and subject to such conditions as may be agreed to by the Association. Any such dedication or transfer must, however, be assented to by sixty-seven percent (67%) of the Owners.

4.4. **Association Easement**. The Association, its Board, employees, agents, and contractors shall have non-exclusive easements to use the Common Areas and Limited Common Areas to perform their duties as assigned by the Governing Documents.

4.5. **Easement for Utility Services**. In addition to the easements identified in the Plats, the Project is subject to a blanket easement over, across, above, and under it for ingress, egress, installation, maintenance, repair, and replacement of utilities. Utilities include, without limitation, water, sewer, gas, telephone, electricity, data, video, and cable. If any utility company or municipal authority requests that a more specific easement be granted in its favor in substitution for the easement hereby established with respect to the Common Areas, the Board shall have the power and authority, without the need for any consent by the Owners to grant the more specific easement on such terms and conditions as the Board deems appropriate. It is intended that this utility easement be construed broadly.

4.6. **Easements for Encroachments**. If any portion of a Common Area or Limited Common Area structure or improvement encroaches upon any Lot, or if any structure or improvement of a Lot encroaches upon any other Lot, Limited Common Area, or the Common Area as a result of the manner in which the improvements were initially approved and constructed, or due to settling, shifting, alteration, replacement, repair, or restoration, a valid easement for encroachment, and maintenance of such encroachment, shall exist for the life of the improvement or structure.

4.7. **Right to Enter**. The Association, acting through the Board or its duly authorized agent, shall have the right at all times and upon reasonable notice of at least 48 hours to enter upon any Lot on the areas located outside the exterior boundaries of a Residence, without trespass, and regardless of whether or not the Lot Owner or Occupant

thereof is present at the time, to abate any infractions, to fulfill its responsibilities, to exercise its rights, to make repairs, and to correct any violation of any of the Governing Documents. The 48-hour notice set forth in this Section shall not be necessary in case of an emergency threatening other Residences, Occupants, or other parts of the Project. Nothing in this Section shall be construed to authorize the entry of the Association into the interior of a Residence without the consent of the Lot Owner unless there is an emergency threatening another Residence, the Occupants of another Residence. Owners shall maintain up-to-date emergency contact information records with the Association, including any local representative an Owner may have for notice purposes. Owners shall be responsible for any costs incurred by the Association as a result of entering a Lot or Residence under this Section and shall defend, indemnify, and hold harmless the Association for all damages related to such entry, except for such damages resulting from intentional or willful misconduct.

4.8. **Association Not Guarantor of Geotechnical Risk**. Soils in Utah, including those in the Project, under Lots, and under Common Area, may shift, expand, erode, or collapse, resulting in movement of all or portions of a Residence or damage to Lots, Common Areas, improvements, or persons. Soils in the Project may be adversely affected by moisture contacting those soils from, by way of example and not of limitation, rain, surface waters or runoff, landscape sprinklers, downspouts, and changes to grading. The Declarant and the Association have not performed any soils investigation or testing, however, the nature of the slopes and soils in the Project were open and oblivious to all Owners prior to purchasing a Lot in the Project and to all residents prior to occupying any Residence within the Project. By purchasing a Lot in the Project, each Owner was/is on notice of potential soils issues and is in the best position to obtain insurance for their Lot, person, family, guests, tenants, and personal property against risks of damage or loss resulting from soils or geotechnical damages. Thus, neither the Declarant nor the Association can act as a guarantor against damages or losses arising out of geotechnical or soils risks and occurrences. The Declarant and the Association shall not be liable to any Owner or resident within the boundaries of the Plat for any damages resulting from or in any way related to earth movement, instability, erosion, expansion, contraction, earth or rockslides, or any other geotechnical phenomenon, whether caused by natural or man-made factors. Each Owner and Occupant assumes all risk associated with the use and enjoyment of their Lot, a Residence, and the Project, and the Association shall not be responsible for any loss, injury, or damage arising from such use or enjoyment. The foregoing is intended for the benefit of the Declarant and the Association only and not intended to preclude any private cause of action between Owners, should liability exist between Owners.

ARTICLE V. BUDGET AND ASSESSMENTS

5.1. **Annual Budget**. The Board shall prepare and adopt an annual budget for the Association. The annual budget shall provide, without limitation, for the maintenance of the Common Areas and for the administration, management, and operation of the Association. The Board may revise the budget from time to time as the Board deems appropriate. If the Board fails to adopt an annual budget, the last adopted budget shall continue in effect until a new annual budget is adopted. The budget shall be made available to requesting Owners within thirty (30) days after adoption. Owners may not disapprove a budget during the Period

of Declarant Control.

(a) Benefitted Area Expenses. If one or more Benefitted Areas are designated, then the budget shall track and estimate the expenses associated with each Benefitted Area separately from Common Expenses in order to allocate these expenses as set forth in Section 5.7. "Benefitted Area Expenses" shall include the actual and estimated expenses incurred or to be incurred by the Association for the benefit of the Lots within each Benefitted Area which may include snow removal, landscaping, construction, insurance, maintenance, and repair and replacement of Common Area facilities appurtenant to the Benefitted Area, structures, and adjacent areas. If the Benefitted Area responsibilities require the maintenance or repair of long-term Common Area facilities, then the Benefitted Area Expenses shall include contributions to a reserve fund for the repair and replacement of such facilities. Benefitted Area reserves shall be accounted for and kept separate from the Association's other reserve funds. Separate accounting and financial reporting shall be maintained for each Benefitted Area.

5.2. **Covenant to Pay Assessments**. Each Owner of a Lot by the acceptance of a deed therefore, whether or not it be so expressed in the deed, hereby covenants and agrees with each other and with the Association to pay to the Association all Assessments, including without limitation, all Regular, Benefitted Area, Special, and Individual Assessments described below, and other fees, charges, levies, and fines as may be provided in the Governing Documents.

5.3. **Purpose of Assessments**. Assessments levied by the Association shall be used for the purpose of promoting the health, safety, and welfare of residents of the Project, including but not limited to the appearance and aesthetics of the Project. The use made by the Association of funds obtained from Assessments may include, but is not limited to: payment of the cost of taxes and insurance on the Common Areas; maintenance, repair, and improvement of the Common Areas; property insurance on attached Residences; establishing and funding a reserve to cover major repair or replacement of improvements within the Common Areas; building exterior maintenance costs; shared utility and bulk service fees; and any expenses necessary or desirable to enable the Association to perform or fulfill its obligations, functions, or purposes under the Governing Documents.

5.4. **Declarant Assessment Exemption**. Anything contained in the Governing Documents to the contrary notwithstanding, the Declarant shall not be obligated to pay Assessments on any Lot owned by it until such time as the Declarant elects in writing to pay Assessments, and only for so long as the Declarant elects to pay Assessments. In addition, the Declarant may exempt Lots owned by Declarant affiliates from the payment of Assessments during the Period of Declarant Control, in the Declarant's sole discretion.

5.5. **Regular Assessments**. Regular Assessments shall be made on a calendar year basis based on each Owner's equally allocated portion of the budget. The Board shall give written notice of each Regular Assessment not less than fifteen (15) days prior to the beginning of the next calendar year. Each Regular Assessment shall be due and payable in monthly or quarterly installments on dates established by the Board. At least fifteen (15) days prior to the effective date of any change in the amount of the Regular Assessment, the Association shall give each Owner written notice of the new amount.

5.6. **Benefitted Area Assessment**. Benefitted Area Assessments shall be paid by all Lots within a designated Benefitted Area that are subject to assessment in addition to the Regular Assessment. The amount of the Benefitted Area Assessment shall be determined by equally allocating the budgeted Benefitted Area Expenses to all Lots within the Benefitted Area. At no time shall a Benefitted Area Assessment be charged or assessed to Lots outside of the designated Benefitted Area. The amounts the Association collects as Benefitted Area Assessments shall be held in trust for and expended solely for the benefit of the Lots from which they were collected.

5.7. **Special Assessments**. The Board may levy a Special Assessment payable over such a period as the Board may determine for the purpose of defraying, in whole or in part any expense or expenses not reasonably capable of being fully paid with funds generated by Regular Assessments; the cost of any construction, reconstruction, or unexpected repair or replacement of the Common Areas; or for any other expense incurred or to be incurred as provided in this Declaration. Special Assessments over one-thousand dollars ($1,000) in a calendar year must be approved and assented to by a majority of the Members present in person or by proxy at a meeting duly called for such purpose. Notice in writing of the amount of any Special Assessments and the time for their payment shall be given as soon as is reasonably possible to the Owners. Payment shall be due on the dates and in the manner determined by the Board and provided in the notice. Notwithstanding the foregoing, Declarant may levy Special Assessments in any amount deemed necessary during the Period of Declarant Control without Owner approval.

5.8. **Individual Assessments**. The Board may also levy Individual Assessments against a Lot and its Owner for: (a) administrative costs and expenses incurred by the Board in enforcing the Governing Documents against the Owner or its Occupants; (b) costs associated with the maintenance, repair, or replacement of Common Areas caused by the neglect or actions of an Owner or its Occupants; (c) any other charge, fine, fee, expense, or cost designated as an Individual Assessment in the Governing Documents or by the Board, including, without limitation, action taken to bring a Residence and its Owner into compliance with the Governing Documents; (d) nonpayment of a Reinvestment Fee; (e) costs of providing services to the Lot upon request of the Owner; and (f) attorney fees, court or collection costs, fines, and other charges relating to any of the foregoing, regardless of whether a lawsuit is filed. In addition, Individual Assessments may be levied against a Lot and its Owner specifically benefited by any improvements to adjacent roads, sidewalks, planting areas or other portions of the Common Areas made on the written request of the Owner of the Lot to be charged. The aggregate amount of any such Individual Assessments shall be determined by the cost of such improvements, repairs, maintenance, or enforcement action, including all overhead and administrative costs and attorney fees, and shall be allocated among the affected Lots according to the special benefit or cause of damage or maintenance or repair work or enforcement action, as the case may be. Individual Assessments may be levied in advance of the performance of the work. If a special benefit arises from any improvement which is part of the general maintenance obligations of the Association, it shall not give rise to an Individual Assessment against the Lot(s) benefited, unless such work was necessitated by the Owner's or the Occupants' negligence.

5.9. **Allocation of Assessments**. Regular and Special Assessments shall be fixed

at an equal uniform rate for all Lots, unless otherwise provided in the Governing Documents. Benefitted Area Assessments shall be fixed at an equal rate for all benefitted Lots. Individual Assessments shall be allocated separately to each Lot based on the costs incurred by the Association.

5.10. **Application of Excess Assessments**. In the event the amount budgeted to meet Common Expenses for a particular fiscal year proves to be excessive in light of the actual Common Expenses, the Board in its discretion may apply the excess to reserves, credit the excess against future Assessments, or pay the excess to the Owners, as the Board deems appropriate. The decision of the Board shall be binding and conclusive. In addition, the Association shall not be obligated to reduce the amount of Assessments in succeeding years if an excess exists for a prior year.

5.11. **No Offsets**. All Assessments shall be payable in the amount specified by the Assessment and no offsets against such amount or withholding of any amount shall be permitted for any reason, including, without limitation, non-use or limited use of a Residence or Common Area, a claim that the Association owes the Owner money, or that the Association is not properly exercising its duties and powers as provided in this Declaration.

5.12. **Certificate Regarding Payment**. Upon the request of an Owner, prospective purchaser, Mortgagee, or encumbrancer of a Lot, the Association shall issue a certificate stating whether or not all Assessments respecting such Lot are current and, if not, the amount of the delinquency. Such certificate shall be conclusive in favor of all persons who in good faith rely thereon. The Association may charge the requesting Owner, prospective purchaser, Mortgagee, or encumbrancer of a Lot a reasonable fee as permitted in the Act.

5.13. **Personal Obligation and Lien**. All Assessments, together with any interest, late fees, collection costs, and attorney fees shall constitute and remain: (a) a charge and continuing lien upon the Lot with respect to which such Assessment is made pursuant to Utah Code § 57-8a-301; and (b) the personal obligation of the person who is the Owner of such Lot at the time the Assessment falls due. No Owner may exempt themselves or their Lot from liability for payment of Assessments by waiver of their rights concerning the Common Areas or by abandonment of a Lot. In a voluntary conveyance of a Lot, the grantee shall be jointly and severally liable with the grantor for all such unpaid Assessments, late payment fees, interest, and costs of collection, including reasonable attorneys' fees, which shall be a charge on the Lot at the time of the conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefore.

5.14. **Billing and Collection Procedures**. The Board shall have the right to adopt Rules or a Board resolution setting forth procedures for the billing and collection of Assessments, provided that such procedures are not inconsistent with the provisions hereof. The failure of the Association to send an invoice to an Owner shall not relieve any Owner of liability for any Assessment or charge under this Declaration, but the Assessment lien therefore shall not be foreclosed or otherwise enforced until the Owner has been given not less than thirty (30) days written notice prior to such foreclosure or enforcement, at the address of the Owner on the records of the Association, of the Assessment or installment and of the amount owing. Such notice may be given at any time prior to or after delinquency of such payment. A copy of such notice may also be provided to the Occupant(s) of the

Residence if the Owner does not reside in the Project. Unless otherwise provided for in the Rules or Board resolution, all payments for Assessments shall be applied to the earliest (or oldest) charges first. Owners shall have no right to direct the application of their payments on Assessments or to require application of payments in any specific order, to specific charges, or in specific amounts. The Association may charge collection fees to Owners that are charged by the Manager.

5.15. **Due Date and Delinquency**. Assessments shall be paid in a timely manner. Payments are due in advance on the first day of the month or the first day of such other period established for the payment of Assessments. Payments are delinquent if received more than ten (10) days from the date that they became due. Whenever an Assessment is delinquent, the Board may at its option invoke any one or more options or all of the sanctions granted in this Article or the Act.

5.16. **Collection Charges**. If the Association does not otherwise adopt or establish billing and collection procedures in the Rules or Board resolution, the following shall apply. Delinquent accounts shall be charged a twenty-five dollar ($25.00) late fee each month until the Owner's account (including all collection charges, costs, and attorneys' fees) is paid in full. Interest shall accrue on all unpaid balances at the rate of eighteen percent (18%) per annum. Collection charges, interest, and/or late fees shall constitute part of the Assessment lien provided above until paid. The Association may also assess to the Owner a collection charge, late fee, and any other reasonable fee charged by a Manager related to collections.

5.17. **Collection Action at Law**. The Association may exercise any or all of the following remedies to collect delinquent Assessments:

(a) The Association may suspend such Owner's voting rights.

(b) The Association shall have a lien against each Lot for any Assessment levied against the Lot and any fines or other charges imposed under the Governing Documents against the Owner of the Lot from the date on which the Assessment, fine, or charge is due. This lien shall arise and be perfected as of the date of the recording of this Declaration. At any time, any Assessment or installment thereof is delinquent, the Association, by and through its Board or any Manager, may file a notice of lien in the deed records of Weber County against the Lot with respect to which the delinquency pertains. Once filed, such lien shall accumulate all future Assessments or installments, interest, late fees, penalties, fines, attorney fees, and other appropriate costs properly chargeable to an Owner by the Association, until such amounts are fully paid. Said lien may be foreclosed at any time as allowed by law. The lien of the Association shall be superior to all other liens and encumbrances except: a lien or encumbrance recorded before the original Declaration was recorded; a first or second security interest on the Lot secured by a Mortgage or trust deed that is recorded before the Association's notice of lien; or a lien for real estate taxes or other governmental assessments against the Lot. The Association through its duly authorized agents, may bid on the Lot at any foreclosure sale, and may acquire and hold, lease, mortgage, and convey the Lot.

(c) The Association may bring an action to recover a money judgment for unpaid Assessments, fines, and charges under this Declaration against an Owner without foreclosing or waiving the lien described above. Recovery on any such action, however,

shall operate to satisfy the lien, or the portion thereof, for which recovery is made.

(d) If the delinquent Owner is leasing a Lot or any portion thereof, the Board may, at its option, so long as such default shall continue, demand and receive from any tenant of the Owner the rent due or becoming due and the payment of such rent to the Board shall discharge such tenant for rent due, and shall discharge the Owner for such Assessments to the extent of the amount so paid.

(e) The Association may terminate utilities paid out of the Common Expense and the right to use the Common Areas.

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

(g) The Association shall have any other remedy available to it whether provided in the Governing Documents, the Act, or other law or in equity.

5.18. **Power of Sale**. The Association shall have all rights of foreclosure granted by the Act, both judicially and non-judicially. Pursuant to Utah Code §§ 57-1-20 and 57-8a-302, an Owner's acceptance of an interest in a Lot constitutes a simultaneous conveyance of the Lot in trust, with power of sale, to the Association's attorney of record, as trustee, for the benefit of the Association, for the purpose of securing payment of Assessments under the terms of this Declaration and the Act. The Association may appoint a qualified successor trustee by executing and recording a substitution of trustee form.

5.19. **Reserve Account**. The Board shall establish a reserve account to fund long-term maintenance of Common Areas. The Board shall follow any statutory requirement to conduct a reserve analysis and utilize such reserve analysis in making decisions regarding the funding of a reserve account. The Board shall not be personally liable for failure to fund the reserve account unless willful or intentional misconduct is proven in a court of law. Notwithstanding the foregoing, such reserve fund duties and obligations shall not apply to the Association and Board during the Period of Declarant Control.

5.20. **Reinvestment Fee Covenant**. A perpetual Reinvestment Fee Covenant is hereby established that obligates all Transferees of Lots to pay the Association a fee that benefits the Lot and Project. The Board shall have the right to establish the Reinvestment Fee assessment amount in accordance with this Section and Utah Code § 57-1-46. The following terms shall govern Reinvestment Fees:

(a) Upon the occurrence of any sale, transfer, or conveyance of any Lot as reflected in the office of the County recorder, regardless of whether it is pursuant to the sale of the Lot or not (as applicable, a "Transfer"), the Person receiving title to the Lot (the "Transferee") shall pay to the Association a Reinvestment Fee in an amount to be established by the Board in the Rules or Board resolution, provided that in no event shall the Reinvestment Fee exceed the maximum rate permitted by law.

(b) The amount of the Reinvestment Fee shall be established by the Board in the Rules or through a Board resolution and amounts may differ based on Lot type.

(c) The Association shall not levy or collect a Reinvestment Fee for any Transfer exempted under Utah Code § 57-1-46(8).

(d) All transfers of Lots from Declarant to a Declarant related Person shall be

exempt from a Reinvestment Fee. The Declarant shall have the sole discretion to determine whether such Transferee is a related Person and if a Reinvestment Fee applies.

5.21. **Account Payoff Fees**. The Association may charge a fee for providing Association payoff information needed in connection with financing, refinancing, or closing of the sale of a Lot as provided for in Utah Code § 57-8a-106. The amount of such fee shall be fifty dollars ($50.00) or as otherwise established in the Rules. Additional paperwork required in a private sale between an Owner and purchaser may be obtained from the Association but may incur additional fees.

5.22 **Association Responsibility after Foreclosure**. If the Association takes title to a Lot pursuant to a foreclosure (judicial or non-judicial), it shall not be bound by any of the provisions related to the Lot that are otherwise applicable to any other Owner, including but not limited to obligations to pay assessments, taxes, or insurance, or to maintain the Lot. By taking a security interest in any Lot governed by this Declaration, Mortgagees cannot make any claim against the Association for nonpayment of taxes, Assessments, or other costs and fees associated with any Lot if the Association takes title to a Lot related to a failure to pay Assessments.

5.23 **Homestead Waiver**. Pursuant to Utah Code § 57-8a-301, and to the extent any liens are created pursuant to this Declaration, whether such liens are now in existence or are created at any time in the future, each Owner waives the benefit or priority of any homestead or exemption laws of the State of Utah now in effect, or in effect from time to time hereafter.

ARTICLE VI. DUTIES AND POWERS OF THE ASSOCIATION

6.1. **Organization of Association**. The Association shall serve as the governing body for all Owners. The Association shall make provisions for the maintenance, repair, replacement, administration, and operation of the Common Area and Common Expenses, and other matters as provided in the Act, this Declaration, and the Bylaws. The Association shall have all rights and powers granted to it under the Act and in this Declaration, the Articles, and the Bylaws. The Association shall not be deemed to be conducting a business of any kind, and all funds received by the Association shall be held and applied by it for the Owners in accordance with this Declaration, the Articles, and the Bylaws. Except as specifically authorized in this Declaration, the Articles, or the Bylaws, no Owner or group of Owners shall have authority to take any action on behalf of the Owners, the Association, or the Board of Directors.

6.2. **Legal Organization**. The Association is intended to be incorporated as a nonprofit corporation. In the event the nonprofit corporate status expires or is invalidated in any manner, it shall automatically be succeeded by an unincorporated association of the same name vested with all property, powers and obligations of the nonprofit corporation and the Board of Directors, in its sole discretion, may renew and/or reincorporate the Association. Any such expiration or invalidation shall not relieve any Owner from paying Assessments and abiding by all Restrictions contained in this Declaration.

6.3. **General Powers and Obligations**. The Association shall have, exercise and perform all of the following powers, duties, and obligations:

(a) The powers, duties, and obligations granted to the Association by this Declaration, its Bylaws, and the Articles of Incorporation;

(b) The powers and obligations of a nonprofit corporation pursuant to the general nonprofit corporation laws of the State of Utah;

(c) The powers, duties, and obligations of a homeowners association pursuant to the Utah Community Association Act, or any successor thereto;

(d) The powers, duties, and obligations not reserved specifically to Owners; and

(e) Any additional or different powers, duties, and obligations necessary or desirable for the purpose of carrying out the functions of the Association pursuant to the Governing Documents or otherwise promoting the general benefit of the Owners within the Project.

The powers and obligations of the Association may from time to time be amended, repealed, enlarged, or restricted by changes in this Declaration made in accordance with the provisions herein, accompanied by any necessary changes in the Articles of Incorporation or Bylaws of the Association made in accordance with such instruments and with the nonprofit corporation laws of the State of Utah.

6.4. **Specific Powers and Duties**. The powers and duties of the Association shall include, without limitation, the following:

(a) **Maintenance and Services.** The Association shall provide maintenance and services for the Project as provided in Article VII and other provisions of this Declaration.

(b) **Insurance.** The Association shall obtain and maintain in force policies of insurance as provided in this Declaration or the Act. The Association shall have no obligation to obtain or maintain any insurance covering the personal and real property of any Owner(s), and each Owner shall be responsible for obtaining and maintaining such personal and real property insurance.

(c) **Rulemaking.** The Association, through its Board of Directors, shall make, establish, promulgate, amend, and repeal Rules governing the conduct of persons and the operation and use of the Project as it may deem necessary or appropriate in order to assure a clean, aesthetically pleasing, peaceful, and orderly use and enjoyment of the Project. Pursuant to Utah Code § 57-8a-218(20), the requirements of Utah Code §§ 57-8a-218(1), (2), (6), and (8) through (14), except subsection (1)(b)(ii), are hereby modified to not apply to the Association. During the Period of Declarant Control, the Declarant and the Declarant appointed Board (if any) shall be exempt from the rulemaking procedures of Utah Code § 57-8a-217.

(d) **Assessments.** The Association shall adopt budgets and impose and collect Assessments as provided in Article V of this Declaration.

(e) **Enforcement.** The Association shall perform such acts, whether or not expressly authorized by this Declaration, as may be reasonably necessary to enforce the provisions of the Governing Documents of the Association including the assessment of fines, remedial action as permitted in the Governing Documents, or legal action. The Association may assess fines to Owners, Occupants, or their guests for violations of the

Governing Documents in accordance with the provisions of the Governing Documents and the Act and Owners, Occupants, guests, and family members shall be jointly and severally liable for any fines incurred for violations of the Governing Documents.

(f) **Title to Common Areas**. The Association may hold title to Common Areas conveyed to it, and pay all real property taxes and assessments levied upon any portion of the Common Areas, unless paid by the Owners, provided that the Association shall have the right to contest or compromise any such taxes or assessments. Declarant shall have all rights and voting authority to unilaterally approve the transfer of title to Common Area on behalf of the Association during the Period of Declarant Control. After the Period of Declarant Control, upon approval of sixty-seven percent (67%) or more of the total voting interests, the Board shall have the authority to transfer title to Common Area real property owned by the Association to governmental entities for public use, or to individual third parties for private use.

(g) **Employment of Agents, Advisers, and Contractors.** The Association may employ the services of any person or corporation as managers, hire employees to manage, conduct, and perform the business, obligations, and duties of the Association, employ professional counsel and obtain advice from such persons or firms or corporations such as, but not limited to, community association managers, landscape architects, accountants, recreational experts, architects, planners, lawyers, reserve study specialists, or what is convenient for the management, maintenance, and operation of the Project. The Board has no authority to enter into a management agreement or contract inconsistent with the terms of the Governing Documents or that provides for a termination fee or requirement for termination for cause.

(h) **Litigation.** The Board may instigate litigation to enforce the provisions of this Declaration or any other common law or statutory right which the Association is granted subject to the limitations set forth in Article XV.

(i) **Bulk Service Agreements**. The Association shall have the right to enter agreements, as the Board deems appropriate, for the provision of cable, television, internet, telephone, or other similar services for all of the Lots or groups of Lots. Such services shall be assessed to the Owners pursuant to the provisions of this Declaration and in any Assessment, may be broken out as a separate line item on invoices, statements, or notices of Assessment.

(j) **Loans**. The Association shall have the authority to obtain loans for the efficient operation of the Association and may use Common Area and other assets of the Association as collateral for financing. A majority vote of the Board shall be required prior to obtaining any loan.

(k) **Joint Use/Cost Sharing/Easement Agreements.** The Association shall have the right to enter agreements and/or easements for the use, maintenance, repair, and replacement of improvements or facilities which use may be shared with other homeowners associations or other property owners, or which may be located on land outside of the Project. The shared facilities and improvements appurtenant to the agreements may be located within or outside the Project. Each Owner hereby consents and agrees that the Association shall have the authority to record any Joint Use

Agreements it enters into against each Lot within the Project.

6.5. **Liability.** Board Members and officers of the Association shall not be liable to the Association or to any Member thereof for any damage, loss, or prejudice suffered or claimed on account of any action or failure to act in the performance of their duties, except for intentional or willful misconduct. If a Board Member or any officer of the Association is made a party to any proceeding because the individual is or was a Board Member or officer of the Association, the Association shall defend, indemnify, and hold harmless such individual against liability and expenses incurred to the maximum extent permitted by law, except where the Board Member or officer is found by a court of law to have engaged in willful or intentional misconduct in carrying out their duties.

6.6. **Board of Directors**. The governing body of the Association shall be the Board of Directors. Except where a matter or vote is specifically reserved to the Owners, the Board shall act in all instances on behalf of the Association. Board Members shall be elected pursuant to the provisions set forth in the Bylaws. The Bylaws may set forth requirements for serving on the Board.

Notwithstanding the foregoing, during the Period of Declarant Control, the Declarant shall have the sole authority to act as the Board of Directors, or to appoint Board Members. Declarant appointed Board Members shall not be bound by the qualification requirements in the Bylaws.

6.7. **Board Indemnification**. Each past and present Board Member (including the Declarant and its appointees) shall be entitled to defense and indemnification to the fullest extent permitted by the Utah Revised Nonprofit Corporation Act. The right of any Person to be indemnified shall be subject always to the right of the Association by the Board, in lieu of such indemnity, to settle any claim, action, suit, or proceeding at the expense of the Association by the payment of the amount of such settlement and the costs and expenses incurred in connection therewith.

6.8. **Records**. Owners shall have the right to inspect Association Records within a reasonable time following an Owner's request. "Association Records" are limited to the following documents and information: (a) Declaration, (b) Bylaws, (c) Articles of Incorporation, (d) minutes of Owner meetings and Board meetings, (e) most recent approved budget, (f) a record of all actions taken by Owners or the Board without a meeting, (g) a record of all actions taken by a committee of the Board in place of the Board, (h) a record of all waivers of notices for Owner meetings and Board meetings, (i) a list of all Owners in alphabetical order showing their address and the number of votes each Owner is entitled, (j) all resolutions adopted by the Board currently in effect, (k) all written communications to Owners generally as Members for a period of three years, (l) a list of Board member names and addresses, (m) a copy of the most recent annual report delivered to the State, (n) all annual financial statements (balance sheet and profit and loss statement) of the Association for the past three years, and (o) the most recent reserve analysis. Association Records shall specifically exclude emails, texts, phone calls, writings, and personal communications between Board Members or Owners. The Board shall have the power and discretion to determine what documents or information are considered Association Records if there is a dispute over the definitions or language provided in this Section. The Association shall have no duty to keep,

maintain, produce, or permit inspection of any documents, draft documents, electronic files, or other information not explicitly identified in Utah Code §§ 57-8a-227(1)(a)(ii) and 16-6a-1601. The Board shall have the sole discretion to determine the format in which documents and records are kept. The Association may redact any private, privileged, or sensitive information from Association Records produced herein, in the Board's discretion. The Association may provide additional information or documents to Owners not identified as Association Records herein, in the Board's discretion. The Association may make Association Records available via a website or internet link, and if so provided, then the Association shall have met its record inspection obligations set forth in this Section or other applicable law for all such documents posted thereon.

6.9. **Registration with the State**. In compliance with Utah Code § 57-8a-105, the Association shall be registered with the Utah Department of Commerce and shall update its registration to keep any required information current as required by law.

6.10. **Registered Agent**. The Registered Agent of the Association shall be as provided in the entity filings with the Utah State Department of Commerce, Division of Corporations and Commercial Code. The Board may change the Registered Agent without Owner vote or approval.

6.11. **Management**. The Project may be managed by a professional manager, selected by the Declarant, or upon the termination of the Period of Declarant Control, shall be selected by the Board to assist in the management and operation of the Project. The Board may delegate such of its powers and duties to the Manager as it deems appropriate; reserving the right, however, to control and oversee the administration thereof. Any powers and duties delegated to any Manager may be revoked by the Board at any time, with or without cause. Following the Period of Declarant Control, the Board shall have the option to either renew the contract with the Declarant selected Manager or hire a different Manager.

ARTICLE VII. MAINTENANCE

7.1. **Association Maintenance**. The Association shall maintain, repair, and replace the Common Areas together with all improvements thereon and all easements appurtenant to the Common Area including, but not limited to, common landscaped areas, storm water facilities, clubhouse, pickleball courts, private utility lines owned or controlled by the Association that serve more than one Residence, private roadways (if any), and personal property owned by the Association. The Association shall have no responsibility to maintain or repair the public streets within the Project or any utility lines controlled by a municipality or utility service provider. The maintenance allocations provided in this Article shall clarify, expand upon, and supersede any maintenance provisions contained in the Plat or other Governing Documents. The Board, in its sole discretion, shall determine the maintenance standard of the Common Areas. The Association shall have no obligation to perform any maintenance and/or repair of any part of a Lot, Residence, or any other landscaping installed by an Owner without the Association's express agreement for such maintenance.

A maintenance allocation chart has been attached hereto as Exhibit C, which further defines and clarifies Association and Owner maintenance, repair, and replacement responsibilities. If there is a conflict between the maintenance allocations set forth in this Article and Exhibit C,

then the allocations set forth in Exhibit C shall control. The Board may adopt a resolution to clarify or allocate maintenance responsibilities within the Project as the Board deems necessary, which may alter or expand the allocations set forth in this Section.

7.2. **Owner Maintenance – Detached Residences**. The Owner of each Lot containing a detached Residence shall have the obligation to provide interior and exterior maintenance of their Lot, Residence, and Limited Common Areas including but not limited to the maintenance, repair, and replacement of driveways, structural elements of the Residence, exterior walls, foundations, roofs, gutters, down spouts, soffits, fascia, interior walls, windows, doors, landscaping, and utility lines that service the Lot or Residence. Each Owner shall paint, repair, and otherwise maintain the exterior of its Residence in compliance with Association standards and shall maintain, repair, and replace all appurtenant mechanical devices, including but not limited to, electrical, plumbing, and heating, ventilating and air conditioning systems. Each Owner shall be responsible for performing all snow removal on the sidewalks and driveways located on their Lot or Limited Common Area.

Owners shall be responsible to maintain, repair, and replace fences which mark the boundaries of their Lots (if any). When such non-perimeter fences serve, benefit, or otherwise mark a boundary of two or more Lots, the responsibility and cost to maintain, repair, and replace the shared portion of such fences shall be borne pro rata by all Owners bounded thereby.

7.5. **Owner Maintenance Neglect**. The Association shall have the power and authority, without liability to any Owner for trespass, damage, or otherwise, to enter upon any Lot for the purpose of maintaining and repairing such Lot or any improvement thereon; but only if the Owner fails to maintain and repair such Lot, Residence, or improvement, or for the purpose of removing any improvement constructed, reconstructed, refinished, altered or maintained upon such Lot in violation of this Declaration or any Rules of the Association. The Board shall have the sole authority and discretion to decide whether an Owner has failed to meet its maintenance obligations. Except as necessary to prevent personal injury or property damage in an emergency, the Association shall first provide reasonable notice and an opportunity to cure before exercising the power granted herein. All costs incurred by the Association in remedying Owner maintenance neglect shall be an Individual Assessment against the Owner's Lot.

The Association shall also have the power and authority from time to time in its own name, on its own behalf, or in the name and behalf of any Owner or Owners who consent thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of this Declaration or any Rules promulgated by the Board, or to enforce by mandatory injunction or otherwise all the provisions of this Declaration and such Rules.

7.6. **Maintenance Caused by Owner Negligence**. If the need for maintenance or repair of Common Areas or Limited Common Areas is caused through the willful or negligent acts of an Owner, an Occupant, or through the willful or negligent acts of the family, guests, tenants, or invitees of an Owner, the Board may cause such repairs to be made by the Association and the cost of such maintenance or repair work shall be added to and become an Individual Assessment to which such Lot is subject.

7.7. **Board Discretion to Determine Maintenance Responsibilities**. In the event a

maintenance obligation is not outlined herein, or confusion arises as to a maintenance obligation, the Board may, by resolution and in its sole discretion, determine whether the Association or the Owners shall have the responsibility to fulfill the maintenance obligation.

7.8. **Utilities**. The charges for utilities that are metered separately to each Lot or Residence shall be the responsibility of the respective Lot Owner. In the event water, electrical, sewer, or other utilities are metered collectively for the Project, or metered separately for Common Areas, then the Association shall be responsible for paying for such utility costs as a Common Expense, or Benefitted Area Expense as applicable.

ARTICLE VIII. INSURANCE

NOTICE: The Association's Insurance Policy does not cover the personal property or personal liability of the Owners or their Occupants. Owners and Occupants (including tenants or renters) are required to obtain adequate insurance to cover their personal property and personal liability.

8.1. **Insurance**. The Board shall obtain insurance as required in this Declaration, the Act, or other applicable laws. The Association may obtain insurance that provides more or additional coverage than the insurance required in this Declaration. Different policies may be obtained from different insurance carriers and standalone policies may be purchased instead of, or in addition to, embedded, included coverage, or endorsements to other policies. General insurance premiums shall be a Common Expense.

8.2. **Property Insurance**.

(a) The Association shall maintain a blanket policy of property insurance covering the Project, including the Common Area and all buildings that include attached Residences along with their fixtures and building services equipment as provided in the Act. The Association may maintain broader coverage if afforded by the insurance contract.

(i) The blanket policy shall exclude land and other items not normally and reasonably covered by such policies. The blanket policy shall be an "all in" or "all inclusive" insurance as those terms are used in the insurance industry and shall include insurance for any fixture, improvement, or betterment installed in or to the Residence or any Limited Common Areas or otherwise permanently part of or affixed to Common Areas, Residences, or Limited Common Areas, including but not limited to floor coverings, cabinets, light fixtures, electrical fixtures, heating and plumbing fixtures, paint, wall coverings, windows.

(ii) At a minimum, the blanket policy shall afford protection against loss or damage by: (1) fire, windstorm, hail, riot, aircraft, vehicles, vandalism, smoke, and theft; and (2) all perils normally covered by "special form" property coverage.

(iii) The blanket policy shall be in an amount not less than one hundred percent (100%) of current replacement cost of all property covered by such policy (including the Residences) at the time the insurance is purchased and at each renewal date. The actual replacement cost of the property shall be determined by using methods generally accepted in the insurance industry.

(iv) The blanket policy shall include either of the following endorsements to assure full insurable value replacement cost coverage: (1) a Guaranteed Replacement Cost Endorsement under which the insurer agrees to replace the insurable property regardless of the cost; and (2) a Replacement Cost Endorsement under which the insurer agrees to pay up to one hundred percent (100%) of the Property's insurable replacement cost but not more. If the policy includes a coinsurance clause, it must include an Agreed Amount Endorsement which must waive or eliminate the requirement for coinsurance.

(v) Each property policy that the Association is required to maintain shall also contain or provide for the following: (i) "Inflation Guard Endorsement," if available, (ii) "Building Ordinance or Law Endorsement," (the endorsement must provide for contingent liability from the operation of building laws, demolition costs, and increased costs of reconstruction), and (iii) "Equipment Breakdown," if the project has central heating or cooling or other equipment or other applicable fixtures, equipment, or installation, which shall provide that the insurer's minimum liability per accident at least equals the lesser of two million dollars ($2,000,000) or the insurable value of the building containing the equipment.

(b) **Owner Responsibility for Payment of Deductible**. If a loss occurs that is covered by a property insurance policy in the name of the Association and another property insurance policy in the name of an Owner, then:

(i) The Association's policy provides primary insurance coverage, and:

1) the Owner is responsible for the Association's policy deductible; and
2) the Owner's policy, if any, applies to that portion of the loss attributable to the Association's policy deductible.

(ii) An Owner that has suffered damage to any combination of a Residence or a Limited Common Area appurtenant to a Residence ("Residence Damage") as part of a loss, resulting from a single event or occurrence, that is covered by the Association's property insurance policy ("a Covered Loss") is responsible for an amount calculated by applying the percentage of total damage resulting in a Covered Loss that is attributable to Residence Damage ("Residence Damage Percentage") for that Residence to the amount of the deductible under the Association's property insurance policy; and

(iii) If an Owner does not pay the amount required under this Subsection within 30 days after substantial completion of the repairs to, as applicable, the Residence or the Limited Common Area appurtenant to the Residence, the Association may levy an assessment against the Owner for that amount.

(c) **Claims Under the Deductible**. If, in the exercise of its business judgment, the Board determines that a claim is likely not to exceed the Association's policy deductible: (a) the Owner's policy is considered the policy for primary coverage to the amount of the Association's policy deductible; (b) an Owner who does not have a policy to cover the Association's property insurance policy deductible is responsible for the loss to the amount of the Association's policy deductible; and (c) the Association need not tender the claim to the Association's insurer.

(d) **Deductible Notice**. The Association shall provide notice to each Owner of the Owner's obligation under Subsection (2) above for the Association's policy deductible and of any change in the amount of the deductible. If the Association fails to provide notice of the initial deductible, it shall be responsible for the entire deductible in case of any loss. If the Association fails to provide notice of any increase in the deductible, it shall be responsible for paying any increased amount that would otherwise have been assessed to the Owner. The failure to provide notice shall not invalidate or affect any other provision in this Declaration.

(e) **Owner Insurance Responsibility**. The Association shall have no obligation to obtain or maintain any insurance covering Owners' personal and real property, and each Owner shall be responsible for obtaining and maintaining such personal and real property insurance.

8.3. **Comprehensive General Liability (CGL) Insurance.** The Association shall obtain CGL insurance insuring the Association, the agents and employees of the Association, and the Owners, against liability incident to the use, ownership or maintenance of the Common Area or membership in the Association. The coverage limits under such policy shall not be less than two million dollars ($2,000,000) covering all claims for death of or injury to any one person or property damage in any single occurrence. Such insurance shall contain a Severability of Interest Endorsement or equivalent coverage which should preclude the insurer from denying the claim of an Owner because of the negligence acts of the Association or another Owner.

8.4. **Director's and Officer's Insurance**. The Association shall obtain Directors' and Officers' liability insurance protecting the Declarant, the Board, the officers, and the Association against claims of wrongful acts and mismanagement. To the extent reasonably available, this policy shall include coverage for: (1) failure to maintain adequate reserves, (2) failure to maintain books and records, (3) failure to enforce the Governing Documents, (4) breach of contract, (5) volunteers and employees, (6) monetary and non-monetary claims, (7) claims made under fair housing act or similar statutes or that are based on discrimination or civil rights claims, and (8) defamation. In the discretion of the Board, the policy may also include coverage for the Manager and its employees and may provide that such coverage is secondary to any other policy that covers the Manager or its employees.

8.5. **Theft and Embezzlement Insurance**. The Association may obtain insurance covering the theft or embezzlement of funds by Board Members, officers, employees, Manager, and contractors of the Association in the discretion of the Board.

8.6. **Workers' Compensation Insurance**. The Association shall purchase and maintain in effect workers' compensation insurance for all employees of the Association to the extent that such insurance is required by law and as the Board deems appropriate.

8.7. **Other Insurance**. The Association may purchase earthquake, flood, or other types of insurance that may benefit the Project, as the Board deems appropriate.

8.8. **Certificates**. Any insurer that has issued an insurance policy to the Association shall issue a certificate of insurance to the Association, and upon written request, to any Owner or Mortgagee.

8.9. **Named Insured**. The named insured under any policy of insurance shall be the

Association. Each Owner shall also be a named insured under the Association's insurance policies as required by law. The Declarant shall be listed by name as an additional insured under any and all policies of insurance during the Period of Declarant Control.

8.10. **Owner Insurance**. Each Owner shall be responsible to purchase and maintain in force appropriate hazard, content, property, and liability insurance as such Owner shall determine to be appropriate to the Owner's needs, Residence, personal property, and circumstances. The Association is not required to file claims on any of its policies for any damage or liability claim that either should or would have been covered under any Owner's policy.

8.11. **Right to Negotiate Claims & Receive Proceeds**. Insurance proceeds for a loss under the Association's property insurance policy are payable to the Association, and shall not be payable to a holder of a security interest. The Association shall hold any insurance proceeds in trust for the Association, Owners, and lien holders. Insurance proceeds shall be disbursed first for the repair or restoration of the damaged property. After repair or restoration is complete, any remaining proceeds shall be paid to the Association. If the property is not to be repaired or restored, or if there are remaining proceeds after repairs have been paid for, the remaining proceeds may be distributed to the Owners or may be held as credits in accordance with each Owner's interest in the Association. Each Owner hereby appoints the Association as attorney-in-fact for negotiating all losses related thereto, including the collection, receipt of, and appropriate disposition of all insurance proceeds; the execution of releases of liability; and the execution of all documents and the performance of all other acts necessary to administer such insurance and any claim. This power-of-attorney is coupled with an interest, shall be irrevocable, and shall be binding on any heirs, personal representatives, successors, or assigns of the Owner.

8.12. **Owner Act Cannot Void Coverage Under Any Policy**. Unless an Owner is acting within the scope of the Owner's authority on behalf of the Association and under direct authorization of the Association, an Owner's act or omission may not void an insurance policy or be a condition to recovery under a policy.

8.13. **Waiver of Subrogation Against Owners & Association**. All property and CGL policies must contain a waiver of subrogation by the insurer as to any claims against the Association, Declarant, and the Owners and their respective affiliates, agents, and employees.

8.14. **Applicable Law**. This Declaration is specifically subjecting the Association to the insurance requirements and provisions in Part 4 of the Act, and any amendments thereto and thereafter enacted by law. It is the intent of this provision that any future changes to the insurance law applicable to community associations shall apply to this Association.

ARTICLE IX. USE RESTRICTIONS

9.1. **Use of Lots and Residences**. Each Lot and Residence shall be used only as a single-family dwelling. Businesses, trades, or other nonresidential use may only be conducted on a Lot or Residence as allowed by City zoning and ordinances.

9.2. **Use of Common Areas**. The Common Areas shall be used only in a manner consistent with their community nature and with the use restrictions applicable to Lots and

Residences. Owners are not permitted to place anything in the Common Area without the consent of the Board.

9.3. **Offensive or Unlawful Activities**. No noxious or offensive activities shall be carried on upon any Lot, Residence, or Common Area, nor shall anything be done or placed on any Lot or Common Area which interferes with or jeopardizes the quiet enjoyment of other Lots, Residences, or the Common Areas, or which is a source of annoyance to residents. No unlawful use shall be made of a Lot or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. No use shall be made of any Lot which would result in an increase in the cost of the Association's insurance or which would cause the improvements within the Project or any part thereof to be uninsurable against loss by fire or other perils included in insurance contracts, or cause such insurance to be canceled or suspected, or cause any company issuing such insurance to refuse renewal thereof.

9.4. **Parking, RVs, & Equipment.** Parking of vehicles, recreational vehicles, machinery, and equipment shall be conducted on Owner's Lots in conformance with local zoning and ordinances. The Association reserves the right to adopt additional Rules governing the parking of vehicles and equipment if determined necessary for the proper operation of the Project. The Association may adopt different parking Rules for Townhome Lots and detached home Lots.

9.5. **Pets**. Domestic pets may be kept in Residences in conformance with local government requirements. The Association reserves the right to adopt Rules expanding pet restrictions if determined necessary for the proper operation of the Project.

9.6. **Nuisances**. No resident shall create, maintain or permit a nuisance in, on or about the Project. For purposes of this Section a "nuisance" includes any behavior which annoys, disturbs or interferes with other residents and interferes with their right to the quiet and peaceful enjoyment of their property. The Board shall have the sole and absolute discretion and authority to determine if an activity or condition constitutes a nuisance.

9.7. **Signs**. Owners may erect signs and flags in the project in accordance with City ordinances, or other applicable governmental entity with jurisdiction. The Association reserves the right to adopt Rules expanding sign restrictions if determined necessary for the proper operation of the Project

9.8. **Leases**. The leasing of Residences is permitted if conducted in compliance with City zoning and ordinances. The Board may adopt Rules to regulate the leasing of Residences. All costs incurred by the Association to enforce the terms of the Governing Documents against a tenant shall be assessed to the Owner as an Individual Assessment.

9.9. **Variances**. The Board may, at its option and in extenuating circumstances, grant variances from the restrictions set forth in this Declaration if the Board determines in its discretion: (i) that the restriction would create an unreasonable hardship or burden on an Owner or Occupant, (ii) that a change of circumstances since the recordation of this Declaration has rendered such restriction obsolete and unreasonable to enforce, or (iii) that the activity permitted under the variance will not have any adverse financial effect or any other substantial adverse effect on the Association or other Owners and Occupants of the Project and is consistent with the high quality of life intended for residents of the Project. Any

such variance shall be unenforceable and without any effect whatsoever unless reduced to writing and signed by every member of the then-existing Board. No variance may be granted that is inconsistent with the Act.

9.16. **Declarant Exception**. So long as the Declarant owns a Lot in the Project, the Declarant shall be exempt from the restrictions contained in this Article.

ARTICLE X. ARCHITECTURAL CONTROLS

10.1. **Architectural Controls**. The designs of all structures and Residences in the Project shall be limited to those approved by the Declarant during the Period of Declarant Control, and afterwards by the Board. The Board shall act to insure that all improvements and landscaping within the Project harmonize with the Design Guidelines and existing surroundings and structures. In the event of any reconstruction of an improvement or Residence due to a casualty, the design, quality, and appearance of the reconstructed improvement shall be substantially the same as the structure initially built, unless otherwise approved by the Board. No landscaping, grading, excavation, building, fence, wall, residence, or other structure, or alteration of any kind, shall be commenced, erected, maintained, improved, altered, or made until the construction plans and specifications, have been approved in writing by the Declarant or the Board, as applicable.

10.2. **Design Guidelines**. The Board may adopt Design Guidelines governing the permitted improvements within the Project. The Design Guidelines may designate the design, style, model, and manufacturer of any materials to be used for an exterior improvement or alteration that is acceptable to the Board. The Design Guidelines may also designate landscaping requirements. Such designations shall be for the purpose of achieving uniformity and ensuring a quality appearance and preservation of property values. Amendments to the Design Guidelines shall apply prospectively only. They shall not require modifications to or removal of any structures previously approved once the approved construction or modification has begun. However, any new work on such structures must comply with the Design Guidelines as amended.

10.3. **Declarant's Exemption**. Nothing contained in this Declaration shall be construed to prevent the erection or maintenance by Declarant, or its duly authorized agents, of temporary structures, trailers, improvements or signs necessary or convenient to the development, marketing, or sale of property within the Project. Furthermore, the provisions of this Declaration which prohibit or restrict nonresidential use of Residences, regulate parking of vehicles, and restrict signage, banners, and the like, shall not prohibit the construction and maintenance of model homes by Declarant and/or other Persons engaged in the construction of residences within the Project. The Declarant may use Lots and other areas for parking in connection with the showing of model homes or for vehicles necessary for development and construction activities.

10.4. **Variances**. The Board may authorize variances from compliance with any of the architectural provisions of this Declaration or Design Guidelines. Such variances must be in writing and must be signed by all Board Members. If a variance is granted, no violation of the Governing Documents shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of a variance shall not operate to waive any

Restrictions of the Governing Documents, other than those specifically identified in the variance, nor shall it affect an Owner's obligation to comply with all governmental laws and regulations.

10.5. **Liability for Damages**. The Board and/or the Declarant shall not be held liable for damages by reason of any action, inaction, approval, or disapproval by it made pursuant to this Article.

ARTICLE XI. ENFORCEMENT

11.1. **Compliance with Restrictions and Rules**. Each Owner and Occupant shall comply with the Restrictions imposed by this Declaration. Further, each Owner, Occupant and guest shall fully and faithfully comply with the Association's Rules and Restrictions and shall be personally jointly and severally liable for any fines for violations thereof.

11.2. **Enforcement of Governing Documents**. The Association, Declarant, or any Owner shall have the right to enforce, by proceedings at law or in equity, each provision of this Declaration and other Governing Documents, including the right to prevent any violation of such, and the right to recover damages and other sums for such violation(s). The prevailing party in any action for the enforcement of any provisions of the Governing Documents (including but not limited to litigation and the appeal thereof) shall be entitled to collect court costs and reasonable attorney fees. Failure to enforce any covenant or restriction within the Governing Documents shall in no event be deemed a waiver of the right to do so thereafter.

ARTICLE XII. SPECIAL DECLARANT RIGHTS

12.1. **Improvements**. Declarant hereby reserves the right, without obligation, to construct:

(a) Any improvement shown on the Plat or included in the Project;

(b) Any Lots and corresponding Residences upon all or any portion of Additional Land the Declarant elects to annex; and

(c) Any other buildings, structures, or improvements that Declarant desires to construct in the Project, or any other real estate owned by Declarant, regardless of whether the same ever become part of the Project.

12.2. **Expandable Project**. The Declarant herewith expressly reserves the right and option to expand the Project by the addition of Additional Land, or portions thereof, and Lots and Residences to be constructed thereon, in accordance with the provision of this Section.

(a) The Project may be expanded by the addition of any real property designated by Declarant.

(b) Expansion or contraction of the Project by the Declarant is without limitation and shall be effective without prior approval of the Association or any Owner.

(c) Declarant's right to expand or contract the Project shall not expire until the Declarant elects in writing to not add land to the Project or the Period of Declarant Control expires.

(d) Additional Land may be added or withdrawn in total or in part, in any order, by using any procedure or manner as Declarant may determine.

(e) To submit or withdraw land to or from the Project, the Declarant shall record a Supplemental Declaration in the office of the County Recorder setting forth that an expansion or contraction of the Project has occurred. Such Supplemental Declaration shall include: (i) a description of the land added or withdrawn; and (ii) shall reference this Declaration and state that the provisions of this Declaration apply to the added land, or that the withdrawn land is no longer subject to the provisions of this Declaration.

12.3. **Special Declarant Rights**. Special Declarant Rights are those rights reserved for the benefit of the Declarant in this Declaration and the Governing Documents and shall include, among others, and regardless of anything in the Declaration to the contrary, the following rights, which shall remain in effect for the maximum period allowed by law, which may exceed the Period of Declarant Control:

(a) the right to maintain sales offices, model Residences, and signs advertising the Project or any Residence at any location in the Project;

(b) the right to use easements through the Common Areas as set forth in this Declaration;

(c) the right to dedicate the roads and streets within the Project for and to public use, to grant road easements with respect thereto, and to allow such street or road to be used by owners of adjacent land;

(d) the right to convert any part of the Project to a different regime of residential ownership;

(e) the right to create or designate additional Common Area or Limited Common Area within the Project;

(f) the exclusive right to act as the Board of Directors, or appoint or remove Board Members in Declarant's sole discretion, during the Period of Declarant Control;

(g) unless expressly and specifically bound by a provision of the Governing Documents, Declarant shall be exempt from the provisions of the Governing Documents;

(h) the right to withdraw land from the Project for up to fifteen (15) years from the date this Declaration is recorded in the office of the Weber County Recorder;

(i) the right to set all assessments for the Association including regular, special, benefitted area, and individual assessments;

(j) the right to set all fines and fees for the Association including but not limited to collection fees, reinvestment fees, architectural review fees, and fines for violations of Association Rules;

(k) the exclusive right to amend the Articles, Declaration, Bylaws, Plat, and Rules of the Association without approval from any Members;

(l) the right to cast all votes on behalf of all Owners for the conveyance or modification of Common Area as may be required by Utah law;

(m) the right to create Benefitted Areas and assign Lots thereto;

(n) the right to exert any right allowed to the Board or the Association pursuant to

the Act and this Declaration;

(o) the right to make and adopt Association Rules without being subject to the requirements of Utah Code § 57-8a-217; and

(p) pursuant to Utah Code § 57-8a-211(10), Utah Code § 57-8a-211(2) through (9), shall not apply or have any effect during the Period of Declarant Control, and the Declarant shall have no duty whatsoever to obtain a Reserve Analysis, or to fund any Reserve Fund during the Period of Declarant Control.

12.4. **Exercising Special Declarant Rights**. Declarant may exercise the Special Declarant Rights at any time prior to the later to occur of the date on which the Period of Declarant Control expires or the date when the Declarant relinquishes such rights in writing. Declarant may exercise its Special Declarant Rights in any order, and no assurance is given as to the order in which Declarant will exercise them. If Declarant exercises any Special Declarant Right with respect to any portion of the Project, Declarant may, but is not obligated to, exercise that Special Declarant Right with respect to any other portion of the Project. Notwithstanding anything to the contrary contained in this Declaration, Declarant may exercise any Special Declarant Right described in this Article and any other right reserved to the Declarant in this Declaration, without the consent of the Association or any Owners.

12.5. **Interference with Special Declarant Rights**. Neither the Association nor any Owner may take any action or adopt any Rules that interferes with or diminishes any Special Declarant right contained in this Declaration without Declarant's prior written consent. Any action taken in violation of this Section shall be null and void and have no force or effect.

12.6. **Transfer of Special Declarant Rights**. The Declarant may transfer, convey, or assign its rights created or reserved under this Declaration to any Person in whole or in part through a written agreement. The Declarant's successor shall enjoy any and all Declarant rights set forth in the Declaration regardless of whether such rights are stated to be transferable. All references in the Governing Documents to Declarant shall equally apply to its successor or designated assignee. A contract transferring the Declarant's rights may, but shall not be required to, be recorded in the office of the County Recorder.

12.7. **Limitation on Improvements by Association**. Until such time as the earlier of the following events occur: (a) termination of the Period of Declarant Control, or (b) such time as Declarant chooses, neither the Association nor the Board shall, without the written consent of Declarant, make any improvement to or alteration in any of the Common Areas created or constructed by Declarant, other than such repairs, replacements, or similar matters as may be necessary to properly maintain the Common Areas as originally constructed or created by Declarant

12.8. **Changes by Declarant**. Nothing contained in this Declaration shall be deemed to affect or limit in any way whatsoever the right of the Declarant, its successors or assigns, to sell or to change the location, design, method of construction, grade, elevation, or any other part or feature of a Lot and Residence prior to the contracting for the conveyance of the Lot to a purchaser.

12.9. **Voting**. During the Period of Declarant Control, any matter voted upon by the Owners shall not become effective unless the matter is approved in writing by the Declarant.

12.10. **Easements Reserved to Declarant**.

(a) The reservation to Declarant, its successors and assigns, of non-exclusive easements and rights of way over those strips or parcels of land designated or to be designated on the Plat as "Public Utility Easement," or otherwise designated as an easement area over any road or Common Area on the Project, and over those strips of land running along the front, rear, side and other Lot lines of each Lot shown on the Plat.

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

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

(d) The reservation to the Declarant and its successors and assigns, of a non-exclusive easement and right-of-way in, through, over and across the Common Area for the storage of building supplies and materials, parking of construction vehicles, erection of temporary structures, trailers, improvements or signs necessary or convenient to the development of the Project, and for all other purposes reasonably related to the completion of construction and development of the Project and the provision of utility services, and related services and facilities.

(e) The Declarant reserves unto itself and its successors and assigns, the right to dedicate all of said roads, streets, alleys, rights of way, or easements, including easements in the areas designated as "open space" and storm water management reservation, to public use all as shown on the Plat. No road, street, avenue, alley, right of way or easement shall be laid out or constructed through or across any Lot or Lots in the Project except as set forth in this Declaration, or as laid down and shown on the Plat, without the prior written approval of the Declarant.

(f) Declarant further reserves unto itself and its successors and assigns, the right at or after the time of grading of any street or any part thereof for any purpose, to enter upon any abutting Lot and grade a portion of such Lot adjacent to such street, provided such grading does not materially interfere with the use or occupancy of any structure built on such Lot, but Declarant shall not be under any obligation or duty to do such grading or to maintain any slope.

12.11. **No Modification of Declarant Rights**. The Special Declarant Rights in this Declaration or other Governing Documents, and specifically in this Article, shall not be substantively or procedurally altered, amended, or removed without the written consent of the Declarant until at least six (6) years have passed after the Period of Declarant Control has ended, at which time the Declarant's approval shall no longer be required. Any document or

amendment attempted without obtaining proper consent shall be void *ab initio* to the extent it attempts to alter the rights of the Declarant or any provision of this Article without the consent of the Declarant.

ARTICLE XIII. RIGHTS OF FIRST MORTGAGEE

13.1. **Title in Mortgagee**. Any first Mortgagee who obtains title to a Lot pursuant to the remedies provided in the Mortgage or foreclosure of the Mortgage will not be liable for such Lot's Assessments or charges which accrue prior to the acquisition of title of such Lot by the Mortgagee. However, such first Mortgagee shall be responsible for all Assessments levied while it holds title to the Lot.

13.2. **Notice of Default by Owner**. If an Owner neglects, for a period of sixty (60) days or more, to cure any failure on their part to perform their obligations under this Declaration or other Governing Documents, the Association, upon written request from the Mortgagee, shall give written notice of such fact to the Mortgagee of such Owner's Lot.

13.3. **Priority**. No provision herein is intended, nor shall it be construed, to give any Lot Owner, or any other party, priority over any rights of the first Mortgagee of a Lot pursuant to its Mortgage in the case of a distribution to such Lot Owner of insurance proceeds or condemnation awards for losses to or a taking of Common Areas.

ARTICLE XIV. AMENDMENTS

14.1. **Amendments by Declarant**. During the Period of Declarant Control, or so long as the Declarant owns one or more Lots in the Project or any part of the Additional Land, the Declaration and the Plat may be amended or supplemented solely by the Declarant without any additional Owner approval required. In addition, no other amendment shall be valid or enforceable without the Declarant's prior written consent during the Period of Declarant Control or so long as Declarant owns one or more Lots in the Project or any part of the Additional Land. Amendments shall become effective upon recordation in the office of the County Recorder. Declarant's right to amend shall be construed liberally and shall include, without limitation, the right to amend and/or restate this Declaration in part or in its entirety.

14.2. **Amendments by Association**. After all of Declarant's Lots have been sold to third parties, all Additional Land has been annexed into the Project, and the Period of Declarant Control has expired, this Declaration and the Plat may be amended upon the affirmative vote of at least sixty-seven percent (67%) of the voting interests of the Association. No meeting shall be required for an amendment if the required vote for approval is obtained by written consent or ballot. Any amendment(s) shall be effective upon recordation in the office of the County Recorder. In such instrument, the Board shall certify that the vote required by this Section for amendment has occurred. If a Lot is owned by more than one Owner, the vote of any one Owner shall be sufficient to constitute approval for that Lot under this Section. If a Lot is owned by an entity or trust, the vote of any one officer, trustee, or agent of the entity shall be sufficient to constitute approval for that Lot under this Section. No acknowledgment of any signature used for voting shall be required. Notwithstanding, the foregoing, the Members' authority to amend Articles XII and XVI of this Declaration is subject to the amendment restrictions set forth therein, and any amendment

purporting to modify the provisions of Articles XII and XVI shall be null and void unless such amendment is in compliance with the amendment provisions and restrictions therein.

14.3. **Necessary Amendments**. Declarant or the Association may unilaterally amend this Declaration without Owner vote if such amendment is necessary: (a) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (b) to satisfy the requirements of any local, State, or Federal governmental agency; or (c) to correct any scrivener's error. However, any such amendment occurring after the Period of Declarant Control shall not adversely affect the title to any Lot unless the Owner shall consent in writing.

14.4. **Validity of Amendments**. This Declaration and any amendment thereof shall be presumed to have been validly voted upon and adopted upon recordation in the office of the Utah County Recorder. Any challenge to this Declaration or an amendment must be made within six (6) months of its recordation, after which any claim or defense based upon the alleged invalidity, or procedural irregularity regarding the adoption of the Declaration or an amendment shall be deemed waived. An Owner that takes title to a Lot subsequent to the recording of this Declaration or any amendment shall take title subject to all recorded documents and shall not have standing to challenge the validity or adoption of any prior recorded documents by way of affirmative claim or defense. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration. Owners are on notice that each and every section of this Declaration may be amended, and amendments may include topics or restrictions not contemplated in prior versions of the Declaration.

ARTICLE XV. DISPUTE RESOLUTION

15.1. **Alternative Dispute Resolution Without Litigation**.

(a) Bound Parties. The Declarant; the Association; the Owners; the officers, directors, managers, members, employees, representatives, agents, successors and assigns of any of the foregoing; any other person subject to this Declaration; and any other person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, “Bound Parties”), agree that it is in the best interest of all Bound Parties to encourage the amicable resolution of Claims without the emotional and financial costs of litigation or the toll or market taint such litigation can have on the value of the Project and/or the Lots that may be involved or impacted. Accordingly, each Bound Party agrees not to file suit in any court with respect to a Claim defined in subsections (b) and (c), unless and until it has first submitted such Claim to the alternative dispute resolution procedures set forth in Section 15.2 in a good faith effort to resolve such Claim.

(b) Claims. As used in this Article, the term “Claim” means any claim, grievance, or dispute arising out of or relating to:

(i) the interpretation, application, or enforcement of the Governing Documents;

(ii) the rights, obligations, and duties of any Bound Party under the Governing Documents; or

(iii) the design or construction of improvements on the Project, other than

matters of aesthetic judgment to be determined by the Association or Board under the Design Guidelines and other provisions hereof, which shall not be subject to review and shall not be subject to this Article.

(c) Exclusion from Definition of Claims. The following shall not be considered "Claims" unless all Parties to the matter otherwise agree to submit the matter to the procedures set forth in Section 15.2:

(i) any suit by the Association to collect assessments or other amounts due from any Owner;

(ii) any suit by the Association to obtain a temporary restraining order (or emergency equitable relief) and such ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of Article X of this Declaration (relating to the Design Guidelines);

(iii) any suit that does not include the Declarant, any affiliate of the Declarant, or the Association as a party, if such suit asserts a Claim that would constitute a cause of action independent of the Governing Documents;

(iv) any dispute that affects the material rights or obligations of a party who is not a Bound Party and has not agreed to submit to the procedures set forth in Section 15.2;

(v) any suit as to which any applicable statute of limitations would expire within 180 days of giving the Notice required by Section 15.2(a), unless the party or parties against whom the Claim is made agree to toll, or extend, the Claim's statute of limitations to comply with this Article;

(vi) any suit or dispute between the Declarant or an affiliate of Declarant and a builder, developer, contractor(s), subcontractor(s), or any other party contracted by the Declarant or an affiliate of the Declarant in connection with the development of the Project; and

(vii) any suit or dispute involving a governmental entity as a party.

15.2. **Dispute Resolution Procedures**.

(a) Notice. The Bound Party asserting a Claim ("Claimant") against another Bound Party ("Respondent") shall give written notice ("Notice") by mail or personal delivery to each Respondent and to the Board, stating plainly and concisely:

(i)

(b) Right to Cure. For any Claim arising from a dispute over the construction of improvements within the Project, the Claimant shall provide Respondent six (6) months to rectify alter, or fix the claimed defect(s) in the improvements. The expiration of this six-month cure period shall be a prerequisite to Claimant's ability to initiate litigation as permitted under Section 15.3 below. For all Claims involving alleged defects in construction, the negotiation, mediation, and settlement requirements shall remain in effect during the cure period, however, the mediation deadline set forth in subsection (d) below shall be extended to expire on the same date the cure period expires.

(c) Negotiation. The Claimant and Respondent shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the parties in negotiating a resolution of the Claim.

(d) Mediation. If the parties have not resolved the Claim through negotiation within 30 days of the date of the Notice (or within such other agreed upon period), the Claimant shall have 30 additional days to submit the Claim to mediation with an individual or entity designated by the Association (if the Association is not a party to the Claim) or to an independent mediator providing dispute resolution services predominately in Utah. Each Bound Party shall present the mediator with a written summary of the Claim or will otherwise comply with the mediator's proscribed procedures and requirements for mediating claims.

(i) Waiver of Claim for Failure to Appear or Participate. If the Claimant does not submit the Claim to mediation within such time, or does not appear for and participate in good faith in the mediation when scheduled, the Claimant shall be deemed to have waived the Claim, and the Respondent shall be relieved of any and all liability to the Claimant (but not third parties) on account of such Claim.

(ii) Termination of Mediation Proceedings. If the parties do not settle the Claim within 30 days after submission of the matter to mediation, or within such time as determined reasonable by the mediator, the mediator shall issue a notice of termination of the mediation proceedings indicating that the parties are at an impasse and the date that mediation was terminated. The Claimant shall thereafter be entitled to file suit or to initiate administrative proceedings on the Claim, as appropriate.

(iii) Costs of Mediation. Each Bound Party shall bear its own costs of the mediation, including attorney fees, and each Party shall pay an equal share of the mediator's fees.

(e) Settlement. Any Claim settlement through negotiation or mediation shall be documented in writing and signed by the Parties. If any Party thereafter fails to abide by the terms of such agreement, then any other party may file suit or initiate such proceedings as are necessary to enforce such agreement without the need to comply again with the procedures set forth in this Article. In such event, the party taking action to enforce the agreement or award shall, upon prevailing, be entitled to recover from the non-complying party (or if more than one non-complying party, from all such parties in equal proportions) all costs incurred in enforcing such agreement or award, including, without limitation, attorney fees and court costs.

15.3. **Initiation of Litigation by Association**. The requirements of this Section are intended to be in addition to those requirements set forth in § 57-8a-229 of the Act. After expiration of the Period of Declarant Control the Association may not bring a legal action against a Declarant, a Board of Directors, an employee, an independent contractor, an agent of the Declarant, or the previous Board of Directors related to the Period of Declarant Control unless:

(a) The Right to Cure period set forth in Section 15.2(b) above has expired;

(b) the legal action is approved in advance at a meeting by Owners holding at least 51% of the total allocated voting interests of the Owners in the Association:

(i) Owners may be represented by a proxy specifically assigned for the purpose of voting to approve or deny the proposed legal action at the meeting. Any such proxy shall not be valid unless the proxy is notarized with each Owner certifying that they have received and reviewed the information required by Section 15.4(a) and (b) below.

(c) the Association provides each Owner with the items described in Section 15.4(a) and (b), below;

(d) the Association establishes a trust account, described in Section 15.4(c) below; and

(e) the Association first goes through the procedures described in Section 15.2 above, giving notice and an opportunity to resolve the dispute that is the basis of the Claim and proposed legal action.

(f) The procedures and approval required in the preceding subsections (a) through (e) shall not be required for actions or proceedings:

(i) initiated by Declarant during the Period of Declarant Control on behalf of the Association;

(ii) initiated to enforce the provisions of this Declaration, including collection of assessments and foreclosure of liens;

(iii) initiated to challenge ad valorem taxation or condemnation proceedings (including bringing an action for inverse condemnation);

(iv) initiated against any contractor, vendor, or supplier of goods or services arising out of a contract for services or supplies; or

(v) to defend claims filed against the Association or to assert counterclaims in proceedings instituted against it.

This Section shall not be amended without the written consent of the Declarant for a period of 10 years following the expiration of the Period of Declarant Control. Any such amendment shall also be approved by a vote of 67% of the total votes of the Association.

15.4. **Informed Vote**. Before the Owners, as Members of the Association may vote to approve the filing of a legal action for a Claim, the Association shall first provide each Owner with:

(a) A written notice stating:

(i) that the Association is contemplating legal action;

(ii) the percentage vote required for approval of the litigation;

(iii) the date, time, and location of any Member meeting that has been scheduled to discuss the litigation or to vote on the approval of the litigation;

(iv) a description of the claims that the Association desires to pursue in sufficient detail to permit each Member to reach an informed decision on the litigation matter; and

(b) A written report from an attorney licensed to practice in Utah, which provides an assessment of:

(i) The likelihood that the legal action will succeed;

(ii) The likely amount in controversy in the legal action;

(iii) The likely cost of resolving the legal action to the Association's satisfaction; and

(iv) The likely effect the stigma of a legal action will have on value or on an Owner's ability to market for sale, or a prospective Lot buyer's ability to obtain financing for a Lot due to a pending legal action.

(v) In providing this report, the attorney shall obtain and rely on reports and assessments from experts in their field such as construction, real property, sales, or any other relevant factor in the contemplated litigation.

(c) Before the Association commences any legal action as authorized above, the Association shall:

(i) allocate an amount equal to 25% of the cost estimated to resolve the Claim not including attorney fees; and

(ii) place the 25% allocated funds in a trust account that the Association may only use to pay the costs to resolve the Claim.

Sections 15.3 and 15.4 do not apply if the Association brings a legal action that has an amount in controversy of less than $25,000.00.

15.5. **Strict Compliance Required**. Any post-turnover litigation involving the Bound Parties shall strictly comply with each of the provisions in this Article. The Bound Parties hereby covenant, stipulate, and agree that in the event the Bound Parties fail to satisfy the prerequisites set forth herein, the non-compliant Party will indemnify, defend, hold harmless, and exculpate the other Bound Party to the fullest extent permissible by law, and the non-breaching Bound Party shall be entitled to recover any and all attorney fees and costs expended as a result of enforcing this Article, which fees and costs may include, without limitation, pre-litigation attorney fees, costs incurred in connection with investigation of potential claims, including expert and consultant fees, testing fees, contractor fees, and insurance deductibles. If any claims or actions falling within the scope of this Article are filed without satisfying all of the requirements set forth above, such claims or actions shall be dismissed without prejudice and shall not be re-filed unless and until all such requirements have been satisfied.

15.6. **Owner Warranties**. The Declarant may provide certain warranties to the Owners related to a Lot purchased. The first Owner of a Lot to whom any warranty is issued, or with whom a legal warranty arises, and only that Owner, shall have the right to directly enforce and seek performance from the Declarant of any terms of the warranty, and only consistent with the warranty itself. The Association shall have no right to seek the performance of or take assignment of any rights in any warranties against the Declarant, and the Owner shall have no right to assign any rights of any kind to the Association related to pursuing litigation against the Declarant.

15.7. Unless specifically set forth in this Declaration, no action may be brought by

the Association, its Board, or its officers on behalf of an Owner, as its respective interest may appear, with respect to any cause of action against the Declarant relating to the Common Areas and facilities.

15.8. ALL PARTIES HEREBY AGREE TO RESOLVE ANY CLAIM ACCORDING TO THE PROVISIONS OF THIS ARTICLE AND SUCH PARTIES WAIVE THEIR RESPECTIVE RIGHTS TO PURSUE THE CLAIM IN ANY MANNER OTHER THAN AS PROVIDED IN THIS ARTICLE.

15.9. The dispute resolution restrictions contained in this Article shall not be amended, altered, or eliminated from the Declaration without the written consent of the Declarant for a period of 10 years after the expiration of the Period of Declarant Control.

ARTICLE XVI. MISCELLANEOUS

16.1. **Notices**. Any notice required or permitted to be given to any Owner according to the provisions of this Declaration shall be deemed to have been properly furnished if personally delivered, emailed, texted, or if mailed, postage prepaid, to the Person who appears as an Owner, at the latest email or mailing address for such Person appearing in the records of the Association at the time notice is sent. If no email, phone number, or mailing address has been provided, the physical address of the Lot owned by said Owner shall be used for notice purposes. The use of the term “notice” or “written notice” in this Declaration or other Governing Document shall include notices sent via email, text, facsimile, or other electronic communication; or notices printed on paper and sent by hand-delivery, regular mail, or any notice otherwise physically received by an Owner.

Unless an Owner notifies the Association in writing that they desire to receive notices via USPS mail, each Owner shall provide to the Board, or the Association’s Manager, an email address that the Association may use to effect notice as described herein, along with a telephone number that can receive texts. Any notice sent via email or text shall be deemed to be delivered once the notice has been sent to the email address or phone number on file with the Association. Any notice sent by mail shall be deemed delivered when deposited in the United States mail. In the case of co-Owners, any such notice may be delivered or sent to any one of the co-Owners on behalf of all co-Owners and shall be deemed delivered to all such co- Owners. The declaration of an officer or authorized agent of the Association declaring under penalty of perjury that a notice has been sent to any Owner or Owners, in any manner that this Section allows, shall be deemed conclusive proof of such delivery.

Notice to the Association shall be delivered by registered or certified United States mail postage prepaid, addressed to the office of the Manager of the Association (if any); or if there is no Manager, the Registered Agent with the Utah Department of Commerce (if any); or if there is none, to the President of the Association. The Association shall have the right to designate an email or USPS mailing address for receipt of notices hereunder by Rule.

16.2. **Consent in Lieu of Meeting**. In any case in which this Declaration, Governing Documents, or the Act requires authorization or approval of a transaction by the assent or affirmative vote of a stated percentage of the votes present or represented at a meeting, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing

to such transaction from Members entitled to cast the required percentage of membership votes. The Association may also use any method for obtaining votes allowed under Utah law and the Utah Revised Nonprofit Corporation Act to obtain Owner consent or votes without a meeting.

16.3. **Dissolution**. The Association may be dissolved by the Declarant at any time during the Period of Declarant Control in its sole discretion and thereafter by a vote of at least ninety percent (90%) of the Owners. Upon dissolution, the Association shall transfer any Common Area real property it owns to a municipality, utility, or other Person as permitted by law and disperse any remaining funds or assets to the Owners pro rata. In the event such dedication or transfer is not made or is not accepted, the Association's assets shall be transferred to a nonprofit corporation, trust, or other entity to be used for the benefit of all Owners in the Project, and each Owner shall continue to be obligated to make assessment payments for the maintenance and upkeep of the Common Areas, on a pro rata basis which conforms substantially with the assessment procedures and terms set forth herein.

16.4. **Interpretation**. The captions which precede the Articles and Sections of this Declaration are for convenience only and shall in no way affect the manner in which any provision hereof is constructed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, and any gender shall include the other. Except for judicial construction, the Board, shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Association's construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all Persons and property benefitted or bound by the covenants and provisions hereof.

16.5. **Severability**. The invalidity or unenforceability of any portion of the Declaration by judgment or court order shall not affect the validity or enforceability of the remainder of any other provision herein, all of which shall remain in full force and effect.

16.6. **Covenants to Run with Land**. This Declaration and all provisions hereof shall constitute covenants to run with the land and shall be binding upon and shall inure to the benefit of the Association and all parties who hereafter acquire any interest in a Lot or in the Common Areas shall be subject to the terms of this Declaration and the provisions of any Rules, agreements, instruments, and determinations contemplated by this Declaration. Any failure to comply with any of the foregoing shall be grounds for an action by the Association or an aggrieved Owner for the recovery of damages, or for injunctive relief, or both. By acquiring any interest in a Lot or in the Common Areas, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

16.7. **Fair Housing Accommodations**. Notwithstanding anything to the contrary in this Declaration, the Association, upon receipt of a written opinion from its counsel that such action is required, may make or permit reasonable accommodations or modifications to the Project that are otherwise prohibited by the Governing Documents, as required under State or Federal Fair Housing Acts, to accommodate a Person with a disability (as defined by State or Federal law at the time the accommodation is requested). Reasonable accommodations or modifications may include modifications to a Lot, the Common Area facilities and buildings, or deviations from provision of the Governing Documents. Any such modification and accommodation made under this Section shall not act as a waiver of the provisions of the

Governing Documents with regard to any other Person or Owner.

16.8. **No Waiver**. No delay or failure by the Association or by any Owner to enforce any Restriction, right, remedy, power, or provision herein contained, or contained in the other Governing Documents, in any certain instance or on any particular occasion (or partial exercise thereof) shall be deemed a waiver of such right of enforcement as to any such future breach of the same or any other Restriction, right, remedy, power, or provision. No Association delay or failure to demand strict adherence to the terms, Restrictions or provisions of the Governing Documents shall be deemed to constitute a course of conduct inconsistent with the Association's right at any time, before or after an Owner violation or breach, to demand strict adherence to the terms, Restrictions, or provisions of this Declaration or other Governing Document.

16.9. **Condemnation**. If a portion of the Common Area is taken by eminent domain, or sold under threat thereof, and the taking does not include any Lot, the Board shall cause the award to be utilized for repairing or restoring the area adjacent to the taking, and the portion of the award not used for restoration shall be added to the general funds of the Association. If a Lot is taken by eminent domain, or sold under threat thereof, leaving the Owner with a remnant that may not be practically or lawfully used for any purpose permitted by this Declaration, then that Lot's interest in the Common Areas shall be reallocated to the remaining Lots in proportion to their respective interests immediately before the taking.

16.10. **Attorney Fees**. If the Association utilizes legal counsel to enforce or interpret (i.e. defending against declaratory actions) any Restriction, or after an Owner communicates or demonstrates an intent not to comply with a Restriction, the Association may assess all reasonable attorney fees and costs associated with such enforcement to the Owner as an Individual Assessment, regardless of whether a lawsuit is initiated or not. The term "costs" as used in this Section shall include all costs including but not limited to copying costs, deposition costs, expert witness fees, investigative costs, service costs, and filing fees paid to courts. "Costs" is specifically defined in this Section to be broader and to include costs that are not included in costs as the term is used in the Utah Rules of Civil Procedure.

16.11. **Noncompliance Notice**. Any construction, alteration, or other work done in violation of this Declaration shall be deemed to be in noncompliance. By acquiring title to a Lot in the Project, all Owners agree and consent that upon any act of noncompliance, the Board, at its discretion, may record a "Notice of Noncompliance" on an offending Lot or property in the records of the Wasatch County Recorder. Upon receipt of a Notice of Noncompliance, Owners shall, at their own cost and expense, remove such non-conforming construction, alteration, or other work and shall restore the land to substantially the same condition as existed prior to the non-conforming construction, alteration, or other work. Should an Owner fail to act as required hereunder, the Board or their designee, without liability for trespass or nuisance, shall have the right to enter the property, remove the violation, and restore the property to substantially the same condition as existed prior to the change. All costs incurred by the Association pursuant to enforcement of this Section shall be charged as an Individual Assessment.

16.12. **Security**. Neither the Declarant nor the Association shall be considered an insurer or guarantor of security within or relating to the Project, including any Common Area in which the Association may have an obligation to maintain, and the Association shall not be

held liable for any loss or damage by reason of any failure to provide adequate security or any ineffectiveness of security measures undertaken. Owners agree by purchasing a Lot in this Association that the Association, Declarant, and the Board are not insurers of the safety or well-being of Owners or Occupants or of their personal property, and that each Owner or Occupant assumes all risks for loss or damage to persons, the Lots, the Common Areas, and to the contents of improvements located thereon to the extent not insured by the Association. EACH OWNER AND OCCUPANT UNDERSTANDS AND ACKNOWLEDGES THAT THE ASSOCIATION, DECLARANT, AND BOARD HAVE NOT MADE ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND AND THAT EACH OWNER OR OCCUPANT HAS NOT RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO THE SECURITY OF THE PROJECT.

16.13. **Effective Date.** The Declaration and any amendment hereof shall take effect upon its filing in the office of the Weber County Recorder.

* * * *

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed by a duly authorized representative this _____ day of _, 2024.

DECLARANT
JLM Development Amber, LLC
a Utah limited liability company

By: _____

Name:_____

Title:_____

STATE OF UTAH)
) ss.
COUNTY OF _____)

On the _ day of _____, 2024, personally appeared before me _____ who by me being duly sworn, did say that she/he is an authorized representative of JLM Development Amber, LLC, and that the foregoing instrument is signed on behalf of said company and executed with all necessary authority.

Notary Public: _____

EXHIBIT A

LEGAL DESCRIPTION

All of **Oak Hollow SUBDIVISION**, according to the official plat filed in the office of the Weber County Recorder.

Including Lots 1 – 30, Open Space, and Common Area parcels

A parcel of ground being a part of the Northeast Quarter of Section 8, Township 6 North, Range 1 West, Salt Lake Base and Meridian, U.S. Survey being more particularly described as follows.

Beginning at a point on the South Right-of-Way Line of Larsen Lane, said point being retraced at station 13+85.20 according to the official Right-of-Way maps completed by Utah Department of Transportation in 2018, known, as project number F-LC57(26), said point also being measured 660.63 feet North 88°47'41" West along the Section Line and 163.36 feet South 1°09'38" West along the Center Line of Washington Boulevard to a Center Line monument found at the intersection of Washington Boulevard and 1100 North Street and 779.66 feet South 01°09'49" West along the Center Line of Washington Boulevard to the control line of said UDOT project and continuing along the control line 70.64 feet North 88°50'23" West to a point of curvature to the left having a radius of 135.00 feet and a central angle of 30°12'47" and Westerly along said arc a distance of 71.19 feet note (Chord equals South 76°03'13" West 70.37 feet) and 579.11 feet South 60°56'50" West and 368.00 feet South 62°37'11" West and 242.42 feet South 60°37'11" West and leaving the control line 40.00 feet South 29°22'49" East from the Northeast Corner of said Section 8 (Basis of bearing being North 1°09'38" West along the Center Line Washington boulevard between found monument within the intersections of 1100 North and Lockwood Drive) and running thence along the South Right-of-Way of Washington Boulevard North 60°37'11" East 241.72 feet to Station 16+28.32; thence continuing along said South Right-of-Way North 62°37'11" East 22.44 feet to station 16+50.76; thence South 24°32'24" East 145.39 feet to an old barb wire fence; thence along said fence North 65°43'06" East 89.76 feet; thence North 24°32'24" West 37.00 feet; thence North 61°15'36" East 90.00 feet; thence South 24°32'24" East 62.94 feet to the Southwest corner of land conveyed to Flying J Inc found at Entry No. 2171137; thence along said conveyance North 61°15'36" East 38.31 feet to a long standing barbed wire fence; thence South 00°54'49" West along said fence 524.61 feet to a point 2650.65 feet along the section line South 0°18'56" West and 1293.95 feet South 88°39'20" East and 623.81 feet North 1°11'50" East and 2.97 feet more or less North 88°48'10" West from the North Quarter Corner of Said Section 8; thence North 88°48'10" West 297.03 feet; thence South 01°11'50" West 600.00 feet; thence North 88°48'10" West 100.00 feet; thence North 01°11'50" East 260.00 feet; thence North 88°48'10" West 99.31 feet to a point at the extension of Jennings Subdivision 1st Amendment; thence North 01°19'30" East 147.50 feet along said subdivision and its extension; thence continuing along said subdivision North 01°06'19" East 635.08 feet to the Point of Beginning.

Containing 346,021.60 square feet or 7.9436 acres, more or less.

Parcel Numbers: Not Yet Assigned

EXHIBIT B

BYLAWS
OF
OAK HOLLOW OWNERS ASSOCIATION

These BYLAWS OF OAK HOLLOW OWNERS ASSOCIATION are effective upon recording in the Weber County Recorder's Office pursuant to the Utah Community Association Act and the Utah Revised Nonprofit Corporation Act (referred collectively herein as the “Acts”).

RECITALS

A. The Association is organized for all lawful purposes for which a nonprofit corporation may be organized under the Utah Revised Nonprofit Corporation Act, as amended, subject to the terms and conditions contained in the Declaration and Articles of Incorporation.

B. These Bylaws are adopted to complement the Declaration, to further define the rights of the Association and the Owners, to provide for the ability to effectively govern and operate the Association and the Project known as the Oak Hollow Subdivision and, to further the Association's efforts to provide a quality living environment.

ARTICLE I
DEFINITIONS

1.1 Except as otherwise provided herein or as may be required by the context, all capitalized terms used herein shall have the same meaning and effect as used and defined in the Declaration of Covenants, Conditions and Restrictions for Oak Hollow.

ARTICLE II
APPLICATION

2.1 All present and future Owners, Mortgagees, Occupants, and their invitees and guests, and any other persons who may use the facilities of the Project in any manner are subject to these Bylaws, the Declaration, and Rules. The mere acquisition or rental of any of the Residences or the mere act of occupancy or use of any said Residences or the Common Areas will signify that these Bylaws, the Declaration, and the Rules are accepted, ratified, and will be complied with by said persons.

ARTICLE III
OWNERS

3.1 **Annual Meetings**. The Annual Meeting of the Owners shall be held each year on a day and time established by the Board of Directors. The purposes of the Annual Meeting may include the election of Board Members, the distribution of financial reports and budget, a review of any revisions to the Rules, distributing the most recent reserve study, and to transact such other business as may come before the meeting. If the election of Board

Members cannot be held during the Annual Meeting, or at any adjournment thereof, the Board shall cause the election to be held either at a Special Meeting of the Owners to be convened as soon thereafter as may be convenient or at the next Annual Meeting. The Board may from time to time by resolution change the month, date, and time for the Annual Meeting. Annual Meetings shall not be required during the Period of Declarant Control, but the Declarant may hold Annual Meetings at its discretion.

3.2 **Special Meetings**. Special Meetings of the Owners may be called by a majority of the Board, the Declarant, the President, or upon the written request of Owners holding not less than forty percent (40%) of the voting interests of the Association. Any written request for a Special Meeting presented by the Owners shall be delivered to the President and shall include the original signature of each Owner affirmatively supporting such request along with a complete statement of the purpose of the meeting on each page containing signatures. The President shall then call, provide notice of, and conduct a Special Meeting within 45 days of receipt of the Owner request. During the Period of Declarant Control, Special Meetings may only be called by the Declarant.

3.3 **Place of Meetings**. The Board may designate any place in Weber County that is reasonably convenient for the Owners as the place of any Owner meeting. In addition, the Association may hold and conduct Owner meetings through any type of electronic means that allows Owners to communicate orally in real time including telephone and video conferencing.

3.4 **Notice of Meetings**. The Board shall cause written or printed notice of the date, time, and location (and in the case of a Special Meeting, the purpose or purposes) for all Owner meetings. Such written or printed notice shall be delivered to each Owner of record entitled to vote at such meeting not more than sixty (60) nor less than ten (10) days prior to the meeting. Such notice may be sent via email, text, hand-delivery, or regular mail. If sent by email or text, such notice shall be deemed delivered and effective on the date transmitted to the Owner’s email address or telephone number registered with the Association. If mailed, such notice shall be deemed to be delivered and effective on the date deposited in the U.S. mail if addressed to the Owner's address registered with the Association. Each Owner shall register with the Association such Owner's current email address, phone number, and mailing address for purposes of notice hereunder. Such registered email, phone number, and mailing address may be changed from time to time by notice in writing to the Association. If no address is registered with the Association, an Owner's Residence shall be deemed to be the Owner's registered address and notice to the Residence address may be made by first-class mail or by posting the meeting notice on the front door. An Owner may opt out of receiving notices from the Association via email or text by giving written notice to the Board stating that the Owner will not accept notices by way of email or text.

3.5 **Qualified Voters**. An Owner shall be deemed to be in “good standing” and “entitled to vote” at any meeting if he or she has fully paid their Assessment account (together with any interest and/or late fees) at least 48 hours prior to the commencement of the meeting and is not in violation of any provision of the Governing Documents.

3.6 **Record Date for Notice Purposes**. The Board may designate a record date, which shall not be more than sixty (60) nor less than ten (10) days prior to the meeting, for

the purpose of determining Owners entitled to notice of any meeting of the Owners. If no record date is designated, the last date on which a notice of the meeting is mailed or delivered shall be deemed to be the record date for determining Owners entitled to notice. The persons or entities appearing in the records of the Association on such record date as the Owner(s) of record of Lots in the Project shall be deemed to be the Owners of record entitled to notice of the Owner meeting.

3.7 **Quorum**. Any number of Owners present in person or by proxy at any meeting duly called and held in compliance with the requirements of these Bylaws, shall constitute a quorum for the transaction of business and adoption of decisions.

3.8 **Proxies**. Owners shall be entitled to vote in person or by proxy at each meeting provided, however, that the right to vote by proxy shall exist only where the instrument authorizing such proxy to act shall have been signed by the Owner or by the Owner's attorney. A proxy may be written on paper or received via email, facsimile, text, or any other electronic or physical means. A signature as required herein shall mean any indication that the document is from and consented to by the person who is purported to have sent it. If a Lot is jointly owned, the instrument authorizing a proxy to act may be executed by any one (1) Owner of such Lot or the Owner's attorney when duly authorized in writing. A proxy given by an Owner to any person who represents the Owner at meetings of the Association shall be in writing, dated, and signed by such Owner. Such instrument may allow the proxy to vote on any issue arising at any particular meeting or meetings or may set forth the specific matters or issues upon which the proxy is authorized to act. Proxies shall be filed with the Secretary (or with such other officer or person who may be acting as Secretary of the meeting) before the meeting is called to order. The Secretary shall make a record of all proxies in the meeting minutes.

3.9 **Votes**. Owners shall be entitled to vote on each matter submitted to an Owner vote in person, by proxy, or by any type of written or electronic ballot. Owners shall have the number of votes appertaining to the Lot of such Owner, as set forth in the Declaration. The affirmative vote of a majority of the votes entitled to be cast by the Owners present or represented by proxy at a meeting at which a quorum was initially present shall be necessary for the adoption of any matter voted on by Owners, unless a greater proportion is required by the Articles of Incorporation, these Bylaws, or the Declaration. When a Lot is jointly owned, any single Owner may exercise the vote for such Lot on behalf of all Co-Owners of the Lot. In the event of two (2) conflicting votes by Co-Owners of a Lot, no vote shall be counted for that Lot. If a Lot is owned by an entity or trust, the vote of any one officer, trustee, or agent of the entity shall be sufficient to cast a vote for that Lot. In no event shall fractional or cumulative votes be exercised with respect to any Lot. Only those Owners whose accounts with the Association are not delinquent and are paid in full at least 48 hours prior to the start of the meeting shall be entitled to vote.

3.10 **Waiver of Irregularities**. All inaccuracies and irregularities in calls or notices of meetings and in the manner of voting, in the form of proxies and the method of ascertaining Owners present, and in the decisions and votes of the Board or of the Owners shall be deemed waived by those Members in attendance if no objection is made at the meeting. For those Members who are not in attendance at the meeting, the right to challenge inaccuracies and irregularities in calls, notices, voting, and decisions shall be waived if no objection is

made within thirty (30) days of the date of the meeting or date of the action taken outside of a meeting. The presence of an Owner in person at any Owner meeting shall be deemed a waiver of all notice requirements.

3.11 **Action Taken Without a Meeting**. Owners have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of Owners through ballot, written consent, or otherwise. The Association may also use any method permitted for actions without a meeting in accordance with the requirements of Utah Code § 16-6a-707 or § 16-6a-709 and any other applicable section of the Acts. Any action so approved shall have the same effect as though taken at an Owner meeting. Ballots or written consents may be obtained via any electronic or physical means including but not limited to email, facsimile, text, or paper document.

3.12 **Meeting Minutes**. The Secretary, or the Manager, shall take minutes of all Owner meetings. The minutes shall include, at a minimum, (1) the identification of the Persons present in person and by proxy, (2) the meeting date, (3) the identification of any issue that is voted on or decided in the meeting, (4) the number of votes cast for and against any issue decided upon, and (5) the exact wording of any resolution passed at the meeting. The failure to take appropriate minutes or otherwise comply with this section does not invalidate any action taken at a meeting. Draft meeting minutes for each Owner meeting shall be made available to requesting Owners within sixty (60) days of the meeting.

ARTICLE IV
BOARD OF DIRECTORS

4.1 **Powers**. The Project and the business and affairs of the Association shall be governed and managed by the Board of Directors. The Board may exercise business judgment and all of the powers of the Association, whether derived from the Declaration, these Bylaws, the Articles, or the Acts except such powers that the Declaration, these Bylaws, the Articles, and the Acts vest solely in the Owners.

4.2 **Number**. The Board of Directors shall be composed of three (3) persons.

4.3 **Qualifications**. Board Members must be at least 18 years old and must be an Owner or the spouse of an Owner of a Lot in the Project. No two (2) Board Members may reside in the same Residence or be business partners if the business is related to their ownership of a Lot. If an Owner is a corporation, partnership, limited liability company, or trust, an officer, partner, member, manager, agent, trustee, or beneficiary of such Owner may be a Board Member. If a Board Member ceases to meet any required qualifications during the Board Member's term, such person's membership on the Board shall automatically terminate. During the Period of Declarant Control, the qualification requirements of these Bylaws shall not apply and the Declarant may exercise all powers of the Board as permitted by law.

4.4 **Election**. During the Period of Declarant Control, Board Members (if any) shall be appointed by Declarant. Following the Period of Declarant Control, the election of Board Members shall be made by the Owners. At such election, the Owners or their proxies may cast, with respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The Lot Owners shall cast votes for the available Board Member seats with respect to each Lot type as set forth in Section 4.2 above. The

Association may accept written ballots for Board Member election voting purposes from those Owners unable to attend a meeting in which an election is held. The persons receiving the largest number of votes shall be elected. The election of Board Members may be conducted through open voting or by secret ballot. Cumulative voting is not permitted.

4.5 **Term of Office**. During the Period of Declarant Control, Board Member terms shall be determined exclusively by Declarant. Following the Period of Declarant Control, the Owners shall elect Board Members for two (2) year terms. However, at the first election following the Period of Declarant Control, the Board Members elected by the Lot Owners shall serve a 2-year terms, and one Board Member shall serve a one (1) year term to establish staggered terms. The terms shall overlap so that an election for at least one Board Member position is held each year at the Annual Meeting. Board Members may serve consecutive terms if elected.

4.6 **Regular Meetings**. The Board shall hold meetings at least annually or more often at the discretion of the Board. During the Period of Declarant Control, Board Meetings shall be held at the discretion of the Declarant so long as at least one Board Meeting is held each year, and a Board Meeting is held each time the Association increases a fee or raises an Assessment.

4.7 **Special Meetings**. Special meetings may be called by the President or a majority of Board Members on at least two (2) business days' prior notice to each Board Member and those Owners who have requested notice.

4.8 **Meeting Notice**. Notice of Board Meeting date, time, and location shall be delivered personally, by email, by text, or by telephone to all Board Members and any Owners who have requested notice of Board meetings at least forty-eight (48) hours in advance of the meeting. Board Members may waive their rights to notice of a meeting and attendance at a Board meeting shall be deemed a waiver of any alleged deficiencies of notice. By unanimous consent of the Board, Board meetings may be held without call or notice to the Board Members, but notice shall always be provided to those Owners who have requested notice of Board meetings.

4.9 **Quorum and Manner of Action**. A majority of Board Members shall constitute a quorum for the transaction of business. The act of a majority of the Board Members present at any meeting at which a quorum is present, and for which proper notice was provided shall be the act of the Board. Board Members shall act only as the Board of Directors, and individual Board Members shall have no powers as such.

4.10 **Owner Attendance**. Any Owner may request notice of Board meetings by requesting such notice from a Board Member and providing a valid email address or text messaging number at which the Owner will receive notice. Owners who have requested notice of Board meetings shall be given notice along with the Board Members and shall be provided any call-in number or other means of attendance by electronic communication that is provided to Board Members. If Owners attend a Board meeting, the Board may select a specific period of time during the meeting and limit Owner comments to such time period. The Board in its sole discretion may set a reasonable length of time that each Owner may speak.

4.11 **Open Meetings**. Except as provided in (a) through (f) below, following the Period of Declarant Control, Board meetings shall be open to Owners. The Board may hold a

closed executive session during a meeting of the Board if the purpose of the closed executive session is to:

(a) Consult with legal counsel to obtain legal advice and discuss legal matters;

(b) Discuss existing or potential litigation, mediation, arbitration, or an administrative proceeding;

(c) Discuss a labor or personnel matter;

(d) Discuss a matter relating to contract negotiations, including the review of a bid or proposal;

(e) Discuss a matter involving a Person, if the Board determines that public knowledge

of the matter would violate the Person's privacy; or

(f) Discuss a delinquent assessment.

During the Period of Declarant Control, Board meetings may be closed to Owners, unless the Board, in its sole discretion and without obligation, determines to open the meeting (or a portion thereof) to the Owners. Notwithstanding the foregoing, the Board meetings required under Utah Code § 57-8a-226(6)(b) shall be open to all Owners.

4.12 **Board Meetings Generally**. The Board may designate any place in Weber County as the meeting place for any regular or special Board meeting. The Board may allow attendance and participation at any Board meeting by telephone, video conference, or any other electronic means that allows for Board Members to communicate orally in real time. Following the Period of Declarant Control, if a Board meeting is held by telephone, or video conference, the Association shall provide the call-in or internet link information such that Owners may call-in to access the meeting.

4.13 **Board Action**. Notwithstanding noncompliance with any provision within these Bylaws or other Governing Document, Board action is binding and valid unless set aside by a court of law. A Person challenging the validity of a Board action for failure to comply with these Bylaws, the Governing Documents, or any other irregularity, may not bring the challenge more than sixty (60) days after the Board has taken the action in dispute.

4.14 **Compensation**. No Board Member shall receive compensation for any services rendered to the Association as a Board Member; provided, however, that a Board Member may be reimbursed for expenses incurred in performance of such duties as a Board Member to the extent such expenses are approved by a majority of the other Board Members. Nothing herein contained shall be construed to preclude any Board Member from serving the Project in any other capacity and receiving compensation therefore, so long as approved in advance by a majority of disinterested Board Members.

4.15 **Resignation and Removal**. A Board Member may resign at any time by delivering a written resignation to another Board Member. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any Board Member who is appointed by the Declarant may only be removed by the Declarant. The Declarant may remove a Board Member it appoints at any time. A Board Member elected by the Owners after the Period of Declarant Control may be removed at any time, with or without cause, at a Special Meeting of the Owners duly called for such purpose upon the affirmative vote of more than fifty percent (50%) of the entire voting interests of the Association. At such a meeting, the Owners shall vote for a new Board Member to fill the remaining term of the removed Board Member. Board Members may also be removed by a majority vote of the other active Board Members upon the occurrence of any of the following: failure to attend three (3) consecutive Board meetings, failure to remain current on Assessments, or a violation of the Governing Documents. If removal occurs based on the preceding sentence, then the remaining Board Members may appoint a replacement to serve the remaining term of the removed Board Member.

4.16 **Vacancies**. If vacancies occur during the Period of Declarant Control, the Declarant shall appoint a Board Member to fill the vacancy. Following the Period of Declarant Control, if vacancies occur for any reason (including death, resignation, or disqualification) except removal by the Owners, the Board Members then in office shall continue to act, and

such vacancies shall be filled by a majority vote of the Board Members then in office, though less than a quorum. Vacancies occurring by reason of removal by the Owners may be filled by election of the Owners at the meeting at which such Board Member is removed. Board Members elected or appointed hereunder to fill a vacancy shall serve for the unexpired term of their predecessor. Except by reason of death, resignation, disqualification, or removal, Board Members shall continue to serve until their successors are elected.

4.17 **Action Without a Meeting**. Board Members have the right to take any action in the absence of a meeting which they could take at a Board meeting if a majority of the Board Members consent to the action in writing. The term "in writing" shall specifically include email and text messaging. Board Members may also take action without a meeting if the Board complies with any applicable provisions of the Acts. Any action so approved shall have the same effect as though taken at a Board meeting.

4.18 **Waiver of Notice**. Before or at any Board meeting, any Board Member or Owner may waive notice of such meeting and such waiver shall be deemed the equivalent of proper notice. Attendance by a Board Member or Owner at any Board meeting shall be a waiver of notice by that Board Member or Owner of the time, place, and purpose thereof.

4.19 **Adjournment**. The Board may adjourn any meeting from day to day for such other time as may be prudent or necessary, provided that no meeting may be adjourned for longer than thirty (30) days.

4.20 **Meeting**. A Board meeting does not include a gathering of Board Members at which the Board does not conduct and vote on Association business.

ARTICLE V
OFFICERS

5.1 **Officers**. The officers of the Association shall be a President, Secretary, Treasurer, and such other officers as may be appointed by the Board. Officers shall not be required during the Period of Declarant Control.

5.2 **Election, Tenure, and Qualifications**. Officers shall be elected by the Board at the first Board meeting following each Annual Meeting of the Owners. Each officer shall hold such office until the next ensuing meeting of the Board following the Annual Meeting of the Owners and until a successor has been elected and qualified, or until such officer's death, resignation, disqualification, or removal in the manner provided in these Bylaws, whichever first occurs. Any person may hold any two (2) or more of such offices, except that the President may not also be the Secretary. No person holding two (2) or more offices shall act in or execute any instrument in the capacity of more than one (1) office.

5.3 **Subordinate Officers**. The Board may appoint such other officers or agents as it may deem advisable, each of whom shall have such title, hold office for such period, have such authority, and perform such duties as the Board may from time to time determine.

5.4 **Resignation and Removal**. Officers may resign at any time by delivering a written resignation to any Board Member. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any officer may be removed and replaced upon the affirmative vote of a majority of the Board Members at any time, with or without cause.

5.5 **Vacancies**. If a vacancy occurs in an office for any reason, or if a new office is created, such vacancies or newly created offices may be filled by majority vote of the Board at any regular or special Board meeting.

5.6 **President**. The President shall be the chief executive of the Association. The President shall preside at meetings of the Board of Directors and at meetings of the Owners. At the meetings, the President shall have all authority typically granted to the person presiding over the meeting including but not limited to: (1) the right to control the order of the meeting, (2) the right to arrange for the removal of any disruptive Owner or person, (3) the right to impose and enforce reasonable rules and procedures related to the meeting such as those found in "Robert's Rules of Order" or "The Modern Rules of Order." The President shall sign on behalf of the Association all conveyances, mortgages, documents, and contracts, and shall do and perform all other acts and things as required by the Board.

5.7 **Secretary**. The Secretary shall keep the minutes of the Association and shall maintain such books and records as these Bylaws, the Declaration, Rules, or any resolution the Board may require. The Secretary shall also act in the place of the President in the event of the President's absence or inability or refusal to act. The duties of the Secretary may be delegated to the Manager.

5.8 **Treasurer**. The Treasurer shall have the custody and control of the funds and financial accounts of the Association, subject to the action of the Board, and when requested by the President, shall report the state of the finances of the Association at each meeting of the Owners and at any meeting of the Board. The Treasurer shall perform such other duties as required by the Board. The duties of the Treasurer may be delegated to the Manager.

5.9 **Compensation**. No officer shall receive compensation for any services rendered to the Association as an officer, provided, however, that an officer may be reimbursed for expenses incurred in performance of such duties as an officer to the extent such expenses are approved by the Board.

ARTICLE VI
COMMITTEES

6.1 **Designation of Committees**. The Board may designate committees as it deems appropriate in carrying out its duties, responsibilities, functions, and powers. No committee members shall receive compensation for services rendered to the Association as a member of a committee; provided, however, that a committee member may be reimbursed for expenses incurred in performance of such duties as a committee member to the extent that such expenses are approved by the Board. A committee shall not have powers, duties, or responsibilities beyond those specifically assigned by the Board in a written resolution. The Board may terminate a committee at any time.

6.2 **Proceeding of Committees**. Each committee may appoint its own presiding and recording officers and may meet at such places and times and upon such notice as such committee may determine. Each such committee shall keep a record of its proceedings and shall regularly report such records to the Board.

6.3 **Quorum and Manner of Acting**. At each committee meeting, the presence of members constituting at least a majority of the authorized membership of such committee (but in no event fewer than two (2) members) shall constitute a quorum for the transaction of

business, and the act of a majority of the members present at any meeting at which a quorum is present shall be the act of such committee. The committee members shall act only as a committee, and the individual members thereof shall have no powers as such. A committee may only exercise the authority granted to it by the Board.

6.4 **Resignation and Removal**. A committee member may resign at any time by delivering a written resignation to a Board Member, or the presiding officer of such committee. Unless otherwise specified therein, such resignation shall take effect upon delivery. The Board may at any time, with or without cause, remove any committee member.

6.5 **Vacancies**. If a vacancy occurs in a committee for any reason, the remaining members shall, until the filling of such vacancy by the Board, constitute the then total authorized membership of the committee and, provided that two (2) or more members are remaining, may continue to act. Such vacancy may be filled at any meeting of the Board.

ARTICLE VII
INDEMNIFICATION

7.1 **Indemnification**. No Board Member, officer, or committee member shall be personally liable for any obligations of the Association or for any duties or obligations arising out of any acts or conduct said Board Member, officer, or committee member performed for or on behalf of the Association. The Association shall and does hereby indemnify and hold harmless each person who shall serve at any time as a Board Member, officer, or committee member of the Association, as well as such person's heirs and administrators, from and against any and all claims, judgments and liabilities to which such persons shall become subject, by reason of that person having heretofore or hereafter been a Board Member, officer, or committee member of the Association or by reason of any action alleged to have been heretofore or hereafter taken or omitted to have been taken by him as such Board Member, officer, or committee member and shall reimburse any such person for all legal and other expenses reasonably incurred in connection with any such claim or liability; provided that no such person shall be indemnified against or be reimbursed for or be defended against any expense or liability incurred in connection with any claim or action arising out of such person's willful or intentional misconduct. The rights accruing to any person under the foregoing provisions of this Section shall not exclude any other right to which such person may lawfully be entitled, nor shall anything herein contained restrict the right of the Association to defend, indemnify, or reimburse such person in any proper case, even though not specifically provided for herein or otherwise permitted. The Association, its Board Members, officers, committee members, employees, and agents shall be fully protected in taking any action or making any payment or in refusing so to do in reliance upon the advice of counsel.

7.2 **Other Indemnification**. The defense and indemnification provided herein shall not be deemed exclusive of any other right to defense and indemnification to which any person seeking indemnification may be entitled under the Acts or under any agreement, vote of disinterested Board Members or otherwise, both as to action taken in any official capacity and as to action taken in any other capacity while holding such office. It is the intent that all Board Members, officers, and committee members be and hereby are defended and indemnified to the fullest extent permitted by the laws of the State of Utah and these Bylaws.

The defense and indemnification herein provided shall continue as to any person who has ceased to be a Board Member, officer, committee member, or employee and shall inure to the benefit of the heirs, executors and administrators of any such person.

7.3 **Insurance**. The Board, in its discretion, may direct that the Association purchase and maintain Directors and Officers insurance on behalf of any person who is or was a Board Member, officer, committee member, Manager or employee of the Association or is or was serving at the request of the Association as a Board Member, officer, committee member, Manager, employee, or agent of another association, corporation, partnership, joint venture, trust or other enterprise against any liability asserted against, and incurred by, such person in any such capacity or arising out of such person's status as such, whether or not the Association would have the power to defend or indemnify such person against liability under the provisions of this Article.

7.4 **Settlement by Association**. The right of any person to be defended and/or indemnified shall be subject always to the right of the Association through the Board, in lieu of such defense and/or indemnity, to settle any such claim, action, suit or proceeding at the expense of the Association by the payment of the amount of such settlement and the costs and expenses incurred in connection therewith.

ARTICLE VIII RULES AND REGULATIONS

8.1 **Rules**. The Board shall have the authority to adopt Rules and a schedule of fines for violations as it deems necessary for the maintenance, operation, management, and control of the Project by resolution or similar document. The Board may from time to time, by resolution, alter, amend, and repeal such Rules and use their best efforts to see that they are strictly observed by all Owners and Occupants. Owners are responsible to ensure that their lessees, invitees, and guests strictly observe the Rules then in effect as well as the covenants and restrictions of the Declaration and shall be jointly and severally liable for their violations and resulting fines. Copies of all Rules adopted by the Board shall be sent to all Owners at least fifteen (15) days prior to the effective date thereof.

ARTICLE IX AMENDMENTS

9.1 **Amendments by Declarant**. During the Period of Declarant Control or so long as the Declarant or one of its affiliates owns one or more Lots in the Project or any Additional Land, the Declarant acting alone may amend the Bylaws for any reason, without Owner approval. Declarant's unilateral amendment right may continue past the expiration of the Period of Declarant Control. No other amendment shall be valid or enforceable during the Period of Declarant Control or so long as Declarant owns at least one Lot or any Additional Land unless the Declarant has given written consent to such amendment. Any amendment during the Period of Declarant Control shall be executed by Declarant on behalf of the Association and shall become effective upon recordation in the office of the County Recorder.

9.2 **Amendments by Association**. After the Declarant has annexed all of the Additional Land, sold all of the Lots to third parties, and the Period of Declarant Control has expired, the Bylaws may be amended by the Owners upon the affirmative vote of at least

than sixty-seven percent (67%) of the voting interest of the Association. Any amendment(s) shall be effective upon recordation in the office of the County Recorder. In such instrument a Board Member shall execute the amendment and certify that the vote required by this Section has occurred. If a Lot is owned by more than one Owner, the vote of any one Owner shall be sufficient to constitute approval for that Lot under this Section. If a Lot is owned by an entity or trust, the vote of any one officer, trustee, or agent of the entity shall be sufficient to constitute approval for that Lot under this Section. No amendment shall restrict, limit, or impair any Declarant rights without the express written consent of the Declarant.

ARTICLE X
MISCELLANEOUS PROVISIONS

10.1 **Waiver**. No restriction, condition, obligation, or provision contained in these Bylaws shall be deemed to have been abrogated or waived by reason of a failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

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

10.3 **Conflicts**. These Bylaws are intended to comply with the Declaration. In case of any irreconcilable conflict, the Declaration shall control over these Bylaws.

* * * *

IN WITNESS WHEREOF, the Declarant has executed and adopted these Bylaws on behalf of the Association this ___ day of _____, 2024.

DECLARANT
JLM Development Amber, LLC
a Utah limited liability company

By:_____

Name: _____

Its:_____

STATE OF UTAH)
) ss.
COUNTY OF _____)

On the _ day of _____, 2024, personally appeared before me _____ who by me being duly sworn, did say that she/he is an authorized representative of JLM Development Amber, LLC, and that the foregoing instrument is signed on behalf of said company and executed with all necessary authority.

Notary Public: _____

EXHIBIT C

MAINTENANCE ALLOCATION CHART

ITEM	HOA	DETACHED HOME LOTS	NOTES
A/C Pad & Unit		X	
Address Numbers		X	
Attic		X	
Cable/Satellite TV		X	
Ceiling		X	
Circuit Breakers for Unit		X	
Clubhouse & Related Facilities	X		
Common Area amenities	X		
Door and Door Frames - exterior		X	Subject to Board approval to replace
Door and Door frames - interior		X	
Door Hardware/doorbell		X	
Drains – Residence & Limited Common patio/porch		X	
Dryer Vent Cleaning		X	
Electrical Wiring/Panel		X	
Exterior Wall Finishes (Rock/Stucco/Siding/Brick, etc.)	X	X	
Fences – around rear patio/Limited Common Area		X	
Fences – Common Area & Project perimeter	X		
Fireplace, Flue, & Vent Pipes – Cleaning & Repair		X	
Floor Coverings		X	
Foundation – Structural		X	
Foundation – Cracks, cosmetic		X	

Front Landing/Porch		X	
Furnace		X	
Garage Doors – repair & replacement (all components)		X	Subject to Board approval to replace
Gas Pipes (from meter to inside Residence)		X	
Hose Bib/Faucet/Spigot		X	
Hot Water Heater		X	
Insurance Coverage – Property (attached buildings)	X		
Insurance Coverage - HO6 Policy			
Insurance Coverage - loss assessment		X	
Insurance Deductible	X	X	Assessed to Owners pro-rata according to losses. HO6 deductible is Owner's responsibility.
Irrigation Lines / Heads – Common Area yard	X		
Landscape – Common Area	X		

Landscape – Owner's fenced in yard area		X	If applicable
Lights – eaves, porch & garage fixtures & bulbs		X	Fixture replacement subject to approval
Limited Common Area – patios, porches, decks, stairs & sidewalks, driveways - repair and replacement		X	
Limited Common Area – patios, porches, decks, stairs & sidewalks, driveways - clean and snow removal		X	
Mailbox & Stand/Structure		X	Or USPS as applicable
Mailbox Lock & Key		X	Or USPS as applicable
Paint - exterior wall surfaces and trim finishes	X	X	
Paint – exterior doors, garage doors, windows	X	X	
Paint - Interior		X	

Patio Slab		X	
Pest Control Interior & Exterior		X	
Phone Lines		X	
Pickleball Courts	X		
Playgrounds & Open Space	X		
Plumbing Valves, Pressure Regulator		X	After point of connection/Meter = Owner Before point of connection/Meter = HOA
Plumbing Main Line		X	After point of connection/Meter = Owner Before point of connection/Meter = HOA
Plumbing Leak		X	After point of connection/Meter = Owner Before point of connection/Meter = HOA
Plumbing – clogging/stoppage		X	After point of connection/Meter = Owner Before point of connection/Meter = HOA
Plumbing Pipes Inside Residence		X	
Rain Gutters – repair, replacement	X	X	
Rain Gutters – clean, drains away from building		X	
Roof – leaks, repair & replacement	X	X	
Screen Doors		X	Must be approved by Board
Sewer pipes & utilities – serving a single Residence		X	
Sewer pipes & utilities – to more than one Residence		X	Responsibility shared by Owners in use unless handled by municipality or others
Shutters, exterior window trim	X	X	
Sidewalks and paths on Common Areas	X		
Sliding Glass Doors		X	
Snow Removal – Limited Common Areas, driveways, porches & sidewalks on Lots		X	
Snow Removal – Common sidewalks & parking	X		
Storm Drains	X		
Street Lights	X		Unless handled by municipality or others

Termites, pests, rodents, insects, etc.		X	
Trash		X	If municipality allows
Utility Doors		X	
Vent Covers - exterior	X	X	
Wall - bearing interior wall		X	
Wall - partition interior wall		X	
Water – culinary & Lot landscape		X	Unless collectively metered
Water – Common Area landscape	X		
Weather Stripping		X	
Windows – glass, screens, frames, boxes		X	Subject to Board approval to replace

WHEN RECORDED RETURN TO:

JLM Development Amber, LLC
1920 N. 1700 W.
Farr West, UT 84404

NOTICE OF REINVESTMENT FEE COVENANT

(Oak Hollow Owners Association)

Pursuant to Utah Code § 57-1-46(6), the Oak Hollow Owners Association ("**Association**") hereby provides this Notice of Reinvestment Fee Covenant which burdens all of the real property described in Exhibit A (the "**Burdened Property**"), attached hereto, which is subject to the Declaration of Covenants, Conditions, and Restrictions for Oak Hollow recorded with the Weber County Recorder on _____, 2024 as Entry No. _____, and any amendments or supplements thereto (the "**Declaration**").

The Reinvestment Fee Covenant requires, among other things, that upon the transfer of any of the Burdened Property subject to the Declaration, the transferee, other than the Declarant, is required to pay a reinvestment fee as established by Section 5.21 of the Declaration (as may be amended), unless the transfer falls within an exclusion listed in Utah Code § 57-1- 46(8). The amount of the reinvestment fee may be set forth in the rules or through a Board resolution.

BE IT KNOWN TO ALL OWNERS, SELLERS, BUYERS, AND TITLE COMPANIES owning, purchasing, or assisting with the closing of a Burdened Property conveyance within the **Oak Hollow** planned development that:

1. The name and address of the beneficiary of the Reinvestment Fee Covenant is:

   Oak Hollow Owners Association
   2097 E Cedar Fort Drive
   Eagle Mountain, UT 84005

   The address of the beneficiary may change from time to time as updated on the Utah Department of Commerce Homeowner Associations Registry.

2. The burden of the Reinvestment Fee Covenant is intended to run with the Burdened Property and to bind successors in interest and assigns.

3. The existence of this Reinvestment Fee Covenant precludes the imposition of any

additional Reinvestment Fee Covenant on the Burdened Property.

4. The duration of the Reinvestment Fee Covenant is perpetual. The Association's members, by and through a vote as provided for in the amendment provisions of the Declaration, may amend or terminate the Reinvestment Fee Covenant.

5. The purpose of the Reinvestment Fee is to assist the Association in covering the costs of: (a) common planning, facilities and infrastructure; (b) obligations arising from an environmental covenant; (c) community programming; (d) resort facilities; (e) open space; (f) recreation amenities; (g) common expenses of the Association; or (h) funding Association reserves.

6. The fee required under the Reinvestment Fee Covenant is required to benefit the Burdened Property.

7. Please contact the Association for the amount of the Reinvestment Fee.

IN WITNESS WHEREOF, the Declarant has executed this Notice of Reinvestment Fee Covenant on behalf of the Association on the date set forth below, to be effective upon recording with the Weber County Recorder.

DATED this _____ day of _____, 2024.

DECLARANT
JLM Development Amber, LLC
a Utah limited liability company,

By: _____

Name: _____

Its: _____

STATE OF UTAH)
) ss.
COUNTY OF _____)

On the ___ day of _____, 2024, personally appeared before me

_____ who by me being duly sworn, did say that she/he is an authorized representative of JLM Development Amber, LLC, and that the foregoing instrument is signed on behalf of said company and executed with all necessary authority.

_____

Notary Public

EXHIBIT I
GEOTECHNICAL REPORT

Printed under a separate cover.

EXHIBIT J
PHASE 1 ENVIRONMENTAL REPORT

Printed under a separate cover.

EXHIBIT K-1

Parks Trails and Open Spaces (PTOS) Narrative

The Oak Hollow Landscape Plan addresses the following areas in the Oak Hollow development:

- Community park
- Common area open space
- Landscape areas of residential homes

The community park and general common area open space are identified in the PTOS Plan (Exhibit K-2). The community includes one common area park, with a pavilion, walking trail and pickleball courts. Designs for these parks will be completed prior to submission to the Harrisville City Council.

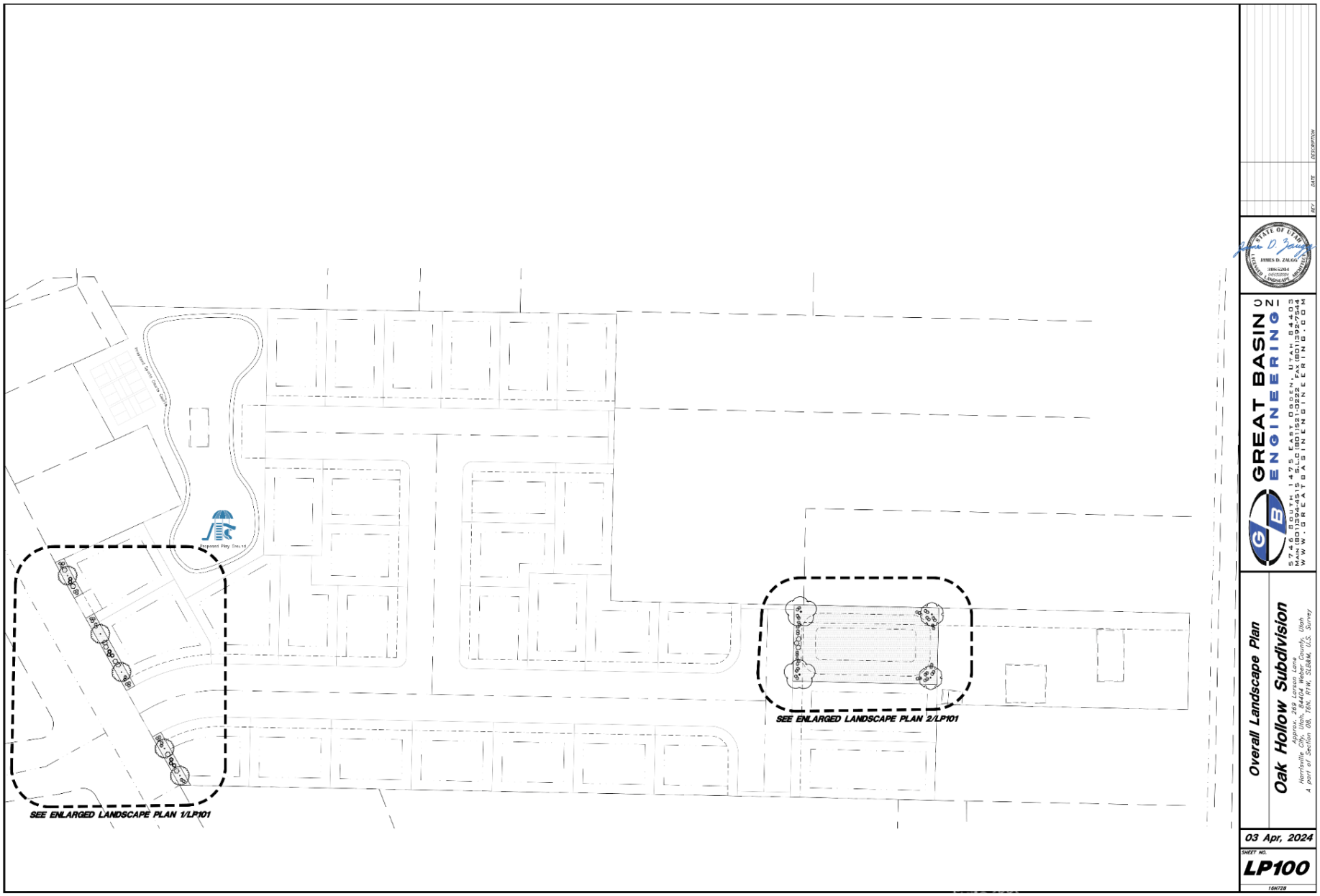
As described in the Maintenance Plan (Exhibit N), the Oak Hollow Owners Association (HOA) will manage and maintain the local park, pavilion, common open spaces and the pickleball courts.

The landscaping design for the private lots in the community will be the responsibility of homeowners, subject to requirements in the CC&Rs with oversight by the HOA Design Review Committee.

PTOS Plan
Exhibit K-2

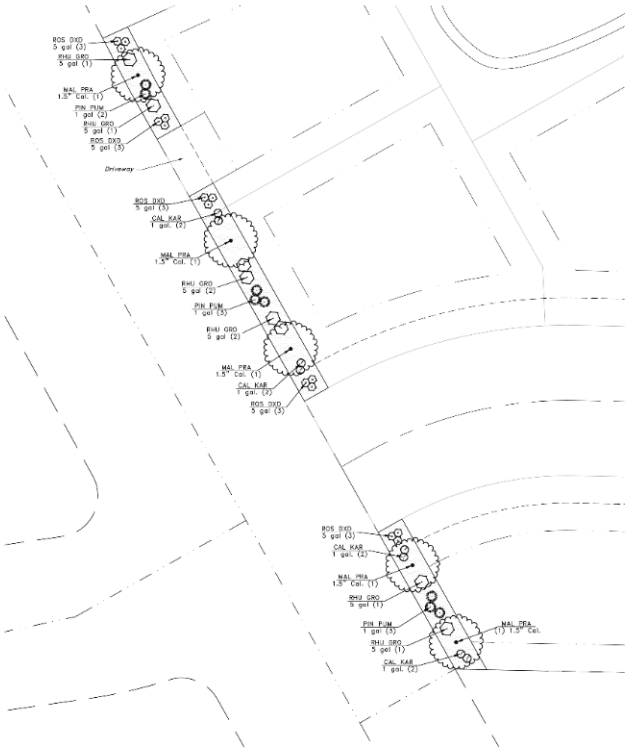
OAK HOLLOW
Plant Your Roots Here

EXHIBIT K-3

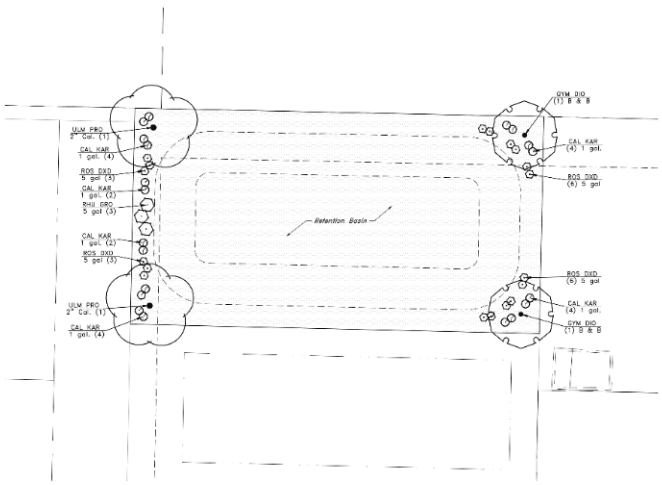


SEE ENLARGED LANDSCAPE PLAN 1/LP101
SEE ENLARGED LANDSCAPE PLAN 2/LP101
Overall Landscape Plan
Oak Hollow Subdivision
Approx. 269 Larson Lane
Harrisville City, Utah, 84404 Weber County, Utah
A part of Section 08, T6N, R1W, SLB&M, U.S. Survey
GREAT BASIN ENGINEERING
5746 SOUTH 1475 EAST OGDEN, UTAH 84403
MAIN (801)394-4515 S.L.C (801)521-0222 FAX (801)392-7544
WWW.GREATBASINENGINEERING.COM
03 Apr, 2024
SHEET NO.
LP100

EXHIBIT K-3



1 ENLARGED LANDSCAPE PLAN



2 ENLARGED LANDSCAPE PLAN

PLANTING NOTES

1. EXAMINE THE SITE CONDITIONS. THE SUBGRADE AND VERIFY THE DEPTHS OF TOPSOIL AND MULCH. NOTIFY THE ARCHITECT IN WRITING OF ANY UNSATISFACTORY CONDITIONS. DO NOT BEGIN LANDSCAPE WORK UNTIL UNSATISFACTORY CONDITIONS HAVE BEEN RESOLVED.
2. ALL PLANTS SHOWN GRAPHICALLY ARE REQUIRED. ANY PLANT QUANTITIES ARE FOR CONVENIENCE ONLY, CONTRACTOR TO VERIFY PLAN QUANTITIES PRIOR TO BIDDING.
3. SPACING BETWEEN PLANTS AND BETWEEN PLANTS AND PAVING ARE BASED ON THE MATURE SPREAD OF THE PLANTS. PRIOR TO PLANTING, VERIFY ROOM TO ACCOMMODATE MATURE PLANT WITHOUT OVERCROWDING AND ENCROACHING ON PAVING.
4. VERIFY LOCATIONS OF ALL UTILITIES PRIOR TO ANY DIGGING. ANY DAMAGE TO EXISTING UTILITIES CAUSED BY THIS CONTRACTOR SHALL BE REPAIRED AT NO ADDITIONAL EXPENSE TO THE OWNER.
5. TOPSOIL IS TO BE [IMPORTED (HARVESTED AND STOCKPILED ON SITE)] TO THE SITE.[SUBMIT TOPSOIL TEST. SCREEN AND AMEND TO MEET THE FOLLOWING STANDARDS:
   - 5.1. ORGANIC MATTER: GREATER THAN 1.0%
   - 5.2. SOLUBLE SALTS: LESS THAN 4 dS/m
   - 5.3. PH: BETWEEN 5.0 AND 8.2
   - 5.4. TEXTURE: SAND: 15-60%, SILT: 10-60% CLAY 5-30%.
   - 5.5. SODIUM ADSORPTION RATIO (SAR): BELOW 10 FOR SANDY CLAY LOAM, SANDY LOAM AND LOAM. BELOW 7 FOR SILT LOAM, SILTY CLAY LOAM, AND CLAY LOAM.
   - 5.6. COARSE FRAGMENTS 2mm AND SMALLER: LESS THAN 5%.
   - 5.7. NO ROCKS OVER 1.5"
6. CONTRACTOR IS RESPONSIBLE FOR PROVIDING 6" OF TOPSOIL FOR TURF AND 12" OF TOPSOIL FOR SHRUBS AND TREES.
7. THE LANDSCAPE CONTRACTOR IS RESPONSIBLE FOR FINISH GRADE ELEVATIONS. ALLOW FOR SPECIFIED TOPSOIL AND MULCH LAYER THICKNESS. COORDINATE ROUGH GRADING WITH THE GENERAL CONTRACTOR.
8. ALL PLANT MATERIAL MUST MEET THE SIZES AS INDICATED ON THE PLANT SCHEDULE. PLANT MATERIAL THAT DOES NOT MEET THE QUALITY STANDARDS OF THE PROJECT WILL BE REFUSED BY THE LANDSCAPE ARCHITECT.
9. TURFGRASS SOD SHALL BE CERTIFIED NUMBER 1 QUALITY/PREMIUM SOD - SEE SPECIFICATIONS.

PLANT SCHEDULE

CODE	QTY	BOTANICAL / COMMON NAME	CONT	CAL
TREES				
GYM DIO	2	Gymnocladus dioica 'Espresso' / Kentucky Coffeetree	B & B	2"Cal
MAL PRA	5	Malus x 'Prairifire' / Prairifire Crabapple	1.5" Cal.	
ULM PRO	2	Ulmus wilsoniana 'Prospector' / Prospector Elm	2" Cal.	B&B

CODE	QTY	BOTANICAL / COMMON NAME	SIZE
SHRUBS			
PIN PUM	8	Pinus mugo 'Pumilio' / Mugo Pine 4'H 4'W	1 gal
RHU GRO	11	Rhus aromatica 'Gro-Low' / Gro-Low Fragrant Sumac	5 gal
ROS DXD	33	Rosa x 'Groundcover Pink' / Pink Groundcover Rose	5 gal
GRASSES			
CAL KAR	28	Calamagrostis x acutiflora 'Karl Foerster' / Feather Reed Grass	1 gal.

SYMBOL	QTY	BOTANICAL / COMMON NAME	CONT	TYPE	SPACING
GROUND COVERS					
	13,725 sf	Decorative Gravel Mulch / 3/4"-1" Washed Gravel Place 4" deep over 12" deep topsoil around plants and weed barrier fabric. Color by owner.	Stone Mulch	Stone	

REV	DATE	DESCRIPTION

GREAT BASIN ENGINEERING
5746 SOUTH 1475 EAST STE 200 N, OGDEN, UTAH 84403
801.621.3100 FAX 801.621.2202
WWW.GREATBASINENGINEERING.COM

Enlarged Landscape Plan

Oak Hollow Subdivision

Approx. 269 Larson Lane
Harrisville City, Utah, 84404 Weber County, Utah
A part of Section 08, T6N, R1W, SLB&M, U.S. Survey

03 Apr, 2024

SHEET NO.
LP101

16N729

EXHIBIT L
MAXIMUM RESIDENTIAL UNITS

UNIT TYPE	MAXIMUM RESIDENTIAL UNITS
SINGLE FAMILY HOMES	30
TOTAL RESIDENTIAL UNITS	30

EXHIBIT M
DEVELOPMENT AREAS

Section 2.5.7 of the MDA permits the Master Developer to transfer Dwelling Units between or among Development Areas subject to certain limited and specified parameters as a matter of right without any approvals being required by the City. Development Areas on the Master Plan are shown in Exhibit Q-1. Up to two (2) single-family homes may be transferred between or among the residential Development Areas in Exhibit Q-1. Residential Development Areas do not include Area D, Clubhouse Area, and Area G, Town Center Area. Transfer may result in a change in the mix of residential units but the Maximum Residential Units cannot be exceeded.

EXHIBIT N
MAINTENANCE PLAN

The operation, maintenance, repair and replacement of all common areas including private roads; alleyways; parking areas; park and open area landscaping; park and open area equipment, fixtures and furniture including playgrounds; trails; the clubhouse and related recreational facilities; will be performed by the Oak Hollow Owners Association (HOA). The HOA will manage all maintenance under contract with a professional management company and the Maintenance Plan fees will be funded through the assessment of Members who are owners of lots and parcels. Proper maintenance of individual residential lots and buildings will be the responsibility of unit owners subject to the terms of the CC&R's and the attached Maintenance Allocation Chart. All future improvements, including applications for building permits, will be subject to review and approval by the HOA Design Review Committee.

WATER SHARE PURCHASE AGREEMENT

This Water Share Purchase Agreement ("Agreement") is made and entered into on this ___ day of _____, 2024, by and between:

Seller:
JEFF HALES
jeffwhales@live.com
(801) 540-9947

Buyer:
HARRISVILLE CITY
363 West Independence Blvd
Harrisville, UT 84404
(801) 782-4100

RECITALS

WHEREAS, Seller is the owner of certain water shares, specifically described as FIVE SHARES, of FIVE DOLLAR each, of the Capital Stock of LYNNE IRRIGATION COMPANY, of WEBER COUNTY, UTAH and FORTY SHARES, of the CAPITAL STOCK of WESTERN IRRIGATION COMPANY ("Water Shares");

WHEREAS, Buyer desires to purchase and Seller desire to sell the Water Shares on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **SALE AND PURCHASE OF WATER SHARES**
   1.1 Seller agrees to sell, transfer, and convey to Buyer, and Buyer agrees to purchase from Seller, all rights, title, and interest in and to the Water Shares.

2. **PURCHASE PRICE**
   2.1 The purchase Price shall be payable as follows:
   a. The Buyer shall provide the following at closing ("Closing"):
      i. A certificate signed over in the amount of 29 Warren Irrigation Company Water Shares

   b. The Seller shall provide the following at closing ("Closing"):
      a. A certificate signed over in the amount of 40 Western Irrigation Company Water Shares
      b. A certificate signed over in the amount of 5 Lynn Irrigation Company Water Shares

c. $10,000 payable to Harrisville City

3. CLOSING

3.1 The Closing of the sale and purchase of the Water Shares shall take place on or before July 10, 2024 or at such other time and place as the parties may mutually agree in writing.

3.2 At Closing, Seller shall deliver to Buyer:

a. Duly executed and acknowledged assignment of the Water Shares in a form acceptable to Buyer.

b. Any other documents necessary to transfer the Water Shares to Buyer, free and clear of any liens, encumbrances, or claims.

3.3 At Closing, Buyer shall deliver to Seller the balance of the Purchase Price as specified in Section 2.1(a).

4. REPRESENTATIVES AND WARRANTIES

4.1 Seller represents and warrants to Buyer that:

a. Seller is the sole legal and beneficial owner of the Water Shares and has the full right, power, and authority to sell and transfer the Water Shares to Buyer.

b. The Water Shares are free and clear of any liens, encumbrances, claims, or other restrictions.

c. There are no outstanding agreements, options, or other rights to purchase the Water Shares.

4.2 Buyer represents and warrants to Seller that Buyer has the full right, power, and authority to enter into this Agreement and to perform its obligations hereunder.

5. CONDITIONS PRECEDENT

5.1 The obligations of Buyer to consummate the transactions contemplated by this Agreement are subject to the satisfaction of the following conditions precedent on or before the Closing:

a. Seller's representations and warranties shall be true and correct as of the Closing.

b. Seller shall have performed all of its obligations under this Agreement.

c. Buyer shall have obtained any necessary consents, approvals, or authorizations for the purchase of the Water Shares.

6. INDEMNIFICATION

6.1 Seller agrees to indemnify, defend, and hold Buyer harmless from and against any and all losses, liabilities, damages, costs, and expenses arising out of or relating to any breach of Seller's representations, warranties, or covenants contained in this Agreement.

6.2 Buyer agrees to indemnify, defend, and hold Seller harmless from and against any and all losses, liabilities, damages, costs, and expenses arising out of or relating to any breach of Buyer's representations, warranties, or covenants contained in this Agreement.

7. GOVERNING LAW

7.1 This Agreement shall be governed by and construed in accordance with the laws of the State of Utah, without regard to its conflicts of laws principles.

8. ENTIRE AGREEMENT

8.1 This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous understanding, agreement, representations, and warranties, whether written or oral, with respect to such subject matter.

9. AMENDMENTS

9.1 This Agreement may be amended or modified only by a written instrument signed by both parties.

10. SEVERABILITY

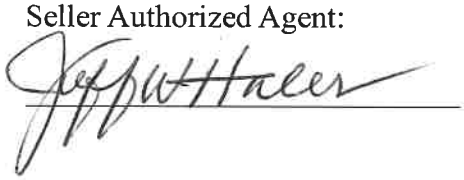
10.1 If any provision of this Agreement is held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Agreement.

11. COUNTERPARTS

11.1 This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same.

IN WITNESS WHEREOF, the parties hereto have executed this Water Share Purchase Agreement as of the _____ day of _____, 2024.

Seller Authorized Agent:



Harrisville City:

_____

Title

ATTEST:

_____

Approved by:

_____