



**AGENDA**  
**COUNTY COUNCIL**  
**Wednesday, July 29, 2026**

NOTICE is hereby given that the Summit County Council will meet, on Wednesday, July 29, 2026, electronically, via Zoom, and at the anchor location of the Richins Building auditorium, 1885 W. Ute Blvd., Park City, UT 84098

(All times listed are general in nature, and are subject to change by the Board Chair)

**To view Council meeting, live, visit the "Summit County, Utah" Facebook page.**

**OR**

**To participate in Council meeting: Join Zoom webinar: <https://zoom.us/j/772302472>**

**OR**

**To listen by phone only: Dial 1-301-715-8592, Webinar ID: 772 302 472**

2:30 PM Closed Session - Property Acquisition (30 min); Litigation (20 min)

3:20 PM - Move to auditorium (10 min)

3:30 PM Work Session

1. 3:30 PM - Pledge of Allegiance (5 min)
2. 3:35 PM - Discussion and update from People's Health Clinic; Doctor Mairi G. Leining (30 min)  
[People's Health Clinic Presentation.pdf](#)
3. 4:05 PM - Update from The Hill Group regarding the Strategic Plan for the Seniors Program (20 min)  
[Staff Report Hill Group update to Council\\_July 29 2026.pdf](#)  
[Senior Svcs Planning Brief for County Council 072226.pdf](#)

4:25 PM Convene as the Governing Board of North Summit Fire Service District

1. 4:25 PM - Discussion and possible approval of amendments to Personnel Policies, Sections 8, 9, 13, and 14; Chief Nielson and Tyler Rowser (15 min)  
[NSFD Personnel Policy Staff Report.pdf](#)

Dismiss as the Governing Board of North Summit Fire Service District

4:40 PM Consideration of Approval

1. 4:40 PM - Discussion and possible approval of a Memorandum of Agreement Between Wasatch County, Jovid Mark II, LLC, Black Rock Estates Master Association, Inc., and Summit County, Concerning a Road Improvement and Associated Maintenance in Unincorporated Eastern Summit County, Utah; Ryan Stack (30 min)  
[Wakara Agreement \[7-23-26 with exhibits\].pdf](#)  
[Wakara Agreement Exhibit 1.pdf](#)  
[Wakara Agreement Exhibit 7.pdf](#)

#### 5:10 PM Work Session, Continued

1. 5:10 PM - Discussion regarding Ordinance No. 1016 for amendments to the Snyderville Basin Development Code Section 10-2-18: Master Planned Developments, 10-3: Development Application Procedure and Approval Process, 10-7-4: Amendment to the Zoning Map, and 10-11: Definitions. Project # 26-078. Amanda Curtis, County Planner (40 min)  
[26-078 SCC Presentation.pdf](#)  
[26-078 Staff Report SCC 7.29.26.pdf](#)
2. 5:50 PM - Council and Manager comments (10 min)

#### 6:00 PM Public Input

Public comment is for any matter not on the Agenda and not the subject of a pending land use application. If you would like to submit comments to Council, please email [publiccomments@summitcountyutah.gov](mailto:publiccomments@summitcountyutah.gov) by 12:00 p.m. on Wednesday, July 29, 2026. If you wish to interact with Council, for public input, please appear in person, or use the "Raise Hand" button at the bottom of the chat window in Zoom.

#### 6:00 PM Public Hearing

1. Convene as the Governing Board of the Snyderville Basin Recreation Special Service District - Public hearing and possible approval of Resolution No. SBSRD 2026-18, a Resolution of the County Council of Summit County, Utah, Acting as the Governing Authority of the Snyderville Basin Special Recreation District Adopting an Impact Fee Facilities Plan; Rob Parrish and Ryan Bruce  
[26.07.29\\_Basin\\_Rec\\_IFFP\\_County\\_Council\\_Presentation.pdf](#)  
[26.07.29\\_Basin\\_Rec\\_IFFP\\_Staff\\_Report.pdf](#)  
[26.07.29\\_ATTACHMENT A\\_SBSRD IFFP 062626.pdf](#)  
[26.07.29\\_ATTACHMENT B-SBSRD\\_IFFP\\_Community\\_Summary.pdf](#)  
[26.07.29\\_ATTACHMENT C- BRD-2026-037 \(1\).pdf](#)

Dismiss as the Governing Board of the Snyderville Basin Recreation Special Service District

#### Adjourn



PRESENTATION TO THE SUMMIT COUNTY COUNCIL

# A Partnership in Public Health at 650 Round Valley Drive

July 29, 2026

Mairi Leining, MD, MPH, FACP — Chief Executive Officer  
John Hanrahan, MD — Founder, Board Member & Building Committee Member

*Here, We Care / Aquí nos importa*



## A Building Created for Public Health

- In 2008, a partnership among the People's Health Clinic, Summit County, and IHC Health Services (Intermountain) led to a ground lease creating a home for clinical public health in Park City.
- The lease dedicates the Building to health care for our community — and it names its intended occupants.
- The Summit County Health Department and the People's Health Clinic moved in together in 2009 and have shared the Building ever since.
- Seventeen years later, the Building is doing exactly what its founders intended — and more of it than ever.

### MILESTONES

**1999**

PHC opens, serving the uninsured

**2008**

Ground lease signed: Intermountain & Summit County

**2009**

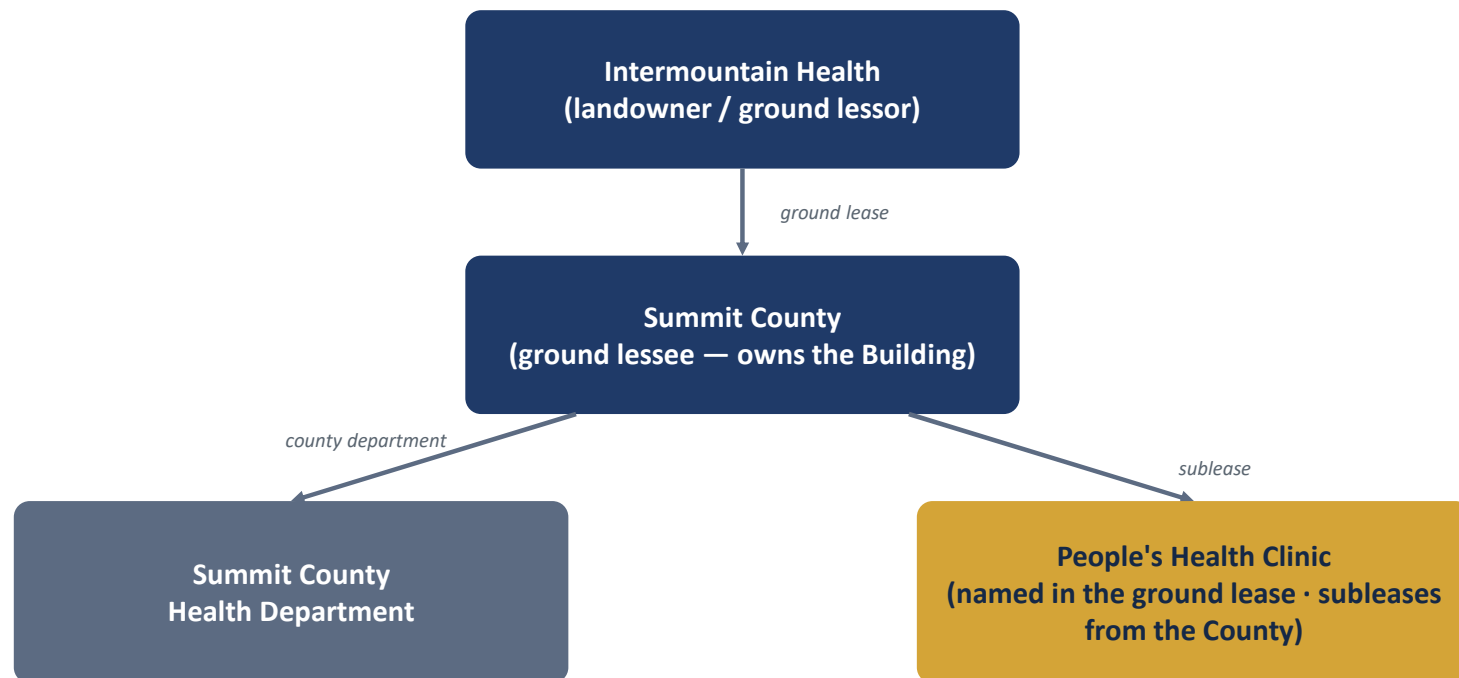
SCHD and PHC move into the Building

**2026**

17 specialties; approx. 21,500 patient encounters/yr

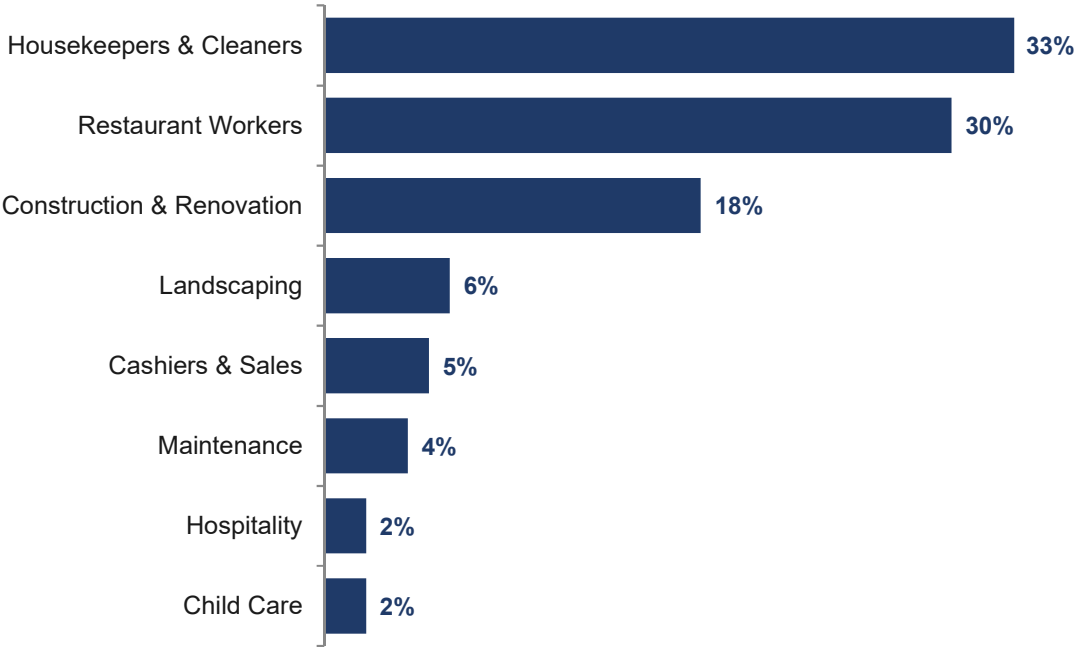
## HOW THE LEASES ARE STRUCTURED

# Two Health Care Tenants, By Design



*The ground lease contemplates these two health care occupants — and pre-approves a PHC sublease of up to 12,500 square feet. PHC occupies about 5,000 square feet today.*

# We Care for the People Who Make Park City Work



Occupations of patient visits — 9,043 of 10,816 visits, Sept 2023 – Aug 2024

Our patients clean our hotels, build our homes, cook our meals, and care for our children — and they cannot access the healthcare system they help support.

**4,208**

individuals served in 2025, with bilingual, bicultural staff

**97%**

of our patients live below 200% of the Federal Poverty Level

17 CLINICAL SPECIALTIES UNDER ONE ROOF

## The Core Functions of Public Health, Delivered Daily



### Cancer screening

Breast, cervical, colon, skin, prostate & lung, with tobacco cessation education



### Communicable disease

Sexually transmitted infection and latent tuberculosis screening & treatment



### Pediatrics

Well-child care, acute care, and developmental screening



### Chronic disease

Diabetes & hypertension care, nutrition, Food Farmacy



### Immunization

Adult vaccines, influenza, HPV, and Vaccines for Children



### Prenatal & postnatal care and family planning

Including lactation support and birth control



### Behavioral health

Integrated across the lifespan



### Medication access

\$3.7M+ in free medications secured for patients last year

**All seventeen specialties:** family practice · internal medicine · pediatrics · behavioral health · psychiatry · cardiology · dermatology · endocrinology · infectious disease · OB/GYN · ophthalmology · orthopedics · physical therapy · plastic surgery · podiatry · pulmonology · rheumatology  
Primary care anchored by our nine staff providers; subspecialty care delivered by more than 40 volunteer physicians.

## OUTSTANDING PATIENT CARE

# Care That Exceeds National Benchmarks



### **HIV screening: 97%**

Nearly every eligible patient is screened — against a national average of 50% across all clinics, and 35% among free clinics.



### **Annual retinal exams for diabetic patients: 95%**

More than double the 44% national average — delivered on the retinopathy camera housed in our converted storage closet.



### **Blood pressure control in our hypertension program: 79%**

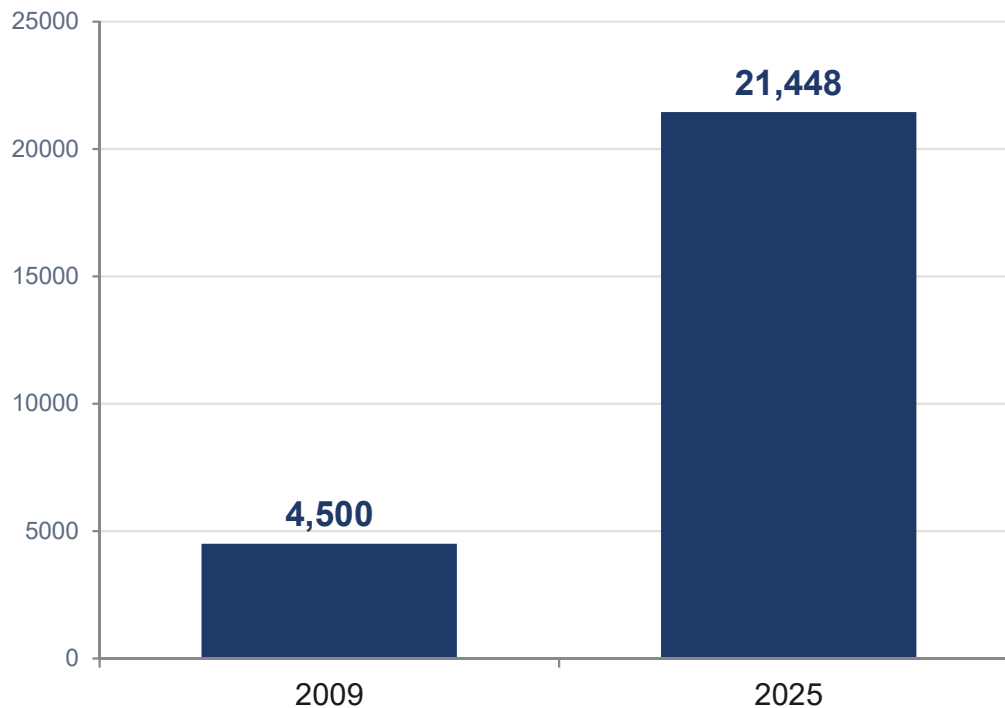
National averages run 44–48%. Our 468-participant program earned a 2025 Platinum designation from the Utah Million Hearts Coalition — one of only five clinics in the state.

Screening rates also above national benchmarks: diabetic foot exams 93% (vs. under 50%) · colon cancer 85% (vs. 66%) · breast cancer 83% (vs. 70%) · hepatitis B 97% (vs. 40%) · hepatitis C 96% (vs. 50%) · tobacco use 87% (vs. 70%)

Source: PHC Chief Medical Officer Quality Report to the Board, May 5, 2026

PATIENT ENCOUNTERS SINCE MOVING INTO THE BUILDING

## Growth That Has Outpaced Our Walls



**+375%**

growth in annual encounters since 2009

**+19%**

further growth, Q1 2026 vs. Q1 2025

**Same footprint**

PHC occupies roughly the space it did in 2009

## WHAT GROWTH LOOKS LIKE INSIDE OUR WALLS

# We Are Completely Out of Space

- Every clinical and administrative space PHC occupies is in daily use — there is no room left to convert.
- Our diabetic retinopathy camera operates out of a former storage closet.
- **Volunteer providers are credentialed, ready to start, and waiting — because we have no exam room to put them in.**



The CEO, CAO, CMO, and Operations Director share this one office



Our provider work area on a typical clinic day



A retinopathy exam in the converted storage closet

# PHC Is Critical Infrastructure



## Coverage losses are coming

Enhanced ACA premium tax credits expired at the end of 2025, and new Medicaid work requirements take effect in 2027. More residents are expected to lose coverage.



## PHC is where they will turn

When coverage disappears, the safety net absorbs the demand. PHC is the safety net for the uninsured in Summit and Wasatch Counties.



## Infrastructure, like workforce housing and transit

This County already invests in housing its workforce and moving its workforce. The institution that keeps that same workforce healthy is the same kind of infrastructure.

## COMMUNITY-FUNDED CARE

# How We Do What We Do

**\$3.8M**

PHC 2026 operating budget — funded by donors, foundations & grants

**40+**

volunteer physicians and providers donating care alongside our nine staff providers

**1 : 1**

our budget is matched at least dollar for dollar by in-kind services from Intermountain Health and our volunteer providers

Our community carries nearly the entire cost of this care.

**We are not here to ask for funding. We are asking the County to contribute what it uniquely can: space in a building dedicated, by its own lease, to exactly this work.**

## WHERE OUR FUNDING COMES FROM

Of our cash income budget, just 0.8% comes from the State of Utah, 0.3% from Summit County, and 1.4% from Park City and Midway City — 97.5% comes from private donors & foundations.

## OUR PARTNERSHIP WITH INTERMOUNTAIN HEALTH

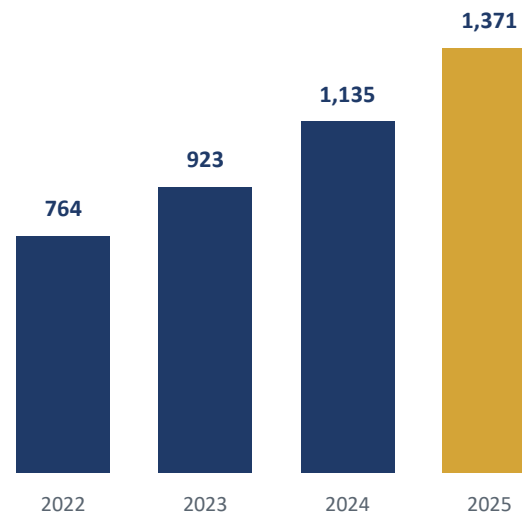
Intermountain leases the land beneath this Building for \$1 a year — a charitable contribution written into the ground lease — and supports our patients directly, from in-clinic certified nurse midwives and lactation consultants to Intermountain-supported diagnostic services.

## OUR PEDIATRIC PROGRAM

# A Pediatric Program in Dedicated Pediatric Space

- Dr. Zainab Kagen, our first staff pediatrician, leads the program alongside four volunteer pediatricians — with additional specialty training in child development.
- This is public health work: well-child exams, Vaccines for Children, and ASQ developmental screening — with same-day visits for sick children.
- **Behavioral health is being integrated with pediatrics, working with a bilingual, bicultural counselor, volunteer psychiatrist Dr. Rich Martini (former Chair of Psychiatry at Primary Children's), and U of U residents in six-month rotations.**
- The program operates today in the WIC suite's pediatric exam rooms two days a week; waits to see our volunteer pediatricians have run five to ten weeks over the past year.

### PEDIATRIC VISITS PER YEAR



**+79% growth since 2022**

Visits by patients under 18, all departments



Dr. Zainab Kagen — staff pediatrician. Photo: Jonathan Herrera / Park Record



Well-child visits, vaccines, and same-day sick care

## OUR SPACE NEEDS

# The Space Our Mission Requires

We are grateful for County staff's offer of exam rooms 9 and 10, the conference room, and an additional office. We already use rooms 9 and 10 and the conference room today, requesting permission each time — so most of this offer is guaranteed access to space we rely on now, rather than room to grow.

Three needs remain as SCHD staff relocate to the PEAK building this fall: room for the pediatric program you just saw to operate; offices to bring behavioral health alongside it; and exam rooms — with the clinical sinks and plumbing this care requires — for the volunteer physicians on our waiting list. Together, these needs describe the WIC suite that SCHD is vacating: pediatric exam rooms, offices, and a child-appropriate waiting area.

We are hopeful that continued discussions with County staff will lead to an allocation of clinical space that meets these needs, and we hope the Council supports the expansion of our ability to deliver care in Summit County.



### Pediatrics, daily

A dedicated, child-appropriate home for our pediatric program — the space that makes this care possible



### Behavioral health

Offices for behavioral health care integrated with pediatrics



### More volunteer providers

Exam capacity for the volunteer physicians now on our waiting list



## A Building Fulfilling Its Purpose

*The community funds this care. The ground lease provides for it. The need is growing.*

We ask for the Council's support as we work with County staff toward clinical space that meets these needs — and we invite every member of this Council to visit the Clinic and see this work in person.

Thank you for your service to our community.

*Here, We Care / Aquí nos importa • [peopleshealthclinic.org](http://peopleshealthclinic.org)*



## STAFF REPORT

TO: Summit County Council  
FROM: Janna Young, Deputy County Manager  
MEETING: July 29, 2026  
SUBJECT: Update on strategic planning effort for senior services

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### **Requested Council Action**

None

### **Introduction**

The County, along with communities across the nation, is bracing for a massive demographic shift caused by the aging of the *Baby Boomer* generation (born 1946-1964) and their increased longevity, known as the "Silver Tsunami." This shift is creating a growing wave of seniors with needs and impacts on society, the economy, healthcare, and the workforce, requiring more elder care and services as millions turn 60+ daily.

To respond to the needs of this growing population, Summit County initiated a strategic planning process in 2026 to guide both policy, program, and funding decisions in the short- and long-term.

On May 6, 2026, after a Request for Proposals (RFP) process, Summit County contracted with The Hill Group, a consulting firm based out of Pennsylvania with experience in strategic planning specifically for senior centers and services. At the July 29, 2026, Council meeting, we would like to introduce the firm to the Council and provide an update on the planning process.

Attached, please find a one-page brief summarizing all the activities and actions that have been completed to date, and the emerging themes to come out of the team's research and public engagement efforts thus far.

We anticipate having a draft strategic plan on which to base budget requests for 2027 sometime this fall and will present the final strategic plan to the County Council later this year.

**Attachment:** *Strategic Planning for Senior Services – 2026: Process and Outcomes Update Brief for County Council*



## Strategic Planning for Senior Services – 2026

Process and Outcomes Update – Brief for County Council

July 22, 2026

Summit County engaged The Hill Group to facilitate the development of a strategic plan for the future of Senior Services. To date, consultants from The Hill Group have conducted research, benchmarking, discovery conversations, and one facilitated planning workshop with the steering committee. This brief provides an overview of the efforts and outcomes to-date. The process continues through Fall 2026.

**Purpose:** Develop a long-term strategic direction for Summit County Senior Services that reflects changing demographics, senior needs and preferences, differences among the County's communities, and the resources and partnerships required to serve an aging population.

### Work Completed:

- **Extensive demographic review** of Summit County's growing older-adult population and regional differences.
- **Analysis of key senior issues**, including housing, healthcare/nutrition, transportation, isolation, affordability, connecting to services, and aging in place.
- **Review of current operations**, including programs, facilities, staffing, funding, governance, partnerships, and volunteers.
- **Best-practice benchmarking** of senior centers, age-friendly communities, transportation, wellness, resource navigation, and aging-in-place models.
- **25 documented engagement activities** with seniors, senior center boards, staff, volunteers, County and municipal leaders, and community partners.
- **Countywide engagement** through site visits, senior center meals, focus groups, interviews, public sessions, and Planning Committee workshops.

### Emerging Themes:

- Congregate meals, social connection, trusted senior centers, staff, volunteers, and local identity are highly valued.
- Needs increasingly extend beyond meals and activities.
- Transportation is the clearest countywide unmet need and biggest challenge.
- Aging-in-place support, wellness, resource navigation, and caregiver support are growing priorities.
- Housing, assisted living, memory care, and other higher-level care gaps in the community remain major concerns.
- Communication and awareness of available services and how to access them need improvement.
- One service model will not fit all three communities.
- Many eligible residents do not participate in senior centers and services because they do not identify with the "senior" label, suggesting consideration of rebranding the program.
- The County may need a stronger professional operating and coordination role.

### Next Steps

- Refine mission and vision, establish priorities, evaluate service and facility options, and develop an actionable long-term sustainable plan tied to funding and budget realities.
- The Planning Committee is using this research and stakeholder input to refine mission and vision, establish strategic priorities, evaluate service and facility options, and develop an actionable long-term plan that can be sustained within county budget and resources.
- *These are emerging themes from research and stakeholder perspectives—not final decisions, commitments, or prescriptions for future County action.*



Benjamin L. Nielson  
*Fire Chief*

Tyler J Rowser  
*Administrative Battalion Chief*

Tyler D. Leavitt  
*Deputy Fire Marshal*

## STAFF REPORT

**Meeting Date:** July 29, 2026

**To:** Summit County Council

**From:** Benjamin L. Nielson, Fire Chief

**Prepared By:** Tyler Rowser, Administrative Battalion Chief

**Agenda Item:** Approval of Revisions to North Summit Fire Service District Personnel Policies – Sections 8, 9, 13, and 14

### Recommendation

Staff recommends that the Summit County Council approve the proposed revisions to Sections 8 (Compensation), 9 (Fringe Benefits), 13 (Disciplinary Procedures), and 14 (Grievance and Appeal Procedure) of the North Summit Fire Service District Personnel Policies.

### Background

The North Summit Fire Service District has been reviewing several sections of its Personnel Policies to improve clarity, eliminate redundancy, strengthen consistency throughout the policy manual, and provide employees with a fair and transparent disciplinary and appeal process.

The Administrative Control Board reviewed the proposed revisions and recommended that the updated policies be forwarded to the Summit County Council for final approval.

### Summary of Proposed Changes

#### Section 8 – Compensation

Section 8 has been revised to clarify the relationship between compensation and disciplinary actions. Specifically, language has been added stating that when an

North Summit Fire District  
PO Box 187 | 90 E. Center Street  
Coalville, Utah 84017  
435-336-2221 | Emergency 9-1-1  
[www.NorthSummitFireUT.gov](http://www.NorthSummitFireUT.gov)

employee is **demoted as a result of disciplinary action under Section 13.D(e) – Disciplinary Procedures**, the provisions of **Section 8.L – Salary Adjustment and Redline Rates** shall not apply.

This revision ensures that salary protections intended for voluntary position changes, organizational restructuring, or other non-disciplinary personnel actions are not extended to disciplinary demotions. The change aligns the District's compensation policy with its disciplinary procedures and provides clear guidance regarding employee compensation following disciplinary action.

## Section 9 – Fringe Benefits

Section 9 contains two primary revisions:

- Removal of a duplicate policy section that was inadvertently included within the existing Personnel Policies.
- Addition of a **Paid Time Off (PTO) Donation Program** allowing eligible employees to voluntarily donate accrued PTO to another eligible employee experiencing an unforeseen hardship requiring additional time away from work after exhausting their available leave balances.

The proposed PTO Donation Program establishes eligibility requirements, administrative procedures, and safeguards to ensure the program is administered consistently and equitably.

## Section 13 – Disciplinary Procedures

Section 13 has been completely rewritten to modernize the District's disciplinary process. The revised policy:

- Clearly defines expectations for employee conduct.
- Establishes progressive discipline while preserving management's ability to respond appropriately to serious misconduct.
- Identifies types of disciplinary actions available.
- Clarifies documentation requirements.
- Ensures employees receive notice of disciplinary actions and an opportunity to respond when appropriate.
- Aligns disciplinary practices with current human resource best practices and applicable law.

The rewritten section provides supervisors and employees with a more consistent and transparent framework for addressing performance and conduct issues.

## Section 14 – Grievance and Appeal Procedure

Section 14 has also been completely rewritten to establish a clear, structured process for employee grievances and appeals.

The revised policy:

- Defines what matters may be grieved or appealed.
- Establishes timelines for filing grievances and appeals.
- Identifies each level of review.
- Clarifies responsibilities of employees, supervisors, and administration.
- Provides a fair and consistent process for resolving workplace disputes while maintaining efficient District operations.

The updated policy improves transparency and ensures employees understand their rights and responsibilities throughout the grievance and appeal process.

#### Fiscal Impact

The proposed policy revisions are not expected to have a significant fiscal impact. The PTO Donation Program utilizes existing accrued leave balances voluntarily donated by employees and does not create additional leave liabilities for the District. Administrative costs associated with implementation are expected to be minimal and can be managed within existing resources.

#### Staff Recommendation

Staff recommends that the Summit County Council approve the revised Personnel Policy Sections 8, 9, 13, and 14 as presented. These revisions improve organizational consistency, modernize District personnel practices, enhance employee accountability, and provide a clear and equitable framework for disciplinary actions, grievances, and employee appeals.

## **SECTION 8 – COMPENSATION**

### **A. Equability:**

Compensation for District employees shall be equitable and competitive with the marketplace. The assignment of employees to positions and pay rates shall be consistent with the formal classification plan.

### **B. General Wage/Salary Adjustments:**

It is the intent of the District to consider prevailing practices related to cost of living and market trends in establishing wages and salaries. The Fire Chief shall consider annually, during the budgeting process, the amount of cost of living money available. All cost of living increases and salary adjustments are subject to the sole discretion (and the availability of budgeted funds) of the Fire Chief. This shall be communicated to Supervisors as a percentage of the salary budget for the ensuing year. Where general, across the board raises are awarded, the raise will be effective on a date determined and approved by the Fire Chief.

1. Cost Of Living vs. Market: Adjustments to the salary schedule shall be determined through analysis of market trends in comparison to cost of living. This shall be done once per year and the District will utilize market survey results and cost of living index data. All employees, regardless of employment status (for exception, see paragraph "K" following- Salary Adjustments & Red Line Rates), shall receive the benefits of such general adjustments to the pay plan.
2. In determining the total compensation value of the position, benefits must be considered. Base salary plus cost of benefits equals' total compensation. In comparing benefit packages provided in the labor market, the District may evaluate both level and cost of benefits or other factors as deemed appropriate.

### **C. Initial Appointment:**

All initial appointments to classes assigned to the wage scale in the compensation plan should be at the first step unless:

1. An employee cannot be recruited for the position at the beginning rate, or,

2. The qualifications of the individual selected for the position exceed the minimum requirements and the individual can be expected to perform at a level equal to that of other individuals being paid at the same step.
3. That applicant qualifies as a lateral hire.

**D. Hourly Rates:**

Temporary, part-time and seasonal employees shall be paid at an hourly rate no higher than that which is established for the position through job classification.

**E. New Hire Increases:**

New employees at the completion of their orientation period, shall be assigned a merit review date which coincides with the established performance review policies of the District. New employees who successfully complete their orientation period and receive the orientation period increase shall not be eligible for any other merit increase until they have reached their one (1) year anniversary date of employment. All other merit increases shall be conducted and evaluated as provided in this chapter.

**F. Overtime:**

1. Administrative Employees covered under the overtime pay provisions of the Fair Labor Standards Act, will be credited with overtime for all hours worked over forty (40) in a 7 day work period. Two 7 day work periods shall comprise a pay period (bi-weekly).
2. Suppression Employees covered under the overtime pay provisions of the Fair Labor Standards Act<sup>1</sup>, will be credited with overtime for all compensable hours worked over One Hundred Six (106) in a 14-day work period. The overtime cycle will begin at 08:00 on the first day and end at 08:15 (the end of the shift) on the 14<sup>th</sup> day. Compensable hours will be defined as mandatory hours and hours worked.
3. Time taken as PTO, funeral leave, trade time, compensation time, holiday leave, etc., shall not be counted as hours worked for the purpose of calculating overtime.

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<sup>1</sup> 29 U.S.C. §207(k)

4. It is the District's policy to discourage the accumulation of overtime. Supervisory personnel should organize their department workload to avoid the need for overtime. Overtime will be permitted where circumstances allow no other alternative and should be kept to a minimum. Overtime work must have the prior approval of the Fire Chief or Supervisor, who shall keep complete records concerning overtime and any compensation thereof. Any time worked over One hundred six (106) in a 14-day work period by a Suppression Employee, or 40 hours per week for Administrative Employees, which the Supervisor has approved of, is aware, or "suffered" to be worked, shall qualify as overtime. The following rules apply to the accumulation and compensation of overtime.
5. Positions defined as FLSA exempt as outlined in Section 6, paragraph G, are not eligible for overtime.
6. For all non-exempt, FLSA covered Administrative Employees, overtime shall be paid and/or all comp-time accrued at the rate of time and one half (1 ½ ) the regular rate of pay for all hours worked in excess of the forty (40) hour work week. **It shall be the regular practice of the District to pay overtime in the pay period in which it is earned.** However, if authorized by the Fire Chief, an employee may be allowed to accumulate up to a maximum of twenty four (24) hours compensatory time.
7. For all non-exempt, FLSA covered Suppression Employees, overtime shall be paid and/or all comp-time accrued at the rate of time and one half (1 ½ ) the regular rate of pay for all hours worked in excess of one hundred six (106) hours in a 14 day pay cycle. **It shall be the regular practice of the District to pay overtime in the pay period after the close of the 14 consecutive day overtime period.** However, if authorized by the Fire Chief, an employee may be allowed to accumulate up to a maximum of twenty four (24) hours compensatory time.
8. It shall be the regular practice of the District to pay full-time suppression employees an average of one hundred twelve (112) hours each pay period. One hundred six (106) regular rate and six (6) overtime. Subject to the provisions of section F.3 of this chapter apply to this overtime rate.
9. Overtime and comp time must be requested, during the District's budget session. The District shall then be allowed to utilize overtime and comp time

- up to the amount approved by the Governing Board in the budgeting process. Records of overtime hours worked shall be maintained by the District for all employees and shall be retained as required bylaw.
10. When call-out occurs the District shall pay the employee a minimum of two (2) hour when called out to work other than their regular work schedule. (see Section 11.F)
  11. All time spent in training, in conferences, at workshops, meetings, etc., when such attendance is required by the District shall constitute hours worked and shall be used to calculate overtime eligibility under the FLSA.
  12. An employee who has accrued comp time shall, upon termination of employment, be paid for all unused comp time.
  13. "Compensatory time" and "Compensatory time off" are defined as hours when an employee is not working and which are paid at the employee's regular rate of pay. These hours are not counted as hours worked in the week in which they are paid.
  14. Vacation, sick leave, comp time, holiday leave, trade time and funeral leave shall not be used to obtain overtime. Overtime shall only be paid for actual compensable hours worked

**G. Compensable Hours:**

1. For Suppression Employees, the District has established the following as compensable hours:
  - a. Shift hours.
  - b. Response time.
  - c. Required training.
  - d. Required staff meetings.
  - e. Required support services.

2. In addition to the provisions set forth in paragraph F.12 above, for Suppression Employees, the District has established the following as non-compensable (non-mandatory) hours:

- a. Standby events.
- b. Outside training offered but not required.
- c. Voluntarily traded time.
- d. Non-required support.

**H. Separation Pay:**

When employees separate their employment, they shall be required to return all District property and to clear all financial obligations prior to receiving their final pay check. Any obligations not cleared shall be deducted from their final pay check. The employee shall receive a final check for all vacation and comp time earned, and in lieu of payment or use, sick time will be paid at 50% to the employee's 501(c)(9) post-employment health plan.

The Human Resource Officer shall determine the amount of separation pay to which the employee is entitled. In the event of the death of an employee, final payment shall be made to the employee's beneficiary.

**I. Pay advancement:**

The District will not make pay advances to employees.

**J. Severance Pay:**

When a full-time employee is separated from District employment due to a reduction in force through no fault of the employee, and when such a separation requires immediate action thereby not permitting a two week notice, the employee shall be paid two weeks' severance pay in lieu of the two weeks' notice. Employees terminated for cause shall not be eligible for severance pay.

**K. Payroll Deductions/Withholdings:**

Payroll deductions other than FICA, State and Federal Income Tax Withholdings and Garnishments, can only be made with the approval of the Fire Chief or designee and Human Resource Officer on a program by program basis.

**L. Salary Adjustment & Red Line Rates:**

When the rate of pay of an employee is lower than the minimum prescribed for their classification in the compensation plan, the wage shall be increased to that minimum. When an employee's pay rate falls above the established pay range (step and grade), that employee's pay shall be frozen for a period not to exceed two (2) years. During the freeze period the employee shall not be entitled to any general pay increases or cost of living increases until such adjustments bring the individual pay back into the range. If after two (2) years, the pay still falls above the established pay range or maximum step and grade of the new range, the pay of the individual shall be **reduced** to the maximum of the pay range of the job classification to which they are assigned.

Demotion: If an employee is demoted pursuant to policy section 13.D(e) this section does not apply.

**M. Out Of Classification Assignments:**

Employees required to perform in higher level positions due to illness, vacation schedules or under-staffing of their offices may, at the discretion of the Fire Chief, and upon recommendation of the Supervisor, receive a temporary increase in compensation which is consistent with the level of the temporary assignment. The out of class assignments must exceed a thirty-day period in order to be considered for a temporary increase. Normally, out of class duties shall not be allowed to continue beyond a six-month period. If the need continues beyond six-months the department head shall treat the situation as a job vacancy and utilize the promotion or transfer policies to remedy the situation. If no internal remedy is achievable, an outside recruitment shall be undertaken.

1. For Administrative Employees, the increased compensation, if any, shall be determined by the Fire Chief.
2. Suppression employees required to act-in higher level positions shall be compensated in the following manner:

- a. Captains acting-in as Battalion Chiefs shall receive \$50 per 24-hour shift.
- b. Firefighters acting-in as Captains shall receive \$30 per 24-hour shift.
- c. Other Firefighters acting-in positions that they are not normally assigned such as Rescue Technicians, Engineers, or Paramedics shall receive \$20 per 24-hour shift.

**N. Pay Progression:**

Progression through the various pay grades within the salary and wage scale shall be based upon the recommendation of the Supervisor and Human Resource Officer, with the approval of the Fire Chief. In making recommendations for pay progression, the Supervisor and Fire Chief shall adhere to District policies and procedures, performance, level of competence and job knowledge. Such pay progression shall be accomplished within the current budget as approved by the Governing Board.

Salary increases shall be limited to cost of living, merit, market adjustments, steps and progression from one District position to another. Salary increases are not a vested right of any employee.

Upon achieving the maximum of the pay range, the employee shall still be eligible for Cost of Living increases, market adjustments to the pay plan and consideration for performance incentives.

**O. Performance/Incentive Awards & Bonuses:**

In order to promote exceptional or outstanding services and recognize those occasions where services are rendered, emergencies responded to, or proficiencies demonstrated which are beyond the normal expectation of the job; it is the position of the District to reward such individual or group contributions. These awards shall be a one-time recognition, in that they are not added to the regular pay of the recipient.

No performance/incentive award or bonus shall be given for job expectations, i.e., coming to work on time, not using sick leave, keeping a clean environment or returning telephone calls.

1. Instant Bonus Program: A District employee, supervisor, manager, or member of the general public may nominate a District employee for a bonus of \$50 for actions which bring favorable attention or recognition to the District.
  - a. The nomination shall be written in memo or bonus nomination form. Nominations must involve a detailed description of the project or act and the nominated employee's involvement in the act. If money is awarded to the District employee, the award shall run through the payroll process.
  - b. The nomination shall be forwarded to the employee's supervisor for approval. If the employee's supervisor does not approve the nomination, the nominating individual may appeal the decision to the Fire Chief.
  - c. The Fire Chief's decision shall stand.
  - d. The bonus money/gift certificate will be given to the nominating individual so they can present the award to the recognized employee.
  - e. In lieu of money, the nominating employee may choose to award the employee a \$50 gift certificate.
2. Award Restrictions:
  - a. The most recent performance evaluation must be at least above the District average in order for the employee to be considered for a nomination.
  - b. More than one incentive award of different sizes may be given to the same employee, providing that the performance qualifies.
  - c. No more than one incentive award may be given for the same or substantially similar act. However, case by case consideration shall be given.
  - d. Awards may be shared by a team of employees, provided all of the employees contribute to the project or act.
  - e. Employees shall not be considered for an incentive award for performance which is routinely expected for any duty or responsibility.

**P. Pay Day:**

District employees will be paid biweekly on Friday. Pay stubs shall be delivered electronically. If a pay day falls on a weekend or holiday, employees will be paid on the previous workday. An annual calendar of paydays shall be distributed before the first pay cycle of the year.

## **SECTION 9 - FRINGE BENEFITS**

### **A. Employee Categories:**

As used in this Section:

1. Administrative Division employees working 40 hours per week (2080 hours annually) are defined as Full-Time Administrative Employees.
2. Suppression Division employees working an equivalent of 56 hours per week (2912 hours annually) are defined as Full-Time Suppression Employees.
3. Qualifying Part-time Employees are defined as employees working the equivalent of 30 hours per week (1560 hours annually) or more.

### **B. Group Health Insurance:**

The District may pay a premium for health, dental, life insurance, accidental death and dismemberment, and disability insurance up to a maximum amount designated by the Fire Chief for Full-Time Employees and their dependents.

The District may pay a premium for health insurance for Qualifying Part-Time Employees.

Part-time, temporary, seasonal employees, contractors, and volunteers are not eligible for any benefits, except those as required by law.

### **C. Continuation of Benefits:**

The District recognizes and follows COBRA regulations for insurance coverage after employment by the District for all employees. Employees separating from District employment who are participating in health care prior to the qualifying event will be allowed to continue group medical and dental insurance coverage at cost to the employee for up to eighteen (18) months from the date of separation (except when terminated for cause). The District assesses up to a minimum of 2% of the premium as an administrative fee. (see Utah Code §31A-22-714, or Consolidated Omnibus Budget Reconciliation Act, 1985 (COBRA)). Employees and/or dependents shall be notified within thirty (30) days from date of separation regarding extension and conversion privileges and must reply in writing within sixty (60) days of notice or forfeit their extension right. Payment must be made

within forty-five (45) days of acceptance of COBRA benefits or benefits will be canceled.

1. Dependents of employees are eligible to continue insurance at their cost for up to thirty-six (36) months upon the occurrence of the following:
  - a. Upon legal separation or divorce from the covered employee;
  - b. The death of the covered employee;
  - c. When dependents cease to be dependent under the definition of the policy;
  - d. When Medicare-eligible employees cease participation in employer-sponsored plans.
2. Insurance cannot be continued beyond any of the following:
  - a. The date the premium is not paid;
  - b. The date when the individual becomes covered under any other group health plan or is entitled to Medicare benefits;
  - c. In the case of a spouse, when the spouse remarries or becomes covered under another group health plan; and
  - d. On the date when the employer ceases to provide any group plan, except the District would be obligated to allow employees or dependents to continue coverage under any replacing group policy or policies.

**D. General Group Insurance Programs:**

Disability coverage beginning on 31<sup>st</sup> day for accidents and illness is also provided for full-time employees. Family & Medical Leave without pay shall run concurrently during disability but shall begin the first day the employee is not able to work. In the event of long-term disability, health, dental and life insurance premium payments will be paid by the District for a period of six (6) months from date of inception of the disability. An employee returning to work after disability leave shall provide a return-to-work release from their physician listing accommodations, if any. The District may restrict the employee's return to work if the accommodations preclude the employee from fully participating in their job responsibilities. An

employee who cannot return to their regular work responsibilities or perform the essential functions of the job after the 6-month period following the inception of the disability shall be separated from employment with the District.

1. Dental insurance is available for all full-time employees. There shall be no compensation in lieu of coverage.

**E. Social Security:**

All employees are required by law to have a valid Social Security number.

Full-time employees participating in the Utah Retirement System (URS) are exempt from Social Security tax.

Part-time employees are required to contribute to the Social Security system.

**F. Leave Status:**

PTO, comp time, holidays, trade time, or funeral leave shall not be used to create overtime. The purpose of leave is to supplement the employee's full-time workweek.

**G. Paid Time Off (PTO):**

1. The District believes that a reasonable period of time away from the job encourages good health and the well-being of employees. This is a benefit to the District, as well as the employee. Therefore, it is the policy of the District to grant paid PTO to full-time employees.
2. All full-time employees are eligible for PTO as accrued. Years of District service, for establishing PTO accrual rates, shall be the employee's full-time hire date.
3. Accumulation of PTO shall be based upon the following schedule for 26 pay periods per year:

- a. Full-time Suppression:

Employees shall accrue PTO leave according to the following schedule:

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Effective: April 15, 2026

| <b>Year of Service Accrual</b>                                                      | <b>Hours Per-Pay-Period</b> | <b>Hours Per Year</b> | <b>Days per year</b> |
|-------------------------------------------------------------------------------------|-----------------------------|-----------------------|----------------------|
| Hire date through the end of the 1 <sup>st</sup> year                               | 13                          | 338                   | 14.08                |
| Beginning of the 2 <sup>nd</sup> year through the end of the 5 <sup>th</sup> year   | 14.75                       | 383.5                 | 15.97                |
| Beginning of the 6 <sup>th</sup> year through the end of the 10 <sup>th</sup> year  | 16.75                       | 435.5                 | 18.14                |
| Beginning of the 11 <sup>th</sup> year through the end of the 15 <sup>th</sup> year | 18.75                       | 487.5                 | 20.31                |
| Beginning of the 16 <sup>th</sup> year through the end of the 20 <sup>th</sup> year | 21.25                       | 552.5                 | 23.02                |
| Beginning of the 21 <sup>st</sup> year and over                                     | 22.25                       | 578.5                 | 24.48                |

b. Full-time non-exempt Administrative:

Employees shall accrue PTO leave according to the following schedule:

| <b>Year of Service Accrual</b>                                                      | <b>Hours Per-Pay-Period</b> | <b>Hours Per Year</b> | <b>Days per Year</b> |
|-------------------------------------------------------------------------------------|-----------------------------|-----------------------|----------------------|
| Hire date through the end of the 1 <sup>st</sup> year                               | 5.25                        | 136.5                 | 17.06                |
| Beginning of the 2 <sup>nd</sup> year through the end of the 5 <sup>th</sup> year   | 6.50                        | 169                   | 21.12                |
| Beginning of the 6 <sup>th</sup> year through the end of the 10 <sup>th</sup> year  | 8.25                        | 214.5                 | 26.81                |
| Beginning of the 11 <sup>th</sup> year through the end of the 15 <sup>th</sup> year | 9.50                        | 247                   | 30.87                |
| Beginning of the 16 <sup>th</sup> year through the end of the 20 <sup>th</sup> year | 11                          | 286                   | 35.75                |
| Beginning of the 21 <sup>st</sup> year and over                                     | 12                          | 312                   | 39                   |

Adopted: April 15, 2026  
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c. Full-time FLSA-Exempt Administrative

Employees shall accrue PTO leave according to the following schedule:

| Year of Service Accrual                                                             | Hours Per-Pay-Period | Hours Per Year | Days per Year |
|-------------------------------------------------------------------------------------|----------------------|----------------|---------------|
| Hire date through the end of the 1 <sup>st</sup> year                               | 6.75                 | 175.5          | 21.93         |
| Beginning of the 2 <sup>nd</sup> year through the end of the 5 <sup>th</sup> year   | 8                    | 208            | 26            |
| Beginning of the 6 <sup>th</sup> year through the end of the 10 <sup>th</sup> year  | 9.75                 | 253.5          | 31.68         |
| Beginning of the 11 <sup>th</sup> year through the end of the 15 <sup>th</sup> year | 11                   | 286            | 35.75         |
| Beginning of the 16 <sup>th</sup> year through the end of the 20 <sup>th</sup> year | 12.75                | 331.5          | 41.43         |
| Beginning of the 21 <sup>st</sup> year and over                                     | 13.5                 | 351            | 43.87         |

4. PTO leave may not be accrued during a period of time when an employee is on long-term disability or is on extended leave without pay and has exhausted all FMLA entitlement.
5. Former employees who are re-hired with reinstatement rights following military service shall be entitled to assume the same eligibility for PTO as enjoyed as outlined in Section 7, Paragraph H.
6. Employees may carry unused PTO over to the next year, to a maximum of:
  - a. Suppression Employees 960 hours.
  - b. Administrative Employees 680 hours.
  - c. At the end of the calendar year, any accrued PTO in excess of the maximum hours shall be forfeited.
7. Utilization: Suppression: Paid Time Off (PTO) Bidding and Usage Policy
  - A. Purpose  
This policy establishes procedures for scheduling and using Paid Time Off (PTO) to ensure equitable access to leave while maintaining adequate staffing levels.
  - B. Annual PTO Bid Process
    - a. Each November, a seniority-based PTO bid will be conducted for the upcoming calendar year.
    - b. The bid will be conducted separately for each shift.
    - c. Employees will select PTO dates in order of seniority.

- d. Once selected, approved PTO dates will be recorded and considered scheduled leave for the upcoming year.
- e. Minimum PTO Selection Requirement
- f. During the annual bid, each employee is required to select (bid) a minimum amount of PTO equal to:
- g. 25% of their anticipated maximum PTO accrual for the upcoming year.
- h. This requirement ensures proactive scheduling and helps balance staffing needs throughout the year.
- i. Accrual Requirement for PTO Usage
- j. Employees shall not use PTO prior to accruing the necessary leave balance.
- k. Any PTO selected during the bid that has not yet been accrued at the time of use:
  - l. Must be deferred until sufficient PTO has been accrued, or
  - m. May be adjusted in coordination with supervision, consistent with district policy.
- C. PTO Blackout Holidays for Suppression:

To ensure adequate staffing levels during critical operational periods, the following holidays are designated as PTO Blackout dates:

  - a. Independence Day (July 4<sup>th</sup>)
  - b. Thanksgiving Day
  - c. Christmas Day (December 25<sup>th</sup>)
- D. PTO Requests Outside of Annual Bid
  - a. All PTO requests outside of the annual bid must be submitted through the Scheduling Software no later than:
    - b. End of business (4:00 PM) on the last business day of the month, two (2) months prior to the requested day off.
  - c. Example:

If an employee wishes to take November 15th off, the request must be submitted by 4:00 PM on the last business day of September.
  - d. Late Requests: Any PTO request submitted after this deadline:
  - e. Requires supervisor approval, and
  - f. The employee is responsible for securing their own coverage to ensure shift obligations are met.
  - g. This requirement is intended to maintain adequate staffing levels and minimize operational disruptions.
  - h. Exceptions may be considered for emergencies or unforeseen circumstances, subject to approval.
- E. Call-Out Procedures

Employees who need to call out for a scheduled shift must:

  - a. Firefighters shall notify the on-duty captain.
  - b. Captains shall notify the Battalion Chief or designee

- c. Call-out notification should be at least one (1) hour prior to the scheduled start time.
- d. Failure to provide proper notice may result in corrective action, consistent with district policy.
- e. The supervisor does not have to approve a call-out.
- f. PTO requests and may require the employee to provide evidence of illness or injury.

F. Changes to Scheduled PTO

- a. Employees may request changes to previously approved PTO:
- b. Changes are subject to supervisory approval.
- c. Staffing minimums must be maintained.
- d. Shift trades or coverage arrangements may be required depending on operational needs.

G. Administration

- a. The Fire Chief or designee is responsible for administering this policy.
- b. Supervisors will ensure compliance and equitable application across all shifts.

H. Exceptions

- a. Exceptions to this policy may be granted by the Fire Chief based on operational necessity or extenuating circumstances.

I. Administrative

Administrative employees shall request time off through the scheduling software at least 5 days in advance.

- 8. An authorized holiday that falls within the time period of an administrative employee's scheduled PTO shall not be charged as PTO.
- 9. The District will not advance PTO days.
- 10. Administrative employees may request up to 96 PTO hours per calendar year in 8-hour increments. Administrative employees shall have a minimum of 96 PTO hours before becoming eligible for a buyout, and the buyout may not reduce their PTO hours below the minimum.
- 11. Suppression employees may request up to 144 PTO hours per calendar year in 24-hour increments. Suppressed employees shall have a minimum of 144 PTO hours before becoming eligible for a buyout, and the buyout may not reduce their PTO hours below the minimum.
- 12. Buyouts in sections 10 & 11 shall be requested before November 15<sup>th</sup> each calendar year.

13. Scheduled paid leave and trade time may be taken consecutively up to a maximum of 30 calendar days with the approval of the Fire Chief, unless taken in conjunction with FMLA.
14. Shift-suppression personnel may use PTO in half-shift (12-hour) increments.
15. Resignation or Retirement:
  - a. Upon resignation, an employee will be paid the cash value of 50% of the earned PTO (carried over and earned) of the maximum defined in section 7.
  - b. Upon an eligible retirement, an employee will be paid the cash value of 100% of the earned PTO (carried over and earned) up to the maximum defined in section 7.
  - c. Deductions from termination pay may be made where the terminating employee has outstanding obligations to the District. The District may withhold the payment of termination pay if the employee fails to return District property in their possession.
  - d. An employee who takes PTO in their final 2 weeks or doesn't give notice shall not be paid out for unused PTO. Unless it is for a medical retirement, or the Chief determines it is in the district's best interest.
16. Record Keeping: The official record of accrued and used PTO is to be kept by the District through a formal leave accounting system. Any discrepancies shall be reconciled directly through the Human Resource Officer. If discrepancies are not reported within thirty (30) days, all information shall be deemed correct.

#### **H. PTO Donation**

##### **1. Purpose**

Employees may occasionally face a serious personal or family hardship requiring extended time away from work. This policy allows employees to voluntarily donate accrued PTO hours to an eligible employee in need.

##### **2. Eligibility**

- a. An employee may request donated PTO for a serious illness, injury, medical emergency, or other significant hardship affecting themselves or an immediate family member.**
- b. For this policy, immediate family includes a spouse, child, parent, legal guardian, or household member requiring the employee's care.**

#### **Deleted: <#>Call Out:**

→

Firefighters shall notify the on-duty captain that PTO will be used no later than one (1) hour prior to the employee's regular reporting time.

Captains shall notify the Battalion Chief that PTO will be used at least one (1) hour before the employee's regular reporting time.

Supervisors are charged with the responsibility to approve or disapprove PTO requests and may require the employee to provide evidence of illness or injury.

- c. The employee must be an active District employee, have used or be expected to use available PTO, and provide reasonable supporting documentation if requested.
  - d. Approval of donated PTO is at the discretion of the Fire Chief or designee.
- 3. Donating PTO**
  - a. Employees may voluntarily donate PTO hours to an approved employee.
  - b. To donate PTO, the employee must:
    - c. Have enough accrued PTO available.
    - d. Maintain the required PTO Hold Bank after the donation.
    - e. Donate a minimum of eight (8) hours.
    - f. Submit the District PTO Donation Form.
    - g. Donations are voluntary and may not be pressured, solicited through coercion, bought, sold, or traded.
    - h. Once processed, donated PTO cannot be returned to the donor.
- 4. Use of Donated PTO**
  - a. Donated PTO may only be used for the approved hardship and for scheduled work time missed by the receiving employee.
  - b. Donated PTO:
    - c. Will be paid at the receiving employee's normal rate of pay.
    - d. May not duplicate workers' compensation, disability, or other wage-replacement benefits for the same scheduled work hours.
    - e. Does not increase the employee's PTO balance or Hold Bank.
    - f. Cannot be cashed out, transferred to another employee, or included in separation or retirement payout calculations.
    - g. Ends when the employee returns to work, no longer qualifies, or separates from employment.
    - h. The Fire Chief or designee may establish a maximum number of donated PTO hours for a single qualifying event.
- 5. Unused Donated PTO**

Unused donated PTO will not be paid out or returned to donors. Any unused hours may remain available for future approved PTO donation requests, as administratively feasible.
- 6. Administration**
  - a. The Fire Chief or designee will determine whether a request qualifies, approve the use of donated PTO, establish any limits, and coordinate the process with payroll.
  - b. The District may notify employees when an approved employee is eligible to receive PTO donations. Personal medical information will remain confidential.
- 7. Prohibited Conduct**
  - a. Employees may not misrepresent the reason for requesting donated PTO or use donated PTO for purposes unrelated to the approved hardship.
  - b. Violation of this policy may result in denial of donated PTO or disciplinary action.
- 8. Reservation of Rights**

This program is voluntary and does not create a guaranteed benefit or entitlement. North Summit Fire District may modify or discontinue the PTO Donation Program at any time.

**I. Workers Compensation:**

1. In the event an employee is injured on the job, they must immediately report the injury to the Human Resource Officer, and submit to any necessary drug testing (see Section 12) and apply for workers compensation. The employee may additionally utilize compensated PTO in accordance with the following formula: "Gross monthly compensation minus industrial compensation equals total compensation subject to PTO utilization. The number of hours to be charged shall be determined by dividing the total amount subject to use by the appropriate hourly compensation rate." This shall not be construed as allowing a gross income, inclusive of industrial compensation, in excess of the employee's regular monthly salary or earnings.

2. Insurance benefits are provided for more serious or longer-term illness or accidents. While insurance policies pay 60% of the normal wage, PTO time and PTO time may be used on a pro-rata basis to maintain normal income. The employee may supplement the disability benefit first with accrued PTO and PTO to receive 40% of their normal wage. During the duration of an employee supplementing their disability benefit, PTO and PTO accruals will continue. If no PTO or PTO time is available, normal insurance proceeds only are payable and PTO and PTO will not accrue.

**J. Dependent Care Leave:**

An eligible employee may request up to 24 hours per year of Dependent Care Leave to care for the eligible employee's child, spouse, or parent who is ill or injured but may not have a serious health condition (non-FMLA qualifying event).

1. NSFSD may require an eligible employee to provide information about the need for Dependent Care Leave.
2. An eligible employee's PTO accrual shall be reduced by the number of hours taken by an employee as Dependent Care Leave under this paragraph.

**K. Funeral Leave:**

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1. Funeral leave with pay, not to exceed one (1) week, may be allowed in the loss of the following:
  - a. Spouses, Adult Designee (as noted for health insurance) Son, Daughter, Mother, Father, Grandson, Granddaughter, Stepmother, Stepfather, Stepson, Stepdaughter, Son-in-law, and Daughter-in-law.
2. Funeral leave with pay, not to exceed one shift, may be allowed in the loss of the following:
  - a. Grandparents, Sister, Brother, Father-in-law, Mother-in-law, Sister-in-law, and Brother-in-law.
3. Employees desiring extended funeral leave may request to use comp time, PTO, or leave without pay. Leave without pay may be used only if the employee has no accrued comp time or PTO. Funerals which occur during use of PTO shall be treated as described in this paragraph and not be charged to PTO.
4. If a funeral is attended or death occurs while an employee is on leave of absence, there will be no time off with pay forthcoming.

**L. Holiday Leave:**

1. The following days have been designated by the District to be paid holidays for Administrative Employees<sup>1</sup>:

|                            |                                      |
|----------------------------|--------------------------------------|
| New Year's Day             | January 1 <sup>st</sup>              |
| Martin Luther King Jr. Day | 3 <sup>rd</sup> Monday in January    |
| Presidents Day             | 3 <sup>rd</sup> Monday in February   |
| Memorial Day               | Last Monday of May                   |
| Juneteenth                 | June 19 <sup>th</sup>                |
| Independence Day           | July 4 <sup>th</sup>                 |
| Pioneer Day                | July 24 <sup>th</sup>                |
| Labor Day                  | 1 <sup>st</sup> Monday in September  |
| Veteran's Day              | November 11 <sup>th</sup>            |
| Thanksgiving Day           | 4 <sup>th</sup> Thursday of November |
| Day after Thanksgiving     | Friday after Thanksgiving Day        |
| Christmas Day              | December 25 <sup>th</sup>            |

<sup>1</sup> Suppression accrues PTO at higher rates to compensate for the lack of any paid holidays (see paragraph G above)

|                         |                       |
|-------------------------|-----------------------|
| Personal Day (Birthday) | TBD as per individual |
|-------------------------|-----------------------|

2. When any of the above holidays fall on a Sunday, the following Monday shall be observed as the holiday. When any of the above holidays fall on a Saturday, the preceding workday shall be observed as the holiday.
3. Should a holiday occur while an employee is on PTO, the employee will not be charged with PTO the day of the holiday.
4. Holiday Pay: Administrative Employees who are required to work on a designated holiday will receive compensation at the regular rate for the holiday plus compensation at the regular rate for all hours actually worked on the holiday.

**M. Court or Jury Leave:**

Each full time employee entitled to paid leave under these rules shall, during regularly scheduled work time only, be entitled to leave of absence with full pay for such period of required absence when, in obedience to a subpoena or direction by proper authority, the employee is to appear as a witness in a case involving the federal government, the State of Utah, or a political subdivision thereof, to serve on a jury or as a witness in a grievance/hearing. Witness or jurors fees paid to employees on leave with pay status shall be returned to the District for deposit in the general fund. Per diem and witness or juror fees may be retained by an employee who elects to use PTO leave while on jury duty or acting as a witness. Absence due to litigation not required by the employee's position, but as an individual, shall be taken as PTO leave, comp time, or leave without pay.

**N. Maternity Leave:**

1. An employee who becomes pregnant may continue working until such time as they can no longer satisfactorily perform their duties or their physical condition is such that their attending physician deems continued employment to be hazardous to the employee's health or the health of the unborn child.
2. PTO or Family & Medical Leave without pay, which is available to cover the time for physical examinations and periods of incapacitation, will be available to the pregnant employee for the same purpose.

3. Leave granted for maternity purposes shall be allowed. Such leave may also be eligible for short-term disability compensation according to District insurance program guidelines.
4. Employees who have exhausted all accumulated PTO but have not exhausted their FMLA leave, shall be granted Family & Medical Leave without pay for maternity and other allowed purposes. Family & Medical Leave with-out-pay shall run concurrently with the use of PTO and shall begin the first day the employee is not able to work. Employees desiring extended leave due to "pregnancy disability" shall receive it on the same basis as any other disability.

**O. Military Leave:**

Leave shall be granted for a period of active military service. Extended military leave is six (6) months or more, not to exceed five (5) years unless approved by the District. Short-term military leave is any leave of less than six (6) months in duration, normally not longer than 120 hours.

1. Short-term Military Leave is authorized for full-time employees pursuant to the following conditions:
  - a. Administrative Employees are entitled to one hundred and twenty (120) hours and Suppression Employees are entitled to one-hundred and sixty-eight (168) hours of military leave per year without loss of regular pay or other fringe benefits. The employee may take military leave when activated. After the employee has exhausted their hours of military leave, they may take unpaid leave or substitute PTO or trades.
  - b. Whenever possible, employees who are members of reserve units of the military shall notify the Fire Chief and Human Resource Officer within one week of receipt of an activation notice, and shall indicate in writing their intention and anticipation with regard to participating in periods of active duty. Such written notification shall be made a part of the individual employee's personnel file.
  - c. Employees requesting short term military leave may go on leave without pay status prior to using accrued PTO and comp-time.
  - d. While on short term military leave without pay, none of the employee's benefits shall accrue, except that health, dental and life insurance benefits

will remain in force.

- e. If the employee does not return to District employment after six (6) months, the Fire Chief may declare the position vacant.
2. Extended Military Leave without Pay shall be granted to employees who enlist, are drafted, or are recalled to active service in the armed forces of the United States in accordance with the provision of the Universal Military Training and Service Act. Former employees shall be permitted to return to District employment without loss of benefits pursuant to the provisions of the Utah Code §39-3-1. The following conditions shall apply:
- a. USERRA provides that an individual may serve up to 5 years in the uniformed services, in a single period of service or in cumulative periods totaling 5 years and retain the right to re-employment by their pre-service employer (38 USC 4312(c)).
  - b. The employee must have satisfactorily completed the period of active duty and furnish a certificate to that effect.
  - c. The District shall follow USERRA regulations regarding the reinstatement of an employee returning from active military duty. If the employee declines an offer for position vacancy, reinstatement rights may be canceled by the Fire Chief.
  - d. If, due to a service connected disability or for some other reason, an employee is not qualified to perform all the duties of their former position, they will be placed in the closest comparable position for which they are qualified or the employee will be placed on a list of eligibles for consideration for future openings. Under the American's With Disabilities Act, reasonable accommodation shall be provided unless to do so would prove to be an undue hardship.

**P. Administrative Leave:**

In cases of training, special educational pursuits, hardships, or other cases not provided for in these policies, the Fire Chief, may grant short-term leaves at full pay, partial pay, or without pay. The approval or denial of such requests is at the discretion of the Fire Chief and is not subject to appeal.

**Q. Family & Medical Leave Without Pay:**

The District will comply with all applicable requirements of the Family & Medical Leave Act of 1993 (FMLA).

1. Eligibility: All employees who have worked for the District for at least 12 months (which need not be a consecutive 12 month period) and have worked for the District at least 1250 hours in the previous consecutive 12 month period qualify for family & medical leave without pay.
2. Eligible employees may receive up to 12 weeks of unpaid, job protected, leave in any 12-month period for the following reasons:
  - a. To care for a child upon birth or upon placement for adoption or foster care;
  - b. To care for a parent, spouse, or child with a serious health condition, or,
  - c. When an employee is unable to work because of a serious health condition. A serious health condition is defined as "any illness, injury, impairment, or physical or mental condition that involves either inpatient care or continuing treatment by a health care provider"" (i.e. doctors, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, nurse practitioners, nurse midwives, and Christian Scientist practitioners). In addition, a single event or occasion, which results in a regimen of continuing treatment under the supervision of the health care provider, such as a regimen of medication or physical therapy, qualifies. Excluded from coverage are voluntary or cosmetic treatments, which are not medically necessary and preventive physical examinations. An employee returning to work after FMLA leave for their own serious health conditions shall provide a return to work release from their physician listing accommodations, if any. The District may restrict the employee's return to work if the accommodations preclude the employee from fully participating in their job responsibilities.
  - d. When a family member is called on active military duty or called to active military duty
3. Eligible employees may receive up to 26 weeks of unpaid, job protected, leave in any 12-month period to care for a family member who sustained an injury or illness in the line of active military duty.

4. **Notice & Verification:** Employees who want to take FMLA leave ordinarily must provide the District with at least 30 days' notice of the need for leave, if the need for leave is foreseeable. If the need is not foreseeable, the employee should give as much notice as is practicable. The employee notice shall contain the reason for the leave, the anticipated timing of the leave and the expected duration of the leave. In addition, employees who need leave for their own or a family member's serious health condition must provide medical certification of the serious health condition within 15 days after the request or as soon thereafter as is seasonably possible. The District may also require a second or third opinion (at the District's expense), periodic recertification of the serious health condition (as frequently as every 30 days), and, when the leave is a result of the employee's own serious health condition, a fitness for duty report to return to work. The District may deny leave to employees who do not provide proper advance leave notice or medical certification within established time frame.
5. **District Communication Requirements:** Upon receiving notice of an employee need for FMLA leave the District must provide the employee with a detailed notice specifying the employee's rights and obligations in connection with the law and District policy and explain any consequences of a failure to meet these obligations. The District notice shall include:
  - a. A statement that the leave will be counted against the employee's annual FMLA leave entitlement;
  - b. Requirements for the employee to furnish medical certification of a serious health condition and the consequences for failing to do so;
  - c. The requirement for the employee to use accrued paid leave,
  - d. Any requirements for the employee to make or participate in the payment of insurance premiums, and the methods for doing so;
  - e. Any requirement of the employee to present a fitness for duty certificate in order to return to work;
  - f. The employee reinstatement rights to the same or equivalent job;
  - g. The employee's status as a "key employee" and the conditions under

which reinstatement may be denied, and

- h. The employee's potential liability for health insurance premiums paid by the District during the leave if the employee does not return to work.
- 6. Method of Leave Usage: The leave may be taken intermittently or on a reduced leave schedule without the District's approval when medically necessary; therefore Supervisors shall take an active role in verifying medical necessity, especially in the case of emergencies and short notice situations. Medically necessary FMLA leave may be taken in half-hour, hourly, daily or weekly blocks of time, but may not be taken intermittently for any other non-medical purpose.
- 7. Employee Entitlements: Employees taking qualified FMLA leave are entitled to receive health benefits during the leave at the same level and terms of coverage as if they had been working throughout the leave. In addition, the District shall reinstate an employee returning from FMLA leave to the same or equivalent position with equivalent pay, benefits, and other employment terms as previously provided. The District's obligation under FMLA to reinstate an employee returning from leave ceases once the employee has used up their 12/26 week entitlement and continues on another form of leave, paid or unpaid. Also, the District may deny reinstatement if it can be demonstrated that the employee would not otherwise have been employed at the time the reinstatement request is made, such as when an employee's position is eliminated due to a layoff.
- 8. Accrued Benefit Impact: Employees use of FMLA leave will not result in the loss of any employment benefit that accrued prior to the start of the employee's leave. However, the employee must first use any accrued paid PTO, compensatory time, and PTO during a FMLA leave for the employee's own serious health condition or for a seriously ill family member. In addition, the employee must first use any accrued paid PTO or compensatory time, but not PTO, during FMLA leave to care for a newborn or newly placed child, and no more than 5 paid sick days may be included in FMLA leave taken to care for a seriously ill family member (see PTO policy). In calculating the number of leave days used as part of the 12/26 week FMLA limit, all paid leave shall be included.
- 9. Defining 12 month period: The District shall use a rolling 12-month period measured backward from the date an employee uses any FMLA leave.

#### 10. Return to Work

- a. Upon returning to work, an employee whose FMLA leave was due to the employee's own serious health condition shall provide a release to return to work from his health care provider. In addition, an employee who has been absent due to illness or injury may also be required to undergo a Return to Work / Fitness for Duty Evaluation through a District-appointed physician. In such event, the district shall cover the cost of such examination.
- b. If the employee has not exhausted their FMLA or other leave, the employee shall be restored to the same position held before the FMLA leave or to an equivalent position with equivalent pay and benefits, unless the employee has been identified as a "key employee."

11. Temporary Work Assignments: Where medical necessity dictates the need to use scheduled intermittent leave or a reduced work schedule, the District may require the employee to transfer temporarily to an alternative position that better accommodates recurring periods of leave than the employee's regular position. In addition, the District may transfer an employee to a part-time job with the same hourly rate of pay and benefits as long as the employee is not required to take more leave than is medically necessary.

12. Record Keeping Requirements: Records retention for FMLA purposes must be maintained in accord with record keeping requirements of the Fair Labor Standards Act (FLSA). Records must be kept for a minimum of three years, which includes the following information:

- a. Basic payroll records;
- b. Dates that FMLA leave is taken;
- c. Hours of FMLA leave;
- d. Copies of employee notification given to employer;
- e. Copies of employer notices regarding employee rights and obligations;
- f. Copies of District policies and procedures describing benefits and leave

provisions;

- g. Premium payments of employee benefits;
- h. Documents pertaining to disputes regarding designation of FMLA leave. All records relating to medical information must be kept in separate, confidential medical files.

**R. Retirement:**

The District is a participant in the Public Employee and Firefighters retirement programs of the Utah Retirement Systems (URS).

Qualifying suppression personnel participate in the URS Tier I or Tier II, Division "B", Firefighters Retirement System. Qualifying Administrative personnel participate in the Tier I or Tier II Public Employees Noncontributory Retirement System.

The District endorses the concept that performance, not age should be the standard for retaining qualified employees. There shall be no set retirement age from District employment. Contributions into the retirement system shall be made for all employees working full time.

1. Employees, at their discretion, may choose to retire any time after they are eligible under the provisions of the Retirement Act.
2. Employees over retirement age, as defined by the Social Security Administration, can be retained or hired as long as they are physically and mentally able to satisfactorily discharge the duties of the position.
3. The retirement system provides a number of benefits to the employee, including retirement benefits, death benefits, and survivor's allowances. Contributions are made by the employer as allowed by the retirement system.
4. All employees who have previously participated with URS prior to July 1, 2011 shall be enrolled in the Tier I retirement.
5. Effective July 1, 2011, all existing employees who have not participated and all newly hired employees shall be enrolled with the URS Tier II retirement unless previously enrolled within a URS retirement system.

6. Employees working less than full time but at least 20 hours per week and receiving any other non-mandated benefit from the District will also be enrolled in the District Retirement program.
7. Retirement credit will continue to accrue while an employee is receiving short-term disability.
8. Retirement credit will not accrue while an employee is receiving long-term disability or when an employee is on unpaid leave and has exhausted all FMLA entitlement.

**S. Unemployment Insurance:**

The District participates in the State Unemployment Insurance Program; and each person that terminates will be eligible for unemployment benefits in accordance with the rules and provisions as provided by the State. Employees terminated for cause shall not be eligible for unemployment benefits from the District.

**T. Education Assistance:**

When determined by the Fire Chief that additional training or education is required for the proper performance of a job, the District shall allow rescheduling of work time together with compensation for time spent in training plus associated expenses.

If a full-time employee desires to enhance their own job skills through training or academic pursuits which are viewed by the Fire Chief as being directly related to the job or a position to which one may wish to become promoted, and the employee initiates such a request; the District may give consideration in work schedule accommodations and tuition expenses.

Tuition expenses must be budgeted during the District's regular budget process. Employees requesting tuition reimbursement must be employed, full time, by the District for a minimum of 2 years. The District may choose to participate at a rate of 100% of tuition expenses. Education expenses may be taxable by the IRS. Employees with approved educational assistance must enter into a written agreement that upon termination (voluntary or involuntary, except for reduction in force) they will refund to the District monies received for educational assistance

*Adopted: April 15, 2026  
Effective: April 15, 2026*

based upon the following schedule:

**Time Period Between Date Of Termination & Portion Of Expenses**

| <u>&amp; Conclusion of Educational Course(s)</u> | <u>Refunded To District</u> |
|--------------------------------------------------|-----------------------------|
| Less than one Year                               | 100%                        |
| One Year, But Less than Two Years                | 75%                         |
| Two Years, But Less than Three Years             | 50%                         |
| Three Years, But Less than Four Years            | 25%                         |
| Greater than Four Years                          | 0%                          |

Employees who participate in this benefit shall maintain a 3.0 grade or better (on a 4.0 scale) in all classes at the end of each term or semester.

**U. Benefit Limitation:**

The benefits described in this section constitute the total and complete benefit package offered and available to all District employees who qualify for participation according to eligibility requirements established by this policy manual.

## **SECTION 13 – DISCIPLINARY PROCEDURES**

### **A. PURPOSE AND SCOPE**

- a. Employees are required to conduct themselves in a highly self-disciplined manner, obeying District expected conduct and behavior, policies, procedures, lawful orders, and operational standards. It is the responsibility of all employees to observe regulations necessary for the proper operation of District functions. In situations where employees do not adhere to these expectations, supervisors will take the necessary actions to correct the problem.

### **B. DEFINITIONS**

- a. Corrective Action - A preventative measure to help employees improve their performance, attendance, or conduct. Examples of corrective action include, but are not limited to, verbal warnings, counseling, training, performance improvement plans, or other reasonable measures intended to correct a deficiency.
- b. Discipline - Measures, which may be either corrective or punitive in nature, taken either when corrective actions fail or when an offense is serious enough to warrant more formal action. Discipline may be subject to certain due-process and appeal rights. Examples of discipline include, but are not limited to, written reprimands, suspensions, demotions, or termination.

### **C. POLICY**

- a. It is the policy of the District that supervisors administer corrective or disciplinary action in a corrective and lawful manner.
- b. Corrective in the sense that the supervisor and employee come to an understanding about the causes and/or reasons for deficiencies, correct those deficiencies, and restore the employee to a productive and positive employment status.
- c. Lawful in that the District will provide, where applicable, due-process rights whereby employees are given reasonable notice and an opportunity to respond to allegations.
- d. The principal objective is to improve or correct the performance and efficiency of the employee as well as that of the District.

### **D. TYPES OF CORRECTIVE OR DISCIPLINARY ACTIONS**

- a. Progressive discipline is not required. The corrective or disciplinary action taken shall be as deemed appropriate by the employee's supervisor, Fire Chief, or designee. The types of actions need not be exclusive and may be used in concert with each other.

#### **b. Verbal Warning**

Whenever a supervisor determines that a more severe action is not immediately necessary, the supervisor should orally communicate to the employee the observed deficiency. The verbal warning should be given in private. Supervisors should inform the employee that a verbal warning is being issued, that the employee is being given an opportunity to correct the condition, and that failure to correct the condition may result in more severe disciplinary action. The supervisor shall keep notes of the

counseling session for future reference and guidance and notify the appropriate Battalion Chief, Deputy Chief, or designee.

**c. Written Reprimand**

- i. Supervisors may reprimand an employee in writing when, in the judgment of the supervisor, the employee violates District policies or reasonable employer expectations. A written reprimand must include the nature of the infraction or deficiency and the corrective action required to avoid further discipline. A written reprimand may include a memorandum of expectations.
- ii. Any supervisor issuing a written reprimand shall have the reprimand reviewed by the Human Resource Officer. The supervisor will meet with the employee to discuss the reprimand. A copy shall be provided to the employee at the meeting. One copy, signed by the employee to acknowledge receipt, will become part of the employee's personnel file. The employee's signature acknowledges receipt only and does not necessarily indicate agreement.

**d. Suspensions**

- i. **Suspension With Pay.** When necessary, suspension with pay may be issued only before a disciplinary decision is made and not as a form of discipline. An employee alleged to have engaged in conduct that may warrant discipline may be suspended with pay pending an investigation. Human Resources and the appropriate Battalion Chief, Deputy Chief, or designee will be notified of the suspension.
- ii. **Suspension Without Pay.** Suspension without pay may be issued as a disciplinary measure for employees who engage in wrongful conduct. Suspension may be up to 30 working days. Human Resources and the appropriate Battalion Chief, Deputy Chief, or designee will be notified of the suspension. The employee shall be furnished a written copy of the reasons for and term of the suspension. Suspension without pay for two working days or less may not be appealed.

**e. Demotion**

The Fire Chief or designee may demote, with loss of compensation, an employee for reasons deemed appropriate by the Fire Chief or designee, including when an employee has been promoted to a position in which the employee is unwilling or unable to satisfactorily perform the responsibilities of the position.

**f. Termination**

The Fire Chief or designee may terminate an employee for reasons deemed appropriate by the Fire Chief or designee. An employee may also be terminated after repeated offenses of a less serious nature if appropriate behavioral changes have not resulted from previous corrective or disciplinary action.

**E. PROCESS**

- i. When an allegation or observation is made regarding an

employee's conduct that may trigger suspension without pay, demotion, or termination of a non-probationary employee, supervisors shall ensure that the employee is given notice of the allegation, an opportunity to respond to the allegation and be heard on the matter, and notice of a final disciplinary decision. To achieve these goals, supervisors shall:

- ii. Where necessary, suspend the employee with pay pending an investigation and before a disciplinary decision is made. Suspension with pay is not disciplinary. If the suspension is expected to last more than three working days, the employee shall be notified of the suspension in writing. The employee shall immediately cease all work for the District until notified otherwise.
- iii. Conduct an investigation into the allegations to ascertain all evidence relevant to the allegation. The investigation may be performed by the supervisor or another officer or investigator assigned by the Fire Chief or designee.
- iv. Upon completion of the investigation, prepare a written report that includes a summary of the allegations, evidence relevant to each allegation, and conclusions.
- v. Provide the employee a written notice outlining the allegations, a summary of the evidence supporting the allegations, the proposed disciplinary action, and notice of a predetermination meeting as described in Section F.

#### **F. PREDETERMINATION MEETING**

- a. The supervisor shall provide written notice of the predetermination meeting with the following information:
- b. The alleged violations identified in the investigation and a summary of the materials considered by the District in recommending the proposed discipline.
- c. A reasonable amount of time after receiving the notice for the employee to respond to the charges in writing or orally at the predetermination meeting.
- d. The date, time, and location of the meeting.

#### **G. EMPLOYEE RESPONSE**

- a. The predetermination process is intended to provide the employee under investigation an opportunity to present a written or oral response to the supervisor after reviewing a summary of supporting materials and before imposition of any recommended discipline.
- b. The response and/or predetermination meeting is not intended to be an adversarial or formal hearing.
- c. The predetermination meeting is not mandatory if the employee chooses to waive the meeting. A waiver must be in writing. The employee may waive the meeting and allow the supervisor to render a final decision based on the material gathered during the investigation and any material or arguments submitted by the employee.
- d. The employee may be represented by an uninvolved representative or legal counsel; however, the process is not designed to accommodate the

presentation of testimony or witnesses.

- e. An employee who plans to have an attorney present at the predetermination meeting shall notify the supervisor before the meeting.
- f. The employee may identify additional information, mitigating factors, or further investigation for the supervisor to consider.
- g. If the supervisor elects to conduct further investigation, the employee shall be provided the results of the subsequent investigation before imposition of discipline.
- h. The employee may have a further opportunity to respond orally or in writing only to new information raised in subsequent materials.
- i. Once the employee has completed a response, or elected to waive a response, the supervisor shall consider all information received regarding the proposed disciplinary action. The supervisor shall thereafter issue a timely written decision to the employee specifying the grounds and reasons for the action, if any, and the effective date. Once a written disciplinary decision is issued, the discipline shall become effective.

#### **H. APPEAL**

- a. Any non-probationary employee subject to suspension without pay for more than two working days, demotion, or termination may appeal through the formal appeal procedures prescribed in Section 14 of these Personnel Policies.
- b. All discipline shall be administered on a case-by-case basis. The most severe penalty is termination from District employment.

## **SECTION 14 – GRIEVANCE & APPEAL PROCEDURE**

### **A. GENERAL STATEMENT**

- a. It is the policy of the District to address employee grievances and appeals in a prompt, forthright, and professional manner.
- b. A grievance may exist when an employee is dissatisfied with a condition or aspect of employment allowed under this policy. Claims dealing solely with wages, salaries, benefits, job classification, job assignments, policy decisions, budget items, or other financial matters may not be grieved.
- c. An appeal is the administrative process by which a non-probationary employee may challenge a disciplinary decision of suspension without pay for more than two working days, demotion to a position with less remuneration, or termination from employment.
- d. No employee may submit an appeal or grievance more than 14 calendar days after the event giving rise to the appeal or grievance. A person who voluntarily separates from employment with the District has no standing thereafter to submit an appeal or grievance.
- e. All grievances and appeals shall be handled quickly and fairly, without retaliation against an employee for reporting or filing a grievance or appeal under this policy or participating in an investigation pursuant to this policy.

### **B. GRIEVANCE PROCEDURE**

- a. The procedures set forth herein are intended to provide a method to help ensure grievances are handled at the lowest possible level and resolved in the most expedient manner possible. They are not intended to limit an employee's access to other applicable remedies.
- b. Employees shall first attempt to resolve problems through direct communication with affected parties. If this does not resolve the issue, the employee may proceed to the next step within the timeframe stated in Section 1.C.
- c. The employee shall file the grievance in writing with the employee's supervisor. The grievance shall include all claims, documents, and evidence supporting the claims. If the grievance involves the employee's direct supervisor, the employee may submit the grievance to the next supervisor in the chain of command.
- d. The supervisor shall issue a written response within a reasonable amount of time, usually within 14 calendar days after receipt of the grievance.
- e. If no mutually agreeable settlement is reached with the supervisor, the employee may, within seven calendar days, request in writing that the next supervisor in the chain of command review the matter.
- f. The Fire Chief shall be the last level of review. The Fire Chief's determination shall be final.
- g. The timeframe for each review level shall be as stated in paragraphs 2.C and 2.D.

- h. Only the written grievance originally presented may be considered as the process progresses.
- i. Grievances regarding discrimination and/or sexual harassment shall be filed in writing within 30 calendar days after the event giving rise to the grievance. The employee shall submit supporting documents and evidence with the grievance. Chain-of-command review is not required for these grievances.
- j. Similar grievances may be consolidated and processed together as a single issue.

#### **C. POST-DISCIPLINE INTERNAL APPEAL PROCEDURE**

- a. A non-probationary employee may appeal a disciplinary decision when the employee is suspended without pay for more than two working days, demoted to a position with less pay, or terminated from employment. The appeal must be in writing, signed, and filed with the Human Resource Officer within 14 calendar days after the disciplinary notice is provided to the employee.
- b. The appeal shall include: (a) the name of the employee filing the appeal; and (b) a specific statement of the issues and considerations made by the District that are being appealed.
- c. The appeal will be reviewed by the next supervisor in the chain of command who was not materially involved in the underlying disciplinary decision. If no such supervisor exists, the Fire Chief or designee will designate an appropriate reviewer.
- d. Only the information provided in the original appeal may be considered by the reviewing supervisor.
- e. The reviewing supervisor shall issue a written response to the employee within 14 calendar days.
- f. If no mutually agreeable settlement is reached, the employee may, within seven calendar days after receipt of the decision, request in writing that the next supervisor in the chain of command review the matter until it reaches the Fire Chief.
- g. At each level of internal appeal after the initial appeal, the employee must appeal to the next level within seven calendar days after receipt of the decision. The reviewing supervisor shall issue a written response within 14 calendar days.

#### **D. APPEAL TO HEARING OFFICER**

- a. An employee wishing to appeal the decision of the Fire Chief shall have the right to appeal that decision to a neutral hearing officer.

#### **E. Employee Responsibility**

- a. The employee must appeal the Fire Chief's decision by submitting a written request to the Human Resource Officer within seven calendar days after receiving the final decision.

#### **F. HEARING OFFICER RESPONSIBILITIES AND SELECTION**

- a. Hearing officers shall have experience in law, human resources, mediation, or arbitration. Hearing officers shall be selected by the District, and all costs and expenses of the hearing, including any fees paid to the hearing officer, shall be the responsibility of the District. To the greatest extent practicable, the District will select a neutral hearing officer.
- b. Upon receiving the assignment from the District, the hearing officer shall take and receive evidence as provided in the appeal documents. Only information provided in the original appeal may be reviewed by the hearing officer.
- c. If the hearing officer finds that the District presented sufficient evidence to justify the discipline imposed, the hearing officer shall uphold the discipline.
- d. If the hearing officer finds that sufficient evidence does not support the discipline imposed, the hearing officer may overturn the discipline and impose one of the following remedies:
  - i. Complete exoneration. If the employee is completely exonerated, the employee shall be reinstated without loss of pay associated with the disciplinary action, and the disciplinary action shall be removed from the employee's personnel file.
  - ii. Reduction to lesser discipline. If the employee is reinstated but the hearing officer determines that a lesser disciplinary action is appropriate, the hearing officer may reduce the discipline to that lesser action, including demotion rather than termination or suspension without pay for a stated period.

#### **G. AUTOMATIC STEP PROCESSING AND WAIVERS**

- a. Failure to answer an employee's appeal or grievance within the time specified automatically grants the aggrieved employee the right to process the appeal or grievance to the next step. Any step, or any time limit specified at a step, may be waived or extended by mutual written agreement between the aggrieved employee and the person to whom the appeal or grievance is directed. Failure by the aggrieved employee to process an appeal or grievance from one step to the next within the time specified, or within a mutually agreed extension, is deemed a waiver by the employee of an

**MEMORANDUM OF AGREEMENT BETWEEN WASATCH COUNTY, JOVID MARK II, LLC, BLACK ROCK ESTATES MASTER ASSOCIATION, INC., AND SUMMIT COUNTY, CONCERNING A ROAD IMPROVEMENT AND ASSOCIATED MAINTENANCE IN UNINCORPORATED EASTERN SUMMIT COUNTY, UTAH**

THIS MEMORANDUM OF AGREEMENT (hereinafter “Agreement”), is made and entered into this \_\_\_\_ day of \_\_\_\_, 2026, (the “Effective Date”) by and between **WASATCH COUNTY**, a political subdivision of the State of Utah, whose address is 25 N. Main, Heber City, Utah 84032 (“Wasatch County”), **JOVID MARK II, LLC**, whose address is 7026 S. 900 E., Midvale, Utah 84047 (“Wakara”), **BLACK ROCK ESTATES MASTER ASSOCIATION, INC.** (the “HOA”), and **SUMMIT COUNTY**, a political subdivision of the State of Utah, whose address is 60 N. Main Street, P.O. Box 128, Coalville, Utah 84017, (“Summit County”). Each is individually referred to as a “Party” and collectively as the “Parties.”

**RECITALS:**

**WHEREAS**, Wakara is a developer that is building a gated community marketed as “Black Rock Estates” (“BRE”) near the Jordanelle Reservoir and located entirely in Wasatch County, Utah; the legal description for BRE is attached as an exhibit to the CC&Rs (defined below); and

**WHEREAS**, the HOA is the association of owners of BRE; and

**WHEREAS**, BRE lacks primary access through Wasatch County and is seeking primary access through Summit County; and

**WHEREAS**, Summit County is the owner of an unpaved Class B County Road locally known as West 200 South (“200 S”) which stubs into BRE; and

**WHEREAS**, the increase in Wakara’s construction traffic along the unpaved 200 S has increased dust and otherwise adversely impacted the quality of life for Summit County residents living along the 200 S; and

**WHEREAS**, Summit County is willing to facilitate primary access through Summit County, as provided for and pursuant to this Agreement; and

**WHEREAS**, Summit County, Wasatch County, and Wakara seek a mutually acceptable resolution that preserves Wakara’s primary access into BRE, provides assurances to Wasatch County to issue building permits to Wakara, and also respects and honors the quality of life for affected Summit County residents along 200 S; and

**WHEREAS**, Summit County owns Parcel No. CD-421-X (“CD-421-X”), through a structured land purchase for conservation purposes; and

**WHEREAS**, Summit County is willing to dedicate a portion of CD-421-X as a new public road to enable Wakara to access BRE if Wakara agrees to construct the Access Road (defined below); and

**WHEREAS**, the Parties desire to enter into this Agreement whereby their respective responsibilities are outlined.

**NOW THEREFORE**, in consideration of the fulfillment of the mutual promises, terms and conditions set forth below, the Parties agree as follows:

1. Summit County's Responsibilities:

- a. Subject to Wakara's Responsibilities outlined in Paragraph 2, below, Summit County will permit Wakara to design, engineer, install, pave, construct, and improve a Class B County Road (the "Access Road") to provide primary access to BRE. The Access Road shall consist of both the Stub Road and the CD-421-X Road (as depicted and labeled in Exhibit 1, attached hereto).
  - i. The Access Road will be constructed and paved along the entire route segment depicted in Exhibit 1.
  - ii. The Stub Road is that portion of the Access Road extending from the Wasatch County boundary line to the southwestern corner of CD-421-X.
  - iii. The CD-421-X Road is that portion of the Access Road to be constructed through CD-421-X.
  - iv. The Access Road will be engineered subject to Summit County's standards and specifications in effect as of the Effective Date.
  - v. The posted speed limit of the Access Road shall not exceed 30 miles per hour.
  - vi. A bike and pedestrian trail through CD-421-X and along the entire Access Road (the "Trail") will be constructed to the Summit County Council's standards. Summit County will dedicate or otherwise secure the right of way needed for the Trail.
  - vii. The Trail, Project Fencing (defined below), and the 200 South Restoration (defined below) are hereby defined as part of the Access Road.
- b. Summit County agrees to maintain the Access Road and the Trail, subject to the additional conditions set forth below in Paragraphs (1)(c), (2)(d)-(f), and (2)(l).
- c. On or before November 1 of each year, Summit County will send Wakara or its successor(s) (including the HOA) an annual invoice ("Recurring Invoice"), for Summit County's actual and reasonable operation, maintenance, repair, and replacement expenses for the Access Road and Trail incurred during the preceding twelve (12) month period, as offset by the application of any Class B Road funds distributed to Summit County by the State of Utah, and accompanied by detailed documentation of all expenses.

- d. The Summit County Council shall have discretion to approve the final design of both the Access Road and the Trail.
- e. Once the Access Road is constructed and open for public use, Summit County will undertake the process under Utah Code § 72-3-108 (or newer) to vacate, abandon, and close that portion of 200 South as depicted in Exhibit 2 (the “200 South Closed Portion”).
- f. Summit County shall have the right to cure, at Wakara’s expense, any deficient performance by Wakara in administering its responsibilities in Paragraph (2), below.
- g. Summit County shall have the right to allow future entities to connect to the Access Road, and any such connection shall not offset or otherwise modify the responsibilities of Wakara and HOA under this Agreement.

2. Wakara’s and HOA’s Responsibilities:

- a. Wakara shall design, engineer, pave, construct, and improve, at its sole expense, both the Access Road and the Trail consistent with Exhibit 1 and as further established in coordination with Summit County’s Engineering and Public Works departments. This obligation includes the installation and ongoing maintenance of any storm water facilities, including without limitation, detention ponds that may be required as part of the Access Road’s construction. Wakara shall substantially complete the construction of the Access Road and submit it for final County acceptance and approval on or before December 31, 2028. Wakara agrees to provide and extend a one (1) year warranty on the Access Road.
- b. Wakara will comply with all applicable laws, permits, ordinances, and processes necessary to construct the Access Road according to the deadlines provided for in Paragraph 2a hereinabove and shall use all reasonable diligence to do so.
- c. Wakara agrees, at its own expense, to comply with any and all requirements imposed by the Utah Department of Transportation (“UDOT”) as a condition of connecting the Access Road to SR 248. Said requirements may include completion of a traffic study, installation of traffic control device(s), and other items as required by UDOT. Summit County, in conjunction with Wakara, has submitted the application for Wakara Secondary Access project to SR-248 opposite Garff Ranch Road to UDOT, and Wakara agrees to use all reasonable and diligent effort to pursue this permit to conclusion in order to complete the Access Road. This application is known to UDOT as Pre-App Number: PA-165877. In a letter to the Summit County Manager dated April 1, 2026, UDOT indicated that its preliminary review of the proposed access indicates no major concerns with granting access at the proposed connection location (letter attached hereto as Exhibit 7).
- d. Wakara agrees to pay, on an ongoing basis, all Recurring Invoices for those costs associated with the maintenance of Access Road and the Trail, as described in Paragraph (1) above and as offset by the application of any Class B Road funds distributed to Summit County by the State of Utah. Such costs will include Summit County’s reasonable and documented actual expenses incurred during the

preceding twelve (12) month period for Access Road and Trail operation, maintenance, repair, and replacement, including without limitation snowplow operations, resurfacing, chip sealing, and/or any other necessary repair, maintenance, or replacement activities. This obligation rests with Wakara unless and until HOA's creation, and Wakara agrees to vest HOA with responsibility to pay each Recurring Invoice within thirty (30) days of receipt.

- e. This Agreement shall be appended to as an exhibit to Wakara's Amended and Restated Covenants, Conditions, and Restrictions ("CC&Rs") for HOA, the form of which CC&Rs are attached hereto as Exhibit 3. Pursuant to this Agreement and the CC&Rs, once formed, among other obligations, the HOA shall have the perpetual responsibility to pay each Recurring Invoice. Simultaneously with the execution of this Agreement, Wakara shall record the Amended and Restated CC&Rs in the Wasatch County Recorder's Office.
- f. Upon recordation of the CC&Rs, the HOA will have the responsibility, in perpetuity, to pay each Recurring Invoice, subject to the HOA's right to audit and dispute any unreasonable charges. In the event of HOA's default on undisputed charges, and following written notice and a 30-day cure period, Summit County shall have the right to seek a default judgment against HOA and take assignment of all lien rights under the CC&Rs to foreclose and collect the Recurring Invoice.
- g. Wakara will pay to restore the 200 South Closed Portion depicted in Exhibit 2 to its natural state once the same is formally vacated and abandoned by Summit County (the "200 South Restoration"). The 200 South Restoration will include all necessary deconstruction (including removal and proper disposal of any fences as Wakara may be directed by the Summit County Public Works Department), grading, and revegetation to Summit County's standards. The 200 South Restoration will also include replacement of the topsoil and reseeding. Wakara will use grubblings cleared for installation of the CD-421 Road portion of the Access Road as part of the 200 South Restoration.
- h. Wakara will install, at its own expense, the fencing described on page D1 of the Wakara Access Road Plans, attached as Exhibit 4 ("Project Fencing").
- i. Wakara's ongoing emergency access shall be through Tuhaye's subdivision, as depicted in Exhibit 5. The agreement to this access is evidenced in, among other places, Wakara Ridge Project Development Agreement (recorded in Wasatch County on April 11, 2024, as Entry No. 543938 bk 1471 pg 1219-1416) at Exhibit B (pg 1250-1273), a copy of which is attached hereto as Exhibit 6.
- j. Until the Access Road is dedicated and open to public traffic, Wakara shall, at its sole expense, maintain 200 South to keep it smooth and accessible, and shall regularly engage in dust mitigation such as watering and grading the road surface.
- k. In the event that Wakara and/or the HOA fail(s) to timely pay to Summit County any monetary amounts due, Wakara and/or the HOA shall pay default interest at the rate of (15%) per annum, compounded annually, from the due dates on any amounts due to and including the date on which Summit County actually receives such payments.

1. In the event Wakara fails to complete either or both the permitting process with UDOT on or before December 31, 2028, Summit County shall have the right to complete the Access Road at Wakara's expense, and shall be entitled to seek reimbursement pursuant to the County's lien right under the CC&Rs and Paragraph 2(d).
3. Wasatch County's Responsibilities:
  - a. Wasatch County acknowledges and agrees that the duties and responsibilities of Summit County and Wakara, as expressly contained herein, provide sufficient assurances to Wasatch County that Wasatch County will not decline to issue permits to Wakara due to this road access issue.
  - b. With Wakara's agreement to install the Access Road and upon execution of this Agreement by all Parties, Wasatch County hereby waives any and all claim(s) it may have against Summit County for abandoning that portion of 200 South as depicted on Exhibit 2 (thereby effectively closing 200 S to construction traffic consistent with paragraph 1 (e)).
  - c. Wasatch County shall withhold building permits from Wakara in the event Wakara fails to meet its performance deadlines under Paragraph 2(a).
4. Joint Responsibilities (to be shared between the Parties):
  - a. The Parties agree to resolve any dispute(s) arising under this Agreement in good faith. Any dispute shall be communicated to each Party's principal under the Notice provisions of Paragraph 9, below, and shall be handled pursuant to Paragraph 22, below.
  - b. The Parties agree that due to the public safety elements for primary and secondary access related to this Agreement, damages are an inadequate remedy for breach of contract and that the Parties are entitled to specific performance of the provisions of this Agreement.
  - c. The Parties agree that until the Access Road is completed, 200 South shall remain a public road open to public use including construction traffic.
5. Administration. The Parties agree that there is no separate entity created by this Agreement to carry out its provisions and to the extent that this Agreement requires administration as set forth herein, it shall be administered by the chief executive officers of the Parties. There shall be no real or personal property acquired jointly by the Parties as a result of this Agreement.
6. Term. Unless earlier terminated as provided for herein, the term of this Agreement shall commence on the Effective Date and shall be perpetual. Notwithstanding any other provision of this Agreement to the contrary,
  - a. Wakara may terminate this Agreement by giving written notice to the other Parties, if, despite using commercially reasonable efforts, Wakara is unable to obtain all necessary approvals and permits for construction of the Access Road from the applicable governmental authorities, including, without limitation, the Utah Department of Transportation, on or before December 31, 2026.

b. Summit County may terminate this Agreement by giving written notice to the other Parties, if Wakara fails to timely perform its obligations as outlined in Paragraph 2(a) hereinabove.

c. Termination shall be effective upon delivery of written notice to the Parties.

7. No Third-Party Beneficiary. This Agreement shall not be construed as or deemed to be an agreement for the benefit of any third party or parties, and no third party or parties shall have any right of action for any cause whatsoever. Nothing in this Agreement should be construed to amend or relieve any third party, including neighboring landowners or developers, from existing obligations to Wasatch County or Wakara, including obligations to share in the costs and obligations Wakara and/or the HOA assumes under this Agreement.

8. Entire Agreement. This Agreement contains the entire agreement between the Parties and shall not be modified or changed in any manner except by an instrument in writing executed by both Parties.

9. Notices. All notices, demands, requests and other writings required or permitted to be given shall be deemed duly given if delivered or if mailed by registered or certified mail, postage prepaid, if addressed to the following:

Summit County  
Attn: County Manager  
60 N. Main Street  
P.O. Box 128  
Coalville, Utah 84017

Wakara  
Attn: Richard Wolper  
7026 S. 900 E.  
Midvale, Utah 84047

Wasatch County  
Attn: County Manager  
25 N. Main Street  
Heber City, Utah 84032

HOA  
Attn: Richard Wolper  
7026 S. 900 E.  
Midvale, Utah 84047

10. No Agency Relationship. Nothing contained in this Agreement shall be deemed or construed by the Parties, nor by any third party, as creating the relationship of principal and agent or partnership or of joint venture between the Parties. Except as expressly provided by this Agreement, no Party shall have, nor shall it hold itself out as having any right, power, or authority to create any contract or obligation, either express or implied, on behalf of, in the name of, or binding upon the other Party, or to pledge another Party's credit or extend credit in another Party's name, unless the other Party consents thereto in advance in writing. No Party shall disseminate any written or oral press releases, advertisements or other communications representing itself as an authorized representative of another Party. Except as expressly provided herein, no Party shall have the right to exercise any control whatsoever over the activities or operations of another Party.

11. Authorization to Execute Agreement. The persons executing this Agreement represent and warrant that they are duly authorized representatives of the Parties, and that by their execution of this Agreement, it becomes the binding obligation of each Party, not subject to any contingencies or conditions, except as specifically provided in this Agreement.

12. Provisions Binding. Except as otherwise expressly provided herein, the terms and provisions hereof shall be binding upon and shall inure to the benefit of the heirs, executors, administrators, successors, and permitted assigns, respectively, of the Parties.

13. Governing Law. This Agreement shall be construed and be enforceable in accordance with the laws of the State of Utah.

14. Waiver. Any waiver by any party hereto of any breach of any kind or character whatsoever by another Party, whether such waiver be direct or implied, shall not be construed as a continuing waiver of or consent to any subsequent breach of this Agreement on the part of another Party.

15. Default and Cure. In the event of default on the part of any Party to this Agreement, that Party shall be liable for all reasonable costs and expenses incurred by a Party in enforcing the provisions of this Agreement, whether or not legal action is instituted. A Party claiming another Party is in default under this Agreement shall provide the defaulting Party written notice of the default and an opportunity to cure within fifteen (15) days after the written notice thereof is received by the defaulting Party before declaring a breach of this Agreement or pursuing any legal or equitable remedies. In the event that the default is not reasonably curable within fifteen (15) days using due diligence, then so long as the defaulting Party is diligently pursuing such cure to completion, the non-defaulting Party may not declare a breach of this Agreement. Summit County shall have the ongoing right to enforce against HOA if necessary, pursuant to Paragraph 2(e).

16. Non-Severability. Each and every covenant and agreement contained in this Agreement is integrated with and integral to the whole and shall not be severable from the remainder of this Agreement. Should any provision of this Agreement be found to be invalid or unenforceable, this entire Agreement shall be void.

17. Indemnification; Liability. Summit County and Wasatch County are governmental entities subject to the Governmental Immunity Act of Utah, Utah Code §§ 63G-7-101 through 904. Wakara agrees to indemnify, defend, and save harmless Summit County and Wasatch County from and against third-party claims, suits and costs, including reasonable attorney fees for injury or damage of any kind, arising out of the negligent acts, errors, or omissions of Wakara's officers, agents, contractors or employees in constructing the Access Road and Trail. Nothing in this paragraph is intended to create additional rights to third parties or to waive any provision of the Governmental Immunity Act of Utah, provided said Act applies to the action or omission

giving rise to the protections in this paragraph. The indemnification in this paragraph shall survive the expiration or termination of this Agreement.

18. Compliance with Laws. Each Party will comply with all applicable federal, state and local laws, rules and regulations which may apply to the performance of their respective obligations under this Agreement.

19. Counterparts. For convenience of the Parties hereto, this Agreement may be executed in one or more counterparts, each of which shall be deemed an original for all purposes.

20. Sale of Lots; Assignment. Wakara may sell, convey, or transfer any or all of its lots, improved lots, and homes within BRE, individually or in bulk, at any time and without the consent or approval of any Party. All such lots and homes are conveyed subject to the obligations of the applicable Amended and Restated CC&Rs. Wakara's obligation to construct the Access Road under Paragraph 2(a) shall continue regardless of any such sale or conveyance. Except for the transfer of obligations to the HOA, and the assignment of lien rights to Summit County, as expressly provided in Paragraph 2 and the Amended and Restated CC&Rs, no Party may assign or delegate its obligations under this Agreement without the prior written consent of the other Parties.

21. Modification. This Agreement may not be modified except by express amendment hereto, in writing, signed by the Parties.

22. Mandatory Mediation. Any disagreement, dispute, or claim arising out of or relating to this Agreement which cannot be settled by the Parties hereto shall first be attempted to be settled through mediation before any Party may file an action in court. This paragraph shall survive the expiration or earlier termination of this Agreement.

23. Entire Agreement. This Agreement contains the entire agreement of the Parties hereto with respect to its subject matter, and supersedes any prior written or oral agreements between them concerning the subject matter contained herein.

24. Legal Fees. In the event of a dispute among the Parties, the pre-vailing Party(ies) shall be entitled collect attorneys' fees and court costs from the non-prevailing Party(ies).

[signatures on next page]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed on the day and year first hereinabove written.

**SUMMIT COUNTY,**  
**A political subdivision of the State of Utah**

Approved as to Form:

By: \_\_\_\_\_  
Canice Harte  
Chair, County Council

\_\_\_\_\_  
Ryan P.C. Stack  
Deputy County Attorney

**JOVID MARK II, LLC,**  
**A Utah limited liability company**

By: \_\_\_\_\_  
Richard Wolper  
Manager, Jovid Mark II, LLC

**BLACK ROCK ESTATES MASTER ASSOCIATION, INC.,**  
**A \_\_\_\_\_**

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**WASATCH COUNTY,**  
**A political subdivision of the State of Utah**

Approved as to Form:

By: \_\_\_\_\_  
Dustin Grabau  
Wasatch County Manager

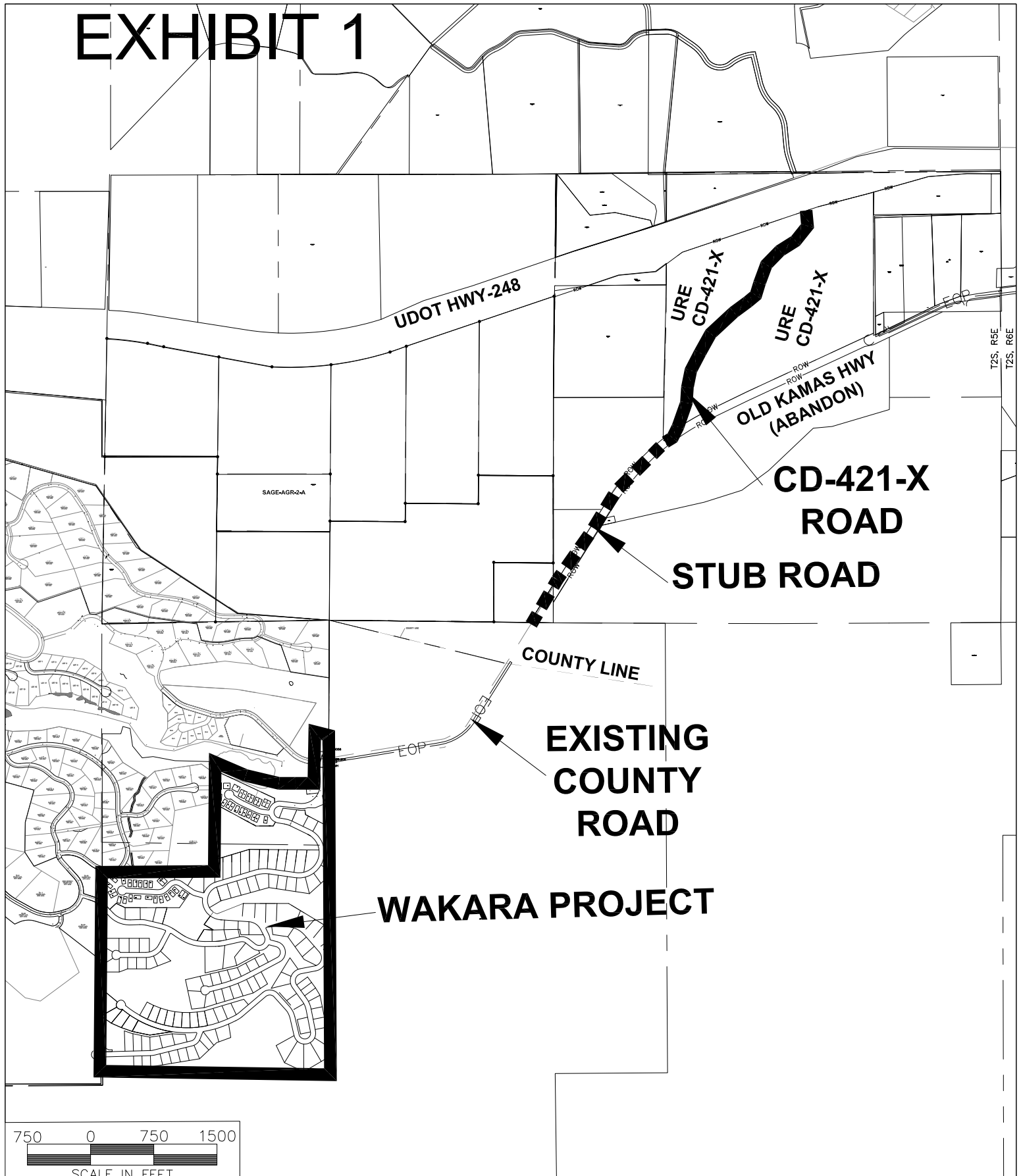
\_\_\_\_\_  
Scott Sweat  
County Attorney

**EXHIBIT 1  
TO  
MEMORANDUM OF AGREEMENT**

**GRAPHIC DEPICTION  
OF  
THE ACCESS ROAD**

**[SEE ATTACHED]**

# EXHIBIT 1



750 0 750 1500

SCALE IN FEET  
1"=1500'  
(8½X11 SHEET)



## WAKARA ACCESS

WAKARA PRIMARY ACCESS  
EXHIBIT 1

PRINT DATE: 7-8-2026



**GATEWAY CONSULTING, Inc.**

P.O. BOX 951005 SOUTH JORDAN, UT 84095

PH: (801) 694-5848

paul@gatewayconsultingllc.com

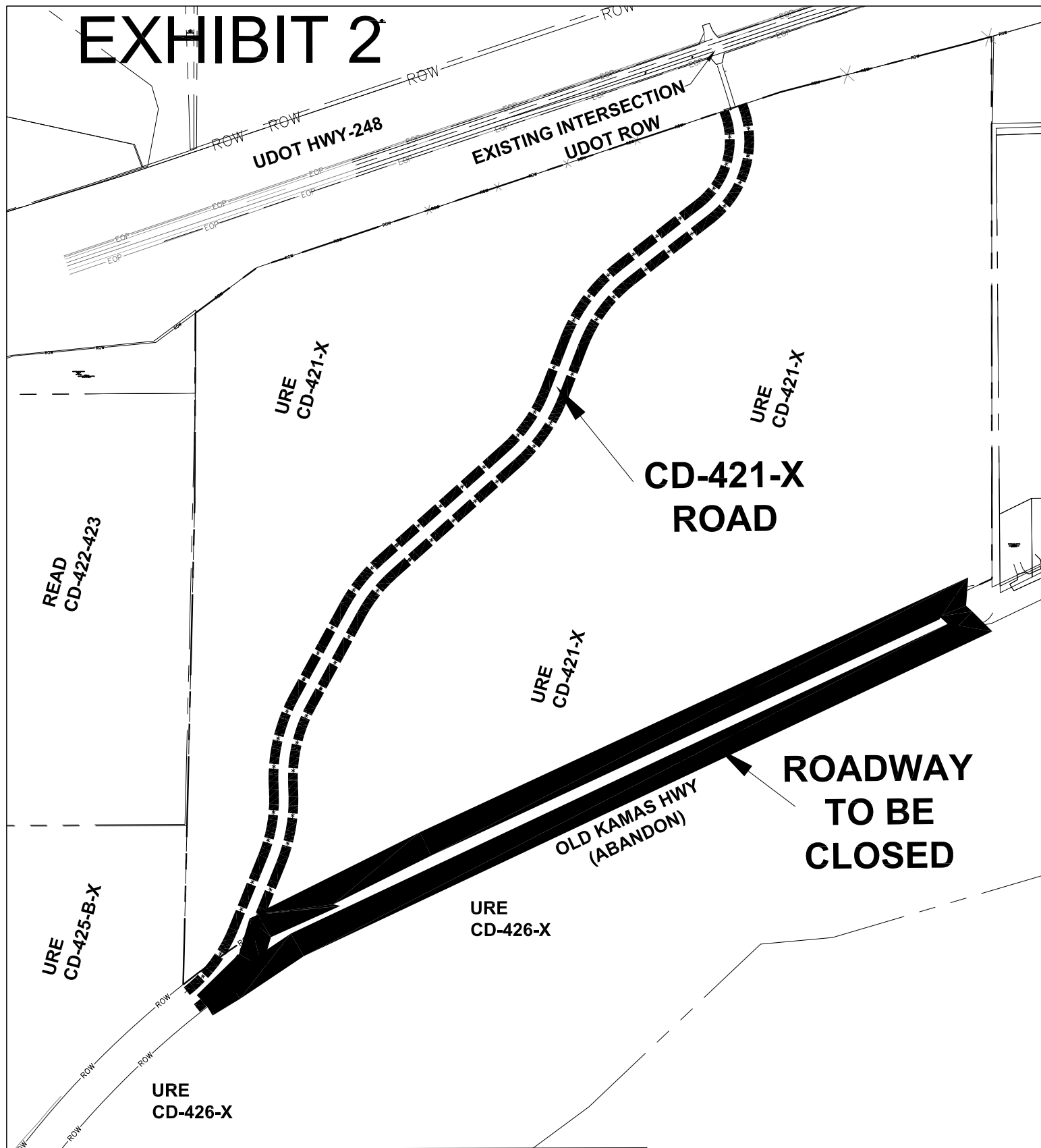
CIVIL ENGINEERING • CONSULTING • LAND PLANNING  
CONSTRUCTION MANAGEMENT

**EXHIBIT 2  
TO  
MEMORANDUM OF AGREEMENT**

**GRAPHIC DEPICTION  
OF  
THE 200 SOUTH CLOSED PORTION**

**[SEE ATTACHED]**

# EXHIBIT 2



400 0 400 800



SCALE IN FEET  
1"=400'  
(8½X11 SHEET)



## WAKARA CLOSED

WAKARA PRIMARY ACCESS  
EXHIBIT 2

PRINT DATE: 7-8-2026



**GATEWAY CONSULTING, Inc.**

P.O. BOX 951005 SOUTH JORDAN, UT 84095

PH: (801) 694-5848

paul@gatewayconsultingllc.com

CIVIL ENGINEERING • CONSULTING • LAND PLANNING  
CONSTRUCTION MANAGEMENT

**EXHIBIT 3  
TO  
MEMORANDUM OF AGREEMENT**

**FORM OF CC&Rs**

**[SEE ATTACHED]**

When Recorded, Please Return To:

Jovid Mark II, LLC  
7026 South 900 East  
Midvale, Utah 84047

AMENDED AND RESTATED  
MASTER DECLARATION OF COVENANTS, CONDITIONS,  
EASEMENTS, AND RESTRICTIONS  
FOR  
BLACK ROCK ESTATES, A PLANNED COMMUNITY

LOCATED IN  
WASATCH COUNTY, UTAH

AMENDED AND RESTATED MASTER DECLARATION OF COVENANTS,  
CONDITIONS,  
EASEMENTS, AND RESTRICTIONS  
FOR  
BLACK ROCK ESTATES

THIS AMENDED AND RESTATED MASTER DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS, AND RESTRICTIONS FOR BLACK ROCK ESTATES (this “**Master Declaration**”) is made as of this \_\_\_\_\_ day of \_\_\_\_\_, 2026, by JOVID MARK II, LLC, a Utah limited liability company (“**Declarant**”). Capitalized terms in in this Master Declaration are defined in Article 1 unless otherwise defined herein.

On February 6, 2026, there was recorded in Wasatch County that document known as *Master Declaration Of Covenants, Conditions, Easements, And Restrictions For Black Rock Estates, A Planned Community*, as entry number 570202 in book 1546, pages 459-574 (the “Original Declaration”). This Amended and Restated Declaration replaces that Original Declaration in its entirety.

**RECITALS:**

- A. Declarant owns that certain real property containing approximately 180.77 acres located in Wasatch County, State of Utah, described on Exhibit A, attached hereto and incorporated herein, and which is depicted on the site plan attached hereto and incorporated herein as Exhibit B (the “**Property**”).
- B. It is contemplated that the Property will be developed, in phases, with improvements, facilities and amenities that will benefit all of the various Parcels as a development known as Black Rock Estates.
- C. When fully developed it is intended, without obligation, that the Development will collectively have several residential neighborhoods or communities that may be composed of single-family and townhomes, and/ or condominiums, along with a club house, open spaces, walkways, one or more trail systems, and other common facilities.
- D. The Declarant intends to preserve the natural setting of the Development through the use of a coordinated plan of development and the terms of this Master Declaration. It is anticipated that the plan will provide for comprehensive land planning and professionally designed landscaping and improvements. It is assumed that each purchaser of a Unit in the Development will be motivated to preserve these qualities through community cooperation and by complying with not only the letter but also the spirit of this Master Declaration. This Master Declaration is designed to complement local governmental regulations, and where conflicts occur, the more restrictive requirements shall prevail.
- E. To establish efficient management and to preserve the value and appearance of the Development, the Declarant has created a nonprofit corporation that would be assigned the powers and delegated the duties of (i) managing certain aspects of the Development, (ii)

maintaining and administering the Master Common Area, (iii) administering, collecting and disbursing funds pursuant to the provisions regarding Assessments and charges hereinafter created and referenced, and (iv) performing such other acts that generally benefit the Development and the Owners. The Black Rock Estates Master Association, Inc., a Utah nonprofit corporation (the “*Master Association*”), has been incorporated under the Laws of the State of Utah for the purpose of exercising the powers and functions aforesaid.

- F. Declarant desires to establish for its own benefit and for the mutual benefit of all future Owners, Mortgagees, Lessees, Occupants, residents or other holders of an interest in the Development, or any part thereof, certain easements and rights and certain mutually beneficial covenants, restrictions and obligations with respect to the proper development, use and maintenance of the various Parcels and communities or Neighborhoods within the Development other than the Developer Areas, which are reserved to Declarant.
- G. Declarant desires and intends that the Owners, Mortgagees, Lessees, Occupants, residents and other Persons hereafter acquiring any interest in or otherwise utilizing Property within the Development, shall at all times enjoy the benefits of, and shall hold their interest subject to the rights, easements, privileges, covenants and restrictions hereinafter set forth, all of which are declared to be in furtherance of a plan to promote and protect the aesthetic and cooperative aspects of the Development and are established for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Development.
- H. By this Master Declaration, Declarant intends to establish a common scheme and plan for the possession, use, enjoyment, repair, maintenance, restoration and improvement of the Development (other than the Developer Areas reserved to Declarant) and the interests therein conveyed and to establish thereon a planned community.
- I. In order to cause this Master Declaration to run with the land comprising the Development and to be binding upon the Development and the Owners thereof from and after the date of this Master Declaration is Recorded, Declarant hereby makes all conveyances within the Development (other than the Developer Areas reserved to Declarant) to the Master Association, whether or not so provided in the conveying instruments, subject to the covenants herein set forth; and by accepting deeds, leases, easements or other grants or conveyances to any portion of the Development, the Owners and other transferees for themselves and their heirs, executors, administrators, trustees, personal representatives, successors and assigns, agree that they shall be personally bound by all of the Covenants (including but not limited to the obligation to pay Assessments) hereinafter set forth except to the extent such Persons are specifically excepted therefrom.
- J. The project created by this Master Declaration is not a cooperative.

NOW, THEREFORE, Declarant does hereby declare and establish the following covenants, conditions, easements, and restrictions:

## ARTICLE 1

## **Definitions**

1.1 “**Act**” means the Community Association Act (U.C.A. §§ 57-8a-101 et seq.), as amended from time to time.

1.2 “**Action**” has the meaning ascribed to it in Section 13.17.6.9.

1.3 “**Additional Land**” means and consists of any other real property as described in Exhibit C that Declarant or Declarant’s Affiliate now owns or in the future may own and/or which will be part of the Development and subject to this Master Declaration. This Master Declaration is not intended as and should not be deemed to constitute any lien, encumbrance, restriction, or limitation upon the Additional Land unless and until such land is incorporated as part of the Development in accordance with the provisions of this Master Declaration.

1.4 “**Amount Owning**” has the meaning ascribed to it in Section 13.14.

1.5 “**Annexation**” has the meaning ascribed to it in Section 11.1.

1.6 “**Architectural Control Committee**” or “**ACC**” means the Architectural Control Committee established by the Master Association.

1.7 “**Architectural Guidelines**” mean those guidelines described in, Section 14.3 of this Master Declaration.

1.8 “**Area of Common Responsibility**” means the Master Common Area, together with those areas, if any, which by the terms of this Master Declaration, a development agreement, Plat designation or other agreement with a Municipal Authority become the responsibility of the Master Association, such as any parks, trails, roads, etc. The office of the property manager contracting with the Master Association, if located within the community, or any public rights-of-way within or adjacent to community, may be part of the Area of Common Responsibility.

1.9 “**Articles of Incorporation**” or “**Articles**” mean the Articles of Incorporation of Black Rock Estates Master Association, Inc., a Utah nonprofit corporation, as filed with the Division of Corporations, Department of Commerce of the State of Utah, and as the same may be from time to time amended or supplemented.

1.10 “**Assessment**” means the assessments levied against, or charges imposed or levied by the Master Association on or against a Unit or an Owner (or a Neighborhood Assessment) pursuant to the terms of this Master Declaration or any other Governing Document, including, but not limited to Base Assessments, Neighborhood Assessments, and Special Assessments.

1.11 “**Association Warranty**” or “**Association Warranties**” has the meaning ascribed to it in Section 13.17.2.

1.12 “**Base Assessment**” means the Assessments levied against all Units within the Development or Neighborhood Associations to fund Common Expenses.

**1.13** “Board” means the Board of Directors of the Master Association, elected in accordance with the Articles and Bylaws of the Master Association.

**1.14** “Bound Party” has the meaning ascribed to it in Section 13.17.6.1.

**1.15** “Bulk Provider” means a private, public or quasi-public utility or other company which provides, or proposes to provide, cable television, satellite television, high speed internet, security monitoring or other electronic entertainment, information, communication or security services, or concierge or other personal services to the Owners, Occupants, or Units within the community pursuant to a Bulk Service Agreement.

**1.16** “Bulk Service Agreement” means an agreement between the Master Association and a Bulk Provider pursuant to which the Bulk Provider would provide cable television, satellite television, high speed internet, security monitoring or other electronic entertainment, information, communication or security services, or concierge or other personal services, to Owners, Occupants or Units within the Development.

**1.17** “Bylaws” mean and refer to the Bylaws of the Master Association, attached hereto as Exhibit E and incorporated herein by reference, as they may be amended from time to time.

**1.18** “Claim” (or collectively, “Claims”) means any and all claims, demands, suits, Actions, causes of action, counterclaims, judgments, liabilities, losses, damages, costs, and expenses, including, but not limited to, attorney’s fees and costs.

**1.19** “Class A Members” shall mean the Class A-1 Members and Class A-2 Members, entitled to membership in the Master Association.

**1.20** “Class A-1 Members” shall mean the members of the Cottages Neighborhood Association entitled to membership in the Master Association.

**1.21** “Class A-2 Members” shall mean the members of the SFH Neighborhood Association entitled to membership in the Master Association.

**1.22** “Class B Member” shall mean the Declarant until the expiration of the Period of Administrative Control.

**1.23** “Common Area” means, collectively, the Master Common Area, any Neighborhood Common Area, and any Limited Common Areas, but excluding any Developer Areas.

**1.24** “Common Expenses” mean and include the actual and estimated expenses incurred by the Master Association for the general benefit of all Neighborhood Associations and Owners within the Development, including any reasonable reserve, all as may be found to be necessary and appropriate by the Board pursuant to this Master Declaration, the Bylaws, and the Articles of Incorporation of the Master Association, and may include, without limitation, when determined by the Board, expenses associated with the Master Common Facilities, wages of any Master Association employees (including fees for any Manager), expenses incurred in connection with

the Summit County Road Agreement and the Summit County Improvements, and expenses incurred in bringing or defending lawsuits and other litigation expenses.

1.25 “**Compliance Inspection**” has the meaning ascribed in Section 6.3.5.

1.26 “**Cottage Units**” shall mean the Units containing a condominium unit located within the Cottages Neighborhood.

1.27 “**Cottages Neighborhood Association**” shall mean The Cottages at Black Rock Estates Homeowners Association, Inc., a Utah nonprofit corporation.

1.28 “**Declarant**” means Jovid Mark II, LLC, a Utah limited liability company, or its successors, successors-in-title or assigns who take title to any portion of the Development and which is designated as Declarant hereunder in a Recorded instrument executed by the immediately preceding Declarant.

1.29 “**Declarant Affiliates**” or “**Declarant Affiliate**” mean(s) any entity controlling, controlled by, or under common control with Declarant or any entity in which a principal of Declarant has an interest.

1.30 “**Declarant’s Representative**” has the meaning ascribed in Section 17.19.

1.31 “**Delinquent Party**” has the meaning ascribed to it in Section 13.13.

1.32 “**Developer Areas**” means all of the real and personal property owned and operated by Declarant as further described in Section 3.3.

1.33 “**Development**” means Black Rock Estates, which is composed of all the Property which is described in Exhibit A and depicted in Exhibit B, together with all easements, rights-of-way, and other rights appurtenant to or accompanying the above-referenced real property, and any Additional Land which is hereafter made subject to this Master Declaration.

1.34 “**Development Governing Bodies**” has the meaning ascribed to it in Section 6.5.

1.35 “**Director**” means a member of the Board.

1.36 “**Eligible Holder**” has the meaning ascribed to it in Section 18.1.

1.37 “**Environmental Laws**” mean all present and future Laws, orders, permits, licenses, approvals, authorizations and other requirements of any kind applicable to Hazardous Substances.

1.38 “**Governing Documents**” means all documents and applicable provisions thereof as set forth in this Master Declaration, any Supplemental Declaration, the Bylaws and Articles of Incorporation of the Master Association, Rules and Regulations, Architectural Guidelines, the Summit County Road Agreement, all written decisions and resolutions of the ACC and the Board, and any lawful amendments to any of the foregoing.

**1.39** “Hazardous Substances” mean any substance: (a) that now or in the future is regulated or governed by, requires investigation or remediation under, or is defined as a hazardous waste, hazardous substance, pollutant or containment under any governmental statute, code, ordinance, regulation, rule or order, and any amendment thereto, including for example only the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. § 9601 et seq., and the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq.; or (b) that is toxic, explosive, corrosive, flammable, radioactive, carcinogenic, dangerous or otherwise hazardous, including gasoline, diesel fuel, petroleum hydrocarbons, polychlorinated biphenyls (PCBs), asbestos, radon and urea formaldehyde foam insulation.

**1.40** “HB82” has the meaning ascribed to it in Section 16.3.

**1.41** “Improvements” means any improvement now or hereafter constructed within the community and includes anything that is a structure and appurtenances thereto of every type and kind, including but not limited to any (a) home, twin home, townhouse, building, shed, hot tub, screening wall, accessory building, fence, or wall; (b) any walkway, garage, road, driveway or parking area; (c) any mailbox, sign, covered patio, stairs, deck, fountain, artistic work, craft work, figurine, ornamentation or embellishment of any type or kind (whether or not affixed to a structure or permanently attached to a Unit); (d) any radio or television antenna or receiving dish; (e) any paving, exterior lights, curbing, trees, shrubs, hedges, grass, windbreak, or other Landscaping Improvements of every type and kind; (f) any excavation, fill, retaining wall or other thing or device which affects the natural flow of surface water or the flow of water in a natural or artificial stream, wash or drainage channel, and related fixtures and equipment; and (g) any other structure of any kind or nature.

**1.42** “Landscaping” has the meaning ascribed to it in Section 6.3.2.

**1.43** “Laws” or individually “Law” mean any law, regulation, rule, order, statute or ordinance of any governmental or private entity in effect at any time during the term and applicable to the Development or the Unit and the Owner’s use thereof, including, but not limited to, building, fire and safety codes and regulations, building permits, conditional use permits, and certificates of occupancy.

**1.44** “Lease” has the meaning ascribed to it in Section 13.14.

**1.45** “Lessee” means the lessee or tenant under a Lease (including any nightly or short-term rental), oral or written, of any Unit, including an assignee of the lessee’s or tenant’s interest under a Lease.

**1.46** “Limited Common Area” means any Master Common Area or Neighborhood Common Area located on a Parcel or within the Development that exclusively serves a particular Unit within the Development or that is designated as Limited Common Area by Declarant or the Master Association. Such areas may also be highlighted/cross hatched on the Plat, as limited common area.

1.47 “**Limited Common Area Improvements**” means patios, decks, hot tubs, fixed barbeque equipment (i.e., not readily mobile), playground equipment, trampolines, and other such outdoor Improvements that are placed within the Limited Common Area.

1.48 “**Manager**” means such Person retained by the Board to perform certain functions of the Board and the Master Association pursuant to this Master Declaration.

1.49 “**Master Association**” means the Black Rock Estates Master Association, Inc., a Utah nonprofit corporation, its successors or assigns.

1.50 “**Master Common Area**” means the real property owned by the Master Association upon which Master Common Facilities are located. The Master Common Area does not include any Neighborhood Common Area.

1.51 “**Master Common Facilities**” or “**Master Common Facility**” means all real and personal property, including, but not limited to, the Improvements, structures, buildings, and facilities located on any Master Common Area that the Master Association now or hereafter owns or otherwise holds for the common use, enjoyment and/or benefit of all Owners of the Development, which is so designated by Declarant in Declarant’s sole discretion, including, but not limited, any trails and club house and related facilities.

1.52 “**Master Declaration**” means this Amended and Restated Master Declaration of Covenants, Conditions, Easements, and Restrictions for Black Rock Estates.

1.53 “**Master Development Agreement**” means that certain Wakara Ridge Project Development Agreement dated as of April 10, 2024 entered into by and among Wasatch County and Declarant, as recorded in Book 1471, Page 1219 of the Wasatch County Recorder’s Office.

1.54 “**Member**” means the Class A Members and the Class B Members entitled to membership in the Master Association as provided herein.

1.55 “**Mortgage**” means a mortgage, a deed of trust, a deed to secure debt, or any other form of security deed, any security agreement, or loan agreement.

1.56 “**Mortgagee**” means a beneficiary or holder of a Mortgage.

1.57 “**Municipal Authority**” means any applicable governmental entity, political subdivision, or municipality that has jurisdiction over all or some part of the Development, including without limitation Wasatch County, Utah, and with respect to the Summit County Road Agreement, Summit County, Utah.

1.58 “**Neighborhood**” means a group of Parcels designated as a neighborhood or community within the Development that are governed by a Neighborhood Declaration. It is contemplated that there will be two Neighborhoods: the “***Cottages Neighborhood***”, comprising the community where the Cottage Units are located, and the “***SFH Neighborhood***”, comprising the community where the SFH Units are located, each of which shall be governed by its own

Neighborhood Association and Neighborhood Declaration in addition to the Master Association and this Master Declaration.

**1.59** “Neighborhood Assessments” means Assessments levied by the Master Association against a Neighborhood Association pursuant to the terms of this Master Declaration.

**1.60** “Neighborhood Association” means an association established to operate, manage, administer and maintain Neighborhood Common Area within a Neighborhood within the Development.

**1.61** “Neighborhood Common Area” means those portions of the Common Area exclusively benefitting a Neighborhood, as it may be designated from time to time by the Declarant or the Master Association.

**1.62** “Neighborhood Declaration” means a Declaration of Covenants, Conditions, Easements, and Restrictions that may be established for a Neighborhood and Recorded in the public records for such Neighborhood. It is contemplated that there shall be two Neighborhood Declarations: the “Cottages Neighborhood Declaration” governing the Cottages Neighborhood, and the “SFH Neighborhood Declaration” governing the SFH Neighborhood.

**1.63** “Notice of Claim” has the meaning ascribed to it in Section 13.17.6.4.

**1.64** “Notice of Sale” has the meaning ascribed to it in Section 13.11.

**1.65** “Occupant” means any Person other than an Owner, who has actual use, possession or control of a Unit or any portion thereof within the Development.

**1.66** “OTARD” has the meaning ascribed to it in Section 15.8.

**1.67** “Owner” shall mean and refer to one (1) or more Persons who hold the record title to any Parcel which is part of the Development, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Unit is subject to a written Lease with a term in excess of one (1) year and the Lease specifically so provides, then, upon filing a copy of the Lease with the Board, the Lessee (rather than the fee owner) will be considered the Owner for the purpose of exercising all privileges of membership in the Master Association; provided that Occupants of any accessory dwelling units, or sublessees of a portion of a Unit, shall not be considered Owners hereunder

**1.68** “Owner Warranty” or “Owner Warranties” has the meaning ascribed to it in Section 13.17.3.

**1.69** “Parcel” means each subdivided lot as set forth on the Subdivision Plat for each Neighborhood or phase of the Development duly Recorded in the Office of the Wasatch County Recorder, State of Utah.

**1.70** “Period of Administrative Control” means a period of time commencing as of the date of this Master Declaration and expiring upon the earlier of (a) the date that Declarant resigns

as the Declarant pursuant to the terms of this Master Declaration and Records an instrument with the Wasatch County recorder's office wherein Declarant voluntarily surrenders all rights to control the activities of the Master Association, and (b) the date that the period of administrative control is required to expire, as set forth in Section 57-8a-502(2) of the Act.

1.71 “**Person**” means a natural person, a corporation, a limited liability company, a partnership, a trustee, or any other legal entity.

1.72 “**Plat**” means the Recorded plat creating subdivided Parcels within the Development, as may be amended from time to time.

1.73 “**Property**” has the meaning ascribed to it in Recital A.

1.74 “**Public View**” means, as to each Unit, visibility of a location on the Parcel or exterior of the Unit from a street or the Master Common Area or any Neighborhood Common Area.

1.75 “**Reasonably Available**” has the meaning ascribed to it in Section 7.1.9.

1.76 “**Record,” “Recording,” “Recorded” and “Recordation**” means placing or having placed an instrument of public record in the official records of Wasatch County, Utah.

1.77 “**Regulated Modification**” means (without implication that any particular matter is permitted or prohibited by this Master Declaration and without limitation as to Article 13 of this Master Declaration as set forth below) the commencement, placement, construction, reconstruction or erection of, or modification, alteration, or addition to, any building, structure, Improvement, thing or device, and any usage thereof, whether temporary or permanent, which may affect, modify or alter the aesthetics, environment, architectural scheme, appearance or standards, patterns of usage, or grades or topography generally prevailing within the community as of the date of establishment of the Regulated Modification, excluding any such matters or activities conducted by Declarant or Master Association, but including by way of illustration and not of limitation:

1.77.1 any building, garage, porch, shed, bathhouse, hot tub, coop or cage, covered or uncovered patio, children's play fort or play set and any other recreational devices or equipment used outside of a Unit, fence, wall or other screening device, curbing, paving, wall, trees, shrubbery and any other Landscaping, fountains, statuary, lighting fixtures, signs or signboard, or any temporary or permanent living quarters, and any other temporary or permanent modification or alteration;

1.77.2 any other building, structure, Improvement, thing or device, and any activities related thereto and any usage thereof, as specified from time to time by applicable Architectural Guidelines, whether temporary or permanent, which may affect, modify or alter the aesthetics, environment, architectural scheme, appearance or standards, patterns of usage, or grades or topography generally prevailing in the community.

1.77.3 any modifications to the structural, mechanical, or electrical elements, systems or components of a Unit.

**1.78** “Reinvestment Fee” has the meaning ascribed to it in Section 13.6.1.

**1.79** “Related Parties” means and applies as follows:

1.79.1 Lessees or other Occupants of each Owner’s Unit are Related Parties of that Owner, and with respect to each such Owner, tenant or other Occupant, Related Parties include (i) their respective family and other household members (including in particular but without limitation all children and other dependents); (ii) their respective guests, invitees, servants, agents, representatives and employees; and (iii) all other Persons over which each has a right of control or under the circumstances could exercise or obtain a right of control.

1.79.2 Related Parties of an Association, ACC, and Declarant include their respective members, managers, shareholders, officers, directors, partners, co-venturers, committee members, servants, agents, representatives and employees regarding all acts or omissions related to any of the foregoing representative capacities.

**1.80** “Released Persons” has the meaning ascribed to it in Section 17.15.2.

**1.81** “Rent Application Notice” has the meaning ascribed to it in Section 13.14.

**1.82** “Rent Payment Notice” has the meaning ascribed to it in Section 13.14.

**1.83** “Required Work” has the meaning ascribed to it in Section 6.3.5.

**1.84** “Reserve Fund” has the meaning ascribed to it in Section 13.5.

**1.85** “Right to Cure Period” has the meaning ascribed to it in Section 13.17.6.2.

**1.86** “Rules and Regulations” shall mean the current applicable Rules and Regulations as the same may be supplemented, amended, modified or repealed as provided in Section 12.3 of this Master Declaration.

**1.87** “Sewer District” has the meaning ascribed to it in Section 12.7.

**1.88** “SFH Units” shall mean Units containing a single-family residence located within the SFH Neighborhood.

**1.89** “SFH Neighborhood Association” shall mean Black Rock Estates – Single Family, Inc., a Utah nonprofit corporation.

**1.90** “Special Assessment” shall mean and refer to Assessments levied in accordance with Section 13.4 of this Master Declaration.

**1.91** “Special Declarant Rights” shall have the meaning ascribed to it in Section 19.5.

1.92 “Special Planned Area” means the Jordanelle Specially Planned Area (JSPA) of which Black Rock Estates is within its Area.

1.93 “Summit County Road Agreement” means that certain Memorandum of Agreement Between Wasatch County, Declarant, Summit County, and the Master Association, concerning a Road Improvement in Unincorporated Eastern Summit County, Utah, dated on or about the date hereof, a copy of which is attached hereto as Exhibit G.

1.94 “Supplemental Declaration” shall mean any amendment or supplement to this Master Declaration executed by or consented to by Declarant that subjects additional property to this Master Declaration. A Supplemental Declaration may, but need not, impose, expressly or by reference, additional restrictions and obligations on the land described therein, or may modify or delete any restriction or obligation of this Master Declaration as the same applies to the land described therein.

1.95 “Termination Notice” shall have the meaning ascribed to it in Section 13.13.

1.96 “Telecommunications Act” has the meaning ascribed to it in Section 15.8.

1.97 “Transfer” has the meaning ascribed to it in Section 13.6.1.

1.98 “Unit” means a Parcel and any dwelling unit, house, twin home, townhouse, or Improvements constructed or located thereon. A Unit shall exclude any Master Common Area as well as any Neighborhood Common Area. In case a building or other structure which contains multiple Units, each Unit shall be deemed to be a separate Unit.

1.99 “Visible Location” means a location in the community which is in Public View.

## **ARTICLE 2**

### **Declaration**

2.1 **Declaration**. Declarant hereby declares that all of the real property described in Exhibit A, and any Additional Land and/or Developer Areas that are hereafter subjected to this Master Declaration by any Supplemental Declaration shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the desirability of and which shall run with the real property subjected to this Master Declaration and which shall be binding on all parties having any right, title, or interest in the Development or any part thereof, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each Owner thereof. All of the Property within the Development shall be held, sold and conveyed subject to this Master Declaration, including any of the Additional Land and/or the Developer Areas hereafter made subject to this Master Declaration by the Recordation of a Supplemental Declaration. By acceptance of a deed or by acquiring any interest in any of the Property subject to this Master Declaration, each Person, for himself, herself or itself, and his, her or its heirs, personal representatives, successors, transferees and assigns, binds himself, herself or itself, and his, her or its heirs, personal representatives, successors, transferees and assigns, to all of the provisions, restrictions, covenants, conditions, Rules and Regulations now or hereafter imposed by this Master Declaration. In addition, each such Person by so doing acknowledges that

this Master Declaration sets forth a general scheme for the Development and use of the Development and evidences his, her or its agreement that all the restrictions, conditions, covenants, Rules and Regulations contained in this Master Declaration shall run with the land and be binding on all subsequent and future Owners, grantees, purchasers, assignees, Lessees and transferees thereof. Furthermore, each such Person fully understands and acknowledges that this Master Declaration shall be mutually beneficial, prohibitive and enforceable by the Master Association and all Neighborhood Associations and Owners.

**2.2 Declarant's Development Rights.** Notwithstanding the foregoing, no provision of this Master Declaration shall be construed or enforced to prevent or limit the Declarant's right to complete development of the Development in accordance with the plan therefor as the same exists or may be modified from time to time by the Declarant nor prevent normal construction activities during the construction of Improvements within the Development. No development or construction activities shall be deemed to constitute a nuisance or violation of this Master Declaration by reason of noise, dust, presence of vehicles or construction machinery, erection of temporary structures, posting of signs or similar activities, provided that the same are actively, efficiently and expeditiously pursued to completion. In the event any dispute concerning the foregoing shall arise, a temporary waiver of the applicable provision(s) of this Master Declaration may be granted by the Board provided that such waiver shall be for a reasonable period of time. Any such waiver need not be Recorded and shall not constitute an amendment of this Master Declaration.

**2.3 Cooperation with Development.** The overall development of the Development has been disclosed to each Owner, and each Owner acknowledges the benefit of the overall Development to each Unit. No Neighborhood Association nor any Owner shall oppose any land use applications, building permits, or development of future phases of the Development.

**2.4 Conflicts with Law.** In the event of any conflicts between the provisions of this Master Declaration and the requirements of the applicable ordinances of any Municipal Authority, the more restrictive provisions shall control.

**2.5 Neighborhood Associations.** In addition to the Master Association, Declarant intends that the Development shall consist of two or more Neighborhoods, each governed by a Neighborhood Association and Neighborhood Declaration, which shall be subject to and subordinate to this Master Declaration. A Neighborhood may be developed in phases in accordance with the Master Plan.

**2.6 No Condominium.** Declarant and each Owner hereby agree and understand that the Development is not, by execution and Recording of this Master Declaration, being submitted to the provisions of the Condominium Ownership Act (U.C.A. § 57-8-1, et seq.). This Master Declaration does not constitute a declaration as provided for in the Condominium Ownership Act and the provisions of the Condominium Ownership Act shall not be applicable to the Development, including without limitation all or a portion of the Additional Land and/or Developer Areas made subject to this Master Declaration by the Recordation of one or more Supplemental Declarations; provided however that the Cottages Neighborhood shall be subject to the Condominium Ownership Act upon the recording of the Cottages Neighborhood Declaration by Declarant.

**2.7     Development.** Unless otherwise determined by Declarant, Declarant in its sole and exclusive discretion, intends to and shall have the right to construct or cause to be constructed or designate the general contractor (which may be a Declarant Affiliate) to construct all Units within the Development. Notwithstanding the foregoing intention to construct all of the Units, Declarant reserves the right to sell, convey, transfer, assign or otherwise dispose of (including via fractional interests sales) any Parcel, without first constructing a Unit thereon.

**2.8     Readjustment of Parcel Boundaries.** Declarant hereby reserves for itself, Declarant Affiliates and Declarant's successors and assigns, the right to effectuate minor realignment and adjustment of the boundary lines between Parcels for purposes of proper configuration and final engineering of the Development; provided that any such realignment and adjustment does not affect any existing buildings or structures on a Parcel. The authority to realign and adjust such Parcel boundary lines shall be exclusively reserved to the Declarant, Declarant Affiliate and Declarant's successors or assigns, in their sole and reasonable discretion, subject to the other provisions of this Section 2.8. All Owners specifically acknowledge and agree that they shall cooperate with Declarant to effectuate such minor realignment and adjustment of their respective Parcel boundary lines by deed in form and content as requested by the Declarant for the purposes of proper configuration and final engineering of the Parcels in relationship to the development of the Development. Further, all Owners acknowledge and agree that no amendment to this Master Declaration or any Plat shall be required to effectuate any Parcel boundary line adjustments so long as such adjustments are made pursuant to U.C.A. §10-9(a)-523, as amended or any successor statute. More particularly, boundary line adjustments between adjacent Parcels may be executed upon the approval of the appropriate Municipal Authority and upon Recordation of an appropriate deed if:

(a)     No new home or dwelling unit results from the Parcel boundary line adjustment and exchange of title;

(b)     The appropriate Municipal Authority and adjoining property Owners consent to the boundary line adjustment (such Owners' consent to be granted as described above);

(c)     The adjustment does not result in violation of applicable Municipal Authority zoning requirements; and

(d)     The appropriate Municipal Authority Records a notice of approval in accordance with U.C.A. §17-27-608(5)(c), as amended.

**2.9     Development Plan.** Notwithstanding any other provision of this Master Declaration to the contrary, and subject to the appropriate Municipal Authority, Declarant, without obtaining the consent of the Association, any other Owner or Person, shall have the right to make changes or modifications to its plan of development with respect to any Parcels adjacent to or part of the existing Development in any way which the Declarant desires, including, but not limited to, changing all or any portion of the Parcels owned by the Declarant or changing the nature or extent of the uses to which such Parcels may be devoted.

### **ARTICLE 3**

#### **Property Rights**

**3.1 Master Common Area.** Every Owner shall have a right and nonexclusive easement of use, access and enjoyment in and to the Master Common Facilities, subject to:

(a) any Rules and Regulations adopted by the Master Association, and any Rules and Regulations adopted by the applicable Neighborhood Association of which the Owner is a member, regarding the use of the Master Common Facilities.

(b) the terms and conditions of this Master Declaration as it may be amended from time to time, any applicable Supplemental Declaration, and any restrictions or limitations contained in any deed conveying the Master Common Area to the Master Association;

(c) the right of the Board to limit the number of guests who may use the Master Common Area, and to adopt other rules regulating the use and enjoyment of the Master Common Area;

(d) the right of the Board to suspend the right of an Owner to use the Master Common Facilities (i) for any period during which any charge against such Owner's Unit remains delinquent, and (ii) for a period not to exceed thirty (30) days for a single violation or for a longer period in the case of any continuing violation, of this Master Declaration or any other Governing Document, after notice and a hearing pursuant to the Bylaws;

(e) the right of the Master Association, acting through the Board, to dedicate or transfer all or any part of the Master Common Area to the extent expressly authorized herein;

(f) the right of the Board to impose membership requirements and charge admission or other fees for the use of any Master Common Facility;

(g) the right of the Board to permit nonmember use of any Master Common Facilities situated upon payment of use fees established by the Board and/or upon terms and conditions established by the Board;

(h) the right of the Master Association, acting through the Board, to mortgage, pledge or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred; and

(i) the right of Declarant or the Master Association to grant to certain Owners the exclusive use of portions of the Master Common Area, which areas are designated Limited Common Area, as more particularly described in Section 3.2 below.

Any Owner may delegate his or her right of use and enjoyment of the Master Common Area to his or her Related Parties, subject to reasonable regulation by the Board and in accordance with procedures it may adopt. An Owner who leases its Unit in compliance with the Governing Documents shall be deemed to have delegated all such rights to the Unit's Lessee.

**3.2 Limited Common Area.** Declarant, in Declarant's sole discretion, may designate portions of the Common Area as Limited Common Area which are reserved for the exclusive use of designated Owners and their Related Parties. The property designated as limited common area designated on a Plat shall be Limited Common Area under this Master Declaration. Any Limited Common Area, including any Limited Common Area Improvement and/or Regulated Modification, designated to a particular Parcel within the Development will be maintained by the Owner of such Parcel, and the Owner of such Parcel shall indemnify the Master Association for, from, and against any and all Claims arising from the use of the Limited Common Area and any Limited Common Area Improvement and/or Regulated Modification located therein. The Owner of such Parcel shall be responsible for all costs associated with operation, maintenance, repair, replacement and insurance of the relevant Limited Common Area and any corresponding Limited Common Area Improvement and/or Regulated Modification. If the Master Association incurs any costs associated with the Limited Common Area and any corresponding Limited Common Area Improvement and/or Regulated Modification, the Master Association may assess the costs as a Special Assessment against the Owner(s) for whose benefit such Limited Common Area is/are designated. By way of illustration and not limitation, Limited Common Area may include recreational facilities intended for the exclusive use of the Owners of certain Units.

Declarant may designate any Limited Common Area as such, and assign the exclusive use thereof, by designating such area on any of (a) the deed conveying the Common Area to the Master Association, (b) the Supplemental Declaration covering the particular Parcel(s) benefited by the Limited Common Area, or (c) the Recorded Plat covering the particular Parcel(s). Further, Declarant, during the Period of Administrative Control, or thereafter, the Master Association, may convert one or more areas of Master Common Area to Limited Common Area for one or more particular Parcels within the Development, or may convert Limited Common Area to Master Common Area. Any such action by the Master Association after the expiration of the Period of Administrative control will require the approval by the Board and the Owner of the affected Parcel.

Notwithstanding the above, any Supplemental Declaration incorporating property into the Development may establish Limited Common Area. Any Limited Common Area designated to a particular Parcel within the community will be maintained by the Owner of such Parcel. If the Master Association maintains any portion of the Limited Common Area, the Owner of the benefitted Parcel will be responsible to pay the costs thereof through a Special Assessment to the Master Association.

### **3.3 Developer Areas.**

**3.3.1 Developer Areas.** The Declarant has designated or may designate a portion of the Property as Developer Areas, as designated on the Plats. Any such use shall be designated by Declarant in a Supplemental Declaration, and Declarant may, in any such Supplemental Declaration, set forth any restrictions, conditions and covenants that run with such portion of the Property. Declarant may also set forth any rights and obligations of the Owner of such portion of the Property, if any, and the manner in which such portion of the Property shall be administered and assessed under this Declaration. Notwithstanding the foregoing, a portion of the Property may be used as a sales center for the sale, resale of Parcels and/or Units within the Development or other communities designated by Declarant and/or memberships relative to the Developer Areas

without designation in a Supplemental Declaration. Declarant may assign, in whole or in part, its rights under this Section 3.3.

3.3.2 Administration and Operation. The administration and operation of the Developer Areas shall be the responsibility of the Declarant or its designee, who may assign or delegate such responsibility, in whole or in part, exclusively or non-exclusively, and permanently or temporarily, for any portion of the Developer Areas to an entity or any other Person determined to be appropriate by Declarant. Declarant shall determine the manner of making Improvements to all Developer Areas and the use thereof.

3.3.3 Privately Owned. Developer Areas shall be privately owned and operated by the Declarant or its designee, are not a part of the Common Area and are not subject to the use restrictions, terms or conditions described in this Declaration. Except, however, that Developer Areas are subject to and participate in the Summit County Road Agreement, including Summit County's rights under Sections 13.10 and 13.11. All Persons, including all Owners, are hereby advised that no representations or warranties have been or are made by Declarant or any other Person with regard to the continuing existence, ownership or operation of the Developer Areas, and no purported representation or warranty in such regard, either written or oral, shall be effective without an amendment to this Declaration executed or joined into by Declarant. The Declarant has the exclusive right to determine from time to time, in its sole discretion and without notice or approval of any change, how and by whom the Developer Areas shall be used. OWNERSHIP OF A PARCEL OR UNIT OR ANY PORTION OF THE PROPERTY OR MEMBERSHIP IN THE MASTER ASSOCIATION DOES NOT GIVE ANY VESTED RIGHT OR EASEMENT, PRESCRIPTIVE OR OTHERWISE, TO USE THE DEVELOPER AREAS AND DOES NOT GRANT ANY OWNERSHIP OR MEMBERSHIP INTEREST IN THE DEVELOPER AREAS OR ASSOCIATED FACILITIES.

3.3.4 Boundaries. So long as Declarant owns any portion of the Property, the Declarant shall have the right, in its sole and absolute discretion, to alter the boundaries of the Developer Areas and construct, develop, grant or modify the Developer Areas and any Improvements, easements and use rights thereon or appurtenant thereto in a manner determined appropriate by Declarant, in its sole discretion, without the joinder or consent of any Person, including, without limitation, the Master Association, any Owners or any Mortgagee, provided all applicable zoning requirements are met and applicable permits are obtained.

**3.4 Relationship of Master Development Agreement to General Plan and Other Planning Documents.** The Governing Documents do not transfer to the Members or the Master Association any rights acquired by Declarant pursuant to the Master Development Agreement or any general plan. Declarant retains all rights granted by the Master Development Agreement and any other agreements entered into by Declarant relating to the Development. Declarant has the right to pursue to completion any Improvements, roads and/or infrastructure that Declarant deems necessary to benefit Declarant and to entitle and allow Declarant to realize the full potential of the Development. This provision cannot be altered or amended except in writing that is approved by the County and the Declarant, and this provision supersedes all other documents, agreements and ordinances related thereto.

**3.5 Conveyance of Common Areas.** Effective upon the Recording of this Master Declaration, Declarant hereby grants, bargains, sells, conveys, and transfers to the Master Association, its successors and assigns, all of Declarant's right, title, and interest in and to the Common Area, as designated on any recorded Plat for the Development (including any tract, parcel, or lot that is designated as common area, open space, or private roads (or similar common-use designation). Declarant conveys the Common Area to have and to hold the same unto the Master Association in fee simple for the common use, enjoyment, access, and benefit of the Owners, subject only to easements, rights-of-way, covenants, conditions, restrictions, and other matters of record affecting the Common Tracts. The Master Association's acceptance of the conveyance set forth in this paragraph is hereby deemed given upon the Recording of this Master Declaration.

## **ARTICLE 4**

### **Organization of Master Association**

**4.1 Relationship of Associations.** The Master Association shall govern the Development and shall do such things as are within its powers and as may reasonably be required to maintain the Development and the Master Common Area as an attractive and desirable planned community. The duties and powers of the Master Association shall relate to the Development as a whole, while the duties and powers of a particular Neighborhood Association shall relate only to its particular Neighborhood.

**4.2 Formation of Master Association.** The Master Association shall be a Utah nonprofit corporation charged with the duties and invested with the powers prescribed by law and set forth in the Articles, Bylaws, and this Master Declaration. Neither the Articles nor Bylaws shall, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with any other Governing Document.

**4.3 Board of Directors and Officers.** The affairs of the Master Association shall be conducted by a Board of up to five (5) directors, each of which shall be an owner of a Unit within the Development (except that such requirement shall not apply during the Period of Administrative Control) and such officers as the Board may elect or appoint in accordance with the Articles and the Bylaws, as the same may be amended from time to time. The initial Board shall be composed of three (3) directors. The Board may also appoint various committees and appoint a Manager who shall, subject to the direction of the Board, be responsible for the day-to-day operation of the Master Association. The Board shall determine the compensation to be paid to the Manager. The Board's responsibilities shall include, but shall not be limited to, the following:

- (a) administration, including administrative support as required by the Architectural Control Committee;
- (b) preparing and administering an operational budget;
- (c) establishing and administering an adequate Reserve Fund;
- (d) scheduling and conducting the annual meeting and other meetings of the Members;

- (e) collecting and enforcing the Assessments;
- (f) monitoring accounting functions and maintaining records;
- (g) promulgating and enforcing the Rules and Regulations as set forth in Section 12.3;
- (h) reviewing and approving, at the Board's discretion, any design guidelines established by the board of any Neighborhood Association;
- (i) maintenance of the Master Common Facilities, including but not limited to clearing snow and ice from all roads in the Development, maintaining and operating any access control system, maintaining any trails within the Development, and maintaining other Improvements; and
- (j) all other duties imposed upon the Board pursuant to the Governing Documents, including enforcement thereof.

**4.4 Personal Liability.** No Director or any Member of the Master Association, no officer of the Master Association, and no Manager or other employee of the Master Association shall be personally liable to any Owner, Occupant, or to any other Person, including the Master Association or any Neighborhood Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence of the Master Association, the Board, the Manager, any representative or employee of the Master Association or any committee, committee member, or officer of the Master Association; provided, however, the limitations set forth in this Section shall not apply to any Person who has failed to act in good faith or who has engaged in willful or intentional misconduct.

**4.5 Neighborhood Associations.** Prior to such time as a Neighborhood Association is formed by Declarant or a Declarant Affiliate, the articles of incorporation and bylaws or other governing documents for such Neighborhood Association must be approved in writing by the Declarant. The governing documents for any Neighborhood Association shall specify that the rights of its members are subject and subordinate to the provisions of the Governing Documents.

**4.6 Professional Management.** The Master Association may carry out through the Manager those of its functions which are properly subject to delegation. The Manager so engaged shall be an independent contractor and not an agent or employee of the Master Association, shall be responsible for managing the Development for the benefit of the Master Association and the Members, and shall, to the extent permitted by law and by the terms of the agreement with the Master Association, be authorized to perform any of the functions or acts required or permitted to be performed by the Master Association itself. Among other things, the Board may, by contract or resolution, assign to such Manager the right to set the amounts of and to receive payments of applicable charges; provided that, the Manager must give written notice to the Board as to the initial establishment of, and as to any subsequent increase in the amount of, any charges. Any management agreement may be terminated by the Declarant without cause during the Period of Administrative Control, or by the Master Association without cause at any time after the Period of Administrative Control. The Manager may be an employee of the Declarant.

**4.7 Implied Rights.** The Master Association may exercise any right or privilege given to it expressly by the Governing Documents, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in the Governing Documents or by law, all rights and powers of the Master Association may be exercised by the Board without a vote of the Members. Subject to Section 13.17, the Board may institute, defend, settle, or intervene on behalf of the Master Association in mediation, binding or non-binding arbitration, litigation, or administrative proceedings in matters pertaining to the Master Common Area or Master Common Facilities, enforcement of the Governing Documents, or any other civil Claim or Action. However, the Governing Documents shall not be construed as creating any independent legal duty to institute litigation on behalf of or in the name of the Master Association or its Members. In exercising the Master Association's rights and powers, making decisions on behalf of the Master Association, and conducting the Master Association's affairs, the members of the Board shall be subject to, and their actions shall be judged in accordance with, the standards set forth in the Bylaws.

**4.8 Promotion and Marketing.** In addition to the Declarant and/or any Declarant Affiliate, the Master Association may conduct programs that do not conflict with the Declarant, for the promotion of the Development as an attractive and desirable planned community. The Master Association may, or may cause via cooperation with or retention of another party, promote, publicize, and conduct conferences and special events including, without limitation, exhibitions, ski races, and bicycle races.

**4.9 Bulk Service Agreements.**

4.9.1 Contracting. The Board, acting on behalf of the Master Association, shall have the right, power and authority to enter into one or more Bulk Service Agreements with one or more Bulk Providers, for such term(s), at such rate(s) and on such other terms and condition as the Board deems appropriate, all with the primary goals of providing to Owners and Occupants of Units both within the Development, or within one or more portions thereof, cable television, satellite television, high speed Internet, security monitoring or other electronic entertainment, information, communication or security services, or any concierge or other personal services: (a) which might not otherwise be generally available to such Owners and Occupants; (b) at rates or charges lower than might otherwise generally be charged to Owners and Occupants for the same or similar services; (c) otherwise on terms and conditions which the Board believes to be in the interests of Owners and Occupants generally; or (d) any combination of the foregoing.

4.9.2 Assessments. If all Units within the Development are to be served by a particular Bulk Service Agreement, the Board shall have the option either to: (a) include the Master Association's costs under such Bulk Service Agreement in the budget for each applicable fiscal year and thereby include such costs in the Base Assessments for each such applicable year; or (b) separately bill to each Owner the Owner's proportionate share of the Master Association's costs under such Bulk Service Agreement, as reasonably determined by the Board, and with such frequency as may be determined by the Board, but no more often than monthly. Such "separate billing" may be made as one or more separate line items on billings or invoices from the Master Association to the affected Owner(s) for Assessments or other charges. If not all Units within the

Development will be served by a particular Bulk Service Agreement, the Board shall have only the billing option described in clause (b) above.

4.9.3 No Avoidance of Payment. No Owner of a Unit covered by a Bulk Service Agreement shall be entitled to avoid or withhold payment of amounts charged by the Board to such Owner or such Owner's Unit under this Section 4.9 whether on the basis that such Owner does not use, accept or otherwise benefit from the services provided under such Bulk Service Agreement, or otherwise. Notwithstanding the above, the Board shall have the right, at its option, to exempt a Unit from payment of an Assessment related to the Bulk Service Agreement if such Unit is not serviced by such Bulk Provider.

4.9.4 Approval of Bulk Service Agreement. The Board shall not without the vote of at least fifty-one percent (51%) of all Members then entitled to vote, represented in person or by proxy at an annual or special meeting of the Master Association, enter into a Bulk Service Agreement which imposes on the Master Association or the Members any obligation to pay the direct costs of construction of any cable, lines or other facilities or equipment for any cable television, community satellite television, high speed internet, security monitoring or electronic entertainment, information, communication or security services. Notwithstanding the above, nothing in this Section shall prevent the Board from entering into, or require approval by the Members of any Bulk Service Agreement which imposes on the Master Association or the Owners installation, connection, service charge or similar charges or fees which do not exceed those generally prevailing at the time within the greater Wasatch County, Utah area, or which includes as a component of the monthly fee charged by the Bulk Provider amortization of some or all of its capital costs and related costs in providing services under the Bulk Service Agreement.

4.10 Summit County Road Agreement. The Declarant has agreed, pursuant to the Summit County Road Agreement and as more particularly described therein, to: (a) construct a public road in Summit County connecting Utah State Route 248 to the public road maintained by and located in Wasatch County that leads into the Property (200 South), including adjacent fencing (the "Access Road"), (b) construct certain bike and pedestrian trails in Summit County located near the Access Road, and (c) decommission portions of 200 South, including fencing, once the Access Road is completed and placed into service (the foregoing are collectively referred to as the "Summit County Improvements"). Pursuant to the Summit County Road Agreement and as more particularly described therein, the Declarant and the Master Association have agreed to perpetually make certain annual payments to Summit County, Utah for expenses incurred by Summit County for its perpetual operation, maintenance, repair, and replacement of the Summit County Improvements. All such payments made by the Master Association pursuant to the Summit County Road Agreement shall be deemed Common Expenses under this Master Declaration, and the Master Association shall levy and collect Base Assessments and/or Special Assessments from the Owners to fund any and all such expenses. The Master Association's obligations under the Summit County Road Agreement shall be binding upon the Master Association and its successors and assigns for the term specified in such agreement. In the event of a default by the Master Association under the Summit County Road Agreement, including a failure to construct and complete the Access Road on or before December 31, 2028, Summit County shall provide written notice of such default to the Master Association, and the Master Association shall have thirty (30) days from receipt of such notice to cure the default (the "Cure

Period”). If the Master Association fails to cure within the Cure Period, Summit County shall have the right to: (a) require the Master Association to levy and collect all Assessments necessary to satisfy any amounts due and owing under the Summit County Road Agreement; and (b) direct the Master Association to assign to Summit County all rights and claims of the Master Association arising under or related to the Summit County Road Agreement, including the right to enforce collection of such Assessments under Sections 13.10 and 13.11. Summit County’s rights under this Section 4.10 also include the rights to compel appointment of a trustee under Section 13.11 if none has been appointed, and to compel the trustee to foreclose the liens for nonpayment of sums due and owing under the Summit County Road Agreement. The Master Association shall comply promptly upon receipt of such direction. Nothing in this Section shall be construed to create any additional rights or obligations in favor of Summit County beyond those expressly set forth herein. This Section shall not be modified without Summit County’s written consent. Notwithstanding anything to the contrary in this Master Declaration, nothing in this Master Declaration is intended to modify, alter, supersede, interpret, supplement, or otherwise change any obligations set forth in the Summit County Road Agreement. In the event of a conflict between this Master Declaration and the Summit County Road Agreement, the Summit County Road agreement shall prevail.

**4.11 Summit County as Third-Party Beneficiary.** Summit County shall be an express third-party beneficiary for purposes of the following Sections: 4.10, 4.11, 11.6, 13.10, 13.11, 13.16, 17.1, and 17.2. None of these Sections may be amended or modified without Summit County’s prior written consent. Notwithstanding anything to the contrary in this Master Declaration, if the Summit County Road Agreement is cancelled or terminated, all rights granted to Summit County under this Master Declaration—including those in Sections 1.24, 1.38, 1.57, 1.93, 3.3.3, 4.10, 4.11, 11.6, 13.1, 13.4.1, 13.5, 13.10, 13.11, 13.12, 13.15.2, 13.16, 17.1, 17.2, and 19.1—shall automatically terminate, and Summit County shall have no further rights or benefits hereunder.

## **ARTICLE 5**

### **Membership and Voting Rights**

**5.1 Membership.** The Master Association shall have two classes of Membership: Class A Members (consisting of Class A-1 Members and Class A-2 Members) and Class B Members. Each member of each Neighborhood Association shall be a Class A Member of the Master Association, with the members of the Cottages Neighborhood Association being Class A-1 Members and the members of the SFH Neighborhood Association being Class A-2 Members. The Declarant or Declarant Affiliates shall be Class B Members in the Master Association until the expiration of the Period of Administrative Control.

**5.2 Voting.** All matters that are subject to the vote of the membership of the Master Association shall be voted on as follows:

**5.2.1 Class A.** One (1) vote may be cast for each Unit owned by a Member, subject to the authority of the Board to suspend the voting rights for violations of this Master Declaration in accordance with the provisions hereof. Notwithstanding the foregoing, the votes of the Class A-1 Members and the Class A-2 Members shall be cast at meetings of the Master

Association by President of each applicable Neighborhood Association, or by his or her agent, and each such President is hereby irrevocably and permanently appointed as each Member's proxy for all purposes of voting hereunder. The votes of each Neighborhood Association may be cast in total or split within the discretion of the President of such Neighborhood Association, as the case may be. No member of a Neighborhood Association, except the President or his or her agent, may directly cast a vote at a meeting of the Members of the Master Association. The Master Association shall be under no duty or obligation to determine whether the manner for determining how such votes are cast is correct, fair or equitable.

5.2.2 **Class B.** The sole Class B Member shall be Declarant. During the Period of Administrative Control, the Class B Member (a) has the right to appoint all members of the Board designated for appointment by the Class A Members of the Master Association, (b) has the right to disapprove actions by the Board, and (c) shall be the sole Person entitled to vote on all matters subject to the vote of any Members of the Master Association (including matters subject to the vote of the Class A Members of the Master Association or their representatives) hereunder, and until the expiration of the Period of Administrative Control, no Class A Member other than Declarant shall be entitled to vote on any matter whatsoever. Other rights of the Class B Member, including the right to approve actions taken under this Master Declaration and the other Governing Documents, are specified elsewhere in this Master Declaration and the other Governing Documents. Notwithstanding anything herein or in the Bylaws of the Master Association to the contrary, since the Declarant has the sole voting rights during the Period of Administrative Control, except as specifically set forth in Section 57-8a-226(7) of the Act, meetings held during the Period of Administrative Control shall solely include the Declarant and shall not include any Class A Members, and the Declarant shall not be obligated to provide any notices of any meetings of the Class B Member to any of the Class A Members. Upon expiration of the Period of Administrative Control, the Class B Membership shall cease, and only Declarant's Class "A" Membership (if any) shall remain. Declarant, in Declarant's sole discretion, by a Recorded notice, may elect to terminate the Period of Administrative Control at any time, but shall not be required to do so.

5.2.3 **Suspension of Voting Rights.** The Board may elect to prohibit an Owner from exercising any voting rights as a Member of the Master Association during any period in which the Owner is delinquent in the payment of any Assessments.

5.3 **Multiple Owners.** When more than one Person holds an ownership interest in a Unit (such as husband and wife or partners), all such Persons are Members, but in no event will they be entitled to more than one vote with respect to each particular Unit owned. The single vote, approval, or consent of such joint Owners must be cast or given in accordance with the decision of a majority, or if such joint Owners cannot reach a majority decision, then none of the joint Owners will be permitted to vote, approve, or consent as to any such matter upon which a majority decision cannot be reached. The vote, approval or consent of any single Owner from among such joint Owners is conclusively presumed to be cast or given in accordance with the decision of the majority of the joint Owners and with their full authority, but the Unit's vote shall be suspended if more than one (1) Person seeks to exercise it.

5.4 **Appurtenant Right.** Membership in the Master Association shall be appurtenant to and shall run with the property interest which qualifies the Member for membership, and

membership may not be severed from, or in any way transferred, pledged, mortgaged, or alienated except together with the title to such property interest.

**5.5 Record of Ownership.** Every Owner shall promptly cause to be duly filed of record the conveyance document (or in the case of contract buyer, a copy of the sales contract) to the Owner of the Owner's Parcel. Each Owner shall file a copy of such conveyance documents (or contract) with the secretary of the Master Association who shall maintain a record of ownership of the Parcels. Any Owner who mortgages a Parcel or any interest therein by a Mortgagee which has priority over the lien of any Assessment provided herein shall notify the secretary of the Master Association of the name and address of the Mortgagee and also of the release of such Mortgage; and the secretary of the Master Association shall maintain all such information in the records of ownership. Any cost incurred by the Master 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 Master Association.

## **ARTICLE 6**

### **Maintenance**

**6.1 Master Association's Responsibility.** The Master Association shall use a reasonable standard of care in providing for the maintenance, repair and replacement of the Area of Common Responsibility, such maintenance and repair to be funded as hereinafter provided. This obligation may include, but need not be limited to, maintenance, repair, and replacement, subject to any insurance then in effect, of all Landscaping and other flora, structures, and Improvements, including any private streets, driveways, fences or walls situated upon the Master Common Areas, along with any fixtures, furnishings, equipment, and personal property owned by the Master Association. Except as otherwise specifically provided herein, all costs associated with maintenance, repair and replacement of the Area of Common Responsibility shall be a Common Expense to be allocated among all Owners as part of the Base Assessment. If any Owner causes damage to the Area of Common Responsibility either through negligence or intentional act, the Master Association may assess the cost and expense to repair such damage to such Owner as a Special Assessment.

**6.2 Neighborhood Responsibilities.** The maintenance of any Neighborhood Common Area within a Neighborhood is to be performed and funded separately by a Neighborhood Association and addressed in the applicable Neighborhood Declaration.

**6.3 Owner Responsibility.**

6.3.1 General. In addition to any other Owner responsibilities herein or in any Neighborhood Declaration, each Owner shall (a) maintain its Unit, including all Improvements located on the Owner's Parcel, in a good, attractive, clean, and sanitary condition, (b) regularly paint the exterior of any homes and structures on its Parcel so that such homes or structures will be in good condition and appearance (c) remove snow and ice from walkways and driveways immediately adjacent to such Owner's Unit as designated on the snow and ice removal plan adopted by the Board and as amended from time to time, and (d) shall comply with any and all applicable Laws and shall not cause or permit any private or public nuisance on its Unit, such as

excessive noise, odor, dust, vibration, or any other activity that would reasonably disturb other Owners and Occupants within the Development.

6.3.2 Landscaping. Each Owner shall maintain and keep properly cultivated, and free of trash, weeds and other unsightly material, all shrubs, trees, hedges, grass and plantings of every kind (collectively, “**Landscaping**”) located on: (a) such Owner’s Parcel; (b) any public right-of-way or easement area which abuts or adjoins such Owner’s Parcel and which is located between the boundary line of such Owner’s Parcel and the paved area of any street, sidewalk, bike-path or similar area (unless otherwise directed by the Board); and (c) any non-street public right-of-way or easement area adjacent to such Owner’s Parcel (unless otherwise directed by the Board), provided, however, that no Owner shall be responsible for maintenance of any area over which (i) the Master Association or any Neighborhood Association assumes responsibility in writing; or (ii) Wasatch County or any other Municipal Authority assumes responsibility. For purposes of this Section, proper maintenance of Landscaping shall include, without limitation, removal and replacement of dead Landscaping.

6.3.3 Owners’ Insurance; Casualty. By virtue of taking title to a Unit subject to the terms of this Master Declaration, each Owner of a Cottage Unit covenants and agrees with all other Owners and with the Master Association that such Owner shall maintain an HO-6 policy of insurance insuring furnishings, equipment, personal property, and contents within the Owner’s Unit (commonly known as “all-in” coverage) and shall otherwise comply with the insurance requirements set forth in the Neighborhood Declaration.

6.3.4 Disturbance of Common Area. An Owner shall not disturb or damage any portion of the Common Area without first obtaining the approval of the ACC or the Board, as the case may be.

6.3.5 Right of Entry and Inspection; Owner’s Default. In the event the Board or ACC determines that: (i) an Owner may have or has failed or refused to discharge properly the Owner’s maintenance obligations as provided in this Article; (ii) the need for maintenance, repair, or replacement which is the responsibility of the Master Association hereunder may have or has been caused through the intentional or negligent act or omission of an Owner, or the Owner’s Related Parties; or (iii) a condition exists on a Unit which may increase the possibility of a fire or other hazards, then the Master Association may conduct inspections of any affected Unit and the residence and all buildings, structures and other Improvements thereon (a “**Compliance Inspection**”) and/or perform the repair, replacement or maintenance (the “**Required Work**”) in accordance with the following:

6.3.5.1 If the Board or ACC determines that a violation of this Article may exist, the Board or ACC and their representative may inspect the Unit, and conduct such tests, measurements and other investigative work as may be reasonably required to confirm that a violation does or does not exist. Except in the event of an emergency, the Master Association must give written notice of the Master Association’s intent to conduct a Compliance Inspection. The notice must state generally the nature of the suspected violations. The notice must also state the name, address, and telephone number of a contact with whom to schedule a date and time for the inspection within ten (10) days of the date of the notice (or such longer time as may be stated in

the notice), and must state that if a date and time is not so scheduled the Compliance Inspection may be conducted at any time within forty-five (45) days after the date of the notice.

6.3.5.2 Except in the event of an emergency, the Master Association must give written notice of the Master Association's intent to provide Required Work. The notice must set forth the Required Work with reasonable particularity. The Owner of the Unit to which the notice of Required Work pertains will have ten (10) days within which to complete the Required Work as set forth in such notice; or, in the event the Required Work is not capable of completion within a ten-day period, to commence the Required Work within ten (10) days and to complete same within a reasonable time not to exceed thirty (30) days unless otherwise specifically approved by the Board or ACC. The affected Owner must give written notice of the completion of the Required Work stating in detail the Required Work which has been completed. The Board or ACC may also conduct a Compliance Inspection to confirm completion of all Required Work.

6.3.5.3 A Compliance Inspection notice and a notice as to Required Work must be delivered or mailed to the street address of the affected Unit.

6.3.5.4 If any Owner fails to schedule an inspection pursuant to a Compliance Inspection notice, the Master Association has the right (but not the obligation), through its designated representatives, to inspect the Unit. If any Owner fails to fully comply with a notice as to Required Work, the Master Association has the right (but not the obligation), through its designated representatives, to do all things to the exterior of the Unit and the exterior of any other Improvements, and to all other portions of the Parcel to commence and complete the Required Work. In case of emergency the Master Association has the right (but not the obligation), through its designated representatives, to immediately take all actions reasonably necessary to abate the emergency.

6.3.5.5 The good faith determination by the Board or ACC as to the need for a Compliance Inspection and as to all aspects of Required Work is final and conclusive, and extends to any condition as to any Unit, or which adversely affects any other Unit or any Common Area. Neither the Master Association nor any of its representatives may be held liable for trespass or any other tort or Claims in connection with any actions or failure to act pursuant to this Section.

6.3.5.6 If a violation is confirmed, all reasonable costs and expenses as to conducting a Compliance Inspection and as to all aspects of Required Work which is performed by the Master Association pursuant to this Section, as determined in the sole opinion of the Board or ACC, shall be paid by the Owner of the Unit, and are secured by the continuing Assessment lien established by this Master Declaration against such Owner's Unit.

6.3.5.7 The provisions hereof are cumulative of the provisions of this Master Declaration, and otherwise as set forth in this Master Declaration.

#### 6.3.6 Hazardous Substances.

6.3.6.1 The Owners shall comply with applicable Environmental Laws, and shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, on or within a Unit or the Development. The Owners shall not do, nor allow anyone

else by, through or under them such as an Occupant, contractor, or servant, anything affecting the Project that is in violation of any Environmental Law. The preceding two sentences shall not apply to the presence, use, or storage on the Development of small quantities of Hazardous Substances that are generally recognized to be appropriate to the maintenance of a Unit or the Development in compliance with Environmental Laws.

6.3.6.2 Each Owner shall indemnify, defend and hold the Master Association and each and every other Owner harmless from and against any and all Claims and proceedings (whether brought by private party or governmental agency) for bodily injury, property damage, abatement or remediation, environmental damage or impairment, or any other injury or damage resulting from or relating to any Hazardous Substances located under or upon or migrating into, under, from or through the Development, which the Master Association or the other Owners may incur due to the actions or omissions of an indemnifying Owner. The foregoing indemnity shall apply: (i) when the release of the Hazardous Substances was caused by an indemnifying Owner or an Occupant; and (ii) whether or not the alleged liability is attributable to the handling, storage, generation, transportation or disposal of Hazardous Substances on the Development. The obligations of each Owner under this Section shall survive any subsequent sale by an indemnifying Owner.

**6.4     Utility Lines.** Any utility lines that exclusively serve a Unit shall be maintained and repaired by the Owner of the Unit served by such utility lines. Any utility lines provided by the Master Association or a Neighborhood Association that service more than one Unit shall be maintained and repaired by the Master Association or any applicable Neighborhood Association, and the cost of such maintenance and repair shall be allocated either among all the Units as part of the Base Assessments or to the Owners of the Units that are served by such utility lines in an equitable manner as decided by the Master Association in its sole discretion as part of a Special Assessment.

**6.5     Security.** The Master Association may, but shall not be obligated to, maintain or support, certain activities within the Development designed to make the Development safer than it otherwise might be. NEITHER THE MASTER ASSOCIATION, THE BOARD, ANY OFFICERS OF THE MASTER ASSOCIATION, NOR THE DECLARANT (COLLECTIVELY, THE “**DEVELOPMENT GOVERNING BODIES**”) SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE DEVELOPMENT, AND THE DEVELOPMENT GOVERNING BODIES SHALL NOT BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. ALL OWNERS, OCCUPANTS, LESSEES, GUESTS AND INVITEES OF ANY OWNER OR OCCUPANT, AS APPLICABLE, ACKNOWLEDGE THAT THE DEVELOPMENT GOVERNING BODIES DO NOT REPRESENT OR WARRANT THAT ANY SECURITY SYSTEM OR PROCEDURES, BURGLAR ALARM SYSTEMS, AND/OR ANY FIRE PROTECTION SYSTEMS WILL PREVENT OR DECREASE THE RISK OF INJURY, LOSS, HARM, DAMAGE, THEFT NOR THAT SUCH SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH OWNER, OCCUPANT, TENANT, GUEST OR INVITEE OF AN OWNER OR OCCUPANT, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT THE DEVELOPMENT

GOVERNING BODIES ARE NOT INSURERS AND THAT EACH OWNER, OCCUPANT, LESSEE, GUEST AND INVITEE ASSUMES ALL RISKS FOR INJURY, LOSS, HARM, DAMAGE, OR THEFT TO PERSONS, TO UNITS, TO IMPROVEMENTS AND TO THE CONTENTS OF UNITS AND IMPROVEMENTS AND FURTHER ACKNOWLEDGES THAT THE DEVELOPMENT GOVERNING BODIES HAVE NOT MADE REPRESENTATIONS OR WARRANTIES NOR HAS ANY OWNER, OCCUPANT, LESSEE, GUEST OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES NOR HAS ANY OWNER, OCCUPANT, LESSEE, GUEST OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF CONSTRUCTION, HABITABILITY, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY SECURITY OR LIFE SAFETY MEASURES UNDERTAKEN WITHIN THE DEVELOPMENT.

## **ARTICLE 7**

### **Insurance**

**7.1 Insurance.** Commencing no later than the time of the first conveyance of a Unit to an Owner other than Declarant or a Declarant Affiliate, the Master Association shall obtain and thereafter maintain, to the extent Reasonably Available, the following insurance coverage pursuant to any applicable Laws and any other insurance coverage that may be required by the Master Association pursuant to applicable Laws:

7.1.1 **Commercial Property Insurance.** The Master Association will maintain Commercial property insurance on the Master Common Areas, and the Master Common Facilities (cause of loss – special form) insuring against all risk of direct physical loss in an amount equal to one hundred percent (100%) of the current replacement cost of the insured property (less reasonable deductibles), exclusive of the land, excavations, foundations and other items normally excluded from a property policy. The Master Association shall arrange for an annual review of the sufficiency of insurance coverage by one or more qualified Persons, at least one of whom must be in the real estate industry and familiar with construction in Salt Lake, Summit and/or Wasatch County area. An Owner, and not the Master Association, is responsible to insure and repair any damage to any Limited Common Area Improvements appurtenant to such Owner's Unit(s).

7.1.2 **Commercial General Liability Insurance.** The Master Association will maintain Commercial general liability insurance providing coverage on an occurrence basis with limits reasonably determined by the Board, but not less than \$1,000,000 per occurrence and in the aggregate. Such insurance shall cover all occurrences commonly only insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Master Common Area and Areas of Common Responsibility.

7.1.3 **Workers' Compensation Insurance.** The Master Association will maintain Workers' compensation insurance to the extent necessary to meet the requirements of applicable Law.

7.1.4 Employer's Liability Insurance. If applicable, the Master Association will maintain employer's liability insurance with the following limits: (a) bodily injury by accident with limits of \$100,000.00 per each accident; (b) bodily injury by disease with a \$500,000 policy limit; and (c) bodily injury by disease with limits of \$100,000 per each employee.

7.1.5 Fidelity Insurance/Bonds. The Board, in the Board's discretion, may obtain and maintain fidelity bond/fidelity insurance coverage against dishonest acts on the part of directors, officers, managers, trustees, agents, employees or other individuals responsible for handling funds belonging to or administered by the Master Association. If funds of the Master Association are handled by a management agent, fidelity insurance coverage may also be obtained for the officers, employees or agents thereof handling or responsible for Master Association funds. The fidelity insurance must name the Master Association as the named insured and shall be written to provide protection in an amount not less than the lesser of (a) the estimated maximum of funds, including Reserve Funds, in the custody of the Master Association or management agent at any given time during the term of such bond or period of coverage of such insurance, (b) a sum equal to three months' aggregate Assessments plus reserves, or (c) the estimated maximum amounts of funds, including reserves, in the custody of the Master Association (or its management agent) at any one time. In connection with this coverage, an appropriate endorsement to the policy to cover any individual who serves without compensation shall be added if the policy would not otherwise cover volunteers. Any such coverage must also name the Master Association as an obligee.

7.1.6 D&O Insurance. The Master Association will maintain a policy of "directors and officers" liability insurance, including errors and omissions coverage for the Board members and the officers.

7.1.7 Earthquake & Flood Insurance. The Master Association shall have the right, but not the obligation to maintain earthquake and/or flood insurance for the Master Common Facilities. The earthquake and/or flood insurance shall be administered in a similar manner as property insurance, and the costs thereof shall be allocated to the Owners in the same manner as the costs of property insurance.

7.1.8 Other Insurance. The Master Association will maintain such other insurance (or policies with greater coverage or limits than provided herein) as the Board shall determine from time to time to be appropriate to protect the Master Association.

7.1.9 Reasonably Available. If the Master Association becomes aware that property insurance under Section 7.1.1 or liability insurance under Section 7.1.2 is not Reasonably Available, the Master Association shall, within seven (7) calendar days after becoming aware, give all Owners notice that the insurance is not Reasonably Available. The term, "**Reasonably Available**" means available using typical insurance carriers and markets, irrespective of the ability of the Master Association to pay.

7.2 Authorized Companies. All policies shall be written with a company authorized to do business in Utah which holds a Best's rating of A- or better and is assigned a financial size category of XI or larger as established by A. M. Best Company, Inc., if Reasonably Available, or, if not available, the most nearly equivalent rating which is available.

**7.3 Authority to Adjust Losses.** Exclusive authority to adjust losses under policies obtained by the Master Association shall be vested in the Board; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

**7.4 Insurance Requirements.** The Board shall be required to use reasonable efforts to secure insurance policies that will provide the following:

7.4.1 Secondary. The insurance maintained by the Master Association shall be secondary to and non-contributing with any insurance maintained by any Neighborhood Association, Owner, Occupant, or Mortgagee, which insurance shall be primary.

7.4.2 Waiver of Subrogation. Subject to the primary nature of insurance maintained by any Neighborhood Association, Owner, Occupant or Mortgagee pursuant to Section 7.4.1 above, the insurer issuing such policy shall waive any rights of subrogation with respect to claims arising from the acts or omissions of the Declarant, the Master Association or its agents, servants or employees, or the Neighborhood Associations, Owners or Occupants.

7.4.3 Severability of Interest. The insurance maintained by the Master Association shall contain a “severability of interest” clause or endorsement, which precludes the insurer from denying the claim of the Master Association, Declarant, Neighborhood Association, Owner, or Occupant because of the negligence or other acts of another insured party or canceling, invalidating, suspending, or refusing to renew a policy on account of any one or more individual claimant(s).

7.4.4 Curable Violation. The insurance maintained by the Master Association shall contain a statement or endorsement that no policy may be canceled, invalidated, suspended, or subject to non-renewal on account of any curable defect or violation without prior demand in writing delivered to the Master Association to cure the defect or violation and the allowance of a reasonable time thereafter within which the defect may be cured by the Master Association, the Board, or any Neighborhood Association.

7.4.5 Insured Party. The Master Association shall be the named insured under the insurance maintained by the Master Association. The Board may elect to include other parties as either named or additional insureds under its commercial general liability insurance policy.

7.4.6 Mortgagee Notification. For policies of commercial property insurance, a standard mortgagee clause providing that the insurance carrier shall notify any Mortgagee named in the policy at least ten (10) days in advance of the effective date of any substantial modification, reduction or cancellation of the policy.

7.4.7 Other Insurance. The insurance maintained by the Master Association shall contain a statement or endorsement that any “other insurance” clause in any policy exclude individual Owners’ policies from consideration.

7.4.8 Notification. The insurance maintained by the Master Association shall contain a statement or endorsement that the Master Association will be given at least thirty (30) days' prior written notice of any cancellation.

7.4.9 Owner's Actions. Unless a Neighborhood Association or an Owner is acting within the scope of such Person's authority on behalf of the Master Association, the act or omission of a Neighborhood Association or an Owner may not void a property insurance policy or a liability insurance policy maintained by the Master Association or be a condition to recovery under a policy.

7.4.10 Compliance with Act. An insurance policy issued to the Master Association may not be inconsistent with any provision of the Act. In the event this Master Declaration or any Governing Document is contrary to a provision of the Act, such provision shall be revised and interpreted to be consistent with the provisions of the Act

**7.5 Owner's Insurance.** A property insurance or liability insurance policy issued to the Master Association may not prevent an Owner from obtaining insurance for the Owner's own benefit. Each Owner is responsible to maintain insurance on such Owner's Unit(s) and any Improvements located thereon and on any Limited Common Area Improvements appurtenant to such Owner's Unit(s). Any Owner benefitting from any Limited Common Area is encouraged to obtain and maintain appropriate liability insurance associated with such Limited Common Area. By virtue of taking title to a Unit subject to the terms of this Master Declaration, each Owner covenants and agrees with all other Owners and with the Master Association and each Neighborhood Association that each Owner shall carry the insurance required by this Master Association and the applicable Neighborhood Declaration.

**7.6 Coordination with Neighborhood Associations.** The Master Association shall coordinate the maintenance of insurance with the Neighborhood Associations whereby single insurance policies may be issued insuring both the Master Association and the Neighborhood Associations; provided, however, the Master Association and/or each Neighborhood Association shall have the right to obtain and maintain its own insurance policies. If the Master Association and a Neighborhood Association agree to coordinate their respective obligations related to insurance, such coordination may include having the Master Association and the Neighborhood Associations both being named as insured parties under liability insurance policies, and having the Master Association being endorsed as a loss payee under commercial property insurance policies to the extent that any proceeds are made available based upon any loss or damage to any Master Common Area and Master Common Facilities.

**7.7 Insurance Costs.** The cost to obtain and maintain the insurance carried by the Master Association, including reasonable deductibles, shall be included as part of the Base Assessments. In the event the Master Association's insurance also covers a Neighborhood Association as addressed in Section 7.6 above, the cost to obtain and maintain such insurance will be equitably allocated to such Neighborhood Association and the Master Association.

**7.8 Indemnification.** To the extent not prohibited or inconsistent with any applicable Laws, each Owner agrees to release, indemnify, hold harmless and defend each and every other

Owner and Occupant within the Development and the Master Association against any Claim for bodily injury or property damage occurring within the Unit of the indemnifying Owner, including any Limited Common Area appurtenant to such Owner's Unit, if any, except to the extent that: (a) such Claim is covered and defended by the Master Association's or an indemnified Owner's insurance; or (b) the injury or damage occurred by reason of the willful misconduct of the Master Association.

## **ARTICLE 8**

### **Damage and Restoration**

#### **8.1 Master Common Area Damage and Destruction.**

8.1.1 Adjustment of Claims. Immediately after damage or destruction by fire or other casualty to all or any part of the Master Common Facilities covered by insurance written in the name of the Master Association, the Board or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed portions of the Master Common Facilities. Repair or reconstruction, as used in this paragraph, means repairing or restoring the Master Common Facilities to substantially the same condition in which they existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes.

8.1.2 Repair. Any damage or destruction to the Master Common Facilities or Property owned by the Master Association shall be repaired or reconstructed within a reasonable time unless (a) the Development is terminated; (b) the repair or replacement would be illegal under a state statute or local ordinance governing health or safety; or (c) both Declarant (provided Declarant is still a Class A Member) and at least seventy-five percent (75%) of all the allocated voting interests of the total Class A votes of the Master Association vote within sixty (60) days after the casualty, at a special meeting called for that purpose in accordance with the Bylaws, not to repair or reconstruct; provided, however, that if for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Master Association within such period, then the period for voting shall be extended until such funds or information shall be made available; provided, however, such extension shall not exceed sixty (60) additional days. Notwithstanding the above, the Master Association shall repair and restore any Master Common Facilities that are required to be restored by Wasatch County or any other Municipal Authority. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Development shall be repaired or reconstructed.

8.1.3 No Repair. In the event that it should be determined in the manner described in Section 8.1.2 above that the damage or destruction to Master Common Facilities shall not be repaired or reconstructed and no alternative Improvements are authorized, then the affected portion of the Master Common Area shall be cleared of all debris and ruins and maintained by the Master Association in a neat and attractive condition.

8.1.4 Disbursement of Proceeds. If the damage or destruction for which the proceeds of insurance policies held by the Master Association are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repair or reconstruction shall be retained by and for the benefit of the Master Association and placed in a capital improvements account. In the event no repair or reconstruction is made, any proceeds remaining after making such settlement as is necessary and appropriate with any affected Neighborhood Association(s), as their interests may appear, shall be retained by and for the benefit of the Master Association and placed in a capital improvements account.

8.1.5 Insufficient Proceeds. If the damage or destruction to the Master Common Area and the Master Common Facilities for which insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board shall, without the necessity of a vote of the Members, levy a Special Assessment against the Owners. Additional Assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

**8.2 Repair and Reconstruction of Neighborhood Common Areas and Units**. The repair or reconstruction of any Neighborhood Common Areas and of any Unit within a Neighborhood shall be governed by the terms of the applicable Neighborhood Declaration.

## **ARTICLE 9**

### **No Partition**

**9.1 No Partition**. There shall be no judicial partition of the Common Area or any part thereof, nor shall any Person acquiring any interest in the Development or any part thereof seek any judicial partition unless the applicable portion of the Development has been removed from the provisions of this Master Declaration. This Article shall not be construed to prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring title to real property which may or may not be subject to this Master Declaration, nor shall it be construed to preclude Declarant from withdrawing any portion of the Development in accordance with Article 11 below.

## **ARTICLE 10**

### **Condemnation**

**10.1 Taking**. Whenever all or any part of the Master Common Area shall be taken (or conveyed by the Board in lieu of and under threat of condemnation), each Owner shall be entitled to notice thereof. A decision by the Board to convey a part of the Master Common Area under threat of condemnation shall be binding on the Master Association so long as it is made in good faith. The award made for such taking shall be payable to the Master Association will be disbursed as follows:

If the taking involves a portion of the Master Common Area on which Master Common Facilities have been constructed (excluding any Limited Common Area and Limited Common Area Improvements), then, unless within sixty (60) days after such taking both Declarant (provided

Declarant is a Class A Member) and at least seventy-five percent (75%) of all the allocated voting interests of the total Class A votes of the Master Association shall otherwise agree, the Master Association shall restore or replace such Master Common Facilities so taken on the remaining land included in the Master Common Area to the extent lands are available therefor, in accordance with plans approved by the Board. Neither the Board nor Declarant shall have any obligation to obtain or dedicate any Master Common Area in order to accomplish such a repair or restoration if such land is not available at the time of the condemnation. If such Master Common Facilities are to be repaired or restored, the above provisions in Article 7 hereof regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired shall apply. Notwithstanding the above, the Master Association shall restore any Master Common Facilities or Improvements required to be restored by the applicable Municipal Authority. An Owner shall be responsible for the repair and restoration of any Limited Common Area Improvements appurtenant to such Owner's Unit(s).

If the taking does not involve any recreational Improvements on the Master Common Area, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Master Association and used for such purposes as the Board shall determine in its sole discretion.

## **ARTICLE 11**

### **Annexation or Withdrawal of Additional Property**

**11.1 Annexation By Declarant.** During the Period of Administrative Control, Declarant, acting without the consent or approval of the Master Association or any Member, shall have the right to bring within the scheme of this Master Declaration additional land (an "***Annexation***") within the area defined as Additional Land herein, so long as the Owner of such land (if not Declarant) consents to such action. Such Annexation shall be accomplished by filing in the Official Public Records of Wasatch County, Utah, a Supplemental Declaration annexing such property in the form prescribed below. Any such Annexation shall be effective upon the filing for record of such Supplemental Declaration unless otherwise provided therein.

**11.2 Annexation By Master Association.** Subject to the consent of the Owner thereof, the Master Association may annex real property into the Development at any time upon the affirmative vote of both the Declarant (provided Declarant is a Class A Member) and at least seventy-five percent (75%) of all the allocated voting interests of the total Class A votes of the Master Association present at a meeting duly called for such purpose. Such Annexation shall be accomplished by filing of record in the Official Public Records of Wasatch County, Utah, a Supplemental Declaration, signed by the President and the Secretary of the Master Association, and by the Owner of the property being annexed. Any such Annexation shall be effective upon filing unless otherwise provided therein.

**11.3 Conveyance of Master Common Area.** Upon the Annexation of any Additional Land, any land that is designated within the Additional Land to be Master Common Area will be conveyed to the Master Association via deed after the filing of the Plat for the Additional Land and the completion of any Master Common Facilities or other Improvements (such as

Landscaping) to be placed or constructed on such portion of the Additional Land. The form and contents of the deed will be mutually agreed upon by the Master Association and the owner of the Additional Land. The owner of the Additional Land will convey the Master Common Area and Master Common Facilities to the Master Association within ten (10) business days after request by the Master Association.

**11.4 Form of Supplemental Declaration.** Each Supplemental Declaration must state that land is being annexed, and must contain at least the following provisions: (i) a reference to this Master Declaration, which reference shall state the document number under which this Master Declaration is Recorded in the Official Public Records of Wasatch County, Utah; (ii) statement that the provisions of this Master Declaration shall apply to the annexed land, except as expressly provided otherwise therein; (iii) a legal description of the annexed land; and (iv) if Declarant or the Master Association is not the owner of the land being annexed, the signatures of both such owner and Declarant, if during the Period of Administrative Control, or the Master Association, if after the Period of Administrative Control. A Supplemental Declaration may, but need not, contain a description of any Master Common Area within the annexed land. The Supplemental Declaration may incorporate the terms and conditions of a Neighborhood Declaration, or a separate Neighborhood Declaration may be filed against the Additional Land. Each Supplemental Declaration shall contain such additional matters as may be required by the applicable Municipal Authority.

**11.5 Master Common Area.** At any time and from time to time during the Period of Administrative Control, Declarant may convey to the Master Association fee simple or easement interests in real property, improved or unimproved, including, without limitation, the Developer Areas. Upon such conveyance to the Master Association, such real property interest shall be accepted by the Master Association as Master Common Area and thereafter shall be maintained by the Master Association. During the period of their ownership of any property, the Declarant or the Master Association may (a) convey portions of the Master Common Areas to other parties, (b) withdraw fee simple or easement interests in real property, improved or unimproved, including, without limitation real property previously designated as Master Common Facilities, from the Master Common Area, (c) adjust boundaries of the Master Common Area, (d) modify Plats, or (e) grant easements to third parties.

**11.6 Withdrawal of Property.** During the Period of Administrative Control, Declarant shall have the right at any time to remove or withdraw lands or grant easements or licenses on, over, under or across such lands then owned by Declarant (or other Persons with Declarant's consent) from the Development; provided, however, that such withdrawal or grant of such easement or right is not prohibited by any Municipal Authority. Any withdrawal of lands requires Summit County's consent and must not otherwise materially impair the Master Association's ability to satisfy its ongoing obligation to Summit County as a third-party beneficiary under Section 4.11. After the expiration of the Period of Administrative Control, the Master Association shall have the right at any time to remove or withdraw lands or grant easements or licenses on, over, under or across the Master Common Areas; provided, however, that such withdrawal or grant of such easement or right is not prohibited by any Municipal Authority. Any withdrawal of lands after this Period of Administrative Control expires requires Summit County's consent and must not otherwise materially impair the Master Association's ability to satisfy its ongoing obligation

to Summit County as a third-party beneficiary under Section 4.11. Upon any such withdrawal (but excluding the grant of an easement or license) this Master Declaration and the covenants, conditions, restrictions and obligations set forth herein shall no longer apply to the lands withdrawn. In order to withdraw lands from the Development hereunder, Declarant shall be required only to Record in the Official Public Records of Wasatch County, Utah, a notice of withdrawal of land which contains: (i) a reference to this Master Declaration (including the document number under which this Master Declaration is Recorded in the Official Public Records of Wasatch County, Utah); (ii) a statement that the provisions of this Master Declaration shall no longer apply to the withdrawn land; (iii) if Declarant is not the owner of the land so withdrawn, the signatures of both such owner and Declarant; (iv) a legal description of the withdrawn land; and (v) any other actions required by applicable Law.

**11.7 Community Splits/Consolidations.** During the Period of Administrative Control, the Declarant, may elect to divide the Development into more than one (1) Neighborhood or communities or to combine two (2) or more Neighborhoods or communities into one (1) Neighborhood or community at any time in accordance with U.C.A. § 57-8a-601 and § 16-6a-11, as amended or superseded. In the event the Neighborhoods or communities are to be combined, a Declaration of Consolidation shall be prepared in accordance with U.C.A. § 57-8a-601, as amended or superseded.

## **ARTICLE 12**

### **Rights and Powers of the Master Association**

**12.1 Master Common Area.** The Master Association shall be responsible for the exclusive management and control of the Master Common Area and the Master Common Facilities, and shall keep it in good, clean, attractive, and sanitary condition, order, and repair. Each Neighborhood Association shall be responsible for the maintenance and repair of any Neighborhood Common Area pursuant to the terms and conditions of the applicable Neighborhood Declaration.

**12.2 Personal Property and Real Property for Common Use.** The Master Association, through action of its Board, may acquire, hold, and dispose of tangible and intangible personal property and real property. The Board, acting on behalf of the Master Association, shall accept any real or personal property, leasehold, or other property interests within or benefiting the Development conveyed to it by Declarant.

**12.3 Rules and Regulations.** The Board is hereby specifically authorized to adopt, amend, modify, supplement, cancel, limit, create exceptions to, expand, or enforce such reasonable Rules and Regulations applicable to the operation and use of the Master Common Area and Master Common Facilities within the Development. The Master Association shall have the right to promulgate rules and regulations for any Neighborhood Common Areas within any Neighborhood that are managed by a Neighborhood Association. The Board shall have the right from time to time through the exercise of its business judgment on behalf of the Master Association to promulgate rules and regulations that it deems beneficial to the Master Association, including, but not limited to: (i) traffic and parking regulations and other traffic control procedures; (ii) procedures and reasonable restrictions and limitations on the right to use the Master Common Area; and (iii) all

procedural and substantive aspects for the establishment, levy, collection and payment of fines for any violations of any Rules and Regulations. Rules and Regulations are of equal dignity with and may be enforceable in the same manner as the provisions of this Master Declaration; provided:

(a) Rules and Regulations may not be enacted retroactively (except that if any activity is subsequently covered by Rules and Regulations and such activity ceases after enactment of the Rules and Regulations covering same, then the Rules and Regulations will apply to the activity thereafter);

(b) Rules and Regulations may not be incompatible with the provisions of this Master Declaration or any Supplemental Declaration;

(c) Before adopting, amending, modifying, canceling, limiting, creating exceptions to, or expanding the rules and design criteria of the Master Association, the Board shall (i) at least fifteen (15) days before the Board will meet to consider any change to the Rules and Regulations, deliver notice to the Owners that the Board is considering a change to the Rules and Regulations; (ii) provide an open forum at the Board meeting giving Owners an opportunity to be heard at the Board meeting before the Board takes action on the Rules and Regulations; and (iii) deliver a copy of the changes in the Rules and Regulations approved by the Board to the Owners within fifteen (15) days after the date of the Board meeting;

(d) Notwithstanding the requirements in (c) above, the Board may adopt Rules and Regulations without first giving notice to the Owners if there is an imminent risk of harm to the Master Common Area, a Unit, an Owner, or an Occupant or resident. The Board shall provide a copy of the changes in the Rules and Regulations as provided in (c) above;

(e) A Board action pursuant to this Section 12.3 is disapproved if within sixty (60) days after the date of the Board meeting where the action was taken: (i) (1) there is a vote of disapproval by at least fifty-one percent (51%) of all the allocated voting interests of the Members of the Master Association; and (2) the vote is taken at a special meeting called for that purpose by the Owners; or (ii) the Declarant delivers to the Board a writing of disapproval during the Period of Administrative Control;

(f) The Board has no obligation to call a meeting of the Owners to consider disapproval of any action to adopt, amend, modify, cancel, limit, create exceptions to, expand, or enforce any Rules and Regulations, unless Owners submit a petition, in the manner prescribed in this Master Declaration for a special meeting, for the meeting to be held. Upon the Board receiving a petition as provided in the preceding sentence, the effect of the Board's action shall be: (i) stayed until after the meeting is held; and (ii) subject to the outcome of the meeting;

(g) During the Period of Administrative Control, the Declarant may exempt the Declarant from the Rules and Regulations, and may also exempt the Board and the Master Association from the rulemaking procedures under this Section 12.3;

(h) The Rules and Regulations shall treat similarly situated Owners similarly, except that Rules and Regulations may vary according to the level and type of service that the Master

Association provides to Owners or Neighborhoods and differ between residential and nonresidential uses, if applicable;

(i) The criterion of any Rules and Regulations may not abridge the rights of an Owner to display religious and holiday signs, symbols, and decorations inside a Unit, provided that the Master Association may adopt time, place, and manner restrictions with respect to displays visible from outside a Unit;

(j) Rules and Regulations may not regulate the content of political signs; provided that Rules and Regulations may regulate the time, place, and manner of posting a political sign, and the Master Association design provision may establish design criteria for political signs;

(k) Rules and Regulations may not interfere with the freedom of an Owner to determine the composition of the Owner's household; provided that the Master Association may: (i) require that all Occupants of a Unit be members of a single housekeeping unit consistent with applicable Law; and (ii) limit the total number of Occupants permitted in each Unit on the basis of the Unit's size and facilities and the fair use of the Master Common Area;

(l) Rules and Regulations may not interfere with an activity of an Owner within the confines of a Unit to the extent that the activity is in compliance with local Laws and ordinances; provided that Rules and Regulations may prohibit an activity within a Unit if (i) the activity is not normally associated with a residential use or permitted by this Master Declaration or (ii) (1) creates monetary costs for the Master Association or other Owners, (2) creates a danger to the health or safety of Occupants of other Units, (3) generates excessive noise or traffic, (4) creates unsightly conditions visible from outside such Unit, (5) creates an unreasonable source of annoyance to persons outside such Unit, or (6) if there are attached Units, creates the potential for smoke to enter another Owner's Unit or the Master Common Area;

(m) Rules and Regulations may not, to the detriment of an Owner and over an Owner's written objection to the Board, alter the allocation of financial burdens among the various Units; provided that the Master Association may: (i) change the Master Common Area available to an Owner; (ii) adopt generally applicable Rules and Regulations for the use of Common Area; or (iii) deny use privileges to an Owner who is delinquent in paying Assessments, abuses the Master Common Area, or violates the Governing Documents. Notwithstanding the foregoing, Rules and Regulations cannot alter the method of levying Assessments or increase the amount of Assessments as provided in this Master Declaration;

(n) Rules and Regulations may not prohibit the transfer of a Unit or require the consent of the Master Association or Board to transfer a Parcel; provided that, Rules and Regulations may prohibit any Owner (other than the Declarant) from selling its Parcel or Unit via fractional interests;

(o) Rules and Regulations may not require an Owner to dispose of personal property that was in or on a Unit before the adoption of Rules and Regulations if the personal property was in compliance with all Rules and Regulations and the terms and conditions of the Governing Documents previously in force; provided that such exception only applies during the period of the

Owner's ownership of the Unit and does not apply to a subsequent Owner who takes title to the Unit after adoption of such Rules and Regulation;

(p) Rules and Regulations or action by the Master Association or Board may not unreasonably impede a Declarant's ability to satisfy existing development financing for Master Common Facilities and right to develop the Development or other properties in the vicinity of the Development;

(q) Rules and Regulations or action by the Master Association or Board may not interfere with the use or operation of an amenity that the Master Association does not own or control the exercise of a right associated with an easement;

(r) Rules and Regulations may not divest an Owner of the right to proceed in accordance with a completed application for design review, or to proceed in accordance with another approval process, under the terms of the Governing Documents in existence at the time the completed application was submitted by the Owner for review;

(s) The Master Association may through Rules and Regulations: (i) regulate the use, maintenance, repair, replacement, and modification of the Master Common Area; (ii) impose and receive any payment, fee, or charge for the use, rental, or operation of the Master Common Area, except any Limited Common Area(s), or service provided to an Owner; (iii) impose a charge for a late payment of an Assessment; or (iv) provide for the indemnification of its officers and Board consistent with applicable Laws;

(t) The Master Association may not prohibit an Owner from displaying a United States flag inside a dwelling or Limited Common Area or on a Parcel, if the display complies with United States Code, Title 4, Chapter 1, The Flag, or other applicable Law. The Master Association may restrict the display of a flag on the Master Common Area;

(u) If permitted by applicable Law, the Board may modify the conditions and stipulations set forth in subsections (c) through (s) above; and

(v) Rules and Regulations will not become effective until ten (10) days after notice thereof is given to all Members or such later date as stated in the notice (certification by the Master Association that proper notice was given in accordance with this Section to be conclusive absent proof of fraud).

**12.4 Implied Rights.** The Master Association may exercise any other right or privilege given to it expressly by this Master Declaration or the other Governing Documents, and every other right or privilege reasonably to be implied from the existence of any right or privilege so given to it or reasonably necessary to effectuate any such right or privilege.

**12.5 Governmental Interests.** During the Period of Administrative Control, Declarant shall have the right to designate sites within the Development, which may include Master Common Area owned by the Master Association, for fire, police, water, and sewer facilities, public schools and parks, and other public facilities.

## **12.6 Enforcement.**

12.6.1 General. Declarant, the Master Association, and their successors and assigns, and any Owner, have the right to enforce observance and performance of all covenants, conditions, easements, and restrictions set forth in this Master Declaration and in all other Governing Documents, and in order to prevent a breach thereof or to enforce the observance or performance thereof have the right, in addition to all legal remedies, and all other rights and remedies set forth in this Master Declaration, to an injunction either prohibitive or mandatory.

12.6.2 Right to Inspect and Cure Defaults. The provisions of Section 6.3.5 apply to any breach of this Master Declaration and any other applicable Governing Documents. In addition, and without prior notice, the Master Association may photograph any violation or suspected violation at any time and otherwise obtain evidence to confirm the existence or non-existence of any suspected violation in any reasonable manner without liability in trespass or otherwise.

12.6.3 No Estoppel, Waiver or Liability. No failure by Declarant or the Master Association to enforce any of the provisions of this Master Declaration or any other Governing Documents will in any event be deemed a waiver of the right to do so thereafter (including without limitation as to the same or similar violation whether occurring prior or subsequent thereto). No liability may attach to Declarant, the Master Association, or their respective Related Parties or committee members, for failure to enforce any provisions of this Master Declaration or any other Governing Documents.

12.6.4 Cumulative Rights and Remedies. Each right and remedy set forth in this Master Declaration and each other Governing Document is separate, distinct and non-exclusive, and all such rights and remedies are cumulative. The pursuit of any right or remedy so provided or as provided by applicable Laws, or the failure to exercise a particular right or remedy, will not be construed as a waiver of such right or remedy or any other right or remedy. Without limitation of the foregoing, the provisions of this Section are declared specifically to be cumulative of the provisions contained in the Bylaws.

12.6.5 Liability for Conduct of Related Parties. Each Neighborhood Association and their respective Owners, and Lessees of such Owners or Occupants of the Units of such Owners, must ensure that their respective Related Parties strictly comply with all applicable provisions of this Master Declaration and all other Governing Documents. Each Neighboring Association and Owner is liable for all consequences of any such violation by the Owner's Related Parties, and each Owner, Lessee and Occupant is jointly and severally liable for all consequences of any such violation by Related Parties of such Owner, Lessee, or Occupant. To the same extent as aforesaid, each Owner, Lessee, and Occupant must indemnify and hold harmless Declarant, the Master Association, and their respective Related Parties from any and all Claims of whatsoever kind whether incurred prior to, during or after proceedings in a court of competent jurisdiction, resulting, directly or indirectly, from any such violation.

12.6.6 Obligation for Payment of Costs and Expenses Resulting from Violations. Each Owner, Lessee and/or Occupant found to have committed, or who is responsible for, a

violation or violations of any of the provisions of this Master Declaration or any other Governing Documents is jointly and severally liable for payment to the Master Association for, and to indemnify and to hold and save harmless the Master Association and its Related Parties from, any and all Claims, of whatsoever kind whether incurred prior to, during or after proceedings in a court of competent jurisdiction, incurred or attributable to any such violation(s), and must pay over to the Master Association all sums of money which the Master Association or its representatives may pay or become liable to pay as a consequence, directly or indirectly, of such violation(s). All such sums are secured by the continuing Assessment lien established by this Master Declaration. All such sums are due and payable upon demand by the Master Association or its representative without the necessity of any other or further notice of any act, fact or information concerning the Master Association's rights or such Owner's or their Lessee's liabilities under this Section; provided, in the case of indemnification the demand shall contain a statement setting forth the Master Association's payment or liability to pay the Claim with sufficient detail to identify the basis for the payment or liability to pay.

12.6.7 Notice and Opportunity to be Heard. Substantial compliance with the procedures set forth in the Bylaws is sufficient whenever this Master Declaration or any other Governing Document requires notice and opportunity to be heard regarding any alleged violation of the Governing Documents.

12.6.8 Filing of Notices of Non-Compliance. At any time the Board determines in good faith there probably exists any noncompliance with any provisions of this Master Declaration or any other Governing Document, the Board may direct that a notice of noncompliance be Recorded covering the affected Unit or Units and the Owner(s) thereof at the sole cost and expense of such Owner(s). All such costs and expenses are due and payable upon demand, and are secured by the Master Association's continuing Assessment lien.

**12.7** Sewer Services. Jordanelle Special Service District will provide sewer services for the Development pursuant to a contract between the Master Association and Jordanelle Special Service District, or any successor or assignee (the "**Sewer District**"), or any other accessible provider of sewer services selected by the Board. Due to the physical contours and layout of the Development, certain Parcels within the Development may require sewage ejector pumps or similar facilities to connect to the main sewer lines in the Development. Each Owner shall be responsible for the cost of purchasing, installing and maintaining any such equipment required for their Parcel. The specifications and location of all supplementary sewer facilities shall be subject to the review and approval of the ACC, in conjunction with the Sewer District. It is specifically permitted that bonds be issued by the Sewer District, or other applicable entity, in connection with funding of the cost of any Improvements by the Sewer District to portions of the Property and the maintenance and repair thereof and the costs for the payment of such bonds shall be added to and become part of the Assessments payable under this Master Declaration. The Master Association will be responsible to maintain any portion of the storm water sewer system including, but not limited to retention ponds and retention basins, which are located within, on or under any portion of the Development.

## **ARTICLE 13**

### **Assessments**

**13.1 Creation of Assessments.** There are hereby created Assessments for Master Association expenses as may from time to time specifically be authorized by the Board, to be commenced at the time and in the manner set forth in Section 13.8. There shall be three (3) types of Assessments: (a) Base Assessments to fund Common Expenses for the benefit of all Owners in the Master Association; (b) Neighborhood Assessments; and (c) Special Assessments as described in Section 13.4. Each Owner by acceptance of a deed is deemed to covenant and agree to pay all applicable Assessments.

Base Assessments shall be levied against each Owner, as provided in Section 13.2 below. Neighborhood Assessments may be levied against particular Neighborhood Associations, or against the Owners within such Neighborhood Association, as determined by the Board, as set forth in Section 13.3 below. Special Assessments shall be levied as provided in Section 13.4 below.

All Assessments, together with interest at the greater of fifteen percent (15%) per annum, compounded annually, or the “prime lending rate” published from time to time by the *Wall Street Journal* or other financial publications, plus 400 basis points per annum, compounded annually (provided that the interest rate cannot exceed the maximum rate allowed by Utah Law), as computed from the date the delinquency first occurs, late charges, costs, and reasonable attorney’s fees, shall be a charge on the land and shall be a continuing lien upon the real property owned by the applicable Owner against which each Assessment is made until paid. Each such Assessment, together with interest, late charges, costs, and reasonable attorney’s fees, shall also be the personal obligation of the Person who was the Owner of such Unit at the time the Assessment arose, and, in the event of a transfer of title, his or her grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance, except no first Mortgagee who obtains title to a Unit pursuant to the remedies provided in the Mortgage shall be liable for unpaid Assessments which accrued prior to such acquisition of title.

The Master Association shall, upon demand at any time, furnish to any Neighborhood Association and/or Owner liable for any type of Assessment a certificate in writing setting forth whether such Assessment has been paid as to any particular Unit. Such certificate shall be conclusive evidence of payment to the Master Association of any Assessments therein stated to have been paid. The Master Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

Assessments shall be paid in such manner and on such dates as may be fixed by the Board. Unless the Board otherwise provides, the Base Assessment and any Neighborhood Assessment shall be due and payable on the first day of each calendar quarter during any fiscal year. If any Neighborhood Association and/or Owner is delinquent in paying any Assessments or other charges, the Board shall require any unpaid installments of the Base Assessment, Neighborhood Assessment and/or any other Assessments to be paid in full immediately, unless exceptional circumstances exist (as determined by the Board in its sole discretion).

No Neighborhood Association or Owner may waive or otherwise exempt itself from liability for the Assessments provided for herein, including, by way of illustration and not limitation, by non-use of the Master Common Facilities or abandonment of the Unit. The

obligation to pay Assessments is a separate and independent covenant on the part of each Neighborhood Association and/or Owner. No diminution or abatement of any Assessment or set-off shall be claimed or allowed by reason of any alleged failure of the Master Association or Board to take some action or perform some function required to be taken or performed by the Master Association or Board under this Master Declaration or the Governing Documents, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Master Association, or from any action taken to comply with any Law, ordinance, or with any order or directive of any municipal or other governmental authority.

The Master Association is specifically authorized to enter into subsidy contracts or contracts for “in kind” contribution of services or materials or a combination of services and materials with Declarant or other entities for the payment of some portion of the Common Expenses.

**13.2 Computation of Base Assessment.** At least sixty (60) days before the beginning of each fiscal year, the Board will prepare a budget covering the estimated Common Expenses of the Master Association during the coming fiscal year. The budget shall include a capital contribution establishing and maintaining a Reserve Fund in accordance with a budget separately prepared, as provided in Section 13.5 of this Article.

The Base Assessments shall be equally allocated to all Owners within the Development. Notwithstanding the above, the Board may, in its sole discretion, reduce the Base Assessments determined pursuant to the above formula by taking into account:

- (a) other sources of funds available to the Master Association; and
- (b) Assessments to be levied upon Neighborhood Associations reasonably anticipated to become subject to assessment during the fiscal year.

During the Period of Administrative Control, Declarant may elect on an annual basis, but shall not be obligated, to reduce the resulting Base Assessments for any fiscal year by loaning funds or paying a subsidy to the Master Association (in addition to any amounts paid by Declarant under Section 13.1 above); provided, any such loaned amounts or subsidy shall be conspicuously disclosed as a line item in the income portion of the Common Expense budget and shall be made available to the membership. The payment of any loaned amount or subsidy in any year shall under no circumstances obligate Declarant to continue to make loans or subsidies in future years.

The Board shall cause a copy of the Common Expense budget and notice of the amount of the Base Assessment to be levied against each Owner and any Neighborhood Association to be furnished or otherwise made available to each Owner. After the expiration of the Period of Administrative Control, the budget may be disapproved if, within forty-five (45) days after the date when the budget is presented, there is a vote of disapproval by at least fifty-one percent (51%) of all of the allocated voting interests of the Members in the Master Association, and the vote is taken at a special meeting called for that purpose by the Members under this Master Declaration or the Governing Documents. If the budget is disapproved, the budget that the Board last adopted that was not disapproved by the Members shall continue as the budget until and unless the Board

presents another budget to the Members and that budget is not disapproved. During the Period of Administrative Control, Members may not disapprove a budget.

**13.3 Computation of Neighborhood Assessments.** In the event a Neighborhood Association disproportionately benefits from use of the Master Common Facilities or requires additional services or a higher level of services than what is provided to the Development at large or to other Neighborhood Associations, the Board, in its sole discretion, may equitably allocate the Common Expenses between and/or among the Neighborhood Associations and the Owners through Base Assessments as well as Neighborhood Assessments to such Neighborhood Association that disproportionately uses the Master Common Facilities.

**13.4 Special Assessments.**

13.4.1 All Owners. The Master Association may levy Special Assessments against all the Owners as follows:

(a) for purposes of defraying, in whole or in part, the cost of any action or undertaking on behalf of the Master Association, including expenses incurred in connection with the Summit County Road Agreement, or the cost of any construction or replacement of, a specific capital improvement upon the Master Common Area, including the necessary fixtures and personal property related thereto; and

(b) for purposes of providing any necessary funds for restoration and repair of damaged or destroyed Master Common Area or Areas of Common Responsibility in accordance with the provisions hereof, unless the Owners elect not to repair same pursuant to Section 8.1.2 of this Master Declaration.

Any Special Assessment levied pursuant to this paragraph shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which such Special Assessment is approved, if the Board so determines.

13.4.2 Individual Owners. The Master Association may also levy Special Assessments against any individual Owner as follows:

(a) reasonable charges for:

(i) providing a statement of Assessments or indebtedness, including resale certificates;

(ii) reasonable administrative fees to reflect changes of ownership, tenancy or occupancy on the records of the Master Association, including, but not limited to a fee for providing Master Association payoff information needed in connection with the financing, refinancing, or leasing of an Owner's Parcel, which amount shall not exceed the maximum amount allowed by applicable Law;

(iii) administrative fees for providing Association payoff information needed in connection with financing, refinancing, or closing of a lot owner's sale of the lot owner's lot, as

provided for in Utah Code Annotated Section 57-8a-106. Additional paperwork required in a private sale between an Owner and purchaser may be obtained from the Master Association but may incur additional fees;

(iv) plan fees and other fees associated with reviewing, processing and approving applications for architectural approval, which fees may not exceed the actual cost of reviewing, processing and approving such applications;

(b) admission or usage fees applicable to any Master Common Area and/or Master Common Facility as from time to time established by applicable Rules and Regulations;

(c) fines as from time to time established by applicable Rules and Regulations for any violation of this Master Declaration or other Governing Documents;

(d) all other monetary obligations established by or pursuant to this Master Declaration or other Governing Documents; and

(e) any costs associated with the maintenance or repair of any Limited Common Area or Limited Common Area Improvements appurtenant to such Owner's Unit(s).

With respect to any Special Assessments levied on a regular basis, the Master Association may require an Owner to pay any such applicable Special Assessments on a regular recurring basis concurrently with the payment of Base Assessments.

**13.4.3 Payment; Waiver.** Special Assessments as authorized by Section 13.4.1 are due and payable immediately upon the occurrence of the event giving rise to liability for payment of same. Failure of the Master Association (or managing agent as applicable) to impose or collect any Special Assessment is not grounds for any action against the Master Association, any managing agent, or their respective directors, officers, agents or employees, and does not constitute a waiver of the right to exercise authority to collect any Special Assessments in the future. For good cause shown as determined in the sole opinion of the Board, the Board may waive, wholly or partially, imposition of any special Assessment authorized by Section 13.4.1, provided, any such waiver must be conditioned upon payment in full of all remaining monetary obligations or receipt of written commitment that same will be paid within a specified period of time.

**13.5 Reserve Budget and Capital Contribution.** The Board shall cause the Association to establish and maintain a Reserve Fund to accumulate money to cover the cost of repairing, replacing, and restoring the Master Common Area, Master Common Facilities, and Summit County Improvements to the extent required by the Act, but excluding any cost that can reasonably be funded from the Master Association's general budget or from other Master Association funds (the "***Reserve Fund***"). Pursuant to *Section 57-8a-211* of the Act, the Board shall cause a Reserve Fund analysis to be conducted as required by law. The Master Association shall review and, if necessary, update the reserve analysis as required by the Act. Based upon the reserve analysis, the Board shall establish a reserve budget. The Board will provide a copy of the reserve analysis and any update thereto to any Owner requesting the same. The Board shall set the required capital contribution in an amount sufficient to permit meeting the projected needs of the Master Association, as shown on the budget, with respect both to amount and timing by annual Base

Assessments over the period of the budget. The capital contribution required, if any, shall be fixed by the Board and included within and distributed with the applicable budget and notice of Assessments. The Reserve Fund shall not be used for daily maintenance expenses, unless at least fifty-one percent (51%) of all the allocated voting interests of the Members of the Master Association vote to approve the use of the Reserve Fund for such purpose, or for any purpose other than the purpose for which the Reserve Fund was established. The Reserve Fund shall be maintained separate from other Master Association funds. The Board will prepare and submit the Reserve Fund analysis as required by the Act. The Reserve Fund may be invested in a prudent manner, subject to any investment constraints imposed by the Governing Documents. The above requirements do not apply to the Master Association during the Period of Administrative Control.

### **13.6 Reinvestment Fee.**

13.6.1 Reinvestment Fee. Each purchaser (excepting the initial purchaser) of a Unit within the community shall pay to the Master Association at closing a “**Reinvestment Fee**” immediately upon becoming the Owner of such Unit (i.e., at closing of the purchase) in such amount as is established from time to time by the Board, to reimburse the Master Association for costs incurred by the Master Association in connection with the transfer of title to such new Owner and for the payment of other expenses and/or reserves, as the Board may determine in its sole and exclusive discretion. The Reinvestment Fee shall be one half percent (0.5%) of the Gross Sales Price of any Unit unless otherwise determined by the Board; provided, however, that in no event shall the Reinvestment Fee exceed the maximum percentage of the Gross Sales Price of any Unit that is allowed by applicable Law. The Board shall have the right to collect and enforce the payment of Reinvestment Fees in the same manner as enforcement and collection of delinquent Assessments as further described in this Master Declaration. In the event that any Reinvestment Fee is not paid at the relevant closing to the Master Association, the Board shall have the right to impose a penalty against the new Owner of such Unit in an amount as determined by the Board from time to time in its sole discretion.

13.6.2 Gross Sales Price. For purposes of this Section 13.6, “**Gross Sales Price**” shall mean, in the case of a transfer that is in all respects a bona fide sale, the greater of: (a) the Gross Sales Price stated in the agreement for purchase and sale, (b) the Gross Sales Price stated on the settlement statement prepared by a third-party escrow or title agent, or (c) the total consideration given for the transfer (or the equivalent thereof which would have been received by the transferor had the transaction been an arms-length, third-party cash transaction, in the event the transfer is not an arms-length, third-party cash transaction) of the Unit subject to transfer. In case of a transfer that is a lease for a period of twenty (20) or more years or is otherwise not in all respects a bona fide sale, the Gross Sales Price of the Unit subject to transfer shall be the fair market value of the Unit as determined by the Board. A transferee may make written objection to the Board’s determination of value for a non-arms-length transfer within fifteen (15) days after the Board has given notice of such determination, in which event the Board shall obtain an appraisal, at the transferee’s sole expense, from a certified real estate appraiser of good reputation, who is qualified to perform appraisals in Utah, who is familiar with Wasatch County and local area real estate values, and who shall be selected by the Board. Any appraisal so obtained shall be binding on both the Board and the transferee. Notwithstanding any provision herein to the contrary, where a transferee does not object within the fifteen (15) day period established above, the transferee

shall be deemed to have waived all right of objection concerning the Gross Sales Price and the Master Association's determination of such shall be binding.

**13.6.3 Mortgages.** No Reinvestment Fee shall be payable and a transfer shall not be deemed to have occurred with respect to (a) the creation of any Mortgage; (b) any foreclosure of a Mortgage; (c) the exercise of a power of sale available under a Mortgage; (d) the taking of a deed or assignment in lieu of a foreclosure by a Mortgagee; (e) the conveyance by a Mortgagee of a deed to a Unit to a grantee if such Mortgagee shall have obtained title to such Unit pursuant to subclause (b), (c) or (d) above; or (f) any transfer to any closely held entity solely for estate planning purposes. For purposes of this Section 13.6, a "*transfer*" shall mean, whether in one transaction or in a series of related transactions, any sale, conveyance, assignment, lease, or other transfer of any beneficial ownership of or interest in any Unit, including, but not limited to, (i) the conveyance of fee simple title to any Unit, (ii) the transfer of any ownership interest in any timeshare or fractional ownership interest or vacation club interest, (iii) the transfer of more than fifty percent (50%) of the outstanding shares of the voting stock of a corporation which, directly or indirectly owns one or more Units, and (iv) the transfer of more than fifty percent (50%) of the interest in net profits or net losses of any partnership, limited liability company, joint venture or other entity, which, directly or indirectly, owns one or more Units. The Declarant, prior to the organization of the Master Association, and thereafter the Board, shall have the right to determine in their respective sole and exclusive judgment whether or not a "transfer" has occurred for the purposes of levying a Reinvestment Fee.

**13.6.4 Separate Notice.** A separate notice regarding the levying of Reinvestment Fees as required by this Section 13.6 has been or shall be Recorded.

**13.7 Date of Commencement of Assessments.** The obligation to pay the applicable Assessments provided for herein shall commence as to each Unit on the first day of the month following the Annexation of such Unit into the Development to the extent such Unit is not already included within the Development. Assessments shall be due and payable in a manner and on a schedule as the Board may provide. The first annual Base Assessment levied on any Unit shall be adjusted according to the number of months remaining in the fiscal year at the time Assessments commence on such Unit.

**13.8 Written Statement of Unpaid Assessment.** The Board may issue a written statement indicating any unpaid Assessment with respect to a Unit upon the written request of the Board or an officer of such Association and payment of a reasonable fee in connection with such request not to exceed the maximum amount permitted by applicable Law.

**13.9 Fines.** To the extent not prohibited by Law, the Board shall have the right, from time to time to adopt, revise and modify a policy related to the issuance of fines in the event of a violation of the terms and conditions of this Master Declaration and the other Governing Documents. The fine policy will set forth the list of covenants for which fines may be issued from time to time and the amount of the fines. If any fine is not paid within ten (10) days after notice of the Assessment, a late fee will be assessed and interest at the rate of the greater of 15% per annum, compounded annually, or the prime lending rate as published from time to time by the *Wall Street Journal* plus 400 basis points per annum, compounded annually, will accrue until paid. In the event

a fine is assessed, an Owner may request a formal hearing and appeal the fine in accordance with the requirements set forth in the Act. The Board may assess a fine against any Neighborhood Association or any Owner for a violation of the Governing Documents in accordance with the Act. Before assessing a fine, the Board will give the Neighborhood Association or the Owner, as the case may be, a written warning that (i) describes the violation; (ii) states the rule or provision of the Governing Documents that is violated; (iii) states that the Master Association may assess fines against Neighborhood Association or the Owner if the violation continues and is not cured or if the Neighborhood Association or the Owner commits similar violations within one year after the day on which the Master Association gives the Neighborhood Association or the Owner the written warning or assesses a fine against the Neighborhood Association or the Owner for such violation; and (iv) if the violation is a continuing violation, states a time that is not less than forty-eight (48) hours after the day on which the written warning is given by which the Neighborhood Association or the Owner must cure the violation. Any unpaid fines shall be treated as Special Assessments and shall be paid by such Neighborhood Association or the Owner, subject to any applicable interest and late fees commencing as of the later of (1) the date of the Assessment, or (2) if the Neighborhood Association or the Owner requests a hearing, the date of the final decision following such hearing. In the event a Neighborhood Association is assessed a fine as a result of the activities of an Owner that is a member of such Neighborhood Association, the Owner will be responsible to reimburse the Neighborhood Association for such fine pursuant to the terms of the Master Declaration for such Neighborhood Association. If a Neighborhood Association or an Owner disputes the assessment of a fine, such Neighborhood Association or Owner may request an informal hearing to protest or dispute the fine within fourteen (14) days from the date of the notice of the fine. For any fine imposed against any offending Neighborhood Association or Owner, the offending Neighborhood Association or Owner shall be barred from challenging the validity of such fine if such Neighborhood Association or Owner does not deliver a written hearing request to the Board within fourteen (14) days of the notice of such fine. At any such informal hearing, based on the information provided by the Neighborhood Association or Owner as well as any other information available to the Board, the Board shall make a reasonable determination regarding whether to rescind, reduce, or waive the fine.

**13.10 Assessment Liens.** The Master Association has a lien against each Unit for Assessments and, except as otherwise provided in this Master Declaration, for fines, fees, charges, and costs associated with collecting any unpaid Assessment, including court costs and reasonable attorney fees, late charges, interest, fines, and any other amount that the Master Association is entitled to recover under this Master Declaration, at law, or through an administrative or judicial decision. The obligation to pay Assessments as provided herein is part of the purchase price of each Unit when sold to an Owner, and an express vendor's lien is hereby retained to secure the payment thereof and is hereby transferred and assigned to the Master Association. Additionally, a lien with a power of sale is hereby granted and conveyed to the Master Association to secure the payment of Assessments and other amounts owed hereunder. The Recording of this Master Declaration constitutes record notice and perfection of the above-described liens. If an Assessment is payable in installments, the lien will be for the full amount of the Assessment from the time the first installment is due, unless the Master Association otherwise provides in a notice of Assessment. Any unpaid Assessment or fine shall accrue interest at the rate provided in this Master Declaration. Any and all liens provided for in this Section 13.10 shall have priority over each other lien and encumbrance on a Unit except: (a) a lien or encumbrance Recorded before this Master

Declaration is Recorded; or (b) a lien for real estate taxes or other governmental Assessments or charges against the Unit. To evidence any lien hereunder, the Master Association may prepare a written Notice of Assessment Lien setting forth the amount of the Assessments and other amounts due and owing, the name of the Owner of the Unit subject to such Assessments, and other amounts due and owing and a description of such Unit, which shall be signed by an officer of the Master Association and may be Recorded.

**13.11 Enforcement of a Lien.** To enforce a lien, the Master Association may cause a Unit to be sold through non-judicial foreclosure as though the lien were a deed of trust, in the manner provided by U.C.A. §§ 57-1-24, 57-1-25, 57-1-26, and 57-1-27 (as amended or replaced from time to time) and the Act, or foreclose the lien through a judicial foreclosure in the manner provided by Law for the foreclosure of a Mortgage and the Act. For purposes of a non-judicial or judicial foreclosure, the Master Association is considered to be the beneficiary under a trust deed; and the Owner is considered to be the trustor under a trust deed. An Owner's acceptance of the Owner's interest in a Unit constitutes a simultaneous conveyance of the Unit in trust, with power of sale, to the trustee designated below for the purpose of securing payment of all amounts due under this Master Declaration. A power of sale and other powers of a trustee under this part and under U.C.A. § 57-1-19 through 57-1-34 (as amended from time to time) may not be exercised unless the Master Association appoints a qualified trustee. The trustee herein designated may be changed at any time and from time to time by execution of an instrument in writing signed by the President or Vice President of the Master Association and attested to by the Secretary of the Master Association and Recorded pursuant to U.C.A. § 57-1-22 (as amended from time to time). A Person may not be a trustee hereunder unless the Person qualifies as a trustee under U.C.A. § 57-1-21(1)(a)(i) or (iv) (as amended from time to time). A trustee is subject to all duties imposed on a trustee under U.C.A. §§ 57-1-19 through 57-1-34 (as amended or replaced from time to time). Notwithstanding the foregoing, the Master Association may bring an Action against an Owner to recover an amount for which a lien is created under U.C.A. § 57-8a-301 (as amended or replaced from time to time) or from taking a deed in lieu of foreclosure, if the Action is brought or deed taken before the sale or foreclosure of such Owner's Unit.

Declarant hereby appoints Jeremy C. Reutzel, Esq., a member of the Utah State Bar, as the initial trustee (and to any substitute or successor trustee as hereinafter provided for). The Declarant hereby conveys and warrants pursuant to U.C.A. §§ 57-1-20 and 57-8a-302 (as amended from time to time) to Jeremy C. Reutzel, Esq., a member of the Utah State Bar, as trustee with power of sale over each Unit and any and all Improvements appurtenant to each such Unit (and to any substitute or successor trustee as hereinafter provided for), each Unit, and all Improvements appurtenant to each such Unit, for the purpose of securing payment of Assessments under the terms of this Master Declaration to the Master Association, which shall be the beneficiary under such conveyance. Declarant shall appoint a successor trustee in the event of vacancy or as otherwise necessary. In the event of the election by the Board to foreclose the liens herein provided for nonpayment of sums secured to be paid by such lien, then it shall be the duty of the trustee, or his successor, as hereinabove provided, at the request of the Board (which request shall be presumed by a request by the President of the Master Association) to enforce this trust and to sell such Unit, and all rights appurtenant thereto.

At least thirty (30) calendar days before initiating a non-judicial foreclosure, the Master Association shall provide notice (“*Notice of Sale*”) to the Owner of the Unit that is the intended subject of the non-judicial foreclosure. The Notice of Sale shall: (a) notify the Owner that the Master Association intends to pursue non-judicial foreclosure with respect to the Owner’s Unit to enforce the Master Association’s lien for an unpaid Assessment; (ii) notify the Owner of the Owner’s right to demand judicial foreclosure in the place of non-judicial foreclosure; (iii) be sent to the Owner by certified mail, return receipt requested; and (iv) be in substantially the following form:

NOTICE OF NONJUDICIAL FORECLOSURE AND RIGHT TO DEMAND  
JUDICIAL FORECLOSURE

The Black Rock Estates Master Association, Inc., a Utah non-profit corporation, the Master Association for the project in which your Unit is located, intends to foreclose upon your Unit using a procedure that will not require the Master Association to file a lawsuit or involve a court. This procedure is being followed in order to enforce the association’s lien against your Unit and to collect the amount of an unpaid Assessment against your Unit, together with any applicable late fees, interest, and costs, including attorney fees, associated with the foreclosure proceeding. Alternatively, you have the right to demand that a foreclosure of your property be conducted in a lawsuit with the oversight of a judge. If you make this demand and the association prevails in the lawsuit, the costs and attorney fees associated with the lawsuit will likely be significantly higher than if a lawsuit were not required, and you may be responsible for paying those costs and attorney fees. If you want to make this demand, you must state in writing that “I demand a judicial foreclosure proceeding upon my Unit,” or words substantially to that effect. You must send this written demand by first class and certified U.S. mail, return receipt requested, within fifteen (15) days after the date of the postmark on the envelope in which this notice was mailed to you. The address to which you must mail your demand is that of the trustee, which address shall be on file with the Master Association.

The Notice of Sale may be included with other Master Association correspondence to the Owner. The Master Association may not use a non-judicial foreclosure to enforce a lien if the Owner mails to the Master Association within fifteen (15) days after the date of the postmark on the envelope of the Notice of Sale sent to the Owner a written demand for judicial foreclosure by U.S. mail, certified with a return receipt requested, to the address stated in the Notice of Sale sent to the Owner.

A court entering a judgment or decree in a judicial Action brought by the Master Association shall award the prevailing party its costs and reasonable attorney fees incurred before the judgment or decree and, if the Master Association is the prevailing party, any costs and reasonable attorney fees that the Master Association incurs collecting the judgment, in addition to pre-judgment interest on the principal amount due and owing. In a non-judicial foreclosure, the Master Association may include in the amount due, and may collect, all costs and reasonable

attorney fees incurred in collecting the amount due, including the costs of preparing, Recording, and foreclosing a lien.

The Master Association's non-judicial foreclosure of a Unit is governed by U.C.A. §§ 57-1-19 through 57-1-34 to the same extent as though the Master Association's lien were a trust deed and the Act. If there is a conflict between a provision of the Act and a provision of U.C.A. §§ 57-1-19 through 57-1-34 with respect to the Master Association's non-judicial foreclosure of a Unit, the Act controls. The Master Association may abandon a judicial foreclosure, non-judicial foreclosure, or sheriff's sale and initiate a separate Action or another judicial foreclosure, non-judicial foreclosure, or sheriff's sale if the initial judicial foreclosure, non-judicial foreclosure, or sheriff's sale is not complete. In the event of an amendment to applicable Utah Law regarding the enforcement of any lien and the judicial or non-judicial foreclosure on any Unit, the President of the Master Association, acting without joinder of any other Owner or Mortgagee or other Person may, by Recorded amendment to this Master Declaration, amend the provisions hereof so as to comply with such amendments to the applicable Utah Law.

At any judicial foreclosure or non-judicial foreclosure, the Master Association shall be entitled to bid up to the amount of the sum secured by its lien, together with interest, costs, and expenses of sale, including trustee's and attorney's fees and other amounts due and owing, and to apply as a cash credit against its bid all sums due to the Master Association covered by the lien foreclosed.

From and after any such foreclosure, the Occupants of such Unit shall be required to pay a reasonable rent for the use of such Unit and such occupancy shall constitute a tenancy-at-sufferance, and the purchaser at such foreclosure shall be entitled to the appointment of a receiver to collect such rents and, further, shall be entitled to sue for recovery of possession of such Unit by forcible detainer without further notice. During any period in which a Unit is owned by the Master Association following foreclosure or sale in lieu thereof: (a) no Assessment shall be levied on it; and (b) each other Unit shall be charged, in addition to its usual Assessment, its equal pro rata share of the Assessment that would have been charged such Unit had it not been acquired by the Master Association as a result of foreclosure.

The Master Association need not pursue a judicial foreclosure or non-judicial foreclosure to collect an unpaid Assessment but may file an Action to recover a money judgment for the unpaid Assessment without waiving the lien or its rights and remedies as provided herein or available at law or in equity.

**13.12 Subordination of Assessment Liens.** Each Assessment lien, including interest, late charges (subject to the limitations of applicable Law), and costs (including attorney's fees and costs) provided for herein, shall be subordinate to any tax liens and to any lien of any first Mortgage upon any Unit.

**13.13 Termination of Rights.** The Board may terminate a Delinquent Party's right of access to and use of the Master Common Area and the Master Common Facilities provided that the Master Association may not prevent vehicular or pedestrian access to the Unit across any private streets or walkways that may be part of the Master Common Areas. A "***Delinquent Party***"

means an Owner who fails to pay an Assessment when due or the Owners of a Neighborhood Association that fails to pay an Assessment when due. Before terminating the right of access to and use of the Master Common Area and/or Master Common Facilities, the Board shall give the Delinquent Party notice ("**Termination Notice**") in a manner provided in this Master Declaration. The Termination Notice shall state: (a) that the Master Association will terminate the right of access to and use of the Master Common Area and/or Master Common Facilities, or both, if the Master Association does not receive payment of the Assessment, including any fines, penalties, interest and late payment fees, within fourteen (14) days after the date of the Termination Notice; (b) the amount of the Assessment due, including any fines, penalties, interest or late payment fee; and (c) the Delinquent Party's right to request a hearing. A Delinquent Party may submit a written request to the Board for an informal hearing to dispute the Assessment, which request must be submitted within fourteen (14) days after the date the Delinquent Party receives the Termination Notice. If the Delinquent Party timely requests a hearing, the Board shall conduct an informal hearing in accordance with the standards provided in this Master Declaration or the Rules and Regulations. If a Delinquent Party requests a hearing, the Master Association may not terminate a utility service or right of access to and use of the Master Common Area and/or Master Common Facilities until after the Board conducts the hearing and enters a final decision. If the Master Association terminates a right of access to and use of the Master Common Area and/or Master Common Facilities, the Master Association shall take immediate action to reinstate the service or right following the Delinquent Party's payment of the past due Assessment, including any fines, penalties, interest and late payment fees.

**13.14 Rent Application.** The Board may require an Occupant under a Lease with an Owner to pay to the Master Association all future Lease or rent payments payable and due to the Owner if the Owner fails to pay an Assessment for a period of more than sixty (60) days after the Assessment is due and payable, beginning with the next monthly or periodic payment due from the Occupant and continuing until the Master Association is paid in full the Amount Owing (as defined below). Before requiring an Occupant to pay Lease payments to the Master Association, the Master Association's manager or Board shall give the Owner written notice in accordance with the terms of this Master Declaration ("**Rent Application Notice**"). The Rent Application Notice shall state: (a) the amount of the Assessment due, including any interest, late fee, collection cost, and attorney fees; (b) that any costs of collection, including attorney fees, and other Assessments that become due may be added to the total amount due and be paid through the collection of Lease payments; and (c) that the Master Association intends to demand payment of future Lease payments from the Occupant of the Owner's Unit if the Owner does not pay the Amount Owing within fifteen (15) days after the date of the Rent Application Notice. If an Owner fails to pay the Amount Owing within fifteen (15) days after the date of the Rent Application Notice, the Master Association's manager or Board may exercise the Master Association's rights herein by delivering a written notice to the Occupant ("**Rent Payment Notice**"). The Rent Payment Notice shall state that: (i) due to the Owner's failure to pay an Assessment within the required time, the Board has notified the Owner of the Board's intent to collect all Lease payments from the Occupant until the Amount Owing is paid; (ii) the Law requires the Occupant to make all future Lease payments, beginning with the next monthly or other periodic payment, to the Master Association, until the Amount Owing is paid; and (iii) the Occupant's payment of Lease payments to the Master Association does not constitute a default under the terms of the Lease with the Owner. The manager of the Master Association or the Board shall mail a copy of the Rent Payment Notice to

the Owner. An Occupant who receives a Rent Payment Notice shall pay to the Master Association all future Lease payments as they become due and owing to the Owner beginning with the next monthly or other periodic payment after the Rent Payment Notice is delivered to the Occupant and until the Master Association notifies the Occupant that the Amount Owing is paid. An Owner shall credit each payment that the Occupant makes to the Master Association pursuant to a Rent Payment Notice against any obligation that the Occupant owes to the Owner as though the Occupant directly made the payment to the Owner, and the Owner may not initiate a suit or other Action against an Occupant that receives a Rent Payment Notice for failure to make a Lease payment that the Occupant pays to the Master Association as required herein. Within five (5) business days after the Amount Owing is paid in full, the manager of the Master Association or the Board shall notify the Occupant in writing that the Occupant is no longer required to pay future Lease payments to the Master Association. The manager of the Master Association or the Board shall mail a copy of the cessation notification to the Owner. The Master Association shall deposit money paid to the Master Association under this Section in a separate account and not disburse that money to the Master Association until the Amount Owing is paid and any cost of administration, not to exceed \$250.00, is paid. The Master Association shall, within five (5) business days after the Amount Owing is paid, pay to the Owner any remaining balance. The term “**Amount Owing**” means the total of any Assessment or lien amount that is due and owing and any applicable interest, late fee, and cost of collection. The term “**Lease**” means an arrangement under which an Occupant occupies a Unit in exchange for the Owner receiving a consideration or benefit, including a fee, service, gratuity, or emolument.

### **13.15 Exempt Property.**

13.15.1 Master Common Areas. Notwithstanding anything to the contrary herein, the following property shall be exempt from payment of Base Assessments, Neighborhood Assessments, and Special Assessments:

- (a) all Master Common Area; and
- (b) all property dedicated to and accepted by any governmental authority or public utility, including, without limitation, public schools, public streets, and public parks, if any.

13.15.2 Declarant Property. Notwithstanding anything to the contrary herein, any property and Units owned by the Declarant or Declarant’s Affiliates, including, without limitation, the Developer Areas, shall be exempt from payment of Base Assessments, Neighborhood Assessments, and Special Assessments; provided, however, that any Assessments arising under the Summit County Road Agreement shall be paid (Declarant Property not exempt).

**13.16 Enforcement.** Except as provided under Section 4.10 which outlines when the Board may be compelled to enforce, the Board shall use its reasonable judgment to determine whether to exercise the Master Association’s powers to impose sanctions or pursue legal Action for a violation of the Governing Documents, including: (a) whether to compromise a claim made by or against the Board or the Master Association, and (b) whether to pursue a claim for an unpaid Assessment. The Master Association may not be required to take enforcement action if the Board determines, after fair review and acting in good faith and without conflict of interest, that under

the particular circumstances: (i) the Master Association's legal position does not justify taking any or further enforcement action; (ii) the covenant, restriction, or rule in the Governing Documents is likely to be construed as inconsistent with current Law; (iii) a technical violation has or may have occurred, and such violation is not material as to a reasonable person or does not justify expending the Master Association's resources; or (iv) it is not in the Master Association's best interests to pursue an enforcement action, based upon hardship, expense, or other reasonable criteria. If the Board decides to forego enforcement, the Master Association is not prevented from later taking enforcement action, and any inaction by the Board or the Master Association shall not be deemed a waiver of any rights to take any enforcement action in the future. The Board may not be arbitrary, capricious, or act against public policy in taking or not taking an enforcement action.

### **13.17 Conflict Resolution Regarding Claims against Association or Declarant.**

13.17.1 Statement of Intent. Every Owner is capable of obtaining an inspection and is permitted to perform, or pay someone else to perform, any inspection on any Unit that Owner is purchasing or owns and any Master Common Facilities, all prior to purchasing a Unit. Having had the ability to inspect prior to purchasing a Unit, having received a written warranty if any warranty is provided, and having paid market price for a Unit in the condition it and the Units and any applicable Common Area are in at the time of purchase, it is acknowledged that it is/would be unfair and improper to thereafter seek to have the Declarant, a builder, a contractor, and/or any subcontractor performing work in the Development to change, upgrade, or add additional work to the Development outside of any express warranty obligation. Moreover, each Neighborhood Association, each Owner (by purchasing a Unit), and the Declarant acknowledges and agrees that litigation is an undesirable method of resolving certain conflicts in that it is slow, expensive, uncertain, and can often negatively impact the sale value and ability to obtain financing for the purchase of Units for years, unfairly prejudicing those Owners who must sell or may want to sell their Unit during any period when litigation is pending. For this reason, each Neighborhood Association, each Owner (by purchasing a Unit), and the Declarant agrees and acknowledges that certain disputes simply will not be pursued, to the extent permitted by Law, and that others shall be pursued only through certain specific alternative dispute resolution mechanisms and only after full disclosure, Right to Cure Periods, and knowing approval of the Owners and the Neighborhood Associations. Consistent with this dispute avoidance intent and mandate and in an effort to provide an avenue of recovery against the party responsible for faulty construction, the Declarant may obtain and provide warranties to the Master Association, or that the Master Association may enforce, from subcontractors related to the construction of the Master Common Facilities and the Summit County Improvements. It is the intent, as agreed to by each Owner by and upon the purchase of a Unit, that these warranties (from contractors and subcontractors), if they are obtained, whatever they might cover and whomever they are from, are the sole remedy to the extent permitted by Law, in case of any defects or damages arising from defects of any kind related to construction or development of the Master Common Facilities and the Summit County Improvements. The intent of this Section is to eliminate, to the extent possible, Claims against or involving the Declarant and Claims related to the construction of the Master Common Facilities and the Summit County Improvements, and, when and if any such Claim is permitted as a matter of Law or pursuant to this Master Declaration, to ensure that every opportunity is made to resolve

the Claim outside of a normal court procedure. This effort shall include, but not be limited to, the right to cure and the requirements for mediation and arbitration.

13.17.2 Association Warranties. The Declarant may, but is not obligated to, provide for certain warranties from contractors or subcontractors to the Master Association related to the construction of the Master Common Facilities and the Summit County Improvements (“**Association Warranties**” or an “**Association Warranty**”). The Master Association shall have the right, as provided for in any such Association Warranties, to directly enforce and seek performance of such Association Warranties from the subcontractors who performed the work in the construction of the Master Common Facilities and the Summit County Improvements. There is no guarantee or warranty by the Declarant that any Association Warranties will be provided or that such Association Warranties, if provided will cover any particular component or aspect of the Master Common Facilities and the Summit County Improvements.

13.17.3 Owner Warranties. The Declarant, builder, or contractor may have provided certain warranties to certain Owners related to the Parcels or Units purchased by such Owner (“**Owner Warranties**” or an “**Owner Warranty**”). The first Owner of a Unit to whom any Owner Warranty is issued or with whom a legal warranty arises, and only such Owner, shall have the right to directly enforce and seek performance from the entity providing such Owner Warranty of any terms of such Owner Warranty, and only consistent with the Owner Warranty itself. The Master Association shall have no right to seek the performance of or take assignment of any rights in any Owner Warranties, and no Owner shall have any right to assign any rights of any kind arising under an Owner Warranty to the Master Association.

13.17.4 Limitation on Claims. Any Claims by the Master Association, the Board or any Owner against Declarant or any building, contractor and/or subcontractor for judicial, arbitral, or administrative relief for acts, errors, omissions, or breach arising out of or related the design or construction of the Master Common Facilities, the Summit County Improvements, Improvements to the Development, the sale of or conveyance of any portion of the Development, or this Master Declaration or any other agreement, whether based in tort, contract, warranty, strict liability, indemnity, contribution, or other source of Law, shall be commenced within two (2) years of substantial completion of the Master Common Facilities and the Summit County Improvements. The Master Association, the Board and the Owners waive all Claims not asserted within such time period. This Section is expressly intended to set forth a period of repose enforceable under Section 78B-2-225(9) of the Utah Code and to reduce the periods of limitation and repose prescribed by Section 78B-2-225 of the Utah Code. Also, the Master Association, the Board, the Neighborhood Associations, and the Owners waive all Claims for consequential damages, including but not limited to lost rents, rental expenses, loss of use, financing, stigma, and loss of reputation. To the extent the Master Association, the Board, the Neighborhood Associations, and the Owners damages are covered by insurance or a third-party warranty (including but not limited to the Association Warranties), the Master Association, the Neighborhood Associations, the Board, and the Owners waive all rights against Declarant and the builders, contractors, subcontractors, designers, consultants, agents, and their employees for damages. The Master Association, the Board, each Neighborhood Association, and each Owner agrees that that it shall not participate in any class action proceeding and that any Claims shall not be joined or consolidated with the Claims made by any other party, including any other Owner. In the event the Master Association, the

Board, any Neighborhood Association, or any Owner does participate in any class action or joins or consolidates its Claims with the Claims of any other party, each of the Master Association, the Board, such Neighborhood Association, and such Owner understands that such action shall be a material default under this Master Declaration and the Master Association, the Board, such Neighborhood Association, or such Owner, as the case may be, shall thereby waive and generally and completely release any and all Claims whatsoever, known or unknown against Declarant and the builders, contractors, subcontractors, designers, consultants, agents, and their employees.

13.17.5        Waiver of Subrogation and Release. The Master Association and each Neighborhood Association and Owner waives, and shall cause its insurance carrier to waive, any right to subrogation against the Declarant or any builder, contractor or a subcontractor, of any portion of the Development. This waiver shall be broadly construed and applied to waive, among other things, any attempt by any insurer of any Owner, any Neighborhood Association or of the Master Association from pursuing or exercising any subrogation rights, whether arising by contract, common law, or otherwise, against the Declarant, a builder, a contractor, or a subcontractor, and any of their officers, employees, owners, and representatives. To the fullest extent permitted by Law, the Master Association, each Neighborhood Association, and each Owner hereby releases Declarant and builder, contractors, and subcontractors their officers, employees, owners, and representatives from any and all liability to the Master Association, the Neighborhood Associations, Summit County as to the Summit County Improvements, and all Owners, and anyone claiming through or under them by way of subrogation or otherwise, for any loss, injury, or damage to property, caused by fire or any other casualty or event, even if such fire or other casualty shall have been caused by the fault or negligence of Declarant, builder, contractor, or subcontractors or their officers, employees, owners, and representatives. The Master Association, each Neighborhood Association, and each Owner agrees that all policies of insurance shall contain a clause or endorsement to the effect that this release and waiver of subrogation shall not adversely affect or impair such policies or prejudice the right of the Master Association, any Neighborhood Association, Summit County, or any Owner to recover thereunder. The Master Association and all Neighborhood Associations and Owners shall indemnify and defend the Declarant, Summit County, the builder, the contractor, and all subcontractors and any of their officers, employees, owners, or representatives from any Claims barred or released by this provision, including but not limited to any Claim brought under any right of subrogation.

13.17.6        Declarant and/or Builder Litigation.

13.17.6.1       Declarant, Master Association, the Board, its officers and directors, and all Neighborhood Associations and all Owners (each a “**Bound Party**” as used in this Section) agree to encourage the amicable resolution of any disputes, grievances, and Claims regarding the design, construction, condition, or sale of any part of the Master Common Facilities, the Summit County Improvements, or any Improvements thereon involving any Bound Party without the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees to the following mandatory procedures for resolving all Claims as set forth in this Section 13.17.6.1.

13.17.6.2       An Owner, a Neighborhood Association, the Master Association, and/or the Board may only make Claims against the Declarant, the builder, the

contractor, or a subcontractor to the extent allowed herein or by Law after the following efforts at dispute resolution have been completed: (1) the Owner, the Neighborhood Association, the Master Association and/or the Board shall provide to the Declarant, the builder, the contractor, and/or the subcontractor a Notice of Claims (defined below); (2) Declarant, the builder, the contractor and/or the subcontractor, as the case may be, shall be afforded one hundred eighty (180) days (“**Right to Cure Period**”) to cure or resolve the Claims or defect or to try to get the builder or the appropriate subcontractor to cure or resolve the Claims or defect, prior to initiating any lawsuit, claim, or dispute resolution process; (3) if the dispute is not resolved within the 180-day Right to Cure Period, the parties agree to mediate the dispute prior to taking further action. In such an event, the parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claims by good faith negotiation through a mutually acceptable mediator. If additional, different, or modified Claims, damages, calculations, supporting information, or descriptions are added, provided to, or asserted against the Declarant, the builder, the contractor, and/or the subcontractor that were not included in any previously submitted Notice of Claims, the Right to Cure Period provided for in this Section shall immediately apply again and any pending Action, including any mediation or arbitration, shall be stayed for the additional 180-day period.

13.17.6.3 For any Claims allowed by Law or by this Master Declaration, the parties agree to binding arbitration of all Claims asserted against the Declarant, builder, the contractor, or the subcontractors by either the Master Association, any Neighborhood Association, or any Owner, with the initiating party advancing all arbitration costs subject to assignment of those costs by the arbitrator in a final decision on the merits in accordance with the Arbitration Provisions attached hereto as Exhibit F. The parties to any such arbitration shall mutually work, in good faith, to agree upon the arbitrator, mediator, arbitration service, and all aspects of the arbitration and mediation proceedings. In case of any disagreement regarding the mediation or arbitration service, the American Arbitration Association shall administer the mediation and arbitration and the rules applicable to construction disputes shall apply. The arbitration rules shall be subject to the requirements of this Master Declaration and shall be modified accordingly in case of any conflict between the Rules and this Master Declaration.

13.17.6.4 “**Notice of Claims**” shall mean a written notice that includes the following information: (1) the nature of the Claim, including the Persons involved in the Claims and the respondent’s role in the Claims; (2) the legal basis of the Claims (i.e. the specific authority out of which the Claims arise); (3) a specific breakdown and calculation of any alleged damages; (4) a specific description of the Claims along with any supporting opinions, information, or other factual evidence upon which the Claims are based; (5) photographs of any alleged condition, if applicable, (6) samples of any alleged defective conditions or materials; (6) all efforts taken to avoid, mitigate, or minimize the Claims or any alleged damages arising therefrom; (7) the names, phone numbers, and address of every Person providing factual information, legal or factual analysis, or legal or factual opinions related to the Claims; (8) the proposed remedy; (9) the fact that Claimant will meet with Respondent to discuss in good faith ways to resolve the Claims; and (10) a statement that the Person alleged to be responsible shall have one hundred eighty (180) days to cure or resolve the Claims.

13.17.6.5 Notwithstanding any other provision in this Master Declaration, and to the fullest extent permitted by the Law, no Neighborhood Association nor any

Owner shall, and each Neighborhood Association and Owner agrees not to, commence or maintain any litigation, arbitration, or other Action against the Declarant, the builder, the contractor, and/or the subcontractors, or any of their officers, directors, members, employees, or agents for any reason, including but not limited to alleged construction defects, any related damages, or any damages arising therefrom.

13.17.6.6 Notwithstanding any other provision in this Master Declaration, and to the fullest extent permitted by the Law, the Master Association or the Board or any officer of the Master Association shall not and cannot commence or maintain any litigation, arbitration, or other Action against the Declarant, a builder, a contractor, and/or subcontractors or any of their officers, directors, members, employees, or agents for any reason, including but not limited to for alleged construction defects, any related claims, or any damages arising therefrom other than arising from an Association Warranty.

13.17.6.7 The Master Association shall indemnify and defend the Declarant, Summit County, the builder, the contractor and/or the subcontractors and their officers, directors, members, employees, and agents against any litigation, arbitration, or the assertion of any Claims arising out of any alleged construction defect in or related to the Master Common Facilities, the Summit County Improvements, and/or any damages arising therefrom, except to the extent covered by an Association Warranty. Each Owner who purchases a Unit, by such purchase, specifically disclaims and releases the Declarant, the builder, the contractor, and/or the subcontractors from any Claims, known or unknown, related to any defect in the Master Common Facilities or the Summit County Improvements not specifically covered by an Association Warranty, except only as limited by Law. The Master Association, each Neighborhood Association and each Owner acknowledges and agrees that the Association Warranties, if provided, and whatever coverage they might provide are the sole remedy of the Master Association, any Neighborhood Association, and any Owner related to any alleged or actual construction defects. In case of any Claims, litigation or legal proceedings asserted or related to any construction defect pertaining to the Master Common Facilities or the Summit County Improvements, the Master Association agrees to defend the Declarant, the builder, the contractor, and/or the subcontractors (which shall permit the Declarant, the builder, the contractor, and/or the subcontractors to select counsel and require the Master Association to advance all costs and fees related to any such Claim) from any such Claim and to indemnify Declarant, the builder, the contractor, and/or the subcontractors from any liability arising therefrom.

13.17.6.8 Subject only to the provisions in any Association Warranties (if any), the Master Association, the Neighborhood Associations, and the Owners take ownership and possession of the Master Common Areas and the Master Common Facilities “AS IS” and “WITH ALL FAULTS” with no warranties of any kind except as otherwise required as a matter of Law. The Declarant specifically disclaims, and the Master Association, each Neighborhood Association, and each Owner hereby waives, any warranties of merchantability, fitness for a particular use, or of habitability, to the full extent allowed by Law.

13.17.6.9 If allowed in this Master Declaration or, if otherwise allowed by Law and notwithstanding the terms of this Master Declaration, prior to the Master Association making any demand or commencing any mediation, arbitration, or litigation (any “*Action*”) against

Declarant or the builder, the contractor, or any subcontractors involved in the original construction of the Master Common Facilities or the Summit County Improvements (other than Claims made solely upon an Association Warranty against a subcontractor), the Master Association must hold a meeting of the Neighborhood Associations, with proper prior written notice (which must be at least three (3) business days prior to the proposed meeting), and with all attorneys, experts, and other Persons expected to be involved in the Claims present at such meeting. Those people present, including the Board and the Master Association officers, must permit discussion among the Neighborhood Associations and questions from the Neighborhood Associations and must respond to all reasonable questions of the Neighborhood Associations related to the proposed Claims. The notice for the meeting must include the following information:

(i) a statement must be made on the first page of such notice in bold, upper case, and not less than 22-point font:

The Master Association is contemplating serious and potentially time-consuming and expensive litigation against the Declarant of this project. This litigation could cost you money in the form of increased Assessments and will likely impact the resale value of your Unit and your ability to sell your Unit while this litigation is pending. This litigation could take years to resolve. You should think seriously about this issue and attend the meeting on this issue.

(ii) a budget and detailed breakdown of all costs and legal fees reasonably estimated to be caused by the expected litigation including a breakdown of any costs and fees to be advanced by anyone including any attorney or other representative of the Master Association under any contingency arrangement, and all those costs and fees to be paid directly by the Master Association, all of which shall assume the litigation will last five years (unless it is reasonably expected to last longer in which case the longer period shall be used for this estimate) and require a trial on the merits,

(iii) a detailed explanation of where any money to be paid by the Neighborhood Associations will be obtained including a per Neighborhood Association breakdown of all costs and fees per year, assuming the litigation will last five years,

(iv) a written statement of each Board member indicating that Person's position on the litigation,

(v) a legal opinion on the likelihood of success of any such litigation or arbitration from an attorney not associated with the attorney or law firm who is anticipated to bring any such Action, analyzing the applicable Law, Governing Documents, and all relevant and known factual information,

(vi) all terms of the agreement between the Master Association and the attorney or law firm prosecuting the Action including a copy of any engagement letter, contract, or agreement related to that representation,

(vii) a detailed description of the alleged Claims against the Declarant and of all efforts by the Master Association to resolve those Claims prior to commencing any Action, and a

statement describing any demands, notices, offers to settle or responses to offers to settle made either by the Master Association or the Declarant or the builder, the contractor, or subcontractor, if applicable.

In addition to the requirements above and as a condition precedent to commence any Action, the Master Association must obtain the approval of at least eighty-five percent (85%) of all the allocated voting interests of the total Class A votes of the Master Association; provided that if the percentage is greater than that required by applicable Laws, the greatest percentage required by applicable Laws, by vote, at a lawfully called and properly noticed special meeting for that purpose only. Such a special meeting must occur no sooner than thirty (30) days after the meeting required above for notice, and no later than sixty (60) days after the meeting required above. The Master Association cannot specially assess, borrow money, or use any Reserve Funds to fund any such Action or to pay for any costs associated with any such Action, including but not limited to copying costs, deposition costs, expert witness costs, and filing fees.

13.17.6.10 Any agreement with a law firm or attorney under which the law firm would represent the Master Association in an Action (as defined in the prior subsection) must have, at a minimum, the following terms: (1) the law firm or attorney will apply sufficient resources, attorneys, time, and administrative support to the Action as necessary to prosecute the Action as quickly as the court system will allow; (2) the attorney or law firm will provide monthly status reports, in writing, describing at a minimum the following: (a) the work that was completed in the last month, (b) the time, in hours and minutes, incurred by each attorney or billable staff member in the last month broken down by time entry, Person performing the work, and a description of each time entry, (c) the costs incurred by the attorneys and any experts in the prior month, (d) a running tally of all costs and time, by attorney and staff member, since the beginning of the Action updated monthly, (e) a list of what is needed to move the Action toward resolution, (f) the projected dates for each Action that is needed to move the Action toward resolution, (g) an explanation of why any projected Action cannot be completed immediately; (3) the attorney or law firm will provide an opinion letter regarding the Master Association's Claims prior to commencing any Action that will, at a minimum, explain each Claim, cite the Law supporting the claim, cite the facts supporting the Claim, provide an application of the Law to the facts and analysis of each Claim, cite any potential defenses or weaknesses to any Claim including an analysis of each potential defense or weakness, an opinion of the lawyer or law firm as to the Master Association's likelihood of success on each Claim, an analysis of potential damages including citations to the Law and facts supporting that analysis, and an opinion of the lawyer or law firm on the damages the Master Association would likely be awarded for each Claim, (4) a requirement that the Master Association be permitted to terminate the engagement of the law firm or attorney at any time with no requirement to pay any attorney fees incurred under a contingency arrangement up to that date if, in the Master Association's sole discretion, (a) the attorney or law firm is not prosecuting the Action as rapidly as the court system will allow, (b) the burden of the Action on the Owners through the inability to sell or refinance, through costs, or through any disruption to the operations of the Master Association is not worth the continuation of the Action, (c) the Master Association determines, at any time, that the legal and factual risks associated with the Action are such that the Action should not be pursued further, (d) the law firm or attorney fails to keep the Master Association informed as to the course of the Action and effect of proceedings on the likelihood of success, including any failure to provide required monthly reports.

13.17.6.11 The existence of procedures and/or requirements in this Section applicable to Claims against the Declarant and its affiliates, the builder, the contractor, and/or any subcontractors that are barred or limited in other provisions of this Master Declaration shall not be construed as permitting any such Claims or as contradictory to a prohibition or limit on such Claims in other provisions in this Master Declaration. Any procedures or requirements regarding the assertion Claims (including but not limited to the right to cure requirements, the meeting and Owner approval requirements, the mediation requirement, and the arbitration requirements) prohibited by this Master Declaration are provided solely in case any such Claims are permitted by Law notwithstanding the terms of this Master Declaration.

13.17.6.12 Prior to engaging any lawyer or firm to represent the Master Association related to any litigation described in this Section, the Master Association shall obtain independent counsel to review the engagement letter governing that representation and advise the Master Association to ensure that the requirements in this Master Declaration are satisfied related to that engagement. The Master Association shall continue the representation of independent counsel to monitor the representation by that counsel and to ensure that any proceeding is prosecuted diligently, competently, and consistent with the requirements of the engagement letter and this Master Declaration. Any Action involving the Master Association and the Declarant and its affiliates, the builder and/or the contractor shall strictly comply with each of the provisions of this Section.

13.17.6.13 The Bound Parties hereby covenant, stipulate, and agree that in the event any Bound Party fails to satisfy the prerequisites set forth herein, such non-compliant party will indemnify, defend, hold harmless, and exculpate the other Bound Parties to the fullest extent permissible by Law, and any non-breaching Bound Party shall be entitled to recover any and all attorneys' fees and costs expended as a result of enforcing this Section, which fees and costs may include, without limitation, pre-litigation attorneys' fees, costs incurred in connection with investigation of potential Claims (including expert and consultant fees, testing fees, contractor fees), and insurance deductibles. The Bound Parties further covenant, stipulate, and agree that failure to comply with this Section will result in damages to Declarant including, without limitation, reputational harm, and may result in damages to Declarant including lost revenues, and loss of business and sales opportunities.

13.17.6.14 Any provision in this Master Declaration notwithstanding: (1) other than as set forth in this Section, the Master Association, the Board, and any officers of the Master Association shall have no power whatsoever to institute, prosecute, maintain or intervene in any Action; (2) any institution, prosecution or maintenance of, or intervention in, an Action by the Board without first strictly complying with, and thereafter continuing to comply with, each of the provisions of this Section, shall be unauthorized and ultra vires (i.e., an unauthorized and unlawful act, beyond the scope of authority of the corporation or of the Person(s) undertaking such act) as to the Master Association, and shall subject any member of the Board or officer of the Master Association who voted or acted in any manner to violate or avoid the provisions and/or requirements of this Section to personal liability to the Master Association for all costs and liabilities incurred by reason of the unauthorized institution, prosecution or maintenance of, or intervention in, the Proceeding; and (3) this Section 13.17.6 may not be amended or deleted at any time without the express prior written approval of both: (a) at least

eighty-five percent (85%) of all the allocated voting interests of the Master Association (not eighty-five percent (85%) of those present); provided that if the percentage is greater than that required by applicable Laws, the greatest percentage required by applicable Laws, and (b) not less than unanimous voting power of the Board; and any purported amendment or deletion of this Section or any portion hereof, without both of such express prior written approvals shall be void.

13.17.6.15 The Master Association, the Board, any officer of the Master Association, each Neighborhood Association, and each Owner agrees that any Claims or Actions, the subject matter of any proceeding, and the results of any proceeding, including any settlement, shall be confidential and not disclosed to any other Person or entity, including any other Owner, other than (a) in confidence with its own legal, financial, insurance or tax professionals; (b) in necessary communication with appropriate federal, state or local tax authorities; (c) to any Person necessary to perform or satisfy the award; or (d) to any other Person as may be required to comply with a subpoena, court order or legal process; provided, however, that Declarant shall be afforded a reasonable opportunity after written notice to object to the same. The Master Association, the Board, any officer(s) of the Master Association, any Neighborhood Association, and any Owner, as the case may be, shall advise any legal, financial, insurance, or tax professional to whom such party discloses any confidential information or information about the Claims and/or Actions and any settlement or award that such information as permitted herein is to be held in strict and complete confidence.

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

## **ARTICLE 14**

### **Architectural Standards and Review Committees**

#### **14.1 Architectural Control Committee.**

14.1.1 Organization. An Architectural Control Committee (the “ACC”), composed of three persons who will be appointed by the Board, is hereby established. Members of the ACC need not be Members of the Master Association or Owners. The ACC may from time to time designate any one of its members to act in its stead. After the Period of Administrative Control, a majority of the persons serving on the ACC must be Owners. All such persons serving on the ACC serve at the discretion of the Board. All decisions of the ACC are subject to review and modification by the Board (except as otherwise expressly provided herein). In the event of the death or resignation of any person serving on the ACC, the Board shall designate a successor who will have all of the authority and power of his/her predecessor. Until such successor has been appointed, the remaining members shall have full authority to exercise all rights, duties and powers of the ACC. The ACC shall keep the Board informed as to its activities on a continuing basis, and shall submit a written report regarding the same semi-annually to the Board or as otherwise required by the Board.

14.1.2 Jurisdiction. The ACC has exclusive jurisdiction on behalf of the Master Association regarding: (a) implementation of all provisions of this Article 14, and (b) promulgation of all Architectural Guidelines pertaining to the development and construction of Improvements within the Development.

14.1.3 Compensation. No person serving on the ACC is entitled to compensation for services performed; provided, the ACC may employ one or more architects, engineers, attorneys or other consultants to assist the ACC in carrying out its duties, and the Master Association shall pay such consultants for services rendered. Members of the ACC may also be reimbursed for reasonable expenses in such manner and amounts as may be approved by the Board.

**14.2 Submission of Plans Required.** No Regulated Modification may be commenced, constructed, erected, placed, maintained or made upon any Parcel or Unit, or within or upon any part of the Development, unless and until complete plans and specifications have been submitted to and approved in writing by the ACC, as applicable, as to compliance with applicable Architectural Review Criteria as set forth in this Article 14.

**14.3 Architectural Guidelines.** The Board or the ACC, subject to Board approval, may, from time to time, effective immediately, adopt, modify, amend and repeal such reasonable Architectural Guidelines applicable to the Development, including Units and any Master Common Area. Such authority includes, but is not limited to, the right to specify:

(a) specific procedural guidelines for submission of requests for, and plans, specifications and other information and documentation necessary to obtain, ACC approval, and procedural requirements for the conducting of all activities necessary to accomplish same;

(b) the amount and manner of payment of any fees or charges reasonably anticipated to cover administrative costs, fees for architectural, engineering, construction, legal or other expert

advice or consultation, and all other costs and expenses in connection with review and evaluation of an application;

(c) specific types of Regulated Modifications which may be commenced, constructed, erected or maintained upon any Parcel or Unit, or anywhere within the Development;

(d) a limited number of acceptable exterior materials and finishes that may be utilized in construction or repair of a Regulated Modification;

(e) minimum setbacks;

(f) the location, height, and extent of fences, walls or other screening devices, walks, decks, patios or courtyards;

(g) the orientation of structures and Landscaping with respect to streets, walks, driveways and structures on adjacent properties; and

(h) in general, all requirements reasonably deemed necessary to maximize compliance with Architectural Guidelines as set forth in Section 14.3.

WITHOUT LIMITING THE GENERALITY OF THE PRECEDING SENTENCE, THE ARCHITECTURAL GUIDELINES MAY PROVIDE FOR A FINE OF UP TO \$10,000.00 AGAINST ANY OWNER AND UNIT SUBJECT TO THIS MASTER DECLARATION FOR FAILURE TO OBTAIN REQUIRED APPROVAL FROM THE ACC OR FOR FAILURE TO COMPLY WITH ANY APPROVAL OF THE ACC, OR MAY REQUIRE A SECURITY DEPOSIT TO ASSURE COMPLIANCE WITH APPLICABLE REQUIREMENTS.

**14.4 Manner and Effect of Adoption of Architectural Guidelines.** The Master Association shall make Architectural Guidelines available to Owners upon request. Architectural Guidelines may also be (but are not required to be) Recorded. Architectural Guidelines are of equal dignity with, and shall be enforceable in the same manner as, other provisions of this Master Declaration, provided: (a) such Architectural Guidelines shall not be deemed a waiver, modification, or repeal of any of the provisions of this Master Declaration; (b) such Architectural Guidelines shall not be enacted retroactively except that all repairs, modifications or maintenance performed subsequent to adoption shall be performed in such manner as to bring the Regulated Modification, so far as practicable, in compliance with all then applicable Architectural Guidelines; and (c) such Architectural Guidelines shall not conflict with this Master Declaration.

**14.5 Neighborhood Architectural Guidelines.** Each Neighborhood Association may adopt, modify, amend and repeal such reasonable architectural guidelines applicable to its respective Neighborhood, including Units and any Neighborhood Common Area, as it deems necessary or desirable, in the same manner and setting forth the same guidelines as provided herein for the ACC; provided however that all such guidelines are subject to (a) the guidelines set forth in the Architectural Guidelines approved by the Master Association, and (b) the prior written approval of the Board of the Master Association.

**14.6 Inspection Rights.** Upon reasonable notice (oral or written), any member of the ACC or the Board, or their designated representatives, may enter a Unit without liability for trespass or otherwise for purposes of inspecting work in progress and/or as to completion of any Regulated Modification in compliance with the approved plans, specifications, information and documentation for same, and as to compliance with any applicable provisions of the Governing Documents.

**14.7 Records.** The ACC is not required to maintain records of any of its meetings. The ACC and the Board, however, must keep and maintain records evidencing their respective final decision(s) regarding all requests for approval and requests for variance for not less than four years. The ACC must also maintain a record of all current Architectural Guidelines, and must provide copies to Owners upon request.

**14.8 Limitation of Liability.** Neither Declarant, the Master Association, the Board, the ACC, nor their respective Related Parties, are liable to any Owner, Lessee, Occupant, or any of their Related Parties, or to any other Person for any actions or failure to act or in connection with any approval, conditional approval or disapproval of any application for approval or request for variance, including without limitation, mistakes in judgment, negligence, malfeasance, or nonfeasance. No approval or conditional approval of an application or related plans or specifications and no publication of Architectural Guidelines may ever be construed as representing or implying that, or as a covenant, representation, warranty or guaranty that, if followed, the Regulated Modification will comply with applicable legal requirements, or as to any matters relating to the health, safety, workmanship, quality or suitability for any purpose of the Regulated Modification. Notwithstanding anything herein to the contrary, the ACC's review of the any plans will be for the ACC's and the Master Association's sole purpose, will not imply any obligation or liability of any kind on the Master Association, the Board or the ACC or any of its members, and will not release the Owner from any responsibility to properly design the Regulated Modifications and any Improvements or to comply with the terms and conditions of this Master Declaration and any Design Guidelines. The Owner releases, indemnifies and holds harmless the Master Association, the Board or the ACC or any of their Related Parties from any Claims related in any way to the design and construction of the Regulated Modifications and any Improvements. The provisions hereof are cumulative of the provisions of Section 17.15.

**14.9 Limitation of Applicability.** None of the provisions of this Article 14 apply to any activities of Declarant, Declarant Affiliates or the Master Association.

## **ARTICLE 15**

### **Use Restrictions**

#### **15.1 Signs.**

**15.1.1 General.** No signs, billboards, posters, banners, pennants or advertising devices of any kind, including without limitation business, professional, promotional or institutional signs, are permitted on any Unit (or within any Unit if in Public View), or within or

upon any portion of the Development without the prior written consent of the ACC except as otherwise provided in this Section. The Board or ACC may remove or cause to be removed any sign, billboard, poster, banner, pennant or advertising device of any kind which is not approved as aforesaid or which is otherwise prohibited under this Declaration or other Governing Documents and may dispose of same as debris without liability for trespass or otherwise.

15.1.2 Prohibited Signs. No sign is permitted that is vulgar, obscene or otherwise patently offensive to persons of ordinary sensibilities. Permitted signs must be professionally printed and prepared, and must be properly installed and maintained, as to avoid unsightly appearance. The good faith determination of the Board or ACC as to any of the foregoing is final. No sign is permitted to be larger than four square feet. No sign may be illuminated. No sign may be placed on any Common Area closer than ten feet from any street or any side or back lot line, or within any traffic sight line area as defined in Section 15.16. No Owner (or their tenants, guests or invitees) is permitted to place any sign on another Owner's Unit or upon any Common Area except for any Limited Common Area appurtenant to the Owner's Unit. Distressed, foreclosures and bankruptcy references are specifically prohibited.

15.1.3 Permitted Signs. To the extent required by Law or in any event upon prior approval of the ACC, but subject to applicable provisions of Section 15.1.2 above, each Owner is permitted to place upon (and only upon) such Owner's Unit (or within a window of such Owner's Unit) or upon the lawn/Landscaping within the Common Area immediately in front of such Owner's Unit, as determined by policies adopted by the Board (i) one sign advertising the particular Unit on which the sign is located for sale or for rent; (ii) "political signs" whereby such Owner is promoting a political candidate, party or issue; (iii) "school" signs at the discretion of the Board; and (iv) security monitoring signs. The ACC may reasonably regulate the period(s) of time political signs may be permitted, as well as the number, size, and location of permitted political signs. The Declarant may construct, place, install, and maintain such signs, billboards, banners, pennants, and advertising devices as are customary in connection with the sale of newly constructed residential dwellings.

## **15.2 Parking, Garages and Prohibited Vehicles.**

15.2.1 Parking/Garages. No garage shall be enclosed, modified or otherwise used so as to reduce its capacity for parking vehicles below that originally approved by the ACC, nor may any portion of a garage be diverted to any use other than the parking of vehicles and other generally accepted and customary uses of a garage. Garages may not be used for general storage and must accommodate, in addition to any belongings, the number of automobiles designed for the garage (i.e., two-car garage will accommodate two automobiles). In particular, but not in limitation of the foregoing, no portion of any garage may be used as a residence or as living quarters. Notwithstanding the foregoing, however, Declarant may temporarily convert a garage into a sales or construction office, provided that it is converted back to a garage within thirty (30) days after cessation of construction and sale of new homes within the Development by Declarant. All vehicles must be parked within the garage for a Unit or temporarily on the driveway servicing the Unit. Vehicles owned or used by any Owner or Occupant may not be parked within the guest parking areas provided in the Common Area. Vehicles of guests shall be parked within the garage or on the driveway of the Unit visited or within the designated guest parking areas provided in the

Common Area. The use of guest parking areas shall be governed by Rules and Regulations adopted by the Board.

**15.3 Prohibited Vehicles.** Commercial vehicles, vehicles with commercial writing on their exteriors (except those of a size to be parked in a home's garage), vehicles primarily used or designed for commercial purposes, tractors, mobile homes, recreational vehicles, trailers (either with or without wheels), campers, camper trailers, boats and other watercraft, and boat trailers shall be parked only in enclosed garages or areas, if any, designated by the Board or by the Association, if any, having jurisdiction over parking areas within a particular Development. Stored vehicles and vehicles which are either obviously inoperable or do not have current operating licenses shall not be permitted on the Development except within enclosed garages. Notwithstanding the foregoing, vehicles that become inoperable while on the community must be removed within seventy- two (72) hours thereof. For purposes of this Section, a vehicle shall be considered "stored" if it is put up on blocks or covered with a tarpaulin and remains on blocks or so covered for fourteen (14) consecutive days without the prior approval of the Board. Notwithstanding the foregoing, service and delivery vehicles may be parked in the Development during daylight hours for such period of time as is reasonably necessary to provide service or to make a delivery to a Unit or any Common Area. Any vehicle parked in violation of this Section or parking rules promulgated by the Board may be towed in accordance with the Bylaws.

**15.4 Occupants Bound.** All provisions of this Master Declaration or any other Governing Document which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all Related Parties of any Owner. Each Owner shall comply, and shall cause all of such Owner's Related Parties to comply, with this Master Declaration and the other Governing Documents, and shall be responsible for all violations thereof and/or all damage or loss to the Master Association caused by such Occupants, notwithstanding the fact that such Related Parties are fully liable and may be sanctioned for any violation of this Master Declaration or the other Governing Document. Any failure in compliance shall be grounds for an Action to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, maintainable by the Master Association or, in a proper case, by any aggrieved Unit Owner or Owners. In addition, the Master Association may avail itself of any and all remedies provided in this Master Declaration or any other Governing Document.

**15.5 Animals and Pets.** No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any portion of the Development, except that dogs, cats, or other usual and common household pets, not to exceed the number as may be permitted in a Unit pursuant to the Laws, codes, and ordinances of the Municipal Authority shall be exempt from this prohibition. Notwithstanding the foregoing, any pets which are permitted to roam free; or, any pets which, in the sole discretion of the Association, endanger the health of safety of persons, make objectionable noise, or constitute a nuisance or inconvenience to the Owners of other Units or the Owner of any portion of the Development, shall be removed upon request of the Board. If an Owner fails to honor such request, the pet may be removed by the Board. No pets shall be kept, bred, or maintained for any commercial purpose. Dogs shall at all times whenever they are outside a Unit be confined on a leash held by a responsible person or attached to a secured pole or other fixed Improvement. The Board may prohibit any pet which, in the Board's opinion, constitutes a nuisance, or threat to the health, safety, or welfare of the community. A Person shall be responsible

and liable for any unreasonable noise, bodily injury, or property damage caused by any pets brought or kept upon the Development by such Person. Persons shall clean up after their pets. Any Person who keeps any animal, insect, or reptile within the Development, whether in compliance with or in violation of the Governing Documents, shall indemnify, defend and hold harmless the Association and the Association's Related Parties from any Claim brought by any Person against the Association or the Association's Related Parties for bodily injuries or property damage caused by such animal, insect, or reptile.

**15.6 Quiet Enjoyment; Nuisances.** No portion of the Development shall be used, in whole or in part, for the storage of any property or thing that will cause it to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept upon any portion of the Development that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might unreasonably disturb the peace, quiet, safety, comfort, or serenity of the Occupants of surrounding property. Noise typically associated with ball fields, swimming pools, hot tubs, playgrounds, and recreational centers, normal amounts of dogs barking, and children playing is not prohibited.

No noxious, illegal, or offensive activity shall be engaged in or carried out upon any portion of the Development. There shall not be maintained any plant, animal, device, or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Development. No outside burning of wood, leaves, trash, garbage or household refuse shall be permitted within the Development. No speaker, horn, whistle, bell or other sound device, except alarm devices used exclusively for security purposes, shall be installed or operated on any Unit. The use and discharge of firecrackers and other fireworks is prohibited within the Development.

**15.7 Unsightly or Unkempt Conditions.** It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her Unit. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Development. Notwithstanding the above, the disassembly and assembly of motor vehicles to perform repair work shall be permitted provided such activities are not conducted on a regular or frequent basis, and are either conducted entirely within an enclosed garage or, if conducted outside, are begun and completed within twelve (12) hours.

**15.8 Antenna and Satellite Dish Systems.** No exterior antennae, aerials, satellite dish receivers or other devices designed to transmit or receive television, radio, satellite or other signals of any kind shall be placed, allowed or maintained upon a Visible Location unless a Visible Location is the only location on a Unit where signals may be received or transmitted without substantial interference with reception. If a Visible Location is the only location on a Unit where signals may be received or transmitted without substantial interference with reception, such a device may be placed in a Visible Location approved by the ACC, which approval shall not be unreasonably withheld. The ACC may require screening of any device placed in a Visible Location, unless such screening (i) unreasonably delays installation or unreasonably increases the

cost of installation, maintenance or use of the antenna, or (ii) precludes reception of an acceptable quality signal. To the extent permitted by the Telecommunications Act of 1996, as amended from time to time (the “**Telecommunications Act**”), without ACC approval: (a) no direct broadcast satellite dish or multipoint distribution service antenna larger than one (1) meter in diameter will be allowed on a Unit, (b) no television broadcast antenna mast may extend above the height of the center ridge of the roof of the residence on the Unit, and (c) no multipoint distribution service antenna mast may exceed the height of twelve feet (12’) above the center ridge of the roof. This Section 15.8 shall be interpreted to be as restrictive as possible, while at all times complying with the provisions of the Telecommunications Act. Terms used in this Section 15.8, shall be deemed to have the meanings set forth in the Over-The-Air Reception Devices Rule (“**OTARD**”) promulgated under the Telecommunications Act or other rules and regulations promulgated pursuant thereto, and where OTARD, the Telecommunications Act, or any other rule or regulation promulgated thereunder requires the ACC to act reasonably, or respond promptly, such obligation shall be deemed a part of the ACC’s obligations under this provision. In the event of an amendment to the Telecommunications Act which conflicts with this provision, the conflicting provision herein automatically shall be deemed deleted, and Declarant, without the joinder of any other Owner(s), may amend this provision so as to comply with the amended Telecommunications Act.

**15.9 Clotheslines, Garbage Cans, Tanks, Etc.** Subject to any applicable Laws, no clotheslines shall be erected or installed in a Visible Location and no clothing, linens or other material shall be aired or dried in a Visible Location. All garbage cans, above-ground storage tanks, mechanical equipment, woodpiles, yard equipment and other similar items on Units shall be located or screened so as to be concealed from Public View. Unless a dumpster is provided by the Association, the Owners shall place all rubbish, trash, and garbage in rat-proof garbage cans or containers, which will be stored inside each Unit (such as in the garage), and shall cause such garbage cans or containers to be placed on the curb or other area for pick-up/emptying when the garbage is scheduled to be picked-up and emptied; garbage cans are to be returned to the “inside” by 6:00 pm the day of trash pick-up. In the event Wasatch County or the applicable governmental entity will only pick-up and empty dumpsters servicing the Development, each Owner shall cause any rubbish, trash and garbage to be regularly deposited in the dumpsters servicing the Development.

**15.10 Subdivision of Unit and Time Sharing.** No Unit shall be subdivided or its boundary lines changed except with the prior written approval of the Board. Notwithstanding anything to the contrary, Declarant, expressly reserves and shall have the right to replat any Unit or Units owned by Declarant without Board approval and may amend or modify the Plat for the Development, including modification of the Master Common Area. Each Owner hereby appoints Declarant as its attorney-in-fact, which shall be vested with an interest, to sign any Plat on behalf of such Owner in the event such Owner’s signature or consent is required. Upon request by Declarant, each Owner will sign a power of attorney or such other documents necessary to facilitate any amendment to the Plat. Each Owner agrees that it shall not oppose any amendment to the Plat or any re-platting of the Development by Declarant. No division, boundary line change, or replatting shall violate applicable subdivision or zoning regulations. No Unit shall be made subject to any type of timesharing, fraction-sharing or similar program whereby the right to exclusive use of the Unit rotates among members of the program on a fixed or floating time schedule over a period of years, except that Declarant hereby reserves the right for Declarant and its assigns to

operate such a program with respect to Units which it owns, and to sell new Units via fractional ownership.

**15.11 Firearms.** The discharge of firearms within the community is prohibited. Notwithstanding anything to the contrary contained herein or in the Bylaws, the Association shall not be obligated to take action to enforce this Section.

**15.12 Irrigation.** No sprinkler or irrigation systems of any type which draw upon water from creeks, streams, rivers, lakes, ponds, canals or other ground or surface waters within the Development shall be installed, constructed or operated within the Development, except that the Association shall have the right to draw water from such sources for the purpose of irrigating the Neighborhood Common Area. All sprinkler and irrigation systems serving Units shall draw upon public water supplies only and shall be subject to approval in accordance with Article 14 of this Declaration. Private irrigation wells are prohibited within the Development. This Section 15.12 shall not apply to Declarant or its activities within the Development.

**15.13 Tents, Mobile Homes and Temporary Structures.** Except as may be permitted by Declarant or the ACC during initial construction within the Development and except as set forth in Article 18, no tent, shack, mobile home, or other structure of a temporary nature shall be placed upon a Unit or any part of the Development. The foregoing prohibition shall not apply to restrict the construction or installation of a single utility or similar outbuilding to be permanently located on a Unit, provided it receives the prior approval of the ACC, as appropriate, in accordance with Article 14 hereof. In addition, party tents or similar temporary structures may be erected for a limited period of time for special events with prior written approval of the Board.

**15.14 Drainage and Septic Systems.** Catch basins, drainage swales, and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Person other than Declarant may obstruct or rechannel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains. No Owner may interfere with the established drainage pattern over any part of the Development unless adequate provision is made for property drainage and is approved in advance by the ACC. Established drainage shall mean and refer to the drainage which exists at the time the overall grading and development of the Development is completed by Declarant. Septic tanks and drain fields, other than those installed by or with the consent of Declarant, are prohibited within the Development. No Owner or its Related Parties shall dump grass clippings, leaves or other debris, petroleum products, fertilizers or other potentially hazardous or toxic substances, in any storm drain, drainage ditch, stream, pond or lake within the Development.

**15.15 Tree Removal.** No trees shall be removed, except for diseased or dead trees and trees needing to be removed to promote the growth of other trees or for safety reasons, unless approved in accordance with Article 14 of this Declaration. In the event of an intentional or unintentional violation of this Section, the violator may be required, by the committee having jurisdiction, to replace the removed tree with one (1) or more comparable trees of such size and number, and in such locations, as such committee may determine necessary in its sole discretion, to mitigate the damage.

**15.16 Sight Distance at Intersections.** All Property located at street intersections shall be landscaped so as to permit safe sight across the street corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain where it would create a traffic or sight problem.

**15.17 Air Conditioning Units.** There shall not be installed or operated in any Unit any window mounted air-conditioning or heating unit.

**15.18 Lighting.** Except for traditional holiday decorative lights located on the exterior roof line or around windows of a Unit, which may be displayed for two (2) months prior to and one (1) month after any commonly recognized holiday for which such lights are traditionally displayed (subject to weather conditions), all exterior lights must be approved in accordance with Article 14 of this Declaration. No holiday decorative lights are permitted on the roof of any Unit or on the Landscaping or lawn within the Common Area in front of or adjacent to any Unit without the prior approval of the ACC.

**15.19 Artificial Vegetation, Exterior Sculpture, and Similar Items.** No artificial vegetation or permanent flagpoles shall be permitted in a Visible Location on a Unit. No exterior sculpture, holiday displays, fountains, flags and temporary flagpoles (except on traditional flag flying holidays such as the 4<sup>th</sup> of July and Memorial Day, or as required by the Act), birdhouses, birdbaths, other decorative embellishments or similar items shall be permitted on any Unit or on any Neighborhood Common Area adjacent to a Unit unless approved in accordance with Article 14 of this Declaration.

**15.20 Energy Conservation Equipment.** To the extent not prohibited by Law, no solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed on any Unit unless it is an integral and harmonious part of the architectural design of a structure, as determined in the sole discretion of the appropriate committee pursuant to Article 14 hereof. No solar energy collector panels may be constructed on a roof, if they extend above the roofline or have panel frames, support brackets, piping and/or conduit that has a color or texture that is different than the roof materials. No windmills, wind generators or other apparatus for generating power from the wind shall be erected or installed on any Unit unless approved pursuant to Article 14. Any solar energy collector panels and attendant hardware and other equipment ("***Solar Equipment***") shall be deemed the personal property of the Owner of the Unit to which such Solar Equipment is affixed. The Owner of any such Solar Equipment shall be responsible for and shall indemnify and hold the Association and the Declarant harmless from any damage, harm, or loss (including any and all costs and expenses and attorneys' fees and legal related costs) caused to the Unit or any personal property as a result of or in any way resulting from or associated with the installation, removal, use or operation of such Solar Equipment or system, and shall be responsible for the maintenance, repair, and replacement of such Solar Equipment or system. In the event the Association incurs any additional costs associated with or as a result of any Solar Equipment or system, the Owner of such Solar Equipment or system shall reimburse such costs to the Association through Special Assessments. The Association may adopt reasonable rules and regulations regarding Solar Equipment or systems on the roof of Units to the extent compliant with applicable Laws and the Act.

**15.21 Playground.** No jungle gyms, trampolines, basketball standards, sport courts, tennis courts, swing sets, club houses, or similar playground equipment shall be erected or installed on the Common Area adjacent to any Unit, except as installed by Declarant or authorized by the Board in a non-discriminatory manner.

**15.22 Fences/Walls.** No hedges, walls, dog runs, animal pens or fences of any kind shall be permitted on any Unit or within the Common Area adjacent to any Unit, except as approved in accordance with Article 14 of this Declaration.

**15.23 Limited Common Area Improvements.** Subject to the terms and conditions of this Master Declaration, Owners, at their sole cost and expense, may install Limited Common Area Improvements within the Limited Common Area appurtenant to their respective Unit, in accordance with the following requirements:

15.23.1 The Owner shall submit an application to the Board requesting that a portion of the Master Common Area adjacent to the Unit be converted from Master Common Area to Limited Common Area. The application shall include a plan showing the exact location of the Limited Common Area and a description of the proposed Limited Common Area Improvements to be placed thereon.

15.23.2 The Owner shall be solely responsible for all costs and expenses associated with or relating to such Limited Common Area Improvements, including, without limitation, all costs and expenses of installation, design, permits, insurance, construction, maintenance, repair, and replacement thereof, and the Limited Common Area and the Limited Common Area Improvements shall otherwise be considered part of the Unit for purposes of maintenance, repair, reconstruction, and insurance.

15.23.3 The Owner shall obtain the required approvals from the ACC and comply with the requirements of Article 14; provided, however, that the ACC may only withhold approval for installation of Limited Common Area Improvements if:

(a) The ACC has reason to believe that the Limited Common Area, patio, deck or other supporting structure will not support the size or weight of the Limited Common Area Improvements. If the ACC has such concerns, the Owner may overcome the same and obtain approval if the Owner, at the Owner's sole cost and expense, obtains and submits to the committee a written opinion from a licensed structural engineer providing the ACC with reasonably satisfactory assurances that the Limited Common Area, patio, deck or other supporting structure will structurally support the proposed Limited Common Area Improvements;

(b) The proposed Limited Common Area Improvements has a color scheme that detracts from and is not reasonably consistent with the appearance and colors of the exteriors of the Units in the Development;

(c) The size of the proposed Limited Common Area Improvements is unusually large for the proposed location, such that it detracts from the consistency and aesthetic visual appeal of the Development; or

- (d) There is a risk of damage or harm to person or property.

15.23.4 The Owner shall be responsible for ensuring that the portion of the Limited Common Area on which the proposed Limited Common Area Improvement will be located will structurally support the proposed Limited Common Area Improvement, and that the proposed Limited Common Area Improvement will not jeopardize the structural integrity of the Limited Common Area or the Unit.

15.23.5 The Owner shall indemnify, hold harmless, and agree to defend the Master Association, the Board, and Declarant from and against any and all Claims arising from or relating to the installation, use, presence, repair, or removal of the Limited Common Area Improvement.

15.23.6 The Owner, at its sole cost and expense, shall obtain and maintain adequate and appropriate insurance coverage relating to the Limited Common Area Improvements. The Master Association shall not have any responsibility to obtain any form of insurance coverage relating to the Limited Common Area Improvement.

15.23.7 The Owner shall be responsible for all costs of removal of any Limited Common Area Improvement. The Owner shall restore the Limited Common Area or the Unit on which the removed Limited Common Area Improvement was located to its original condition, and shall pay for all costs and expenses relating to such restoration.

**15.24 Maintenance of Utilities Required.** All utility services intended to be provided to each Unit as originally constructed, including without limitation water, sewage, electric and gas services, must be maintained by the Owner at all times when a residence is occupied.

**15.25 Drilling/Mining.** An Owner may not perform any drilling, oil, gas or mineral development operations, oil refining, geothermal exploration or development, quarrying or mining operations of any kind on a Parcel or within the Development. Except as required for development of County water sources, no derrick or other structure designed for use in boring for water, oil, geothermal heat or natural gas may be erected, maintained or permitted in the Development.

## **ARTICLE 16**

### **Use/Compliance with Laws**

#### **16.1 Use.**

16.1.1 Residential Use. The Units shall be used only for residential, recreational, and related purposes (which may include, without limitation, offices for any property manager retained by the Master Association or business offices for Declarant or the Master Association) as

set forth in this Master Declaration. The Master Association may impose more stringent use prohibitions and standards within the Development. Any Neighborhood Declaration or additional covenants imposed on any Unit within any Neighborhood may impose stricter standards than those contained in this Article. The Master Association, acting through its Board, shall have standing and the power to enforce such standards. Except for uses by Declarant or the Master Association, as described in the preceding sentences, each and every Unit is hereby restricted to residential use only. Without limitation of the foregoing, as used herein the term “residential use” shall be construed to prohibit the use of any Unit or the residence thereon for operation of a boarding or rooming house or residence for transients, or the use of any garage or permitted outbuilding as an apartment or residential living quarters. All Units shall comply with the applicable zoning and land use Laws, including restrictions that may restrict the use as a single-family dwelling, as such term may be defined by the applicable ordinances of the Municipal Authority. Notwithstanding the above or anything contrary in this Master Declaration, the leasing of Units shall not be deemed a business or commercial use and multiple Units may be leased to a business to facilitate a corporate retreat.

16.1.2 No Business, Professional, Commercial or Manufacturing Use. No business, professional, commercial or manufacturing use may be made of any Unit or any Improvement located thereon, even though such business, professional, commercial or manufacturing use be subordinate or incident to use of the Unit as a residence, and regardless of whether or not done for profit or remuneration. Notwithstanding the foregoing, an Owner or Owner’s Related Parties residing in a Unit may conduct business activities within the Unit so long as:

- (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Unit;
- (b) the business activity conforms to all zoning requirements for the Unit and all applicable Laws;
- (c) the business activity does not involve persons coming onto the Development or the Unit or door-to-door solicitation of residents of the Development;
- (d) the business activity is consistent with the residential character of the Development and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Development, as may be determined in the sole discretion of the Board; and
- (e) any and all vehicles associated with the business, including the vehicle of the Owner or Occupant and all employees, servants and contractors are parked within the garage or on the driveway and no vehicles are parked on any public or private street or any guest or visitor parking provided within the Development.

Notwithstanding anything in this Master Declaration to the contrary, the Master Common Area facilities, including the clubhouse, may be reserved and used for business meetings and business related functions, subject to availability and the policies, rules, and procedures of the Master Association and any property management company engaged by the Master Association.

16.1.3 Maximum Occupancy. In addition to the limitations above set forth, in no event may a Unit be occupied by more persons than permitted by applicable Law.

## **16.2 Leasing of Units**

16.2.1 General. The leasing of Units shall be subject to any applicable Laws, including, but not limited to, the U.S. Fair Housing Act, the Act, and the ordinances of Wasatch County, and this Master Declaration. As used herein, “leasing or renting” of a Unit means the granting of a right to use or occupy such Unit for a specific term or indefinite term in exchange for good or valuable consideration (money (i.e., rent), property or other goods or services of value), but shall not mean and include joint ownership of a Unit by means of joint tenancy, tenancy-in-common or other forms of co-ownership. All Leases shall be in writing. Any and all Lessees shall be subject to the terms and conditions of this Master Declaration and the other Governing Documents. The Board may adopt reasonable rules regulating leasing and subleasing.

16.2.2 Liability of Owner for Lessee Conduct. Each Owner is responsible for the acts of its Lessees, including any violation by any of its Lessees of the terms and conditions of this Master Declaration and any other Governing Document. Each Owner hereby agrees to indemnify and hold harmless the Master Association and the Master Association’s Related Parties from and against any Claims arising from the acts of any of such Owner’s Lessees.

**16.3 Accessory Dwelling Units (“ADUs”) / Parking Space**. In consideration and in compliance of Utah House Bill 82 (“HB82”) which permits ADUs – the Master Association shall permit ADUs, so long as each ADU conforms to Utah State standards and guidelines as defined in HB82, along with any additional requirements as outlined by the Special Planned Area (including the JSPA Guidelines attached as Exhibit D, as they may be amended from time to time) and Wasatch County. The Master Association and/or ACC will determine if an ADU adheres to all requirements prior to issuance of an approval to construct or add an ADU to any lot or Parcel. Items that may be required to be granted approval for an ADU are noted below. The following requirements may be required to be satisfied prior to the Master Association and/or ACC issuing an ADU approval certificate: (a) the ADU must exist inside of the footprint of the home, which must be a detached dwelling, and must be the primary dwelling of the Owner; (b) the ADU must comply with health, building, and fire codes, and have a rental agreement for at least thirty 30 days in duration; (c) if Wasatch County requires a business license, a current business license must be obtained and provided to the Master Association; (d) the exterior appearance of the home must not be altered; (e) one on-site parking spot must be provided and dedicated to the ADU; (f) the ADU must comply with all requirements of Wasatch County, including whether or not a separate utility meter must be installed for an ADU or whether the ADU contains the appropriate square footage; (g) the Master Association and/or ACC or Wasatch County may impose other conditions or requirements for an ADU. Any Owner that desires to add an ADU will be required to provide the Master Association and/or ACC with written notice of its intent. Once the Master Association and/or ACC receives the Owner’s notice of intent, the Owner will meet with the Board and/or the ACC to review all requirements prior to approval and commencement of any construction or addition to the primary residence. Owners are advised that Wasatch County may decline an ADU

on a Parcel containing 6,000 square feet or less, and may impose a fine of up to One Thousand Dollars (\$1,000) on an Owner that fails to cure any violation within the applicable cure period.

**16.4 Laws and Ordinances.** Every Owner and such Owner's Related Parties shall comply with all Laws, statutes, ordinances and rules of federal, state and municipal governments applicable to the Unit and the Development, including any and all applicable zoning and land use Laws and ordinances, and any violation thereof may be considered a violation of this Master Declaration; provided, the Board shall have no obligation to take action to enforce such Laws, statutes, ordinances or rules.

**16.5 Offensive or Unlawful Activities.** No noxious or offensive activities shall be engaged in or carried out upon any Unit or the Common Area, nor shall anything be done or placed on any Unit or the Common Area which interferes with or jeopardizes the quiet enjoyment of other Owners, Units, or the Common Areas, or which is a source of annoyance to residents. No use shall be made of any Parcel which would result in an increase in the cost of the Master Association's insurance or which would cause the Improvements within the Development, 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.

**16.6 View Obstructions.** Each Owner acknowledges that Improvements constructed on a Parcel or within the Master Development by Declarant, an Owner, the Master Association or any contractor or subcontractor may impair the view of such Owner. Each Owner acknowledges that it does not have an easement of light, air or view, and consents to such impairment. Each Owner acknowledges that there are no guaranteed views within the Master Development, and no Parcel or Unit is assured the existence or unobstructed continuation of any particular view.

**16.7 Leases, Rentals, and Rentals on a Short-Term Basis.**

16.7.1 There is no restriction on the right of any Owner to lease rent or otherwise grant occupancy rights to a unit. No Neighborhood Association may amend or modify their respective declarations, rules or regulations, without the prior written consent of the Master Association.

16.7.2 EACH OWNER BY ACCEPTANCE OF A DEED OR OTHER DOCUMENT OF CONVEYANCE ACKNOWLEDGES AND AGREES THAT THE UNITS MAY BE RENTED ON A NIGHTLY, WEEKLY, MONTHLY, OR OTHER PERIODIC BASIS. AND THAT VACATION AND OTHER SHORT-TERM RENTALS ARE PERMITTED.

16.7.3 Short term rentals of every kind are allowed, subject to the condition that Owners who rent their Units for an initial term of less than thirty (30) days ("***Short-Term Basis***") shall use a professional rental management company, duly licensed and qualified in the State of Utah, which shall (i) provide 24-hour management services, (ii) have all necessary business and other licenses or permits required by the county or state, and (iii) provide 24-hour professional rental management company assistance phone number to each customer renting on a Short-Term Basis.

16.7.4 All short-term rentals shall comply with any laws, restrictions, and regulations applicable to the Unit, including the requirements of state, municipal, and local laws and ordinances.

16.7.5 Owners are responsible for the actions and behavior of their tenants. Owners shall review the Declaration, Bylaws, and any rules and regulations with their tenants to ensure compliance. A tenant's violation of the terms of the Declaration, Bylaws or rules and regulations may result in a fine that is the responsibility of the Owner.

## **ARTICLE 17**

### **General Provisions**

**17.1 Term.** The covenants and restrictions of this Master Declaration shall run with and bind the Development, and shall inure to the benefit of and shall be enforceable by the Master Association, each Owner, and their respective legal representatives, heirs, successors, and assigns, for a term of sixty (60) years from the date this Master Declaration is Recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by Summit County and a majority of the then Owners, has been Recorded within the twelve-month period preceding the renewal of this Master Declaration, agreeing to change such covenants and restrictions, in whole or in part, or to terminate the same, in which case this Master Declaration shall be modified or terminated as specified therein.

**17.2 Amendment.** During the Period of Administrative Control, Declarant, acting alone, shall have the sole and unilateral right to amend this Master Declaration except as to those Sections specifically listed in Section 4.11. After the Period of Administrative Control, this Master Declaration may be amended or terminated by the affirmative vote or written consent, or any combination thereof, of at least sixty-seven percent (67%) of all of the allocated voting interests of the Members of the Master Association. Except, however, that this Master Declaration may not be terminated without Summit County's written consent, and any amendment(s) may not materially impair Summit County's rights as a third-party beneficiary, including, without limitation, the County's rights listed in the sections listed in Section 4.11. Notwithstanding the above, to the extent not prohibited or restricted by applicable Law, such as Section 57-8a-104 of the Act, after the Period of Administrative Control, any amendment concerning lot boundaries, any Owner's voting rights or modification of Section 17.15 shall require the affirmative vote or written consent, or any combination thereof, at least seventy-five (75%) of all of the allocated voting interests of the Members of the Master Association, including the vote of the affected Owner. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. Any amendment or termination of this Master Declaration must be Recorded to be effective.

If an Owner consents to any amendment to or termination of this Master Declaration or the Bylaws, it will be conclusively presumed that such Owner has the authority to so consent and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

No amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right or privilege.

No amendment may remove, revoke, or modify any right or privilege of Summit County without the written consent of Summit County.

**17.3 Easements for Utilities, Drainage, Etc.** There is hereby reserved unto Declarant (during the Period of Administrative Control), the Master Association, and the designees of each (which may include, without limitation, the Municipal Authorities, and any water district, municipal utility district or other utility), blanket easements upon, across, over, and under all of the Development for ingress, egress, installation, replacing, repairing, and maintaining cable television systems, master television antenna systems, security, and similar systems, roads, walkways, bicycle pathways, lakes, ponds, wetlands, drainage systems (including altering drainage and water flow), levees, street lights, signage, and all utilities, including, but not limited to, water, sewers, meter boxes, telephones, gas, and electricity; provided, the exercise of this easement shall not unreasonably interfere with the use of any Unit and, except in an emergency, entry into any Unit shall be made only after reasonable notice to the Owner or Occupant thereof.

Without limiting the generality of the foregoing, there are hereby reserved for the local water supplier, electric company, and natural gas supplier, easements across the Master Common Area for ingress, egress, installation, reading, replacing, repairing, and maintaining utility meters and boxes. Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on the Development, except as may be approved by the Board or as provided by Declarant.

Should any entity furnishing a service covered by the general easement provided for herein request a specific easement by separate recordable document, the Board shall have the right to grant such easement over the Master Common Area without conflicting with the terms hereof. The easements provided for in this Article shall in no way adversely affect any other Recorded easement on the Development.

The Board shall have the power to dedicate portions of the Master Common Area to the Municipal Authority, or to any other local, state, or federal governmental entity.

**17.4 Easements to Serve Additional Property.** Declarant and its duly authorized agents, representatives, and employees, as well as Declarant's successors, assigns, licensees and Mortgagees, shall have, and there is hereby reserved, an easement over the Master Common Areas and any Neighborhood Common Areas of the Development for the purposes of enjoyment, use, access and development of any Additional Property and/or any adjacent property whether or not the Additional Property or the adjacent property is made subject to this Master Declaration. This easement includes but is not limited to a right of ingress and egress over the Master Common Area and any Neighborhood Common Areas within the Development for construction of roads and for tying in and installation of utilities on the Additional Property and/or the adjacent property. Declarant agrees that if the easement is exercised for permanent access to the Additional Property and/or the adjacent property and such Additional Property and/or the adjacent property or any portion thereof is not made subject to this Master Declaration, Declarant, its successors, or assigns

shall use commercially reasonable efforts to enter into a reasonable agreement with the Master Association to share the cost of maintenance of any access roadway serving the Additional Property and/or the adjacent property. Such agreement shall provide for sharing of costs based on the ratio which the number of residential dwellings on that portion of the Additional Property which is served by the easement and is not made subject to this Master Declaration bears to the total number of residential dwellings within the Development and on such portion of the Additional Property.

**17.5 Perimeter Wall Easement.** There is hereby created an affirmative easement in favor of Declarant, the Master Association, and their Related Parties, upon, over and across the Parcels and property adjacent to the perimeters boundaries of the Development (and each Parcel adjacent to public right of way or the perimeter boundaries of any Neighborhood) for reasonable ingress, egress, installation, replacement, maintenance and repair of any perimeter wall or fence that is located along a perimeter boundary of the Development, a perimeter boundary of a Neighborhood, or a public right of way.

**17.6 Declarant Easement.** There is hereby created a nonexclusive easement for ingress and egress over, for the right to go over, under and across, and for the right to enter and remain upon, all portions of the Development, including but not limited to, Units (except the interior of any occupied Units), the Master Common Area, and any Neighborhood Common Area located within the Development (including, but not limited to any private streets and a right of access through any guard gates, key gates or other access control points) for the purpose of enabling Declarant, and Declarant's Related Parties and their respective invitees, licensees, contractors and guests to exercise Declarant's rights and obligations hereunder, and to engage in activities reasonably related to the development, management, administration, operation, maintenance, advertisement and sale or rental of the portions of the Development and the Additional Property owned by Declarant. This easement shall be in favor of Declarant and its Related Parties and appurtenant to portions of the Development and the Additional Property owned by Declarant. The rights of access established in this Section shall be exercised so as to reasonably minimize interference with the quiet enjoyment of a Unit by its Owner or any Occupant. This easement shall continue until termination of the Period of Administrative Control.

**17.7 Association Easement.** There is hereby created a nonexclusive easement in favor of the Master Association for ingress and egress over all the Development (except the interior of any occupied Units) for the purpose of enabling the Master Association and its contractors and Related Parties to implement the provisions of this Master Declaration. The rights of access established in this Section shall be exercised so as to reasonably minimize interference with the quiet enjoyment of a Unit by its Owner and any Occupant. Every Unit is also hereby subjected to a nonexclusive easement for overspray and runoff of water from any irrigation systems serving the Master Common Area, the Areas of Common Responsibility, and any common area located within the Development. Under no circumstance will the Master Association or any Related Party of the Master Association be responsible for any property damage or personal injury resulting from any overspray or from the operation of the irrigation systems serving the Master Common Area, the Areas of Common Responsibility, or any Neighborhood Common Areas of the Development.

**17.8 Access Control.** The Master Association, or its duly delegated representative, may operate an access control system for the Development, any portion of the Development, or any Neighborhood within the Development.

**17.9 Severability.** Invalidity of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

**17.10 Right of Entry.** In addition to any other rights set forth herein, the Master Association shall have the right, but not the obligation, to enter into any Unit for emergency, security, and safety reasons, which right may be exercised by the Board, or the Master Association's officers, agents, employees, or managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner consistent with the terms and conditions of this Master Declaration.

**17.11 Perpetuities.** Pursuant to U.C.A. § 57-8a-108, the rule against perpetuities and the rule against unreasonable restraints on alienation of real estate may not defeat a provision of this Master Declaration. If any of the covenants, conditions, restrictions or other provisions of this Master Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provision shall continue only until twenty-one (21) years after the death of the last survivor of the now-living descendants of Charles III, King of England; provided, however, to the extent applicable, this Master Declaration is subject to the Utah Statutory Rule Against Perpetuities (U.C.A. § 75-2-1201, et seq.). The covenants, conditions, restrictions, or other provisions of this Master Declaration shall continue the longest period permitted by applicable Law.

**17.12 Litigation.** No judicial or administrative proceeding shall be commenced or prosecuted by the Master Association unless approved by Declarant (if during the Period of Administrative Control) and a vote of at least seventy-five percent (75%) of all the allocated voting interests of the total Class A votes of the Master Association. This Section shall not apply, however, to (a) Actions brought by the Master Association to enforce the provisions of this Master Declaration (including, without limitation, the foreclosure of liens), (b) the imposition and collection of Assessments as provided in Article 13 hereof, (c) proceedings involving challenges to ad valorem taxation, or (d) counterclaims brought by the Master Association in proceedings instituted against it.

**17.13 Cumulative Effect; Conflict.** In the event of a conflict between or among this Master Declaration and any other Governing Document, the more restrictive covenants and restrictions shall govern.

**17.14 Use of the Word "BLACK ROCK ESTATES" and "BLACK ROCK".** No Person shall use the term "BLACK ROCK" or "BLACK ROCK ESTATES" or any derivative thereof in any printed or promotional material without the prior written consent of Declarant. However, any Neighborhood Association and/or Owner may use the term "BLACK ROCK" or "BLACK ROCK ESTATES" in printed or promotional matter where such term is used solely to

specify that their particular Property is located within “Black Rock Estates.” The Master Association and any Neighborhood Association shall be entitled to use the term “Black Rock” or “Black Rock Estates” in its name.

#### **17.15 Limitation of Liability; Indemnification.**

17.15.1 In General. To the maximum extent permitted by the Utah Revised Nonprofit Corporation Act (U.C.A. § 16-6a-101 et seq.), the Master Association shall indemnify the following Persons against all expenses and liabilities actually incurred by such Persons in connection with any proceeding (as defined in U.C.A. § 16-6a-102(37)), including but not limited to, attorney’s fees, witness fees (including expert witness fees), costs, and litigation related expenses, reasonably incurred or imposed upon them in connection with any proceeding to which they may be parties, or in which they may become involved, by reason of their being or having served in those capacities on behalf of the Master Association (or by reason of having appointed, removed or controlled or failed to control members of the Board), or any settlement of any such proceeding: (i) every director and officer of the Master Association, (ii) every member of the committees of the Master Association, (iii) Declarant and the Declarant Related Parties, and (iv) all employees of the Master Association. The Board further may elect to indemnify any agent of the Master Association. Any Person described in clauses (i), (ii), (iii) and (iv) of the first sentence of this Section shall be entitled to indemnification whether or not such Person is serving in the specified capacity at the time the expenses are incurred, and the Master Association shall pay or reimburse reasonable expenses incurred by any such Person who was, is or is threatened to be made a party in a proceeding, in advance of the final disposition of the proceeding, to the maximum extent permitted by Section 16-6a-904 of the Utah Revised Nonprofit Corporation Act (as amended from time to time); provided, however, that payment or reimbursement of expenses pursuant to the procedures set forth in the Utah Revised Nonprofit Corporation Act may be conditioned upon a showing, satisfactory to the Board in its sole discretion, of the financial ability of the Person in question to make the repayment referred to in such Section. This right of indemnification shall be in addition to, and not exclusive of, all other rights to which the Person to be indemnified may be entitled at Law or otherwise.

17.15.2 Non-Liability of Officials. To the fullest extent permitted by Law, none of the following Persons (the “**Released Persons**”) shall be liable to any Member, Owner, Lessee, Occupant, the Master Association, a Neighborhood Association or any other Person for any damage, loss or prejudice suffered or claimed on account of any decision, approval or disapproval of plans or specifications (whether or not defective), course of action, act, inaction, omission, error, negligence or the like made in good faith and which the following Persons reasonably believed to be within the scope of their representative duties: (i) every director and officer of the Master Association, (ii) every member of the committees of the Master Association, (iii) Declarant and the Declarant Related Parties, and (iv) all employees of the Master Association. Each Owner, Occupant and other Person having any interest in the Development or entering upon or using any portion of the Development is deemed to acknowledge and accept the following:

(a) None of the Released Persons shall be liable or responsible for, or in any manner be guarantor or insurer of, the health, safety, or welfare of any Owner, Occupant or other Person entering upon or making use of any portion of the Development or the Master Common Facilities.

Each Owner, Occupant and other Person assumes all risks associated with the use and enjoyment of the Development, including but not limited to, the Master Common Facilities.

(b) None of the Released Persons shall be liable or responsible for any personal injury, illness or any other loss or damage caused by the presence or malfunction of any utility line, equipment or substation, adjacent to, near, over, or on the Development. Each Owner, Occupant and other Person assumes all risks of personal injury, illness or other loss or damage arising from the presence of malfunction of any utility line, equipment or substation adjacent to, near, over or on the Development.

(c) No provision of this Master Declaration or any other Governing Document shall be construed or interpreted as creating a duty by any of the Released Persons to protect or further the health, safety or welfare of any Person, even if funds of the Master Association are used for such a purpose.

17.15.3 Liability Arising From Conduct of Owners. Each Owner, Lessee, and Occupant and their respective Related Parties hereby agrees to indemnify, hold harmless, and defend (with counsel reasonably acceptable to the indemnified party) the Declarant, the Master Association, and their Related Parties from and against all Claims, and all other legal Actions caused through the willful or negligent act or omission of an Owner, a Lessee, an Occupant or their respective Related Parties.

17.15.4 Subsequent Statutory Authority. If any applicable Law, whether state or federal, is construed or amended to further eliminate or limit liability or authorizing further indemnification than as permitted or required by this Section 17.15, then liability will be limited or expanded to the fullest extent permitted by such applicable Law.

17.15.5 No Impairment. Any repeal, amendment or modification of this Section 17.15 may not adversely affect any rights or protection existing at the time of the amendment.

**17.16 Request for Payoff Information.** An Owner may request payoff information from the Master Association needed in connection with the financing, refinancing, or closing of an Owner's Parcel by: (a) providing written notice to the designated manager for the Master Association requesting the payoff information, which notice must contain (i) the name, telephone number, and address of the person making the request, and (ii) the facsimile number or email address for delivery of the payoff information, and (b) a written consent for the release of the payoff information, which identifies the person requesting the information as a person to whom the payoff information may be released, and signed and dated by the Owner of the Parcel for which the payoff information is requested. The Master Association may charge a fee associated with providing the payoff information, which fee shall not exceed the amount permitted under applicable Law and shall be subject to any requirements set forth in applicable Law.

**17.17 Notice of Sale or Transfer of Title.** In the event that any Owner desires to sell or otherwise transfer title to his or her Unit, such Owner shall give the Master Association at least seven (7) days prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. A

“transfer” shall include any the following: (a) a conveyance, sale, or other transfer of a lot by deed; (b) the granting of a life estate in a Unit; or (c) if the Unit is owned by a limited liability company, corporation, partnership, or other business entity, the sale or transfer of more than seventy-five percent (75%) of the business entity’s share, stock, membership interests, or partnership interests in a twelve (12) month period. Until such written notice is received by the Master Association, the transferor shall continue to be jointly and severally responsible for all obligations of the Owner of the Unit hereunder, including payment of Assessments, notwithstanding the transfer of title to the Unit.

**17.18 Notices.** Any notice provided under this Master Declaration shall be provided in writing and sent or transmitted by one of the following means: (a) personally served, (b) sent by overnight courier by a national delivery service that maintains tracking information, or (c) sent by United States certified mail, return receipt requested, with postage prepaid. If sent by mail, such notice shall be addressed to the relevant Owner at the address provided by such Owner, to a Neighborhood Association to the address provided by such Neighborhood Association, or to the Master Association at the address of the Master Association. A party may by notice at any time and from time to time designate a different address to which notices shall be sent. Such notices, demands or declarations shall be deemed sufficiently served or delivered for all purposes hereunder when delivered or when delivery is denied if attempted to be delivered at the appropriate address. The Master Association may provide notice by electronic means, including text message, email, or through the Master Association’s website; provided, however, an Owner or a Neighborhood Association, upon written notice to the Master Association, may require the Master Association to provide secondary notice to such Owner or Neighborhood Association by First Class United States mail.

**17.19 Declarant’s Representative.** The Master Association shall give Declarant all notices and other documents to which a Mortgagee is entitled pursuant to this Master Declaration. Commencing on the date on which Declarant no longer has an elected or appointed representative on the Board, and continuing until the date on which Declarant no longer owns a Unit in the Development, the Master Association shall give Declarant written notice of all meetings of the Board as if Declarant were an Owner and Declarant shall be entitled to have a representative present at all such Board meetings (“*Declarant’s Representative*”). The Declarant’s Representative shall be present in an advisory capacity only and shall not be a Board member or have any right to vote on matters coming before the Board.

**17.20 Security.** The Master Association shall in no way be considered an insurer, guarantor, or provider of security from criminal conduct within or relating to the Development, including any Master Common Area that the Master Association may have an obligation to maintain. The Master Association shall not be held liable for any loss, theft, harm, or damage by reason of criminal conduct arising for any reason including any failure to provide security or any ineffectiveness of security measures undertaken. Each and every Owner or Person entering the Development and the Master Common Facilities acknowledges that the Master Association has no duty to any Owner, Occupant, or Person related to security or criminal conduct and expressly acknowledges that no duty is owed to anyone. By purchasing a Unit in the Development and/or being a member of a Neighborhood Association, Owners and Occupants agree that the Master Association and the Board are not insurers of the safety or well-being of Owners or Occupants or

of their personal property as it relates to criminal conduct, and that each Owner or Occupant specifically waives any such Claim and assumes all risks for loss or damage to Persons or property resulting from criminal conduct, to the extent any such damages are not covered by insurance.

**17.21 No Dedication.** Nothing in this Master Declaration constitutes a gift or dedication of all or any part of the Development to the public, or for any public use, and the public shall not have any rights in or to the Master Common Area or the Master Common Facilities.

## **ARTICLE 18**

### **Mortgagee Provisions**

The following provisions are for the benefit of holders of first Mortgages on Units in the Development. The provisions of this Article apply to both this Master Declaration and to the Bylaws, notwithstanding any other provisions contained therein.

**18.1 Notices of Action.** An institutional holder, insurer, or guarantor of a first Mortgage who provides written request to the Master Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Unit to which its Mortgage relates, therefore becoming an “*Eligible Holder*”), will be entitled to timely written notice of:

(a) any condemnation loss or any casualty loss which affects any Unit on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder or any Master Common Area serving the Development;

(b) any delinquency in the payment of Assessments or charges owed on a Unit subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of sixty (60) days, or any other violation of this Master Declaration or any other Governing Document relating to such Unit or the Owner or Occupant thereof which is not cured within sixty (60) days;

(c) any lapse, cancellation, or material modification of any insurance policy maintained by the Master Association and covering the Unit upon which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder; or

(d) any proposed action which would require the consent of a specified percentage of Eligible Holders.

**18.2 No Priority.** No provision of this Master Declaration or the other Governing Documents gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Master Common Area.

**18.3 Notice to Master Association.** Upon request, each Owner shall be obligated to furnish to the Master Association the name and address of the holder of any Mortgage encumbering such Owner's Unit.

**18.4 Applicability of Article 17.** Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under this Master Declaration, Bylaws, or Utah Law for any of the acts set out in this Article.

**18.5 Neighborhood.** Any Neighborhood Declaration annexing property under this Master Declaration may provide that the Units within that particular Neighborhood are subject to additional, or different covenants and/or that the Owners within such Neighborhood are all Members of a Neighborhood Association in addition to the Master Association.

**18.6 Mortgagee Rights.** The Board may condition the effectiveness of an Owner's actions specified in this Master Declaration on the approval of a specified number or percentage of Mortgagees holding a security interest in the Units within the Development; or condition the effectiveness of the Master Association actions specified in this Master Declaration on the approval of a specified number or percentage of Mortgagees that have extended credit to the Master Association. Notwithstanding the foregoing, such action or condition may not: (a) deny or delegate the Owners' or the Board's control over the Master Association's general administrative affairs; (b) prevent the Master Association or Board from commencing, intervening in, or settling any litigation or proceeding; or (c) prevent an insurance trustee or the Master Association from receiving or distributing insurance proceeds. The Board, however, may (i) require the Master Association to deposit the Master Association's Assessments before default with any Mortgagee(s) assigned the income; or (ii) require the Master Association to increase an Assessment at any Mortgagee's direction by an amount reasonably necessary to pay the loan in accordance with the loan terms.

If a Mortgagee's consent is required to amend this Master Declaration or the Bylaws or for another Master Association action, such consent is presumed to have been granted if: (a) the Master Association sends written notice of the proposed amendment or action by certified or registered mail to such Mortgagee's address stated in a Recorded document evidencing the security interest; and (b) the person designated in a notice to receive the Mortgagee's response does not receive a response within sixty (60) days after the Master Association sends the notice as provided herein. If a Mortgagee's address for receiving notice is not stated in a Recorded document evidencing the security interest, the Master Association shall use reasonable efforts to find a mailing address for such Mortgagee and may send the notice to any address obtained through such efforts. If a Mortgagee responds in writing within sixty (60) days after the Master Association sends notice as provided above that the security interest has been assigned or conveyed to another person, the Master Association shall: (i) send a notice to the person to whom the security interest was assigned or conveyed at the address provided by the security holder in the security holder's response; or (ii) if no address is provided: (1) use reasonable efforts to find a mailing address for the person to whom the security interest was assigned or conveyed; and (2) send notice by certified or registered mail to such person at the address that the Master Association finds. The Master Association may not presume the Mortgagee's consent is obtained unless the person designated in a notice to receive the response from the person to whom the security interest was assigned or conveyed does not receive a response within sixty (60) days after the Master Association sends the notice.

**18.7 Loan to Master Association.** The Master Association shall have the right to borrow funds from a Mortgagee, which may include the Declarant. Subject to applicable Law, the

Master Association may pay the indebtedness of any loan from the Reinvestment Fees received or payable to the Master Association. Any loan made to the Master Association may be secured by a security interest, pledge and/or assignment of any income (including any Reinvestment Fees) payable to the Master Association and/or by a security interest in the Master Common Area and Master Common Facilities. A Mortgagee which has extended credit to the Master Association secured by a security interest, pledge or assignment of income (including any Reinvestment Fees) or an encumbrance of the Master Common Area may enforce the Mortgagee's security agreement as provided in the agreement(s) between the Master Association and the Mortgagee.

## **ARTICLE 19**

### **Declarant's Rights**

**19.1 Transfer of Rights.** Any or all of the special rights and obligations of Declarant set forth in this Master Declaration or the other Governing Documents may be transferred to other Persons, provided that the transfer shall not reduce an obligation, including to Summit County as a third-party beneficiary, nor enlarge a right beyond that contained herein or in the other Governing Document, as applicable, and provided further, no such transfer shall be effective unless it is in a written instrument signed by Declarant and duly Recorded in the public records of Wasatch County, Utah. Nothing in this Master Declaration shall be construed to require Declarant or any successor to develop any of the Additional Property in any manner whatsoever. Declarant's obligations under the Summit County Road Agreement shall not be assigned without Summit County's prior written consent.

**19.2 Construction and Sale Activity.** Notwithstanding any provisions contained in this Master Declaration to the contrary, so long as construction and initial sale of Units shall continue, it shall be expressly permissible for Declarant and any Declarant Affiliate and any builder designated by Declarant or a Declarant Affiliate to maintain and carry on upon portions of the Master Common Area such facilities and activities as, in the sole opinion of Declarant or a Declarant Affiliate, may be reasonably required, convenient, or incidental to the construction or sale of such Units, including, but not limited to, business offices, signs, model units, and sales offices; and Declarant and such designated builder(s) shall have easements for access to and use of such facilities. The right to maintain and carry on such facilities and activities shall include specifically, without limitation, the right to use Units owned by Declarant or any Declarant Affiliate and Master Common Facilities which may be owned by the Master Association, as models and sales offices, respectively. The Declarant and any Declarant Affiliate shall also have the right to maintain any number and size of promotional, advertising, or directional signs, banners, or similar structures or devices at any place or places in the Development. The Declarant and any Declarant Affiliate shall also have the right to designate by signs or otherwise any street or other parking as parking for sales only or to otherwise restrict and use any parking within the Master Common Area. The Declarant and any Declarant Affiliate shall have the right from time to time to relocate, move, remove, or add to any of its sales offices, parking restrictions, model Units, signs, banners or similar structures or devices.

**19.3 Application to Declarant.** Notwithstanding anything contained in this Master Declaration to the contrary, none of the restrictions contained in this Master Declaration shall be construed or deemed to limit or prohibit any act of Declarant, Declarant's Affiliates, Declarant's

Related Parties or contractors, or parties designated by Declarant in connection with the construction, completion, sale or leasing of the Units, Master Common Area, the Master Common Facilities, the Development or the Additional Property (whether or not annexed under this Master Declaration). Without limiting the generality of this Article 19 in any way, and notwithstanding anything to the contrary contained in this Master Declaration, (a) Declarant is expressly exempted from the provisions of this Master Declaration requiring submission to or authorizations by the ACC; (b) Declarant and Declarant's Related Parties shall have the right to erect, operate and maintain one or more administrative and sales offices on any portion of the Development owned by or leased to Declarant or the Master Association (including but not limited to Units); and (c) neither the provisions of Article 14, nor the Architectural Guidelines, nor any comparable provisions in any Governing Document shall apply to Improvements built by Declarant, and any Improvements built by Declarant may have an architectural style and present general aesthetics that are quite different from the architectural style and aesthetics elsewhere in the Development.

**19.4 No Recordation.** So long as Declarant continues to have rights under this Article 19, no Person shall Record any declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument affecting any portion of the Development without Declarant's review and written consent thereto, and any attempted Recordation without compliance herewith shall result in such declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument being void and of no force and effect unless subsequently approved by Recorded consent signed by Declarant.

**19.5 Other Special Declarant Rights.** Declarant reserves the following rights, among others (the "*Special Declarant Rights*"), and regardless of anything in this Master Declaration to the contrary, the following rights which shall remain in effect for the maximum period allowed by Law:

(a) the right to maintain sales offices, model Units, and signs advertising the Development or any Unit at any location within the Development;

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

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

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

(e) the right to exert any right allowed to the Board or the Master Association pursuant to the Act and this Master Declaration;

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

(g) the right to replat or amend, modify, or supplement the Plat for the Development, the right to grant and convey portions of the Master Common Area, and/or the right to grant

easements through the Master Common Area. In the event an Owner's consent is legally required to effectuate any of the foregoing, the Owners hereby appoint Declarant as their attorney-in-fact, which shall be coupled with an interest, to consent and approve such actions. The Owner's agree to cooperate and not oppose such actions and to sign such instruments to confirm the above.

**19.6 Exercising Special Declarant Rights.** Declarant may exercise any of the Special Declarant Rights at any time prior to the later to occur of the date on which the Period of Administrative Control expires or the date when the Declarant relinquishes such rights in writing. Declarant may exercise any of 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 Development, Declarant may, but is not obligated to, exercise that Special Declarant Right with respect to any other portion of the Development. Notwithstanding anything to the contrary contained in this Master Declaration, Declarant may exercise any Special Declarant Right described in this Article and any other right reserved to the Declarant in this Master Declaration, without the consent of the Master Association, any Neighborhood Association or any of the Owners.

**19.7 Interference with Special Declarant Rights.** Without Declarant's prior written consent, neither the Master Association nor any Owner may take any action or adopt any Rules and Regulations that interfere with or diminish any of Declarant's right contained in this Master Declaration. Any action taken in violation of this Section shall be null and void and have no force or effect.

**19.8 Limitation on Improvements by Master Association.** Until such time as the earlier of (a) the termination of the Period of Administrative Control, or (b) such time as Declarant chooses, the Master Association shall not make any improvement to or alteration in any of the Master Common Areas created or constructed by Declarant, other than such repairs, replacements, or similar matters as may be necessary to properly maintain the Master Common Area as originally constructed or created by Declarant.

**19.9 Transfer of Special Declarant Rights.** The Declarant may transfer, convey, or assign any of its rights created or reserved under this Master Declaration to any Person. Such transfer, conveyance, or assignment shall be effective upon Recording in the office of the Wasatch County Recorder.

**[THIS SPACE INTENTIONALLY LEFT BLANK]**

IN WITNESS WHEREOF, Declarant has executed this Master Declaration this \_\_\_\_ day of \_\_\_\_\_, 2026.

JOVID MARK II, LLC  
a Utah limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF UTAH     )  
                                  ) ss.  
County of \_\_\_\_\_)

On the \_\_\_\_\_ day of \_\_\_\_\_, 2026, personally appeared before me \_\_\_\_\_, known to me, or proved to me on the basis of satisfactory evidence, to be the person who executed the within instrument on behalf of JOVID MARK II, LLC, a Utah limited liability company, and who acknowledged to me that such entity executed it.

\_\_\_\_\_  
Notary Public

## EXHIBIT A

(Legal Description of the Property)

### PHASE 1A BOUNDARY DESCRIPTION:

A Parcel of Land located in the Southeast Quarter of the Northwest Quarter of Section 26, Township 2 South, Range 5 East, Salt Lake Base & Meridian situated in the County of Wasatch, State of Utah, more particularly described as follows:

BEGINNING at a point on the Quarter Section line which is 1360.08 feet South 00°15'46" West along the Quarter Section line from the North Quarter corner of Section 26, Township 2 South, Range 5 East, Salt Lake Base and Meridian (the basis of bearings is South 00°15'46" West 5362.02 feet measured along the Quarter Section line between the monuments found marking the North Quarter corner and the South Quarter corner of said Section 26, Township 2 South, Range 5 East, Salt Lake Base and Meridian), and running thence South 00°15'46" West 1071.80 feet; thence North 89°44'13" West 34.13 feet; thence North 62°20'45" West 267.20 feet; thence North 08°07'30" West 54.16 feet to a point on a 295.00 foot radius non-tangent curve to the right; thence westerly 72.11 feet along the arc of said curve through a central angle of 14°00'22" (chord bears South 89°46'57" West 71.93 feet); thence North 83°12'52" West 24.54 feet; thence South 23°45'21" West 204.20 feet to a point on a 270.00 foot radius non-tangent curve to the left; thence westerly 65.93 feet along the arc of said curve through a central angle of 13°59'25" (chord bears North 73°14'21" West 65.76 feet); thence North 80°14'04" West 78.69 feet to a point of curvature with a 130.00 foot radius to the right; thence westerly 32.57 feet along the arc of said curve through a central angle of 14°21'10" (chord bears North 73°03'29" West 32.48 feet); thence South 29°06'27" West 53.18 feet; thence North 90°00'00" West 205.96 feet; thence North 61°30'05" West 158.21 feet; thence North 24°54'00" East 137.58 feet; thence South 65°05'49" East 6.41 feet; thence North 24°54'11" East 60.00 feet; thence North 24°47'11" East 185.08 feet; thence North 19°30'17" West 124.49 feet; thence North 74°20'45" East 80.32 feet; thence South 62°13'31" East 96.72 feet; thence North 80°44'09" East 75.55 feet; thence South 47°32'25" East 74.18 feet; thence North 72°04'16" East 143.30 feet; thence South 62°34'34" East 137.23 feet; thence North 84°26'21" East 193.35 feet; thence North 00°50'51" East 607.74 feet; thence South 89°48'15" East 127.56 feet to the POINT OF BEGINNING.

Contains 479,560 square feet or 11.009 acres, more or less.

### PHASE 1 B BOUNDARY DESCRIPTION

A Parcel of Land located in the Northwest Quarter and the Southwest Quarter of Section 26, Township 2 South, Range 5 East, Salt Lake Base & Meridian situated in the County of Wasatch, State of Utah, more particularly described as follows:

BEGINNING at a point on the Quarter Section line which is 2431.88 feet South 00°15'46" West along the Quarter Section line from the North Quarter corner of Section 26, Township

2 South, Range 5 East, Salt Lake Base and Meridian (the basis of bearings is South 00°15'46" West 5362.02 feet measured along the Quarter Section line between the monuments found marking the North Quarter corner and the South Quarter corner of said Section 26, Township 2 South, Range 5 East, Salt Lake Base and Meridian), and running thence South 00°15'46" West 1260.59 feet; thence North 30°56'07" West 89.26 feet; thence North 58°55'15" West 490.75 feet; thence North 90°00'00" West 537.66 feet; thence South 68°20'12" West 335.89 feet to a point on a 170.00 foot radius non-tangent curve to the right; thence northwesterly 49.19 feet along the arc of said curve through a central angle of 16°34'47" (chord bears North 62°03'19" West 49.02 feet); thence South 36°14'04" West 184.55 feet; thence South 59°35'09" East 127.12 feet; thence South 88°52'41" West 16.43 feet; thence North 86°53'17" West 94.81 feet; thence South 31°34'32" West 156.82 feet to a point on a 470.00 foot radius non-tangent curve to the right; thence westerly 192.00 feet along the arc of said curve through a central angle of 23°24'19" (chord bears North 67°44'53" West 190.66 feet); thence North 56°02'43" West 102.41 feet to a point of curvature with a 530.00 foot radius to the left; thence northwesterly 166.21 feet along the arc of said curve through a central angle of 17°58'06" (chord bears North 65°01'46" West 165.53 feet); thence North 15°59'11" East 201.46 feet; thence North 90°00'00" West 498.07 feet; thence North 63°57'53" West 117.49 feet; thence South 46°31'00" West 104.94 feet; thence North 43°29'00" West 114.10 feet to a point of curvature with a 280.00 foot radius to the left; thence northwesterly 30.87 feet along the arc of said curve through a central angle of 06°18'58" (chord bears North 46°38'29" West 30.85 feet) to the west line of said Section 26; thence North 00°07'24" East 327.29 feet along said line to a rebar and cap marked "Jack Johnson"; thence South 89°16'41" East 1345.62 feet to a rebar and cap marked "Jack Johnson"; thence North 00°11'34" East 364.56 feet to a rebar and cap marked "Jack Johnson" at the Northwest corner of the Northeast Quarter of the Southwest Quarter of said Section 26; thence North 00°11'10" East 949.72 feet; thence South 66°49'39" East 510.74 feet; thence South 19°30'17" East 124.49 feet; thence South 24°47'11" West 185.08 feet; thence South 24°54'11" West 60.00 feet; thence North 65°05'49" West 6.41 feet; thence South 24°54'00" West 137.58 feet; thence South 61°30'05" East 158.21 feet; thence North 90°00'00" East 205.96 feet; thence North 29°06'27" East 53.18 feet to a point on a 130.00 foot radius non-tangent curve to the left; thence easterly 32.57 feet along the arc of said curve through a central angle of 14°21'10" (chord bears South 73°03'29" East 32.48 feet); thence South 80°14'04" East 78.69 feet to a point of curvature with a 270.00 foot radius to the right; thence easterly 65.93 feet along the arc of said curve through a central angle of 13°59'25" (chord bears South 73°14'21" East 65.76 feet); thence North 23°45'21" East 204.20 feet; thence South 83°12'52" East 24.54 feet to a point of curvature with a 295.00 foot radius to the left; thence easterly 72.11 feet along the arc of said curve through a central angle of 14°00'22" (chord bears North 89°46'57" East 71.93 feet); thence South 08°07'30" East 54.16 feet; thence South 62°20'45" East 267.20 feet; thence South 89°44'13" East 34.13 feet to the POINT OF BEGINNING.

Contains 2,358,059 square feet or 54.134 acres, more or less.

## PHASE 2 - 7 BOUNDARY DESCRIPTION

A Parcel of Land located in the Southwest Quarter of Section 26, Township 2 South, Range

5 East, Salt Lake Base & Meridian situated in the County of Wasatch, State of Utah, more particularly described as follows:

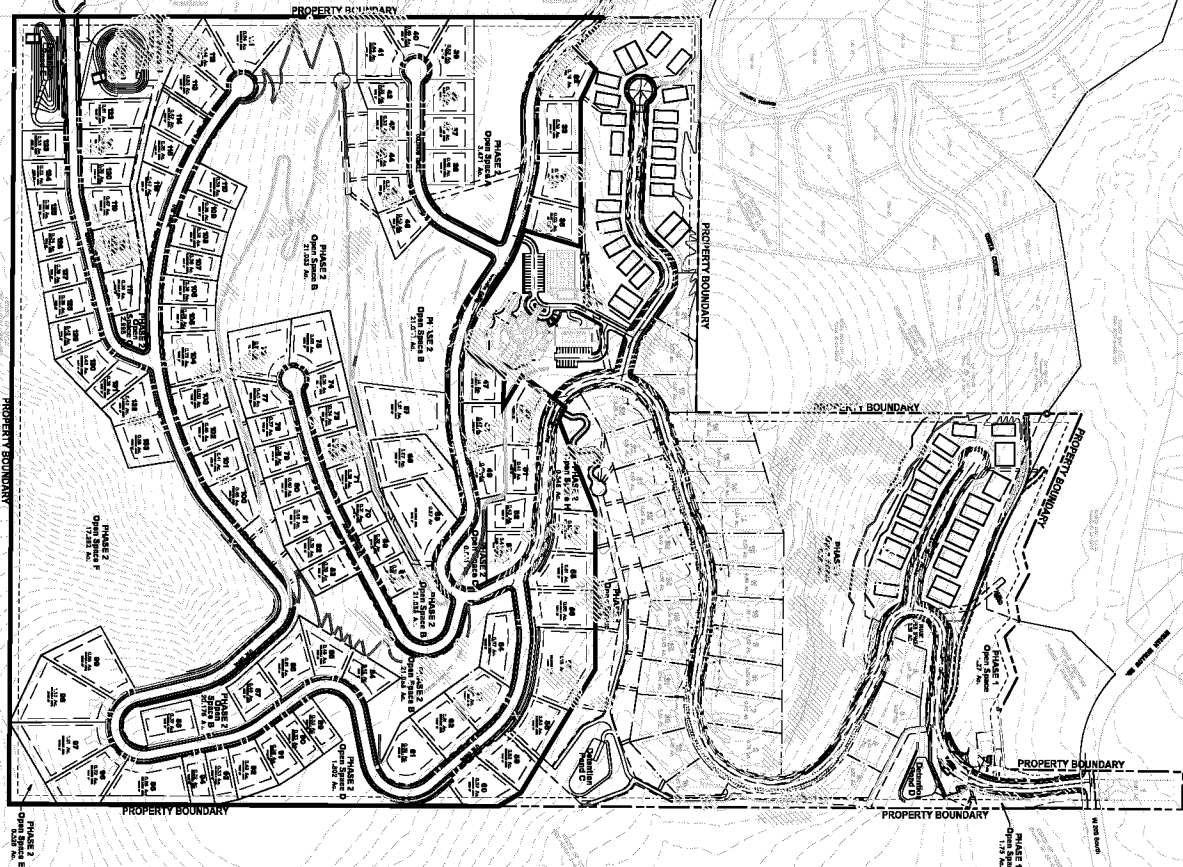
BEGINNING at the SLM monument found marking the South Quarter corner of Section 26, Township 2 South, Range 5 East, Salt Lake Base and Meridian (the basis of bearings is North  $00^{\circ}15'46''$  East 5362.02 feet measured along the Quarter Section line between the SLM monument found marking the South Quarter corner and the aluminum cap stamped "CLS" found marking the North Quarter corner of said Section 26, Township 2 South, Range 5 East, Salt Lake Base and Meridian); and running thence North  $89^{\circ}36'09''$  West 2685.46 feet along the South line of said Section 26 to the SLM monument found marking the Southwest corner of said Section 26; thence North  $00^{\circ}07'24''$  East 2014.07 feet along the West line of said Section 26 to a point on a 280.00 foot radius non-tangent curve to the right; thence southeasterly 30.87 feet along the arc of said curve through a central angle of  $06^{\circ}18'58''$  (chord bears South  $46^{\circ}38'29''$  East 30.85 feet); thence South  $43^{\circ}29'00''$  East 114.10 feet; thence North  $46^{\circ}31'00''$  East 104.94 feet; thence South  $63^{\circ}57'53''$  East 117.49 feet; thence East 498.07 feet; thence South  $15^{\circ}59'11''$  West 201.46 feet to a point on a 530.00 foot radius non-tangent curve to the right; thence southeasterly 166.21 feet along the arc of said curve through a central angle of  $17^{\circ}58'06''$  (chord bears South  $65^{\circ}01'46''$  East 165.53 feet); thence South  $56^{\circ}02'43''$  East 102.41 feet to a point of curvature with a 470.00 foot radius to the left; thence easterly 192.00 feet along the arc of said curve through a central angle of  $23^{\circ}24'19''$  (chord bears South  $67^{\circ}44'53''$  East 190.66 feet); thence North  $31^{\circ}34'32''$  East 156.82 feet; thence South  $86^{\circ}53'17''$  East 94.81 feet; thence North  $88^{\circ}52'41''$  East 16.43 feet; thence North  $59^{\circ}35'09''$  West 127.12 feet; thence North  $36^{\circ}14'04''$  East 184.55 feet to a point on a 170.00 foot radius non-tangent curve to the left; thence southeasterly 49.19 feet along the arc of said curve through a central angle of  $16^{\circ}34'47''$  (chord bears South  $62^{\circ}03'19''$  East 49.02 feet); thence North  $68^{\circ}20'12''$  East 335.89 feet; thence East 537.66 feet; thence South  $58^{\circ}55'15''$  East 490.75 feet; thence South  $30^{\circ}56'07''$  East 89.26 feet to the said Quarter Section line; thence South  $00^{\circ}15'46''$  West 1669.55 feet along said Quarter Section line to the POINT OF BEGINNING.

Contains 115.639 acres, more or less.

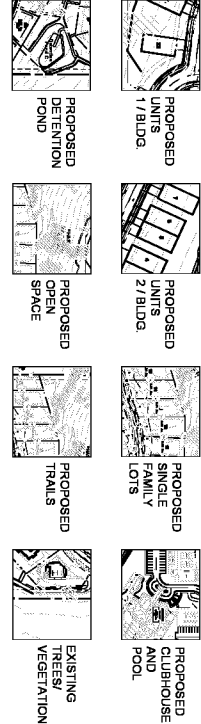
APNs: 00-0022-0148 through 00-0022-0227, 00-0022-0392, 00-0022-0393, 00-0014-5438, 00-0020-8475, 00-0020-8474, 00-0007-2822, 00-0020-8475, 00-0020-8479

## **EXHIBIT B**

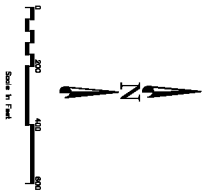
(Site Plan of Development)



# LEGEND



| PROJECT SUMMARY                     |                |                 |                 |
|-------------------------------------|----------------|-----------------|-----------------|
|                                     | PHASE 1        | PHASE 2         | TOTAL SITE      |
| TOTAL DEVELOPMENT AREA              | 42.71 AC       | 69.07 AC        | 111.78 AC       |
| TOTAL OPEN SPACE                    | 22.43 AC       | 46.57 AC        | 69.00 AC        |
| TOTALS                              | 65.14 AC       | 115.64 AC       | 180.78 AC       |
| % OF OPEN SPACE                     | 34.48%         | 40.27%          | 36.17%          |
| TOTAL L.F. OF ROADWAY               | 5,312 L.F.     | 11,414 L.F.     | 16,726 L.F.     |
| PROP. TOWNHOMES - 1 UNIT PER BLDG.  | 26 ERUS        | 0 ERUS          | 26 ERUS         |
| PROP. TOWNHOMES - 2 UNITS PER BLDG. | 20 ERUS        | 0 ERUS          | 20 ERUS         |
| PROP. SINGLE FAMILY LOTS ERUS       | 31 ERUS        | 102 ERUS        | 133 ERUS        |
| PROP. CLUBHOUSE                     | 1 ERUS         | 0 ERUS          | 1 ERUS          |
| TOTAL PROP. ERUS                    | 78 ERUS 100.0% | 102 ERUS 100.0% | 180 ERUS 100.0% |



PROJECT: **WAKARA RIDGE - PHASE 2**  
 SHEET: **OVERALL SITE DEVELOPMENT PLAN**



FOR: **JOVID MARK II LLC**  
 LOCATION: **WASATCH COUNTY, UTAH**



| NO. | REVISIONS            | BY  | DATE     |
|-----|----------------------|-----|----------|
| 1   | DESIGN - PRELIMINARY | JRS | 8/2/2024 |
| 2   | DESIGN - PRELIMINARY | JRS | 8/5/2024 |
| 3   | DESIGN - PRELIMINARY | JRS | 8/6/2024 |

DESIGNER: JRS MANAGER: JRS  
 FILE NAME: WRSD0A.dwg

PROJECT NO: **3831**  
 DATE: **8/06/2024**  
 SHEET NO: **OP-1b**

## **EXHIBIT C**

(Legal Description of Additional Land)

The real property located within one (1) mile from the exterior boundary of the real property described in Exhibit A of this Master Declaration.

**EXHIBIT D**  
**JSPA GUIDELINES**

**EXHIBIT E**

(Bylaws)

**Amended and Restated Bylaws  
of  
Black Rock Estates Master Association, Inc.**

*As Adopted*

**February 5, 2026  
As Amended and Restated \_\_\_\_\_, 2026**

# **Amended and Restated Bylaws of Black Rock Estates Master Association, Inc.**

## **ARTICLE I – PURPOSES**

**Section 1.01 Purpose.** This corporation is organized for any and all lawful purposes for which a nonprofit corporation may be organized under the Utah Revised Nonprofit Corporation Act, as amended, as set forth in the corporations Articles of Incorporation, including, without limitation, the operation and management of the master common areas and master common facilities of a master development known as Black Rock Estates.

## **ARTICLE II – OFFICES**

**Section 2.01 Offices.** The principal office of the corporation may be located at any place, either in or outside the State of Utah, as designated in the corporation's most current Annual Report filed with the Utah Division of Corporations and Commercial Code. The corporation may have such other offices, either in or outside the State of Utah, as the Board of Directors may designate or as the business of the corporation may require from time to time. The corporation shall maintain at its principal office a copy of certain records, as specified in Section 16-6a-1601 of the Utah Revised Nonprofit Corporation Act. The initial address of the corporation's principal office shall be 7026 South 900 East, Midvale, Utah, 84047.

**Section 2.02 Registered Office.** The registered office of the corporation, required by Section 16-6a-501 of the Utah Revised Nonprofit Corporation Act, shall be located in the State of Utah and may be, but need not be, identical with the corporation's principal office (if located in the State of Utah). The address of the registered office may be changed from time to time.

**Section 2.03 Definitions.** The words used in these Bylaws shall have the same meaning as set forth in the Amended and Restated Master Declaration of Covenants, Conditions, Easements, and Restrictions for Black Rock Estates recorded in the official records of Wasatch County, Utah, as Entry No. \_\_\_\_\_ (such Declaration, as amended, restated, renewed, or extended from time to time, is hereinafter sometimes referred to as the “**Declaration**”), unless the context indicates otherwise.

## **ARTICLE III – MEMBERS**

**Section 3.01 Membership.** The qualifications, privileges and obligations of membership in the Association shall be as set forth in the Declaration, the terms of which pertaining to membership are specifically incorporated herein by reference.

**Section 3.02 Place of Meetings.** Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Members as may be designated by the Board of Directors either within the Properties or as convenient thereto as possible and practical.

**Section 3.03 Annual Meetings.** Annual meetings of the Association shall be held during each year on a date and at a time set by the Board of Directors.

**Section 3.04 Special Meetings of Membership.** The President may call special meetings. In addition, it shall be the duty of the President to call a special meeting of the Association if so directed by resolution of a majority of a quorum of the Board of Directors or upon a petition signed by Members representing at least ten percent (10%) of the total votes of the Association. The notice of any special meeting shall state the date, time, and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

**Section 3.05 Notice of Meetings.** Written or printed notice stating the place, day, and hour of any meetings of the Members shall be delivered, in accordance with the notice provisions set forth in the Declaration, to each Member entitled to vote at such meeting, not less than ten (10) nor more than fifty (50) days before the date of such meeting, by or at the direction of the President or the Secretary or the officers or persons calling the meeting. In the case of a special meeting or when required by statute or these Bylaws, the purpose or purposes for which the meeting is called shall be stated in the notice. No business shall be transacted at a special meeting except as stated in the notice. If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail addressed to the Member at the Member's address as it appears on the records of the Association, with postage thereon prepaid.

Notwithstanding the foregoing, during the Period of Administrative Control, no notices shall be required to be provided to any Members in advance of any meeting. Notices for any Board meetings during the period after the Period of Administrative Control will be provided pursuant to Utah Code Ann. Section 57-8a-225 or any replacement statute.

**Section 3.06 Waiver of Notice.** Waiver of notice of a meeting of the Members shall be deemed the equivalent of proper notice. Any Member may, in writing, waive notice of any meeting of the Members, either before or after such meeting. Attendance at a meeting by a Member or its proxy shall be deemed a waiver by such Member of notice of the time, date and place thereof, unless such Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting shall also be deemed waiver of notice of all business transacted at such meeting unless objection to the calling or convening of the meeting, of which proper notice was not given, is raised before the business is put to a vote.

**Section 3.07 Adjournment of Meetings.** If any meeting of the Association cannot be held because a quorum is not present, the Presidents of the respective Neighborhood Associations present in person or by proxy, may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the time the original meeting was called. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted. If a time and place for reconvening the meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for reconvening the meeting after adjournment, notice of the time and place for reconvening the meeting shall be given to Members in the manner prescribed for regular meetings.

The Members represented at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum.

**Section 3.08 Voting.** The voting rights of the Members shall be as set forth in the Declaration, and such voting rights provisions are specifically incorporated herein.

**Section 3.09 Proxies.** At all meetings of the Members, the Members hereby irrevocably and permanently grant to the President of such Member's respective Neighborhood Association, an irrevocable proxy for the voting of all of its voting interest in all matters to be brought before the Master Association.

**Section 3.10 Majority.** As used in these Bylaws, the term "majority" shall mean those votes, owners, or other group as the context may indicate totaling more than fifty percent (50%) of the total number.

**Section 3.11 Quorum.** Those Presidents of the respective Neighborhood Associations present, either in person or by proxy, at a meeting shall constitute a quorum for the adoption of decisions.

**Section 3.12 Conduct of Meetings.** The President shall preside at all meetings of the Association, and the Secretary or designated managing agent shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting, as well as a record of all transactions occurring at the meeting.

**Section 3.13 Action Without a Meeting.** Any action required by law to be taken at a meeting of the Members, or any action which may be taken at a meeting of the Members, may be taken without a meeting if written consent setting forth the action so taken is signed by the Members entitled to vote with respect to the subject matter thereof, and any such consent shall have the same force and effect as a vote of the Members at a duly called meeting. During the Period of Administrative Control, the Declarant may take action without providing notice or having a meeting, and may sign documents, including Amendments to the Declaration and these Bylaws, without the necessity of any other approval or signature.

#### **ARTICLE IV – BOARD OF DIRECTORS**

**Section 4.01 General Powers.** The business and affairs of the corporation shall be managed under the direction of its Board of Directors, each of whom shall have one (1) vote.

**Section 4.02 Period of Administrative Control.** Notwithstanding anything to the contrary contained in these Bylaws, the Declarant shall be entitled to appoint all members of the Board of Directors during the Period of Administrative Control as set forth in the Declaration.

**Section 4.03 Nomination of Directors.** Commencing with the election of the first Board of Directors to be elected by the Members, nominations for election to the Board of Directors may be made by any Member. Nominations shall also be permitted from the floor. All candidates shall

have a reasonable opportunity to communicate their qualifications to the Members and to solicit votes.

**Section 4.04 Number and Term of Office.** Notwithstanding any other provisions contained herein:

(a) The initial Board of Directors shall consist of three (3) directors, who shall serve from the date of incorporation of the Association until the annual meeting of the membership after the expiration of the Period of Administrative Control.

(b) At the first annual meeting of the membership after the expiration of the Period of Administrative Control pursuant to Section 2 of this Article, the Board of Directors shall consist of three (3) directors, as follows: one (1) director shall be elected by the President of the Cottages Neighborhood Association, for an initial term of one (1) year; one (1) director shall be elected by the President of the SFH Neighborhood Association, for an initial term of two (2) years; and one (1) director shall be elected by the combined vote of the Owners, for an initial term of three (3) years, each as voted by the Presidents of each Neighborhood Association in the manner set forth in the Declaration. Upon the expiration of each director's initial term, each director's successor shall be elected for a three (3) year term. In the event that the members of the Board of Directors are increased to five (5) members, then the two (2) additional members shall be elected as follows: one (1) additional member shall be elected by the President of the Cottages Neighborhood Association for an initial term of one (1) year, and one (1) additional member shall be elected by the President of the SFH Neighborhood Association for an initial term of two (2) years, with each such director's successor thereafter being elected for a three (3) year term.

**Section 4.05 Election.** Each Member shall be entitled to cast, with respect to each vacancy to be filled, the total number of votes to which it is entitled under the Declaration. There shall be no cumulative voting. The candidates receiving the most votes shall be elected. The directors elected by the Members shall hold office until their respective successors have been elected by the Association. Directors may be elected to serve any number of consecutive terms.

**Section 4.06 Term.** The term of office of each director shall continue until the earlier of the expiration of the appointed term, his or her death, resignation or removal from office.

**Section 4.07 Qualifications.** Each director must be a natural person 18 years of age or older. Directors need not be residents of the State of Utah. During the Period of Administrative Control, a director does not need to be a Member of the Association. After the expiration of the Period of Administrative Control, a director will need to be a Member of the Association.

**Section 4.08 Resignation.** Any director of the corporation may resign at any time by giving written notice to the corporation. A resignation is effective when the notice is received by the corporation unless the notice specifies a later effective date.

**Section 4.09 Vacancies.** Vacancies in the Board caused by any reason other than removal of a member of the Board of Directors by a vote of the Association shall be filled by vote of the majority of the remaining members of the Board of Directors at a special meeting of the Board held for that purpose after the occurrence of any such vacancy, even though the total members of the Board of Directors remaining may constitute less than a quorum of the Board; and each person

so elected shall be a member for the remainder of the term of the member so replaced. A vacancy created by the removal of a member of the Board of Directors by a vote of the Association shall be filled by the election and vote of the Association.

#### **Section 4.10 Removal.**

(a) All directors appointed by the Declarant shall serve, and may be removed and replaced, at the discretion of the Declarant, and shall not be subject to removal or replacement by the Members generally.

(b) Any director elected by the Members may be removed, with or without cause, by the vote of Members holding a majority of the votes entitled to be cast for the election of such director. Any director whose removal is sought shall be given notice prior to any meeting called for that purpose. Upon removal of a director, a successor shall then and there be elected by the Members entitled to elect the director so removed to fill the vacancy for the remainder of the term of such director.

(c) Any director elected by the Members who has three (3) consecutive unexcused absences from Board meetings may be removed by a majority of the directors present at a regular or special meeting at which a quorum is present, and a successor may be appointed by the Board to fill the vacancy for the remainder of the term. In the event of the death, disability, or resignation of a director, a vacancy may be declared by the Board, and the Board may appoint a successor.

**Section 4.11 Right to Disapprove Actions.** This Section 4.11 may not be amended without the express, written consent of the Declarant during the Period of Administrative Control.

During the Period of Administrative Control, the Declarant shall have a right to disapprove actions of the Board and any committee, as is more fully provided in this Section. No action authorized by the Board of Directors or any committee shall become effective, nor shall any action, policy or program be implemented until and unless the following requirements have been met:

(a) The Declarant shall be given written notice of all meetings and proposed actions approved at meetings of the Board or any committee thereof by certified mail, return receipt requested, or by personal delivery at the address it has registered with the Secretary of the Association, as it may change from time to time, which notice complies as to the Board of Directors meeting with Article III, Sections 8, 9, and 10 of these Bylaws and which notice shall, except in the case of the regular meetings held pursuant to the Bylaws, be set forth in reasonable particularity in the agenda to be followed at such meeting;

(b) The Declarant shall be given the opportunity at any such meeting to join in or have its representatives or agents join in discussion from the floor of any prospective action, policy, or program to be implemented by the Board, any committee thereof, or the Association. The Declarant, its representatives or agents shall make its concerns; thoughts, and suggestions known to the members of the subject committee and/or the Board. The Declarant shall have and is hereby granted a right to disapprove any such action, policy, or program authorized by the Board of Directors or any committee thereof and to be taken by the Board, such committee, the Association, or any Member of the Association at any time within ten (10) days following the meeting held pursuant to the terms and provisions hereof. The Declarant shall not use its right to

disapprove to reduce the level of services which the Association is obligated to provide or prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

**Section 4.12 Regular Meetings.** Regular Meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the directors, but following the Period of Administrative Control, meetings shall be held at least four (4) such meetings shall be held during each fiscal year with at least one (1) per quarter. Notice of the time and place of the meeting shall be communicated to directors not less than four (4) days prior to the meeting; provided, however, notice of a meeting need not be given to any director who has signed a waiver of notice or a written consent to holding of the meeting.

**Section 4.13 Special Meetings.** Special meeting of the Board of Directors shall be held when called by written notice signed by the President of the Association or by any two (2) directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be given to each director by one of the following methods: (a) by personal delivery, (b) written notice by first class mail, postage prepaid, (c) by telephone communication, either directly to the director or to a person at the director's office or home who would reasonably be expected to communicate such notice promptly to the director; or (d) by telegram, charges prepaid. All such notices shall be given at the director's telephone number or sent to the director's address as shown on the records of the Association. Notices sent by first class mail shall be deposited into a United States mailbox at least four (4) business days before the time set for the meeting. Notices given by personal delivery, telephone or telegraph shall be delivered, telephoned or given to the telegraph company at least seventy-two (72) hours before the time set for the meeting.

**Section 4.14 Action Without a Meeting.** Any action required or permitted to be taken at a meeting of the Board of Directors may be taken without a meeting if consent in writing, setting forth the action so taken, is signed by all of the directors. Such consent has the same force and effect as a unanimous vote of the directors. Action taken under this provision is effective at the time the last director signs a writing describing the action taken, unless, prior to that time, any director has revoked a consent by a writing signed by the director and received by the secretary or any other person authorized by the Bylaws or the Board of Directors to receive the revocation, or unless the consent specifies a different effective time.

**Section 4.15 Waiver of Notice.**

(a) Written Waiver. Any director may waive notice of any meeting before or after the date and time of the meeting stated in the notice. Except as provided in subsection (b), below, the waiver must be in writing and signed by the director entitled to notice. The waiver shall be delivered to the corporation for filing with the corporate records, but delivery and filing are not conditions to its effectiveness.

(b) Waiver by Attendance. The attendance of a director at or participation in a meeting waives any required notice to the director of the meeting unless the director at the beginning of the meeting, or promptly upon the director's arrival, objects to the holding of the meeting or the transacting of business at the meeting because of lack of notice or defective notice, and does not thereafter vote for or assent to action taken at the meeting.

**Section 4.16 Quorum.** At all meetings of the Board of Directors, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board of Directors. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting. If any meeting of the Board cannot be held because a quorum is not present, a majority of the directors who are present at such meeting may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the date the original meeting was called. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

**Section 4.17 Manner of Acting.** The act of a majority of the directors present at a meeting at which a quorum is present is the act of the Board of Directors. Voting by proxy is not permitted.

**Section 4.18 Meetings by Telecommunication.** The Board of Directors may permit any or all directors to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all directors participating may hear each other during the meeting. A director participating in a meeting by this means is considered present in person at the meeting.

**Section 4.19 Action Without a Formal Meeting.** Any action to be taken at a meeting of the directors or any action that may be taken at a meeting of the directors may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the directors, and such consent shall have the same force and effect as a unanimous vote.

**Section 4.20 Powers and Duties.** The Board of Directors shall be responsible for the affairs of the Association and shall have all the powers and duties necessary for the administration of the Association's affairs and, as provided by law, may do or cause to be done all acts and things as are provided by the Declaration, Articles, or these Bylaws directed to be done and exercised exclusively by the Members. The Board of Directors shall delegate to one of its members the authority to act on behalf of the Board of Directors on all matters relating to the duties of the managing agent or manager, if any, which might arise between meetings of the Board of Directors.

In addition to the duties imposed by these Bylaws or by any resolution of the Association that may hereafter be adopted, the Board of Directors shall have the power to establish policies relating to, and shall be responsible for performing or causing to be performed, the following, by way of explanation, but not limitation:

(a) preparing, adopting, and amending in accordance with the Declaration annual budgets in which there shall be established the contribution of each Owner to the Association's common expenses;

(b) making assessments to defray the Association's expenses (including expenses incurred by virtue of cost sharing agreements entered into with entities such as a residential owner's association, establishing the means and methods of collecting such assessments, and establishing the period of the installment payments of the annual assessment, if permitted);

(c) designating, hiring, and dismissing the personnel necessary for the operation of the Association and the maintenance, operation, repair, and replacement of its property and any other property for which it has responsibility and, where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;

(d) collecting the assessments, depositing the proceeds thereof in a bank depository which it shall approve, and using the proceeds to operate the Association; provided, any Reserve Fund may be deposited, in the director's best business judgment, in depositories other than banks;

(e) making and amending design guidelines and rules and regulations;

(f) opening of bank accounts on behalf of the Association and designating the signatories required;

(g) making or contracting for the making of repairs, additions, and improvements to or alterations of the property of the Association in accordance with the provisions of the Declaration and these Bylaws after damage or destruction by fire or other casualty;

(h) enforcing by legal means the provisions of the Declaration, these Bylaws, and the rules and regulations adopted by it and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association;

(i) obtaining and carrying insurance against casualties and liabilities, as provided in the Declaration, and paying the premium cost thereof;

(j) paying the cost of all services rendered to the Association or its Members and not chargeable directly to specific Owners;

(k) keeping books with detailed amounts of the receipts and expenditures affecting the Association and its administration, specifying the maintenance and repair expenses and any other expenses incurred,

(l) making available to any prospective purchaser of a Unit, any Owner of a Unit, and the holders, insurers, and guarantors of mortgages or deeds of trust on any Unit, current copies of the Declaration, the Articles of Incorporation, the Bylaws, rules and all other books, records, and financial statements of the Association;

(m) permitting utility suppliers to use portions of the Association's property, if any, as reasonably necessary to the ongoing development or operation of the Properties;

(n) indemnifying a director, officer or committee member, or former director, officer or committee member of the Association to the extent such indemnity is required by Utah Law, the Articles of Incorporation or the Declaration;

(o) making contracts and entering into agreements necessary for the performance of the Association's obligations and duties;

(p) borrowing money and entering into loans and other instruments, including proving a security interest in, pledging, or assigning the Association's rights, title and interest in the common areas and any income to the Association, including any reimbursement fees;

(q) subject to applicable law, acquiring, holding, encumbering, and conveying title or interest to real estate or personal property;

(r) granting easements, leases, licenses, and concessions through or over the common areas;

(s) performing any rights, duties and obligations under the Declaration and enforcing any rights under the Declaration;

- (t) exercising any other powers necessary and proper for the governance and operation of the Association; and
- (u) employing a professional property manager to carry out its duties under the Declaration, these Bylaws and any rules and regulations.

**Section 4.21 Management.** The Board of Directors may retain for the Association a professional property manager at a compensation established by the Board of Directors to perform such duties and services as the Board of Directors shall authorize. The Board of Directors may delegate to the property manager, subject to the Board's supervision, all of the powers granted to the Board of Directors by these Bylaws, other than the powers set forth in subparagraphs (b), (c), (f) and (h) of Section 4.20 of this Article.

**Section 4.22 Accounts and Reports.** The following management standards of performance shall be followed unless the Board by resolution specifically determines otherwise.

- (a) accrual accounting, as defined by generally accepted accounting principles, shall be employed;
- (b) accounting and controls should conform to generally accepted accounting principles;
- (c) cash accounts of the Association shall not be commingled with any other accounts;
- (d) no remuneration shall be accepted by the managing agent from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; anything of value received shall benefit the Association;
- (e) any financial or other interest which the managing agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board of Directors;
- (f) financial reports shall be prepared for the Association at least quarterly containing:
  - (i) an Income Statement reflecting all income and expense activity for the preceding period on an accrual basis;
  - (ii) a statement reflecting all cash receipts and disbursements for the preceding period;
  - (iii) a variance report reflecting the status of all accounts in an "actual" versus "approved" budget format;
  - (iv) a balance sheet as of the last day of the preceding period; and
  - (v) a delinquency report listing all Owners who are delinquent in paying any assessments at the time of the report and describing the status of any action to collect such assessments which remain delinquent (Any assessment or installment thereof shall be considered to be delinquent on the tenth (10th) day following the due date unless otherwise determined by the Board of Directors); and
- (g) financials consisting of at least the following shall be made available to all Members within one hundred twenty (120) days after the close of the fiscal year, (1) a balance sheet; (2) an operating (income) statement; and (3) a statement of changes in financial position for the fiscal year.

**Section 4.23 Borrowing.** The Board of Directors shall have the power to borrow for any legal purpose, subject to the limitations set forth in the Declaration.

**Section 4.24 Rights of the Association.** The Association shall have the right to contract with any person or entity for the performance of various duties and functions. Without limiting the foregoing, this right shall entitle the Association to enter into common management, operational or other property owners' agreements with trusts, condominiums, and cooperatives, of other property owners or similar associations, both within and without the Properties. Such agreements shall require the consent of a majority of the total number of directors of the Association.

**Section 4.25 Enforcement.** The Board shall have the power to impose reasonable fines, which shall constitute a lien upon the property of the violating Owner, and to suspend an Owner's right to vote for violation of any duty imposed under the Declaration, these Bylaws, or any rules and regulations duly adopted hereunder in accordance with the terms of the Declaration.

(a) **Additional Enforcement Rights.** The Association, acting through the Board of Directors, may elect to enforce any provision of the Declaration, these Bylaws, or the rules and regulations of the Association by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations), or by suit at law or in equity to enjoin any violation or to recover monetary damages or both, without the necessity of compliance with the procedures set forth above, subject to the limitations set forth in the Declaration. In any such action, to the maximum extent permissible, the Owner or occupant responsible for the violation of which abatement is sought shall pay all costs, including reasonable attorney's fees actually incurred.

## **ARTICLE V – OFFICERS**

**Section 5.01 Number.** The officers of the Association shall be a President, Vice President, Secretary, and Treasurer. The Association officers shall be elected from among the members of the Board of Directors. The Board of Directors may appoint such other officers to have the authority and perform the duties prescribed from time to time by the Board of Directors. Any two (2) or more offices may be held by the same person, except the offices of President and Secretary.

**Section 5.02 Appointment and Term of Office.** Initial officers of the Association shall be elected by the Board of Directors after formation of the Association. The officers of the Association shall be elected annually by the Board of Directors at the first meeting of the Board of Directors following each annual meeting of the Members, as herein set forth in Article III. A vacancy in any office arising because of death, resignation, removal, or otherwise may be filled by the Board of Directors for the unexpired portion of the term.

**Section 5.03 Removal.** Any officer, assistant, agent or employee may be removed, with or without cause, at any time by the board of directors, or by any officer to whom or committee of the board of directors to which such power of removal has been delegated, but such removal shall be without prejudice to the contract rights, if any, of the person so removed.

**Section 5.04 Resignation.** An officer may resign at any time by giving written notice of resignation to the corporation. A resignation of an officer is effective when it is received by the

corporation, unless the notice specifies a later effective date. An officer's resignation does not affect the corporation's contract rights, if any, with the officer.

**Section 5.05 Vacancies.** A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by the Board of Directors or by any officer to whom or committee of the Board of Directors to which such power has been delegated.

**Section 5.06 The President.** The president, unless otherwise specified by the Board of Directors, shall be the chief executive officer of the corporation and, under the direction of the Board of Directors, shall in general supervise and control all the business and affairs of the corporation. The president shall, when present, preside, in the absence of the chair of the Board, at meetings of the Board of Directors. The president may hire, prescribe the duties of, and fire employees, and may delegate such authority in whole or in part to any other officer or employee. The president may sign, with the secretary or any other proper officer of the corporation thereunto authorized by the Board of Directors, certificates for shares of the corporation, and any deeds, mortgages, bonds, contracts, or other instruments which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws to some other officer or agent of the corporation, or shall be required by Law to be otherwise signed or executed; and in general shall perform all duties incident to the office of president and such other duties as may be prescribed by the Board of Directors from time to time.

**Section 5.07 The Vice President.** In the absence of the president, or in the event of the president's death, inability or refusal to act, the vice president (or in the event there is more than one vice president, the vice presidents in the order designated at the time of their election, or in the absence of any designation, then in the order of their election) shall perform the duties of the president, and when so acting, shall have all the powers of and be subject to all the restrictions upon the president. Any vice president may sign, with the secretary or an assistant secretary, certificates for shares of the corporation; and shall perform such other duties as from time to time may be assigned to him or her by the president or by the Board of Directors.

**Section 5.08 The Secretary.** The secretary shall (a) keep the minutes of the Board of Directors' meetings in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these Bylaws or as required by Law; (c) be custodian of the corporate records and of the seal of the corporation and affix such seal to documents when authorized; (d) maintain the records required under Section 16-6a-1601 of the Utah Revised Nonprofit Corporation Act, and (e) in general perform all duties incident to the office of secretary and such other duties as from time to time may be assigned to him or her by the president or by the Board of Directors. In the absence of a secretary and any assistant secretaries, the president shall perform these duties.

**Section 5.09 The Treasurer.** If required by the Board of Directors, the treasurer shall give a bond for the faithful discharge of his or her duties in such sum and with such surety or sureties as the Board of Directors shall determine. He or she shall: (a) have charge and custody of and be responsible for all funds and securities of the corporation; (b) receive and give receipts for moneys due and payable to the corporation from any source whatsoever, and deposit all such moneys in

the name of the corporation in such banks, trust companies or other depositories as shall be selected in accordance with the provisions of Section 8.04 of these Bylaws; and (c) in general perform all of the duties incident to the office of treasurer and such other duties as from time to time may be assigned to him or her by the president or by the Board of Directors. In the absence of a treasurer, the secretary shall perform such duties.

**Section 5.10 Assistant Secretaries and Assistant Treasurers.** The assistant secretaries, when authorized by the Board of Directors, may sign with the president or vice president certificates for shares of the corporation, the issuance of which shall have been authorized by a resolution of the Board of Directors. The assistant treasurers shall respectively, if required by the Board of Directors, give bonds for the faithful discharge of their duties in such sums and with such sureties as the Board of Directors shall determine. The assistant secretaries and assistant treasurers, in general, shall perform such duties as shall be assigned to them by the secretary or the treasurer, respectively, or by the president or the Board of Directors.

**Section 5.11 Agreements, Contracts, Deeds, Leases, Checks, Etc.** All agreements, contracts, deeds, leases, checks, and other instruments of the Association shall be executed by at least two (2) officers or by such other person or persons as may be designated by resolution of the Board of Directors.

## **ARTICLE VI – COMMITTEES**

**Section 6.01 General.** Committees are hereby authorized to perform such tasks and to serve for such periods as may be designated by a resolution adopted by a majority of the directors present as a meeting at which a quorum is present. Each committee shall operate in accordance with the terms of the resolution of the Board of Directors designating the committee or with rules adopted by the Board of Directors.

## **ARTICLE VII – INDEMNIFICATION**

**Section 7.01 Indemnification.** The corporation shall indemnify each person who is or was a director, officer, employee or agent of the corporation or an individual who, while serving the indicated relationship to the corporation, is or was serving at the corporation's request as a director, officer, partner, trustee, employee fiduciary, or agent of another corporation or other person or of an employee benefit plan, to the fullest extent permitted by the Utah Revised Nonprofit Corporation Act.

**Section 7.02 Authorization of Indemnification.** The corporation shall be deemed to have authorized such indemnification whenever as determination has been made under Section 16-6a-906 of the Utah Revised Nonprofit Corporation Act that indemnification of an individual is permissible in the circumstances because the person has met the applicable standard of conduct.

**Section 7.03 Advance of Expenses.** The corporation shall accept the undertaking required by Subsection 16-6a-904(1)(b) of the Utah Revised Nonprofit Corporation Act without reference to financial ability to make repayment.

**Section 7.04 Insurance.** The corporation may purchase and maintain liability insurance on behalf of a person who is or was a director, officer, employee, fiduciary, or agent of the corporation, or who, while serving as a director, officer, employee, fiduciary, or agent of the corporation, is or was serving at the request of the corporation as a director, officer, partner, trustee, employee, fiduciary, or agent of another foreign or domestic corporation or other person, or of an employee benefit plan, against liability asserted against or incurred by him or her in that capacity or arising from his or her status as a director, officer, employee, fiduciary, or agent, whether or not the corporation would have power to indemnify him or her against the same liability.

**Section 7.05 Savings Clause.** If this Article or any portion thereof shall be invalidated on any ground by any court of competent jurisdiction, then the corporation shall nevertheless indemnify each officer and director as to expenses, including attorneys' fees, judgments, fines and amounts paid in settlement with respect to any action, suit or proceeding, whether civil, criminal, administrative or investigative, and whether internal or external, including without limitation a grand jury proceeding and an action or suit brought by or in the right of the corporation, to the full extent permitted by any applicable portion of this Article that shall not have been invalidated, or by any other applicable law.

## **ARTICLE VIII – MISCELLANEOUS**

**Section 8.01 Fiscal Year.** The fiscal year of the Association shall be set by resolution of the Board of Directors. In the absence of a resolution, the fiscal year shall be the calendar year.

**Section 8.02 Parliamentary Rules.** Except as may be modified by Board resolution, Robert's Rules of Order (current edition) shall govern the conduct of Association proceedings when not in conflict with Utah law, the Articles of Incorporation, the Declaration, or these Bylaws.

**Section 8.03 Conflicts.** If there are conflicts between the provisions of Utah law, the Articles of Incorporation, the Declaration, and these Bylaws, the provisions of Utah law, the Declaration, the Articles of Incorporation, and the Bylaws (in that order) shall prevail. If any provision of these Bylaws is in conflict with Utah law, the provision will be interpreted to be consistent with Utah law and the remainder of these Bylaws shall remain in full force and effect.

### **Section 8.04 Books and Records.**

(a) Inspection by Members and Mortgagees. The Declaration and Bylaws, membership register books of account, and minutes of meetings of the Members, the Board, and committees shall be maintained in accordance with applicable law and the Board and/or the Association may redact information as permitted by applicable law. Subject to the preceding and in accordance with applicable law, the records shall be made available for inspection and copying by any Mortgagee, Member of the Association, or by the duly appointed representative of any Member at any reasonable time and for a purpose reasonably related to his or her interest in a Unit at the office of the Association or at such other place within the Properties as the Board shall prescribe. In the event any records are copies, the Association may recover copying costs as permitted by applicable law.

(b) Rules for Inspection. The Board shall establish reasonable rules with respect to:

- (i) notice to be given to the custodian of the records;
  - (ii) hours and days of the week when such an inspection may be made;
- and
- (iii) payment of the cost of reproducing copies of documents requested.
- (c) Inspection by Directors. Every director shall have the absolute right at any time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a director shall include the right to make extracts and a copy of relevant documents at the expense of the Association.

**Section 8.05 Notices.** Unless otherwise provided in these Bylaws, all notices, demands, bills, statements, or other communications under these Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States Mail, first class postage prepaid;

(a) If to a Member, at the address which the Member has designated in writing and filed with the Secretary or, if no street address has been designated, at the address of the Unit of such Member; or

(b) If to the Association, the Board of Directors, or the managing agent, at the principal office of the Association or the managing agent, if any, or at such other address as shall be designated by notice in writing to the Members pursuant to this Section.

**Section 8.06 Amendment.**

(a) By Declarant. During the Period of Administrative Control, the Declarant may unilaterally amend these Bylaws for any purpose. Thereafter, the Declarant may unilaterally amend these Bylaws at any time and from time to time if such amendment is (i) necessary to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation or judicial determination which is in conflict therewith; (ii) necessary to enable any reputable title insurance company to issue title insurance coverage with respect to any portion of the Properties; or (iii) required by an institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans to enable it to make, purchase, insure or guarantee mortgage loans on any portion of the properties within the Development; provided, however, any such amendment shall not adversely affect the title to any property unless the owner thereof shall consent thereto in writing. Further, so long as it still owns property within the Development, the Declarant may unilaterally amend these Bylaws for any purpose provided such amendment has no material adverse effect upon any right of any Owner.

(b) By Members. Except as provided above, these Bylaws may be amended only by the affirmative vote or written consent or any combination thereof, of Members holding seventy-five percent (75%) of the voting interest in the Association. However, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. No amendment may remove, revoke, or modify any right or privilege of the Declarant without the prior written consent of the Declarant or its assignee of such right or privilege.

(c) Validity and Effective Date of Amendments. Amendments to these Bylaws shall become effective upon recordation in the public records of Wasatch County, Utah, unless another date is specified therein. Any procedural challenge to an amendment must be made within thirty (30) days of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions

of these Bylaws. If an Owner consents to any amendment to these Bylaws, it will be conclusively presumed that such Owner has the authority so to consent and no contrary position in any mortgage or contract between Owner and a third party will affect the validity of such amendment.

## EXHIBIT F

### (Arbitration Provisions)

1. Dispute Resolution. The Bound Parties hereby agree that the arbitration provisions set forth in this Exhibit F (“**Arbitration Provisions**”) are binding on each of them. As a result, any attempt to rescind or declare these Arbitration Provisions invalid or unenforceable for any reason is subject to these Arbitration Provisions.

2. Arbitration. Any Claim must be submitted to arbitration (“**Arbitration**”) to be conducted exclusively in Salt Lake County, Utah and pursuant to the terms set forth in these Arbitration Provisions. The Bound Parties agree that the award of the arbitrator rendered pursuant to Paragraph 4 below (the “**Arbitration Award**”) shall be (a) final and binding upon the Bound Parties, (b) the sole and exclusive remedy between them regarding any Claim, claims, counterclaims, issues, or accountings presented or pleaded to the arbitrator, and (c) promptly payable in United States dollars free of any tax, deduction, or offset (with respect to monetary awards). Any costs or fees, including without limitation attorneys’ fees, incurred in connection with or incident to enforcing the Arbitration Award shall, to the maximum extent permitted by law, be charged against the party resisting such enforcement. Judgment upon the Arbitration Award may be entered and enforced by any state or federal court sitting in Wasatch County, Utah.

3. The Arbitration Act. The Bound Parties hereby incorporate herein the provisions and procedures set forth in the Utah Uniform Arbitration Act, U.C.A. § 78B-11-101 *et seq.* (as amended or superseded from time to time, the “**Arbitration Act**”). Notwithstanding the foregoing, pursuant to, and to the maximum extent permitted by, Section 105 of the Arbitration Act, in the event of conflict or variation between the terms of these Arbitration Provisions and the provisions of the Arbitration Act, the terms of these Arbitration Provisions shall control and the Bound Parties hereby waive or otherwise agree to vary the effect of all requirements of the Arbitration Act that may conflict with or vary from these Arbitration Provisions.

4. Arbitration Proceedings. Arbitration between Bound Parties will be subject to the following:

4.1 *Initiation of Arbitration*. The Bound Parties agree that any of the Bound Parties (the “**Petitioner**”) may initiate Arbitration (“**Petitioner**”) by giving written notice (the “**Arbitration Notice**”) to one or more of any of the other Bound Parties (collectively, “**Respondent**”) using any method of service authorized for the commencement of a civil action under the Utah Rules of Civil Procedure (“**Service**”). The Arbitration Notice must describe the nature of the controversy, the identity of the Respondent, the remedies sought, and the election to commence Arbitration proceedings. All Claims in the Arbitration Notice must be pleaded consistent with the Utah Rules of Civil Procedure.

#### 4.2 *Selection and Payment of Arbitrator.*

(a) Petitioner and Respondent shall make good faith efforts to agree on an arbitrator from the roster of arbitrators maintained by Utah ADR Services (<http://www.utahadrservices.com>). If the Petitioner and Respondent cannot agree to an arbitrator, Petitioner or Respondent may seek the appointment of an arbitrator by filing an action in the Fourth Judicial District Court of Utah sitting in Wasatch County and requesting via a motion that the court appoint an arbitrator.

(b) The date that an arbitrator is selected or appointed pursuant to this Paragraph 4.2 and agrees in a writing (including via email) to serve as the arbitrator hereunder is referred to herein as the “**Arbitration Commencement Date.**” If an arbitrator resigns or is unable to act during the Arbitration, a replacement arbitrator shall be chosen in accordance with this Paragraph 4.2 to continue the Arbitration. If Utah ADR Services ceases to exist or to provide a list of neutrals or qualified arbitrators, then the arbitrator shall be selected under the then prevailing rules of the American Arbitration Association.

(c) The cost of the arbitrator must be paid equally by the parties to the Arbitration.

4.3 *Applicability of Certain Utah Rules.* The Bound Parties agree that the Arbitration shall be conducted generally in accordance with the Utah Rules of Civil Procedure and the Utah Rules of Evidence. More specifically, the Utah Rules of Civil Procedure shall apply, without limitation, to the filing of any pleadings, motions, or memoranda, the conducting of discovery, and the taking of any depositions. The Utah Rules of Evidence shall apply to any hearings, whether telephonic or in person, held by the arbitrator. Notwithstanding the foregoing, it is the Bound Parties’ intent that the incorporation of such rules will in no event supersede these Arbitration Provisions. In the event of any conflict between the Utah Rules of Civil Procedure or the Utah Rules of Evidence and these Arbitration Provisions, these Arbitration Provisions shall control.

4.4 *Answer and Default.* The Respondent shall deliver to the arbitrator and all parties to the Arbitration an answer and any counterclaims or crossclaims related to the Arbitration Notice within twenty (20) calendar days after the Arbitration Commencement Date.

4.5 *Discovery.* The Bound Parties agree that discovery shall be conducted as follows:

(a) Written discovery will only be allowed if the likely benefits of the proposed written discovery outweigh the burden or expense thereof, and the written discovery sought is likely to reveal information that will satisfy a specific element of a claim or defense already pleaded in the Arbitration. The party seeking written discovery shall always have the burden of showing that all of the standards and limitations set forth in these Arbitration Provisions are satisfied.

(b) No party shall be allowed (i) more than fifteen (15) interrogatories (including discrete subparts), (ii) more than fifteen (15) requests for admission (including discrete subparts),

(iii) more than ten (10) document requests (including discrete subparts), or (iv) more than three (3) depositions (excluding expert depositions) for a maximum of seven (7) hours per deposition. The costs associated with depositions will be borne by the party taking the deposition. Further, the party defending the deposition will submit a notice to the party taking the deposition of the estimated attorneys' fees that such party expects to incur in connection with defending the deposition. If the party defending the deposition fails to submit an estimate of attorneys' fees within five (5) calendar days of its receipt of a deposition notice, then such party shall be deemed to have waived its right to the estimated attorneys' fees. The party taking the deposition must pay the party defending the deposition the estimated attorneys' fees prior to taking the deposition, unless such obligation is deemed to be waived as set forth in the immediately preceding sentence. If the party taking the deposition believes that the estimated attorneys' fees are unreasonable, such party may submit the issue to the arbitrator for a decision. All depositions of Bound Parties will be taken in Wasatch County, Utah.

(c) All discovery requests (including document production requests included in deposition notices) must be submitted in writing to the arbitrator and the other party. The party submitting the written discovery requests must include with such discovery requests a detailed explanation of how the proposed discovery requests satisfy the requirements of these Arbitration Provisions and the Utah Rules of Civil Procedure. The receiving party will then be allowed, within five (5) calendar days of receiving the proposed discovery requests, to submit to the arbitrator an estimate of the attorneys' fees and costs associated with responding to such written discovery requests and a written challenge to each applicable discovery request. After receipt of an estimate of attorneys' fees and costs and/or challenge(s) to one or more discovery requests, the arbitrator will within three (3) calendar days make a finding as to the likely attorneys' fees and costs associated with responding to the discovery requests and issue an order that (i) requires the requesting party to prepay the attorneys' fees and costs associated with responding to the discovery requests, and (ii) requires the responding party to respond to the discovery requests as limited by the arbitrator within twenty-five (25) calendar days of the arbitrator's finding with respect to such discovery requests. If a party entitled to submit an estimate of attorneys' fees and costs and/or a challenge to discovery requests fails to do so within such 5-day period, the arbitrator will make a finding that (A) there are no attorneys' fees or costs associated with responding to such discovery requests, and (B) the responding party must respond to such discovery requests (as may be limited by the arbitrator) within twenty-five (25) calendar days of the arbitrator's finding with respect to such discovery requests. Any party submitting any written discovery requests to another party, including without limitation interrogatories, requests for production, or requests for admissions, must prepay the estimated attorneys' fees and costs, before the responding party has any obligation to produce or respond to the same, unless such obligation is deemed waived as set forth above.

(d) In order to allow a written discovery request, the arbitrator must find that the discovery request satisfies the standards set forth in these Arbitration Provisions and the Utah Rules of Civil Procedure. The arbitrator must strictly enforce these standards. If a discovery request does not satisfy any of the standards set forth in these Arbitration Provisions or the Utah Rules of Civil Procedure, the arbitrator may modify such discovery request to satisfy the applicable standards, or strike such discovery request in whole or in part.

(e) Each party may submit expert reports (and rebuttals thereto), provided that such reports must be submitted within sixty (60) days of the Arbitration Commencement Date. Each party will be allowed a maximum of two (2) experts unless the arbitrator orders otherwise. Expert reports must contain the following: (i) a complete statement of all opinions the expert will offer at any hearing or arbitration and the basis and reasons for them; (ii) the expert's name and qualifications, including a list of all the expert's publications within the preceding ten (10) years, and a list of any other cases in which the expert has testified at trial, hearing, arbitration, or in a deposition or prepared a report within the preceding ten (10) years; and (iii) the compensation to be paid for the expert's report and testimony. The Bound Parties are entitled to depose any other party's expert witness one (1) time for no more than four (4) hours. An expert may not testify in a party's case-in-chief concerning any matter not fairly disclosed in the expert report.

4.6 *Dispositive Motions.* Each party shall have the right to submit dispositive motions pursuant to the Utah Rules of Civil Procedure (a "**Dispositive Motion**"). Within seven (7) calendar days of delivery of the Dispositive Motion the other party shall deliver to the arbitrator and to the other party a memorandum in opposition to the Dispositive Motion (the "**Memorandum in Opposition**"). Within seven (7) calendar days of delivery of the Memorandum in Opposition, as applicable, the party that submitted the Dispositive Motion shall deliver to the arbitrator and to the other party a reply memorandum to the Memorandum in Opposition ("**Reply Memorandum**"). If the applicable party shall fail to deliver the Memorandum in Opposition as required above, or if the other party fails to deliver the Reply Memorandum as required above, then the applicable party shall lose its right to so deliver the same, and the Dispositive Motion shall proceed regardless.

4.7 *Confidentiality.* All information disclosed by any party (or such party's agents) during the Arbitration process (including without limitation information disclosed during the discovery process) shall be considered confidential in nature. Each party agrees not to disclose any confidential information received from the other party (or its agents) during the Arbitration process (including without limitation during the discovery process) unless (a) prior to or after the time of disclosure such information becomes public knowledge or part of the public domain, not as a result of any inaction or action of the receiving party or its agents, (b) such information is required by a court order, subpoena, or similar legal obligation to be disclosed if such receiving party has notified the other party thereof in writing and given it a reasonable opportunity to obtain a protective order from a court of competent jurisdiction prior to disclosure, or (c) such information is disclosed to the receiving party's agents, representatives, and legal counsel on a need to know basis who each agree in writing not to disclose such information to any third party. The arbitrator is hereby authorized and directed to issue a protective order to prevent the disclosure of privileged information and confidential information upon the written request of any party.

4.8 *Authorization; Timing; Scheduling Order.* Subject to all other portions of these Arbitration Provisions, the Bound Parties hereby authorize and direct the arbitrator to take such actions and make such rulings as may be necessary to carry out the Bound Parties' intent for the Arbitration proceedings to be efficient and expeditious. The Bound Parties hereby agree that an Arbitration Award must be made within one hundred eighty (180) calendar days after the Arbitration Commencement Date, unless the arbitrator, for good cause, extends this deadline. The arbitrator shall not, however, extend the deadline to issue an Arbitration Award to more than five-

hundred and forty (540) calendar days after the Arbitration Commencement Date. The arbitrator is hereby authorized and directed to hold a scheduling conference within ten (10) calendar days after the Arbitration Commencement Date in order to establish a scheduling order with various binding deadlines for hearings, discovery, expert testimony, and the submission of documents by the Bound Parties to enable the arbitrator to render a decision prior to the end of such 180-day period.

4.9 *Relief.* The arbitrator shall have the right to award or include in the Arbitration Award (or in a preliminary ruling) any relief which the arbitrator deems proper under the circumstances, including, without limitation, specific performance and injunctive relief, provided that the arbitrator may not award exemplary or punitive damages.

4.10 *Fees and Costs.* As part of the Arbitration Award, the arbitrator is hereby directed to require the losing party to (a) pay the full amount of any unpaid costs and fees of the Arbitration, and (b) reimburse the prevailing party for all reasonable attorneys' fees, arbitrator costs and fees, deposition costs, other discovery costs, and other expenses, costs, or fees paid or otherwise incurred by the prevailing party in connection with the Arbitration.

## 5. Miscellaneous.

5.1 *Severability.* If any part of these Arbitration Provisions is found to violate or be illegal under applicable law, then such provision shall be modified to the minimum extent necessary to make such provision enforceable under applicable law, and the remainder of the Arbitration Provisions shall remain unaffected and in full force and effect.

5.2 *Governing Law.* These Arbitration Provisions shall be governed by the laws of the State of Utah without regard to the conflict of laws principles therein.

5.3 *Interpretation.* The headings of these Arbitration Provisions are for convenience of reference only and shall not form part of, or affect the interpretation of, these Arbitration Provisions.

5.4 *Waiver.* No waiver of any provision of these Arbitration Provisions shall be effective unless it is in the form of a writing signed by the party granting the waiver.

## **EXHIBIT G**

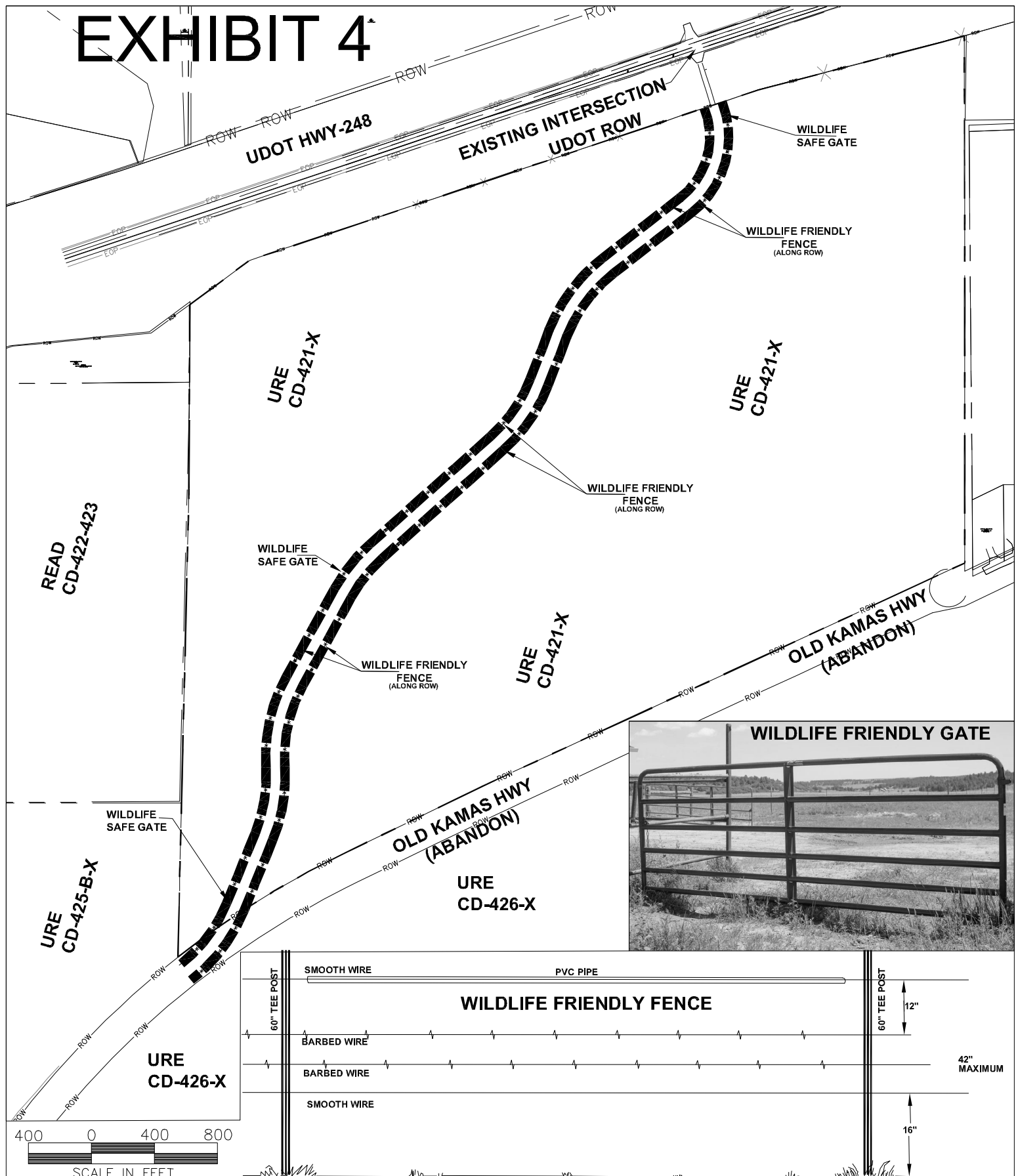
(Summit County Road Agreement)

**EXHIBIT 4  
TO  
MEMORANDUM OF AGREEMENT**

**BRE FENCING PLAN**

**[SEE ATTACHED]**

# EXHIBIT 4



**WAKARA FENCING**

WAKARA PRIMARY ACCESS  
EXHIBIT 4

PRINT DATE: 7-8-2026



**GATEWAY CONSULTING, Inc.**

P.O. BOX 951005 SOUTH JORDAN, UT 84095

PH: (801) 694-5848

paul@gatewayconsultingllc.com

CIVIL ENGINEERING • CONSULTING • LAND PLANNING  
CONSTRUCTION MANAGEMENT

**EXHIBIT 5  
TO  
MEMORANDUM OF AGREEMENT**

**GRAPHIC DEPICTION  
OF  
BRE'S  
EMERGENCY ACCESS  
THROUGH TUHAYE**

**[SEE ATTACHED]**

**EXHIBIT 5**

**EXISTING TUOHAY PROJECT**

**EMERGENCY ACCESS ROUTE 1**

**EMERGENCY ACCESS ROUTE 2**

**EMERGENCY ACCESS ROUTE 3**

**EMERGENCY ACCESS ROUTE 4**

TO KAMAS

Powered by Esri

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WAKARA PRIMARY ACCESS  
EXHIBIT 5

**CIVIL ENGINEERING • CONSULTING • LAND PLANNING  
CONSTRUCTION MANAGEMENT**

**EXHIBIT 6  
TO  
MEMORANDUM OF AGREEMENT**

**RECORDED DOCUMENTS EVIDENCING  
EMERGENCY ACCESS THROUGH  
TUHAYE**

**[SEE ATTACHED]**

EXHIBIT B

[Emergency Egress Conditions]

Ent 520304 Bk 1411 Pg 169-174  
 Date: 31-MAY-2022 12:33:29PM  
 Fee: \$40.00 Check Filed By: TC  
 MARCY M MURRAY, Recorder  
 WASATCH COUNTY CORPORATION  
 For: STORIED DEER VALLEY LLC

**WHEN RECORDED RETURN TO:**

Storied Deer Valley, LLC  
 9785 North Tuhaye Park Drive  
 Kamas, Utah 84036

Tax Parcel No. \_\_\_\_\_

---

**EMERGENCY EGRESS EASEMENT**

Storied Deer Valley, LLC / Wasatch County

**THIS INSTRUMENT** is effective as of the 20<sup>th</sup> day of May, 2022 (the "**Effective Date**"), and executed by **STORIED DEER VALLEY, LLC**, a Delaware limited liability company ("**Storied**"), whose address is 9785 North Tuhaye Park Drive, Kamas, Utah 84036, in favor of **WASATCH COUNTY**, a political subdivision of the state of Utah (the "**County**"), whose address is 25 North Main Street, Heber City, Utah 84032, and the Wakara Ridge development ("**Wakara Ridge**"), together with the owner(s) of Wakara Ridge and their respective successors and assigns.

**FOR THE SUM OF TEN DOLLARS (\$10.00)** and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Storied hereby conveys to the County and Wakara Ridge an emergency egress easement (the "**Easement**") over and across the real property (the "**Property**") located in Wasatch County, Utah, described as follows, and depicted on the attached Exhibit A, incorporated by this reference:

A PARCEL OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 27, TOWNSHIP 2 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN, OPEN SPACE PARCEL "K" OF TUHAYE COUGAR MOON PHASE 2 SUBDIVISION, WASATCH COUNTY, UTAH. SAID PARCEL IS FURTHER DESCRIBED AS FOLLOWS: BEGINNING AT A POINT S00°08'42"W 2260.12 FEET AND N90°00'00"E 5307.19 FEET FROM THE WEST QUARTER CORNER OF SAID SECTION 27; AND RUNNING THENCE S89°52'24"E 12.47 FEET; THENCE S00°07'36"W 50.00 FEET; THENCE N89°52'24"W 12.34 FEET; THENCE ALONG A NON-TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 52.00 FEET, A DISTANCE OF 52.16 FEET, A CHORD DIRECTION OF N00°01'04"W, AND A CHORD DISTANCE OF 50.00 FEET.

**THE EASEMENT** is conveyed subject to the following conditions:

1. Any road improvements within the Easement that are required to meet County standards for emergency egress are the sole responsibility of Wakara Ridge. Wakara Ridge shall, at its sole cost and expense, perform in a timely manner all maintenance, repair and replacement on the Property required by the County or that is otherwise necessary or appropriate.
2. The Easement is for emergency egress purposes only and will not be regularly accessible by any residents of Wakara Ridge.
3. The crash gate controlling use of the Easement, designed to prevent regular resident access from Wakara Ridge to Cougar Moon Phase 2, shall:

Emergency Egress Easement  
 Storied Deer Valley, LLC / Wasatch County

- (a) be within the boundaries of Wakara Ridge, with the setback at least 20 feet to the East of the easterly boundary line of the Property;
- (b) be built at the sole cost and expense of Wakara Ridge in accordance with the County code and standards prior to the County issuing building permits within that phase of Wakara Ridge;
- (c) be built to Tuhaye Design Guidelines in effect as of the Effective Date;
- (d) be reviewed and approved by Storied, with constructive input regarding any deficiency in crash gate design, in a single response within thirty (30) days after the receipt by Storied of the design or any redesign that addresses such constructive input; and
- (e) have its electrical connection provided through Wakara Ridge.

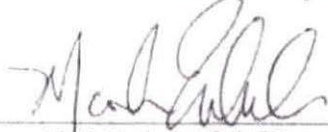
4. This instrument shall inure to the benefit of, and be binding on, the parties hereto and their respective successors and assigns. This instrument shall be governed by, and construed and interpreted in accordance with, the laws (excluding the choice of laws rules) of the state of Utah.

*[Remainder of page intentionally left blank; signature and acknowledgment on following page]*

**STORIED** has executed this instrument below in favor of the County, to be effective as of the date first set forth above.

**STORIED:**

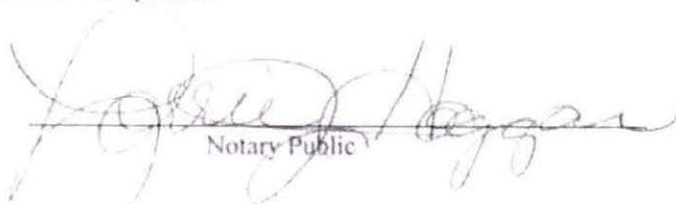
**STORIED DEER VALLEY, LLC,**  
a Delaware limited liability company

By   
Mark Enderle, Chief Executive Officer

State of Utah )  
~~Tennessee~~ )  
County of Wasatch ) ss.  
~~Williamson~~ )

The foregoing instrument was acknowledged before me this 20<sup>th</sup> day of May, 2022, by Mark Enderle, the Chief Executive Officer of Storied Deer Valley, LLC.



  
Notary Public

My Commission Expires:

May 16, 2026

Residing at:

Oakley, Utah

EXHIBIT A

to

**EMERGENCY EGRESS EASEMENT**

---

**PROPERTY**

(See attached)



5/12/2022

Scale: 1 inch = 7 feet

File:

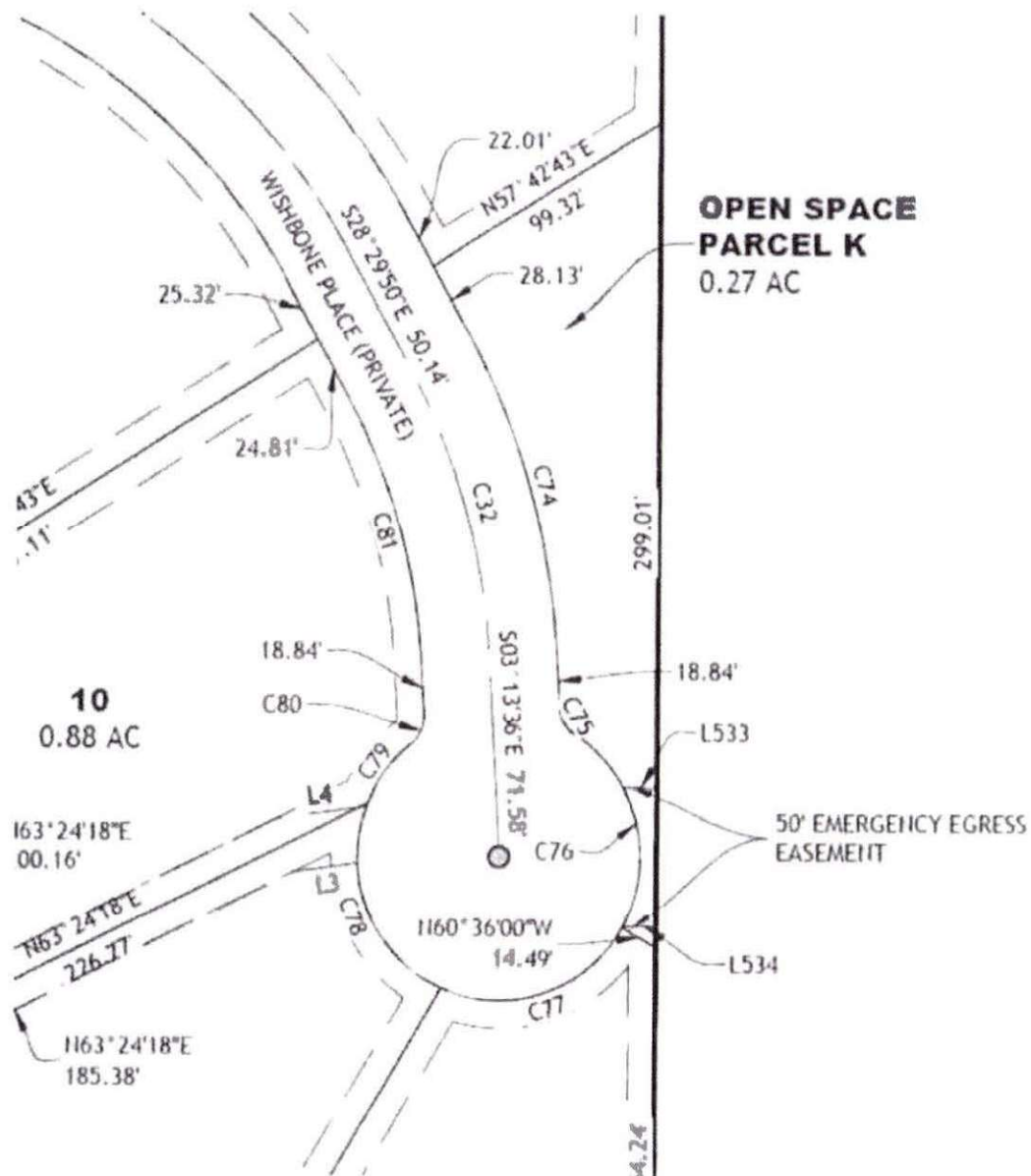
Tract 1: 0.0093 Acres (404 Sq. Feet), Closure: n00.0000e 0.00 ft. (1/32122), Perimeter=127 ft.

01 s89.5224e 12.47

02 s00.0736w 50

03 n89.5224w 12.34

04 LI, r=52.00, chord=n00.0104w 50.00



Emergency Egress Easement  
 Stoned Deer Valley, LLC / Wasatch County



**MINUTES OF THE  
WASATCH COUNTY PLANNING COMMISSION  
MARCH 10, 2022**

**PRESENT:** Chuck Zuercher, Doug Grandquis, Mark Hendricks (*via Zoom*) Wendell Rigby, Karl McMillan, Kimberly Cook (*via Zoom*)

**EXCUSED:** Commissioner Scott Brubaker.

**STAFF:** Doug Smith, Wasatch County Planner; Austin Corry, Assistant Wasatch County Planner; Jon Woodard, Assistant Wasatch County Attorney; Rick Tatton, Court Reporter (*via Zoom*).

**PRAYER:** Commissioner Wendell Rigby

**PLEDGE OF ALLEGIANCE:** Led by Chair Chuck Zuercher and repeated by everyone.

Chair Chuck Zuercher called the meeting to order at 6:00 p.m. and welcomed any public who were in attendance electronically or in person. All the Planning Commission members are present except Commissioner Scott Brubaker who is excused. Commissioner Kimberly Cook is present via Zoom and Commissioner Mark Hendricks is present via Zoom. The Planning Commission is meeting in the Wasatch County Council Chambers in the Wasatch County Administration Building located at 25 North Main, Heber City, Utah 84032.

Chair Chuck Zuercher then read the following:

“As indicated on the screen, a required public hearing will be held for certain agenda items prior to Planning Commission action. After each such item has been presented, time to comment will be provided for all those who wish to speak.

For items that do not require a public hearing, public comment may still be taken following presentation of the item, however, please keep in mind the following: In making land use decisions, the Planning Commission can only rely on substantial evidence on the record, which is that amount and quality of evidence relevant to proving or disproving a specific requirement of the applicable law. The Planning Commission cannot base land use decisions on public clamor, nor should they make a recommendation to the Council based on public clamor.

During any public comment period, each speaker will generally be limited to three minutes. Additional time may be given to individuals specifically invited to speak by the Planning Commission.”

Chair Chuck Zuercher then called the first agenda item.

---

**APPROVAL OF THE MINUTES FROM THE FEBRUARY 10, 2022 MEETING**

**Motion**

**Commissioner Karl McMillan made a motion to approve the minutes for February 10, 2022 as written.**

**Commissioner Wendell Rigby seconded the motion.**

**The motion carries with the following vote:**

**AYE:** Chair Chuck Zuercher, Kimberly Cook, Mark Hendricks, Karl McMillan, Wendell Rigby, Doug Grandquis.

**NAY:** None.

---

**CONSENT AGENDA**

exception of Item No. 7 in those findings which I move to be deleted, and subject to the conditions that are outlined in the staff report, except items six and seven which I move be deleted and replaced with a new Item 6 which says that the applicant will work with staff and submit to staff a grading and retaining plan and that it be left to staff's discretion to confirm compliance with the code and furthermore in the event that the applicant and staff cannot agree about compliance that then the process of review and review by the Planning Commission and recommendation to the County Council be followed as outlined in the code. If there is a discrepancy in the interpretation of the code it would be brought back to the Planning Commission for the ability to approve the item. If the Staff reviews the code and decides that this isn't something that we could approve that we would bring it back to the Planning Commission. Condition No. 7 is completely gone now.

Commissioner Karl McMillan seconded the motion.

The motion carries with the following vote:

AYE: Chair Chuck Zuercher, Kimberly Cook, Mark Hendricks, Wendell Rigby, Karl McMillan.

NAY: Doug Grandquis.

---

**ITEM 5      RHETT RIDING, REPRESENTING STORIED DEER VALLEY LLC, REQUESTS LARGE SCALE FINAL SUBDIVISION APPROVAL FOR TUHAYE COUGAR MOON PHASE 2, A PROPOSED 48 LOT RESIDENTIAL PHASE CONSISTING OF 83.41 ACRES OF THE OVERALL TUHAYE MASTER DEVELOPMENT LOCATED IN SECTION 28, TOWNSHIP 2 SOUTH, RANGE 5 EAST IN THE JORDANELLE BASIN OVERLAY ZONE (JBOZ). (DEV-4838; AUSTIN CORRY)**

---

**Staff**

Austin Corry, Assistant Wasatch County Planner, presented a Power Point presentation and then addressed the Wasatch County Planning Commission and indicated that Cougar Moon is a neighborhood located at the southernmost edge of the Tuhaye large scale development. A 1,725 acre, 900 ERU master plan project. The application is for final approval of phase 2 of the neighborhood. Tuhaye in their development agreement have a 42 percent open space requirement. Tuhaye has purchased additional land to the west of their development and added two phases, one called Painted Bluff and one called Dancing Sun. This is pretty straight forward as far as the final subdivision. Wakara Ridge, which used to be referred to as Berg Ridge, just to the east of this. The proximity of this cul-de-sac to their project and Wakara Ridge's plan to use this for their secondary emergency access. We received some public comments through e-mails and the Planning Commission indicated that they have received those and read them. Wakara Ridge and Tuhaye developers have been in discussion over the last day talking about conditions. Tuhaye has expressed that they are willing to grant an easement for Wakara Ridge to construct into their property and connect to that cul-de-sac. Tuhaye has placed some conditions on what they want to see in order to grant that. This is a private discussion between them but it involves the County just in the aspect of understanding that there is a potential connection there. The Wakara Ridge Group has asked the Planning Commission that access be included as part of the approval. For all intents and purposes from the Staff's standpoint to present to the Planning Commission that the Planning Staff has evidence that the two parties are in agreement of how they will work that through with that access. The plat would have some easement language right down by the cul-de-sac. Everything will look the same as what the Planning Commission is seeing tonight.

Austin Corry then went through the proposed findings:

1. The subject property is 83.41 acres and include 48 proposed lots and 2.88 acres of open space with an additional 73.51 acres of open space added to the plat to total 156.92 acres.
2. Preliminary approval was granted for this neighborhood in 2019.
3. The overall Tuhaye project master plan was granted 900 ERUs of potential density.
4. If approved, this plat would result in a total of 650 units within the development.
5. The density being proposed is consistent with what was approved in the original master plan and preliminary plan.
6. The Tuhaye development is required to maintain 42 percent open space.
7. The project still has a future neighborhood called Painted Bluff and a 35 acre short course golf amenity that have not yet been developed.
8. The Development Review Committee has reviewed the project and provides a favorable recommendation regarding code compliance.

Austin Corry then went through the proposed conditions:

1. All issues raised by the DRC, as noted in the DRC report dated 2/23/2022, shall be resolved to the satisfaction of the applicable review department prior to plat recording.
2. That Tuhaye and Wakara Ridge developers finalize any necessary agreements or coordination between the two parties for the emergency access needs between Wakara Ridge and Cougar Moon Phase 2. *What the County would see is the easement showing up on the plat.*

Jon Woodard, Assistant Wasatch County Attorney, indicated that what we have just heard from Wakara Ridge and from the Tuhaye applicant is that they have an agreement that is worked out and changing the condition the way that I proposed it by eliminating the word "should" would make it clear that it is a requirement that those agreements be followed as opposed to a suggestion that they move forward with them.

Commissioner Wendell Rigby had a question with what Jon Woodard was suggesting and the second condition, how would you suggest that we change that? Jon Woodard indicated that the applicant and Wakara Ridge have represented that what has been presented tonight is an acceptable final agreement. I don't know how they want to memorialize that but it is on our records as to what their understanding is and I think that is helpful. The condition as it is written would make it clear that those agreements need to be final and we are clear on the record they are going to add that little easement there at the end of the cul-de-sac onto the final plat and that takes care of everything that we need. I think the condition as it is written works just fine.

Dave Cummings, for Wakara Ridge, and Rhett Riding, for Storied Deer Valley (Tuhaye), have discussed the access proposal and mentioned the access issue with Wakara Ridge. Both parties acknowledged they are agreeable to conditions for access between the two properties as presented. Storied Deer Valley will provide an easement and the Wakara Ridge developers will bear the burden of cost for the connection and crash gate. Dave Cummings indicated that there will be a small section of open space on the far hand right and a little bit of open space as it comes around and have already submitted through phase 1 and 2 a mylar version. Would you want to have it put in an easement and then resubmit, but I would rather do that than have to do a plat amendment after we record it. Austin Corry indicated that is what the staff would want to see. Dave Cummings indicated that he will resubmit phase 2 with that easement showing.

Austin Corry then went through the DRC comments:

**JORDANELLE SSD comments:**

- Coordinate construction plan review with district engineer.

**ENGINEERING comments:**

- Condition of approval: Prior to construction, a wetlands assessment must be made and any necessary USACE permit obtained for work disturbing wetlands/riverine habitats.

**RECORDER comments:**

- COA: I suggest that we show the open space areas from page 9 on the vicinity map on page 1. Also, add the legal descriptions from page 9 to page 19. You can leave them on page 9.

**Public Comment**

Chair Chuck Zuercher then opened the hearing up for public comment and there was none so the public comment period was closed.

**Motion**

**Commissioner Doug Grandquis made a motion to approve, in light of the findings and subject to the conditions, on Item No. 5, Final approval of Tuhaye Cougar Moon Phase 2.**

**Commissioner Karl McMillan seconded the motion.**

**The motion carries with the following vote:**

**AYE: Chair Chuck Zuercher, Kimberly Cook, Mark Hendricks, Wendell Rigby, Karl McMillan, Doug Grandquis.**

NAY: None.

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**ITEM 6**      **VR ACQUISITIONS LLC REQUESTS FINAL SUBDIVISION AND SITE PLAN APPROVAL FOR THE VICTORY RANCH GOLF COURSE AND CLUBHOUSE COMPRISING A 25,000 SF CLUBHOUSE, ASSOCIATED PARKING, AND THE GOLF COURSE ON 268.95 ACRES LOCATED INTERIOR TO THE VICTORY RANCH MASTER PLANNED COMMUNITY AT 7474 N. VICTORY CLUB DRIVE IN THE JORDANELLE BASIN OVERLAY ZONE (JBOZ). (DEV-5016; AUSTIN CORRY)**

**Staff**

Austin Corry, Assistant Wasatch County Planner, addressed the Wasatch County Planning Commission and indicated that Victory Ranch is working with the County staff to address comments and concerns with the project. We request that it is continued indefinitely until the concerns have been resolved. It will be advertised for the next applicable meeting and a comprehensive staff report will be provided detailing the project. We would ask for a motion to continue the matter to April 14, 2022 which is our next meeting date.

**Motion**

**Commissioner Karl McMillan made a motion that we continue to April 14, 2022, Item No. 6, Final Subdivision and Site Plan Approval of the Victory Ranch Golf Course and Clubhouse.**

**Commissioner Wendell Rigby seconded the motion.**

**The motion carries with the following vote:**

**AYE: Chair Chuck Zuercher, Kimberly Cook, Mark Hendricks, Wendell Rigby, Karl McMillan, Doug Grandquis.**

**NAY: None.**

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**ADJOURNMENT**

**Motion**

**Commissioner Doug Grandquis made a motion to adjourn.**

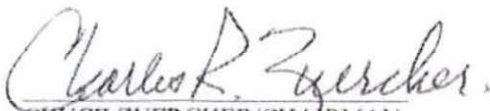
**Commissioner Wendell Rigby seconded the motion.**

**The motion carries with the following vote:**

**AYE: Chair Chuck Zuercher, Doug Grandquis, Wendell Rigby, Karl McMillan, Mark Hendricks, Kimberly Cook.**

**NAY: None.**

Meeting adjourned at 7:30 p.m.

  
CHUCK ZUERCHER/CHAIRMAN



07/27/2001 09:52 4356492561

TESCH VANCE MILLER

PAGE 02

Ent 235402 Bk 0514 Pg 0183-0201  
 ELIZABETH PARCELL, Recorder  
 WASATCH COUNTY CORPORATION  
 2001 JUL 27 3:34pm Fee 43.00 MMM  
 FOR HIGH COUNTRY TITLE

ROADWAY, UTILITIES AND WATER STORAGE  
 EASEMENTS AND AGREEMENT

For ten dollars (\$10.00) and other good and valuable consideration Douglas Ray Cummings and Joan B. Cummings, man and wife, ("Grantors") and owners of the property described on Exhibit A hereby grant to INTELL UTAH, LLC ("Intell") the owners of the property described on Exhibit "B" and its successors and assigns, an irrevocable roadway and utility easement across and burdening the property described in Exhibits "A" and "B" for the sole benefit of the property described in Exhibits "A" and "B" (the "Property") as set forth below:

1. Roadway Easement: Grantors and Intell hereby grant each other a Roadway Easement in the locations shown on Exhibit "C" attached with the following conditions and modifications:
  - (a) The exact location of the Easement will be determined in such a manner as is designed to minimize all cuts and fill requirements and will be recorded as part of the final site plans for the parcels adjacent to and with a common boundary with the Easements. Any location which does not minimize all cut and fill requirements and/or closely approximate the location as shown on Exhibit "C" will require the mutual consent of both Grantors and Intell.
  - (b) The more northern Roadway Easement as shown on Exhibit "C" shall be available only for emergency access-egress with regard to the Property. The emergency access-egress road shall not be paved; shall have a "blast down gate" at all intersections with any other paved road, with keys to the gates available to all Grantors and to Intell at all times; and shall be the minimum width in road service and right-of-way as is required by Wasatch County for an emergency access-egress roadway.
  - (c) The more southern Roadway Easement as shown on Exhibit "C" shall be a fully developed road with road construction criteria and right-of-way width only as wide as is required by Wasatch County with regard to approved development on the Property.
  - (d) Except as otherwise provided, the Roadway Easement shall be for general pedestrian, roadway and highway travel, for construction, maintenance, repair and snowplowing.
2. Utilities Easement: The Grantors and Intell hereby grant to each other an easement for the construction, installation, maintenance and repair of all utilities for the service of the development of the Property, including but no limited to water, sewer, natural gas, electricity,

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telephone, television cable and internet cable. The Property subject to the utility easement shall be limited to the Roadway Easement and Right-of-Way as shown on the final site plan.

3. Water Storage Easement: There is a pond shown on Exhibit "C" labeled Pond #1. This pond is currently contemplated but underdeveloped. Grantors and Intell hereby grant to each other an easement to construct, maintain and repair such ponds for water storage and recirculation of water for irrigation and other uses within the Property. The Easement shall be for all necessary and related purposes, including constructing the pond, digging the holes and constructing a dam and installing pumping equipment and related utilities. The pond shall be approximately as shown on Exhibit "C" with its exact size and location determined by actual slope and natural grade considerations. Intell shall pay for all construction, maintenance, and repair. Cummings may continue to water their livestock through access to the pond from the property shown on Exhibit "A" at no cost.
4. Access: The parties further agree to provide to each other reasonable access to adequate utility connections and stubs to each other's parcels to provide for the development of their respective parcels, which shall include all utilities used by either parcel including but not limited to, natural gas, electric power, water, telephone, cable, and storm and sanitary sewer. Reasonable access to adequate utility connections shall be reciprocal between and among the parties to this Agreement. Intell agrees to provide utility lines sized in accordance with applicable ordinances, regulations and codes that will allow the development of all portions of the Property. All easements granted for ingress, egress, construction, maintenance, and operation of the road access points, shared roads, and access to adequate utility connections and stubs shall be perpetual, reciprocal and for the mutual benefit of the parties to this Agreement, their successors, assigns, guests and invitees. Additionally, all easements for grading and roadway purposes shall include necessary easements for slopes and drainage construction and shall also be reciprocal between and among the parties to this Agreement.
5. Cost Sharing Agreements for Roads and Utilities: The parties agree to share the costs and expenses associated with the roads and utilities, their design, construction and maintenance as follows:
  - (a) Intell shall pay for all costs and expenses associated with the design, construction, maintenance, and operation (including snowplowing) of the shared roads and utilities (excepting culinary water and sewer, which are the responsibility of JSSD), and access to adequate utility connections and stubs for all portions of the Property.

- (b) Grantors shall reimburse Intell only for its proportionate share of costs and expenses associated with the design, construction, maintenance and operation (including snowplowing) of the roads, road access points and access to adequate utility connections and stubs from which it directly benefits. The proportionate share of costs and expenses shall be calculated according to the following formula, which will create a percentage contribution, and is based on the number of Equivalent Residential Units ("ERUs") finally approved by Wasatch County for each parcel i.e. Grantors shall be required to reimburse Intell for its pro-rata share of said costs based upon Equivalent Residential Units finally approved by Wasatch County on both parcels.
- (c) All costs and expenses to be paid to Intell, pursuant to this Agreement, for the design, construction, maintenance, and operation of shared roads and utilities, shall become due and payable to Intell on the date Cummings receive its final approval for the first phase of its Cummings' respective development, if any, from Wasatch County. Cummings shall reimburse Intell, its successors and assigns, its proportionate share of the amount Intell has paid for the items set forth in subsection (a) above. Intell shall keep an adequate and separate record of any such costs and expenses to be reimbursed by the Cummings, including verifiable documentation supporting each cost and expense. At any time after Wasatch County or any utility provider has accepted as completed any road or other utility, Grantors may request in writing to Intell Utah, LLC c/o Joseph E. Tesch, PO Box 3390, Park City, Utah 84060 (or as otherwise directed in writing by Intell) a statement of all costs and expenses related to such improvement. Intell shall provide the same to Grantors within thirty (30) calendar days of such requests. Cummings shall have reasonable access to all supporting documentation upon request. If a party to this Agreement disputes the costs properly disclosed on a timely delivered accounting, then the parties shall enter into good faith negotiations to resolve the dispute. If the dispute cannot be resolved through negotiation, then the parties agree to mediate the dispute. From the date Intell receives final plat approval on Phase I and begins to incur costs for the improvements contemplated by this Agreement, and for each such payment made thereafter, the Engineering News Record Construction Index (the "ENR") shall be used to increase Grantor's proportionate amount due as set forth herein. The ENR is defined as the index published as the standard in the construction industry to determine the national and regional averages of incremental costs associated with construction. For the purposes of this Agreement, the part of

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the index that most accurately describes the regional and local location of the parties hereto shall be used. In the event the ENR is not published at the time reimbursement from the Grantors is due, the Consumer Price Index (the "CPI") shall be used as a substitute index to increase or modify each Grantors' proportionate amount due

6. NO PUBLIC DEDICATION. Nothing in this Agreement shall be deemed to be a gift or dedication of any portion of an easement or a parcel to or for the general public or for any public purposes whatsoever. It is the intention of the parties hereto that this Agreement and road and utility access issues set forth herein, be strictly limited to and for and in accordance with the purposes expressed herein.

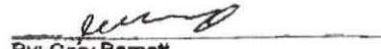
IN WITNESS HEREOF, the parties have executed this Agreement as of this 27th day of July, 2001.

Cummings

  
Douglas Ray Cummings

  
Joan B. Cummings

INTELL UTAH, LLC  
By: TALIBAR UTAH, L.L.C., a Utah  
Limited Liability Company, and  
Manager of INTELL UTAH, LLC

  
By: Gary Barnett  
Its: Manager/Member

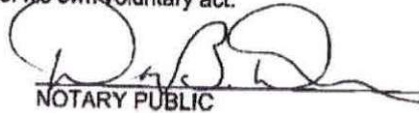
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State of Utah )  
 ) ss.  
 County of Summit )

On this the 27th day of July, 2001, personally appeared before me, DOUGLAS RAY CUMMINGS whose identity is personally known to me or have been proven on the basis of satisfactory evidence, and being first duly sworn, acknowledged that he was duly authorized to sign the foregoing instrument and that he did so of his own voluntary act.

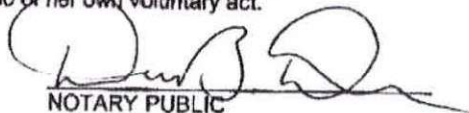
  
 NOTARY PUBLIC

My Commission Expires:

7-12-04

State of Utah )  
 ) ss.  
 County of Summit )

On this the 27th day of July, 2001, personally appeared before me, JOAN B. CUMMINGS, whose identity is personally known to me or have been proven on the basis of satisfactory evidence, and being first duly sworn, acknowledged that she was duly authorized to sign the foregoing instrument and that she did so of her own voluntary act.

  
 NOTARY PUBLIC

My Commission Expires:

7-12-04

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TESCH VANCE MILLER

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NEW YORK  
State of Utah )  
:ss.  
County of NEW YORK

On this the 26 day of JUNE, 2001, personally appeared before me, GARY BARNETT, whose identity is personally known to me or have been proven on the basis of satisfactory evidence, and being first duly sworn, acknowledged that he was duly authorized to sign the foregoing instrument and that he did so of his/her own voluntary act.

Hedi Well  
NOTARY PUBLIC

My Commission Expires:

2-14-02

Hedi Well  
Notary Public, State of New York  
Registration #01WE6037190  
Qualified in Queens County  
My Commission Expires Feb. 14, 2002

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## EXHIBIT A

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## EXHIBIT A

Wasatch County, Utah

A parcel of land located in the Northwest Quarter and the Southwest Quarter of Section 26, Township 2 South Range 5 East, Salt Lake Base and Meridian, particularly described as follows:

BEGINNING at the West Quarter Corner of Section 26; thence along the West side of said Section, North 0°02'26" East, 1301.22 feet to the South line of Parcel 1, of the ALTA/ACSM Land Title Survey for The Golf Services Project, prepared by The Sear-Brown Group and dated September 27, 1999; thence along the South line of said Parcel with the nine (9) following bearings and distances: South 89°39'36" East, 221.59 feet and North 16°09'36" East, 89.69 feet and South 74°33'37" East, 87.37 feet and South 8°05'25" East, 211.29 feet and South 38°58'58" East, 180.08 feet and North 83°39'10" East, 129.51 feet and South 79°17'36" East, 264.57 feet and South 88°18'49" East, 401.79 feet and South 66°51'26" East, 90.33 feet to the North-South Quarter Quarter Section Line of the Northwest Quarter section of said Section 26; thence along said Quarter Quarter Section Line, South 0°06'52" West, 947.14 feet to the Northeast Corner of the Northwest Quarter of the Southwest Quarter; thence along the North-South Quarter Quarter Section Line of the Southwest Quarter of said Section 26 South 0°06'53" West, 364.42 feet; thence leaving said Quarter Quarter Section Line, North 89°19'58" West, 1345.81 feet to the West Line of said Section 26; thence along the West Line of said Section, North 0°02'41" East, 364.43 feet to the POINT OF BEGINNING.

Wasatch County Tax Serial Number: OMC-0144-5

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## EXHIBIT B

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**Parcel 1:** BEGINNING AT THE NORTH QUARTER CORNER OF SECTION 27, TOWNSHIP 2 SOUTH RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN; THENCE SOUTH 89°32'45" EAST 1327.91 FEET ALONG THE NORTH LINE OF SAID SECTION 27; THENCE SOUTH 0°03'06" WEST 1301.22 FEET; THENCE SOUTH 89°32'45" EAST 1328.16 FEET TO THE EAST LINE OF SAID SECTION 27; THENCE SOUTH 89°39'36" EAST 221.59 FEET; THENCE NORTH 16°09'36" EAST 89.69 FEET; THENCE SOUTH 74°33'137" EAST 87.37 FEET; THENCE SOUTH 8°05'25" EAST 211.29 FEET; THENCE SOUTH 38°58'58" EAST 180.08 FEET; THENCE NORTH 83°39'10" EAST 129.51 FEET; THENCE SOUTH 79°17'36" EAST 264.57 FEET; THENCE SOUTH 88°18'49" EAST 401.79 FEET; THENCE SOUTH 66°51'26" EAST 600.32 FEET; THENCE NORTH 74°17'52" EAST 80.32 FEET; THENCE SOUTH 62°16'24" EAST 96.72 FEET; THENCE NORTH 80°41'16" EAST 75.55 FEET; THENCE SOUTH 47°35'18" EAST 74.18 FEET; THENCE NORTH 72°01'23" EAST 143.30 FEET; THENCE SOUTH 62°36'27" EAST 137.23 FEET; THENCE NORTH 84°23'28" EAST 193.35 FEET; THENCE NORTH 0°47'58" EAST 610.51 FEET; THENCE SOUTH 89°48'15" EAST 127.98 FEET TO THE NORTH-SOUTH QUARTER SECTION LINE OF SECTION 26, TOWNSHIP 2 SOUTH RANGE 5 EAST; THENCE NORTH 0°11'46" EAST 1357.41 FEET ALONG SAID QUARTER SECTION LINE TO THE WASATCH-SUMMIT COUNTY LINE; THENCE ALONG SAID COUNTY LINE THE FOLLOWING FIVE (5) COURSES AND DISTANCES: NORTH 76°22'00" WEST 12.63 FEET AND NORTH 85°34'00" WEST 1065.31 FEET AND NORTH 56°47'30" WEST 1393.31 FEET AND NORTH 34°42'30" WEST 931.10 FEET AND NORTH 74°00'30" WEST 1274.16 FEET; THENCE NORTH 89°32'45" WEST 746.01 FEET TO SAID WASATCH-SUMMIT COUNTY LINE; THENCE SOUTH 62°24'00" WEST 675.35 FEET ALONG SAID COUNTY LINE TO THE NORTH-SOUTH QUARTER SECTION LINE OF SECTION 23, TOWNSHIP 2 SOUTH RANGE 5 EAST; THENCE SOUTH 00°31'18" WEST 1671.83 FEET TO THE POINT OF BEGINNING.  
 WASATCH COUNTY TAX SERIAL 202, OWC-0145-2, OWC-0144-3, OWC-0144-4  
 OWC-0142-1, OWC-0142 + OWC-0141-1

**Parcel 2:** BEGINNING AT A POINT ON THE NORTH-SOUTH QUARTER SECTION LINE, SAID POINT BEING NORTH 00°31'18" EAST 1671.83 FEET FROM THE NORTH QUARTER CORNER OF SECTION 27, TOWNSHIP 2 SOUTH RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN, SAID POINT ALSO BEING ON THE SUMMIT-WASATCH COUNTY LINE; THENCE NORTH 62°24'00" EAST 675.35 FEET ALONG SAID COUNTY LINE; THENCE NORTH 89°32'45" WEST 595.62 FEET TO SAID NORTH-SOUTH QUARTER SECTION LINE; THENCE SOUTH 0°31'18" WEST 317.62 FEET TO THE POINT OF BEGINNING.

SUMMIT COUNTY PROPERTY

SUBJECT TO CURRENT GENERAL TAXES, EASEMENTS, RESTRICTIONS, MINERAL RESERVATIONS AND RIGHTS OF WAY OF RECORD.

ALSO SUBJECT TO THAT CERTAIN DEED OF TRUST IN THE ORIGINAL AMOUNT OF \$628,890.21, IN FAVOR OF DOUGLAS RAY CUMMINGS, JOAN CUMMINGS, BILL MOWER, AND SHIRLEY MOWER, RECORDED OCTOBER 6, 1999 AS ENTRY NO. 218466 IN BOOK 439 AT PAGE 561 OF THE OFFICIAL RECORDS IN THE OFFICE OF THE WASATCH COUNTY RECORDER, AND RECORDED OCTOBER 6, 1999 AS ENTRY NO. 550206 IN BOOK 1290 AT PAGE 407 OF THE OFFICIAL RECORDS IN THE OFFICE OF THE SUMMIT COUNTY RECORDER.

**Parcel 3:** A PARCEL OF LAND LOCATED IN SECTIONS 21, 22, 27 AND 28, TOWNSHIP 2 SOUTH RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE EAST QUARTER CORNER OF SAID SECTION 22; THENCE SOUTH 0°00'38" WEST ALONG THE SECTION LINE 663.17 FEET TO THE SOUTH LINE OF THE NORTH HALF OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 22; THENCE NORTH

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89°32'45" WEST ALONG SAID SOUTH LINE 2638.07 FEET TO THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 22; THENCE SOUTH 0°31'18" WEST ALONG SAID WEST LINE 1989.45 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION 22; THENCE SOUTH 89°32'45" EAST ALONG THE SOUTH LINE OF SAID SECTION 22 A DISTANCE OF 1327.91 FEET TO THE EAST LINE OF THE WEST HALF OF THE NORTHEAST QUARTER OF SAID SECTION 27; THENCE SOUTH 0°03'05" WEST ALONG SAID EAST LINE 2602.45 FEET TO THE SOUTH LINE OF SAID NORTHEAST QUARTER; THENCE NORTH 89°32'45" WEST ALONG SAID SOUTH LINE 1328.41 FEET TO THE SOUTHWEST CORNER OF SAID NORTHEAST QUARTER; THENCE SOUTH 0°03'44" WEST 261.88 FEET TO THE SOUTHEAST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 27; THENCE SOUTH 89°58'35" WEST ALONG THE SOUTH LINE OF SAID NORTHWEST QUARTER 2661.64 FEET TO THE WEST QUARTER CORNER OF SAID SECTION 27; THENCE SOUTH 89°44'31" WEST ALONG THE SOUTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 28, A DISTANCE OF 1327.35 FEET TO THE WEST LINE OF THE EAST HALF OF SAID NORTHEAST QUARTER; THENCE NORTH 0°10'31" EAST ALONG SAID WEST LINE 2657.90 FEET TO THE NORTH LINE OF SAID SECTION 28; THENCE NORTH 0°14'24" WEST ALONG THE WEST LINE OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 21, A DISTANCE OF 2681.61 FEET TO THE NORTH LINE OF SAID SOUTHEAST QUARTER; THENCE SOUTH 89°28'20" EAST ALONG SAID NORTH LINE 1331.15 FEET TO THE EAST QUARTER CORNER OF SAID SECTION 21; THENCE NORTH 0°04'35" EAST ALONG THE EAST LINE OF SAID SECTION 21, A DISTANCE 691.32 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF U.S. HIGHWAY 189; THENCE ALONG SAID SOUTHERLY RIGHT OF WAY LINE THE FOLLOWING FIVE (5) COURSES AND DISTANCES; NORTH 87°00'00" EAST 3396.89 FEET AND SOUTH 85°24'20" EAST 302.65 FEET AND NORTH 87°00'00" EAST 1214.70 FEET AND NORTH 87°35'38" EAST 194.76 FEET TO A POINT ON THE ARC OF A 3819.72 FOOT RADIUS CURVE TO THE RIGHT AND NORTHEASTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 3°07'15" A DISTANCE OF 208.06 (CHORD BEARS SOUTH 89°50'46" EAST) FEET TO THE EAST LINE OF SAID SECTION 22; THENCE SOUTH 0°45'35" EAST ALONG SAID EAST LINE 740.30 FEET TO THE POINT OF BEGINNING.

WASATCH COUNTY TAX SERIAL NOS. ACC-0141, ACC-0137-1, ACC-0145

SUBJECT TO CURRENT GENERAL TAXES, EASEMENTS, RESTRICTIONS, MINERAL RESERVATIONS AND RIGHTS OF WAY OF RECORD.

ALSO SUBJECT TO THAT CERTAIN DEED OF TRUST IN THE ORIGINAL AMOUNT OF \$1,052,250.00, IN FAVOR OF VANDERFORD FUNDING, RECORDED AUGUST 3, 1998 AS ENTRY NO. 205461 IN BOOK 390 AT PAGE 529 OF THE OFFICIAL RECORDS IN THE OFFICE OF THE WASATCH COUNTY RECORDER, AND RECORDED JULY 31, 1998 AS ENTRY NO. 514046 IN BOOK 1170 AT PAGE 97 OF THE OFFICIAL RECORDS IN THE OFFICE OF THE SUMMIT COUNTY RECORDER, WHICH OBLIGATION THE GRANTEE HEREIN AGREES TO PAY AND DISCHARGE ACCORDING TO ITS TERMS.

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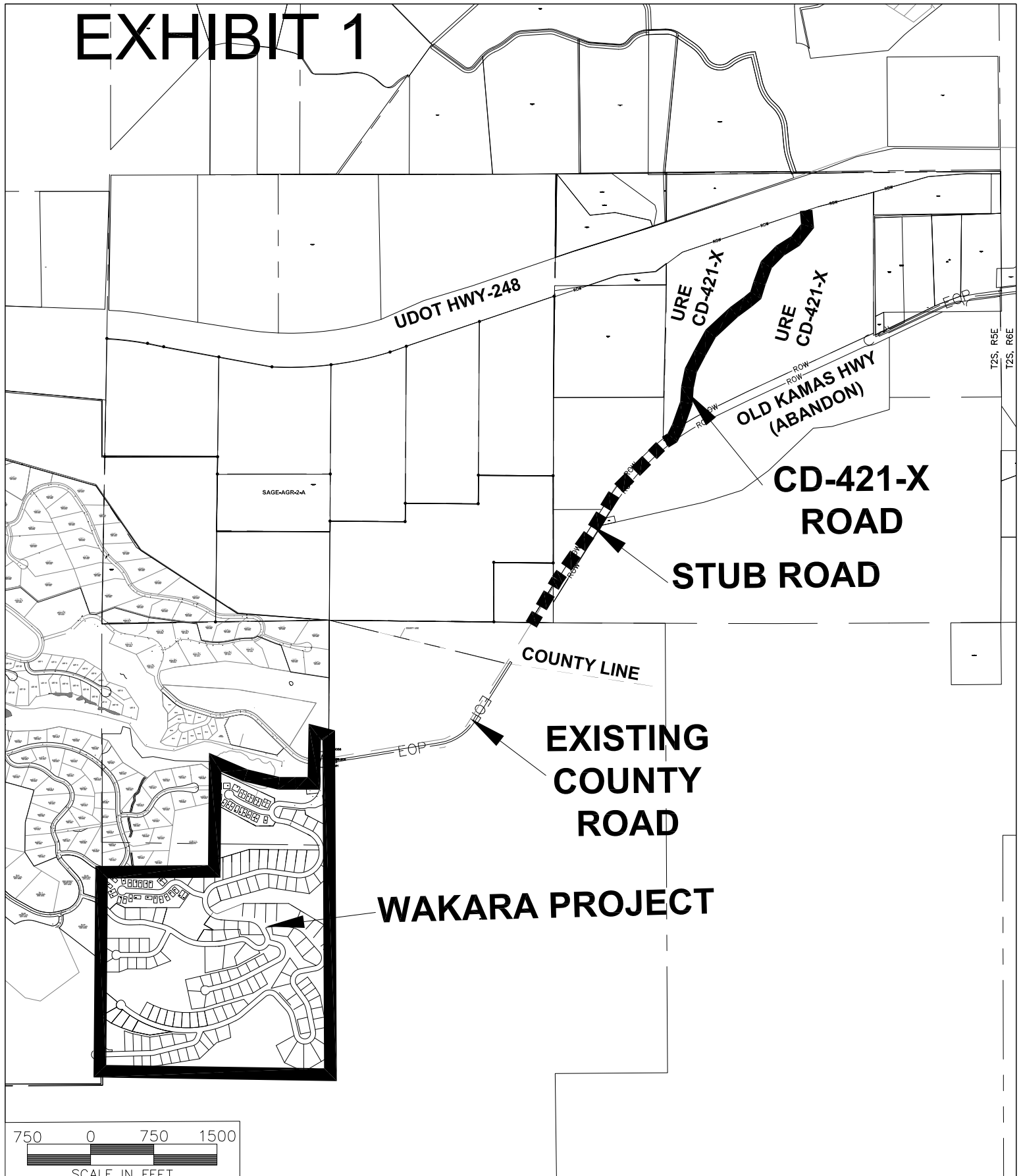
**EXHIBIT 7  
TO  
MEMORANDUM OF AGREEMENT**

**UDOT PRELIMINARY FINDINGS LETTER**

**[SEE ATTACHED]**



# EXHIBIT 1



750 0 750 1500

SCALE IN FEET  
1"=1500'  
(8½X11 SHEET)



## WAKARA ACCESS

WAKARA PRIMARY ACCESS  
EXHIBIT 1

PRINT DATE: 7-8-2026



**GATEWAY CONSULTING, Inc.**

P.O. BOX 951005 SOUTH JORDAN, UT 84095

PH: (801) 694-5848

paul@gatewayconsultingllc.com

CIVIL ENGINEERING • CONSULTING • LAND PLANNING  
CONSTRUCTION MANAGEMENT



State of Utah

SPENCER J. COX  
Governor

DEIDRE M. HENDERSON  
Lieutenant Governor

## DEPARTMENT OF TRANSPORTATION

CARLOS M. BRACERAS, P.E.

*Executive Director*

LISA J. WILSON, P.E.

*Deputy Director of Engineering and Operations*

BENJAMIN G. HUOT, P.E.

*Deputy Director of Planning and Investment*

April 1, 2026

Shayne C. Scott, County Manager  
Summit County  
60 N Main Street  
P.O. Box 128  
Coalville, UT 84017  
Email: [sscott@summitcountyutah.gov](mailto:sscott@summitcountyutah.gov)

Subject: Response to Proposed Access to SR-248 (Wakara Secondary Access Project)

Dear Shayne,

This letter is to address the Utah Department of Transportation's preliminary review regarding the proposed access from the Wakara Secondary Access project to SR-248 opposite Garff Ranch Road.

UDOT's preliminary findings indicate no major concerns with granting access at the proposed connection location. UDOT noted that certain engineering details - specifically acceleration and deceleration treatments and associated lane lengths - will need to be addressed in the final design plans. UDOT anticipates reviewing those details when plan sheets are submitted.

Please let me know if you have any questions.

Regards,

Robert Stewart, Director  
UDOT Region 2

Cc: John Angell, Summit County Engineer, [jangell@summitcountyutah.gov](mailto:jangell@summitcountyutah.gov)  
Peter Barnes, Summit County Community Development Director, [pbarnes@summitcountyutah.gov](mailto:pbarnes@summitcountyutah.gov)  
Ryan Start, Summit County Attorney's Office, [rstart@summitcountyutah.gov](mailto:rstart@summitcountyutah.gov)  
Chris Robinson, Summit County Council, [crobinson@summitcountyutah.gov](mailto:crobinson@summitcountyutah.gov)  
Rich Wolper, M25 Homes, [rich@m25homes.com](mailto:rich@m25homes.com)

# Amendments to Snyderville Basin Development Code Sections:

10-2-18 Master Planned Developments

10-3 Development Application Procedure & Approval Process

10-7-4 Amendments to the Zoning Map

10-11 Definitions

#26-078

Summit County Council

July 29, 2026

Amanda Curtis, County Planner



# Current Problems

- Current code requires a rezone application to demonstrate compliance with chapters 3 & 4 & subject to the MPD process. This requires an extraordinary amount of detail, time, and expense not necessary at this stage
- The effect of these requirements is the significant increase in cost and processing time for the applicants and staff without improving the decision-making process at this early legislative stage.

## 10-7-4: AMENDMENT TO THE ZONING MAP:

- A. ...
- B. ...
- C. Amendment Procedures:
  - 1. If the applicant is a private landowner:
    - a. ...
    - b. ...
  - c. Approval of an amendment to the zone district shall not be granted until both the commission and county council have reviewed the specific development proposal and determined:
    - (1) The amendment complies with the goals, objectives and policies of the general plan, the neighborhood planning area plan, and the land use plan maps;
    - (2) The amendment is compatible with adjacent land uses and will not be overly burdensome on the local community;
    - (3) The specific development plan is in compliance with all applicable standards and criteria for approval as described in chapters 3 and 4 of this title; and
    - (4) The amendment does not adversely affect the public health, safety and general welfare.

## 10-2-18: MASTER PLANNED DEVELOPMENTS:

- A. ...
- B. Applicability:

Required: Unless the property is subject to an approved development agreement, settlement agreement or consent agreement, the MPD process shall be required in all zones for the following:

  - 1. Any application for a rezone; and
  - 2. Any new hotel or lodging project, commercial, retail, office, public, quasi-public, mixed use, or industrial project with ten thousand (10,000) square feet or more of gross floor area.

# Legislative vs Administrative

| Legislative Review (Rezone)                              | Administrative Review (Subdivision/Site Plan)                        |
|----------------------------------------------------------|----------------------------------------------------------------------|
| Is this the appropriate land use for the property?       | Does the project meet all technical code requirements?               |
| Is the proposed density appropriate?                     | Are roads designed to County standards?                              |
| Is the overall development pattern appropriate?          | Are water, sewer, and utilities adequately designed?                 |
| Is the project compatible with surrounding uses?         | Does the stormwater and drainage system function properly?           |
| Is sufficient open space being provided?                 | Are grading, earthwork, and site improvements properly engineered?   |
| Does the proposal advance the goals of the General Plan? | Do the final plans comply with all applicable development standards? |

# Proposed Rezone Process

- Rezone application + Concept Development Plan (CDP)
- CDP must include sufficient information to evaluate density, land use configuration, access/circulation, open space, infrastructure approach, and relationship to adjacent uses
- Detailed engineered plans not required at this stage but the CDP must show enough information to demonstrate all of the above items
- Rezone approval are bound by those key development parameters as a condition of approval. Future subdivision plans will be held to the CDP and any changes to density or overall layout would require a rezone amendment

# Planning Commission June 9 Action

- Planning Commission unanimously recommended approval of the proposed code amendment.
- One Commissioner expressed concern regarding future use of rezone entitlements by subsequent owners for development inconsistent with the approved concept.
- Staff noted that Section 10-7-4(C)(1)(f)(2) already requires a rezone amendment for changes to binding elements or increases in density.
- Development Agreements typically establish vesting, phasing, and expiration provisions that ensure development remains consistent with the approved rezone.
- At the Commission's recommendation, Staff added Section 10-7-4(C)(1)(g)(4), establishing a five-year expiration period for rezones approved with a Concept Development Plan when no Development Agreement is in place.

# Summary

This amendment is intended to ensure that rezones are evaluated at a legislative level based on a Concept Development Plan, while detailed engineering review occurs later through the subdivision and site plan process.

The Planning Commission/Council will retain its authority over development intensity and layout, but is able to exercise that authority earlier in the process.

# Recommendation

Staff recommends that the Summit County Council conduct a work session and provide staff with specific direction on any changes necessary before proceeding with a public hearing



## Community Development Department

P.O. Box 128  
60 North Main Street  
Coalville, Utah 84017  
summitcounty.org

### STAFF REPORT

**To:** Summit County Council  
**From:** Amanda Curtis, County Planner  
**Date of Meeting:** July 29, 2026  
**Date of Report:** June 12, 2026  
**Type of Item:** Snyderville Basin Development Code Amendments – Work Session  
**Final Land Use Authority:** Summit County Council  
**Process:** Legislative  
**Project Number:** 26-078

---

### PROPOSAL

Staff proposes amendments to the Snyderville Basin Development Code (Code) to modify the requirements for Amendments to the Zoning Map under 10-7-4, clarify submittal expectations under 10-2-18, add clarifying language under the Development Application Procedure and Approval Process of 10-3-2, and finally add a definition for Concept Development Plans under 10-11-1.

As currently written, the Code requires full compliance with Chapters 3 and 4 at the rezone application stage. This would require an applicant to prepare detailed site plans and engineering-level materials earlier than necessary. This has created inefficiencies in the review process and increased costs for applicants without improving decision-making at the legislative stage.

The proposed amendments establish a Concept Development Plan (CDP) requirement for rezone applications involving a specific development proposal. The CDP is intended to provide sufficient information to evaluate the proposed development at a conceptual level without requiring fully engineered plans at the time of rezone.

The proposed amendments clarify that:

- Rezones are evaluated based on a Concept Development Plan (CDP), rather than fully engineered plans;
- The CDP must include sufficient information to evaluate density, land use configuration, circulation, open space, and infrastructure feasibility;
- Detailed engineering plans, subdivision improvement plans, and final site plan materials are not required at the time of a rezone application but rather during subsequent development approvals; and

- Rezone approvals are binding with respect to key development parameters, including maximum density and general development pattern as a condition of approval for the rezone. The CDP becomes part of the rezone approval. Future applications must be consistent with that plan. If they propose to change density or overall layout, they must apply for a rezone amendment.

The proposed amendments are attached as **Exhibit A** and summarized below:

Changes to Chapter 7 (Zoning Map Amendments):

1. Requires a Concept Development Plan for rezone applications involving a development proposal.
2. Establish minimum CDP content, including density, layout, circulation, open space, and infrastructure approach.
3. Clarify that rezones evaluate the feasibility of compliance, rather than full compliance with Chapters 3 and 4.
4. Establish binding elements of approval, including maximum density, general land use configuration, circulation framework, and open space system.
5. Clarify that subsequent subdivision and site plan applications must be consistent with the approved CDP.
6. Establish that increases in density or material changes to the development pattern require a rezone amendment.

Changes to Chapter 11 (Definitions):

1. Add a definition for Concept Development Plan to clarify purpose, required content, and level of detail.

Changes to Chapter 3 (Development Application Procedure):

1. Clarify that legislative approvals, including rezones, may rely on conceptual-level plans.
2. Specify that detailed engineering and construction drawings are required at the time of development permit review, not legislative approval.

Changes to Chapter 2 (Master Planned Developments):

1. Remove the requirement that any application for a rezone would also require a Master Planned Development process.

## **BACKGROUND**

Staff initiated this amendment in response to ongoing challenges with the current rezone process, particularly for projects involving a defined development proposal.

Under the existing Code, rezones are required to demonstrate compliance with development standards found in Chapters 3 and 4. To date, there have been very few rezone applications successfully approved under the current standards. This sequencing creates inefficiencies, as projects often evolve following rezone approval, requiring revisions to previously prepared

materials. It also increases upfront costs and extends review timelines without improving the County's ability to evaluate the appropriateness of a rezone.

Recent projects, including the Cline Dahle proposal, highlighted the need to clearly distinguish between:

- Legislative decisions (e.g., rezones), which determine appropriate land use and development intensity; and
- Administrative approvals (e.g., subdivision and site plan), which ensure compliance with detailed engineering and design standards.

The proposed amendments are intended to better align the Code with this distinction.

On June 9, 2026, the Snyderville Basin Planning Commission (SBPC) reviewed the proposed amendments, opened the public hearing, and received one public comment in support of the amendment. During the discussion, Commissioner Peteroy expressed concern regarding vested development rights in situations where a developer obtains a rezone based on a proposed development concept but does not move forward with the project, and a subsequent property owner later seeks to utilize those entitlements for a different development proposal. Commissioner Peteroy requested that the proposed amendment include language to address this scenario.

Staff evaluated this concern and determined that the proposed amendments already provide several safeguards. First, the Concept Development Plan (CDP) is incorporated into the rezone approval and establishes binding development parameters. Any future proposal that materially alters the binding elements identified in Section 10-7-4(C)(1)(f)(2) would require a rezone amendment. Additionally, Development Agreements often establish project-specific vesting, phasing, expiration provisions, and other mechanisms to ensure that development proceeds in a manner consistent with the approved rezone.

The purpose of the Concept Development Plan and any associated Development Agreement is to ensure that future development remains substantially consistent with the proposal reviewed during the rezone process. To further address the concern raised by the Planning Commission, Staff proposes an additional safeguard under 10-7-4(C)(1)(g)(4) that would establish a five-year expiration period for rezones approved in conjunction with a Concept Development Plan when no Development Agreement is in place. This provision would prevent unused rezone approvals from remaining indefinitely attached to a property while still allowing flexibility for projects that are subject to a Development Agreement with its own vesting and expiration provisions.

## **ANALYSIS**

Section 10-7-3 of the Snyderville Basin Development Code establishes a process for amendments to the text of the Code. It states that whenever an amendment to the Code is initiated, it must be reviewed by the Planning Commission who will deliver a recommendation to the County Council. The County Council, after holding a public hearing, can approve, approve with modifications, or deny the amendment.

Criteria for approving an amendment to the text of this title:

1. The amendment shall be consistent with the goals, objectives, and policies of the general plan.
2. The amendment shall not permit the use of land that is not consistent with the uses of properties nearby.
3. The amendment will not permit suitability of the properties affected by the proposed amendment for the uses to which they have been restricted.
4. The amendment will not permit the removal of the then existing restrictions which will unduly affect nearby property.
5. The amendment will not grant special favors or circumstances solely for one (1) property owner or developer.
6. The amendment will promote the public health, safety and welfare better than the existing regulations for which the amendment is intended to change.

### **RECOMMENDATION**

Staff recommends that the Summit County Council conduct a work session and provide staff with specific direction on any changes necessary before proceeding with a public hearing.

### **Attachments**

**Exhibit A:** Proposed Amendments –Proposed Ordinance

**SUMMIT COUNTY, UTAH  
ORDINANCE NO. 1016**

**AN ORDINANCE AMENDING THE SNYDERVILLE BASIN DEVELOPMENT CODE  
SECTIONS 10-2-18 MASTER PLANNED DEVELOPMENTS, 10-3 DEVELOPMENT  
APPLICATION PROCEDURE AND APPROVAL PROCESS, 10-7-4 AMENDMENT TO  
THE ZONING MAP, AND 10-11 DEFINITIONS**

**PREAMBLE**

**WHEREAS**, Utah Code Annotated ("UCA") §17-79-501 authorizes counties to amend zoning district regulations and other provisions of their land use regulations; and

**WHEREAS**, as currently written, the Snyderville Basin Development Code ("Code") requires compliance with Chapters 3 (Development Application Procedure and Approval Process) and 4 (Standards for Approval of Development Permits) at the rezone application stage; and

**WHEREAS**, the proposed amendments modify the requirements for Amendments to the Zoning Map under Section 10-7-4, clarify submittal expectations under Section 10-2-18, add clarifying language to Section 10-3-2 regarding legislative approvals, and add a definition for Concept Development Plan under Section 10-11-1; and

**WHEREAS**, the proposed amendments establish a Concept Development Plan ("CDP") requirement for rezone applications involving a specific development proposal, providing sufficient information to evaluate the proposed development at a conceptual level without requiring fully engineered plans at the time of rezone; and

**WHEREAS**, the Snyderville Basin Planning Commission held a public hearing on June 9, 2026, and forwarded a positive recommendation for adoption of the proposed amendments; and

**WHEREAS**, the Summit County Council held a public hearing on July 8, 2026; and,

**WHEREAS**, the Summit County Council finds that the proposed amendments are consistent with the goals, objectives, and policies of the Snyderville Basin General Plan and promote the public health, safety, and welfare;

**NOW, THEREFORE**, the County Council of the County of Summit, State of Utah, ordains as follows:

**Section 1.** The Snyderville Basin Development Code is amended as depicted in Exhibit A attached hereto and incorporated herein by this reference.

**Section 2.** Effective Date: This Ordinance shall take effect immediately after publication.

Enacted this \_\_\_\_ day of \_\_\_\_ 2026.

COUNTY COUNCIL  
SUMMIT COUNTY, UTAH

by \_\_\_\_\_  
Canice Harte, Chair

|                               |       |
|-------------------------------|-------|
| Councilmember Robinson voted  | _____ |
| Councilmember Harte voted     | _____ |
| Councilmember Armstrong voted | _____ |
| Councilmember Hanson voted    | _____ |
| Councilmember Mckenna voted   | _____ |

APPROVED AS TO FORM

\_\_\_\_\_  
Lynda Viti  
Civil Deputy

ATTEST:

\_\_\_\_\_  
Malena Steven, County Clerk, Summit County, Utah

# **EXHIBIT A**

## **PROPOSED AMENDMENTS**

## 10-2-18: MASTER PLANNED DEVELOPMENTS:

- A. Intent: A Master Planned Development (MPD) is a comprehensive project design strategy. MPDs are intended to provide better opportunities to create projects that address site conditions, the characteristics of the surrounding properties, as well as community and market demands. The MPD process creates administrative tools to promote the efficient use of land resources as well as efficient public infrastructure and utility services. The goal of this strategy is to produce superior project design through flexibility and innovation to advance the goals of the Snyderville Basin General Plan and this code.
- B. Applicability:
- Required: Unless the property is subject to an approved development agreement, settlement agreement or consent agreement, the MPD process shall be required in all zones for the following:
- ~~1. Any application for a rezone; and~~
  - 1.2. Any new hotel or lodging project, commercial, retail, office, public, quasi-public, mixed use, or industrial project with ten thousand (10,000) square feet or more of gross floor area.
- C. Uses: An MPD can only contain uses, which are allowed, low impact or conditional in the existing zone district(s) in which it is located. When the project area includes more than one (1) zone district, uses may be relocated across zone district lines if the planning commission determines that relocation results in a project design that advances the goals of the Snyderville Basin General Plan.
- D. Process:
1. Pre-Application Conference: A pre-application conference shall be held with staff for the applicant to become acquainted with the MPD procedures and related county requirements and schedules. Staff may give preliminary feedback to the applicant based on information available at the conference and may inform the applicant of potential issues or special requirements which may result from the proposal. Any direction or feedback given at the pre-application conference is not vested. Vesting occurs once a complete application is filed, and the project has been reviewed and approved by the county council or planning commission.
  2. Pre-Application Work Session Public Meeting:
    - a. To provide an opportunity for the public and the planning commission to give preliminary input on a concept for an MPD, the applicant may request a work session discussion with the planning commission after the pre-application conference with staff. Any direction or feedback given at the pre-application work session public meeting is not vested. Vesting occurs once a complete application is filed, and the project has been reviewed and approved by the county council or planning commission.
    - b. At the pre-application work session public meeting, the applicant will have an opportunity to present the preliminary concepts for the proposed MPD. The public will be given an opportunity to comment on the preliminary concepts so that the applicant can address neighborhood concerns in preparation of an application for an MPD.
    - c. It is recommended that the applicant host neighborhood meetings in preparation of filing of a formal application for an MPD and provide a report conveying neighborhood concerns discussed.
  3. The MPD Application:
    - a. Plans for the MPD shall be submitted with a completed application form supplied by the county. A list of minimum requirements will accompany the application form. The application must include written consent by all owners of the property to be included in the MPD. Once an application is received, it

shall be assigned to a staff planner who will review the application for completeness. The applicant will be informed if additional information is necessary to constitute a complete application.

- b. Planning Commission Review and Public Hearing: ~~Except in the case of MPDs that include a rezone,~~ ~~€~~The planning commission shall approve, approve with modifications, or deny an MPD. The planning commission action shall be in the form of written findings of fact, conclusions of law, and in the case of approval, conditions of approval. Action shall occur only after public hearing is held. To approve an MPD, the planning commission will be required to make the findings outlined in section F herein. In the case of MPDs that include a rezone, the planning commission shall review and forward a recommendation to the county council, including findings of fact, conclusions of law and conditions of approval.
- c. County Council Review and Public Hearing: ~~In the case of MPDs that include a rezone, €~~The county council shall approve, approve with modifications, or deny an MPD. The county council action shall be in the form of written findings of fact, conclusions of law and in the case of approval, conditions of approval. Action shall occur only after a public hearing is held. To approve an MPD, the county council will be required to make the findings outlined in section F herein.

...

### **10-3-2: GENERAL PROVISIONS:**

- A. Initiation: An application for development approval or development permit shall be initiated by submitting the appropriate application to the community development director (hereinafter referred to as "CDD").
- B. Review and Recommendation of CDD or Designated Planning Staff Member:
  - 1. The CDD or designated planning staff member shall review the application for sufficiency. If the CDD or designated planning staff member determines that the application does not contain information sufficient to determine the appropriate approval procedure or compliance with this title, the CDD or designated planning staff member shall serve a written notice on the applicant specifying the deficiencies of the application. The CDD or designated planning staff member shall take no further action on the application unless the deficiencies are remedied. An application for development approval shall be deemed insufficient if any relevant information is not provided, if the application form is not signed by the applicant or authorized agent, required fees are not paid, or if other information, as may be specified by the CDD or designated planning staff member and which is necessary to adequately review the application, is not supplied in a timely fashion. If adequate information is not submitted within thirty (30) days of CDD or designated planning staff member notification, all application materials will be returned to the applicant.
  - 2. A determination of sufficiency shall not constitute a determination of compliance with the substantive requirements of this title, nor shall it indicate that the information submitted by the applicant is accurate or has been verified. Additional information may be required at a later date through the approval process.
  - 3. All development approvals shall be conditioned so that no building permit shall be issued on the subject property until all outstanding and current property taxes have been paid to date of approval.
  - 4. The director is delegated authority necessary to make administrative interpretations of this title and to provide such guidance as is necessary to applicants for development approval consistent with and in furtherance of chapter 1, "Program for Resort and Mountain Development", of this title.
- C. Legislative Actions: The director or county council may, in their discretion, combine the processing and hearing of development permits, procedures for legislative action, or requests for conditional use permit, or low impact permit.
- D. Project Closure Due to Inaction: Recognizing the length of the planning review process will vary with the size and complexity of each proposal, applicants must move their applications either to approval or denial in a reasonably expeditious manner. The county may formally close applications which remain inactive for nine (9) months or longer due to acts or omissions of the applicant.
  - 1. When the CDD or designated planning staff member determines an application inactive, he/she may close the files with respect to the application. No application may be closed on the basis of inaction without giving twenty-one (21) calendar days' certified written notice to the applicant. Such a notice must state the intent of the CDD or designated planning staff member to have the project closed because of inaction and what the applicant must submit in order to maintain an active file status.
  - 2. An application shall be deemed inactive and subject to closure on the basis of inactivity if, through the act or omission of the applicant and not the county, one (1) of the following occurs:
    - a. More than nine (9) months have passed since the last meeting of staff and the applicant.
    - b. More than nine (9) months have passed since a request for additional information was made by staff, which request has not been complied with or reasons for noncompliance are not stated or indicated by the applicant. (Ord. 730, 12-2-2009)

- c. The applicant is more than thirty (30) days in default of the payment of any fee assessed by ordinance.
- d. The applicant has stated intent to abandon the project. (Ord. 708, 12-10-2008)

Delays caused entirely by internal delays of the staff, planning commission, county council or board of adjustment shall not be a cause for file closure. (Ord. 730, 12-2-2009)

- 3. An applicant may appeal the community development director's denial of an application for inaction to the county council in the same manner as any other appeal. The role of the county council is to determine if the director correctly applied subsection B of this section. The county council may reinstate subject to payment of full or partial submission fees, reinstate subject to specific ordinance changes, or deny reinstatement. If reinstatement is denied, the application is considered formally denied. If the applicant desires to proceed with the project, the applicant must submit a new application and pay new submission fees, and the new application shall be subject to all ordinances then in effect.
- E. **Relationship to Legislative Approvals: Legislative approvals, including zoning map amendments, may rely on conceptual development plans. Submittal requirements for subdivision, site plan, and other development permits shall not be required until such applications are submitted in accordance with this chapter. The burden is on the applicant to demonstrate feasibility of compliance.**

#### **10-7-4: AMENDMENT TO THE ZONING MAP:**

- A. Authority: The county council may from time to time amend, supplement, or repeal a zone district designated in the Snyderville Basin. No change which affects a portion of all the real property by a change in zoning classification shall be valid unless approved by the county council pursuant to the provisions set forth herein.
- B. Initiation of Amendments: Any change of zone district may be initiated on motion by the county council, upon the request of the commission, upon the request of the county manager, or upon the request of an individual having deed title to real property within the area to be rezoned.
- C. Amendment Procedures:
  - 1. If the applicant is a private landowner:
    - a. An application for an amendment or change to a zone district shall be submitted to the CDD or designated planning staff member. An application for an amendment to a zone district will be considered only when such application is **submitted simultaneously with a Concept Development Plan, as described herein**, ~~considered simultaneously with an applicable development proposal, as described in chapter 3 of this title,~~ for the entire parcel to be rezoned, **unless otherwise waived by the County Council**. The county council may permit the rezoning of the property only after it has determined that said rezoning is consistent with the goals, objectives and policies of the general plan, the land use plan maps, all other criteria and considerations described in this title, and said action is necessary to promote the public health, safety and welfare of the residents of the Snyderville Basin.
    - b. The application must be authorized by each owner of the real property that is located within the area to be rezoned or a duly authorized representative of each owner.
    - c. **For any rezone request involving a specific development proposal, the applicant shall submit a Concept Development Plan. The Concept Development Plan shall include sufficient information, in graphic and written form, to evaluate the proposed development, including but not limited to:**
      - (1) **General land use layout and development pattern;**
      - (2) **Proposed density, including total units and /or square footage;**

- (3) Lot configuration, block layout, or building envelopes, as applicable;
- (4) Circulation systems, including vehicular, pedestrian, and emergency access;
- (5) Open space framework, trails, and common areas;
- (6) General infrastructure approach, including water, sewer, stormwater, and utilities; and
- (7) Relationship to adjacent properties and uses.

- d. The Concept Development Plan is intended to provide sufficient information for the County to evaluate the proposed rezone, including consistency with the General Plan and the development framework identified in subsection (c) of this section. Fully engineered construction drawings, subdivision improvement plans, and final site plan materials shall not be required at the rezone stage.

Approval of a rezone shall not constitute approval of a subdivision, site plan, or construction drawings. Detailed engineering plans, subdivision improvement plans, and final site plan materials required under Chapters 3 and 4 shall be submitted and reviewed during subsequent development approval processes.

Additional information may be required only where necessary to clarify the development framework identified in subsection (c).

- e. Approval of an amendment to the zone district shall not be granted until both the commission and county council have reviewed the **Concept Development Plan** ~~specific development proposal~~ and determined:

- (1) The amendment complies with the goals, objectives and policies of the general plan, the neighborhood planning area plan, and the land use plan maps;
- (2) The amendment is compatible with adjacent land uses and will not be overly burdensome on the local community;
- (3) **The Concept Development Plan provides sufficient information to evaluate the proposed development framework, including density, land use configuration, circulation, open space, and general infrastructure approach associated with the proposed rezone;;** ~~The specific development plan is in compliance with all applicable standards and criteria for approval as described in chapters 3 and 4 of this title;~~ and
- (4) The amendment does not adversely affect the public health, safety and general welfare.

- f. Effect of Approval and Binding Elements:

- (1) Approval of a rezone involving a Concept Development Plan shall be conditioned upon substantial compliance with the approved Concept Development Plan.
- (2) The following elements shall be considered binding:
  - (A) Maximum density, including total number of units or square footage;
  - (B) General land use configuration and development pattern;
  - (C) Primary circulation framework; and
  - (D) Open space system and general distribution of open space.
- (3) Subsequent applications for Subdivision, Site Plan, or other development approvals shall be substantially consistent with the approved Concept Development Plan unless a rezone amendment or major amendment is approved by the County. For purposes of this section, "substantially consistent" means that the proposed development does not materially alter the binding elements identified in subsection f(2).

- (4) Any proposed modification that results in an increase in density or materially alters the approved development pattern shall require a new rezone or major amendment.
  - (5) The maximum density permitted by the rezone shall not exceed the density illustrated in the approved Concept Development Plan.
- g. Development Agreement:
  - (1) As a condition of rezone approval, the County may require execution of a Development Agreement incorporating the Concept Development Plan.
  - (2) The Development Agreement shall:
    - (A) Incorporate the approved Concept Development Plan as an exhibit;
    - (B) Establish specific development parameters including density, land uses, and phasing;
    - (C) Define obligations related to infrastructure, public improvements, and mitigation measures; and
    - (D) Provide mechanisms for enforcement of the approved development framework.
  - (3) The Development Agreement shall run with the land and be binding on successors.
  - (4) Unless otherwise specified in an approved Development Agreement, a rezone approved in conjunction with a Concept Development Plan shall expire five (5) years after the date of an approval if no subsequent development approval has been obtained for the property. Upon expiration, the property shall revert to the zoning designation that existed immediately prior to the rezone unless otherwise determined by the County Council through a public process.
- 2. When the amendment is proposed by the county council, county manager, or commission:
  - a. The commission shall review the proposed amendment. The commission must find that the proposed amendment is consistent with the requirements in this title. Prior to making a recommendation, the commission shall hold a public hearing regarding the proposed amendment.
  - b. The commission's recommendation shall be delivered to the county council. The county council shall hold a public hearing regarding the proposed amendment. Following the public hearing, the county council shall either approve, approve with modifications or deny the amendment. In order to approve the amendment, the county council must find that the proposed amendment is consistent with the requirements in subsection C1c-C1g of this section.
- D. Authorized: All amendments to the text of this title and to the zone district shall be authorized by ordinance, in the manner prescribed by state law.

## 10-11-1: - TERMS DEFINED:

...

**CONCEPT DEVELOPMENT PLAN:** A plan, in graphic and written form, that illustrates the proposed development framework for rezone approval and shall establish the general parameters that subsequent applications must follow. The Concept Development Plan shall include sufficient information to evaluate the proposed land use pattern, density, circulation systems, open space framework, and general infrastructure approach.

A Concept Development Plan is intended to provide a level of detail greater than a sketch plan but less than a preliminary subdivision, site plan, or construction drawings, and shall not require fully engineered plans.

PARKS, TRAILS, OPEN SPACE & RECREATION

# Impact Fee Facilities Plan

Summit County Council Briefing | July 29, 2026

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Snyderville Basin Special Recreation District • Prepared by Zions Public Finance, Inc.

# Today's Item

## What the Council Is Being Asked To Do

Review and approve the draft Impact Fee Facilities Plan (IFFP) for Basin Recreation, finding that it complies with the Utah Impact Fees Act (Utah Code § 11-36a). Approval of the IFFP is the required legal predicate before Basin Recreation may prepare an Impact Fee Analysis (IFA) and adopt updated impact fees.



### This Is NOT

A vote to set or raise any specific fee amount



### This IS

A vote confirming the facilities plan meets state law requirements



### Next Step

Basin Rec Board adopts the fee-setting Impact Fee Analysis Aug. 13, 2026

# Why This Plan Exists

*Utah Impact Fees Act — Utah Code § 11-36a-302*

1

Identify the existing level of service

2

Establish a proposed level of service

3

Identify any excess capacity at that proposed level

4

Identify demands new development places on facilities

5

Identify how those growth demands will be met

## Who Basin Rec Serves

Demand comes from residents AND from workers who commute into the Basin but live elsewhere (counted at 50% weight).

**25,597**

Demand units served today

**30,709**

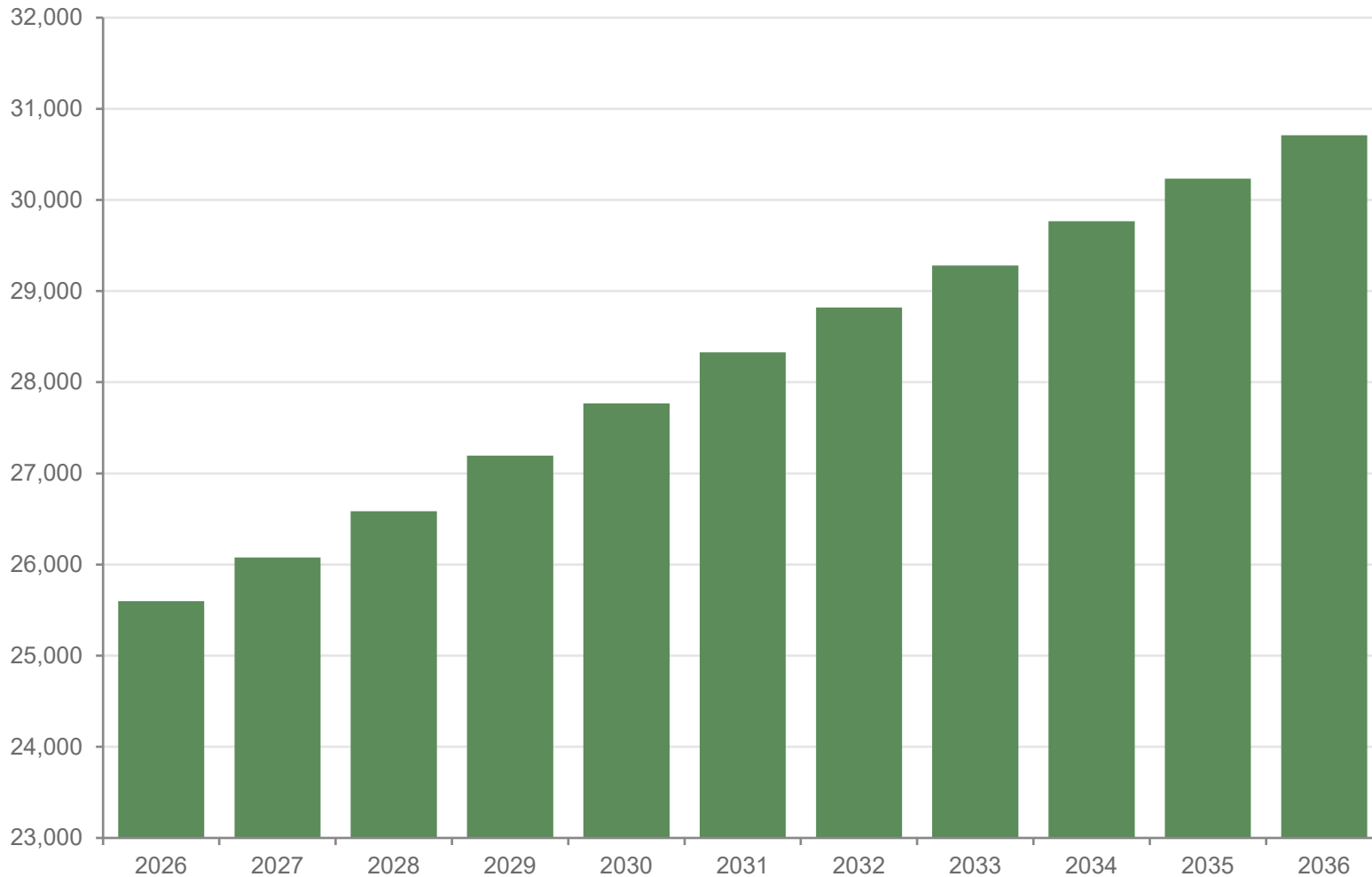
Projected demand units by 2036

**Feb 20, 2026**

Notice of Intent posted

# Growth Is Real — and Continuous

*Adjusted demand units (residents + 50%-weighted non-resident employees), 2026–2036*



**+20%**

growth in demand units, 2026–2036

**6,140**

non-resident Basin employees generating demand today

**5,112**

net new demand units to plan for by 2036

# Today: Full Capacity, No Room to Spare

*Existing service levels as of 2027 demand base (26,078 units)*

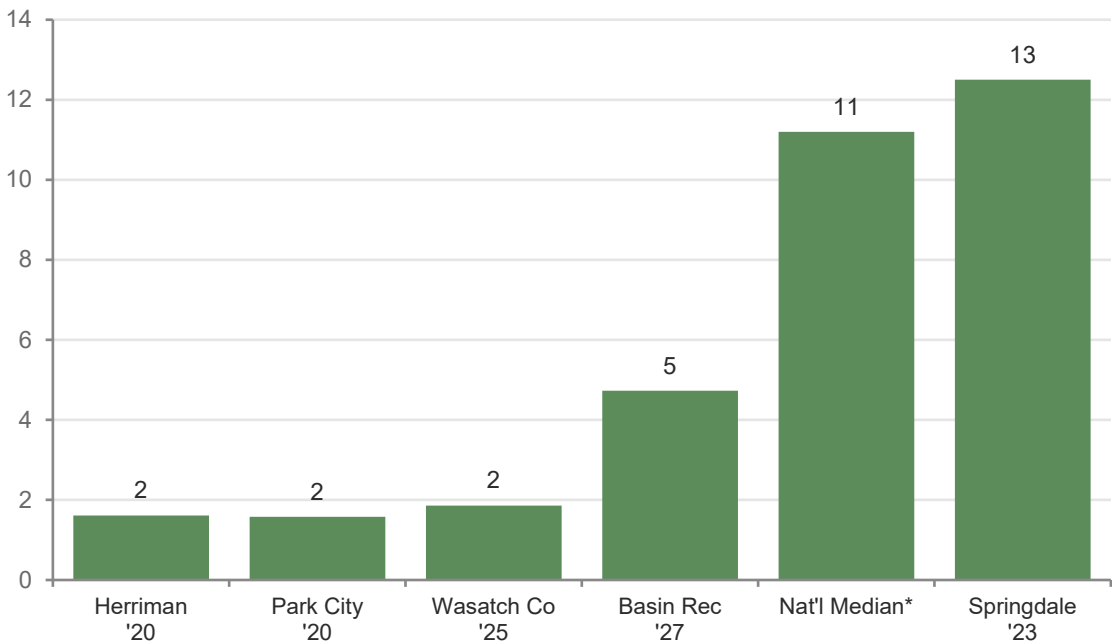
| Facility                        | Existing Level of Service | Excess Capacity?                  |
|---------------------------------|---------------------------|-----------------------------------|
| Parks                           | 4.09 acres / 1,000 units  | None                              |
| Trails                          | 0.007353 miles / unit     | None                              |
| Trail Structures                | \$236.93 / unit           | None                              |
| Open Space                      | 0.07574 acres / unit      | None                              |
| Fieldhouse                      | 3.07 sq ft / unit         | None (full by 2027)               |
| Ice Arena (shared w/ Park City) | \$80.58 / unit            | Yes — to \$35.02/unit at buildout |

*With one exception, Basin Recreation has zero excess capacity anywhere in the system today.*

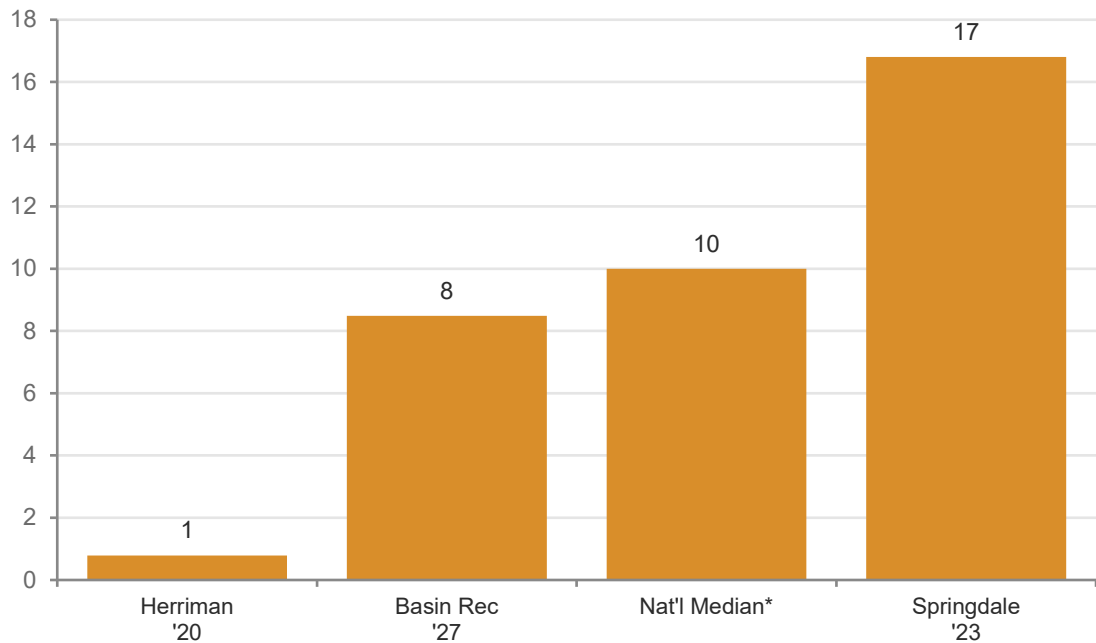
# How Basin Recreation Compares

Supplemental staff research — not part of the certified IFFP — using NRPA national data and peer Utah impact fee facilities plans

Parks (acres / 1,000 residents)



Trails (miles / 1,000 residents)

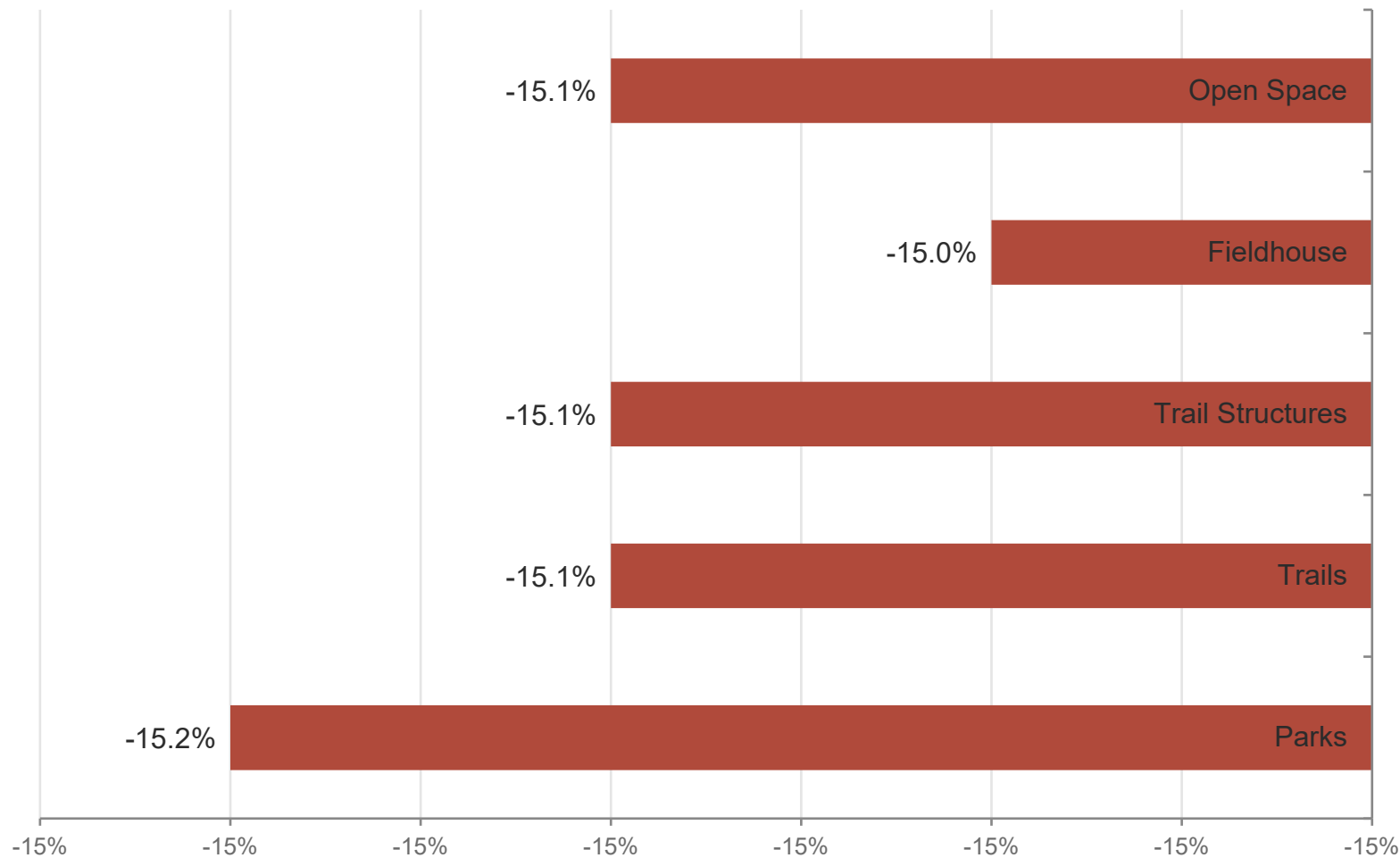


**Parks:** below the national median for similarly sized agencies, but above neighboring Park City, Herriman, and Wasatch County. **Trails:** Basin Rec's 191.75 miles is roughly 19x the typical trail mileage for a similarly sized U.S. agency — even higher than the Community Summary's "10x" claim.

\*National Median = NRPA 2024-2026 Agency Performance Review, agencies serving 20,000-49,999 residents. Utah peers from published IFFPs by Zions Public Finance, Inc. (Springdale by Town staff).

# Without New Investment, Service Levels Erode

*Projected decline in service level per demand unit, 2027 → 2036, if no new facilities are added*



## Why This Matters

This isn't a budget cut — it's simple math. More people sharing the same fixed set of facilities means less recreation space per person and an increase in wear and tear , every year, unless the District invests to keep pace.

**~15%**

average decline across every facility category if the District does nothing

# What It Takes to Hold the Line

10-year capital investment needed to maintain today's service levels through 2036

| Capital Need (2027–2036)            | Quantity     | Est. Cost           |
|-------------------------------------|--------------|---------------------|
| Additional park land & improvements | 18.94 acres  | \$7,711,738         |
| Additional trail miles              | 34.05 miles  | \$2,794,843         |
| Additional trail structures         | —            | \$1,097,255         |
| Additional Fieldhouse space         | 14,222 sq ft | \$7,338,791         |
| Additional open space               | 350.8 acres  | \$5,051,669         |
| <b>TOTAL 10-YEAR CAPITAL NEED</b>   |              | <b>\$23,994,296</b> |

## Ice Arena

No additional District investment needed — new development buys into the Ice Arena's existing excess capacity.

These are minimum investments to maintain — not exceed — current community service standards.

Note: A prioritized, community-vetted list of future facilities (aquatics, courts, fitness space, and more) appears as Table 22 of the IFPP.

# How This Gets Paid For

*Utah Code § 11-36a-302(2) requires consideration of all revenue sources*

## Grants & Easements

Anticipated for future trail land acquisition

## General Obligation Bonds

3 outstanding series (2017, 2015A, 2015B);  
credits required against fees

## Interfund Loans

None currently planned

## General Fund Transfers

Net operating revenues may be transferred  
to the capital fund

## Impact Fees

New development pays its proportional  
share of growth-driven costs

## Developer Dedications

System improvements accepted in lieu of  
fee payment, by agreement

# Independently Prepared, Independently Certified

## ZPFI Certification

Zions Public Finance, Inc. certifies the Plan:

- 1. Includes only allowable public facility costs, actually incurred or to be incurred/encumbered within 6 years of fee payment
- 2. Excludes O&M costs, service-level increases beyond existing residents' support, and unallowable overhead
- 3. Complies in every relevant respect with the Impact Fees Act

### Notice of Intent

Posted Feb. 20, 2026 on the Utah Public Notice website

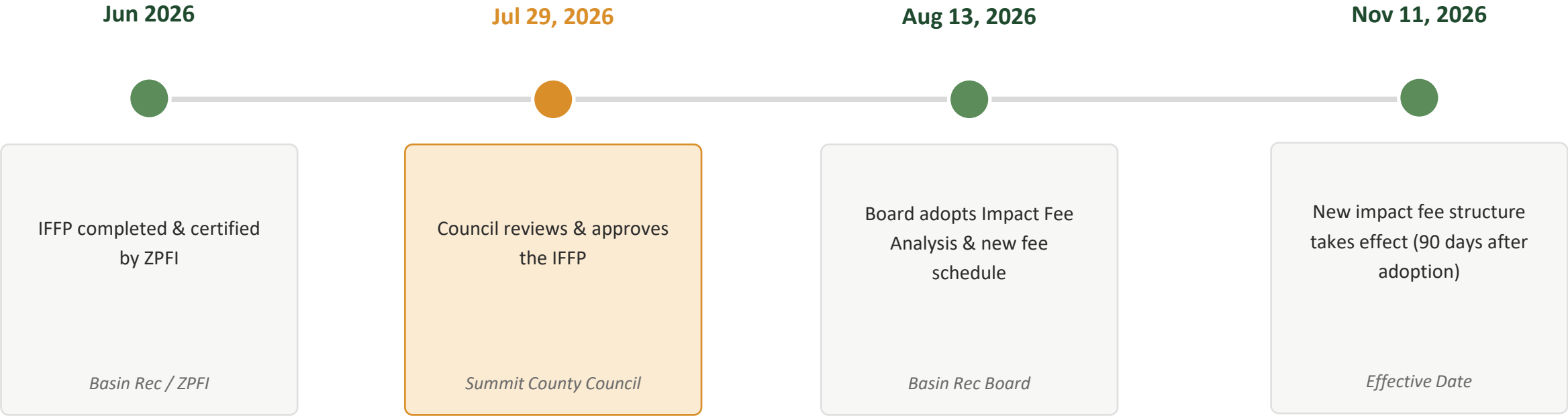
### Independent Audit

2025 compliance audit by Jones Simkins LLC confirmed District practices meet legal requirements

### Public Access

Board meetings open to the public in person and via Microsoft Teams

# What Happens Next



*Today's briefing is step 2 of 4 — the Council's approval enables the District to move forward with fee-setting.*

# Staff Recommendation

## Approve the draft Parks, Trails, Open Space & Recreation Impact Fee Facilities Plan

...finding that it complies with the Utah Impact Fees Act (Utah Code Ann. § 11-36a-101 et seq.), and authorizing Basin Recreation to proceed with an Impact Fee Analysis establishing updated impact fee amounts.

### Suggested Motion

*“I move that the Summit County Council approve the Snyderville Basin Special Recreation District Parks, Trails, Open Space & Recreation Impact Fee Facilities Plan dated June 2026, finding that it complies with the requirements of the Utah Impact Fees Act, Utah Code Ann. § 11-36a-101 et seq.”*



## SUMMIT COUNTY COUNCIL

### Staff Report

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|                        |                                                                                                                                                          |
|------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Meeting Date:</b>   | July 29, 2026                                                                                                                                            |
| <b>Agenda Item:</b>    | Consideration and Approval of the Snyderville Basin Special Recreation District Parks, Trails, Open Space & Recreation Impact Fee Facilities Plan (IFFP) |
| <b>Prepared By:</b>    | Snyderville Basin Special Recreation District ("Basin Recreation" or "District") and Zions Public Finance, Inc. ("ZPFI")                                 |
| <b>Type of Action:</b> | Legislative / Administrative — Approval Requested                                                                                                        |

### Staff Recommendation

Staff recommends that the Summit County Council approve the draft Parks, Trails, Open Space & Recreation Impact Fee Facilities Plan ("IFFP" or "Plan"), dated June 2026 and prepared by Zions Public Finance, Inc., finding that the Plan complies with the requirements of the Utah Impact Fees Act, Utah Code Ann. § 11-36a-101 et seq., and authorizes Basin Recreation to proceed to preparation of an Impact Fee Analysis ("IFA") establishing updated impact fee amounts.

### Background

The Snyderville Basin Special Recreation District was formed to provide parks, trails, open space, and recreation amenities to the Snyderville Basin community. Demand for these facilities is generated both by residents living in the Basin and by employees who work in the Basin but live elsewhere.

Utah law requires that, before a political subdivision may impose or update an impact fee, it must first adopt an Impact Fee Facilities Plan. The IFFP must identify: (i) the existing level of service; (ii) a proposed level of service; (iii) any excess capacity at the proposed level of service; (iv) the demands new development will place on facilities at the proposed level of service; and (v) how those growth-related demands will be met. Basin Recreation posted its Notice of Intent to prepare this IFFP on the Utah Public Notice website on February 20, 2026, satisfying the statutory notice requirement of Utah Code § 11-36a-501.

The District retained Zions Public Finance, Inc. to prepare the Plan. ZPFI has certified that the Plan complies in each relevant respect with the Impact Fees Act. Following County Council approval of the IFFP, Basin Recreation intends to bring an Impact Fee Analysis to its Board on August 13, 2026, for adoption of an updated fee schedule, which would take effect approximately 90 days later (an estimated effective date in November 2026).

The Basin Recreation Board reviewed and recommended the draft IFFP to the Council on July 9, 2026.

## Growth Projections

Demand on Basin Recreation facilities is measured in "demand units," combining resident population with non-resident employees (counted at 50% weight, reflecting the fact that they spend less time in the Basin than residents). The District's demand base is projected to grow from 25,597 demand units in 2026 to 30,709 demand units by 2036 — approximately 20 percent growth over the ten-year planning horizon.

| Year | Population | Non-Resident Employees | Adjusted Demand Units |
|------|------------|------------------------|-----------------------|
| 2026 | 22,224     | 6,746                  | 25,597                |
| 2027 | 22,576     | 7,004                  | 26,078                |
| 2030 | 23,663     | 8,208                  | 27,767                |
| 2036 | 25,998     | 9,422                  | 30,709                |

## Existing Service Levels and Excess Capacity

The Plan documents current service levels across five facility categories. With the sole exception of the District's shared Ice Arena facility, staff finds that the District currently has no excess capacity in any category, meaning that without new investment, service levels will decline as growth occurs.

| Facility Category                  | Existing Level of Service          | Excess Capacity                        |
|------------------------------------|------------------------------------|----------------------------------------|
| Parks                              | 4.09 acres / 1,000 demand units    | None                                   |
| Trails                             | 0.007353 trail miles / demand unit | None                                   |
| Trail Structures                   | \$236.93 / demand unit             | None                                   |
| Open Space                         | 0.07574 acres / demand unit        | None                                   |
| Recreation Facilities (Fieldhouse) | 3.07 sq ft / demand unit           | None (capacity reached 2027)           |
| Ice Arena (shared w/ Park City)    | \$80.58 / demand unit              | \$35.02 / demand unit (until buildout) |

Because parks, trails, trail structures, and open space are all at or above their proposed (maintained) service levels with zero excess capacity, and because the Fieldhouse is projected to reach capacity by 2027, the Plan concludes that continued growth will erode service levels for existing and future residents alike unless new capital investment occurs on a schedule consistent with demand growth.

## Benchmarking: How Basin Recreation Compares

Staff compared Basin Recreation's service levels to (1) national medians published in the National Recreation and Park Association's (NRPA) 2024–2026 Agency Performance Review, and (2) service levels documented in other Utah communities' impact fee facilities plans prepared under the same statutory framework. This benchmarking is supplemental staff research; it is not part of the IFFP itself, was not prepared or certified by ZPFI, and does not affect the Plan's legal compliance or the Council's action on the IFFP today.

| Facility                        | Basin Recreation (2027)                          | National Median*                                       | Utah Peer Range**                                                                        |
|---------------------------------|--------------------------------------------------|--------------------------------------------------------|------------------------------------------------------------------------------------------|
| Parks                           | 4.73 acres / 1,000 residents                     | 11.2 acres / 1,000 (20,000–49,999 pop. agencies)       | 1.58–12.5 acres / 1,000 (Park City, Herriman, Wasatch Co., Springdale)                   |
| Trails                          | 191.75 total miles (8.49 mi / 1,000 residents)   | ~10 total miles (typical agency, same population band) | 0.79–16.8 mi / 1,000 (Herriman to Springdale)                                            |
| Recreation Facility (indoor)    | 1 facility (Fieldhouse) per ~26,000 demand units | 1 facility per ~29,500–31,200 residents (national)     | Not consistently reported                                                                |
| Ice Arena (shared w/ Park City) | \$80.58 / demand unit (Basin Rec's \$2.1M share) | No national benchmark                                  | Park City: \$67.69 / service population (2020) for its \$3.4M share of the same facility |

\*National Median: NRPA 2024–2026 Agency Performance Review ([nrpa.org/APR](https://www.nrpa.org/APR)), agencies serving 20,000–49,999 residents. \*\*Utah peers: Herriman City IFFP (June 2020); Park City IFFP (Dec. 2020); Wasatch County IFFP (2025); Springdale Parks & Recreation Master Plan (2023, draft) — all prepared by Zions Public Finance, Inc. except Springdale, which was prepared by Town staff using NRPA metrics.

- Parks: at 4.73 developed acres per 1,000 residents, Basin Recreation is below the national median (11.2) for similarly sized agencies, though above neighboring Park City, Herriman, and Wasatch County, consistent with a system that leans on trails and open space rather than traditional developed parkland.
- Trails: Basin Recreation's 191.75 miles of trails is roughly 19 times the typical trail mileage managed by a similarly sized U.S. park and recreation agency, a larger multiple than the "10x" figure cited in the Community Summary.
- Ice Arena: Basin Recreation's cost-per-demand-unit for the shared Ice Arena (\$80.58) is directionally consistent with Park City's own accounting for the same facility (\$67.69 per service population in 2020), indicating the two IFFPs allocate costs for this jointly funded facility using comparable methodology.
- Not verified: the Community Summary's claim of an "Entertainment & Recreation Index of 209" could not be traced to an identifiable source. Staff recommends this statistic not be relied upon or repeated in the Council's record.

National and Utah benchmarks are presented for context only. Utah Code § 11-36a-302 requires findings on Basin Recreation's own existing and proposed levels of service, not conformity with any external benchmark; this comparison does not alter the IFFP's methodology, findings, or legal compliance.

## Impact of New Development on Existing Facilities

Absent new investment, the Plan projects the following declines in service level by 2036 relative to 2027 levels:

- Parks: 4.09 → 3.47 developed acres per 1,000 demand units (-15.2%)
- Trails: 0.00735 → 0.00624 trail miles per demand unit (-15.1%)
- Trail Structures: \$236.93 → \$201.20 per demand unit (-15.1%)
- Fieldhouse: 3.07 → 2.61 square feet per demand unit (-15.0%)
- Open Space: 0.07574 → 0.06432 acres per demand unit (-15.1%)

## Proposed Capital Investment to Maintain Service Levels

To maintain, not exceed, existing 2027 service levels through 2036 buildout, the Plan identifies approximately \$24.0 million in new capital investment, summarized below. The Ice Arena requires no additional District investment, as new development will be required to buy into the District's existing excess capacity in that facility.

| Capital Need (2027-2036)            | Quantity     | Estimated Cost      |
|-------------------------------------|--------------|---------------------|
| Additional park land & improvements | 18.94 acres  | \$7,711,738         |
| Additional trail miles              | 34.05 miles  | \$2,794,843         |
| Additional trail structures         | —            | \$1,097,255         |
| Additional Fieldhouse space         | 14,222 sq ft | \$7,338,791         |
| Additional open space               | 350.8 acres  | \$5,051,669         |
| <b>TOTAL 10-YEAR CAPITAL NEED</b>   |              | <b>\$23,994,296</b> |

These figures represent the minimum investment required to hold today's service levels constant as the population grows; they are not an expansion of service beyond current community standards. A detailed, Board-vetted list of prioritized future facilities (open space acquisition, trail and trailhead expansion, aquatics, courts, fitness space, and other community-requested amenities) is included as Table 22 of the Plan.

## Revenue Sources

Consistent with Utah Code § 11-36a-302(2), the Plan considers all potential revenue sources for funding system improvements, including:

- Grants and trail easements (anticipated for future trail land acquisition)
- General obligation bonds (the District has three outstanding GO bond series, Series 2017, 2015A, and 2015B, for which credits against gross impact fees must be calculated to avoid double payment by new development)
- Interfund loans (none currently planned)
- Transfers from the District's General Fund
- Impact fees paid by new development
- Anticipated or accepted dedications of system improvements from developers

Impact fees are intended to fund only the proportional share of capital costs attributable to new growth; the remaining share of any capital need attributable to existing service levels is not eligible for impact fee funding and must be funded through the other sources listed above.

## Legal Compliance

The Plan was prepared to satisfy Utah Code § 11-36a-301 and § 11-36a-302, and includes the certification required by statute. ZPFI's certification (included in the Plan) confirms that the Plan: (1) includes only allowable public facility costs actually incurred or projected to be incurred/encumbered within six years of fee payment; (2) excludes costs of operation and maintenance, costs that would raise service levels above

what is supported by existing residents, and unallowable overhead; and (3) complies in each and every relevant respect with the Impact Fees Act.

Staff notes that this action approves the IFFP only. Adoption of updated impact fee amounts requires a separate Impact Fee Analysis and separate action by the Basin Recreation Board, anticipated at its August 13, 2026 meeting.

## **Fiscal Impact to the County**

Approval of the IFFP does not itself impose any fee, obligate County funds, or amend the County budget. The Plan enables Basin Recreation to prepare and adopt an Impact Fee Analysis and updated impact fee schedule applicable to new development within the District's service area. Should the Council decline to approve the Plan, the District would be unable to update its impact fees, and the capital costs of growth documented in the Plan would fall to existing District taxpayers through property tax levies, bonding, or reduced service levels.

## **Public Notice and Process**

Notice of Intent to prepare the IFFP was posted on the Utah Public Notice website on February 20, 2026. This item is being presented to the Council in open session on July 29, 2026, consistent with the timeline previously communicated to the public. Basin Recreation Board meetings remain open to the public at 5715 Trailside Drive, Park City, and via Microsoft Teams; meeting agendas are posted in advance at [basinrecreationutah.gov](https://basinrecreationutah.gov).

## **Attachments**

- Attachment A: Draft Parks, Trails, Open Space & Recreation Impact Fee Facilities Plan (Zions Public Finance, Inc., June 2026)
- Attachment B: Community Summary - "What Is the Impact Fee Facilities Plan and Why Does It Matter to You?"
- Attachment C: Administrative Control Board Resolution - BRD-2026-037 Authorizing the District Director to Submit the 2026 IFFP to the Summit County Council for Review and Approval

## **Suggested Motion**

*"I move that the Summit County Council approve the Snyderville Basin Special Recreation District Parks, Trails, Open Space & Recreation Impact Fee Facilities Plan dated June 2026, finding that it complies with the requirements of the Utah Impact Fees Act, Utah Code Ann. § 11-36a-101 et seq."*



Prepared by

**Zions Public Finance, Inc.**

for

**Snyderville Basin Special Recreation District**

*DRAFT*

**Parks, Trails, Open  
Space & Recreation**  
Impact Fee Facilities Plan

June 2026



**B A S I N**  
RECREATION



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## Impact Fee Facilities Plan for Parks, Trails, Open Space, and Recreation

### Summary

#### Background

The Snyderville Basin Special Recreation District (“SBSRD,” “District” or “Basin Recreation”) was formed to provide the local community with a wide variety of parks, trails, open space, and other recreation amenities that are compatible with the community’s lifestyle, desires, and preferences and that take advantage of the unique outdoor scenery and natural features available in this area. Demand for parks, trails, open space, and recreation facilities in the Snyderville Basin is generated not only from residents living in the area, but also from employees working in the Basin Recreation area.<sup>1</sup> The purpose of this Impact Fee Facilities Plan (the “Plan” or “IFFP”) is to identify existing service levels, proposed service levels, where excess capacity (if any) exists, and how the recreational demands from new development will be met for parks, trails, open space, and recreational facilities.

A summary of the demand units and existing service levels is shown in the table below.

**TABLE 1: SUMMARY OF SERVICE LEVELS**

|                       | <b>Demand Unit</b>           | <b>Existing Level of Service</b> | <b>Excess Capacity</b> |
|-----------------------|------------------------------|----------------------------------|------------------------|
| Parks                 | Acres per 1,000 demand units | 4.09                             | 0                      |
| Trails                | Trail miles per demand unit  | .007353                          | 0                      |
| Trail Structures      | Cost per demand unit         | \$236.93                         | 0                      |
| Open Space            | Acres per demand unit        | 0.07574                          | 0                      |
| Recreation Facilities | Square feet per demand unit* | 3.07                             | 0                      |
| Ice Arena             | Cost per demand unit*        | \$80.58                          | \$35.02                |

\*The Ice Arena is stated in actual cost of the facility since there is existing, excess capacity and new development must buy in to the actual cost of the Ice Arena.

Demand will come from population growth with residential development and from employee growth with nonresidential development.

**TABLE 2: GROWTH PROJECTIONS**

| <b>Year</b> | <b>Population</b> | <b>Employees in Basin Recreation Area</b> | <b>Employees in Basin Recreation Area That Do Not Live in Basin Recreation Area</b> | <b>Total Demand Units</b> |
|-------------|-------------------|-------------------------------------------|-------------------------------------------------------------------------------------|---------------------------|
| 2026        | 22,224            | 7,284                                     | 6,746                                                                               | 29,508                    |
| 2027        | 22,576            | 7,563                                     | 7,004                                                                               | 30,139                    |
| 2028        | 22,932            | 7,886                                     | 7,303                                                                               | 30,818                    |

<sup>1</sup> Employee demand comes only from employees working in the Basin Recreation area who do not live in the Basin Recreation area. If an employee also lives in the Basin Recreation area, demand for that employee is already captured as a resident.

| Year | Population | Employees in Basin Recreation Area | Employees in Basin Recreation Area That Do Not Live in Basin Recreation Area | Total Demand Units |
|------|------------|------------------------------------|------------------------------------------------------------------------------|--------------------|
| 2029 | 23,295     | 8,426                              | 7,803                                                                        | 31,720             |
| 2030 | 23,663     | 8,863                              | 8,208                                                                        | 32,526             |
| 2031 | 24,037     | 9,266                              | 8,582                                                                        | 33,303             |
| 2032 | 24,417     | 9,508                              | 8,806                                                                        | 33,925             |
| 2033 | 24,803     | 9,668                              | 8,954                                                                        | 34,471             |
| 2034 | 25,195     | 9,876                              | 9,147                                                                        | 35,071             |
| 2035 | 25,593     | 10,024                             | 9,284                                                                        | 35,617             |
| 2036 | 25,998     | 10,174                             | 9,422                                                                        | 36,172             |

Source: ZPFI review of planned development projects in the SBSRD; 2025 ACS; Census on the Map 2023

Based on input from Basin Recreation, as well as careful examination of usage of facilities, it has been determined that residents place more demand on facilities than do employees – largely because they are, on average, in the Basin for more hours of the week. Therefore, this analysis assumes that employees place roughly half the demand on facilities than do residents, based on the idea that they are in the Basin for a smaller portion of the week. This results in the following growth demands in the Basin which has taken total growth in demand units during the appropriate time periods for each facility (as discussed in this report) and has discounted commercial growth by 50 percent.

TABLE 3: GROWTH PROJECTIONS ADJUSTED TO 50% OF DEMAND FOR COMMERCIAL

| Year | Total Demand Units | Adjusted Demand Units |
|------|--------------------|-----------------------|
| 2026 | 29,508             | 25,597                |
| 2027 | 30,139             | 26,078                |
| 2028 | 30,818             | 26,584                |
| 2029 | 31,720             | 27,196                |
| 2030 | 32,526             | 27,767                |
| 2031 | 33,303             | 28,328                |
| 2032 | 33,925             | 28,820                |
| 2033 | 34,471             | 29,280                |
| 2034 | 35,071             | 29,768                |
| 2035 | 35,617             | 30,235                |
| 2036 | 36,172             | 30,709                |

The Section headers below follow the cited Code sections.

## Identify the Existing Level of Service

### *Utah Code 11-36a-302(1)(a)(i)*

**Parks.** The existing level of service for parks is 4.09 developed park acres per 1,000 demand units. This is based on 106.66 developed park acres<sup>2</sup> and 26,078 demand units in 2027.

**Trails.** The existing level of service for trails is 0.007353 trails miles per demand unit. This is based on 191.75 trail miles and 26,078 demand units in 2027.

In addition, there are trail structures that have a historic cost of \$6,178,684.97, or the equivalent investment of \$236.93 per demand unit.

**Recreation Facilities.** This category includes all types of recreational facilities other than parks and trails and specifically includes The Fieldhouse and the Ice Arena that is shared with Park City. There is a total of 80,086 square feet of space in The Fieldhouse, resulting in a current service level of 3.07 square feet per demand unit. Based on SBSRD's contribution to the Ice Arena,<sup>3</sup> its current service level is \$80.58 per demand unit.

**Open Space.** The District has 1,975 impact-fee eligible open space acres or the equivalent of 0.07574 acres per demand unit.<sup>4</sup>

## Establish a Proposed Level of Service

### *Utah Code 11-36a-302(1)(a)(ii)*

**Parks.** Parks are at capacity in 2027 and the proposed level of service is to maintain, at the very least, the 2027 service levels.<sup>5</sup> This means maintaining the current standard of 4.09 developed park acres per 1,000 demand units.

**Trails.** There are two components of Basin Recreation's trail system: 1) trail miles; and 2) trail structures. The proposed standard for trail miles is to maintain, at the very least, the 2027 service level of 0.007353 trail miles per demand unit. Future plans for trails are shown in Appendix A of this IFFP and these plans will at least maintain existing service levels. Therefore, for purposes of the impact fee analysis, the standard of 0.007353 trail miles per demand unit has been used.



<sup>2</sup> Includes only impact-fee eligible acres and does not therefore include any gifted facilities or those acquired with grant funds.

<sup>3</sup> SBSRD made an investment of \$2,101,396.

<sup>4</sup> Open space acres that were gifted or acquired with grants or donations are not included in the impact fee analysis.

<sup>5</sup> Park service levels have been determined through an intensive needs assessment process conducted by SBSRD.

The existing trail structures correlate with and complement the existing trail miles. Basin Recreation is planning for new structures that will provide critical connections with the expanded trail miles. Because trail structures are directly related to trail miles, the standard for trail structures will remain at least at the current service level of \$236.93 per demand unit.

*Recreation Facilities.* The Fieldhouse has sufficient capacity to serve new development until 2027, resulting in a proposed standard of 3.07 square feet per demand unit.<sup>6</sup> The Ice Arena is anticipated to serve new development through buildout.

*Open Space.* The District intends to maintain existing service levels of 0.07574 acres of open space per demand unit.

### **Identify Excess Capacity to Accommodate Future Growth at the Proposed Level of Service**

*Utah Code 11-36a-302(1)(a)(iii)*

*Parks.* The existing park standard is 4.09 developed park acres per 1,000 demand units. The proposed standard is to at least maintain the 4.09 developed parks acres per 1,000 demand units. There is, therefore, no excess capacity in the parks system.

*Trails.* The existing trails standard is 0.007353 trail miles per demand unit; the proposed standard is to maintain at least 0.007353 trail miles per demand unit. Therefore, there is no excess capacity in trail miles.

Trail structures are highly related to trail miles and are developed in conjunction with them. The current level of service for trail structures is \$236.93 per demand unit and there is no excess capacity in the trail structures.

*Recreation Facilities.* There is no excess capacity in recreation space in The Fieldhouse – sufficient to serve new development through 2026. This is based on the District’s determination that recreation space is a top priority for the District and that additional space will be needed by 2027. The Ice Arena has sufficient capacity to serve new development through an estimated 60,000 demand units or anticipated buildout.

*Open Space.* The existing open space standard is 0.07574 open space acres per demand unit; the proposed standard is to at least maintain 0.07574 open space acres per demand unit. There is, therefore, no excess capacity in open space.

<sup>6</sup> Calculated by dividing the 80,086 square feet in The Fieldhouse by the 2027 demand units (26,078). The proposed service level was determined through extensive public input and needs assessment.

## Identify Demands Placed Upon Existing Public Facilities by New Development Activity at the Proposed Level of Service

*Utah Code 11-36a-302(1)(a)(iv)*

**Parks.** If no additional park facilities are added, the park level of service will decline from the existing level of service of 4.09 acres per 1,000 demand units in 2027 to 3.47 developed park acres per 1,000 demand units in 2036. This is less than the 4.09 proposed acres per 1,000 demand units.

**Trails.** If no new trail miles are constructed, the trails level of service will decline from the existing standard of 0.007353 trail miles per demand unit in 2027 to 0.00624 trail miles per demand unit in 2036. This is less than the proposed standard of at least 0.007353 trail miles per demand unit.

If no new trail structures are constructed, the trail structures level of service will decline from the existing standard of \$236.93 per demand unit in 2027 to \$201.20 per demand unit in 2036. This is less than the proposed standard of at least \$236.93 per demand unit.

**Recreation Facilities.** The Fieldhouse has sufficient capacity to serve the needs of new development through 2027. If no new space is added, the level of service will decline from the 2027 proposed standard of 3.07 square feet per demand unit to 2.61 square feet per demand unit by 2036.

Because no new Ice Arena facilities are anticipated, the proposed service levels are planned to decline. The District anticipates that the Ice Arena will serve at least 60,000 demand units, resulting in a cost of \$35.02 per demand unit at that time.

**Open Space.** If no new open space is acquired, the open space level of service will decline from the existing standard of 0.07574 acres per demand unit in 2027 to 0.06432 acres per demand unit in 2036.



## Identify How the Growth Demands Will Be Met

*Utah Code 11-36a-302(1)(a)(v)*

**Parks.** Basin Recreation will need to acquire additional park lands and improvements to maintain its existing level of service. Service levels will decline, because of demand unit growth, unless new facilities are constructed or acquired. Impact fees will be used to maintain 2027 service levels for park land and improvements. They will not be used for replacement, repair, or maintenance costs. Fees collected will be used for capital improvements – land or park improvements – as best meets the needs of Basin Recreation at the time and as opportunities arise.

New park lands and improvements can be acquired for \$407,136 per acre, based on the current level of service. New park land and improvements will therefore require an investment of \$7,711,738 by 2036.

**Trails.** Basin Recreation will also need to maintain service levels for trails. Basin Recreation currently has 191.75 trail miles, which equates to a trails' standard of 0.007353 linear trail miles per demand unit. Basin Recreation intends to maintain its existing service level which means that it needs to invest an additional \$2,794,843 in trail miles by 2036.

In addition, Basin Recreation has trail structures that cost \$6,178,684.97. Impact fees will be used to maintain 2027 service levels for trail structures that are an integral part of the overall trails system. They will not be used for replacement, repair, or maintenance costs. To keep the existing trail structure level of service constant with the trail miles, as is proposed for service levels, Basin Recreation will need to expend \$1,097,255 for trail structures by 2036.

**Recreation Facilities.** Recreation facilities will be at capacity by 2027. The District will need an additional 14,222 square feet of recreation space by 2036. The District will not need to add any Ice Arena space.

**Open Space.** To maintain existing service levels for open space, Basin Recreation will need to add 350.78 acres at a cost of \$5,051,669 by 2036.

With extensive public input, the District has prepared the following list of facilities and priorities for future capital facilities. It is assumed that parks, trails, recreation facilities and open space form one recreation system and that future projects can be completed within any of these areas as opportunities arise and needs demand. A detailed capital facilities plan is included in Table 22 in this IFFP. Some of the projects listed include open space, trails and structures, fitness stations, skate and bike parks, dog areas, aquatics, jogging tracks, weight areas, and a wide variety of sports courts.

## Consideration of Revenue Sources to Finance Impacts on System Improvements

*Utah Code 11-36a-302(2)*

This Plan includes a thorough discussion of all potential revenue sources for parks, recreation, open space, and trails improvements. These revenue sources include grants, bonds, interfund loans, transfers from the General Fund, impact fees and anticipated or accepted dedications of system improvements.



## Utah Code Legal Requirements

Utah law requires that communities prepare an IFFP before preparing an Impact Fee Analysis (“IFA”) and enacting an impact fee. Utah law also requires that communities give notice of their intent to prepare and adopt an IFFP. This IFFP follows all legal requirements as outlined below. Basin Recreation has retained Zions Public Finance, Inc. (“ZPFI”) to prepare this IFFP in accordance with legal requirements.

### Notice of Intent to Prepare Impact Fee Facilities Plan

A local political subdivision must provide written notice of its intent to prepare an IFFP before preparing the Plan (Utah Code §11-36a-501). This notice must be posted on the Utah Public Notice website. Basin Recreation has complied with this noticing requirement for the IFFP by posting notice on February 20, 2026.

### Preparation of Impact Fee Facilities Plan

Utah Code requires that each local political subdivision, before imposing an impact fee, prepare an IFFP. (Utah Code 11-36a-301).

Section 11-36a-302(a) of the Utah Code outlines the requirements of an IFFP which is required to identify the following:

- (i) identify the existing level of service;
- (ii) establish a proposed level of service;
- (iii) identify any excess capacity to accommodate future growth at the proposed level of service;
- (iv) identify demands placed upon existing facilities by new development activity at the proposed level of service; and
- (v) identify the means by which the political subdivision or private entity will meet those growth demands.

Further, the proposed level of service may:

- (i) exceed the existing level of service if, independent of the use of impact fees, the political subdivision or private entity provides, implements, and maintains the means to increase the existing level of service for existing demand within six years of the date on which new growth is charged for the proposed level of service; or
- (ii) establish a new public facility if, independent of the use of impact fees, the political subdivision or private entity provides, implements, and maintains the means to increase the existing level of service for existing demand within six years of the date on which new growth is charged for the proposed level of service.

In preparing an IFFP, each local political subdivision shall generally consider all revenue sources to finance the impacts on system improvements, including:

- (a) grants;
- (b) bonds;
- (c) interfund loans;
- (d) transfers from the General Fund;
- (e) impact fees; and
- (f) anticipated or accepted dedications of system improvements.

### **Certification of Impact Fee Facilities Plan**

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Utah Code states that an IFFP shall include a written certification from the person or entity that prepares the IFFP. This certification is included at the conclusion of this analysis.

## Existing Service Levels, Proposed Service Levels and Excess Capacity

*Utah Code 11-36a-302(1)(a)(i)(ii)(iii)*

### Growth in Demand

Impacts on recreation-related facilities will come from both residential and commercial development – from residents and from employees.

**TABLE 4: RESIDENTIAL AND NONRESIDENTIAL GROWTH**

| Year | Population | Employees in Basin Recreation Area | Nonresidential SF |
|------|------------|------------------------------------|-------------------|
| 2026 | 22,224     | 7,284                              | 6,374,379         |
| 2027 | 22,576     | 7,563                              | 6,618,538         |
| 2028 | 22,932     | 7,886                              | 6,900,716         |
| 2029 | 23,295     | 8,426                              | 7,373,216         |
| 2030 | 23,663     | 8,863                              | 7,755,647         |
| 2031 | 24,037     | 9,266                              | 8,109,066         |
| 2032 | 24,417     | 9,508                              | 8,320,428         |
| 2033 | 24,803     | 9,668                              | 8,460,373         |
| 2034 | 25,195     | 9,876                              | 8,642,766         |
| 2035 | 25,593     | 10,024                             | 8,772,183         |
| 2036 | 25,998     | 10,174                             | 8,903,406         |

*Source: ZPFI review of planned development projects in the SBSRD; 2025 ACS; Census on the Map 2023*

The total demand units in the District include both population and employees. However, the total employees in the Basin Recreation area must be discounted so that persons who live and work in the Basin are not counted twice.

**TABLE 5: RESIDENTIAL AND NONRESIDENTIAL GROWTH**

|                                                               |         |
|---------------------------------------------------------------|---------|
| Total County employment 2024                                  | 23,707  |
| Estimated employment in the Basin Recreation area             | 6,630   |
| Basin residents that work in Summit County - %                | 43.20%  |
| Basin residents that work in Summit County                    | 1,751   |
| Basin employment as % of Summit County                        | 27.97%  |
| Basin employees that live in the Basin Recreation area        | 490     |
| Basin employees that do NOT live in the Basin Recreation area | 6,140   |
| 2024 Employees in Basin Rec Area per Nonresidential SF        | 0.00114 |
| % of Basin Employees that Don't Live in the Basin             | 92.61%  |

*Source: US Census Bureau Center for Economic Studies; US Census On the Map 2023*

Finally, the employees who work in the Basin, but who do not live there, are discounted by 50 percent as they spend less time in the Basin than the population and therefore place less demand on parks, trails, open space, and recreation facilities.

**TABLE 6: GROWTH PROJECTIONS ADJUSTED TO 50% OF DEMAND FOR COMMERCIAL**

| Year | Population | Employees in Basin Recreation Area | Employees in Basin Recreation Area That Do Not Live in Basin Recreation Area | Total Demand Units | Adjusted Demand Units |
|------|------------|------------------------------------|------------------------------------------------------------------------------|--------------------|-----------------------|
| 2026 | 22,224     | 7,284                              | 6,746                                                                        | 28,970             | 25,597                |
| 2027 | 22,576     | 7,563                              | 7,004                                                                        | 29,580             | 26,078                |
| 2028 | 22,932     | 7,886                              | 7,303                                                                        | 30,235             | 26,584                |
| 2029 | 23,295     | 8,426                              | 7,803                                                                        | 31,098             | 27,196                |
| 2030 | 23,663     | 8,863                              | 8,208                                                                        | 31,871             | 27,767                |
| 2031 | 24,037     | 9,266                              | 8,582                                                                        | 32,619             | 28,328                |
| 2032 | 24,417     | 9,508                              | 8,806                                                                        | 33,222             | 28,820                |
| 2033 | 24,803     | 9,668                              | 8,954                                                                        | 33,757             | 29,280                |
| 2034 | 25,195     | 9,876                              | 9,147                                                                        | 34,342             | 29,768                |
| 2035 | 25,593     | 10,024                             | 9,284                                                                        | 34,877             | 30,235                |
| 2036 | 25,998     | 10,174                             | 9,422                                                                        | 35,420             | 30,709                |

### Existing Service Levels

*Parks.* Existing service levels for park improvements are based on 106.66 impact-fee eligible park acres and on the park improvements shown below.

**Table 7: Existing Park Acres**

| Park Name                                          | Acres         | Gifted |
|----------------------------------------------------|---------------|--------|
| Trailside Park Complex                             | 63.0          | No     |
| Willow Creek                                       | 20.0          | No     |
| Ecker Hill                                         | 0.0           | No     |
| Matt Knoop                                         | 10.0          | No     |
| East Canyon Trailhead                              | 0.0           | No     |
| RunAMuk                                            | 0.0           | No     |
| Woods at Parleys Lane                              | 3.0           | No     |
| Trailside East                                     | 9.0           | No     |
| Amenti                                             | 68.0          | Yes    |
| Silver Creek Village (DA) (Undeveloped)            | 77.4          | Yes    |
| Silver Creek Village (Fireman's Fund (Undeveloped) | 21.66         | No     |
| <b>TOTAL</b>                                       | <b>272.06</b> |        |
| <b>Total NOT Gifted</b>                            | <b>106.66</b> |        |

Total impact-fee eligible park improvement costs are estimated at over \$43.4 million.

**Table 8: Existing Park Improvements**

| Amenity                            | # of Units - all System Parks | Unit Costs  | Eligible Cost       |
|------------------------------------|-------------------------------|-------------|---------------------|
| Land Acres                         | 106.66                        | \$250,000   | \$26,665,000        |
| Basketball - Outdoor               | 2                             | \$40,000    | \$80,000            |
| Bike Park                          | 1                             | \$169,892   | \$169,892           |
| Pump Track                         | 2                             | \$35,000    | \$70,000            |
| Dog Park                           | 5                             | \$84,000    | \$420,000           |
| Fields - Multipurpose              | 9                             | \$400,000   | \$3,600,000         |
| Fields - Multipurpose Turf         | 3                             | \$1,000,000 | \$3,000,000         |
| Fitness - Outdoor                  | 1                             | \$21,000    | \$21,000            |
| Small Pavilions                    | 7                             | \$65,000    | \$455,000           |
| Medium Pavilions                   | 2                             | \$77,500    | \$155,000           |
| Large Pavilions                    | 6                             | \$90,000    | \$540,000           |
| Playgrounds                        | 5                             | \$375,000   | \$1,875,000         |
| Skateboard Park                    | 1                             | \$500,000   | \$500,000           |
| Tennis Courts - Outdoor            | 6                             | \$98,500    | \$591,000           |
| Pickleball Courts - Outdoors       | 8                             | \$65,000    | \$520,000           |
| Disc Golf Course                   | 1                             | \$2,000     | \$2,000             |
| Sand Volleyball Outdoor            | 2                             | \$20,000    | \$40,000            |
| Irrigated Acres Other than Fields  | 348,480.00                    | \$2.25      | \$784,080           |
| Parking Lots - Asphalt SF          | 273,301.00                    | \$5.00      | \$1,366,505         |
| Paths thru Parks - SF              | 99,120.00                     | \$5.00      | \$495,600           |
| Restrooms                          | 7                             | \$225,000   | \$1,575,000         |
| Splash Pad (share not incl. Grant) | 1                             | \$500,000   | \$500,000           |
| <b>TOTAL</b>                       |                               |             | <b>\$43,425,077</b> |
| <b>Cost per Acre</b>               |                               |             | <b>\$407,135.54</b> |

*Trails.* Basin Recreation currently has 191.75 trail miles. This results in a standard of 0.007353 trail miles per demand unit.<sup>7</sup>

**Table 9: Trail Miles in Basin Recreation**

|                 | Existing Miles | Cost per Mile | Eligible Cost       |
|-----------------|----------------|---------------|---------------------|
| Hard Surface    | 31.1           | \$303,600     | \$9,441,960         |
| Soft Surface    | 13.2           | \$145,200     | \$1,916,640         |
| Natural Surface | 147.45         | \$29,700      | \$4,379,265         |
| <b>TOTAL</b>    | <b>191.75</b>  |               | <b>\$15,737,865</b> |

<sup>7</sup> Calculated by dividing 191.75 trail miles by the 2027 demand factor of 26,078.

Trail structures are an important component of a trails system and Basin Recreation intends to at least maintain its current level of trail structures.

**Table 10: Trail Structures**

| Trail Structures   | # of Units | Cost per Unit | Total Trail Structures Value |
|--------------------|------------|---------------|------------------------------|
| Major Trailheads   | 5          | \$184,433     | \$922,163                    |
| Minor Trailheads   | 5          | \$62,962      | \$314,810                    |
| Bridges            |            |               | \$369,341                    |
| Boardwalks         |            |               | \$370,000                    |
| Fencing            |            |               | \$131,737                    |
| I-80 Crossing      |            |               | \$979,948                    |
| SR224 Underpass    |            |               | \$638,499                    |
| Other Underpasses* |            |               | \$2,452,187                  |
| <b>TOTAL</b>       |            |               | <b>\$6,178,685</b>           |

\*Other underpasses include Highway 40 UDOT Wildlife/Ped Underpass (\$756,352); Kilby Road at Pinebrook (\$1,500,000); and Rasmussen Rd to East Canyon Creek Trailhead (\$195,835.17).



The current service level for trail structures is \$236.93 per demand unit, calculated by dividing the \$6,178,685 by 26,078 demand units.

*Recreation Facilities.* The Fieldhouse has 80,086 square feet and is expected to reach capacity in 2027 based on population growth and input from the District. The existing service level is therefore 3.07 square feet per demand unit, calculated by dividing the 80,086 square feet by the 26,078 demand units.

The Ice Arena is shared with Park City Municipal Recreation. Basin Recreation made a \$2,101,396 contribution to the Park City Ice Arena through an Interlocal Agreement that allows for joint use of the facility and provides the residents and employees of Basin Recreation area with a level of service for ice use. The Ice Arena contains 46,000 square feet of arena space and 20,000 square feet of ice rink space. The current level of service is \$80.58, calculated by dividing the original \$2.1 million investment by the 26,078 demand units in 2027.

*Open Space.* The District has acquired 1,975 acres of open space, resulting in a current level of service of 0.07574 open space acres per demand unit.

### Proposed Service Levels

*Parks.* The proposed service level for parks is at least the same as the existing service level – 4.09 improved park acres per 1,000 demand units.

*Trails.* The proposed level of service for trails is at least the same as the existing service level – 0.007353 trail miles per demand unit. A map of future trail plans is attached as Appendix A.

The proposed service level for trail structures is \$236.93 per demand unit. The need for trail structures is closely associated with the development of trail miles. Further, Basin Recreation feels that it needs to at least maintain its existing level of trail structures.



*Recreation Facilities.* The Fieldhouse will be at capacity in 2027, resulting in a proposed service level of 3.07 square feet per demand unit, calculated by dividing 80,086 square feet by the 2027 demand units (26,078). The proposed service level was determined by Basin Recreation after a thorough review of the District's needs.

The proposed service level for the Ice Arena will be reached at 60,000 demand units.

*Open Space.* The proposed service level for open space is the same as the existing service level – 0.07574 open space acres per demand unit.

## Identify Excess Capacity

**Parks.** There is no excess capacity in the park system.

**Trails.** There is no excess capacity in the trails system which includes trail miles and trail structures.

**Recreation Facilities.** There is no excess capacity in the Fieldhouse as of 2027.

There is excess capacity in the Ice Arena which will be consumed when the District reaches 60,000 demand units – its estimated buildout demand units.



**Open Space.** There is no excess capacity in open space.

## Identify Demands Placed on Existing Public Facilities by New Development Activity at Proposed Level of Service and How Those Demands Will Be Met

*Utah Code 11-36a-302(1)(a)(iv)(v)*

### Demand Placed on Facilities by New Development Activity

**Parks.** With 26,078 demand units, there is a current level of service of 4.09 park acres per 1,000 demand units. The current service level will decline to 3.47 acres per 1,000 demand units by 2036 if no new park land is developed.

**TABLE 11: PARK SERVICE LEVELS**

| Year | Total Demand Units | Existing Acres of Improved Parks | Acres per 1,000 Demand Units |
|------|--------------------|----------------------------------|------------------------------|
| 2027 | 26,078             | 106.66                           | 4.09                         |
| 2028 | 26,584             | 106.66                           | 4.01                         |
| 2029 | 27,196             | 106.66                           | 3.92                         |
| 2030 | 27,767             | 106.66                           | 3.84                         |
| 2031 | 28,328             | 106.66                           | 3.77                         |
| 2032 | 28,820             | 106.66                           | 3.70                         |
| 2033 | 29,280             | 106.66                           | 3.64                         |
| 2034 | 29,768             | 106.66                           | 3.58                         |

| Year                    | Total Demand Units | Existing Acres of Improved Parks | Acres per 1,000 Demand Units |
|-------------------------|--------------------|----------------------------------|------------------------------|
| 2035                    | 30,235             | 106.66                           | 3.53                         |
| 2036                    | 30,709             | 106.66                           | 3.47                         |
| <b>Growth 2027-2036</b> | <b>4,631</b>       |                                  |                              |

*Trails.* Basin Recreation has a current service level of 0.00735 trail miles per demand unit. If no new trails are added, current service levels will decline to 0.00624 trail miles per demand unit by 2036.

TABLE 12: TRAIL SERVICE LEVELS

| Year                    | Total Demand Units | Existing Trail Miles | Trail Miles per Demand Unit |
|-------------------------|--------------------|----------------------|-----------------------------|
| 2027                    | 26,078             | 191.75               | 0.00735                     |
| 2028                    | 26,584             | 191.75               | 0.00721                     |
| 2029                    | 27,196             | 191.75               | 0.00705                     |
| 2030                    | 27,767             | 191.75               | 0.00691                     |
| 2031                    | 28,328             | 191.75               | 0.00677                     |
| 2032                    | 28,820             | 191.75               | 0.00665                     |
| 2033                    | 29,280             | 191.75               | 0.00655                     |
| 2034                    | 29,768             | 191.75               | 0.00644                     |
| 2035                    | 30,235             | 191.75               | 0.00634                     |
| 2036                    | 30,709             | 191.75               | 0.00624                     |
| <b>Growth 2027-2036</b> | <b>4,631</b>       |                      |                             |

The level of service for trail structures will decrease from \$236.93 per demand unit in 2027 to \$201.20 per demand unit in 2036.

TABLE 13: PROJECTED DEMAND ON TRAIL STRUCTURES

| Year                    | Total Demand Units | Existing Trail Structures | Trail Structure Cost per Demand Unit |
|-------------------------|--------------------|---------------------------|--------------------------------------|
| 2027                    | 26,078             | \$6,178,685               | \$236.93                             |
| 2028                    | 26,584             | \$6,178,685               | \$232.42                             |
| 2029                    | 27,196             | \$6,178,685               | \$227.19                             |
| 2030                    | 27,767             | \$6,178,685               | \$222.52                             |
| 2031                    | 28,328             | \$6,178,685               | \$218.11                             |
| 2032                    | 28,820             | \$6,178,685               | \$214.39                             |
| 2033                    | 29,280             | \$6,178,685               | \$211.02                             |
| 2034                    | 29,768             | \$6,178,685               | \$207.56                             |
| 2035                    | 30,235             | \$6,178,685               | \$204.36                             |
| 2036                    | 30,709             | \$6,178,685               | \$201.20                             |
| <b>Growth 2027-2036</b> | <b>4,631</b>       |                           |                                      |

*Recreation Facilities.* Recreation facilities can include a wide range of facilities and, for purposes of this analysis, include The Fieldhouse and the Ice Arena.

TABLE 14: RECREATION FACILITY SERVICE LEVELS

| Year                    | Total Demand Units | Fieldhouse Facility SF | Facility SF per Demand Unit |
|-------------------------|--------------------|------------------------|-----------------------------|
| 2027                    | 26,078             | 80,086                 | 3.07                        |
| 2028                    | 26,584             | 80,086                 | 3.01                        |
| 2029                    | 27,196             | 80,086                 | 2.94                        |
| 2030                    | 27,767             | 80,086                 | 2.88                        |
| 2031                    | 28,328             | 80,086                 | 2.83                        |
| 2032                    | 28,820             | 80,086                 | 2.78                        |
| 2033                    | 29,280             | 80,086                 | 2.74                        |
| 2034                    | 29,768             | 80,086                 | 2.69                        |
| 2035                    | 30,235             | 80,086                 | 2.65                        |
| 2036                    | 30,709             | 80,086                 | 2.61                        |
| <b>Growth 2027-2036</b> | <b>4,631</b>       |                        |                             |

The current level of service at the Fieldhouse is 3.07 square feet per demand unit. Service levels will decline to 2.61 square feet by 2036 unless additional square feet are added. Basin Recreation has determined that service levels will be at capacity by 2027.

The Ice Arena service levels will decline from \$80.58 per demand unit in 2027 to \$68.43 per demand unit in 2036. The District recognizes that there is excess capacity in the Ice Arena and plans on declining service levels until buildout. At that time, the service level will be about \$35.02 per demand unit.

TABLE 15: ICE ARENA SERVICE LEVELS

| Year                    | Total Demand Units | Facility Cost | Facility Cost per Demand Unit |
|-------------------------|--------------------|---------------|-------------------------------|
| 2027                    | 26,078             | \$2,101,396   | \$80.58                       |
| 2028                    | 26,584             | \$2,101,396   | \$79.05                       |
| 2029                    | 27,196             | \$2,101,396   | \$77.27                       |
| 2030                    | 27,767             | \$2,101,396   | \$75.68                       |
| 2031                    | 28,328             | \$2,101,396   | \$74.18                       |
| 2032                    | 28,820             | \$2,101,396   | \$72.92                       |
| 2033                    | 29,280             | \$2,101,396   | \$71.77                       |
| 2034                    | 29,768             | \$2,101,396   | \$70.59                       |
| 2035                    | 30,235             | \$2,101,396   | \$69.50                       |
| 2036                    | 30,709             | \$2,101,396   | \$68.43                       |
| <b>Growth 2027-2036</b> | <b>4,631</b>       |               |                               |

*Open Space.* Open space service levels will decline from 0.07574 acres per demand unit to 0.06432 acres per demand unit in 2036 if no new open space is acquired.

TABLE 16: OPEN SPACE SERVICE LEVELS

| Year                    | Demand Units | Open Space Acres | Open Space Acres per Demand Unit |
|-------------------------|--------------|------------------|----------------------------------|
| 2027                    | 26,078       | 1,975            | 0.07574                          |
| 2028                    | 26,584       | 1,975            | 0.07430                          |
| 2029                    | 27,196       | 1,975            | 0.07263                          |
| 2030                    | 27,767       | 1,975            | 0.07114                          |
| 2031                    | 28,328       | 1,975            | 0.06973                          |
| 2032                    | 28,820       | 1,975            | 0.06854                          |
| 2033                    | 29,280       | 1,975            | 0.06746                          |
| 2034                    | 29,768       | 1,975            | 0.06635                          |
| 2035                    | 30,235       | 1,975            | 0.06533                          |
| 2036                    | 30,709       | 1,975            | 0.06432                          |
| <b>Growth 2027-2036</b> | <b>4,631</b> |                  |                                  |

### Identify the Means by Which the Political Subdivision Will Meet the Growth Demands

*Parks.* Basin Recreation will need to acquire additional park land and improvements to maintain its proposed level of service at an estimated cost of \$7,711,738.

TABLE 17: REQUIRED PARK INVESTMENT

| Year                    | Total Demand Units | Total Park Acres to Maintain Proposed LOS | Parks Cost to Maintain LOS |
|-------------------------|--------------------|-------------------------------------------|----------------------------|
| 2027                    | 26,078             | 106.66                                    | \$43,425,077               |
| 2028                    | 26,584             | 108.73                                    | \$44,267,893               |
| 2029                    | 27,196             | 111.24                                    | \$45,287,802               |
| 2030                    | 27,767             | 113.57                                    | \$46,237,886               |
| 2031                    | 28,328             | 115.86                                    | \$47,172,097               |
| 2032                    | 28,820             | 117.87                                    | \$47,990,979               |
| 2033                    | 29,280             | 119.76                                    | \$48,756,931               |
| 2034                    | 29,768             | 121.75                                    | \$49,570,442               |
| 2035                    | 30,235             | 123.66                                    | \$50,347,593               |
| 2036                    | 30,709             | 125.60                                    | \$51,136,815               |
| <b>Growth 2027-2036</b> | <b>4,631</b>       | <b>18.94</b>                              | <b>\$7,711,738</b>         |

*Trails.* Basin Recreation currently has 191.75 trail miles, which equates to an existing trails standard of 0.00735 linear trail miles per demand unit. To maintain current service levels, the District will need to spend approximately \$2,794,843 on trails by 2036. Future trail needs are shown on the Trails Map in the Appendix.

TABLE 18: TRAIL IMPROVEMENT COSTS

| Year                    | Total Demand Units | Total Trail Miles to Maintain Proposed LOS | Trails Cost to Maintain LOS |
|-------------------------|--------------------|--------------------------------------------|-----------------------------|
| 2027                    | 26,078             | 191.75                                     | \$15,737,865                |
| 2028                    | 26,584             | 195.47                                     | \$16,043,314                |
| 2029                    | 27,196             | 199.98                                     | \$16,412,943                |
| 2030                    | 27,767             | 204.17                                     | \$16,757,267                |
| 2031                    | 28,328             | 208.30                                     | \$17,095,838                |
| 2032                    | 28,820             | 211.91                                     | \$17,392,613                |
| 2033                    | 29,280             | 215.29                                     | \$17,670,205                |
| 2034                    | 29,768             | 218.89                                     | \$17,965,033                |
| 2035                    | 30,235             | 222.32                                     | \$18,246,683                |
| 2036                    | 30,709             | 225.80                                     | \$18,532,708                |
| <b>Growth 2027-2036</b> | <b>4,631</b>       | <b>34.05</b>                               | <b>\$2,794,843</b>          |

Related to trails, Basin Recreation will also need to spend approximately \$1,097,255 to upgrade its trail structures in conjunction with its added trail miles.

TABLE 19: TRAIL STRUCTURE IMPROVEMENT COSTS

| Year                    | Total Demand Units | Existing Trail Structures | Trail Structure Cost per Demand Unit | Total Trail Structure Cost to Maintain LOS |
|-------------------------|--------------------|---------------------------|--------------------------------------|--------------------------------------------|
| 2027                    | 26,078             | \$6,178,685               | \$236.93                             | \$6,178,685                                |
| 2028                    | 26,584             | \$6,178,685               | \$232.42                             | \$6,298,604                                |
| 2029                    | 27,196             | \$6,178,685               | \$227.19                             | \$6,443,721                                |
| 2030                    | 27,767             | \$6,178,685               | \$222.52                             | \$6,578,902                                |
| 2031                    | 28,328             | \$6,178,685               | \$218.11                             | \$6,711,825                                |
| 2032                    | 28,820             | \$6,178,685               | \$214.39                             | \$6,828,339                                |
| 2033                    | 29,280             | \$6,178,685               | \$211.02                             | \$6,937,321                                |
| 2034                    | 29,768             | \$6,178,685               | \$207.56                             | \$7,053,071                                |
| 2035                    | 30,235             | \$6,178,685               | \$204.36                             | \$7,163,647                                |
| 2036                    | 30,709             | \$6,178,685               | \$201.20                             | \$7,275,940                                |
| <b>Growth 2027-2036</b> | <b>4,631</b>       |                           |                                      | <b>\$1,097,255</b>                         |

*Recreation Facilities.* The Fieldhouse has the capacity to serve new development until 2027 at which time additional space will be needed. This recommendation of additional space by 2027 was made after extensive community input and studies completed over the past few years. It is estimated that the District will need to spend approximately \$7,338,791 on recreation space by 2036 in order to maintain service levels.

TABLE 20: RECREATION FACILITY (FIELDHOUSE) COSTS

| Year                    | Total Demand Units | Total Facility SF to Maintain Proposed LOS | Recreation Facility Cost to Maintain LOS |
|-------------------------|--------------------|--------------------------------------------|------------------------------------------|
| 2027                    | 26,078             | 80,086                                     | \$41,325,000                             |
| 2028                    | 26,584             | 81,640                                     | \$42,127,057                             |
| 2029                    | 27,196             | 83,521                                     | \$43,097,642                             |
| 2030                    | 27,767             | 85,273                                     | \$44,001,780                             |
| 2031                    | 28,328             | 86,996                                     | \$44,890,811                             |
| 2032                    | 28,820             | 88,507                                     | \$45,670,091                             |
| 2033                    | 29,280             | 89,919                                     | \$46,399,001                             |
| 2034                    | 29,768             | 91,419                                     | \$47,173,170                             |
| 2035                    | 30,235             | 92,853                                     | \$47,912,737                             |
| 2036                    | 30,709             | 94,308                                     | \$48,663,791                             |
| <b>Growth 2027-2036</b> | <b>4,631</b>       | <b>14,222</b>                              | <b>\$7,338,791</b>                       |

Demand for ice arena space will be met by requiring new development to buy into the existing, excess capacity in the Ice Arena.

*Open Space.* The District will need to acquire 350.8 additional acres of open space, at an estimated cost of \$5,051,669 if it is to maintain its existing and proposed service levels.

TABLE 21: OPEN SPACE COSTS

| Year                    | Demand Units | Total Acres Needed to Maintain Current LOS | Open Space Cost to Maintain LOS |
|-------------------------|--------------|--------------------------------------------|---------------------------------|
| 2027                    | 26,078       | 1,975                                      | \$28,446,134                    |
| 2028                    | 26,584       | 2,014                                      | \$28,998,231                    |
| 2029                    | 27,196       | 2,060                                      | \$29,666,334                    |
| 2030                    | 27,767       | 2,103                                      | \$30,288,699                    |
| 2031                    | 28,328       | 2,146                                      | \$30,900,666                    |
| 2032                    | 28,820       | 2,183                                      | \$31,437,084                    |
| 2033                    | 29,280       | 2,218                                      | \$31,938,830                    |
| 2034                    | 29,768       | 2,255                                      | \$32,471,731                    |
| 2035                    | 30,235       | 2,290                                      | \$32,980,813                    |
| 2036                    | 30,709       | 2,326                                      | \$33,497,803                    |
| <b>Growth 2027-2036</b> | <b>4,631</b> | <b>350.8</b>                               | <b>\$5,051,669</b>              |

Future planned facilities and year of construction/acquisition are shown in the shaded area in Table 22 below.

TABLE 22: FUTURE PLANNED FACILITIES

| Priority                     | Facility /<br>Amenity                                           | Setting | 2026 | 2027 | 2028 | 2029 | 2030 | 2031 | 2032 | 2033 | 2034 | 2035 |
|------------------------------|-----------------------------------------------------------------|---------|------|------|------|------|------|------|------|------|------|------|
| <b>OPEN SPACE</b>            |                                                                 |         |      |      |      |      |      |      |      |      |      |      |
| 1                            | Open Space<br>Property<br>Acquisitions                          | Outdoor |      |      |      |      |      |      |      |      |      |      |
| 1                            | Development of<br>Additional Trail<br>Mileage and<br>Trailheads | Outdoor |      |      |      |      |      |      |      |      |      |      |
| 1                            | Winter Trail<br>Grooming<br>Equipment                           | Outdoor |      |      |      |      |      |      |      |      |      |      |
| 1                            | Outdoor Fitness<br>Stations                                     | Outdoor |      |      |      |      |      |      |      |      |      |      |
| <b>RECREATION FACILITIES</b> |                                                                 |         |      |      |      |      |      |      |      |      |      |      |
| 1                            | Skate Park                                                      | Outdoor |      |      |      |      |      |      |      |      |      |      |
| 1                            | Bike Park                                                       | Outdoor |      |      |      |      |      |      |      |      |      |      |
| 1                            | Off-Leash Dog<br>Areas                                          | Outdoor |      |      |      |      |      |      |      |      |      |      |
| 1                            | Aquatics — Lap<br>Lanes                                         | Indoor  |      |      |      |      |      |      |      |      |      |      |
| 1                            | Aquatics —<br>Recreation /<br>Leisure Pool                      | Indoor  |      |      |      |      |      |      |      |      |      |      |
| 1                            | Hot Tub / Spa                                                   | Indoor  |      |      |      |      |      |      |      |      |      |      |
| 1                            | Sauna / Cold<br>Plunge                                          | Indoor  |      |      |      |      |      |      |      |      |      |      |
| 1                            | Walking /<br>Jogging Track                                      | Indoor  |      |      |      |      |      |      |      |      |      |      |
| 1                            | Cardio / Weight<br>Areas                                        | Indoor  |      |      |      |      |      |      |      |      |      |      |
| 1                            | Climbing Wall —<br>Bouldering, Top-<br>Rope, and Lead           | Indoor  |      |      |      |      |      |      |      |      |      |      |
| 1                            | Group Fitness<br>Studio                                         | Indoor  |      |      |      |      |      |      |      |      |      |      |
| 1                            | Multipurpose<br>Artificial Turf<br>Fields                       | Indoor  |      |      |      |      |      |      |      |      |      |      |
| 1                            | Gymnasium /<br>Court Space                                      | Indoor  |      |      |      |      |      |      |      |      |      |      |
| 1                            | Drop-In<br>Childcare / Kids<br>Zone                             | Indoor  |      |      |      |      |      |      |      |      |      |      |
| 1                            | Pickleball                                                      | Outdoor |      |      |      |      |      |      |      |      |      |      |
| 1                            | Tennis Courts                                                   | Outdoor |      |      |      |      |      |      |      |      |      |      |
| 1                            | Nature Play Area                                                | Outdoor |      |      |      |      |      |      |      |      |      |      |
| 2                            | Softball /<br>Baseball Fields                                   | Outdoor |      |      |      |      |      |      |      |      |      |      |
| 2                            | Obstacle / Agility<br>Course                                    | Indoor  |      |      |      |      |      |      |      |      |      |      |
| 2                            | Aquatic Climbing<br>/ Obstacle<br>Course                        | Indoor  |      |      |      |      |      |      |      |      |      |      |
| 2                            | Pickleball                                                      | Outdoor |      |      |      |      |      |      |      |      |      |      |
| 2                            | Squash or<br>Racquetball<br>Courts                              | Indoor  |      |      |      |      |      |      |      |      |      |      |
| 2                            | Playgrounds                                                     | Indoor  |      |      |      |      |      |      |      |      |      |      |
| 2                            | Sun Deck /<br>Cabanas                                           | Outdoor |      |      |      |      |      |      |      |      |      |      |
| 2                            | Diving Area                                                     | Indoor  |      |      |      |      |      |      |      |      |      |      |

| Priority         | Facility / Amenity         | Setting | 2026 | 2027 | 2028 | 2029 | 2030 | 2031 | 2032 | 2033 | 2034 | 2035 |
|------------------|----------------------------|---------|------|------|------|------|------|------|------|------|------|------|
| 2                | Splash Pad / Water Feature | Outdoor |      |      |      |      |      |      |      |      |      |      |
| 2                | Multipurpose Fields        | Outdoor |      |      |      |      |      |      |      |      |      |      |
| 2                | Playgrounds                | Outdoor |      |      |      |      |      |      |      |      |      |      |
| 2                | Basketball Courts          | Outdoor |      |      |      |      |      |      |      |      |      |      |
| 2                | Aquatics — Lap Lanes       | Outdoor |      |      |      |      |      |      |      |      |      |      |
| 2                | Aquatics — Leisure Pool    | Outdoor |      |      |      |      |      |      |      |      |      |      |
| 3                | Pavilions                  | Outdoor |      |      |      |      |      |      |      |      |      |      |
| 3                | Tennis Courts              | Outdoor |      |      |      |      |      |      |      |      |      |      |
| 3                | Paddle / Platform Tennis   | Outdoor |      |      |      |      |      |      |      |      |      |      |
| 3                | Volleyball                 | Outdoor |      |      |      |      |      |      |      |      |      |      |
| <b>LONG-TERM</b> |                            |         |      |      |      |      |      |      |      |      |      |      |
| 4                | Ski/sledding hill          | Outdoor |      |      |      |      |      |      |      |      |      |      |
| 4                | Ice Facility               | Outdoor |      |      |      |      |      |      |      |      |      |      |
| 4                | Equestrian Park            | Outdoor |      |      |      |      |      |      |      |      |      |      |
| 4                | Golf Learning Center       | Outdoor |      |      |      |      |      |      |      |      |      |      |
| 4                | Golf Course — Public       | Outdoor |      |      |      |      |      |      |      |      |      |      |
| 4                | Archery Range              | Outdoor |      |      |      |      |      |      |      |      |      |      |
| 4                | Ice Sheet                  | Indoor  |      |      |      |      |      |      |      |      |      |      |
| 4                | Equestrian Center          | Outdoor |      |      |      |      |      |      |      |      |      |      |

## Consideration of All Revenue Sources

*Utah Code 11-36a-302(2)*

### Grants

Basin Recreation anticipates that the land for future trails will be acquired through easements and grants, as it has in the past, and has therefore not included any cost for trail land associated with trail miles in the calculation of impact fees. However, the District will likely have to purchase land for trailheads and the cost of associated land can therefore be included in impact fees.

### Bonds

Basin Recreation has outstanding bonds for parks, recreation, open space, and trails facilities. These are all general obligation bonds and, as such, future property tax payments for the bonds need to be credited against the gross impact fee in order to ensure that double payments are not made by new development. These calculations should be included in the impact fees analysis.

### Interfund Loans

Basin Recreation currently has no plans to purchase parks, recreation, open space or trail facilities through any interfund loans.

### **Transfer from General Fund**

To the extent that Basin Recreation is able to generate net revenues in its General Fund, it may choose to transfer all or a portion of the net revenues to Basin Recreation's capital fund.

### **Impact Fees**

Because of the significant growth anticipated to occur in the Basin Recreation area, impact fees are a viable means of allowing new development to pay for the impacts that it places on the existing system. This IFFP is developed in accordance with legal guidelines so that an IFA for Parks, Recreation, Open Space, and Trails may be prepared and Basin Recreation may charge impact fees for Parks, Recreation, Open Space, and Trails.

### **Anticipated or Accepted Dedications of System Improvements**

Any item that a developer funds must be included in the IFFP if a credit against impact fees is to be issued and must be agreed upon with Basin Recreation before construction of the improvements.

### **Outstanding Bonds**

The District has three outstanding bonds for which credits must be made in the impact fee calculations: Series 2017, Series 2015A and Series 2015B.

## **Certification**

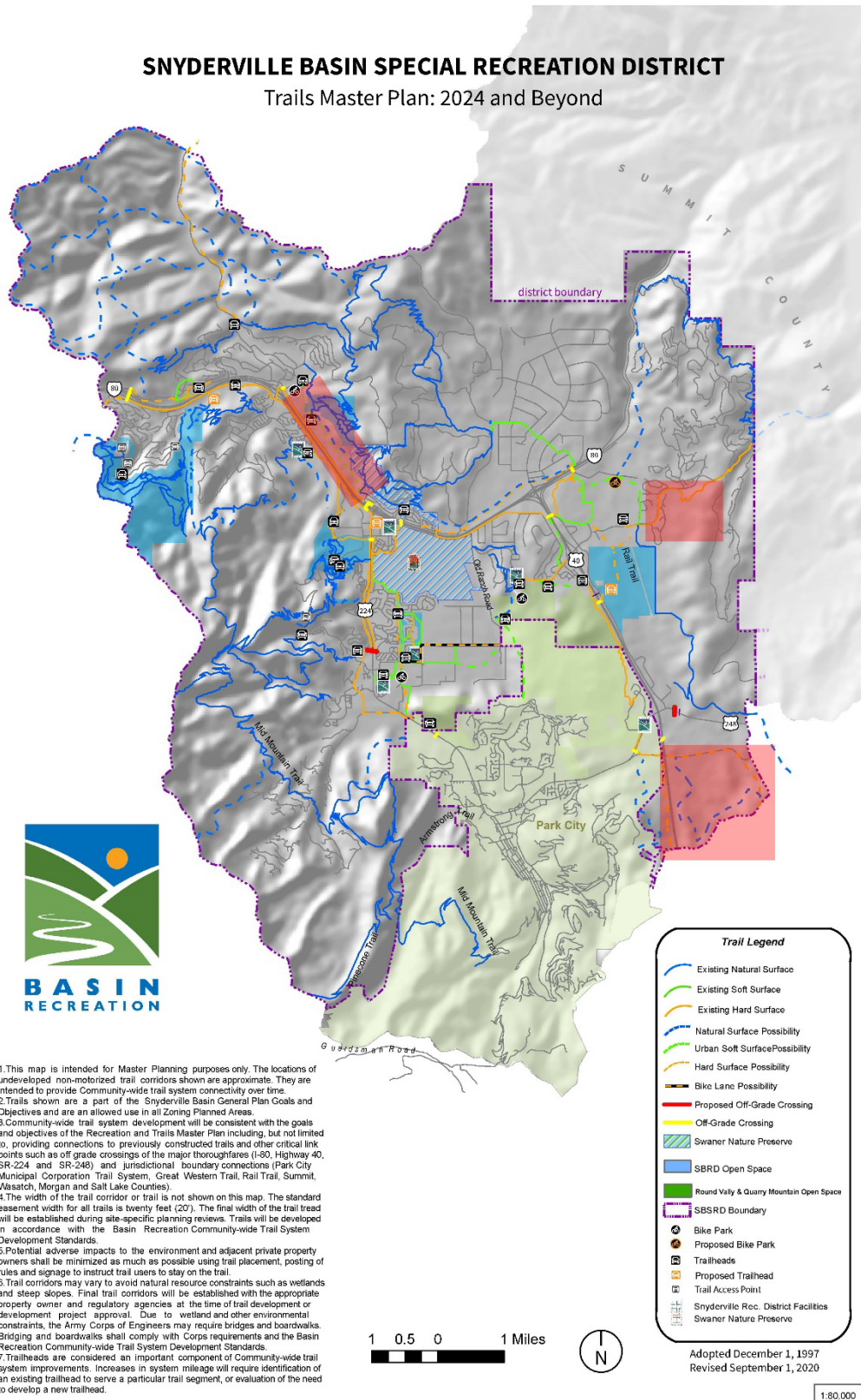
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Zions Public Finance, Inc. certifies that the attached impact fee facilities plan:

1. Includes only the costs of public facilities that are:
  - a. allowed under the Impact Fees Act; and
  - b. actually incurred; or
  - c. projected to be incurred or encumbered within six years after the day on which each impact fee is paid;
2. Does not include:
  - a. costs of operation and maintenance of public facilities;
  - b. costs for qualifying public facilities that will raise the level of service for the facilities, through impact fees, above the level of service that is supported by existing residents;
  - c. an expense for overhead, unless the expense is calculated pursuant to a methodology that is consistent with generally accepted cost accounting practices and the methodological standards set forth by the federal Office of Management and Budget for federal grant reimbursement;
3. Complies in each and every relevant respect with the Impact Fees Act.



## Appendix A – Current or Planned Trails Map





# What Is the Impact Fee Facilities Plan and Why Does It Matter to You?

A Plain-Language Guide for Snyderville Basin Residents

Snyderville Basin Special Recreation District | June 2026

Basin Recreation maintains the trails, parks, open spaces, and the Fieldhouse that make life in the Snyderville Basin exceptional. As the community grows, those facilities come under pressure. The Impact Fee Facilities Plan (or IFFP) is the District’s legally required blueprint for answering one fundamental question:

*“As new homes and businesses are built, how do we make sure the people who move in pay their fair share of the recreation infrastructure they’ll use?”*

The short answer: through impact fees. This document explains what the IFFP found, what it means for your property taxes, and what happens next.

## 1. The Big Picture in Plain Numbers

|                                                                                           |                                                                                    |                                                                                            |
|-------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------|
| <b>25,597</b><br><b>People Basin Rec Serves Today</b><br>Residents + workers in the Basin | <b>30,709</b><br><b>Projected by 2036</b><br>+20% growth over 10 years             | <b>\$137M+</b><br><b>Infrastructure We Manage</b><br>Trails, parks, open space, Fieldhouse |
| <b>191</b><br><b>Miles of Trails</b><br>10x the national median for similar districts     | <b>1,975</b><br><b>Acres of Open Space</b><br>Permanently protected for public use | <b>\$24M+</b><br><b>New Investment Needed</b><br>Over the next 10 years, driven by growth  |

## 2. What Is an Impact Fee, and Why Does the Law Require This Plan?

An impact fee is a one-time charge paid by a developer when they build something new (a house, a condo, a hotel, an office building). The fee represents that new development's share of the cost of the public recreation infrastructure its future residents and employees will use.

Utah law (the Impact Fees Act, Utah Code 11-36a) is very specific about how impact fees must be set:

- Fees must be based on an independent analysis; they cannot be arbitrary.
- They can only pay for capital facilities (new parks, trails, open space, buildings). They cannot be used for operations, salaries, or maintenance.
- New development can only be charged for its proportional share of the need it creates; existing residents cannot be charged twice for infrastructure they already funded.
- The fee must be spent within the District's service area on approved facilities.

The IFFP (Impact Fee Facilities Plan) is the required first step: a comprehensive, independently certified analysis of existing facilities, projected growth, and future capital needs. Once the Summit County Council approves the IFFP, Basin Recreation can proceed to an Impact Fee Analysis (IFA) that sets the actual fee amounts.

### Who prepared this? Is it trustworthy?

The IFFP was prepared by Zions Public Finance, Inc. (ZPFI), an independent firm with no stake in the outcome. ZPFI certified the plan in compliance with the Utah Impact Fees Act. The District's 2025 state compliance audit, conducted separately by Jones Simkins LLC, independently confirmed that Basin Recreation's existing impact fee practices comply with all legal requirements.

## 3. Who Does Basin Recreation Actually Serve?

You might think of Basin Recreation as serving the roughly 22,000 people who live here. But that's only part of the picture. Thousands of people commute into the Basin for work every day and use the trails, parks, and facilities, without living here and paying Basin Rec property taxes.

The IFFP accounts for this by counting both residents and non-resident workers (at half-weight, since they spend less time here). The result: Basin Recreation's true demand base is significantly larger than the residential population alone.

| Year                          | Residents     | Non-Resident Workers* | Total Demand Units |
|-------------------------------|---------------|-----------------------|--------------------|
| 2026 (today)                  | 22,224        | 6,746                 | 25,597             |
| 2030                          | 23,663        | 8,208                 | 27,767             |
| <b>2036 (10-year horizon)</b> | <b>25,998</b> | <b>9,422</b>          | <b>30,709</b>      |

\*Non-resident workers counted at 50% to reflect shorter time spent in the Basin. Source: ZPFI analysis of planned development; 2025 American Community Survey; U.S. Census on the Map.

This matters for two reasons. First, it means Basin Recreation is serving a larger community than critics sometimes acknowledge when they question the District's budget. Second, it means commercial development (which brings workers into the Basin) also generates a legitimate share of impact fees.

#### 4. What We Have Now: No Room to Spare

Before setting any fee, the IFFP had to document exactly what Basin Recreation currently provides and whether there is any room for new users without adding new facilities. The answer across almost every category: no excess capacity at all.

| What We Have                           | Amount                    | How That's Measured        | Room for More?    |
|----------------------------------------|---------------------------|----------------------------|-------------------|
| Parks                                  | 106.66 developed acres    | 4.09 acres per 1,000 users | No                |
| Trails                                 | 191.75 miles              | 0.007 miles per user       | No                |
| Trail bridges & structures             | \$6.2 million invested    | \$237 per user             | No                |
| Open Space                             | 1,975 acres               | 0.076 acres per user       | No                |
| Fieldhouse                             | 80,086 sq ft              | 3.07 sq ft per user        | No (full by 2027) |
| <b>Ice Arena (shared w/ Park City)</b> | <b>\$2.1M contributed</b> | <b>\$80.58 per user</b>    | <b>Some (yes)</b> |

With the single exception of the Ice Arena, Basin Recreation has zero excess capacity in any asset category. The Fieldhouse is projected to reach capacity as soon as 2027. This is not a District making the case for expansion because it wants more: it's a District at full utilization, facing documented growth pressure.

## 5. What Happens If We Do Nothing?

The IFFP modeled what service levels would look like by 2036 if the Basin grows as projected but Basin Recreation makes no new investments. The result: every metric declines by approximately 15% over the decade.

| Facility Type                    | Today's Level     | 2036 Without Investment | How Much Worse |
|----------------------------------|-------------------|-------------------------|----------------|
| Parks per 1,000 users            | 4.09 acres        | 3.47 acres              | -15.2%         |
| Trail miles per user             | 0.00735           | 0.00624                 | -15.1%         |
| Open space per user              | 0.0757 acres      | 0.0643 acres            | -15.1%         |
| <b>Fieldhouse space per user</b> | <b>3.07 sq ft</b> | <b>2.61 sq ft</b>       | <b>-15.0%</b>  |

To be clear: this decline would happen not because Basin Recreation cut anything, but simply because more people would be sharing the same fixed set of facilities. Maintaining the quality of recreation that the Snyderville Basin is known for requires keeping pace with growth, and growth-driven investment is exactly what impact fees are designed to fund.

## 6. What New Investment Is Needed?

To keep service levels exactly where they are today as the Basin grows to 30,700 demand units by 2036, the IFFP identifies the following capital investments:

| What's Needed (2027–2036)                   | Estimated Cost       |
|---------------------------------------------|----------------------|
| 18.94 additional acres of parks             | \$7,711,738          |
| 34 additional miles of trails               | \$2,794,843          |
| Additional trail bridges & structures       | \$1,097,255          |
| 14,222 sq ft of additional Fieldhouse space | \$7,338,791          |
| 350+ additional acres of open space         | \$5,051,669          |
| <b>Total 10-Year Capital Need</b>           | <b>\$24,000,000+</b> |

These are not wish-list items. They are the minimum investment required to maintain today's service levels as the population grows. Impact fees paid by new development will fund a proportional share. The remainder may be covered through general obligation bonds (voter-approved), general fund transfers, grants, and trail easements.

**What does “proportional share” mean in practice?**

If a new subdivision adds 200 households to the Basin, those 200 households will use Basin Recreation just like everyone else. The impact fee they pay is calculated to cover exactly their share of the capital facilities they’ll use, no more, no less. Existing residents have already paid for what’s here. They are not charged again.

Utah law prohibits “double dipping.” The fee is mathematically derived to isolate only the new demand created by new development.

## 7. What Does This Mean for Your Property Taxes?

This is the question most residents care about most. The answer is encouraging: a well-designed impact fee structure protects existing property taxpayers.

Right now, every dollar of capital investment Basin Recreation makes is funded either by property taxes (through voter-approved bonds) or by transfers from the operating fund. That means existing residents (including the Basin’s many full-time families) are effectively subsidizing the infrastructure that future development will also use.

Impact fees fix that. When updated fees are in place, new development pays its proportional share upfront. This reduces the pressure on Basin Recreation to seek additional bond authorizations or tax increases to keep pace with growth.

| Without Updated Impact Fees                                       | With Updated Impact Fees                                                    |
|-------------------------------------------------------------------|-----------------------------------------------------------------------------|
| Growth’s infrastructure costs fall on existing property taxpayers | Growth’s infrastructure costs are paid by the new development causing them  |
| Basin Rec must seek bonds or tax increases to fund capital needs  | Impact fee revenue funds a portion of capital needs without tax increases   |
| Existing residents subsidize the system’s expansion               | Existing residents maintain their current investment; new users pay to join |
| <b>Result: upward pressure on property taxes</b>                  | <b>Result: some relief from growth-driven capital pressure</b>              |

To put Basin Rec’s share of your total property tax bill in context: the combined Basin Recreation levy (operations plus bond repayment) accounts for approximately 10.6% of a typical Snyderville Basin property tax bill. The Park City School District alone is approximately 43%. Basin Rec is not the largest line item on your bill, and a well-funded impact fee program is one of the most effective tools available to keep it from growing.

## 8. What Has the Community Asked For?

The IFFP's list of future facilities wasn't invented by staff. It was built from a community needs assessment with extensive public input. Residents were asked what they want. These are the results, ranked by priority:

| Priority   | What the Community Asked For                                             | Outdoor or Indoor? |
|------------|--------------------------------------------------------------------------|--------------------|
| 1          | Open Space acquisitions (more protected land)                            | Outdoor            |
| 1          | More trails and trailheads                                               | Outdoor            |
| 1          | Aquatics: lap lanes and a leisure/recreation pool                        | Indoor             |
| 1          | Skate park and bike park                                                 | Outdoor            |
| 1          | Cardio/weight areas and a walking/jogging track                          | Indoor             |
| 1          | Gymnasium and court space                                                | Indoor             |
| 1          | Climbing wall (bouldering, top-rope, lead)                               | Indoor             |
| 1          | Drop-in childcare / kids zone                                            | Indoor             |
| 1          | Multipurpose artificial turf fields                                      | Indoor             |
| 1          | Pickleball and tennis courts                                             | Outdoor            |
| 2          | Softball/baseball fields, splash pad, playgrounds, additional pickleball | Outdoor            |
| <b>3–4</b> | <b>Pavilions, paddle tennis, golf, equestrian (longer-term)</b>          | <b>Various</b>     |

These are aspirational. Not all of these will be built, and nothing gets funded without Board authorization and available revenue. Impact fees can only pay for facilities included in an approved IFFP; they cannot fund anything that appears on this list unless the fee analysis specifically designates it. What this list tells us is that the community's appetite for recreation investment is high, and that the District has a clear, community-driven roadmap.

## 9. The Value We're Protecting

It's worth stepping back and naming what the IFFP is ultimately about: protecting the quality of life and the asset value that makes Snyderville Basin what it is.

Basin Recreation manages over \$137 million in public recreation infrastructure on behalf of the community. The trails, the open space, and the Fieldhouse don't just provide recreational opportunities: they are a core reason why property values in the Basin are what they are. The community's Entertainment & Recreation Index of 209 (more than twice the national average, highest of any peer resort community studied) reflects a community that genuinely values and invests in outdoor recreation culture.

The IFFP is the mechanism that ensures the community can continue funding and growing that system without placing the entire burden on existing property owners.

10. What Happens Next? The Timeline

| When            | What Happens                                                              | Who Acts              |
|-----------------|---------------------------------------------------------------------------|-----------------------|
| June 2026       | IFFP completed and certified by Zions Public Finance, Inc.                | Basin Rec / ZPFI      |
| July 9, 2026    | Board votes to send IFFP to Summit County Council                         | Basin Rec Board       |
| July 29, 2026   | Summit County Council reviews and approves the IFFP                       | Summit County Council |
| August 13, 2026 | Board receives Impact Fee Analysis (IFA); votes to adopt new fee schedule | Basin Rec Board       |
| ~November 2026  | New impact fee structure takes effect (90 days after adoption)            | Effective Date        |

**Can the public weigh in?**

Yes. Utah law requires Basin Recreation to post a Notice of Intent before any impact fee change (which was done on February 20, 2026). Before the new Impact Fee Analysis takes effect, it must also be made available for public review. All Basin Recreation Board meetings are open to the public, both in person at 5715 Trailside Drive, Park City, and via Microsoft Teams. Meeting agendas are posted in advance at [basinrecreationutah.gov](https://basinrecreationutah.gov).

Quick Glossary

| Term        | What It Means in Plain English                                                                                                                                                                                      |
|-------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| IFFP        | Impact Fee Facilities Plan. The blueprint that documents what facilities exist, who uses them, how much growth is coming, and what new facilities will be needed. This document is the IFFP.                        |
| IFA         | Impact Fee Analysis. The follow-on document that uses the IFFP to calculate the actual dollar amount charged per new housing unit or square foot of commercial space. Comes after the IFFP is approved.             |
| Impact Fee  | A one-time charge paid by a developer when they build something new. It pays for that new development’s fair share of public recreation infrastructure. It is not a tax; it’s a capital charge on new construction. |
| Demand Unit | The standard measure used to count how many people (residents + workers) are using Basin Recreation. Non-resident workers are counted at half-weight since they spend less time in the Basin.                       |

| Term                           | What It Means in Plain English                                                                                                                                                                                                            |
|--------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Service Level                  | The current standard of how much of each facility type exists per user. For example: 4.09 acres of parks per 1,000 demand units. The goal of the IFFP is to maintain this level as the population grows.                                  |
| GO Bond                        | General Obligation Bond. A bond backed by the full taxing authority of the District, approved by voters. Basin Recreation currently has three outstanding GO bond series totaling \$26.6 million, used to fund open space and facilities. |
| <b>TNT / Truth in Taxation</b> | <b>The process Utah law requires any taxing entity to follow when raising property tax rates above the certified (inflation-adjusted) rate. Requires public notice and a public hearing.</b>                                              |

Questions?

Contact Basin Recreation at 5715 Trailside Drive, Park City, UT 84098 | [basinrecreationutah.gov](http://basinrecreationutah.gov) | (435) 649-1564  
*IFFP prepared by Zions Public Finance, Inc. and certified in compliance with Utah Code 11-36a (Utah Impact Fees Act). Financial statements audited by Jones Simkins LLC, June 18, 2026.*



## **ADMINISTRATIVE CONTROL BOARD RESOLUTION**

Resolution No. BRD-2026- 037

TITLE: Authorizing the District Director to Submit the 2026 IFFP to County Council  
WHEREAS, the Basin Recreation District ("District") is a Utah special district governed by an Administrative Control Board; and

WHEREAS, the Board has received Director input, staff reports and public input, and conducted deliberations in an open, public meeting noticed in compliance with the Open and Public Meetings Act ("OPMA"), Utah Code Title 52, Chapter 4; and

WHEREAS, the District is required by the Utah Impact Fees Act, Utah Code Title 11, Chapter 36a, to prepare and maintain an Impact Fee Facilities Plan ("IFFP") as a prerequisite to imposing impact fees for parks, trails, open space, and recreation facilities; and

WHEREAS, the District engaged Zions Public Finance, Inc. ("ZPFI"), an independent, qualified consultant, to prepare the 2026 Impact Fee Facilities Plan for Parks, Trails, Open Space, and Recreation (the "2026 IFFP") in compliance with Utah Code Section 11-36a-302; and

WHEREAS, ZPFI has certified that the 2026 IFFP complies in all material respects with the requirements of the Utah Impact Fees Act; and

NOW, THEREFORE, BE IT RESOLVED by the Basin Recreation District Administrative Control Board that:

1. Action. The Board hereby

authorizes the District Director, to transmit the 2026 Impact Fee Facilities Plan for Parks, Trails, Open Space, and Recreation, prepared by Zions Public Finance, Inc. and dated June 2026, to the Summit County Council for review and approval pursuant to Utah Code Section 11-36a-304. The Director is further authorized to take all administrative steps reasonably necessary to support the Summit County Council's consideration of the 2026 IFFP, including providing staff support, responding to Council inquiries, and coordinating with County staff regarding the July 29, 2026 Council meeting.

2. Effective Date. This Resolution takes effect immediately upon adoption, unless otherwise specified herein. Effective Date if not immediately: 07/09/2026
3. Direction to Staff. Executive Director is authorized and directed to implement this Resolution.

PASSED AND ADOPTED by the Administrative Control Board on this 9<sup>th</sup> day of July, 2026.

Submitted for approval:  2026.07.09 19:48:51 -06'00'

Chair:   
Ryan Bruce (Jul 10, 2026 08:05:21 MDT)

Attest (Clerk/Secretary):   
Alisa Schofield (Jul 10, 2026 10:51:03 MDT)

# BRD-2026-037 Authorizing the District Director to Submit the 2026 IFFP to the Summit County Council for Review and Approval

Final Audit Report

2026-07-10

|                 |                                                   |
|-----------------|---------------------------------------------------|
| Created:        | 2026-07-10                                        |
| By:             | Robert Parrish (rparrish@basinrecreationutah.gov) |
| Status:         | Signed                                            |
| Transaction ID: | CBJCHBCAABAAVEGDN7-bNoLSortZMbJcDvid7EcfDNHL      |

## "BRD-2026-037 Authorizing the District Director to Submit the 2026 IFFP to the Summit County Council for Review and Approval" History

-  Document digitally presigned by Robert B. Parrish (rparrish@basinrecreationutah.gov)  
2026-07-10 - 1:48:51 AM GMT
-  Document created by Robert Parrish (rparrish@basinrecreationutah.gov)  
2026-07-10 - 1:49:32 AM GMT
-  Document emailed to rbruce@basinrecreationutah.gov for signature  
2026-07-10 - 1:49:57 AM GMT
-  Email viewed by rbruce@basinrecreationutah.gov  
2026-07-10 - 2:04:53 PM GMT
-  Signer rbruce@basinrecreationutah.gov entered name at signing as Ryan Bruce  
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