Wednesday, October 6, 2021
Development Review Committee

DEVELOPMENT REVIEW COMMITTEE AGENDA
PUBLIC NOTICE is hereby given that the Development Review Committee of Spanish Fork, Utah, will hold a regular meeting in the City Council Chambers at the Spanish Fork City Office Building, 40 South Main Street, Spanish Fork, Utah, commencing at 10:00 a.m. This meeting is not available to attend virtually.

1. Approval of Minutes

Subject	**A. September 22, 2021**
Meeting	Oct 6, 2021 - Development Review Committee
Category	1. Approval of Minutes
Access	Public
Type	Action, Minutes

2. Annexation

Subject	**A. J-6 ANNEXATION. This proposal involves annexing some 90 acres located at approximately 1500 West 3700 North.**
Meeting	Oct 6, 2021 - Development Review Committee
Category	2. Annexation
Access	Public
Type	Action, Discussion

File Attachments
report.drc.J-6annex.10-6-2021.pdf (1,722 KB)
plat.j-6annexation.4-2-2021.pdf (1,378 KB)

3. Minor Plat Amendment

Subject	**A. SPANISH SPRINGS SUBDIVISION PHASE 1 AMENDED. The proposal involves amending the current subdivision plat in regards to the width and location of the frontage road within the industrial business park located at 2700 North 100 East.**
Meeting	Oct 6, 2021 - Development Review Committee
Category	3. Minor Plat Amendment
Access	Public
Type	Action, Discussion

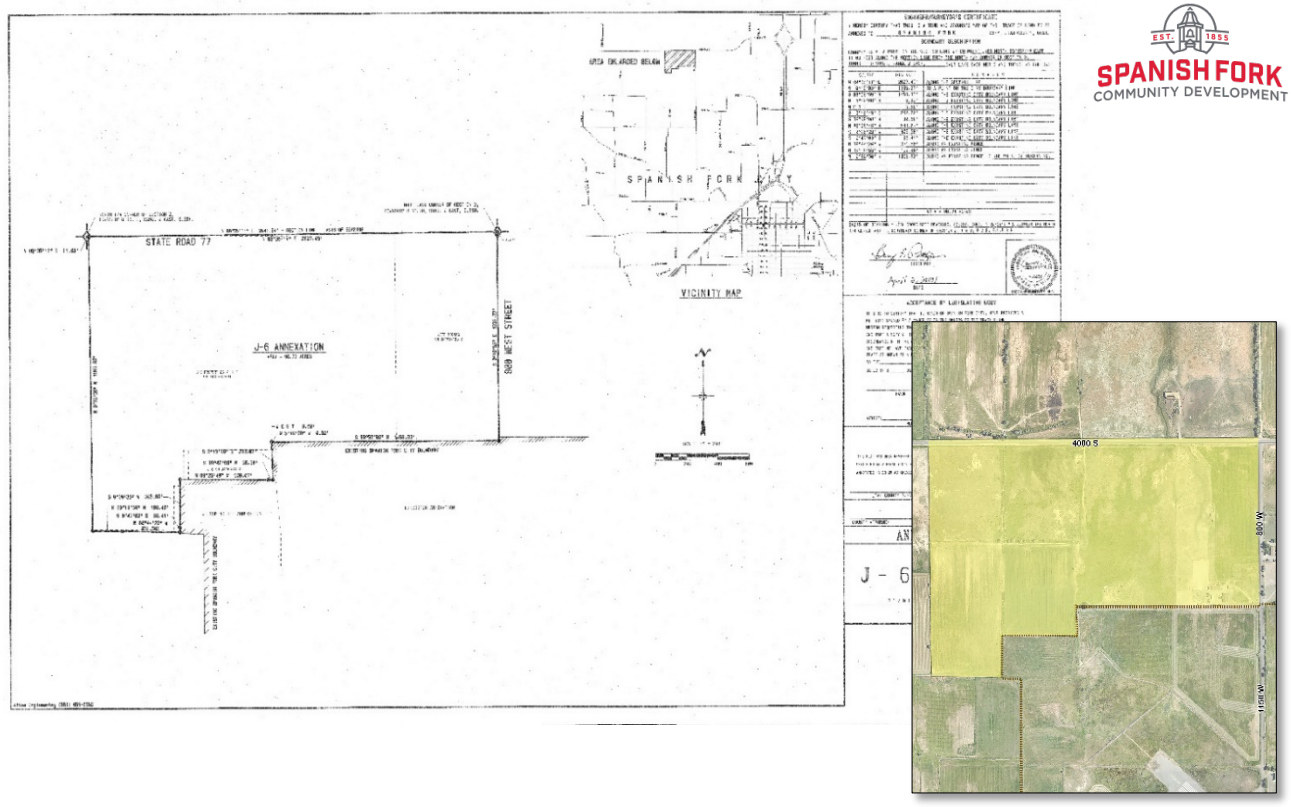
File Attachments
report.drc.spanishspringsphase1.10-6-2021.pdf (1,303 KB)
plat.spanishspringsphase1amended.9-23-2021 (2).pdf (714 KB)

4. Final Plat

Subject	**A. ESCALA PLAT A. The proposal involves approving 63 residential lots and units for a development located at approximately 1300 South Del Monte Road.**
Meeting	Oct 6, 2021 - Development Review Committee
Category	4. Final Plat
Access	Public
Type	Action, Discussion

File Attachments
report.drc.escalaplata.10-6-2021.pdf (55,306 KB)
plans.escalaplata.9-20-2021.pdf (12,155 KB)
plans.landscape.escalaplata.8-13-2021.pdf (7,784 KB)
doc.cc&r's.escalaplata.8-30-2021.pdf (606 KB)

5. Adjourn



J-6 Annexation Approval Request

October 6, 2021, Development Review Committee Meeting.

Located at approximately 1500 West and 3700 North, including approximately 90.76 acres.

The subject property is currently outside City boundaries but is located within the City's Annexation Policy Boundary and Growth Boundary.

Key Issues

1. Improvements.
2. Airport.
3. Utilities.
4. Power.

Recommendation

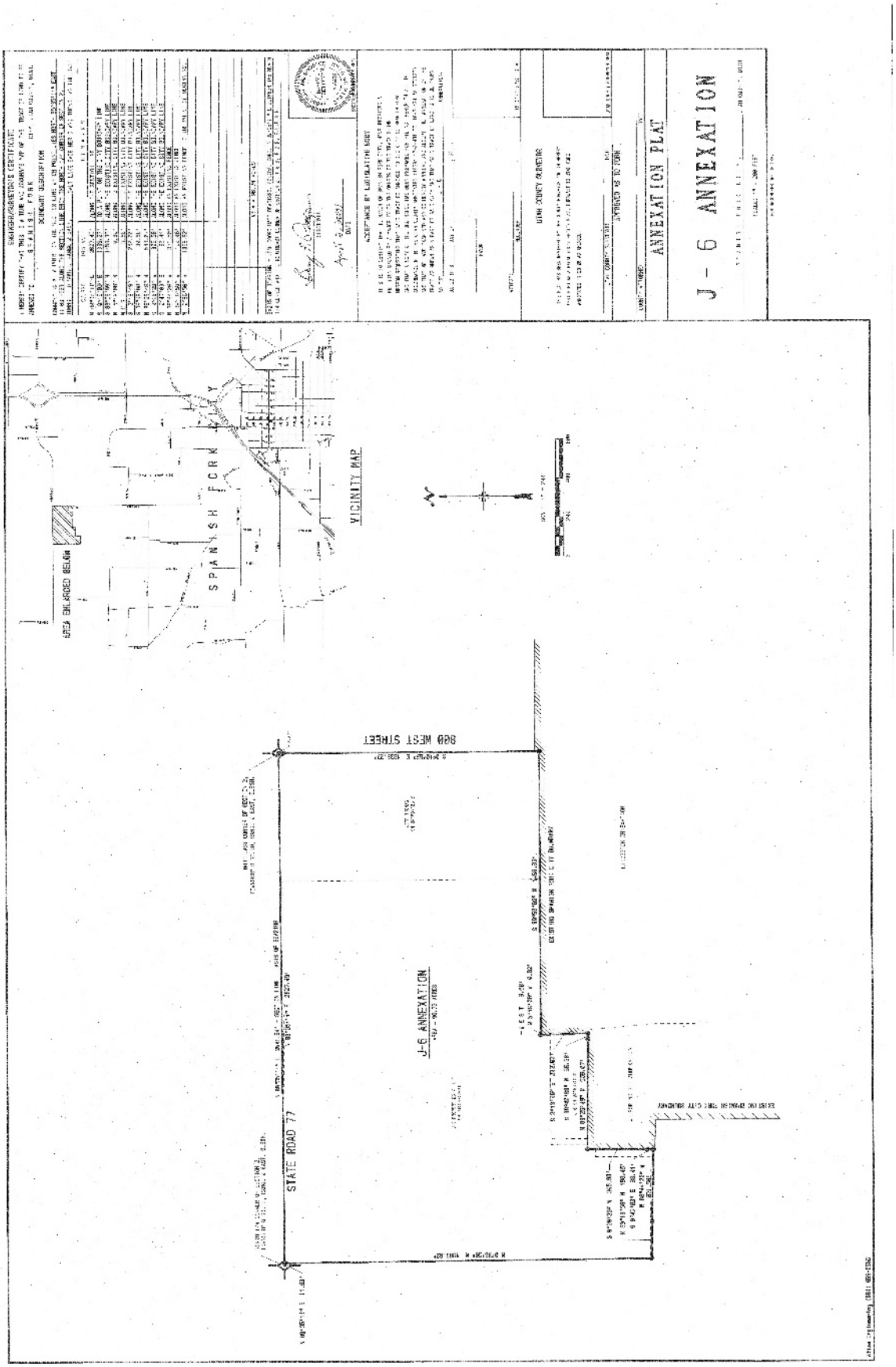
That the proposed Annexation be recommended for approval with I-1 zoning based on the following findings:

Findings

1. That the subject property is located within the City's Annexation Policy Boundary.
2. That the General Plan Land Use Designation is Industrial.
3. That the property is within the City's Growth Boundary.

Exhibits

1. Annexation Plat.
2. Annexation Feasibility Report.


J - 6 ANNEXATION
ANNEXATION PLAT
VICINITY MAP
AREA ENLARGED BELOW
SPANISH FORK
800 WEST STREET
STATE ROAD 77
J-6 ANNEXATION

Spanish Fork City

Annexation Feasibility Report

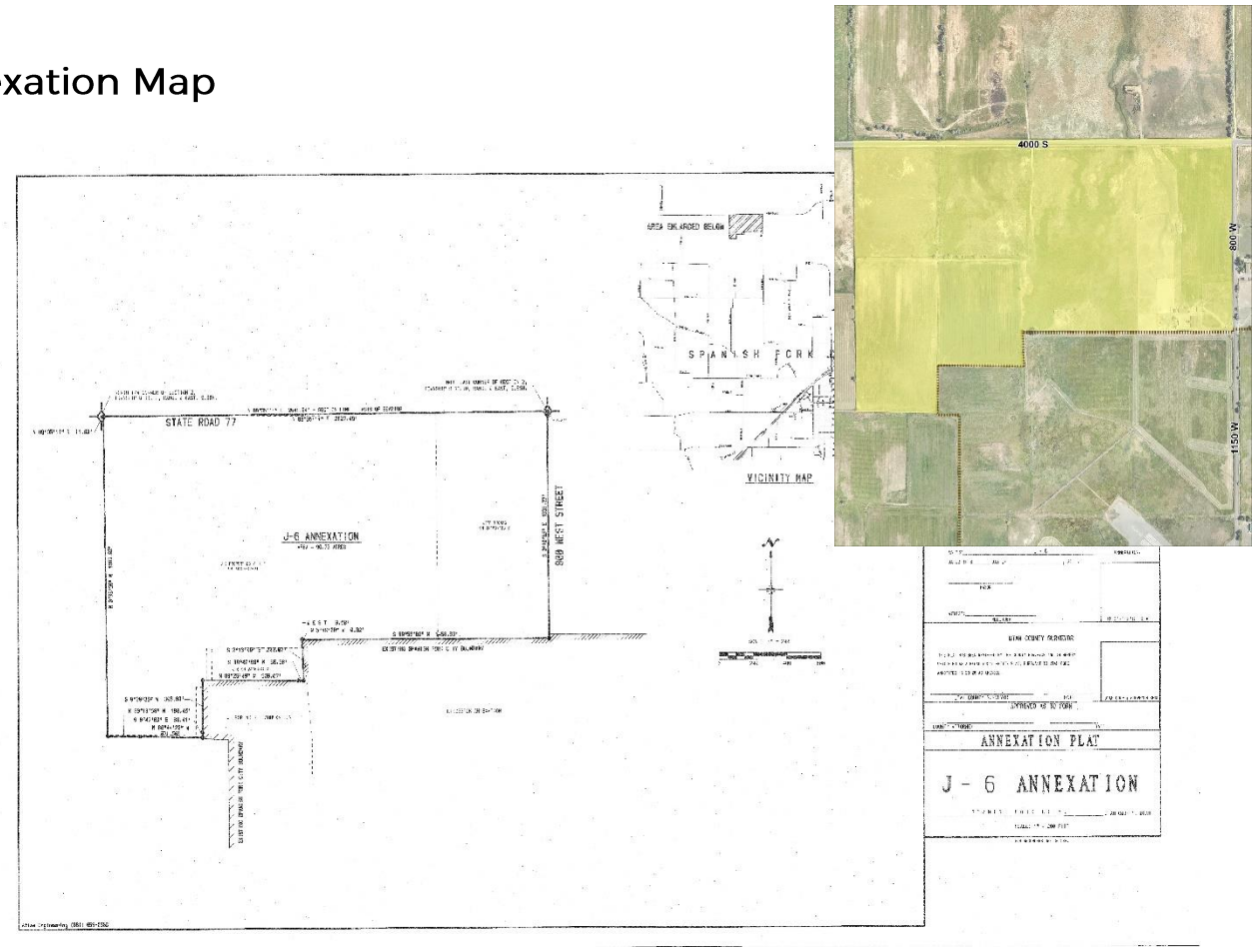
Agenda Date: October 19, 2021, City Council Meeting

Staff Contacts: Dave Anderson, Community and Economic Development Director

Reviewed By: Development Review Committee and Planning Commission

Subject: Proposed J-6 Annexation

Annexation Map



Development Review Committee recommendation date: October 6, 2021

Planning Commission recommendation date: October 6, 2021

City Council meeting date: October 19, 2021

Section 1

In accordance with 15.3.08.030 (B) of the Municipal Code, the following items are addressed in Section 1 of the Annexation Report:

1. **Whether the proposed annexation is within the Growth Management Boundary of the General Plan.**

   The proposed annexation is entirely within the Growth Management Boundary.

2. **Present and proposed land use and zoning.**

   The property is currently zoned Residential Agriculture 5 in Utah County. It is proposed that the property be incorporated into the Light Industrial (I-1) zone. The property was most recently used for agricultural activities. The property contains existing structures.

3. **Present and potential demand for various municipal services.**

   The area in question is outside the reach of Spanish Fork's current water and power infrastructure. However, capacity is available in the City's systems to serve the annexation property and there are no substantial obstacles that would prevent the delivery of those services to the area.

4. **Distances from existing utility lines, public schools, parks, and shopping areas.**

   Power, Communication, Sewage, Culinary Water, and Irrigation services are currently located 3,500 feet southeast of the annexation property on N 600 W. It is estimated that by early spring of 2022 these utilities will be brought to 1150 West upon the completion of 3300 North.
   A 4" and a 6" gas pipeline have been proposed along 3800 N can easily be connected to upon construction.

   Section 2 below provides additional information regarding proximity to existing utilities.

   The annexation area is located approximately 2.7 miles northwest of Brockbank Elementary. The closest park to the annexation property is North Park, located approximately 2.4 miles southeast of the property. The nearest shopping area to the site is the Canyon Creek Commercial Center, approximately southeast 2.4 miles.

5. **Specific time tables for extension of service to the area and how these services would be financed.**

   Utilities such as power and communication will be connected to the site through the completion 3300 North. As of September 13, 2021, it was estimated that the road would be completed within 6 months. From there the time table for the extension of services to the area would be dependent on the intention of the developer.

Culinary Water and Irrigation can be brought in from 3800 N (SR-77). Culinary Water will need to be looped in around the southwest side of the airport to provide sufficient service to the site.
Sewage can be mostly serviced by a lift station located at the intersection of 3800 N and 600 W. The western half of the proposed annexation plot is on the other side of an elevation change and will need to be serviced privately.
The western half of the property will also need to build ditches or pipes to drain storm water out to Utah Lake.
Dominion Energy already has plans to extend 4" and 6" IHP to the area through 3800 N (SR-77).
The time table for the extension of service to the area would be dependent on the intention of the developer. The construction of any new utility services will be the responsibility of the property owner(s) or the developer(s) to fund.

6. Potential Impact on existing and proposed streets.

   Any lot with frontage along 1150 W will be required to make improvements on half the street plus 13 feet. It is anticipated that traffic generated from the development of the annexation area will not have a substantial impact on the surrounding streets. Any additional roads constructed in the area will need to add extra road base due to environmental conditions.

7. The effect that the annexation will have upon the City boundaries and whether the annexation will create potential for islands or difficult service areas.

   The annexation will not create an island or peninsula that would make the provision of services difficult for the City.

8. Estimate of potential revenue verses potential service costs.

   In most cases, annexations do not bring revenue to cities. Specifically, if the proposed annexation results in a residential use, such as 100 apartments, the residential use would not generate revenue for the City. However, if the annexation properties were developed industrially, there would be potential to bring in revenue for the City. If the annexation properties were to be revenue positive, it still most likely would not have a significant impact on the City's finances.

9. Requirements imposed by State Law.

   Staff is aware of no requirements imposed by State Law, aside from following the requisite procedure for the annexation, which would impact the annexation area.

Section 2

In order to evaluate the City's ability to provide municipal services to the proposed annexation, this section of the report outlines major utility issues but does not represent all of the utility issues that may arise during the development process.

Conformity to Master Plans for public utilities and facilities:

The City's various plans to provide utility services to the subject property all contemplate the property being served and plans are in place to define what facilities would be required to serve the property.

Culinary Water:

Culinary water should be brought over from the existing line on 3800 N. Water will need to be looped around the southwest side of the airport in order to provide adequate service to the site. In 2021, the Spanish Fork Public Works Department estimated this could be completed at an approximate cost of $100 per foot.

Pressurized Irrigation:

Pressurized irrigation can be provided from a connection to existing utilities on 3800 N (SR-77) in Springville. Interior looping should be done as needed. In 2021, the Spanish Fork Public Works Department estimated this could take around one month to complete at an approximate cost of $100 per foot.

Sanitary Sewer:

Sewage can be partially provided by connecting to existing utilities located at a lift station on 3800 N. Portions of the annexation property west of the elevation change would need to serviced privately by the developer. In 2021, the Spanish Fork Public Works Department estimated this could be completed at an approximate cost of $120 per foot.

Storm Water:

The eastern half should drain east towards Dry Creek. The western half of the property will need to drain west to Utah Lake. This can be accomplished through ditches or pipes.

Power and Communications:

This site can easily be connected to existing utilities upon completion of 3300 N. The road should take no longer than six months from September 2021 to complete. If the proposed annexation property is to contain multiple small buildings rather than one large building, SFCN will need to construct a new node on the other side of 1150 W which could extend the timeline.

Gas:

Dominion Energy has plans to extend both a 4" and 6" IHP along 3800 N that could provide sufficient service this area.

Streets:

Street frontage will need to be improved as the property develops. Any new street construction in the area will need to include extra road base due to environmental conditions. There are currently no obstacles with streets or access.

Presence of utility/facility needs or requirements:

Nothing other than what has otherwise been noted in this report.

Presence of irrigation or other ditches and related facilities:

To our knowledge, there are no ditches or related facilities that need to be addressed with the annexation.

Public Safety evaluation:

This annexation is not expected to have any adverse impact on public safety.

Presence of Sensitive Lands or Watershed Protected issues:

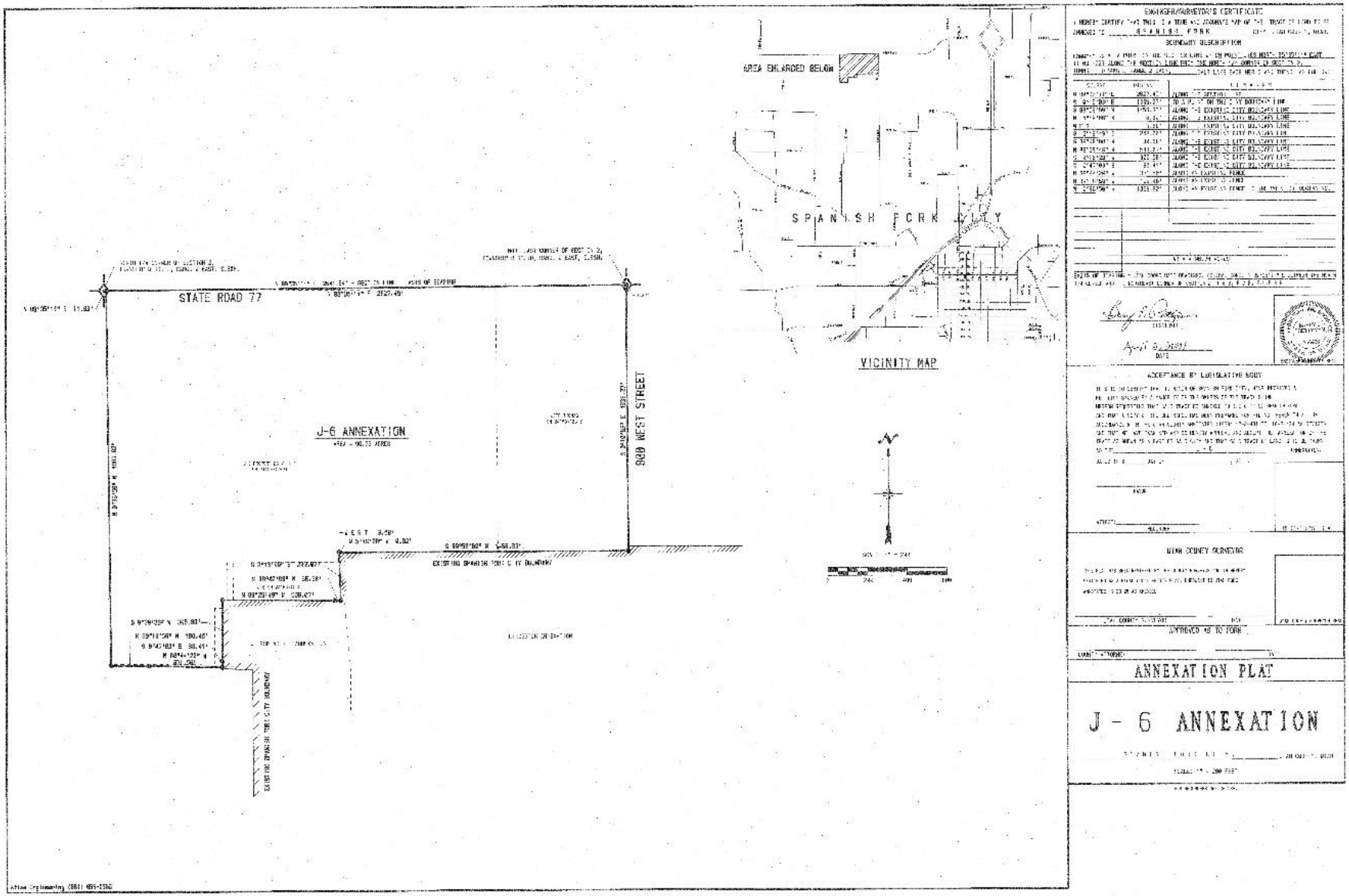
To our knowledge, there are no sensitive lands or watershed issues with the annexation area.

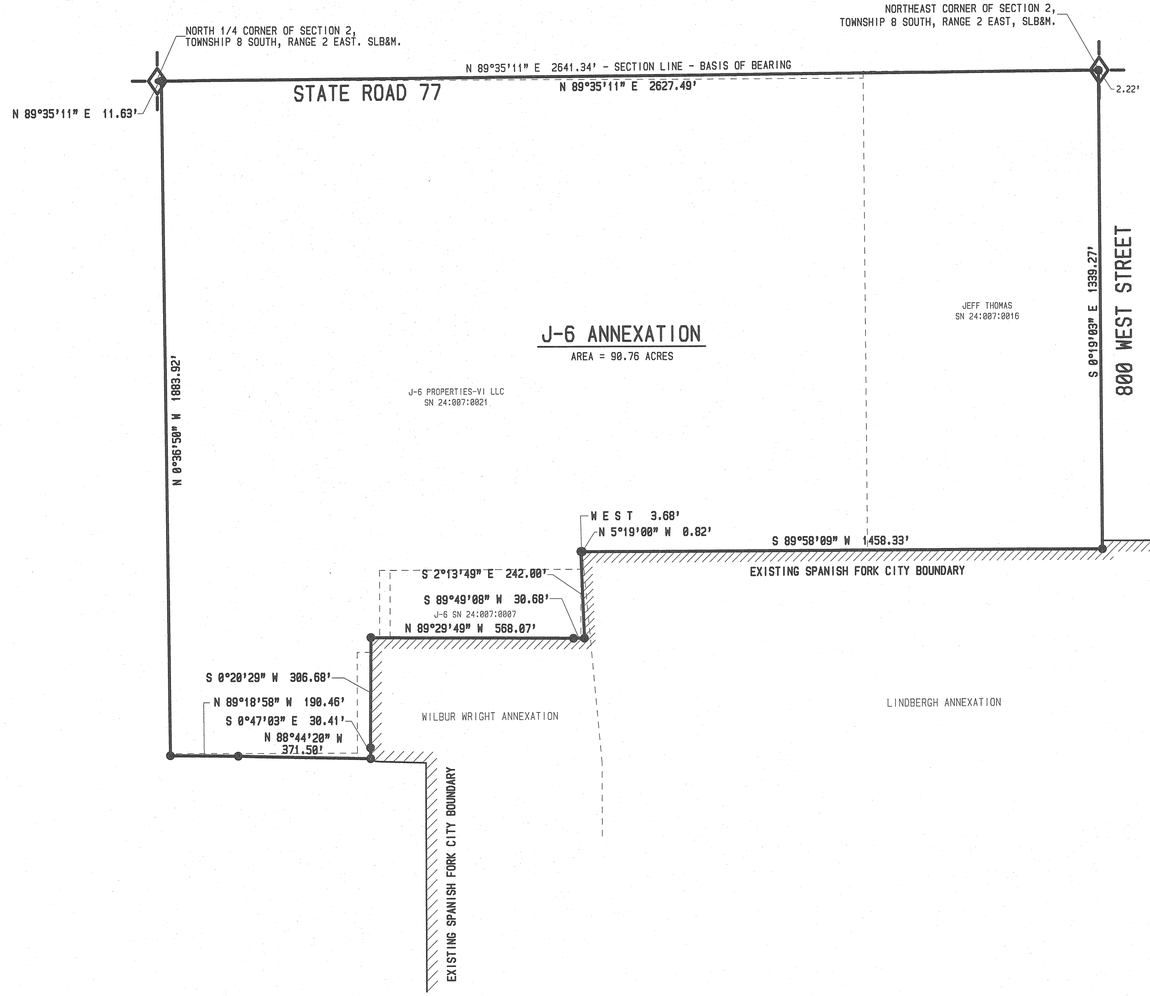
Concept Plan's conformity with proposed zoning:

No concept plan has been submitted for review.

Annexation Agreement:

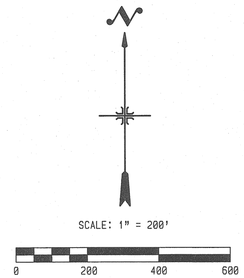
It is not anticipated that there will be an annexation agreement with this annexation.


STATE ROAD 77
800 WEST STREET
J-6 ANNEXATION
AREA ENLARGED BELOW
SPANISH FORK CITY
VICINITY MAP
ENGINEER/SURVEYOR'S CERTIFICATE
BOUNDARY DESCRIPTION
ACCEPTANCE BY LEGISLATIVE BODY
UTAH COUNTY SURVEYOR
APPROVED AS TO FORM
ANNEXATION PLAT
J - 6 ANNEXATION





VICINITY MAP



ENGINEER/SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THIS IS A TRUE AND ACCURATE MAP OF THE TRACT OF LAND TO BE ANNEXED TO SPANISH FORK CITY, UTAH COUNTY, UTAH.

BOUNDARY DESCRIPTION

COMMENCING AT A POINT ON THE SECTION LINE WHICH POINT LIES NORTH 89°35'11" EAST 11.63 FEET ALONG THE SECTION LINE FROM THE NORTH 1/4 CORNER OF SECTION 2, TOWNSHIP 8 SOUTH, RANGE 2 EAST, SALT LAKE BASE MERIDIAN; THENCE AS FOLLOWS:

COURSE	DISTANCE	REMARKS
N 89°35'11" E	2627.49'	ALONG THE SECTION LINE
S 0°19'03" E	1339.27'	TO A POINT ON THE CITY BOUNDARY LINE
S 89°58'09" W	1458.33'	ALONG THE EXISTING CITY BOUNDARY LINE
N 5°19'00" W	0.82'	ALONG THE EXISTING CITY BOUNDARY LINE
W E S T	3.68'	ALONG THE EXISTING CITY BOUNDARY LINE
S 2°13'49" E	242.00'	ALONG THE EXISTING CITY BOUNDARY LINE
S 89°49'08" W	30.68'	ALONG THE EXISTING CITY BOUNDARY LINE
N 89°29'49" W	568.07'	ALONG THE EXISTING CITY BOUNDARY LINE
S 0°20'29" W	386.68'	ALONG THE EXISTING CITY BOUNDARY LINE
S 0°47'03" E	30.41'	ALONG THE EXISTING CITY BOUNDARY LINE
N 88°44'20" W	371.50'	ALONG AN EXISTING FENCE
N 89°18'58" W	190.46'	ALONG AN EXISTING FENCE
N 0°36'50" W	1883.92'	ALONG AN EXISTING FENCE TO THE POINT OF BEGINNING.
		AREA = 90.76 ACRES

BASIS OF BEARING = UTAH COORDINATE BEARINGS, CENTRAL ZONE. N 89°35'11" E BETWEEN THE NORTH 1/4 CORNER AND THE NORTHEAST CORNER OF SECTION 2, T 8 S, R 2 E, S.L.B.& M.

Barry L. Prettyman
SURVEYOR

April 2, 2021
DATE

REGISTERED LAND SURVEYOR
BARRY L. PRETTYMAN
#166406
STATE OF UTAH
ENGINEER/SURVEYOR SEAL

ACCEPTANCE BY LEGISLATIVE BODY

THIS IS TO CERTIFY THAT I, MAYOR OF SPANISH FORK CITY, HAVE RECEIVED A PETITION SIGNED BY A MAJORITY OF THE OWNERS OF THE TRACT SHOWN HEREON REQUESTING THAT SAID TRACT BE ANNEXED TO THE CITY OF SPANISH FORK AND THAT A COPY OF THE ORDINANCE HAS BEEN PREPARED FOR FILING HEREWITH ALL IN ACCORDANCE WITH THE UTAH COUNTY ANNOTATED (1953) 10-2-401 TO 10-2-424 AS REVISED AND THAT WE HAVE EXAMINED AND DO HEREBY APPROVE AND ACCEPT THE ANNEXATION OF THE TRACT AS SHOWN AS A PART OF SAID CITY AND THAT SAID TRACT OF LAND IS TO BE KNOWN AS THE J - 6 ANNEXATION.

DATED THIS_____ DAY OF _____, 20__.

_____
MAYOR

ATTEST:_____
RECORDER

RECORDER'S SEAL

UTAH COUNTY SURVEYOR

THIS PLAT HAS BEEN REVIEWED BY THE COUNTY SURVEYOR AND IS HEREBY CERTIFIED AS A FINAL LOCAL ENTITY PLAT, PURSUANT TO UTAH CODE ANNOTATED 17-23-20 AS AMENDED.

_____ _____
UTAH COUNTY SURVEYOR DATE

UTAH COUNTY SURVEYOR SEAL

APPROVED AS TO FORM

_____ _____
COUNTY ATTORNEY DATE

ANNEXATION PLAT

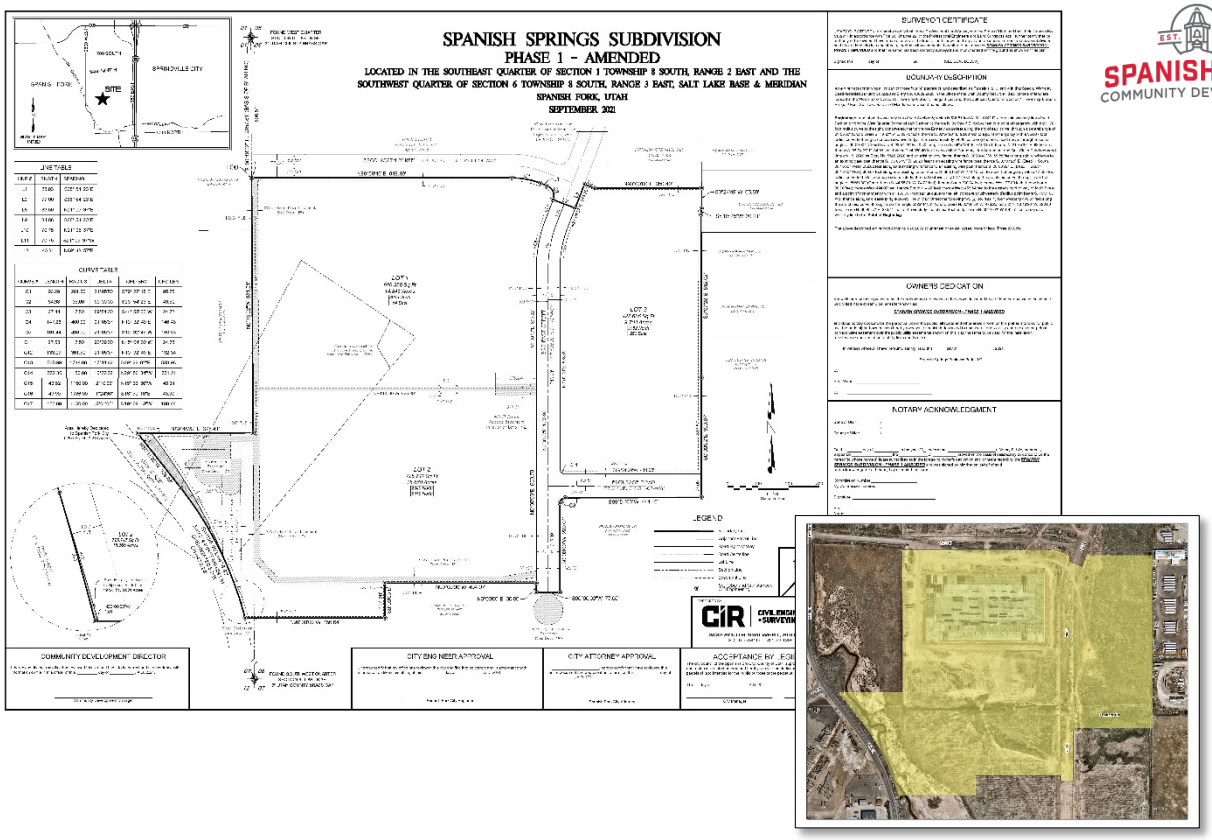
J - 6 ANNEXATION

SPANISH FORK CITY, UTAH COUNTY, UTAH

SCALE: 1" = 200 FEET

FOR RECORDERS OFFICE USE.

Atlas Engineering (801) 655-0566



SPANISH FORK
COMMUNITY DEVELOPMENT

Spanish Springs Phase 1 Amended, Minor Plat Amendment Approval Request

October 6, 2021, Development Review Committee Meeting.

Located at 2700 North and 100 East, including 44.49 acres.

The subject property is zoned I-1.

The applicant has requested that a Minor Plat Amendment be approved.

Recommendation

That the proposed Minor Plat Amendment be approved based on the following findings and subject to the following conditions:

Finding

1. That the application conforms to the City's General Plan Designation and Zoning Map.

Conditions

1. That the applicant meets the City's Zoning requirements and Construction Standards.
2. That the applicant addresses any red-lines.

Key Issues

1. Utilities

Exhibits

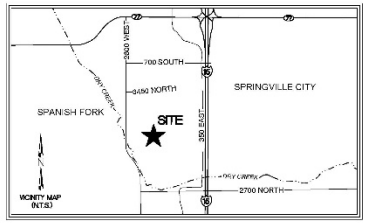
1. Plat.

Exhibit 1

Page 1

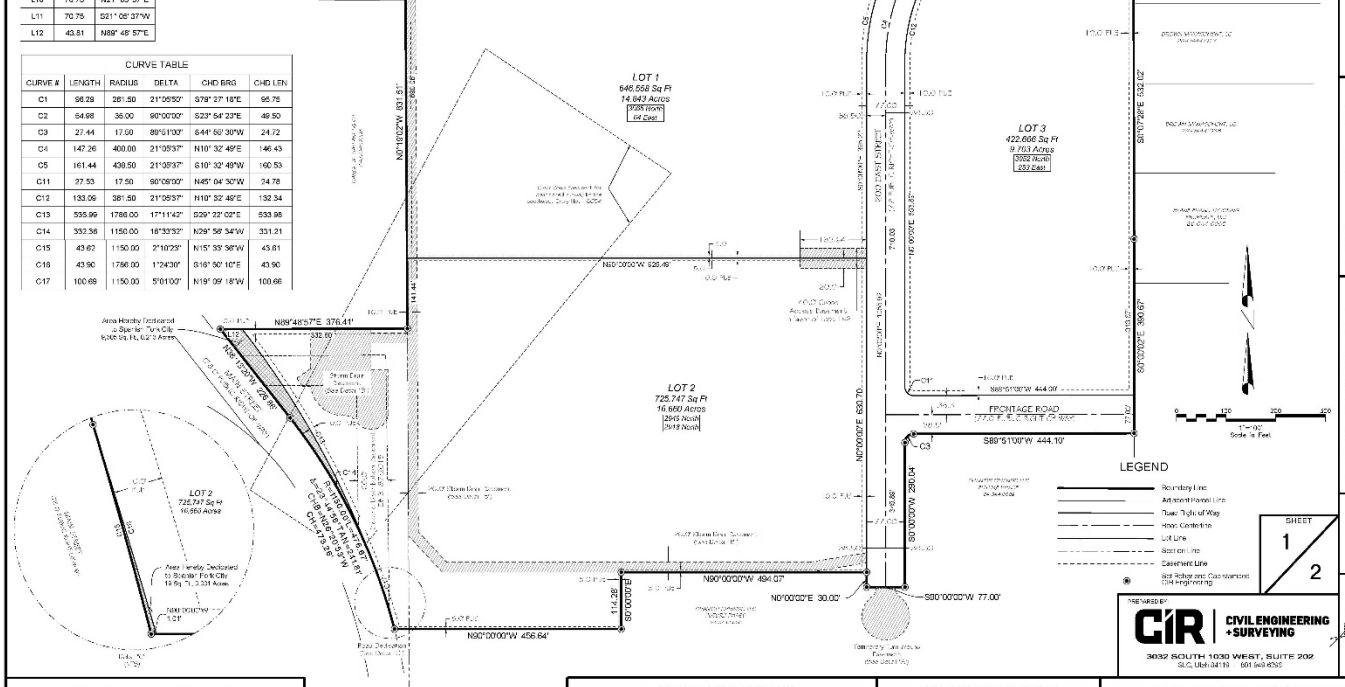
October 6, 2021

SPANISH SPRINGS SUBDIVISION
PHASE 1 - AMENDED
LOCATED IN THE SOUTHEAST QUARTER OF SECTION 1 TOWNSHIP 8 SOUTH, RANGE 2 EAST AND THE SOUTHWEST QUARTER OF SECTION 6 TOWNSHIP 8 SOUTH, RANGE 3 EAST, SALT LAKE BASE & MERIDIAN
SPANISH FORK, UTAH
SEPTEMBER 2021



LINE TABLE		
LINE #	LENGTH	BEARING
L1	23.03	S89° 54' 23"E
L2	77.00	S89° 54' 23"E
L8	83.50	N21° 05' 37"E
L9	34.86	S89° 54' 23"E
L10	70.75	N21° 05' 37"E
L11	70.75	S21° 05' 37"W
L12	43.81	N89° 48' 57"E

CURVE TABLE					
CURVE #	LENGTH	RADIUS	DELTA	CHD BRG	CHD LEN
C1	96.29	261.50	21°05'50"	S79° 27' 18"E	95.75
C2	54.88	35.00	90°00'00"	S23° 54' 23"E	49.50
C3	27.44	17.50	89°51'00"	S44° 60' 30"W	24.72
C4	147.26	400.00	21°05'37"	N10° 32' 49"E	146.43
C5	161.44	439.50	21°03'37"	S10° 32' 49"W	160.53
C11	27.53	17.50	90°09'00"	N45° 04' 30"W	24.78
C12	133.09	361.50	21°05'37"	N10° 32' 49"E	132.34
C13	535.99	1788.00	17°11'42"	S29° 22' 02"E	533.98
C14	332.56	1150.00	16°33'52"	N29° 58' 54"W	331.21
C15	43.62	1150.00	2°10'23"	N15° 33' 36"W	43.61
C16	43.90	1788.00	1°24'30"	S16° 50' 10"E	43.90
C17	100.69	1150.00	5°01'00"	N19° 09' 18"W	100.66



SURVEYOR CERTIFICATE

I, GARY G. PETERSEN, do hereby certify that I am a Professional Land Surveyor in the State of Utah and that I hold License No. 5151917 in accordance with Title 58, Chapter 22 of the Professional Engineers and Land Surveyors Act. I further certify that by authority of the owners I have made a survey of the tract of land shown on this plat and described hereon, and have subdivided said tract of land into lots and streets, hereafter to be known as **SPANISH SPRINGS SUBDIVISION - PHASE 1 AMENDED** and that the same has been correctly surveyed and monumented on the ground as shown on this plat.

Signed this _____ day of _____, 20____ (SEE SEAL BELOW)

BOUNDARY DESCRIPTION

An entire tract containing all or part of those four (4) parcels of land described as Parcels 1, 2, 3, and 4 in that Special Warranty Deed recorded January 31, 2023 as Entry No. 10002-2023 in the Office of the Utah County Recorder. Said parcels of land are located in the West half of Section 6, Township 8 South, Range 3 East and the Southeast Quarter of Section 1, Township 8 South, Range 2 East, Salt Lake Base and Meridian and described as follows:

Beginning at a point on the westerly line of said Section 6 which is 528.51' feet S. 00°19'02" E. along said westerly line of said Section 6 from the West Quarter Corner of said Section 6 (Basis of Bearing: S. 00°19'02" E. 2657.61' feet between said West Quarter Corner and the Southwest Corner of said Section 6); thence N. 89°59'46" E. 848.49 feet to a point of tangency with a 261.50-foot radius curve to the right, concave southerly; thence Easterly 96.29 feet along the arc of said curve through a central angle of 21°05'50" (Chord bears S. 79°27'18" E. 95.75 feet); thence S. 68°54'23" E. 23.03 feet to a point of tangency with a 35.00-foot radius curve to the right, concave southeasterly; thence Southeasterly 54.88 feet along the arc of said curve through a central angle of 90°00'00" (Chord bears S. 23°54'23" E. 49.50 feet); thence S. 68°54'23" E. 77.00 feet; thence N. 21°05'37" E. 83.50 feet; thence S. 89°51'00" E. 34.86 feet; thence East (No Angle) to an existing Boundary Line Agreement and Quit Claim Deed recorded January 19, 2006 as Entry No. 06828-2006 and an existing vinyl fence; thence S. 00°08'58" W. 70.56 feet along said Boundary Line and an existing gate and fence; thence S. 00°32'57" W. 20.21 feet to an existing wire fence line; thence S. 00°00'00" E. (Deed = South 00°19'02" West) 926.46 feet along said existing wire fence and said right-of-way projected; thence S. 00°00'00" E. (Deed = South 00°19'02" West) 394.67 feet along said existing fence; thence S. 89°51'00" W. 444.10 feet to a point of tangency with a 17.50-foot radius curve to the left; concave southeasterly; thence Southwesterly 27.44 feet along the arc of said curve through a central angle of 89°51'00" (Chord bears S. 44°54'30" W. 24.72 feet); thence South 89°51'00" West (Record = North 90°00'00" West) 83.50 feet; thence South 0°00'00" East (Record = North 0°19'02" East) 494.07 feet; thence West 494.07 feet; thence North 0°00'00" East (Record = North 0°19'02" West) 638.70 feet to the Southerly right-of-way line of Main Street and a point of non-tangency with a 1,150.00-foot radius curve to the right, concave southeasterly; Thence along said Southerly right-of-way line of Main Street the following two (2) courses: 1) Northeasterly 376.41 feet along the arc of said curve through a central angle of 18°45'58" (Chord bears N. 89°03'53" E. 374.81 feet); 2) N. 89°48'57" E. 376.41 feet; thence N. 89°48'57" E. 306.61 feet to the westerly line of said Section 6; thence N. 00°19'02" W. 831.51 feet along said westerly line to the **Point of Beginning**

The above described entire tract contains 1,908,254 square feet or 43.804 acres more or less. Three (3) lots.

OWNERS DEDICATION

Know all men by these presents that the undersigned are owners of the above described tract of land hereby cause this same to be divided into subdivision to be hereafter known as:

SPANISH SPRINGS SUBDIVISION - PHASE 1 AMENDED

and does hereby dedicate for perpetual use of the public all roads and other areas shown on this plat as intended for public use, the undersigned owners also hereby convey to spanish fork city and to any city of public utility companies a perpetual, non exclusive easement over the public utility easements shown on this plat, the same to be used for the installation, maintenance and operation of utility lines and facilities.

In witness whereof, I have hereunto set my hand this _____ day of _____, 20____.

Spanish Springs Business Park, LC

By: _____

Print Name: _____

Its: _____

NOTARY ACKNOWLEDGMENT

State of Utah)
:ss
County of Utah)

On this _____ day of _____, in the year 20__, before me, _____, a Notary Public, personally appeared _____, proved on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to in the foregoing owner's dedication and consent regarding the **SPANISH SPRINGS SUBDIVISION - PHASE 1 AMENDED** and was signed by him/her/on behalf of said _____ and acknowledged that he/she/they executed the same.

Commission Number _____
My Commission Expires _____

Signature _____

Print Name _____

A Notary Public Commissioned in Utah

SPANISH SPRINGS SUBDIVISION
PHASE 1 AMENDED
LOCATED IN THE SE 1/4 OF SECTION 1, TOWNSHIP 8 SOUTH, RANGE 2 EAST AND THE SW¼ OF SECTION 6 TOWNSHIP 8 SOUTH, RANGE 3 EAST. SLB&M
SPANISH FORK CITY, UTAH COUNTY, UTAH

SHEET 1 / 2

PREPARED BY:
CIR | CIVIL ENGINEERING + SURVEYING
3302 SOUTH 1030 WEST, SUITE 202
SLC, Utah 84119 801.949.4500

SURVEYOR'S SEAL | NOTARY PUBLIC SEAL | CITY ENGINEER SEAL | COUNTY RECORDER SEAL

COMMUNITY DEVELOPMENT DIRECTOR

I, _____, hereby certify that my office has reviewed this plat and find it to be correct and in accordance with information on file in my office of this _____ day of _____ A.D. 20__.

_____
Community Development Manager

CITY ENGINEER APPROVAL

I, _____, hereby certify that my office has reviewed this plat and find it to be correct and in accordance with information on file in this office of the _____ day of _____ A.D. 2021.

_____
Spanish Fork City Engineer

CITY ATTORNEY APPROVAL

I, _____, hereby certify that I have reviewed the written documents and approve them as to form, on this _____ day of _____ A.D. 20__.

_____
Spanish Fork City Attorney

ACCEPTANCE BY LEGISLATIVE BODY

The city council of the Spanish Fork City, County of Utah, approves this subdivision subject to the conditions and restrictions stated hereon, and hereby accepts the dedication of all streets, easements, and other parcels of land intended for the public purpose of the perpetual use of the public.

This __ day of _____ A.D. 20__

_____ _____
City Manager City Recorder (See Seal Above)

UTAH COUNTY RECORDER

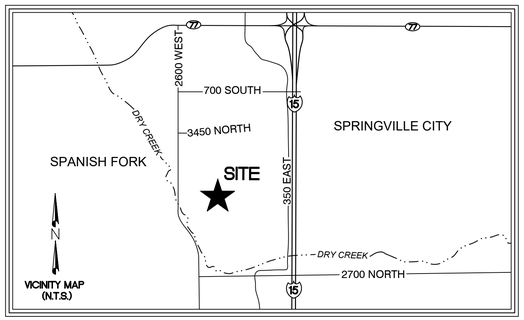
Recorded # _____
State of Utah, County of Utah, Recorded and filed at the request of

_____

Date: _____ Time: _____ Book: _____ Page: _____

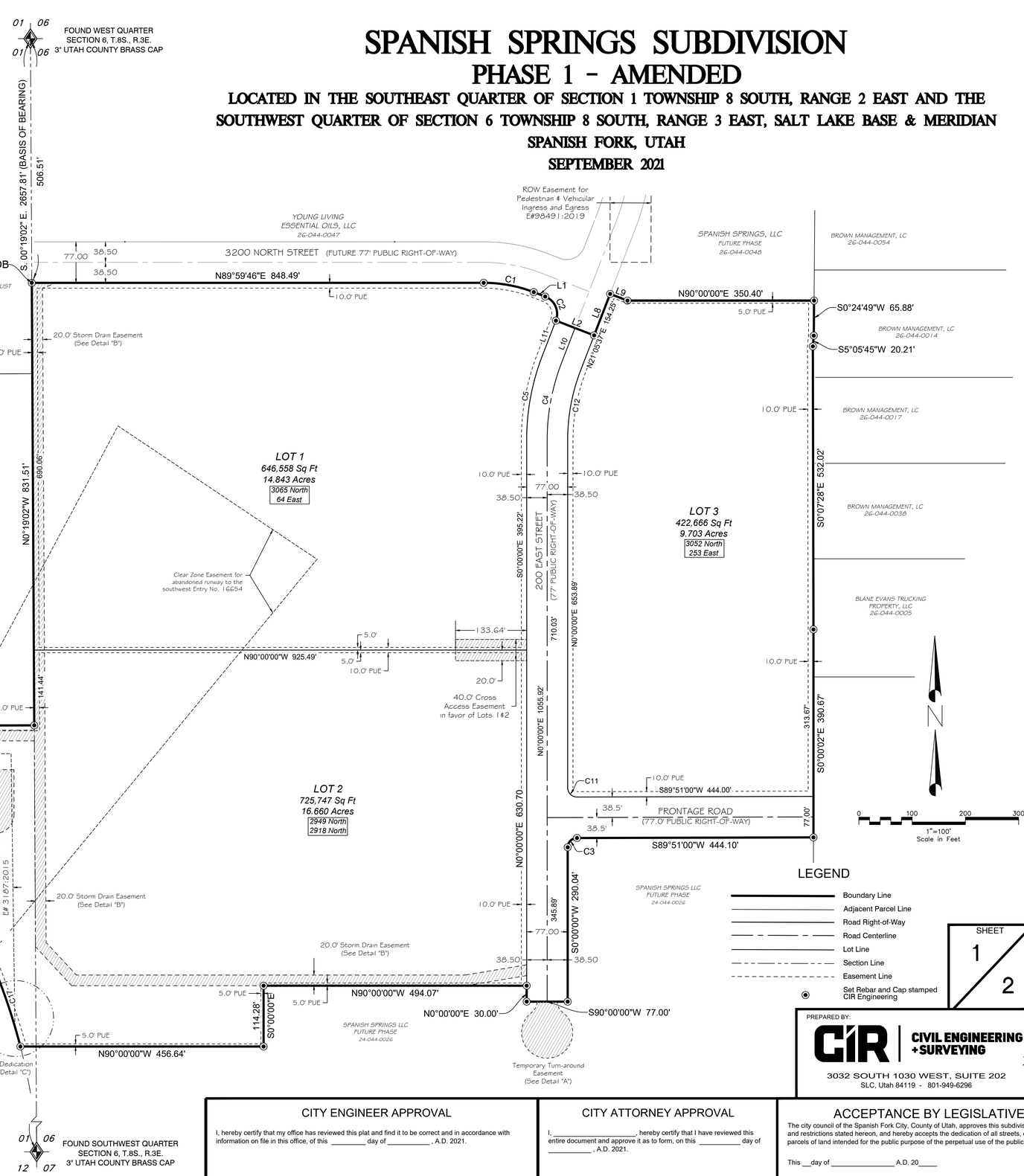
Fee $ _____ _____
Utah County Recorder

SPANISH SPRINGS SUBDIVISION
PHASE 1 - AMENDED
LOCATED IN THE SOUTHEAST QUARTER OF SECTION 1 TOWNSHIP 8 SOUTH, RANGE 2 EAST AND THE SOUTHWEST QUARTER OF SECTION 6 TOWNSHIP 8 SOUTH, RANGE 3 EAST, SALT LAKE BASE & MERIDIAN
SPANISH FORK, UTAH
SEPTEMBER 2021



LINE TABLE		
LINE #	LENGTH	BEARING
L1	23.03	S68° 54' 23"E
L2	77.00	S68° 54' 23"E
L8	83.50	N21° 05' 37"E
L9	34.86	S68° 54' 23"E
L10	70.75	N21° 05' 37"E
L11	70.75	S21° 05' 37"W
L12	43.81	N89° 48' 57"E

CURVE TABLE					
CURVE #	LENGTH	RADIUS	DELTA	CHD BRG	CHD LEN
C1	96.29	261.50	21°05'50"	S79° 27' 18"E	95.75
C2	54.98	35.00	90°00'00"	S23° 54' 23"E	49.50
C3	27.44	17.50	89°51'00"	S44° 55' 30"W	24.72
C4	147.26	400.00	21°05'37"	N10° 32' 49"E	146.43
C5	161.44	438.50	21°05'37"	S10° 32' 49"W	160.53
C11	27.53	17.50	90°09'00"	N45° 04' 30"W	24.78
C12	133.09	361.50	21°05'37"	N10° 32' 49"E	132.34
C13	535.99	1786.00	17°11'42"	S29° 22' 02"E	533.98
C14	332.36	1150.00	16°33'32"	N29° 56' 34"W	331.21
C15	43.62	1150.00	2°10'23"	N15° 33' 36"W	43.61
C16	43.90	1786.00	1°24'30"	S16° 50' 10"E	43.90
C17	100.69	1150.00	5°01'00"	N19° 09' 18"W	100.66



LEGEND

- Boundary Line
- Adjacent Parcel Line
- Road Right-of-Way
- Road Centerline
- Lot Line
- Section Line
- Easement Line
- Set Rebar and Cap stamped CIR Engineering

SHEET 1 / 2

PREPARED BY:
CIR | CIVIL ENGINEERING + SURVEYING
3032 SOUTH 1030 WEST, SUITE 202
SLC, Utah 84119 - 801-949-6296

SURVEYOR CERTIFICATE

I, GARY CHRISTENSEN, do hereby certify that I am a Professional Land Surveyor in the State of Utah and that I hold License No. 5152617 in accordance with Title 58, Chapter 22, of the Professional Engineers and Land Surveyors Act; I further certify that by authority of the owners I have made a survey of the tract of land shown on this plat and described hereon, and have subdivided said tract of land into lots and streets, together with easements, hereafter to be known as ***SPANISH SPRINGS SUBDIVISION - PHASE 1 AMENDED*** and that the same has been correctly surveyed and monumented on the ground as shown on this plat.

Signed this _____ day of _____, 20_____ (SEE SEAL BELOW)

BOUNDARY DESCRIPTION

An entire tract containing all or part of those four (4) parcels of land described as Parcels 1, 2, 3, and 4 in that Special Warranty Deed recorded January 31, 2020 as Entry No. 13032:2020 in the Office of the Utah County Recorder. Said parcels of land are located in the West Half of Section 6, Township 8 South, Range 3 East and the Southeast Quarter of Section 1, Township 8 South, Range 2 East, Salt Lake Base and Meridian and described as follows:

Beginning at a point on the westerly line of said Section 6; which is 506.51 feet S. 00°19'02" E. along said westerly line of said Section 6 from the West Quarter Corner of said Section 6; thence N. 89°59'46" E. 848.49 feet to a point of tangency with a 261.50 - foot radius curve to the right, concave southerly; thence Easterly 96.29 feet along the arc of said curve, through a central angle of 21°05'50" (Chord bears S. 79°27'18" E. 95.75 feet); thence S. 68°54'23" E. 23.03 feet to a point of tangency with a 35.00 - foot radius curve to the right, concave southwesterly; thence southeasterly 54.98 feet along the arc of said curve, through a central angle of 90°00'00" (Chord bears S. 23°54'23" E. 49.50 feet); thence S. 68°54'23" E. 77.00 feet; thence N. 21°05'37" E. 83.50 feet; thence S. 68°54'23" E. 34.86 feet; thence East 350.40 feet to an existing Boundary Line Agreement and Quit Claim Deed recorded January 15, 2020 as Entry No. 5628:2020 and an existing vinyl fence; thence S. 00°24'49" W. 65.88 feet along said Vinyl fence to an existing gate post; thence S. 05°05'45" W. 20.21 feet to an existing wire fence post; thence S. 00°07'28" E. (Deed = South 00°18'30" West) 532.02 feet along said existing wire fence to an existing wire post; thence S. 00°00'02" E. (Deed = South 00°18'30" West) 390.67 feet along and existing fence; thence S. 89°51'00" W. 444.10 feet to a point of tangency with a 17.50 - foot radius curve to the left, concave southeasterly; thence Southwesterly 27.44 feet along the arc of said curve, through a central angle of 89°51'00" (Chord bears S. 44°55'30" W. 24.72 feet); thence South 290.04 feet; thence West 77.00 feet; thence North 30.00 feet; thence West 494.07 feet; thence South 114.28 feet; thence West 456.64 feet to the easterly right-of-way of Main Street and a point of non-tangency with a 1150.00 - foot radius curve to the left, concave southwesterly (Radius point bears S. 75°31'35" W.); thence along said easterly right-of-way line of Main Street the following two (2) courses: 1) Northwesterly 476.67 feet along the arc of said curve, through a central angle of 23°44'56", (Chord bears N. 26°20'53" W. 473.26 feet); 2) N. 38°13'20" W. 226.86 feet; thence N. 89°48'57" E. 376.41 feet to the westerly line of said Section 6; thence N. 00°19'02" W. 831.51 feet along said westerly line to the **Point of Beginning**.

The above described entire tract contains 1,938,059 square feet or 44.491 acres, more or less. Three (3) Lots.

OWNERS DEDICATION

Know all men by these presents that the undersigned are owners of the above described tract of land hereby cause the same to be divided into a street to be hereafter known as:

SPANISH SPRINGS SUBDIVISION - PHASE 1 AMENDED

and does hereby dedicate for the perpetual use of the public. all roads and other areas shown on this plat as intended for public use. the undersigned owners also hereby conveys to spanish fork city and to any and all public utility companies a perpetual non-exclusive easement over the public utility easements shown on this plat, the same to be used for the installation, maintenance and operation of utility lines and facilities.

In witness whereof, I have hereunto set my hand this _____ day of _____, 2021.

Spanish Springs Business Park, LLC

By: _____

Print Name: _____

By: _____

NOTARY ACKNOWLEDGMENT

State of Utah)
:ss
County of Utah)

On this _____ day of _____, in the year 20_, before me, _____ a Notary Public, personally appeared _____ the _____ of _____ proved on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to in the foregoing owner's dedication and consent regarding the ***SPANISH SPRINGS SUBDIVISION - PHASE 1 AMENDED*** and was signed by him/her on behalf of said and acknowledged that he/she/they executed the same.

Commission Number _____
My Commission Expires _____

Signature: _____

Print Name: _____

A Notary Public Commissioned in Utah

SPANISH SPRINGS SUBDIVISION
PHASE 1 AMENDED
LOCATED IN THE SE 1/4 OF SECTION 1, TOWNSHIP 8 SOUTH, RANGE 2 EAST AND THE SW ¼ OF SECTION 6 TOWNSHIP 8 SOUTH, RANGE 3 EAST, SLB&M
SPANISH FORK CITY, UTAH COUNTY, UTAH

SURVEYOR'S SEAL	NOTARY PUBLIC SEAL	CITY ENGINEER SEAL	COUNTY RECORDER SEAL
PROFESSIONAL LAND SURVEYOR GARY CHRISTENSEN No. 5152617 08/31/2021 STATE OF UTAH			

COMMUNITY DEVELOPMENT DIRECTOR

I, hereby certify that my office has reviewed this plat and find it to be correct and in accordance with information on file in this office, of this _____ day of _____, A.D. 2021.

_____
Community Development Manager

CITY ENGINEER APPROVAL

I, hereby certify that my office has reviewed this plat and find it to be correct and in accordance with information on file in this office, of this _____ day of _____, A.D. 2021.

_____
Spanish Fork City Engineer

CITY ATTORNEY APPROVAL

I, _____, hereby certify that I have reviewed this entire document and approve it as to form, on this _____ day of _____, A.D. 2021.

_____
Spanish Fork City Attorney

ACCEPTANCE BY LEGISLATIVE BODY

The city council of the Spanish Fork City, County of Utah, approves this subdivision subject to the conditions and restrictions stated hereon, and hereby accepts the dedication of all streets, easements, and other parcels of land intended for the public purpose of the perpetual use of the public.

This __day of _____ A.D. 20____

_____
City Manager

_____
City Recorder (See Seal Above)

UTAH COUNTY RECORDER

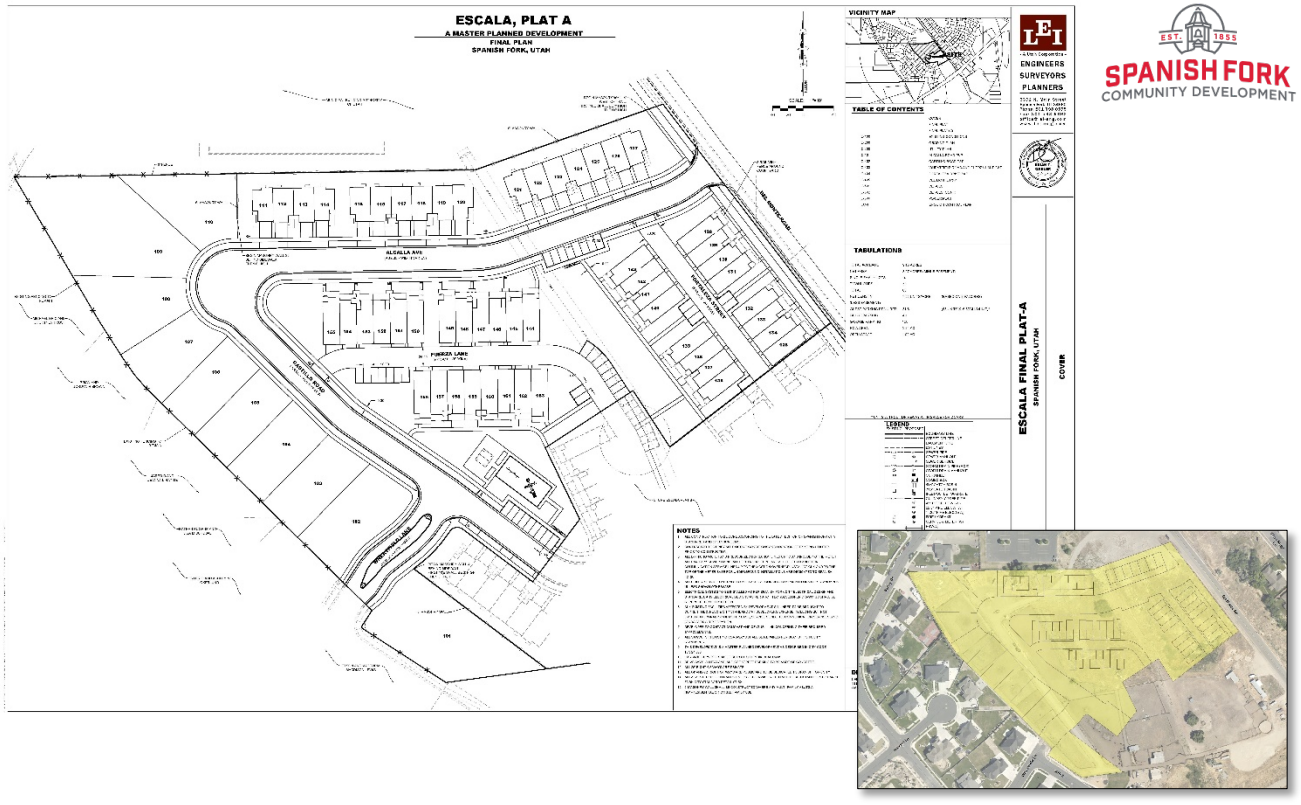
Recorded # _____
State of Utah, County of Utah, Recorded and filed at the request of

_____

Date: _____ Time: _____ Book: _____ Page: _____

Fee $ _____

_____
Utah County Recorder



Escala Plat A Final Plat Approval Request

October 6, 2021, Development Review Committee Meeting.

Located at 1300 South Del Monte Road, including 9.18 acres.

The subject property is zoned R-3.

The applicant has requested that a Final Plat of sixty-three (63) residential lots and units be approved.

Key Issues

1. Access.
2. Utilities.

Recommendation

That the proposed Final Plat be approved based on the following findings and subject to the following conditions:

Findings

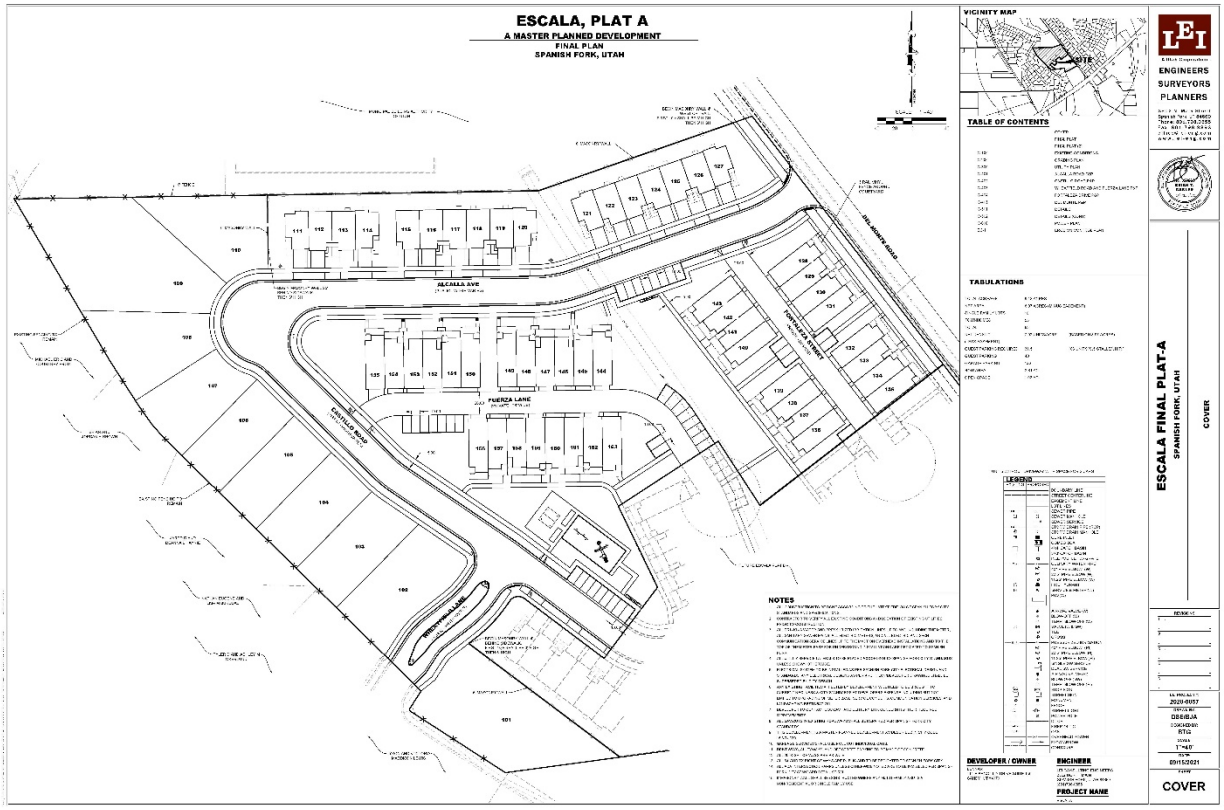
1. That the application conforms to the City's Zoning Map.
2. That the application is consistent with the approved Preliminary Plat.

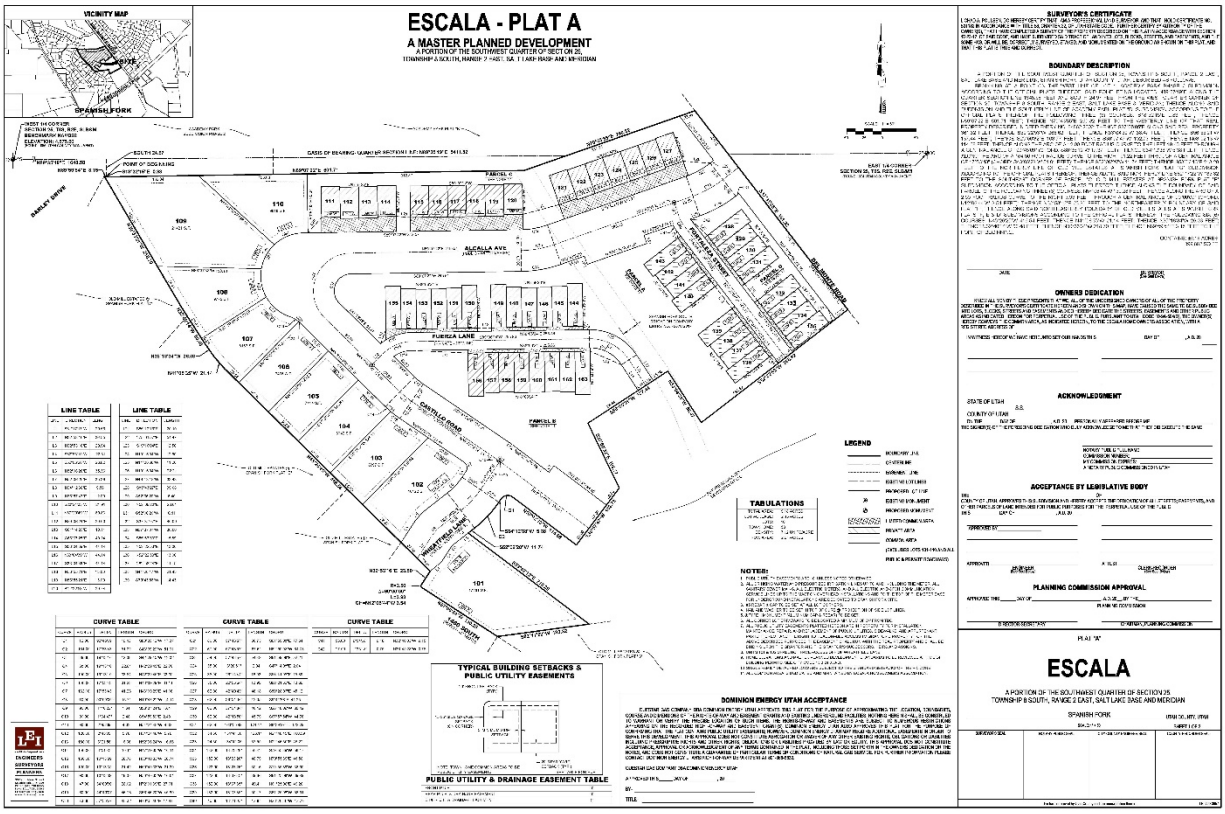
Conditions

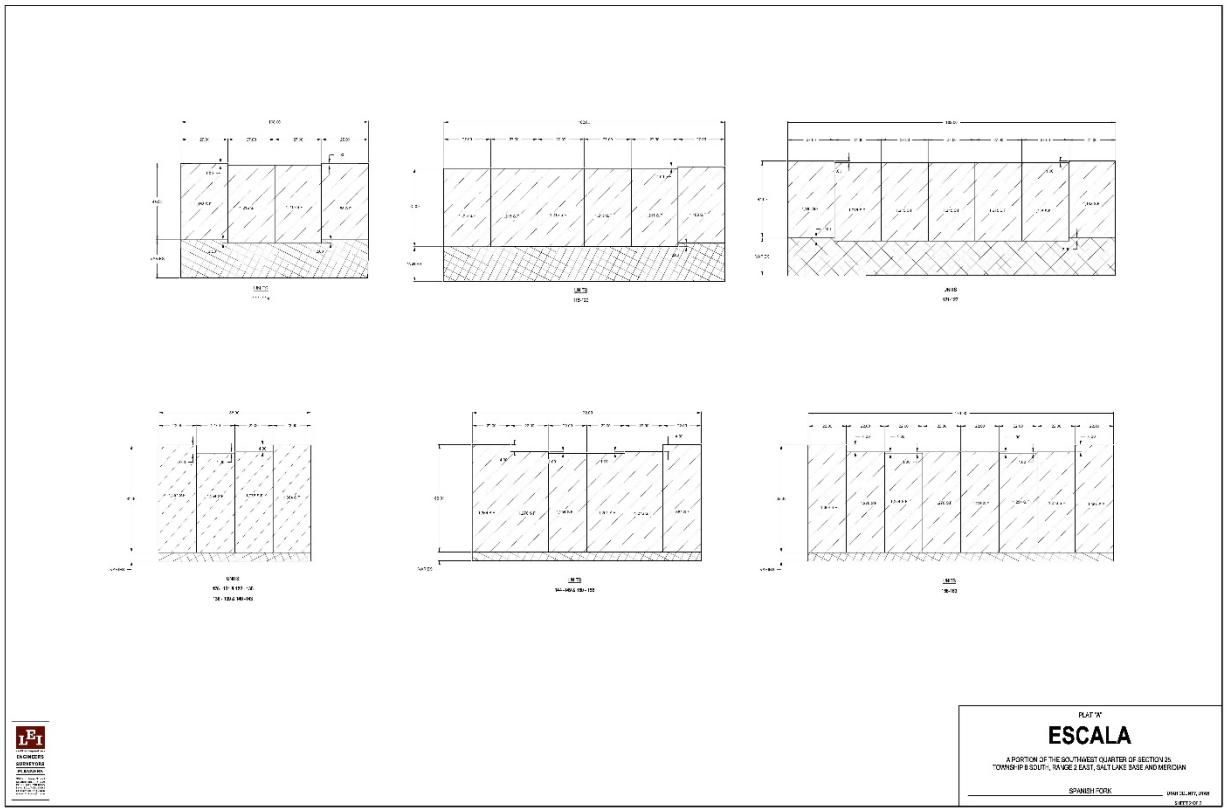
1. That the applicant meets the City's Zoning requirements and Construction Standards.
2. That the applicant addresses any red-lines.

Exhibits

1. Final Plat.
2. Landscaping Plans.
3. CC&R's.


ESCALA, PLAT A
A MASTER PLANNED DEVELOPMENT
FINAL PLAN
SPANISH FORK, UTAH
VICINITY MAP
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TABULATIONS
LEGEND
NOTES
DEVELOPER / OWNER
ENGINEER
PROJECT NAME
ENGINEERS
SURVEYORS
PLANNERS
ESCALA FINAL PLAT-A
SPANISH FORK, UTAH
COVER
2020-0057
DESIGN
DRAWN
CHECKED
APP'D
SCALE
1"=60'
DATE
05/13/2021
SHEET
COVER


ESCALA - PLAT A
A MASTER PLANNED DEVELOPMENT
A PORTION OF THE SOUTHWEST QUARTER OF SECTION 25,
TOWNSHIP 8 SOUTH, RANGE 2 WEST, SALT LAKE BASE AND MERIDIAN
VICINITY MAP
SPANISH FORK
POINT OF BEGINNING
BASIS OF BEARING: SOUTH 89°50'57" EAST 2611.52' BETWEEN THE WEST QUARTER CORNER AND THE SOUTHWEST CORNER OF SECTION 25, TOWNSHIP 8 SOUTH, RANGE 2 WEST, SALT LAKE BASE AND MERIDIAN
ALCALDE AVE
FUERZA LANE
CASTILLO ROAD
PARCEL A
PARCEL B
PARCEL C
LINE TABLE
CURVE TABLE
TABULATIONS
LEGEND
NOTES:
TYPICAL BUILDING SETBACKS & PUBLIC UTILITY EASEMENTS
PUBLIC UTILITY & DRAINAGE EASEMENT TABLE
DOMINION ENERGY UTAH ACCEPTANCE
SURVEYOR'S CERTIFICATE
BOUNDARY DESCRIPTION
OWNERS DEDICATION
ACKNOWLEDGEMENT
ACCEPTANCE BY LEGISLATIVE BODY
PLANNING COMMISSION APPROVAL
PLAT "A"
ESCALA
A PORTION OF THE SOUTHWEST QUARTER OF SECTION 25
TOWNSHIP 8 SOUTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN
SPANISH FORK
UTAH COUNTY, UTAH

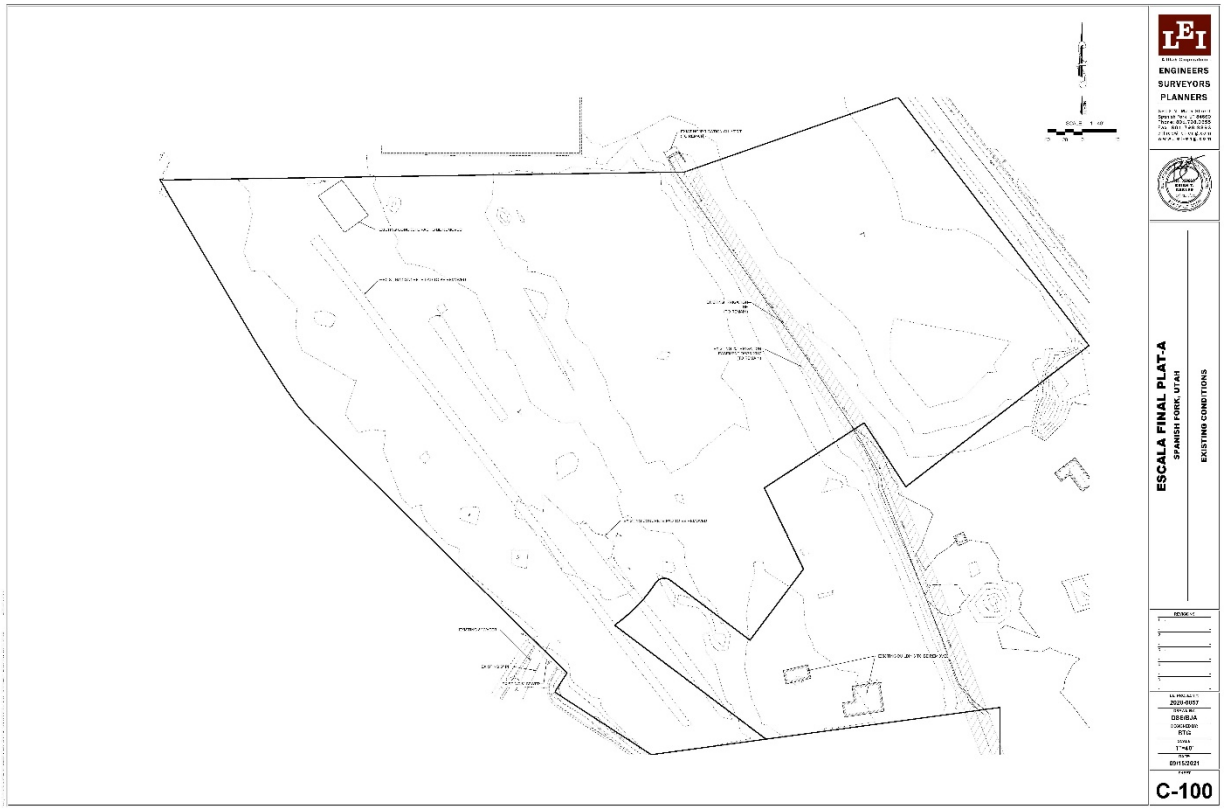


PLAT "A"

ESCALA

A PORTION OF THE SOUTHWEST QUARTER OF SECTION 25,
TOWNSHIP 8 SOUTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN

SPANISH FORK



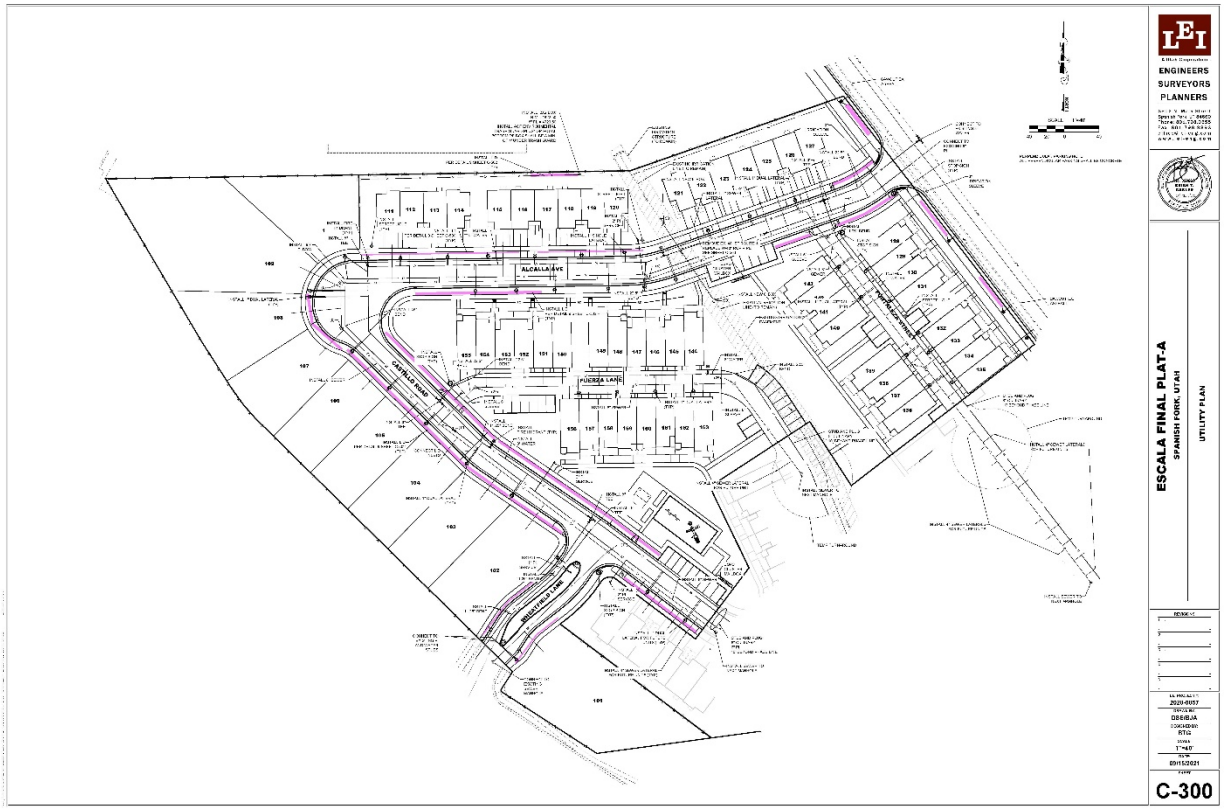
ENGINEERS
SURVEYORS
PLANNERS

ESCALA FINAL PLAT-A
SPANISH FORK, UTAH
EXISTING CONDITIONS

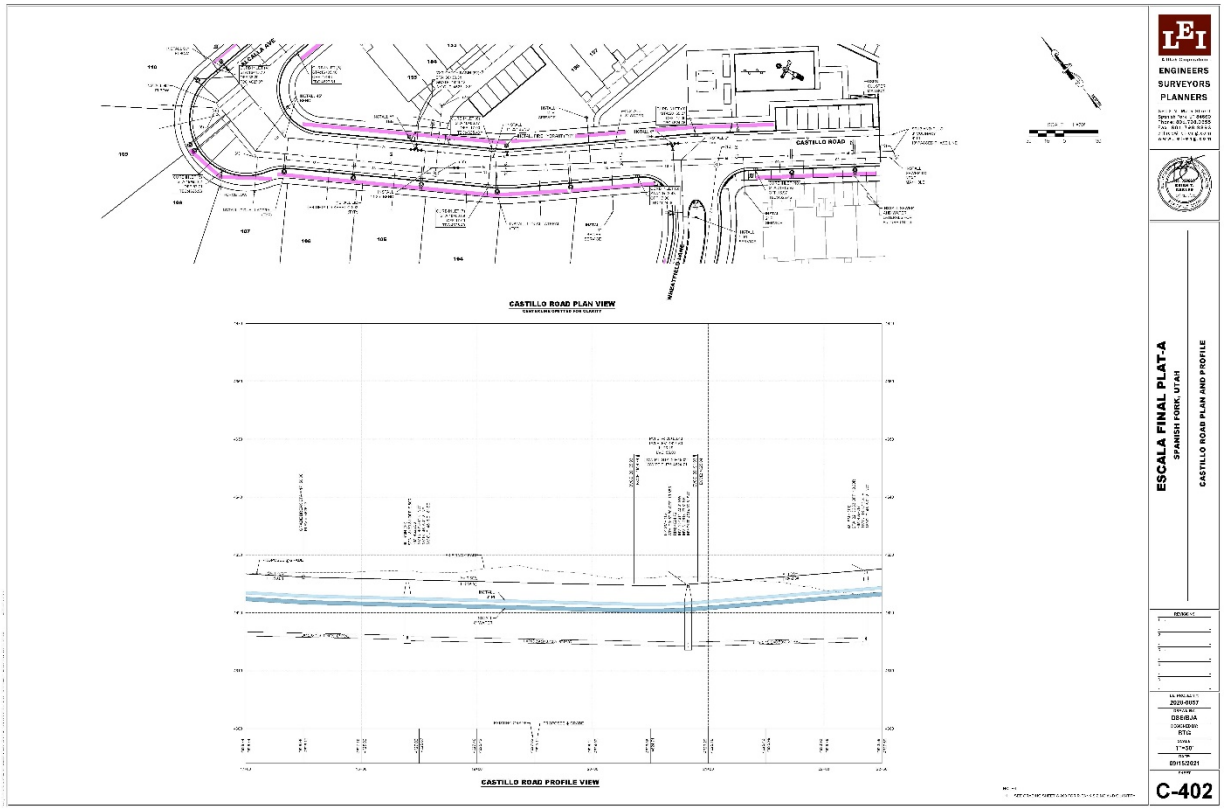
2020-0037
DBE/BJA
CSK/ADW/
RTG
1"=40'
05/15/2021

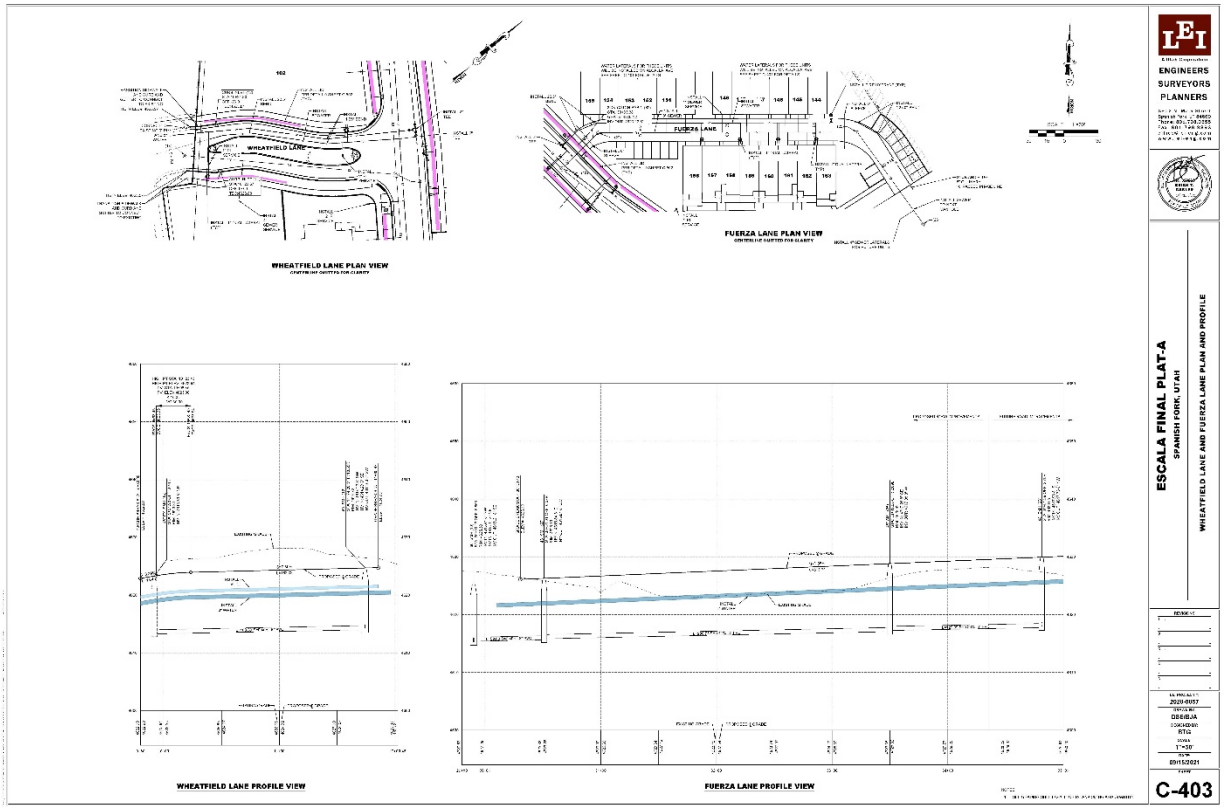
C-100

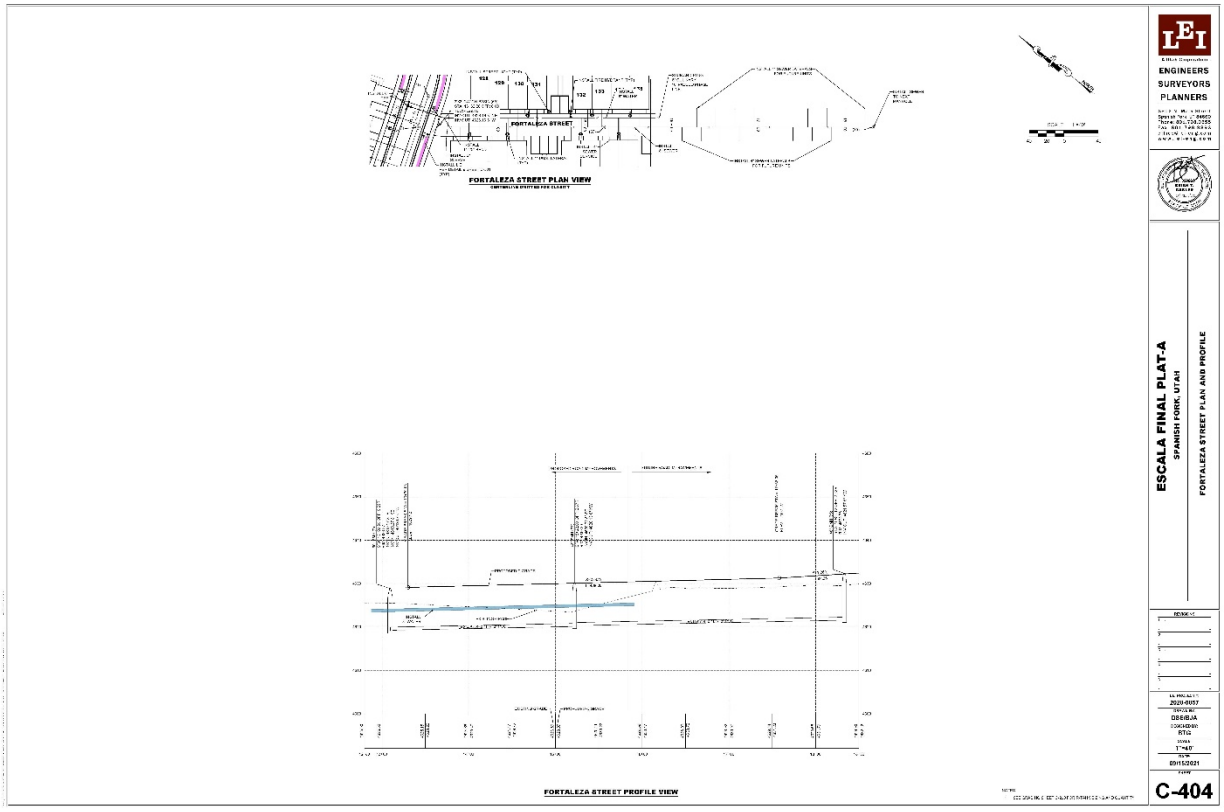

LEI
ENGINEERS
SURVEYORS
PLANNERS
ESCALA FINAL PLAT-A
SPANISH FORK, UTAH
GRADING PLAN
C-200
ALCALA AVE
CASTILLO ROAD
FUERZA LANE
WHEATFIELD LANE
DEL RIENTE ROAD

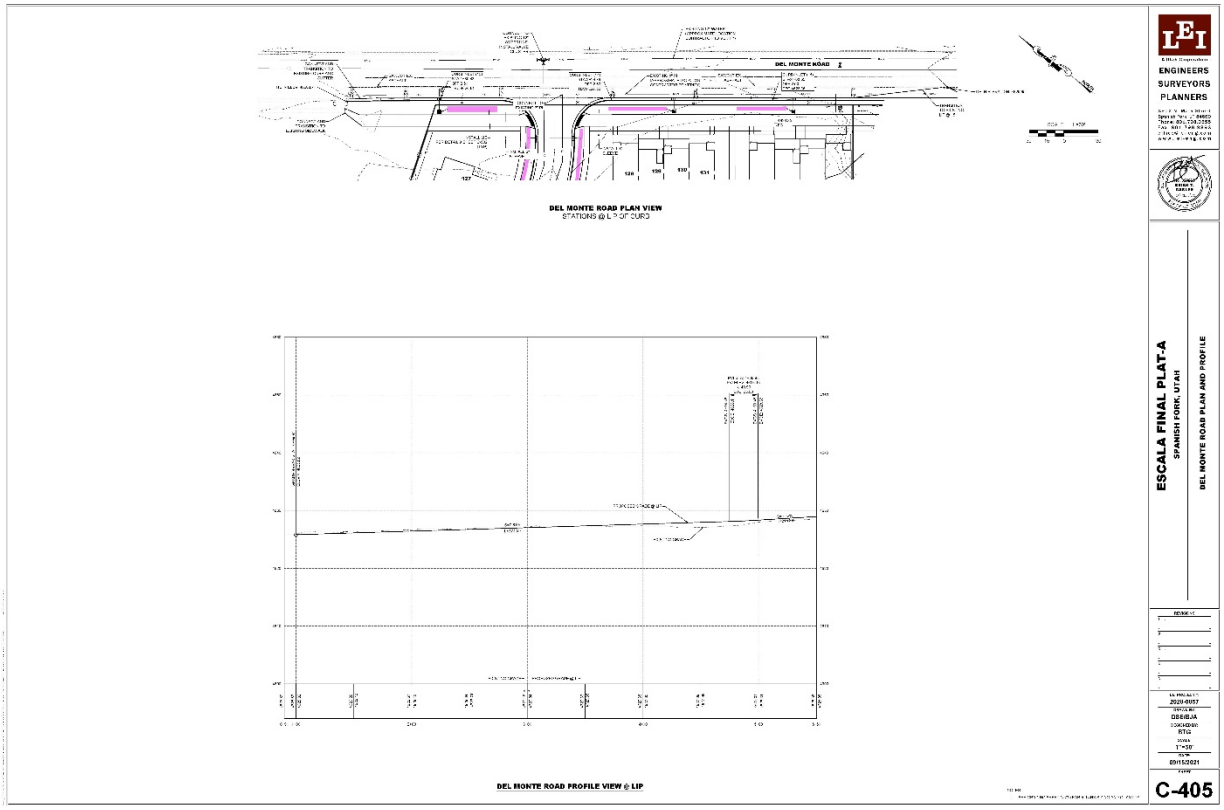

LEI
ENGINEERS
SURVEYORS
PLANNERS
ESCALA FINAL PLAT-A
SPANISH FORK, UTAH
UTILITY PLAN
C-300
ALCALA AVE
CASTILLO ROAD
FUERZA LANE
WHEATFIELD LANE

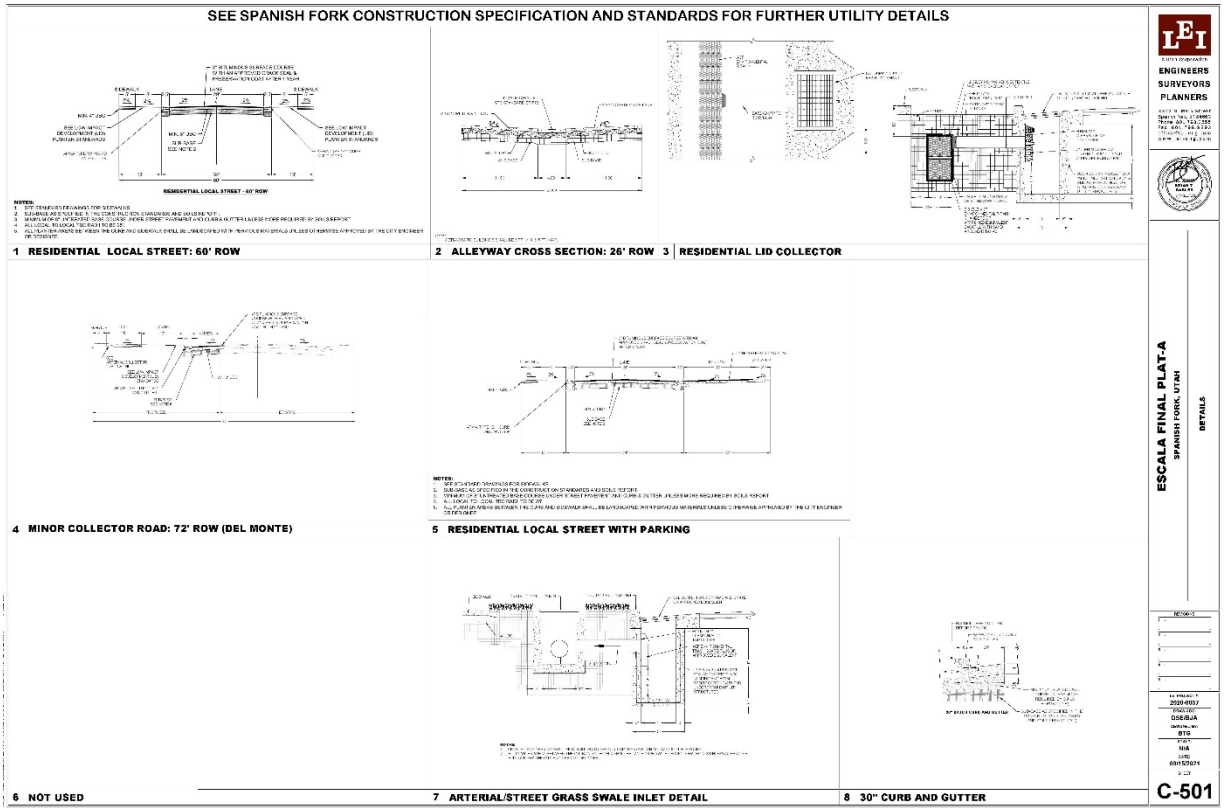

ALCALLA PLAN VIEW
ALCALLA AVE PROFILE VIEW
ENGINEERS
SURVEYORS
PLANNERS
ESCALA FINAL PLAT-A
SPANISH FORK, UTAH
ALCALLA AVE PLAN AND PROFILE
C-401


CASTILLO ROAD PLAN VIEW
CASTILLO ROAD PROFILE VIEW
ENGINEERS
SURVEYORS
PLANNERS
ESCALA FINAL PLAT-A
SPANISH FORK, UTAH
CASTILLO ROAD PLAN AND PROFILE
C-402

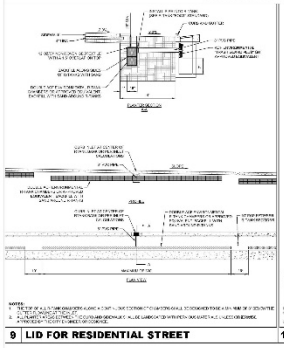

WHEATFIELD LANE PLAN VIEW
FUERZA LANE PLAN VIEW
WHEATFIELD LANE PROFILE VIEW
FUERZA LANE PROFILE VIEW
ENGINEERS
SURVEYORS
PLANNERS
ESCALA FINAL PLAT-A
SPANISH FORK, UTAH
WHEATFIELD LANE AND FUERZA LANE PLAN AND PROFILE
2020-0057
DBE/BJA
CSK/HDW/
RTG
1"=50'
05/15/2021
C-403


FORTALEZA STREET PLAN VIEW
FORTALEZA STREET PROFILE VIEW
ENGINEERS
SURVEYORS
PLANNERS
ESCALA FINAL PLAT-A
SPANISH FORK, UTAH
FORTALEZA STREET PLAN AND PROFILE
2020-0057
DBE/BJA
CSK/HDW/
RTG
1"=40'
05/15/2021
C-404

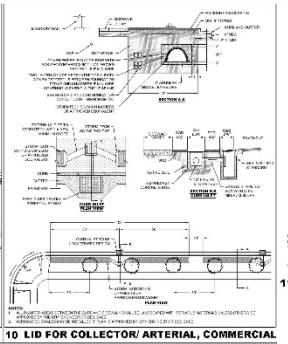

DEL MONTE ROAD
DEL MONTE ROAD PLAN VIEW
STATIONS @ L.P. OF CURB
DEL MONTE ROAD PROFILE VIEW @ LIP
LEI
ENGINEERS
SURVEYORS
PLANNERS
ESCALA FINAL PLAT-A
SPANISH FORK, UTAH
DEL MONTE ROAD PLAN AND PROFILE
2020-0037
DSE/BJA
BTG
1"=50'
09/15/2021
C-405


SEE SPANISH FORK CONSTRUCTION SPECIFICATION AND STANDARDS FOR FURTHER UTILITY DETAILS
RESIDENTIAL LOCAL STREET - 60' ROW
1 RESIDENTIAL LOCAL STREET: 60' ROW
2 ALLEYWAY CROSS SECTION: 26' ROW
3 RESIDENTIAL LID COLLECTOR
4 MINOR COLLECTOR ROAD: 72' ROW (DEL MONTE)
5 RESIDENTIAL LOCAL STREET WITH PARKING
6 NOT USED
7 ARTERIAL/STREET GRASS SWALE INLET DETAIL
8 30" CURB AND GUTTER
LEI
ENGINEERS
SURVEYORS
PLANNERS
ESCALA FINAL PLAT-A
SPANISH FORK, UTAH
DETAILS
2020-0037
DSE/BJA
BTG
N/A
09/15/2021
C-501

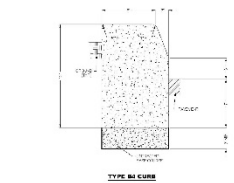
SEE SPANISH FORK CONSTRUCTION SPECIFICATION AND STANDARDS FOR FURTHER UTILITY DETAILS



9 LID FOR RESIDENTIAL STREET



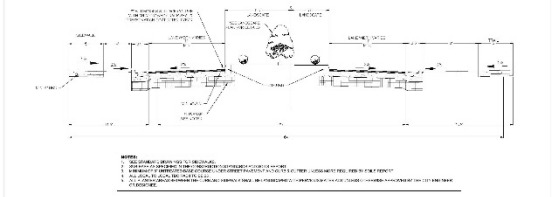
10 LID FOR COLLECTOR/ ARTERIAL, COMMERCIAL



TYPE BJ CURB

11 WHEATFIELD LANE ISLAND B4 CURB

12 NOT USED

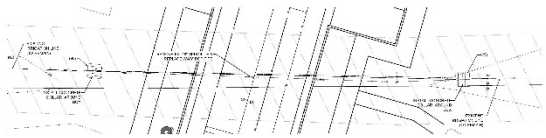


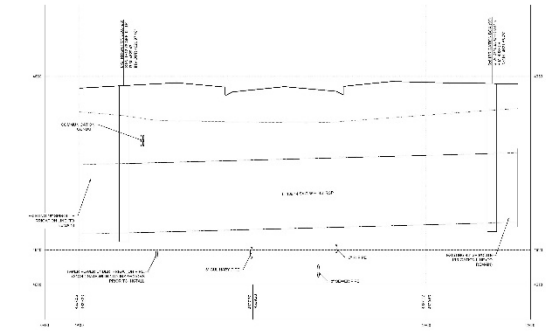
13 WHEATFIELD LANE ISLAND DETAIL

LEI ENGINEERS SURVEYORS PLANNERS

ESCALA FINAL PLAT-A
SPANISH FORK, UTAH
DETAILS

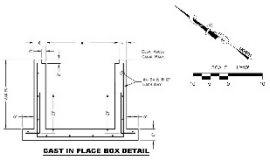
C-502



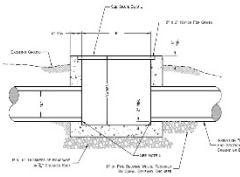




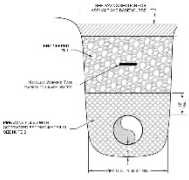
GRATE DETAIL



CAST IN PLACE BOX DETAIL



IRRIGATION BOX DETAIL

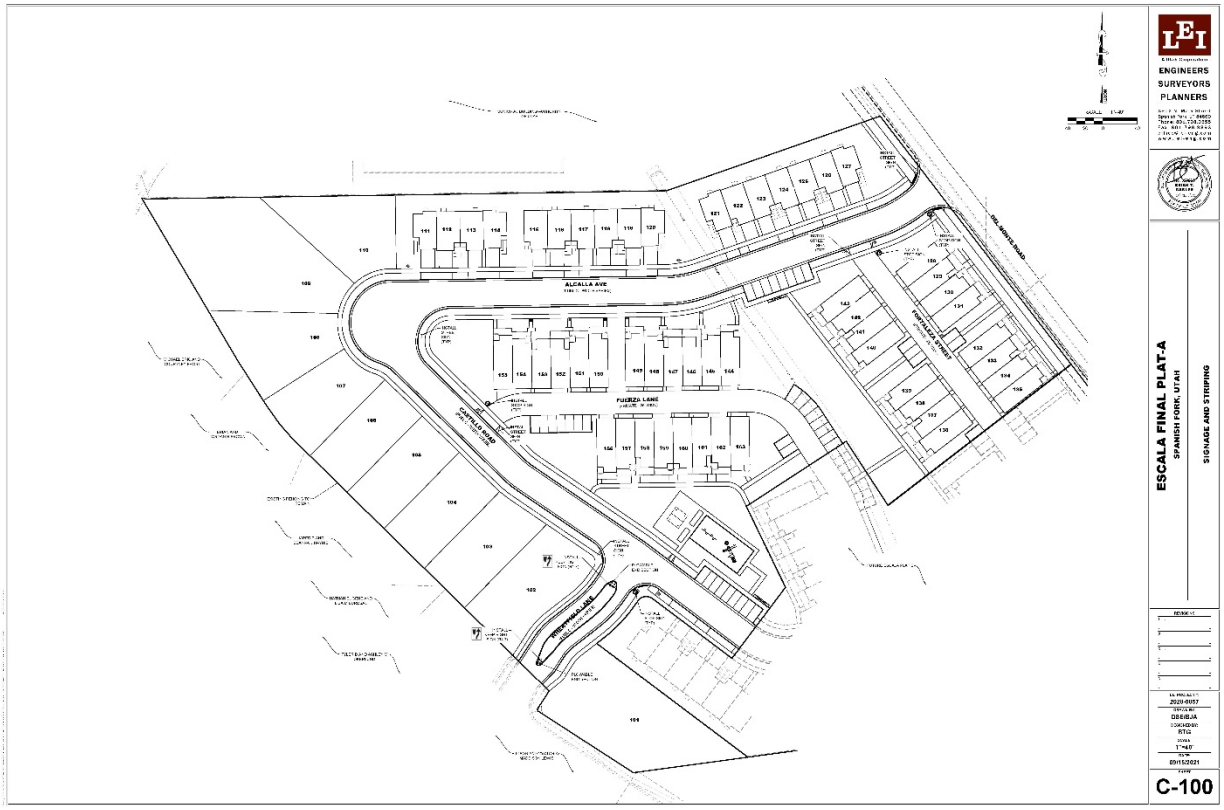


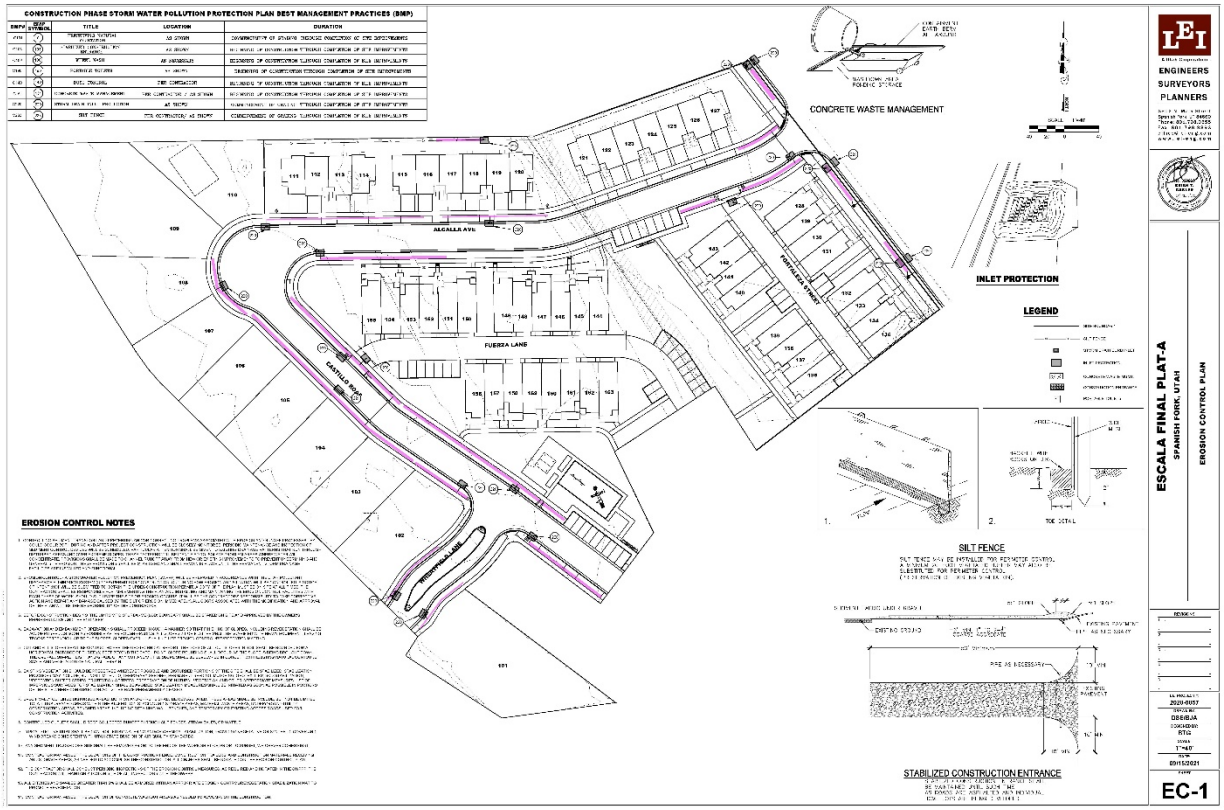
TRENCH DETAIL

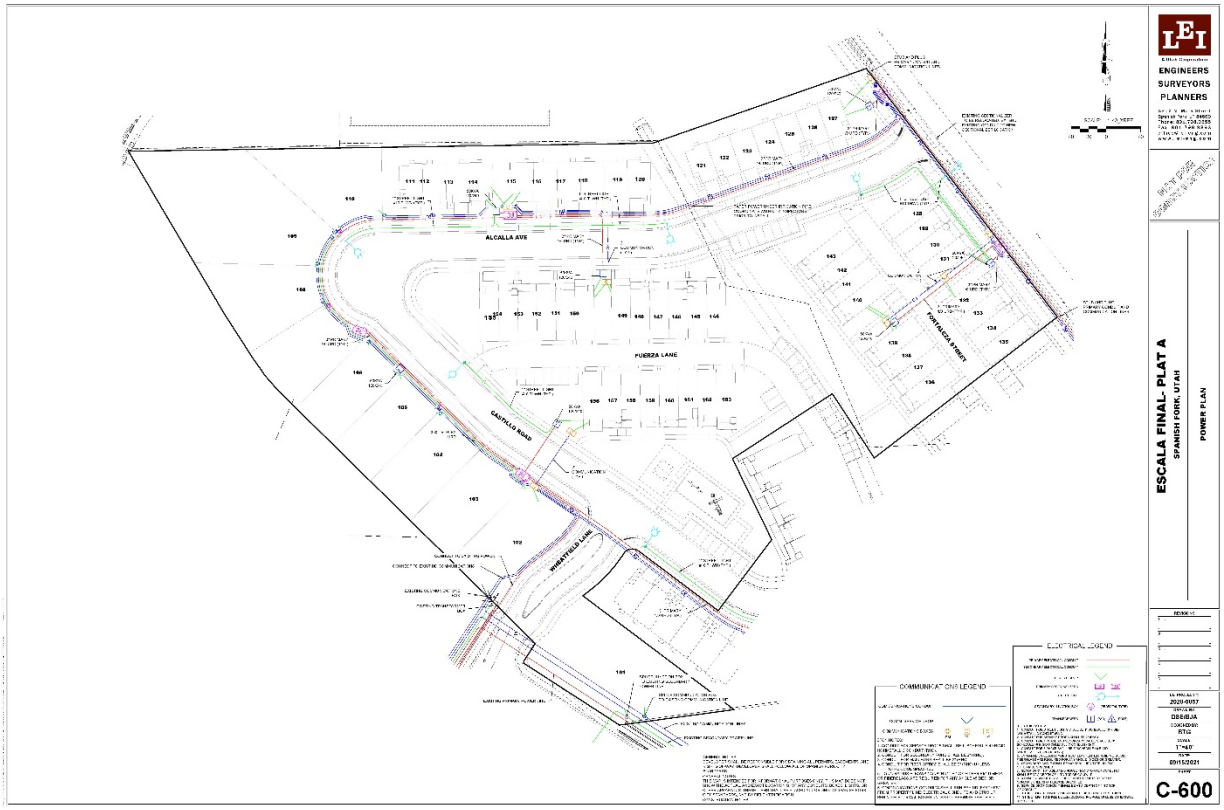
LEI ENGINEERS SURVEYORS PLANNERS

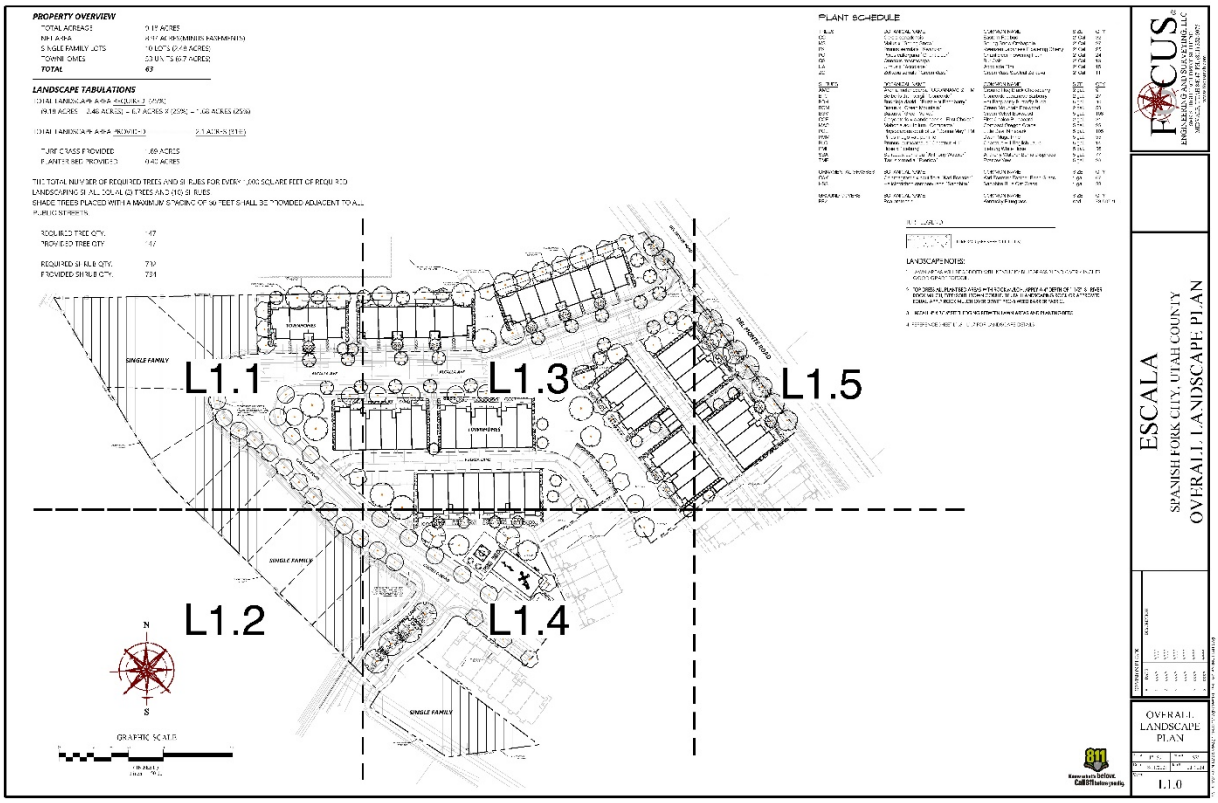
ESCALA FINAL PLAT-A
SPANISH FORK, UTAH
IRRIGATION REPLACEMENT DETAILS

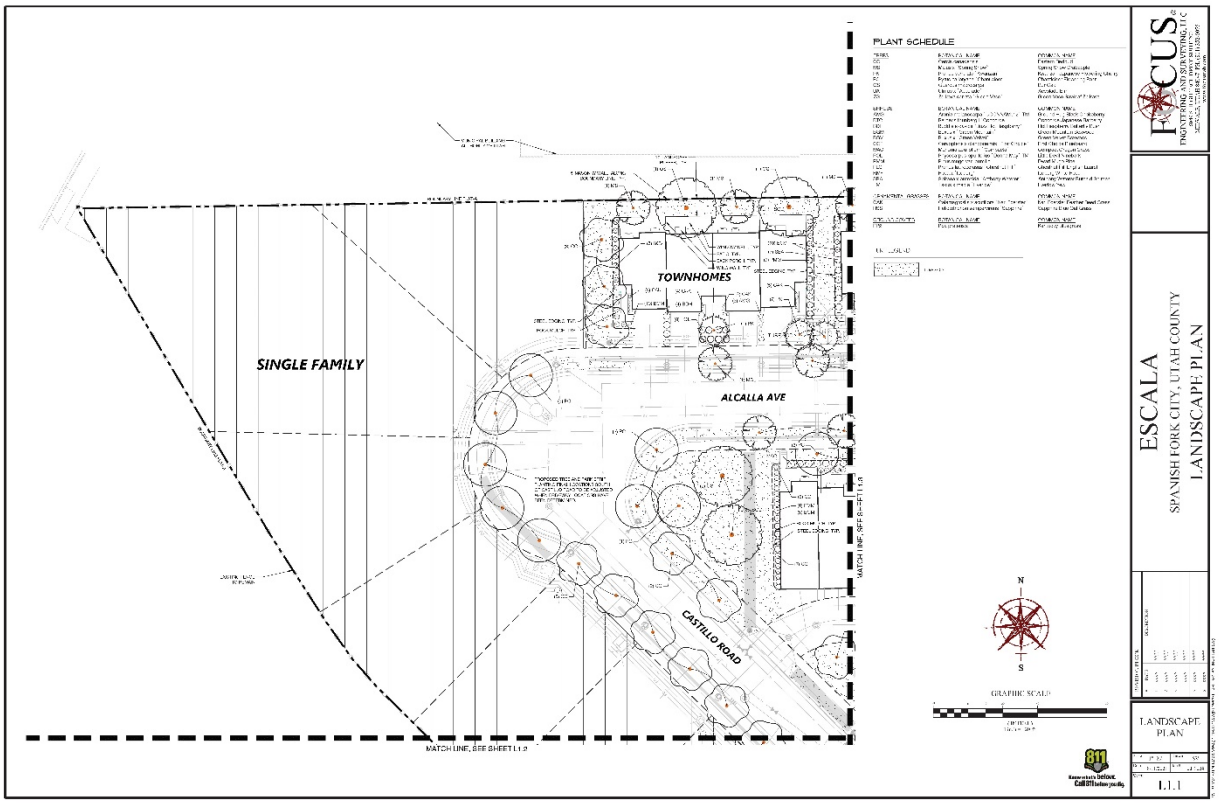
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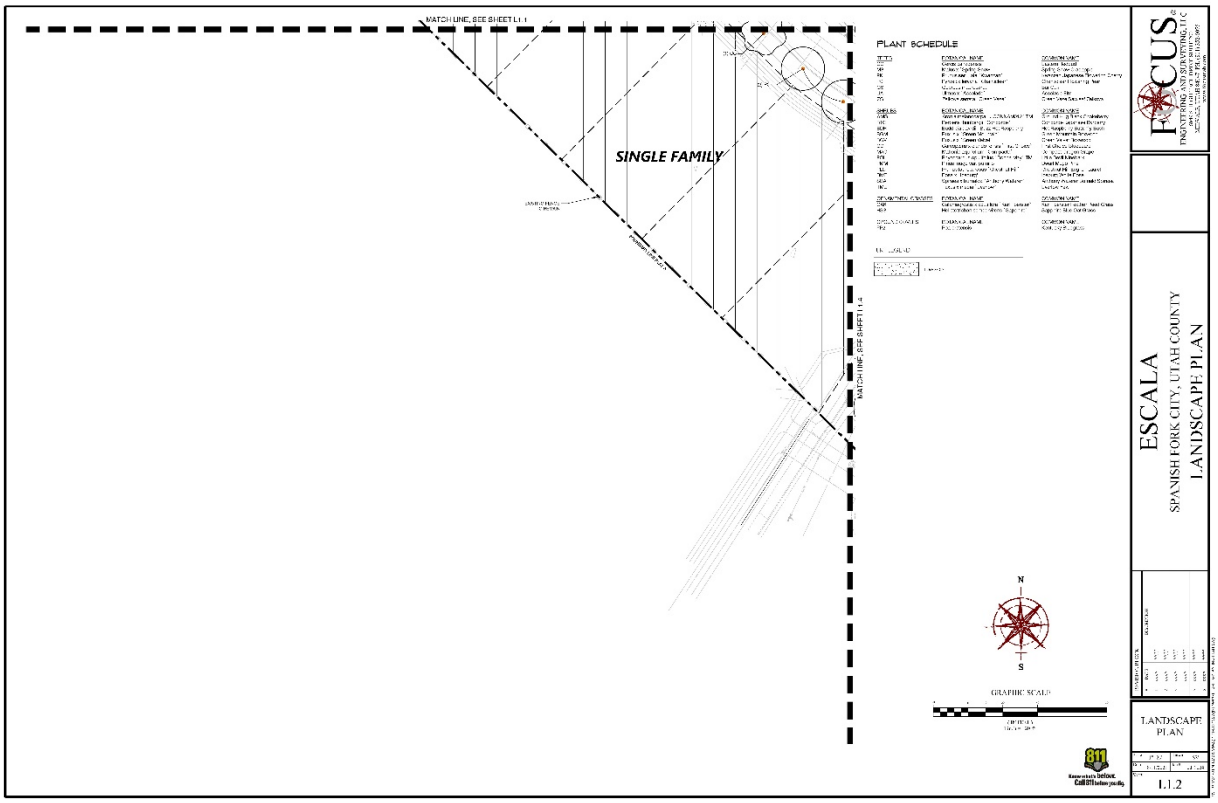

ENGINEERS
SURVEYORS
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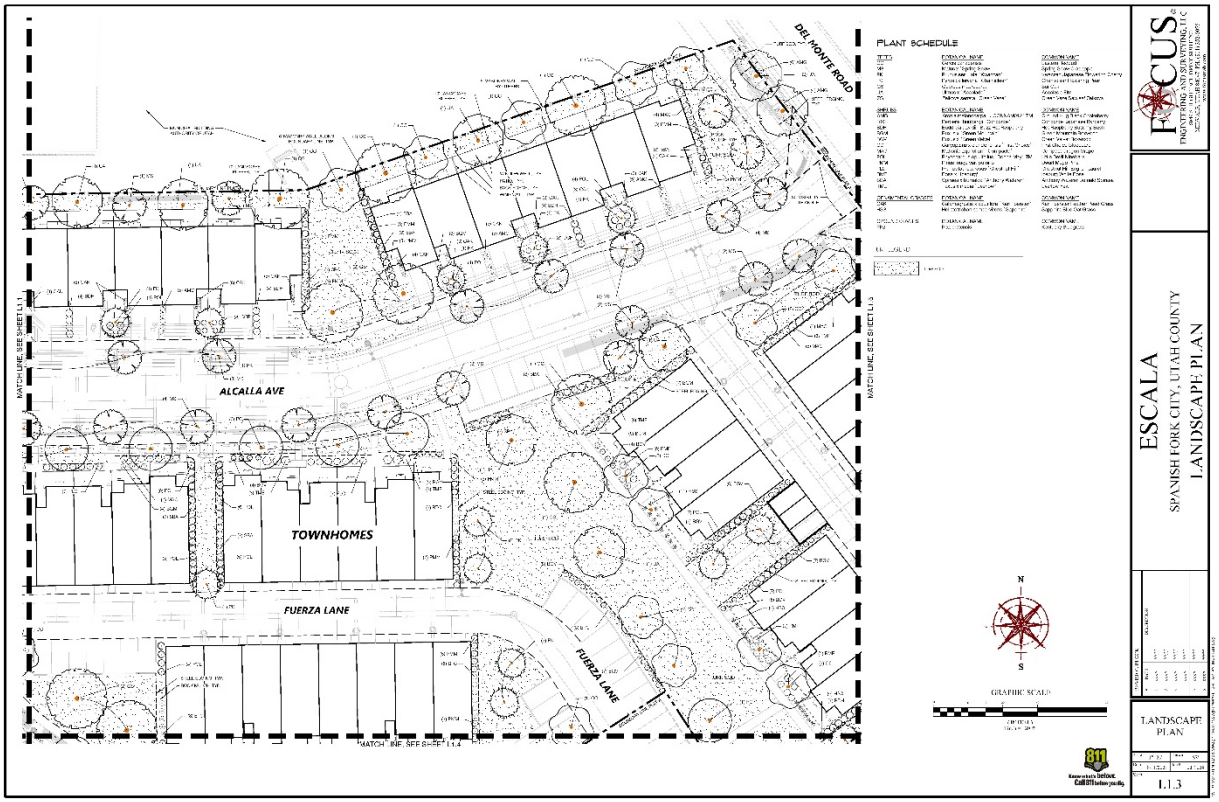

CONSTRUCTION PHASE STORM WATER POLLUTION PROTECTION PLAN BEST MANAGEMENT PRACTICES (BMP)
EROSION CONTROL NOTES
CONCRETE WASTE MANAGEMENT
INLET PROTECTION
LEGEND
SILT FENCE
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ENGINEERS
SURVEYORS
PLANNERS
ESCALA FINAL PLAT-A
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EC-1

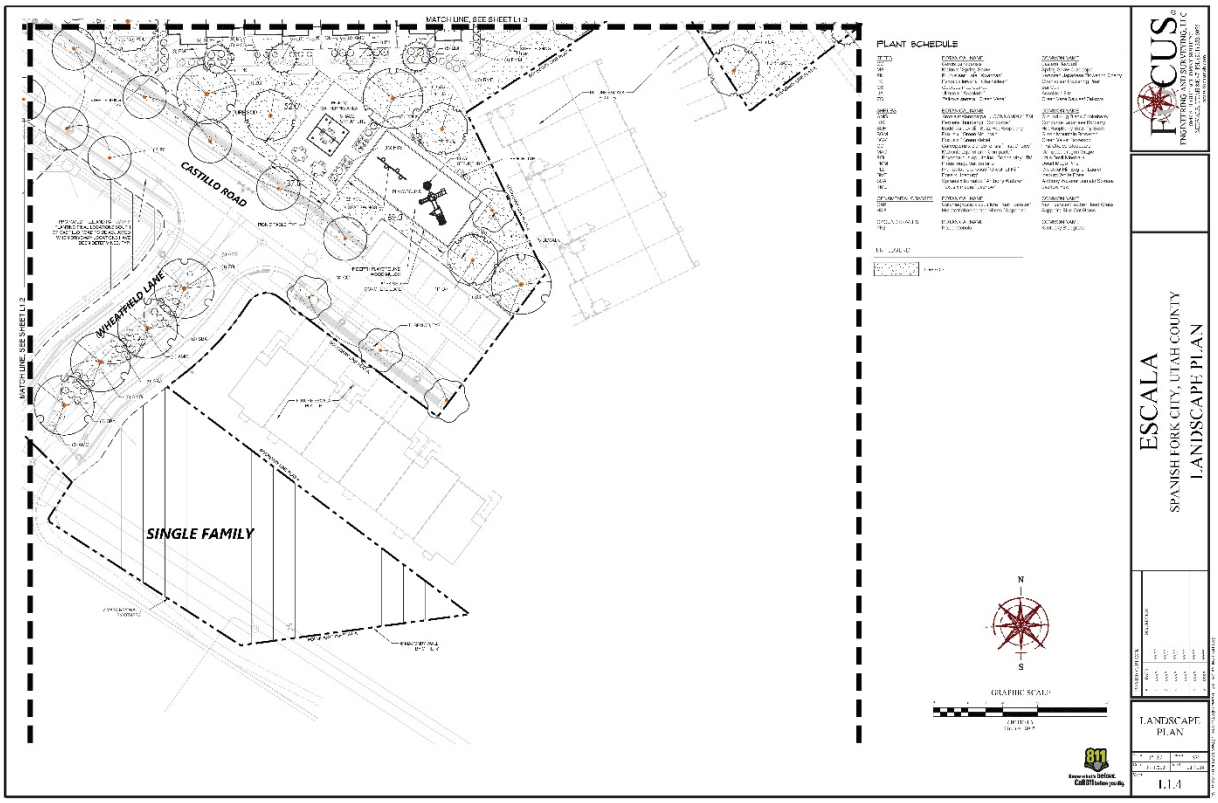

ENGINEERS
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C-600
ALCALLA AVE
FUERZA LANE
CASTILLO ROAD
WHEATFIELD LANE
PORTALEZA STREET
COMMUNICATIONS LEGEND
ELECTRICAL LEGEND

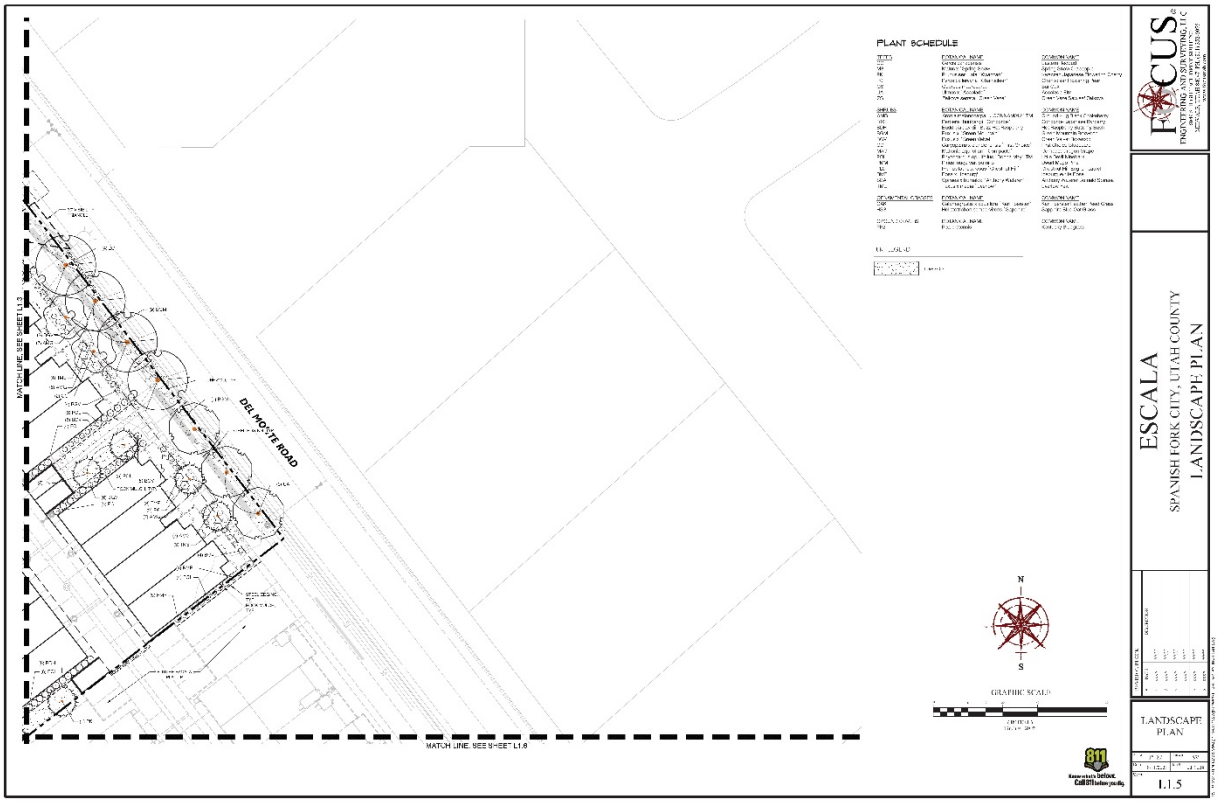

PROPERTY OVERVIEW
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L1.4
L1.5
SINGLE FAMILY
GRAPHIC SCALE
ESCALA
SPANISH FORK CITY, UTAH COUNTY
OVERALL LANDSCAPE PLAN
OVERALL LANDSCAPE PLAN
L1.0

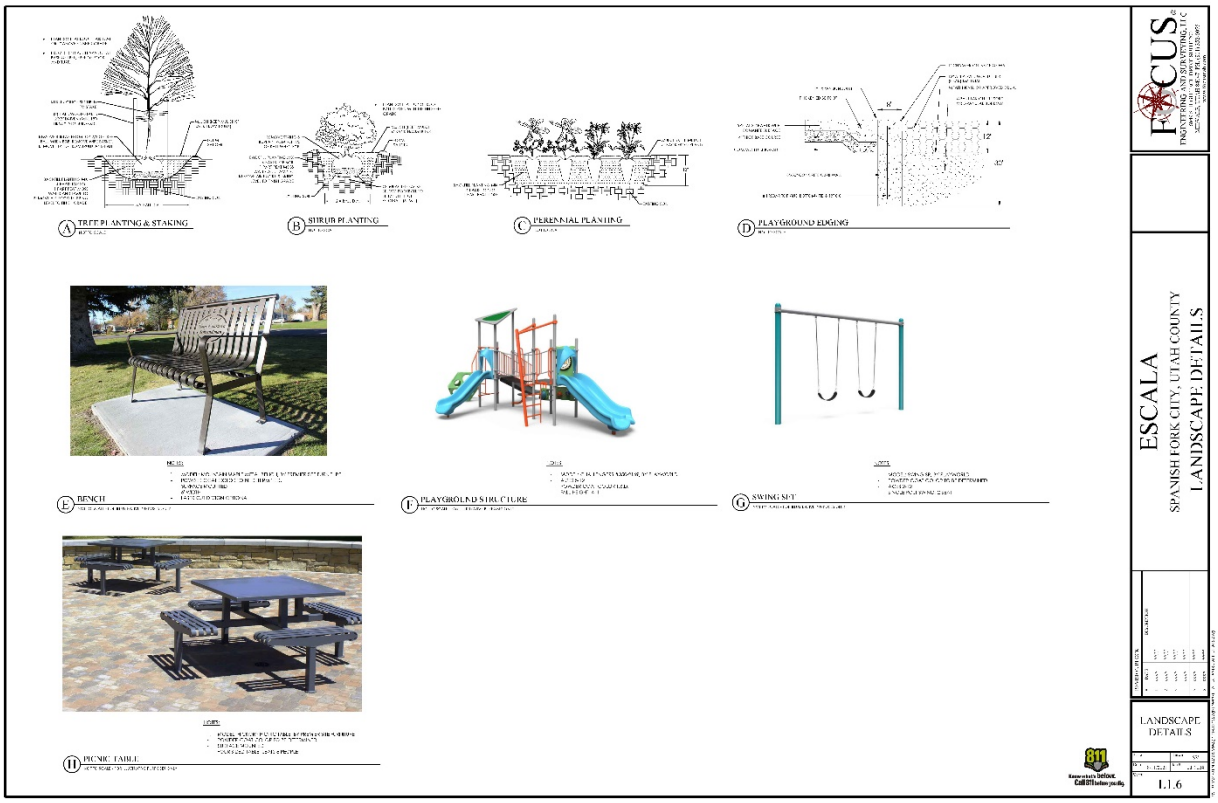

PLANT SCHEDULE
SINGLE FAMILY
TOWNHOMES
ALCALLA AVE
CASTILLO ROAD
MATCH LINE, SEE SHEET L1.0
MATCH LINE, SEE SHEET L1.2
GRAPHIC SCALE
ESCALA
SPANISH FORK CITY, UTAH COUNTY
LANDSCAPE PLAN
LANDSCAPE PLAN
L1.1

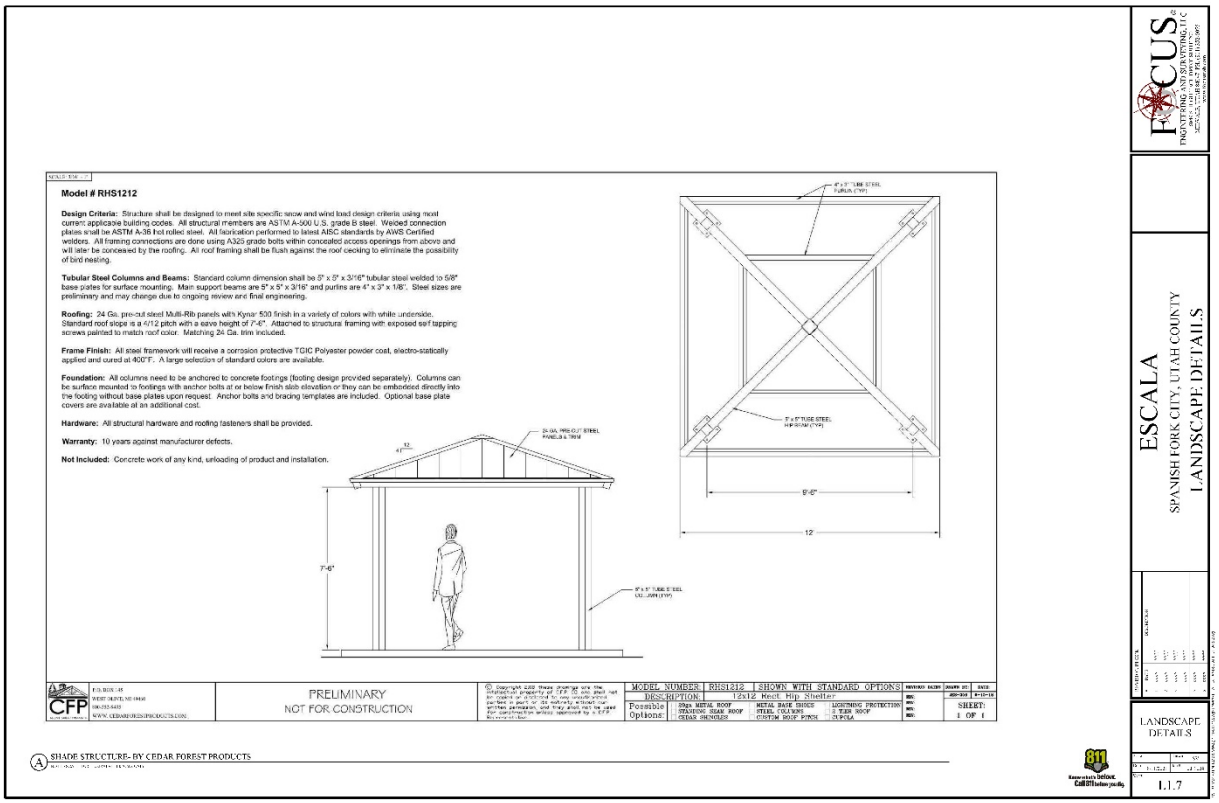

MATCH LINE, SEE SHEET L1.1
SINGLE FAMILY
MATCH LINE, SEE SHEET L1.4
PLANT SCHEDULE
GRAPHIC SCALE
ESCALA
SPANISH FORK CITY, UTAH COUNTY
LANDSCAPE PLAN
LANDSCAPE PLAN
L1.2


DEL MONTE ROAD
MATCH LINE, SEE SHEET L1.1
MATCH LINE, SEE SHEET L1.3
ALCALLA AVE
TOWNHOMES
FUERZA LANE
FUERZA LANE
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MATCH LINE, SEE SHEET L1.3
MATCH LINE, SEE SHEET L1.2
CASTILLO ROAD
WHEATFIELD LANE
SINGLE FAMILY
PLANT SCHEDULE
GRAPHIC SCALE
ESCALA
SPANISH FORK CITY, UTAH COUNTY
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MATCH LINE, SEE SHEET L1.2
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A TREE PLANTING & STAKING
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C PERENNIAL PLANTING
D PLAYGROUND EDGING
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F PLAYGROUND STRUCTURE
G SWING SET
H PICNIC TABLE
FOCUS
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L1.6


Model # RHS1212
Design Criteria: Structure shall be designed to meet site specific snow and wind load design criteria using most current applicable building codes. All structural members are ASTM A-500 U.S. grade B steel. Welded connection plates shall be ASTM A-36 hot rolled steel. All fabrication performed to latest AISC standards by AWS Certified welders. All framing connections are done using A325 grade bolts within concealed access openings from above and will later be concealed by the roofing. All roof framing shall be flush against the roof decking to eliminate the possibility of bird nesting.
Tubular Steel Columns and Beams: Standard column dimension shall be 5" x 5" x 3/16" tubular steel welded to 5/8" base plates for surface mounting. Main support beams are 5" x 5" x 3/16" and purlins are 4" x 3" x 1/8". Steel sizes are preliminary and may change due to ongoing review and final engineering.
Roofing: 24 Ga. pre-cut steel Multi-Rib panels with Kynar 500 finish in a variety of colors with white underside. Standard roof slope is a 4/12 pitch with a eave height of 7'-6". Attached to structural framing with exposed self tapping screws painted to match roof color. Matching 24 Ga. trim included.
Frame Finish: All steel framework will receive a corrosion protective TCIC Polyester powder coat, electro-statically applied and cured at 400°F. A large selection of standard colors are available.
Foundation: All columns need to be anchored to concrete footings (footing design provided separately). Columns can be surface mounted to footings with anchor bolts at or below finish slab elevation or they can be embedded directly into the footing without base plates upon request. Anchor bolts and bracing templates are included. Optional base plate covers are available at an additional cost.
Hardware: All structural hardware and roofing fasteners shall be provided.
Warranty: 10 years against manufacturer defects.
Not Included: Concrete work of any kind, unloading of product and installation.
9'-6"
12
7'-6"
CFP
PRELIMINARY
NOT FOR CONSTRUCTION
MODEL NUMBER | RHS1212 | SHOWN WITH STANDARD OPTIONS
DESCRIPTION | 12x12 Hexit Hip Shelter
Possible Options: 26ga METAL ROOF | STANDING SEAM ROOF | CEDAR SHINGLES | METAL BASE SKIRTS | STEEL COLUMNS | CUSTOM ROOF PITCH | LIGHTING PROTECTION | 3 TIER ROOF | CUPOLA
SHEET: 1 OF 1
A SHADE STRUCTURE- BY CEDAR FOREST PRODUCTS
FOCUS
ESCALA
SPANISH FORK CITY, UTAH COUNTY
LANDSCAPE DETAILS
LANDSCAPE DETAILS
L1.7

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR

ESCALA

An Expandable
Planned Unit Development
in
Utah County

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This DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR ESCALA ("Declaration") is effective when recorded with the Utah County Recorder's Office by Lennar Homes of Utah, Inc., a Delaware corporation ("Declarant").

RECITALS

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

B. Declarant has established for the mutual benefit of all Owners and Occupants of the Project, certain covenants, conditions, restrictions, easements, rights, privileges, assessments and liens as set forth herein, which shall run with and be a burden upon the Project.

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

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

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

ARTICLE I. DEFINITIONS

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

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

1.2. **Additional Land** shall mean and refer to, without limitation, any parcel of land that is annexed into the Project by the Declarant in accordance with the provisions outlined in this Declaration.

1.3. **Architectural Control Committee** or **ACC** shall mean and refer to the Board or, if so appointed by the Board, a committee having architectural control powers as further described herein.

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

1.5. **Assessments** shall mean any monetary charge or fee imposed or levied by the Association against Owners as provided in this Declaration or other Governing Documents, which includes annual assessments, special assessments, individual assessments, late fees, fines, and so forth.

1.6. **Association** shall mean Escala Homeowners Association, Inc., a Utah non-profit corporation. Failure of the Association to maintain its corporate status will not result in the dissolution of the Association.

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

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

1.9. **Bylaws** shall mean the Bylaws of the Association that are attached hereto as Exhibit B, as the same may be amended from time to time.

1.10. **Common Areas** shall mean all areas of the Project extending beyond the exterior of the Living Units, unless otherwise noted herein or on the Plat; the roadway improvements within the Project shown on the Plat as private roads and which are not accepted for dedication by a municipal authority, which includes Fuerza Lane and Fortaleza Street; all land, and the improvements situated thereon, within the Project that Declarant designates as Common Areas on the Plat or other recorded instrument; and other real property which the Association now or hereafter owns in fee for the benefit of Owners for as long as the Association is the owner of the fee, which may include without obligation or limitation, park areas, Association signs or monuments, a pavilion, playground area, landscaped areas, street signage, sidewalks, extra parking stalls, and other similar improvements; and any real property or improvements within the Project that the Association has the obligation to maintain, repair, or replace for the common benefit of the Owners, as the Board shall determine in its sole and exclusive discretion, including, without limitation, all utility and service lines and similar improvements, whether public or private-company owned, intended to serve more than one Living Unit, whether located on a Lot or lying inside of the exterior boundaries of the Living Unit.

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

1.12. **Declarant** shall mean Lennar Homes of Utah, Inc., a Delaware corporation, and any successor in interest.

1.13. **Declaration** shall mean and refer to this Declaration of Covenants, Conditions and Restrictions for Escala, as may be amended from time to time.

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

1.15. **Governing Documents** shall mean collectively, the Declaration, Articles, Bylaws, Plat, Rules, and any applicable Association agreements or easements.

1.16. **Limited Common Areas** shall mean the Common Area reserved for the use and benefit of a designated Lot or Living Unit to the exclusion of other Owners. Whether or not indicated on the Plat, the Limited Common Areas shall include facilities appurtenant to the Living Units including porches, balconies, driveways. The right to the exclusive use of the Limited Common Area shall be appurtenant to each respective Lot and may not be severed from the ownership of the Lot. All installations or modifications of Limited Common Areas shall be approved by the Association and shall be subject to the provisions in this Declaration and the Design Guidelines. The Board shall have the power and discretion to determine the Limited Common Area boundaries if the Governing Documents are found ambiguous.

1.17. **Living Unit** shall mean a structure which is designed and intended for use and occupancy as a single-family residence, together with the garage and all improvements located on the Lot used in connection with such residential structure. The Living Unit shall include, without limitation, the roof and all exterior surfaces, exterior and interior doors, windows, garage doors, exterior trim, gutters, downspouts, and foundations. The Living Unit shall also include all mechanical equipment and appurtenances located outside the Living Unit but designed to serve only that Living Unit, such as appliances, electrical receptacles and outlets, air conditioning compressors, equipment, fixtures and the like. All pipes, wires, conduits, utility lines, or other similar installations serving only the Living Unit, and any structural members, parts, components, or any other property of any kind, including fixtures or appliances within any Living Unit shall be deemed part of the Living Unit. The attached garage shall be deemed to be part of the respective Living Unit

1.18. **Lot** shall mean each of the individual Lots within the Project, as shown on the Plat. A Lot shall include the Living Unit or other improvement or structure constructed thereon. Each Lot consists generally of all structures on or within the boundary of the Lot. The Lot shall extend to the center of the Party Wall, which shall form the boundary of the Lots sharing that wall. Subject to dividing lines between Lots, any above-ground structure that extends beyond the vertical plane of the ground-level boundary of the Lot is part of the Lot if it: (1) is part of and an integral part of the Living Unit's structure (such as bay windows, pop-outs, eves, etc., not to include fences, or other appurtenant structures that merely connect to the structure); or (2) was constructed as part of the original construction of the Lot. Lots 118 through 127 on the Plat will contain detached single-family residences, have no membership in the Association, and are not subject to this Declaration.

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

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

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

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

1.23. **Occupant** shall mean and refer to any Person, living, dwelling, visiting, or staying in a Living Unit. This includes, but is not limited to, all lessees, tenants, and the family members, agents, and representatives living, dwelling, visiting, or staying in a Living Unit. Occupants shall be bound by the Restrictions in this Declaration and shall be liable for any fines that are assessed for violations of the Governing Documents.

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

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

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

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

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

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

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

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

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

ARTICLE II. PROJECT DESCRIPTION

2.1. **Submission**. The real property described with particularity on Exhibit A attached hereto and incorporated herein by this reference is hereby submitted to the Act. The Declarant declares that the Project and all of the Lots shall be held, conveyed, transferred, sold, mortgaged, encumbered, occupied, used, and improved subject to the Restrictions, which Restrictions shall constitute covenants and conditions running with the land and shall be binding upon and inure to the benefit of the Declarant, the Association, and each Owner, including their respective heirs, successors, and assigns. Lots 118 through 127 on the Plat will contain detached single-family residences and are not subject to this Declaration.

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

2.3. **Description of Improvements**. The improvements contained in the Project will be located upon the real property described in Exhibit A, set forth on the Plat, or further described herein. The major improvements contained in the Project will include attached Living Units, appurtenant structures on the Lots, and the Common Areas. Other Lots or Common Area upon the Additional Land may be added as reserved by the Declarant. The principal construction materials shall be wood, concrete and steel. All improvements shall be constructed in a style and of materials determined by the Declarant during the Period of Declarant Control, and afterwards, by the ACC. The Lots, their locations, and approximate dimensions are indicated on the respective Plats.

2.4. **Expansion of Project**. The Project may be expanded by the Declarant by the recording of a Supplemental Declaration in accordance with the provisions of Article XII.

ARTICLE III. MEMBERSHIP AND VOTING RIGHTS

3.1. **Membership**. Every Owner shall be a Member of the Association with one (1) equal membership interest per Lot. Membership in the Association shall be mandatory, shall be appurtenant to the Lot in which the Owner has the necessary interest, and shall not be separated from the Lot to which it appertains. Membership in the Association shall not be transferred, pledged, or alienated in any way, except upon the transfer of ownership of the Lot to which it is appurtenant, and then only to the new Owner. Any attempt to make a prohibited transfer is void. In the event an Owner fails or refuses to transfer the membership registered in his name to the purchaser of his Lot, the Association shall have the right to record the transfer upon its books and thereupon the old membership outstanding in the name of the seller shall be null and void. Lots 118 through 127 on the Plat are not subject to the Declaration and thus have no membership interests in the Association.

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

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

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

3.5. **Single-Entity Ownership Limitations**. The number of finished Living Units with a certificate of occupancy permitted to be owned by a "Single-Entity" shall not exceed five percent (5%) of the total Lots within the Association. Living Units owned by the Declarant or a bulk homebuilder, as determined by the Declarant, during the course of initial development are not subject to the Single-Entity ownership cap. The Board may adopt Rules and reporting procedures to track the number of Living Units owned by a Single-Entity to ensure consistent administration and enforcement of this ownership restriction. For the purpose of this Section, the term "Single-Entity" means the same natural individual, investor group, partnership, entity, or corporation. If an individual or entity has a 25% or greater share of ownership, control, and right to profits and losses of another entity, then such entity and its owner(s) shall be considered a Single-Entity. If title to a Unit is obtained in violation of this Section, then: (i) the Board may assess fines against the Owner pursuant to a schedule of fines adopted by the Board; and (ii) the Board may proceed with any available legal remedies, including, without limitation, an action to obtain a court order requiring the Owner to immediately sell or transfer ownership of the Living Unit.

3.6. **Investor Ownership Limitation**. The Number of Lots permitted to be owned by an Investor shall not exceed fifteen percent (15%) of the total Lots in the Project. For the purpose of this Section, the term "Investor" means: (1) a Person who owns a Lot but does not occupy the Lot as the Investor's primary residence, or (2) in the case of a Lot owned by a trust or registered business entity, the natural individual(s) who own the entity or are beneficiaries of the trust do not occupy the Lot as their primary residence. Living Units owned by the Declarant or a bulk homebuilder, as determined by the Declarant, are not subject to this Investor cap.

ARTICLE IV. EASEMENTS AND RIGHTS IN COMMON AREAS

4.1. **Easement of Enjoyment**. Each Member shall have a right and easement of use and enjoyment in and to the Common Areas. Such right and easement shall be appurtenant to and shall pass with title to each Lot and in no event shall be separated therefrom. Any Member may delegate the right and easement of use and enjoyment described herein to any family member, tenant, lessee, or contract purchaser who resides on such Member's Lot. This right of easement shall only extend to the Limited Common Area appurtenant to the Lot and not to other Limited Common Areas.

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

4.3. **Limitation on Easement**. A Member's right and easement for the use and enjoyment of the Common Areas shall be subject to the following:

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

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

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

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

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

4.4. **Delegation of Use**. An Owner may delegate his right of use and enjoyment to the Common Areas to family members, tenants, or contract purchasers who reside on the Project. The rights and privileges of such delegee or assignee shall be subject to suspension in the same manner and to the same degree as those of an Owner, as described in the preceding Section.

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

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

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

4.8. **Party Wall and Shared Roof Easement**. Each Owner hereby acknowledges and agrees that a Party Wall or shared roof may presently encroach upon or overlap the Owner's Lot. Each Owner hereby grants to the adjoining Owner of the other Lot that shares the Party Wall, or shared roof, an easement over and upon its Lot for the purpose of maintaining the Party Wall and shared roof. By accepting a deed to a Lot, each Owner hereby covenants and agrees not to do anything or to erect any barrier that will hinder, delay or limit the maintenance of the Party Wall and shared roof and the performance of each Owner's obligation to maintain and repair the townhome structure.

4.9. **Lots 118-127 Easement.** Lots 118 through 127 on the Plat (each containing a detached single-family residence) are not subject to the Declaration and have no membership interests in the Association. Notwithstanding the foregoing, Lots 118 through 127 are hereby granted an easement to access and use the pavilion and playground area within the Common Areas of the Project subject to the reasonable Rules of the Association. This easement may not be revoked without the approval of the Declarant during the Period of Declarant Control, and thereafter, without the approval of all the owners of Lots 118 through 127.

ARTICLE V. BUDGET AND ASSESSMENTS

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

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

5.3. **Purpose of Assessments**. Assessments levied by the Association shall be used for the purpose of promoting the health, safety, and welfare of residents of the Project, including but not limited to the appearance and aesthetics of the Project. The use made by the Association of funds obtained from Assessments may include but is not limited to: payment of the cost of taxes and insurance on the Common Areas; maintenance, repair, and improvement of the Common Areas; establishing and funding a reserve to cover major repair or replacement of improvements within the Common Areas; and any expenses necessary or desirable to

enable the Association to perform or fulfill its obligations, functions, or purposes under the Governing Documents.

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

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

5.6. **Special Assessments**. The Board may levy a Special Assessment payable over such a period as the Board may determine for the purpose of defraying, in whole or in part any expense or expenses not reasonably capable of being fully paid with funds generated by Annual Assessments; the cost of any construction, reconstruction, or unexpected repair or replacement of the Common Areas; or for any other expense incurred or to be incurred as provided in this Declaration. Special Assessments over one-thousand five hundred dollars ($1,500) in a calendar year must be approved and assented to by a majority of the Members present in person or by proxy at a meeting duly called for such purpose. Notice in writing of the amount of any Special Assessments and the time for their payment shall be given as soon as is reasonably possible to the Owners. Payment shall be due on the dates and in the manner determined by the Board and provided in the notice. Notwithstanding the foregoing, Declarant may levy Special Assessments in any amount deemed necessary during the Period of Declarant Control without Owner approval.

5.7. **Individual Assessments**. In addition to Annual and Special Assessments authorized above, the Board may levy Individual Assessments against a Lot and its Owner for: (a) administrative costs and expenses incurred by the Board in enforcing the Governing Documents against the Owner or his/her Occupants; (b) costs associated with the maintenance, repair, or replacement of Common Areas caused by the neglect or actions of an Owner or his/her Occupants; (c) any other charge, fine, fee, expense, or cost designated as an Individual Assessment in the Governing Documents or by the Board, including, without limitation, action taken to bring a Living Unit and its Owner into compliance with the Governing Documents; (d) nonpayment of a Reinvestment Fee; (e) costs of providing services to the Lot upon request of the Owner; and (f) attorney fees, court or collection costs, fines, and other charges relating to any of the foregoing, regardless of whether a lawsuit is filed. In addition, Individual Assessments may be levied against a Lot and its Owner specifically benefited by any improvements to adjacent roads, sidewalks, planting areas or other portions of the Common Areas made on the written request of the Owner of the Lot to be charged. The aggregate amount of any such Individual Assessments shall be determined by the cost of such improvements, repairs, maintenance, or enforcement action, including all overhead and administrative costs and attorney fees, and shall be allocated among the affected Lots according to the special benefit or cause of damage or maintenance or repair work or

enforcement action, as the case may be. Individual Assessments may be levied in advance of the performance of the work. If a special benefit arises from any improvement which is part of the general maintenance obligations of the Association, it shall not give rise to an Individual Assessment against the Lot(s) benefited, unless such work was necessitated by the Owner's or his/her Occupants' negligence.

5.8. **Allocation of Assessments**. Annual and Special Assessments shall be fixed at a uniform rate for all Lots. Individual Assessments shall be allocated separately to each Lot based on the costs incurred by the Association.

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

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

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

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

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

given at any time prior to or after delinquency of such payment. A copy of such notice may also be provided to the Occupant(s) of the Owner if the Owner is not a resident at the Project.

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

5.15. **Collection Charges**. If the Association does not otherwise adopt or establish billing and collection procedures in the Rules, delinquent accounts shall be charged a fifteen dollar ($15) late fee each month until the Owner's account (including all late fees, interest, collection costs, and attorney fees) is paid in full. Interest may accrue on all unpaid balances at the rate of eighteen percent (18%) per annum. Collection costs, interest, and/or late fees shall constitute part of the Assessment lien provided above until paid.

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

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

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

3) The Association may bring an action to recover a money judgment for unpaid Assessments, fines, and charges under this Declaration against the Lot Owner without foreclosing or waiving the lien described above. Recovery on any such action, however, shall operate to satisfy the lien, or the portion thereof, for which recovery is made.

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

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

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

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

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

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

5.19. **Reinvestment Fee**. The Board may establish a Reinvestment Fee assessment in accordance with this Section and Utah Code § 57-1-46. If established, the following terms and conditions shall govern Reinvestment Fees:

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

2) The Association shall not levy or collect a Reinvestment Fee for any Transfer made to the Association, or any Transfer exempted by Utah Code § 57-1-46.

3) The Reinvestment Fee shall be due and payable by the Transferee to the Association at the time of the Transfer giving rise to the payment of such Reinvestment Fee and shall be treated as an Individual Assessment for collection purposes.

4) All transfers of Lots from Declarant to a Declarant related entity shall be exempt from a Reinvestment Fee. The Declarant shall have the sole discretion to determine whether such Transferee is a related entity and if a Reinvestment Fee applies.

5.20. **Account Payoff Fees**. The Association may charge a fee for providing Association payoff information needed in connection with financing, refinancing, or closing of the sale of a Lot as provided for in Utah Code § 57-8a-106. The amount of such fee shall be fifty dollars ($50) or as otherwise established in the Rules. Additional paperwork required in a

private sale between an Owner and purchaser may be obtained from the Association but may incur additional fees.

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

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

ARTICLE VI. DUTIES AND POWERS OF THE ASSOCIATION

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

6.2. **Legal Organization**. The Association may be incorporated as a nonprofit corporation. In the event the nonprofit corporate status expires or is invalidated in any manner, the Board of Directors, in its sole discretion, may renew and/or reincorporate the Association. Any such expiration or invalidation shall not relieve any Owner from paying Assessments and abiding by all Restrictions contained in this Declaration.

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

1) The powers, duties, and obligations granted to the Association by this Declaration, its Bylaws, and the Articles;

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

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

4) The powers, duties, and obligations not reserved specifically to Lot Owners; and

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

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

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

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

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

3) **Rulemaking.** The Association, through its Board of Directors, shall make, establish, promulgate, amend, and repeal Rules governing the conduct of persons and the operation and use of the Project as it may deem necessary or appropriate in order to assure a clean, aesthetically pleasing, peaceful, and orderly use and enjoyment of the Project. Pursuant to Utah Code § 57-8a-218(15), the requirements of Utah Code §§ 57-8a-218(1) through (13), except subsection (1)(b)(ii), are hereby modified to not apply to the Association.

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

5) **Enforcement.** The Association shall perform such acts, whether or not expressly authorized by this Declaration, as may be reasonably necessary to enforce the provisions of the Governing Documents of the Association. The Association may assess fines to Owners, Occupants, or their guests for violations of the Governing Documents in accordance with the provisions of the Governing Documents and the Act.

6) **Title to Common Areas.** The Association may hold title to Common Areas and must pay all real property taxes and assessments levied upon any portion of such Common Areas, unless paid by the Owners, provided that the Association shall have the right to contest or compromise any such taxes or assessments.

7) **Employment of Agents, Advisers, and Contractors.** The Association may employ the services of any person or corporation as managers, hire employees to manage, conduct, and perform the business, obligations, and duties of the Association, employ professional counsel and obtain advice from such persons or firms or corporations such as, but not limited to, community association managers, landscape architects, accountants, recreational experts, architects, planners, lawyers, reserve study specialists, or what is convenient for the management, maintenance, and operation of the Project. Any agreement with a Manager shall not exceed a term of three (3) years renewable by agreement of the parties for a successive three (3) year term, and shall be terminable by

the Association upon no more than sixty (60) days' advanced notice. The Board has no authority to enter into a management agreement or contract inconsistent with the terms of the Governing Documents or that provides for a termination fee or requirement for termination for cause.

8) **Litigation.** The Board may instigate litigation to enforce the provisions of this Declaration or any other Common Law or statutory right which the Association is granted subject to the limitations set forth in Article XVI.

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

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

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

6.6. **Board of Directors**. The governing body of the Association shall be the Board of Directors. Except where a matter or vote is specifically reserved to the Owners, the Board shall act in all instances on behalf of the Association. Board Members shall be elected pursuant to the provisions set forth in the Bylaws. The Bylaws may set forth requirements for serving on the Board. Notwithstanding the foregoing, during the Period of Declarant Control, the Declarant shall have the sole authority to act as the Board of Directors, or to appoint Board Members. Declarant appointed Board Members shall not be bound by the qualification requirements in the Bylaws.

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

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

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

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

ARTICLE VII. MAINTENANCE

7.1. **Association Maintenance**. The Association shall maintain, repair, and replace the Common Areas together with all improvements thereon and all easements appurtenant to the Common Area including, but not limited to: (i) the common landscaped areas surrounding the townhome buildings, (ii) private utility lines owned or controlled by the Association that serve more than one Living Unit, (iii) landscape and drainage easements owned or controlled by the Association, (iv) the private roads in the Project, including snow removal, (v) the Common Area sidewalks in the Project, including snow removal, (vi) all required maintenance obligations for common amenities and other facilities, and (vii) personal property owned by the Association. The Association shall have no responsibility to maintain or repair public streets (if any) within the Project. The maintenance allocations provided in this Article shall clarify, expand upon, and supersede any maintenance provisions contained in the Plat or other Governing Documents. The Board, in its sole discretion, shall determine the maintenance standard of the Common Areas. The Association shall have no obligation to perform any townhome building maintenance and/or repair of any part of a Lot, Living Unit, the Limited Common Area, or any landscaping installed by an Owner without the Association's express agreement for such maintenance.

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

7.2. **Owner Maintenance**. Each Owner shall have the obligation to provide exterior and interior maintenance of their Lot and Living Unit, and the Limited Common Areas serving each respective Lot and Living Unit, including but not limited to painting, repair, replacement, and care of exterior walls, roofs, gutters, downspouts, soffits, fascia, exterior building surfaces, driveways, interior structural elements of the Lot and Living Unit, foundations, windows, doors, and utility lines and sidewalks that solely service the Lot or Living Unit. The responsibility and cost to maintain, repair, and replace shared roofs, party walls, or other shared facilities shall be borne equally by the Lots Owners benefited thereby. As necessary or desirable, each Owner shall paint, repair, and otherwise maintain the exterior and interior of his Living Unit and shall maintain, repair, and replace all mechanical devices, including but not limited to, appurtenant electrical, plumbing, and heating, ventilating and air conditioning systems. Each

Owner shall be responsible for performing all snow removal on the sidewalks and driveways located on their Lot or Limited Common Area.

Owners shall be responsible to maintain, repair, and replace fences on the boundaries of their Lots or the Limited Common Areas serving their respective Lots (if any). Fence maintenance costs shall be borne pro rata by all Owners bounded or benefitted thereby. In the event an Owner fails to provide unrestricted access to the landscaped area within an enclosed fence, the Association shall have no obligation to maintain, repair, or replace such areas while access is restricted, or to maintain, repair, or replace landscaping, irrigation systems, or any other unmaintained or damaged property arising out of or resulting from the Owner's failure to provide unrestricted access.

Further descriptions of Owner maintenance, repair, and replacement responsibilities are contained in the maintenance allocation chart attached as Exhibit C.

7.3. **Party Wall and Shared Roof Maintenance**. By acceptance of a deed to a Lot, each Owner hereby acknowledges, agrees, and understands that it is essential that the Party Wall and shared roof be maintained in good condition and repair to preserve the integrity of the Living Units as they are used and occupied by Owners. Each Owner hereby covenants and agrees not to do anything or to erect any barrier that will hinder, delay, or limit the maintenance of the Party Wall or shared roof. With respect to the surface components of the Party Wall and shared roof, each Owner agrees to maintain and keep in good condition and repair, including the making of replacements as needed, all surface components which face into such Owners' respective Living Unit. With respect to pipes, conduits, ducts, and other utility service lines and connections which benefit only one or more, but fewer than all, of the Owners, the Owner(s) benefited solely thereby shall be fully and personally responsible for the cost of maintaining such items in good condition and repair, including the making of replacements as needed. If the need for maintenance or repair of the Party Wall or shared roof is caused through the willful or negligent act of any Owner or his/her Occupant, the cost of such maintenance or repairs shall be the sole and exclusive expense of such Owner. With respect to structural components of the Party Wall and shared roof, except as may be otherwise provided in the immediately preceding sentences, the Owners benefitted by the Party Wall and shared roof agree to share equally in the cost of maintenance and upkeep thereof in good condition and repair, including the replacement thereof as necessary. If there is a dispute over the responsibility for maintenance or repair of a Party Wall or shared roof, the Association may, but shall not be required to, intervene and determine each Owner's responsibility. The Association shall have the powers set forth in Section 7.5 below to remedy any neglect in performing Party Wall or shared roof maintenance responsibilities.

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

Association in remedying Owner maintenance neglect shall be an Individual Assessment against the Owner's Lot.

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

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

7.6. **Utilities**. The charges for utilities that are metered separately to each Lot or Living Unit shall be the responsibility of the respective Lot Owner. In the event water, electrical, sewer, or other utilities are metered collectively for the Project, or metered separately for Common Areas, then the Association shall be responsible for paying for such utility expenses, which expenses shall be a Common Expense of the Association and shall be paid through regular assessments.

ARTICLE VIII. INSURANCE

NOTICE: The Association's Insurance Policy does not cover the personal property or personal liability of Owners or their Occupants.

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

8.2. **Property Insurance**.

1) The Association shall maintain a blanket policy of property insurance covering the entire Project, including the Common Area and all buildings including all Living Units, fixtures, and building services equipment as provided in the Act. The Association may maintain broader coverage if afforded by the insurance contract.

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

b) At a minimum, the blanket policy shall afford protection against loss or

damage by: (1) fire, windstorm, hail, riot, aircraft, vehicles, vandalism, smoke, and theft; and (2) all perils normally covered by "special form" property coverage.

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

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

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

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

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

i) the Owner is responsible for the Association's policy deductible; and

ii) the Owner's policy, if any, applies to that portion of the loss attributable to the Association's policy deductible.

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

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

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

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

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

8.3. **Comprehensive General Liability (CGL) Insurance.** The Association may obtain CGL insurance insuring the Association, the agents and employees of the Association, and the Owners, against liability incident to the use, ownership or maintenance of the Common Area or membership in the Association. The coverage limits under such policy shall not be less than One Million Dollars ($1,000,000.00) covering all claims for death of or injury to any one person or property damage in any single occurrence. Such insurance shall contain a Severability of Interest Endorsement or equivalent coverage which should preclude the insurer from denying the claim of an Owner because of the negligence acts of the Association or another Owner.

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

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

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

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

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

8.9. **Named Insured**. The named insured under any policy of insurance shall be the Association. The Declarant shall be listed as an additional insured under any and all of the Association's policies of insurance. The Declarant and each Owner shall also be an insured under the Association's insurance policies as required by law.

8.10. **Owner Insurance**. Each Owner shall be responsible to purchase and maintain in force appropriate hazard, content, and liability insurance as such Owner shall determine to be appropriate to the Owner's needs, personal property, and circumstances. It is recommended that Owners obtain insurance covering at least the amount of the Association's property insurance deductible (widely recognized as an HO6 policy). The Association is not required to file claims on any of its policies for any damage or liability claim that either should or would have been covered under any Owner's policy.

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

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

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

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

ARTICLE IX. USE RESTRICTIONS

9.1. **Use of Common Areas**. The Common Areas shall be used only in a manner consistent with their community nature and applicable Association use restrictions. Owners are restricted from placing any personal property or fixtures within the Common Areas without the Board's approval in writing. Owners are subject to fines for violations of this restriction. The Board is authorized to adopt Rules that further define and describe prohibited and allowed items in the Common Areas and may set different standards for different types of Common Areas or locations.

9.2. **Use of Living Units**. Each Living Unit shall be used only as a single-family dwelling. No gainful occupation, business, trade, or other nonresidential use shall be conducted in any Living Unit except with the prior written consent of the Board and applicable governmental entities. Notwithstanding the foregoing, activities otherwise prohibited by this Section are permitted without Board approval if only normal residential activities would be observable outside of the Living Unit; the business activity does not involve persons coming on to the project who do not reside in the Project; the business activity does not involve the solicitation of Occupants or Owners; the business will not result in the increase of the cost of the Association's insurance; and that the activities would not be in violation of applicable local ordinances.

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

9.4. **Recreational Vehicles**. Boats, trailers, motorhomes, trucks larger than a "one-ton" classification, commercial vehicles, camping trailers, ATVs, snowmobiles, recreational vehicles, and the like ("RVs") are prohibited anywhere within the Project, except for temporary loading and unloading purposes for a resident. However, the temporary loading and unloading of RVs is only allowed for up to 24 hours (unless reduced by the Board in the Rules), must be conducted in the resident's driveway (as applicable), and may not be conducted in a no parking zone, fire lane, or visitor parking space. RVs parked in the streets or Common Area parking stalls are subject to immediate towing without notice to the Owner or Occupant. RVs shall not be parked in a Living Unit's enclosed garage, as such parking is intended for the parking of the residents' passenger automobiles. The Board is hereby empowered to establish additional Rules relating to the parking of RVs within the Project that may expand the restrictions set forth in this Section. The Association is not obligated to treat all areas equally and may adopt different parking rules for different areas or streets within the Project. No motor vehicle of any kind shall be repaired, constructed, or reconstructed upon any Lot, private street or other Common Areas, except for emergency repairs to vehicles. The Association shall have the right

to perform ongoing inspections of Owner's driveways and garages to ensure compliance with this Section or any Rules adopted pursuant to this Section.

9.5. **Pets**. Domestic pets may be kept in Living Units in conformance with local government requirements. The Association may adopt Rules adding further restrictions related to pets including, but not limited to, restrictions on the number and types of pets, requirements for registration with the Association, and noise limitations. All pets must be properly licensed and registered with the appropriate governmental agency and must abide by all pet Rules adopted by the Association from time to time. Pets may not create a nuisance. The following acts of an animal may constitute a nuisance: (a) it causes damage to property of anyone other than its owner; (b) it causes unreasonable fouling of the air by odors; (c) it causes unsanitary conditions; (d) it defecates on any Common Area or Limited Common Area of another Owner and the feces are not immediately cleaned up by the responsible party; (e) it barks, whines, or howls, or makes other disturbing noises in an excessive, continuous, or untimely fashion; or (f) it molests or harasses a passersby by lunging at them or chasing passing vehicles. Pets may not be tied or tethered in the Common Area or Limited Common Area of another Member and shall be leashed or restrained whenever outside a Living Unit. The Association may levy Individual Assessments to Owners for any damages to the Common Areas and landscaping caused by a pet.

9.6. **Machinery and Equipment**. No machinery or equipment of any kind shall be placed, used, operated, or maintained on or adjacent to any Lot except such machinery or equipment as is usual and customary in connection with the use, maintenance, or construction of a Living Unit or appurtenant structures. Machinery or equipment used by the Association or its contractors for the maintenance of the Common Areas shall not be subject to the restrictions of this Section

9.7. **Nuisances**. No resident shall create, maintain or permit a nuisance in, on or about the Project. For purposes of this Section a "nuisance" includes any behavior which annoys, disturbs or interferes with other residents and interferes with their right to the quiet and peaceful enjoyment of their property. The Board shall have the sole discretion and authority to determine if an activity or condition constitutes a nuisance. A nuisance includes, but is not limited to, the following:

1) The development of any unclean, unhealthy, unsightly, or unkempt condition on, in or about a Living Unit or the Common Areas;

2) The storage of any item, property or thing that will cause any Living Unit or the Common Area to appear to be in an unclean or untidy condition or that will be noxious to the senses;

3) The accumulation of rubbish, unsightly debris, garbage, equipment, or other things or materials that constitute an eyesore as reasonably determined by the Board;

4) The storage of any substance, thing or material upon any Living Unit or in the Common Areas that will emit any foul, unpleasant or noxious odors, or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the other residents at the Project;

5) The creation or maintenance of any noxious or offensive condition or activity in or about any Living Unit or the Common Areas;

6) Actions or activities tending to cause embarrassment, discomfort, annoyance, distress or a disturbance to any other residents, their guests or invites, particularly if the police or sheriff must be called to restore order;

7) Maintaining any plants, animals, devices or items, instruments, equipment, machinery, fixtures, or things of any sort whose activities or existence in any way is illegal, noxious, dangerous, unsightly, unpleasant, or of a nature that diminishes or destroys the enjoyment of the Association by other residents, their guests or invitees;

8) Too much noise or traffic in, on or about the Project, especially after 10:00 p.m. and before 7:00 a.m., or use of outside speakers or amplifiers;

9) Allowing a pet to: be unleashed while outside of the Living Unit; urinate or defecate in the Common Areas; failing to immediately clean up feces deposited by a pet in the Common Area; make continuous barking, meowing, or other animal noises.

9.8. **Signs, Flags, Banners**. The Association may regulate and restrict signs, flags, banners, and the like in the Project to the extent permitted by law in the Rules and applicable laws. Such Rules may vary or expand upon the restrictions set forth in this Section. Unless otherwise designated in the Rules, lawn signs are prohibited except “For Sale" signs that may be placed outside the main entry of a Living Unit or as directed by the Board. All other signs may only be erected or maintained on the Project, whether in a window or otherwise, with the prior approval of the Board. Signs may not exceed 18" X 24" in size and may only be posted into the Common Area ground with wire or stakes no more than 1" in diameter.

9.9. **Trash Containers**. All garbage and trash shall be placed and kept in covered containers. Trash containers shall be stored in garages so as not to be visible from the street view except to make them available for a reasonable amount of time for trash collection as determined by the Board. The Association may adopt additional Rules for the storage and concealment of trash containers that vary or expand upon the restrictions in this Section.

9.10. **Parking**. Residents shall park at least one (1) of their vehicles within the Living Unit’s garage. Residents may not park their vehicles in visitor parking spaces or upon the private streets within the Project. Other non-resident vehicles may not be parked on the private streets unless areas are specifically marked by the Association to allow for such parking. All vehicles are prohibited from being parked in a manner that would block a Common Area sidewalk or at any other location within the Project which would impair vehicular or pedestrian access or snow removal. Garages shall not be altered or contain storage or other materials that would reduce the number of motor vehicles to be parked therein that is less than the number of motor vehicles that could have been reasonably parked in the garage as originally designed and constructed. Vehicles that are too large to fit in a garage or driveway are not permitted to be parked in any parking stall or on any roadway. The Board shall have the discretion to determine if a vehicle fits appropriately in a location. Common Area parking stalls shall be subject to and governed by Association Rules. The Association may adopt additional Rules expanding or varying the restrictions relating to the parking of vehicles within the Project, including, without limitation: the size and dimensions of the vehicles parked within the Project; a vehicle registration policy; the admission and temporary parking of vehicles within the Project; the use of the undesignated parking spaces identified on the Plat, if any, including, without limitation, the right to loan or license the visitor parking spaces in the discretion of the Board; the right to remove or cause to be removed any vehicles that are improperly parked; the time visitor spaces may be used; winter specific restrictions; and the assessment of charges to Owners and Occupants who violate, or

whose invitees violate, such Rules. The Association may enforce parking restrictions on all areas located within the Plats comprising the Project.

9.11. **No Patio / Deck Storage**. No observable outdoor storage of any kind shall be permitted on patios, front yards, porches, etc., except for patio furniture and portable barbecue grills in good condition which may be maintained on backyard patios only and are prohibited on front porches. Said patio furniture, barbecue grills, or other outdoor equipment or fixtures shall conform with standards set by the ACC, which may include the regulation of colors and materials. The Association may vary or expand upon the provisions of this Section by Rule.

9.12. **Window Coverings**. Every Owner and Occupant shall be obligated to ensure that window coverings are installed within their Living Unit within one (1) month of purchasing or taking possession of the Living Unit. Furthermore, the ACC is authorized to adopt and implement reasonable Rules pertaining to the type, color, material, etc. of window coverings.

9.13. **Leasing and Non-Owner Occupancy**. The leasing and Non-Owner Occupancy of all Living Units shall be governed by this Section and any Rules and procedures adopted as allowed in this Section.

(a) Definitions. For the purpose of this Section:

(1) "Non-Owner Occupied" means: (1) for a Living Unit owned in whole or in part by a natural individual or individuals, the Living Unit is occupied by one or more Persons who are not Owners, and no Owner(s) concurrently occupy the Living Unit as their primary residence; or (2) for a Living Unit owned entirely by one or more entities or trusts, the Living Unit is occupied by Persons who do not have a 25% or greater share of ownership of the entity or trust.

(2) "Family Member" means: (1) the spouse, parent, sibling, or child of an Owner; or (2) in the case of a Living Unit owned by a trust or other entity created for estate planning purposes, a Person occupying the Living Unit if the trust or other estate planning entity that owns the Living Unit was created for the estate of (i) the current Occupant of the Living Unit, or (ii) the spouse, parent, child, or sibling of the current Occupant of the Living Unit.

(3) "Lease" means any agreement, whether written or not, providing for the Non-Owner Occupancy of a Living Unit.

(b) Maximum Number of Non-Owner Occupied Living Units. The number of Living Units permitted to be Non-Owner Occupied shall not exceed fifteen percent (15%) of the total Living Units within the Association. The Board may adopt Rules for application procedures to approve Living Units for Non-Owner Occupancy along with Rules for reporting procedures to track the number of Non-Owner Occupied Living Units. Living Units that are exempted under subsection (d) below shall not be included in the 15% Non-Owner Occupancy cap.

(c) Requirements for Leasing and Non-Owner Occupancy. The Owners of all Leased or Non-Owner Occupied Living Units must comply with the following provisions:

(1) Owners are required to occupy their Living Units as a personal residence for two (2) full years from the date of transfer of title before the Owner of a Living Unit becomes eligible to enter into a lease with a third party for Non-Owner Occupancy.

(2) Owners are required to apply to the Board for approval of any desired Non-Owner Occupancy to ensure that the cap in subsection (b) above has not been

exceeded and the Owner has complied with the time restrictions imposed by the preceding subsection (c)(1).

(3) Any lease or agreement for allowable Non-Owner Occupancy shall provide as a term of the agreement that the Occupant shall comply with the Governing Documents, and that any failure to comply shall be a default under the lease agreement. If a lease agreement for Non-Owner Occupancy (whether in writing or not) does not include these provisions, they shall nonetheless be deemed to be part of the lease agreement and binding on the Owner and the Occupant.

(4) Any lease or agreement for allowable Non-Owner Occupancy must be for an initial term of at least six (6) months. A Non-Owner Occupant may not occupy any Living Unit for transient, short-term, hotel, resort, vacation, Airbnb, VRBO, or seasonal use (whether for pay or not). Except as a guest of an Owner, daily and weekly occupancy by Non-Owner Occupants is prohibited (whether for pay or not).

(5) If an Owner is more than sixty (60) days delinquent in paying Assessments or fines, then their Living Unit's qualification for Non-Owner Occupancy shall automatically terminate.

(6) Before leasing any Living Unit, the Owner shall provide verification to the Association that the number of vehicles that will be parked within the Project by the Living Unit's residents does not exceed the number of vehicles that can fit within the garage and driveway (as applicable) of the Living Unit. Street parking and use of the visitor parking stalls is not allowed by residents.

(7) The Board is authorized to adopt further Rules related to Non-Owner Occupied Living Units and the Occupants of those Living Units. Such Rules may include, but are not limited to: requiring copies of lease or other agreements for Non-Owner Occupancy to be delivered to the Association, requiring informational forms to be filled out by Owners and/or Occupants' identifying Non-Owner Occupants' vehicles, phone numbers, etc., application and approval process, a waiting list, or any other reasonable administrative provisions the Board deems appropriate to enforce the requirements of this Section and the Governing Documents. The foregoing information will help the Association to track the number of Non-Owner Occupied Living Units.

(d) Exemptions. The following Living Units may be Non-Owner Occupied and are not subject to the cap on Non-Owner Occupied Living Units set forth in subsection (b) above and shall not be used in the calculation thereof:

(1) A Living Unit owned by a Person in the military for the period of the Owner's deployment.

(2) A Living Unit occupied by a Family Member of the Owner.

(3) A Living Unit whose Owner is relocated by the Owner's employer for a period of two (2) years or less.

(4) A Living Unit owned by an entity that is occupied by an individual who: (1) has voting rights under the entity's organizing documents; and (2) has a 25% or greater share of ownership, control, and right to profits and losses of the entity.

(5) A Living Unit owned by a trust or other entity created for estate planning purposes if the trust or other estate planning entity was created for: (1) the estate of the current Occupant; or (2) a Family Member of the current Occupant.

(e) Joint and Several Liability of Owner and Non-Owner Occupants. The Owner of a Living Unit shall be responsible for the Non-Owner Occupants' and any guests' compliance with the Governing Documents and shall be jointly and severally liable for any violations thereof, including fines.

(f) Violations.

(1) If a Living Unit is leased in violation of this Section, the Board may assess fines against the Owner pursuant to a schedule of fines adopted by the Board.

(2) If a Living Unit is leased in violation of any provision of this Section, (regardless of whether any fines have been imposed) the Board may proceed with any available legal remedies, including, without limitation, an action to require the Owner to terminate the lease agreement and remove the tenant.

(3) If the Board determines that a Non-Owner Occupant has violated a provision of the Governing Documents, the Board may require an Owner to terminate a lease agreement with such Occupant.

(4) In addition to any other remedy for non-compliance, after reasonable notice, the Association shall have the right to initiate an action and obtain a forcible entry and unlawful detainer order from the court, or similar action, with the purpose of removing the offending Non-Owner Occupant. The Association, the Board, and the Manager shall not have any liability for any action taken pursuant to this subsection and the Owner shall indemnify and pay the defense costs of the Association, the Board, and the Manager arising from any claim related to any action taken in good faith by any of them pursuant to this subsection.

(5) Fines, charges, and expenses incurred in enforcing the Association's Governing Documents with respect to a Non-Owner Occupant, and for any costs incurred by the Association in connection with any action under this Section, including reasonable attorney fees (regardless of whether any lawsuit or other action is commenced), shall be an individual assessment against the Owner and Living Unit which may be collected and foreclosed on by the Association.

The leasing restrictions and regulations set forth in this Section shall not apply to the Declarant or a Declarant affiliated entity.

9.14. **Solar Energy Systems**. Solar energy systems and equipment are prohibited from being constructed or installed in the Project. Notwithstanding the forgoing, if the Board elects to allow solar energy systems in the Project, the Board may adopt Rules and regulations for the installation of solar panels or other energy conservation equipment in the Design Guidelines. Any such rules must require that the installation be an integral and harmonious part of the architectural design of the Lot, Living Unit, or townhome buildings. Solar panels or other equipment shall not be installed so as to be visible from the streets in the Project without prior approval from the ACC as a variance. Owners shall be responsible for the costs of the installation, operation, and maintenance of each solar energy system. If an approved solar energy system (installation, operation, maintenance, or otherwise) causes costs to the Association, then the Board may allocate these costs to the Owner who requested or benefit from the installation as the Board in its sole discretion determines. The costs arising under this Section shall be assessed and collected as an Individual Assessment. The ACC or the Board shall have the sole discretion to determine compliance with the Design Guidelines and this Section.

9.15. **Variances**. The Association may, in extenuating circumstances, grant variances from the restrictions set forth in this Article if the Board determines in its discretion (by unanimous vote): (i) that the restriction would create an unreasonable hardship or burden on an Owner or Occupant, (ii) that a change of circumstances since the recordation of this Declaration has rendered such restriction obsolete and unreasonable to enforce, or (iii) that the activity permitted under the variance will not have any financial affect or any other substantial adverse effect on the Association or other Owners and Occupants of the Project and is consistent with the high quality of life intended for residents of the Project. Any such variance shall be unenforceable and without any effect whatsoever unless reduced to writing and signed by every member of the then-existing Board. No variance may be granted that is inconsistent with the Act.

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

ARTICLE X. ARCHITECTURAL CONTROLS

All construction, improvements and landscaping within the Project shall be subject to the architectural controls contained in this Declaration.

10.1. **Architectural Control Committee**. The Board may appoint a three (3) member Architectural Control Committee, the function of which shall be to ensure that all improvements and landscaping within the Project harmonize with existing surroundings and structures. The ACC need not be composed of Owners. If the ACC is not appointed, the Board shall perform the duties required of the ACC. The Declarant shall act as the ACC during the Period of Declarant Control.

10.2. **Architectural Controls**. The designs of all structures and Living Units in the Project shall be limited to those approved by the ACC. In the event of any reconstruction of an improvement or Living Unit due to a casualty, the design, quality, and appearance of the reconstructed improvement shall be substantially the same as the structure initially built, unless otherwise approved by the ACC. No landscaping, grading, excavation, building, fence, wall, residence, or other structure, or alteration of any kind, shall be commenced, erected, maintained, improved, altered, or made until the construction plans and specifications, have been approved in writing by the ACC.

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

10.4. **Declarant's Exemption**. Nothing contained in this Declaration shall be construed to prevent the erection or maintenance by Declarant, or its duly authorized agents, of temporary structures, trailers, improvements or signs necessary or convenient to the development, marketing, or sale of property within the Project. Furthermore, the provisions of

this Declaration which prohibit or restrict non-residential use of Living Units, regulate parking of vehicles, and restrict signage, banners, and the like, shall not prohibit the construction and maintenance of model homes by Declarant and/or other persons engaged in the construction of residences within the Project. The Declarant may use any area of the Project for parking in connection with the showing of model homes or for vehicles necessary for development and construction activities.

10.5. **Variances**. The Board may authorize variances from compliance with any of the architectural provisions of this Declaration or Design Guidelines. Such variances must be in writing and must be signed by all of the members of the Board. If a variance is granted, no violation of the Governing Documents shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of a variance shall not operate to waive any Restrictions of the Governing Documents, other than those specifically identified in the variance, nor shall it affect an Owner's obligation to comply with all governmental laws and regulations.

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

ARTICLE XI. ENFORCEMENT

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

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

ARTICLE XII. SPECIAL DECLARANT RIGHTS

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

1) Any improvements shown on the Plat or included in the Project;

2) Any Lots and corresponding Living Units upon all or any portion of the Additional Land, and the addition of the same to the Project; and

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

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

1) The Project may be expanded by the addition of all or a portion of the real property designated by Declarant, such real property or portions thereof where applicable being referred to as "Additional Land".

2) Expansion or contraction of the Project by the Declarant is without limitation, except as set forth in this Section, and shall be effective without prior approval of the Association or any Owner.

3) Declarant's right to expand or contract the Project shall not expire until the latter of: (i) the expiration of the Period of Declarant Control, (ii) Declarant no longer owns a Lot in the project, or (iii) Declarant elects in writing to no longer have the right to add or withdraw land from the Project.

4) The Additional Land may be added or withdrawn in total or in part, and in any order as Declarant may determine.

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

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

1) the right to maintain sales offices, model Living Units, and signs advertising the Project or any Living Unit at any location in the Project;

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

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

4) the right to convert any part or portion of the Project to a different regime of residential ownership;

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

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

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

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

9) the right to set all Assessments for the Association including annual, special, and individual assessments;

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

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

12) the right to exert any right allowed to the Board or the Association pursuant to the Act and this Declaration;

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

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

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

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

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

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

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

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

12.10. **Easements Reserved to Declarant**.

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

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

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

4) The reservation to the Declarant and its successors and assigns, of a non-exclusive easement and right-of-way in, through, over and across the Common Area for the purpose of the storage of building supplies and materials, and for all other purposes reasonably related to the completion of construction and development of the Project and the provision of utility services, and related services and facilities.

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

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

12.11. **No Modification of Declarant Rights**. Any Declarant Rights in this Declaration or other Governing Documents, and specifically in this Article, shall not be substantively or

procedurally altered, amended, or removed without the written consent of the Declarant until six (6) years have passed after the Period of Declarant Control has ended, at which time the Declarant's approval shall no longer be required. Any document or amendment attempted without obtaining proper consent shall be void *ab initio* to the extent it attempts to alter the rights of the Declarant or any provision of this Article without the consent of the Declarant.

ARTICLE XIII. RIGHTS OF FIRST MORTGAGEE

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

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

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

ARTICLE XIV. RIGHT OF ENTRY

14.1. **Right to Enter**. The Association, acting through the Board or its duly authorized agent, shall have the right at all times and upon reasonable notice of at least 48 hours to enter upon any Lot on the areas located outside the exterior boundaries of a Living Unit, without trespass, and regardless of whether or not the Lot Owner or Occupant thereof is present at the time, to abate any infractions, to fulfill its responsibilities, to exercise its rights, to make repairs, and to correct any violation of any of the Governing Documents. The notice set forth in this Section shall not be necessary in case of an emergency threatening other Living Units, Occupants, or other parts of the Project. Nothing in this Section shall be construed to authorize the entry of the Association into the interior of a Living Unit without the consent of the Lot Owner unless there is an emergency threatening another Living Unit, the Occupants of another Living Unit, or the structural integrity of a townhome building. Owners shall maintain up-to-date emergency contact information records with the Association, including any local representative an Owner may have for notice purposes. Owners shall be responsible for any costs incurred by the Association as a result of entering a Lot or Living Unit under this Section and shall defend, indemnify, and hold harmless the Association for all damages related to such entry, except for such damages resulting from intentional or willful misconduct.

ARTICLE XV. AMENDMENTS

15.1. **Amendments by Declarant**. During the Period of Declarant Control, or so long as the Declarant (or its affiliates) owns one or more Lots in the Project, or any part of the Additional Land, the Declaration and the Plat may be amended or supplemented solely by the Declarant without any additional Owner approval required. In addition, no amendment shall be

valid or enforceable without the Declarant's prior written consent so long as Declarant owns one or more Lots in the Project or any part of the Additional Land. Amendments shall become effective upon recordation in the office of the County Recorder. Declarant's right to amend shall be construed liberally and shall include, without limitation, the right to amend and/or restate this Declaration in part or in its entirety.

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

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

ARTICLE XVI. DISPUTE RESOLUTION

16.1. **Alternative Dispute Resolution Without Litigation**Bound Parties. The Declarant; the Association; the Owners; the officers, directors, managers, members, employees, representatives, agents, successors and assigns of any of the foregoing; any other person subject to this Declaration; and any other person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, "Bound Parties"), agree that it is in the best interest of all Bound Parties to encourage the amicable resolution of Claims without the emotional and financial costs of litigation or the toll or market taint such litigation can have on the value of the Project and/or the Lots that may be involved or impacted. Accordingly, each Bound Party agrees not to file suit in any court with respect to a Claim described in subsection (b), unless and until it has first submitted such Claim to the alternative dispute resolution procedures set forth in Section 16.2 in a good faith effort to resolve such Claim.

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

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

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

(iii) the design or construction of improvements on the Project, other than matters of aesthetic judgment to be determined by the Association or Architectural Committee under the Design Guidelines and other provisions of Article X hereof, which shall not be subject to review and shall not be subject to this chapter.

(c) Exclusion from Definition of Claims. The following shall not be considered "Claims" unless all Parties to the matter otherwise agree to submit the matter to the procedures set forth in Section 16.2:

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

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

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

(iv) any dispute that affects the material rights or obligations of a party who is not a Bound Party and has not agreed to submit to the procedures set forth in Section 16.2;

(v) any suit as to which any applicable statute of limitations would expire within 180 days of giving the Notice required by Section 16.2(a), unless the party or parties against whom the Claim is made agree to toll, or extend, the Claim's statute of limitations to comply with this;

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

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

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

(i) the nature of the Claim, including the persons involved and the Respondent's role in the Claim;

(ii) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises);

(iii) the Claimant's proposed resolution or remedy;

(iv) that the person alleged to be responsible for the acts giving rise to the Claim shall have six months to cure or resolve the Claim; and

(v) the Claimant's desire to meet with the Respondent to discuss, in good faith, ways to resolve the Claim.

(b) Right to Cure. For any Claim arising from a dispute over the construction of improvements within the Project, the Claimant shall provide Respondent six months to rectify, alter, or fix the claimed defect(s) in the improvements. The expiration of this six-month cure period shall be a prerequisite to Claimant's ability to initiate litigation as permitted under Section 16.3 below. For all Claims involving alleged defects in construction, the negotiation, mediation, and settlement requirements shall remain in effect during the cure period, however, the mediation deadline set forth in subsection (d) below shall be extended to expire on the same date the cure period expires.

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

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

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

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

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

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

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

(a) The Right to Cure period set forth in Section 16.2(b) above has expired;

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

(i) Owners may be represented by a proxy specifically assigned for the purpose of voting to approve or deny the proposed legal action at the meeting. Any such proxy shall not be valid unless the proxy is notarized with each Owner certifying that they have received and reviewed the information required by Section 16.4(a) and (b) below.

(c) the Association provides each Owner with the items described in Section 16.4(a) and (b), below;

(d) the Association establishes a trust account, described in Section 16.4(c) below; and

(e) the Association first goes through the procedures described in Section 16.2 above, giving notice and an opportunity to resolve the dispute that is the basis of the Claim and proposed legal action.

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

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

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

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

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

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

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

16.4. **Informed Vote**. Before the Owners, as Members of the Association may vote to approve any claim of legal action, the Association shall first provide each Owner with:

(a) A written notice stating:

(i) that the Association is contemplating legal action;

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

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

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

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

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

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

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

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

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

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

(i) allocate an amount equal to 10% of the cost estimated to resolve the legal action not including attorney fees; and

(ii) place the 10% allocated funds in a trust account that the Association may only use to pay the costs to resolve the legal action.

Sections 16.3 and 16.4 do not apply to an Association that brings a legal action that has an amount in controversy of less than $25,000.00.

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

16.6. **Owner Warranties**. The Declarant may provide certain warranties to the Owners related to a Lot purchased. The first Owner of a Lot to whom any warranty is issued,

or with whom a legal warranty arises, and only that Owner, shall have the right to directly enforce and seek performance from the Declarant of any terms of the warranty, and only consistent with the warranty itself. The Association shall have no right to seek the performance of or take assignment of any rights in any warranties against the Declarant, and the Owner shall have no right to assign any rights of any kind to the Association related to pursuing litigation against the Declarant.

16.7. Unless specifically set forth in this Declaration, no action may be brought by the Association, its Board of Directors, or its officers on behalf of an Owner, as its respective interest may appear, with respect to any cause of action against the Declarant relating to the Common Areas.

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

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

ARTICLE XVII. MISCELLANEOUS

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

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

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

17.2. **Consent in Lieu of Voting**. In any case in which this Declaration requires authorization or approval of a transaction the assent or affirmative vote of a stated percentage of the votes present or represented at a meeting, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Members entitled to cast the required percentage of membership votes. The Association may use any method allowed under Utah law and the Utah Revised Nonprofit Corporation Act.

17.3. **Dissolution**. The Association may be dissolved by the affirmative assent in writing from ninety percent (90%) of the Owners. Upon dissolution of the Association, all of its agency or authority to be used for purposes similar to those provided for in the Articles or this Declaration. In the event such dedication or transfer is not made or is not accepted, the Association's assets shall be transferred to a nonprofit corporation, trust, or other entity to be used for such similar purposes, and each Owner shall continue to be obligated to make assessment payments for the maintenance and upkeep of the Common Areas, common access roadways, curbs, gutters, and sidewalks on a pro rata basis which conforms substantially with the assessments procedure, terms and conditions set forth herein.

17.4. **Interpretation and Severability**. The captions which precede the Articles and Sections of this Declaration are for convenience only and shall in no way affect the manner in which any provision hereof is constructed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, and any gender shall include the other. The invalidity or unenforceability of any portion of the Declaration shall not affect the validity or enforceability of the remainder hereof. Except for judicial construction, the Board, shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Association's construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all Persons and property benefitted or bound by the covenants and provisions hereof.

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

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

17.7. **No Waiver**. Failure by the Association or by any Owner to enforce any Restriction or provision herein contained, or contained in the Bylaws or the Rules, in any certain instance or on any particular occasion shall not be deemed a waiver of such right of enforcement as to any such future breach of the same or any other Restriction or provision.

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

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

17.10. **Security**. Neither the Declarant nor the Association shall be considered an insurer or guarantor of security within or relating to the Project, including any Common Area in which the Association may have an obligation to maintain, and the Association shall not be held liable for any loss or damage by reason of any failure to provide adequate security or any ineffectiveness of security measures undertaken. Owners agree by purchasing a Lot in this Association that the Association, Declarant, and the Board are not insurers of the safety or well-being of Owners or Occupants, or of their personal property, and that each Owner or Occupant assumes all risks for loss or damage to persons, the Lots, the Common Areas, and to the contents of improvements located thereon to the extent not insured by the Association. EACH OWNER AND OCCUPANT UNDERSTANDS AND ACKNOWLEDGES THAT THE ASSOCIATION, DECLARANT, AND BOARD HAVE NOT MADE ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND AND THAT EACH OWNER OR OCCUPANT HAS NOT RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO THE SECURITY OF THE PROJECT.

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

* * * *

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed by a duly authorized representative this ___ day of _____, 2021.

DECLARANT
LENNAR HOMES OF UTAH, INC.

a Delaware corporation

By: _____

Name: _____

Its: _____

STATE OF UTAH)
) ss.
COUNTY OF _____)

On the ____ day of _____, 2021, personally appeared before me _____ who by me being duly sworn, did say that she/he is an authorized representative of Lennar Homes of Utah, Inc. , and that the foregoing instrument is signed on behalf of said company and executed with all necessary authority.

Notary Public: _____

EXHIBIT A
LEGAL DESCRIPTION

[TO BE INSERTED:]

BUT EXCLUDING [INSERT 10 SINGLE FAMILY LOTS]

EXHIBIT B

BYLAWS
OF
ESCALA HOMEOWNERS ASSOCIATION, INC.

These BYLAWS OF ESCALA HOMEOWNERS ASSOCIATION, INC. are effective upon recording in the Utah County Recorder's Office pursuant to the Utah Community Association Act and the Utah Revised Nonprofit Corporation Act (referred collectively herein as the "Acts").

RECITALS

A. The Association is organized for all lawful purposes for which a nonprofit corporation may be organized under the Utah Revised Nonprofit Corporation Act, as amended, subject to the terms and conditions contained in the Declaration and Articles of Incorporation.

B. These Bylaws are adopted to complement the Declaration, to further define the rights of the Association and the Owners, to provide for the ability to effectively govern and operate the Association and the Project known as Escala and, to further the Association's efforts to safely, efficiently, and economically provide a quality living environment.

ARTICLE I
DEFINITIONS

1.1 Except as otherwise provided herein or as may be required by the context, all capitalized terms used herein shall have the same meaning and effect as used and defined in the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Escala.

ARTICLE II
APPLICATION

2.1 All present and future Owners, Mortgagees, Occupants, and their invitees and guests, and any other persons who may use the facilities of the Project in any manner are subject to these Bylaws, the Declaration, and Rules. The mere acquisition or rental of any of the Living Units or the mere act of occupancy or use of any said Living Units or the Common Areas will signify that these Bylaws, the Declaration, and the Rules are accepted, ratified, and will be complied with by said persons.

ARTICLE III
OWNERS

3.1 **Annual Meetings**. The Annual Meeting of the Owners shall be held each year on a day and time established by the Board of Directors. The purposes of the Annual Meeting may include the election of Board Members, the distribution of financial reports and budget, a review of any revisions to the Rules, distributing the most recent reserve study, and to transact such other business as may come before the meeting. If the election of Board Members cannot be held during the Annual Meeting, or at any adjournment thereof, the Board shall cause the election to be held either at a Special Meeting of the Owners to be convened as soon thereafter as may be convenient or at the next Annual Meeting. The Board may from time to time by resolution change the month, date, and time for the Annual Meeting. Annual Meetings shall not

be required during the Period of Declarant Control, but the Declarant may hold Annual Meetings at its discretion.

3.2 **Special Meetings**. Special Meetings of the Owners may be called by a majority of the Board, the Declarant, the President, or upon the written request of Owners holding not less than forty percent (40%) of the voting interests of the Association. Any written request for a Special Meeting presented by the Owners shall be delivered to the President and shall include the original signature of each Owner affirmatively supporting such request along with a complete statement of the purpose of the meeting on each page containing signatures. The President shall then call, provide notice of, and conduct a Special Meeting within 45 days of receipt of the Owner request. During the Period of Declarant Control, Special Meetings may only be called by the Declarant.

3.3 **Place of Meetings**. The Board may designate any place in Utah County that is reasonably convenient for the Owners as the place of meeting for any Annual or Special Meeting. In addition, the Association may hold and conduct Owner meetings through any type of electronic means that allows Owners to communicate orally in real time including telephone and video conferencing.

3.4 **Notice of Meetings**. The Board shall cause written or printed notice of the date, time, and place (and in the case of a Special Meeting, the purpose or purposes) for all Owner meetings. Such written or printed notice shall be delivered to each Owner of record entitled to vote at such meeting not more than sixty (60) nor less than ten (10) days prior to the meeting. Such notice may be sent via email, text, hand-delivery, or regular mail. If sent by email or text, such notice shall be deemed delivered and effective on the date transmitted to the Owner's email address or telephone number registered with the Association. If mailed, such notice shall be deemed to be delivered and effective on the date deposited in the U.S. mail if addressed to the Owner's address registered with the Association. Each Owner shall register with the Association such Owner's current email address, phone number, and mailing address for purposes of notice hereunder. Such registered email, phone number, and mailing address may be changed from time to time by notice in writing to the Association. If no address is registered with the Association, an Owner's Living Unit shall be deemed to be the Owner's registered address and notice to the Living Unit address may be made by first-class mail or by posting the meeting notice on the front door. An Owner may opt out of receiving notices from the Association via email or text by giving written notice to the Board stating that the Owner will not accept notices by way of email or text.

3.5 **Qualified Voters**. An Owner shall be deemed to be in "good standing" and "entitled to vote" at any meeting if he or she has fully paid his or her share of any Assessment (together with any interest and/or late fees) at least 48 hours prior to the commencement of the meeting and is not in violation of any provision of the Governing Documents.

3.6 **Record Date for Notice Purposes**. The Board may designate a record date, which shall not be more than sixty (60) nor less than ten (10) days prior to the meeting, for the purpose of determining Owners entitled to notice of any meeting of the Owners. If no record date is designated, the last date on which a notice of the meeting is mailed or delivered shall be deemed to be the record date for determining Owners entitled to notice. The persons or entities appearing in the records of the Association on such record date as the Owner(s) of record of Lots in the Project shall be deemed to be the Owners of record entitled to notice of the Owner meeting.

3.7 **Quorum**. Any number of Owners present in person or by proxy at any meeting duly called and held in compliance with the requirements of these Bylaws, shall constitute a quorum for the transaction of business and adoption of decisions.

3.8 **Proxies**. Owners shall be entitled to vote in person or by proxy at each meeting provided, however, that the right to vote by proxy shall exist only where the instrument authorizing such proxy to act shall have been signed by the Owner or by the Owner's attorney. A proxy may be written on paper or received via email, facsimile, text, or any other electronic or physical means. A signature as required herein shall mean any indication that the document is from and consented to by the person who is purported to have sent it. If a Lot is jointly owned, the instrument authorizing a proxy to act may be executed by any single Owner of such Lot or the Owner's attorney when duly authorized in writing. A proxy given by an Owner to any person who represents the Owner at meetings of the Association shall be in writing, dated, and signed by such Owner. Such instrument may allow the proxy to vote on any issue arising at any particular meeting or meetings, or may set forth the specific matters or issues upon which the proxy is authorized to act. Proxies shall be filed with the Secretary (or with such other officer or person who may be acting as Secretary of the meeting) before the meeting is called to order. The Secretary shall record all proxies in the meeting minutes.

3.9 **Votes**. Owners shall be entitled to vote on each matter submitted to an Owner vote in person, by proxy, or by any type of written or electronic ballot. Owners shall have the number of votes appertaining to the Lot of such Owner, as set forth in the Declaration. The affirmative vote of a majority of the votes entitled to be cast by the Owners present or represented by proxy at a meeting at which a quorum was initially present shall be necessary for the adoption of any matter voted on by Owners, unless a greater proportion is required by the Articles of Incorporation, these Bylaws, or the Declaration. When a Lot is jointly owned, any Owner may exercise the vote for such Lot on behalf of all Co-Owners of the Lot. In the event of two (2) conflicting votes by Co-Owners of a Lot, no vote shall be counted for that Lot. In no event shall fractional or cumulative votes be exercised with respect to any Lot. Only those Owners whose accounts with the Association are not delinquent and paid in full at least 48 hours prior to the start of the meeting shall be entitled to vote.

3.10 **Waiver of Irregularities**. All inaccuracies and irregularities in calls or notices of meetings and in the manner of voting, in the form of proxies and the method of ascertaining Owners present, and in the decision and votes of the Board or of the Owners shall be deemed waived by those Members in attendance if no objection is made at the meeting. For those Members who are not in attendance at the meeting, the right to challenge inaccuracies and irregularities in calls, notices, voting, and decisions shall be waived if no objection is made within thirty (30) days of the date of the meeting.

3.11 **Action Taken Without a Meeting**. Owners have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of Owners through ballot, written consent, or otherwise. The Association may also use any method permitted for actions without a meeting in accordance with the requirements of Utah Code § 16-6a-707 or § 16-6a-709 and any other applicable section of the Acts. Any action so approved shall have the same effect as though taken at an Owner meeting. Ballots or written consents may be obtained via any electronic or physical means including but not limited to email, facsimile, text, or paper document.

3.12 **Minutes of Meetings**. The Secretary, or the Manager, shall take minutes of all Owner meetings. The minutes shall include, at a minimum, (1) the identification of the Persons present in person and by proxy, (2) the meeting date, (3) the identification of any issue that is voted on or decided in the meeting, (4) the number of votes cast for and against any issue decided upon, and (5) the exact wording of any resolution passed at the meeting. The failure to take appropriate minutes or otherwise comply with this section does not invalidate any action taken at a meeting. Draft meeting minutes for each Owner meeting shall be made available to requesting Owners within sixty (60) days of the meeting.

ARTICLE IV
BOARD OF DIRECTORS

4.1 **Powers**. The Project and the business and affairs of the Association shall be governed and managed by the Board of Directors. The Board may exercise business judgment and all of the powers of the Association, whether derived from the Declaration, these Bylaws, the Articles, or the Acts except such powers that the Declaration, these Bylaws, the Articles, and the Acts vest solely in the Owners.

4.2 **Number and Qualifications**. The Board of Directors shall be composed of three (3) or five (5) individuals. Board Members must be at least 18 years old and must be an Owner or the spouse of an Owner of a Lot in the Project. No two (2) Board Members may reside in the same Living Unit or be business partners if the business is related to their ownership of a single Lot. If an Owner is a corporation, partnership, limited liability company, or trust, an officer, partner, member, manager, agent, trustee, or beneficiary of such Owner may be a Board Member. If a Board Member ceases to meet any required qualifications during the Board Member's term, such person's membership on the Board shall automatically terminate. During the Period of Declarant Control, the composition and qualification requirements of these Bylaws shall not apply and the Declarant may exercise all powers of the Board as permitted by law.

4.3 **Election**. During the Period of Declarant Control, Board Members shall be appointed by Declarant. Following the Period of Declarant Control, the election of Board Members shall be made by the Owners. At such election, the Owners or their proxies may cast, with respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The Association may accept written ballots for Board Member election voting purposes from those Members unable to attend a meeting in which an election is held. The persons receiving the largest number of votes shall be elected. The election of Board Members may be conducted through open voting or by secret ballot. Cumulative voting is not permitted.

4.4 **Term of Office**. During the Period of Declarant Control, Board Member terms shall be determined exclusively by Declarant. Following the Period of Declarant Control, the Owners shall elect Board Members for two (2) year terms. However, at the first election following the Period of Declarant Control, the Board Members receiving the highest votes will serve two (2) year terms and the remaining will serve a one (1) year term to establish staggered terms. The terms shall overlap so that elections for Board Member positions are held each year. Board Members may serve consecutive terms if elected.

4.5 **Regular Meetings**. The Board shall hold meetings at least annually or more often at the discretion of the Board. During the Period of Declarant Control, Board Meetings

shall be held at the discretion of the Declarant so long as at least one Board Meeting is held each year and a Board Meeting is held each time the Association increases a fee or raises an Assessment.

4.6 **Special Meetings**. Special meetings may be called by the President or a majority of Board Members on at least two (2) business days' prior notice to each Board Member and those Owners who have requested notice.

4.7 **Meeting Notice**. Notice shall be given to Board Members and Owners who have requested notice personally, by email, or by telephone, including text message at least two (2) business days' in advance of the meeting. By unanimous consent of the Board, Board meetings may be held without call or notice to the Board Members, but notice shall always be provided to those Owners who have requested notice of Board meetings.

4.8 **Quorum and Manner of Action**. A majority of Board Members shall constitute a quorum for the transaction of business. The act of a majority of the Board Members present at any meeting at which a quorum is present, and for which proper notice was provided, shall be the act of the Board. The Board Members shall act only as the Board of Directors, and individual Board Members shall have no powers as such.

4.9 **Owner Attendance**. Any Owner may request notice of Board meetings by requesting such notice from a Board Member and providing a valid email address or text messaging number at which the Owner will receive notice. Owners who have requested notice of Board meetings shall be given notice along with the Board Members and shall be provided any call-in number or other means of attendance by electronic communication that is provided to Board Members. If Owners attend a Board meeting, the Board may select a specific period of time during the meeting and limit Owner comments to such time period. The Board in its sole discretion may set a reasonable length of time that each Owner may speak.

4.10 **Open Meetings**. Except as provided below in (a) through (f), following the Period of Declarant Control, Board meetings shall be open to Owners. The Board may hold a closed executive session during a meeting of the Board if the purpose of the closed executive session is to:

(a) Consult with legal counsel to obtain legal advice and discuss legal matters;

(b) Discuss existing or potential litigation, mediation, arbitration, or an administrative proceeding;

(c) Discuss a labor or personnel matter;

(d) Discuss a matter relating to contract negotiations, including the review of a bid or proposal;

(e) Discuss a matter involving a Person, if the Board determines that public knowledge of the matter would violate the Person's privacy; or

(f) Discuss a delinquent assessment.

During the Period of Declarant Control, Board meetings may be closed to Owners, unless the Board, in its sole discretion and without obligation, determines to open the meeting (or a portion thereof) to the Owners. Notwithstanding the foregoing, the Board meetings required under Utah Code § 57-8a-226(6)(b) shall be open to all Owners.

4.11 **Board Meetings Generally**. The Board may designate any place in Utah County as the place of meeting for any regular or special Board meeting. The Board may allow

attendance and participation at any Board meeting by telephone or any other electronic means that allows for Board Members to communicate orally in real time. Following the Period of Declarant Control, if a Board meeting is held by telephone, the Association shall provide the call-in information such that Owners may call-in to access the meeting.

4.12 **Board Action**. Notwithstanding noncompliance with any provision within these Bylaws, Board action is binding and valid unless set aside by a court of law. A person challenging the validity of a Board action for failure to comply with these Bylaws may not bring the challenge more than sixty (60) days after the Board has taken the action in dispute.

4.13 **Compensation**. No Board Member shall receive compensation for any services that such member may render to the Association as a Board Member; provided, however, that a Board Member may be reimbursed for expenses incurred in performance of such duties as a Board Member to the extent such expenses are approved by a majority of the other Board Members. Nothing herein contained shall be construed to preclude any Board Member from serving the Project in any other capacity and receiving compensation therefore, so long as approved in advance by a majority of disinterested Board Members.

4.14 **Resignation and Removal**. Board Members may resign at any time by delivering written resignation to another Board Member. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any Board Member who is appointed by the Declarant may only be removed by the Declarant. The Declarant may remove a Board Member it appoints at any time. A Board Member elected by the Owners after the Period of Declarant Control may be removed at any time, with or without cause, at a Special Meeting of the Owners duly called for such purpose upon the affirmative vote of more than fifty percent (50%) of the entire voting interests of the Association. At such a meeting, the Owners shall vote for a new Board Member to fill the remaining term of the removed Board Member. Board Members may also be removed by a majority vote of the other active Board Members upon the occurrence of any of the following: failure to attend three (3) consecutive Board meetings, failure to remain current on Assessments, or a violation of the Governing Documents. If removal occurs based on the preceding sentence, then the remaining Board Members may appoint a replacement to serve the remaining term of the removed Board Member.

4.15 **Vacancies**. If vacancies occur during the Period of Declarant Control, the Declarant shall appoint a Board Member to fill the vacancy. Following the Period of Declarant Control, if vacancies occur for any reason (including death, resignation, or disqualification) except removal by the Owners, the Board Members then in office shall continue to act, and such vacancies shall be filled by a majority vote of the Board Members then in office, though less than a quorum. Vacancies occurring by reason of removal by the Owners may be filled by election of the Owners at the meeting at which such Board Member is removed. Board Members elected or appointed hereunder to fill a vacancy shall serve for the unexpired term of his predecessor. Except by reason of death, resignation, disqualification, or removal, Board Members shall continue to serve until their successors are elected.

4.16 **Action Without a Meeting**. Board Members have the right to take any action in the absence of a meeting which they could take at a Board meeting if a majority of the Board Members consent to the action in writing. The term "in writing" shall specifically include email and text messaging. Board Members may also take action without a meeting if the Board complies with any applicable provisions of the Acts. Any action so approved shall have the same effect as though taken at a Board meeting.

4.17 **Waiver of Notice**. Before or at any meeting of the Board, any Board Member or Owner may waive notice of such meeting and such waiver shall be deemed the equivalent of proper notice. Attendance by a Board Member or Owner at any meeting thereof shall be a waiver of notice by that Board Member or Owner of the time, place, and purpose thereof.

4.18 **Adjournment**. The Board may adjourn any meeting from day to day for such other time as may be prudent or necessary, provided that no meeting may be adjourned for longer than thirty (30) days.

4.19 **Meeting**. A Board meeting does not include a gathering of Board Members at which the Board does not conduct and vote on Association business.

ARTICLE V
OFFICERS

5.1 **Officers**. The officers of the Association shall be a President, Secretary, Treasurer, and such other officers as may be appointed by the Board. Officers shall not be required during the Period of Declarant Control.

5.2 **Election, Tenure, and Qualifications**. Officers shall be elected by the Board at the first Board meeting following each Annual Meeting of the Owners. Each officer shall hold such office until the next ensuing meeting of the Board following the Annual Meeting of the Owners and until a successor has been elected and qualified, or until such officer's death, resignation, disqualification, or removal in the manner provided in these Bylaws, whichever first occurs. Any person may hold any two (2) or more of such offices, except that the President may not also be the Secretary. No person holding two (2) or more offices shall act in or execute any instrument in the capacity of more than one (1) office.

5.3 **Subordinate Officers**. The Board may appoint such other officers or agents as it may deem advisable, each of whom shall have such title, hold office for such period, have such authority, and perform such duties as the Board may from time to time determine.

5.4 **Resignation and Removal**. Officers may resign at any time by delivering a written resignation to any Board Member. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any officer may be removed and replaced upon the affirmative vote of a majority of the Board Members at any time, with or without cause.

5.5 **Vacancies**. . If a vacancy occurs in an office for any reason, or if a new office is created, such vacancies or newly created offices may be filled by majority vote of the Board at any regular or special Board meeting.

5.6 **President**. The President shall be the chief executive of the Association. The President shall preside at meetings of the Board of Directors and at meetings of the Owners. At the meetings, the President shall have all authority typically granted to the person presiding over the meeting including but not limited to: (1) the right to control the order of the meeting, (2) the right to arrange for the removal of any disruptive Owner or person, (3) the right to impose and enforce reasonable rules and procedures related to the meeting such as those found in "Robert's Rules of Order" or "The Modern Rules of Order." The President shall sign on behalf of the Association all conveyances, mortgages, documents, and contracts, and shall do and perform all other acts and things as required by the Board.

5.7 **Secretary**. The Secretary shall keep the minutes of the Association and shall maintain such books and records as these Bylaws, the Declaration, Rules, or any resolution

the Board may require. The Secretary shall also act in the place of the President in the event of the President's absence or inability or refusal to act. The duties of the Secretary may be delegated to the Manager.

5.8 **Treasurer**. The Treasurer shall have the custody and control of the funds and financial accounts of the Association, subject to the action of the Board, and when requested by the President, shall report the state of the finances of the Association at each meeting of the Owners and at any meeting of the Board. The Treasurer shall perform such other duties as required by the Board. The duties of the Treasurer may be delegated to the Manager.

5.9 **Compensation**. No officer shall receive compensation for any services rendered to the Association as an officer, provided, however, that an officer may be reimbursed for expenses incurred in performance of such duties as an officer to the extent such expenses are approved by the Board.

ARTICLE VI
COMMITTEES

6.1 **Designation of Committees**. The Board may designate committees as it deems appropriate in carrying out its duties, responsibilities, functions, and powers. No committee members shall receive compensation for services rendered to the Association as a member of a committee; provided, however, that a committee member may be reimbursed for expenses incurred in performance of such duties as a committee member to the extent that such expenses are approved by the Board. A committee shall not have powers, duties, or responsibilities beyond those specifically assigned by the Board in a written resolution. The Board may terminate a committee at any time.

6.2 **Proceeding of Committees**. Each committee may appoint its own presiding and recording officers and may meet at such places and times and upon such notice as such committee may determine. Each such committee shall keep a record of its proceedings and shall regularly report such proceedings to the Board.

6.3 **Quorum and Manner of Acting**. At each committee meeting, the presence of members constituting at least a majority of the authorized membership of such committee (but in no event fewer than two (2) members) shall constitute a quorum for the transaction of business, and the act of a majority of the members present at any meeting at which a quorum is present shall be the act of such committee. The committee members shall act only as a committee, and the individual members thereof shall have no powers as such. A committee may only exercise the authority granted to it by the Board.

6.4 **Resignation and Removal**. A committee member may resign at any time by delivering a written resignation to the President, the Board, or the presiding officer of such committee. Unless otherwise specified therein, such resignation shall take effect upon delivery. The Board may at any time, with or without cause, remove any committee member.

6.5 **Vacancies**. If a vacancy occurs in a committee for any reason, the remaining members shall, until the filling of such vacancy by the Board, constitute the then total authorized membership of the committee and, provided that two (2) or more members are remaining, may continue to act. Such vacancy may be filled at any meeting of the Board.

ARTICLE VII
INDEMNIFICATION

7.1 **Indemnification**. No Board Member, officer, or committee member shall be personally liable for any obligations of the Association or for any duties or obligations arising out of any acts or conduct said Board Member, officer, or committee member performed for or on behalf of the Association. The Association shall and does hereby indemnify and hold harmless each person who shall serve at any time as a Board Member, officer, or committee member of the Association, as well as such person's heirs and administrators, from and against any and all claims, judgments and liabilities to which such persons shall become subject, by reason of that person having heretofore or hereafter been a Board Member, officer, or committee member of the Association or by reason of any action alleged to have been heretofore or hereafter taken or omitted to have been taken by him as such Board Member, officer, or committee member and shall reimburse any such person for all legal and other expenses reasonably incurred in connection with any such claim or liability; provided that no such person shall be indemnified against or be reimbursed for or be defended against any expense or liability incurred in connection with any claim or action arising out of such person's willful or intentional misconduct. The rights accruing to any person under the foregoing provisions of this Section shall not exclude any other right to which such person may lawfully be entitled, nor shall anything herein contained restrict the right of the Association to defend, indemnify, or reimburse such person in any proper case, even though not specifically provided for herein or otherwise permitted. The Association, its Board Members, officers, committee members, employees, and agents shall be fully protected in taking any action or making any payment or in refusing so to do in reliance upon the advice of counsel.

7.2 **Other Indemnification**. The defense and indemnification provided herein shall not be deemed exclusive of any other right to defense and indemnification to which any person seeking indemnification may be entitled under the Acts or under any agreement, vote of disinterested Board Members or otherwise, both as to action taken in any official capacity and as to action taken in any other capacity while holding such office. It is the intent that all Board Members, officers, and committee members be and hereby are defended and indemnified to the fullest extent permitted by the laws of the State of Utah and these Bylaws. The defense and indemnification herein provided shall continue as to any person who has ceased to be a Board Member, officer, committee member, or employee and shall inure to the benefit of the heirs, executors and administrators of any such person.

7.3 **Insurance**. The Board, in its discretion, may direct that the Association purchase and maintain Directors and Officers insurance on behalf of any person who is or was a Board Member, officer, committee member, Manager or employee of the Association or is or was serving at the request of the Association as a Board Member, officer, committee member, Manager, employee, or agent of another association, corporation, partnership, joint venture, trust or other enterprise against any liability asserted against, and incurred by, such person in any such capacity or arising out of such person's status as such, whether or not the Association would have the power to defend or indemnify such person against liability under the provisions of this Article.

7.4 **Settlement by Association**. The right of any person to be defended and/or indemnified shall be subject always to the right of the Association through the Board, in lieu of such defense and/or indemnity, to settle any such claim, action, suit or proceeding at the

expense of the Association by the payment of the amount of such settlement and the costs and expenses incurred in connection therewith.

ARTICLE VIII
RULES AND REGULATIONS

8.1 **Rules**. The Board shall have the authority to adopt Association Rules as it deems necessary for the maintenance, operation, management, and control of the Project. The Board may from time to time, by resolution, alter, amend, and repeal such Rules and use their best efforts to see that they are strictly observed by all Owners and residents. Owners are responsible to ensure that their lessees, invitees, and guests strictly observe the Rules then in effect as well as the covenants and restrictions of the Declaration and shall be jointly and severally liable for their violations and resulting fines. Copies of all Rules adopted by the Board shall be sent to all Owners at least five (5) days prior to the effective date thereof.

ARTICLE IX
AMENDMENTS

9.1 **Amendments by Declarant**. During the Period of Declarant Control, or so long as the Declarant owns one or more Lots in the Project or any Additional Land, the Declarant acting alone may amend the Bylaws for any reason, without Owner approval. Declarant's unilateral amendment right as designated herein may continue past the expiration of the Period of Declarant Control. No other amendment shall be valid or enforceable during the period Declarant owns at least one Lot or any Additional Land unless the Declarant has given written consent to such amendment. Any amendment during the period Declarant owns at least one Lot or any Additional Land shall be executed by Declarant on behalf of the Association and shall become effective upon recordation in the office of the Utah County Recorder.

9.2 **Amendments by Association**. After Declarant has annexed all of the Additional Land, has sold all of the Lots to unaffiliated third parties, and the Period of Declarant Control has expired, the Bylaws may be amended by the Owners upon the affirmative vote of at least fifty-one percent (51%) of the voting interests of the Association. Any amendment(s) shall be effective upon recordation in the office of the Utah County Recorder. In such instrument the President shall execute the amendment and certify that the vote required by this Section has occurred. If a Lot is owned by more than one Owner, the vote of any one Owner shall be sufficient to constitute approval for that Lot under this Section. If a Lot is owned by an entity or trust, the vote of any one officer, trustee, or agent of the entity shall be sufficient to constitute approval for that Lot under this Section. No amendment shall restrict, limit, or impair any Declarant rights without the express written consent of the Declarant.

ARTICLE X
MISCELLANEOUS PROVISIONS

10.1 **Waiver**. No restriction, condition, obligation, or provision contained in these Bylaws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

10.2 **Invalidity; Number; Captions**. The invalidity of any part of these Bylaws shall not impair or affect in any manner the validity, enforceability, or effect of the balance of these Bylaws. As used in these Bylaws, the singular shall include the plural, and the plural the singular. The masculine and neuter shall each include the masculine, feminine and neuter, as

the context requires. All captions are intended solely for convenience of reference and shall in no way limit any of the provisions of these Bylaws.

10.3 **Conflicts**. These Bylaws are intended to comply with the Declaration. In case of any irreconcilable conflict, the Declaration shall control over these Bylaws.

IN WITNESS WHEREOF, the Declarant has executed and adopted these Bylaws on behalf of the Association this ___ day of _____, 2021.

DECLARANT
LENNAR HOMES OF UTAH, INC.
a Delaware corporation

By:_____

Name:_____

Its:_____

STATE OF UTAH)
) ss.
COUNTY OF _____)

On the ____ day of _____, 2021, personally appeared before me _____ who by me being duly sworn, did say that she/he is an authorized representative of Lennar Homes of Utah, Inc., and that the foregoing instrument is signed on behalf of said company and executed with all necessary authority.

Notary Public: _____

EXHIBIT C

MAINTENANCE ALLOCATION CHART

ITEM	HOA	UNIT OWNER	NOTES
GENERAL NOTE			Shared items are to be resolved between the Owners involved in use of the item.
A/C Pad & Unit		X	
Address Numbers		X	
Attic		X	
Cable/Satellite TV		X	
Ceiling		X	
Circuit Breakers for Unit		X	
Common Area amenities	X		
Door and Door Frames - exterior		X	Subject to Board approval upon replacement
Door and Door frames - interior		X	
Door Hardware/doorbell		X	
Drains – Living Unit & Limited Common patio/porch		X	
Dryer Vent Cleaning		X	
Electrical Wiring/Panel		X	
Exterior Wall Finishes (Rock/Stucco/Siding, etc.)		X	
Fences (as applicable, if any)	X	X	• HOA to maintain fencing that does not border a Lot (if any) and the North and South Project boundary. All other fencing is Owner.
Fireplace, Flue, & Vent Pipes – Cleaning & Repair		X	
Floor Coverings		X	
Foundation – Structural		X	
Foundation – Cracks, cosmetic		X	
Front Landing/Porch		X	
Furnace		X	
Garage Door Openers, Springs, Hinges, Parts		X	
Garage Doors – paint, repair & replacement		X	Subject to Board approval upon replacement
Gas Pipes (from meter to inside Living Unit)		X	
Hose Bib/Faucet/Spigot		X	
Hot Water Heater		X	
Insurance Coverage – Property (attached buildings)	X		
Insurance Coverage - HO6 Policy		X	
Insurance Coverage - loss assessment		X	
Insurance Deductible	X	X	Assessed to Owners pro-rata according to losses. HO6 deductible is Owner's responsibility.
Irrigation Lines / Heads – Common Area yard areas	X		
Landscape – Common Area	X		
Landscape – Owner maintained fenced yard area		X	If applicable
Lights – eaves, porch & garage fixtures & bulbs		X	Fixture replacement subject to Board approval

Limited Common Area – patios, porches, decks, stairs & sidewalks serving only one Unit - repair and replacement		X	
Limited Common Area – patios, porches, decks, stairs & sidewalks clean and snow removal		X	
Mailbox & Stand/Structure		X	Or USPS as applicable
Mailbox Lock & Key		X	Or USPS as applicable
Paint - exterior wall surfaces and trim finishes		X	
Paint – exterior doors, garage doors, windows		X	
Paint - Interior		X	
Patio Slab		X	
Pest Control Interior & Exterior		X	
Phone Lines		X	
Playgrounds, Pavilion, Parks, & Open Space	X		
Plumbing Valves, Pressure Regulator		X	Point of connection/Meter to the unit – Owner Before point of connection/Meter – HOA
Plumbing Main Line		X	Point of connection/Meter to the unit – Owner Before point of connection/Meter – HOA
Plumbing Leak		X	Point of connection/Meter to the unit – Owner Before point of connection/Meter – HOA
Plumbing – clogging/stoppage		X	Point of connection/Meter to the unit – Owner Before point of connection/Meter – HOA
Plumbing Pipes Inside Unit		X	
Rain Gutters – clean-out, repair, replacement		X	
Rain Gutters - drains away from building		X	
Roof – leaks, repair & replacement		X	
Screen Doors		X	Must be approved by Board
Sewer pipes & utilities – serving a single Living Unit		X	
Sewer pipes & utilities – to more than one Living Unit		X	Responsibility shared by Owners in use unless handled by municipality or others
Shutters, skylights, exterior window trim		X	
Sidewalks and paths on Common Areas	X		
Sliding Glass Doors		X	
Snow Removal – Limited Common Area, driveways, porches, & sidewalks on Lots		X	
Snow Removal – private roads & Common sidewalks not on Lots or Limited Common Area	X		
Storm Drains	X		
Street Lights	X		Unless handled by Municipality or others
Streets – private (excluding approach to garage)	X		
Termites, pests, rodents, insects, etc.		X	
Trash		X	
Utility Doors		X	
Vent Covers - exterior		X	
Wall - bearing interior wall		X	
Wall - partition interior wall		X	
Water – culinary		X	Unless collectively metered
Water – Common Area landscape	X		

Weather Stripping		X	
Windows – glass, screens, frames, boxes		X	Subject to Board approval upon replacement

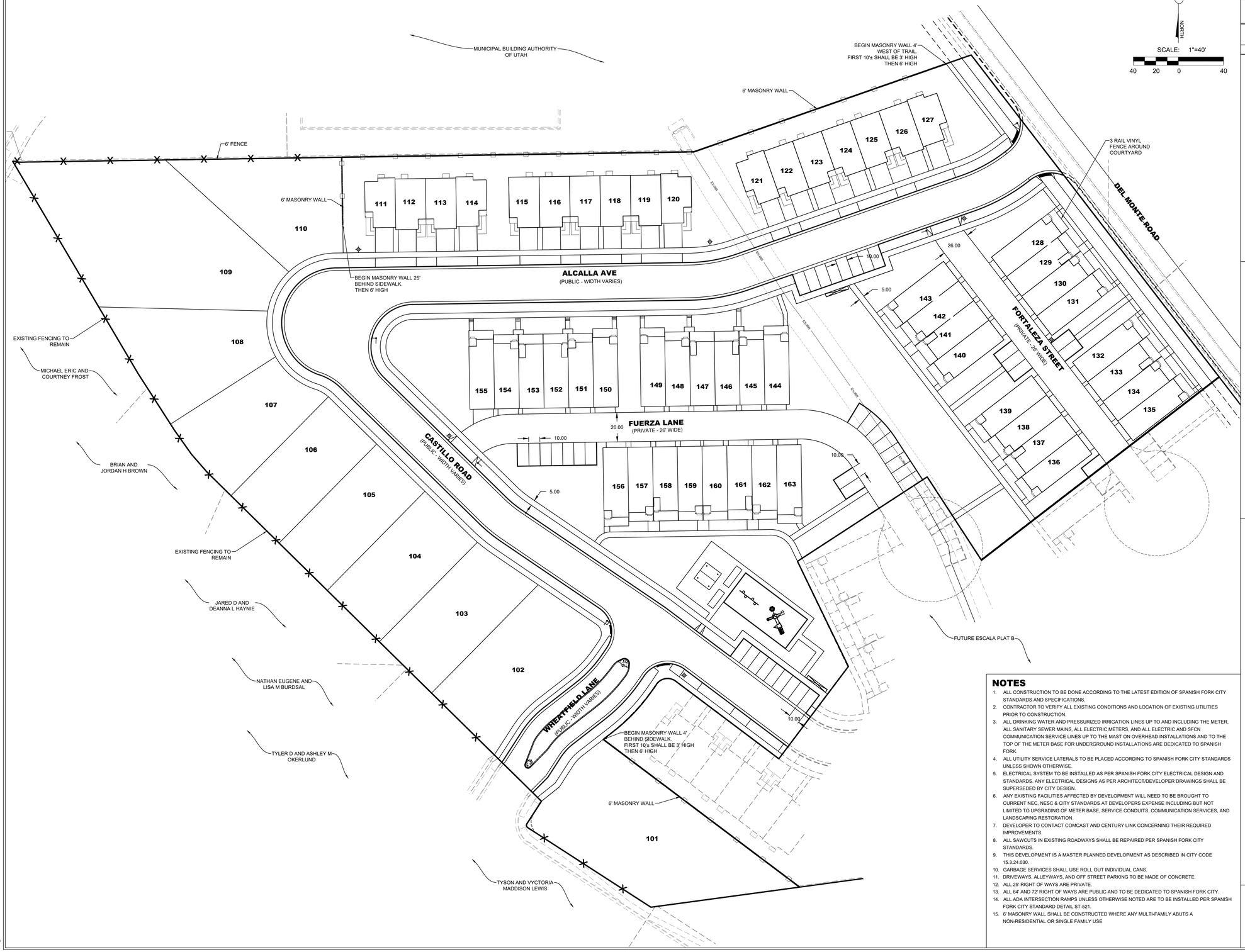
During the Period of Declarant Control, the Declarant may unilaterally amend this Exhibit C. Following the Period of Declarant Control, it may be amended in the same manner as an amendment to the Declaration.

ESCALA, PLAT A

A MASTER PLANNED DEVELOPMENT

FINAL PLAN

SPANISH FORK, UTAH



VICINITY MAP

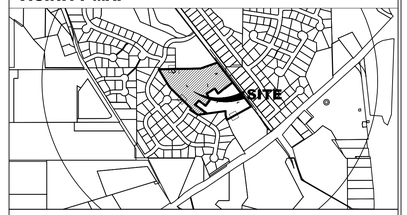


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C-300	UTILITY PLAN
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C-402	CASTILLO ROAD P&P
C-403	WHEATFIELD ROAD AND FUERZA LANE P&P
C-404	FORTALEZA DRIVE P&P
C-405	DEL MONTE P&P
C-501	DETAILS
C-502	DETAILS (CONT)
C-600	POWER PLAN
EC-1	EROSION CONTROL PLAN

TABULATIONS

TOTAL ACREAGE	9.18 ACRES	
NET AREA	8.97 ACRES (MINUS EASEMENT)	
SINGLE FAMILY LOTS	10	
TOWNHOMES	53	
TOTAL	63	
NET DENSITY	7.02 UNITS/ACRE	(BASED ON 8.97 ACRES)
(LESS EASEMENT)		
GUEST PARKING REQUIRED	31.5	(63 UNITS X .5 STALLS/UNIT)*
GUEST PARKING	40	
GARAGE PARKING	126	
ROW AREA	2.61 AC	
OPEN SPACE	1.92 AC	

* UNITS WITHOUT DRIVEWAY WITH SPACE FOR 2 CARS

LEGEND

EXISTING	PROPOSED	
		BOUNDARY LINE
		STREET CENTERLINE
		EASEMENT LINE
		LOT LINES
EX SS	SS	SEWER PIPE
		SEWER MANHOLE
		SEWER SERVICE
EX SD	SD	STORM DRAIN PIPE (RCP)
		STORM DRAIN MANHOLE
		CURB INLET
		COMBO BOX
		4'x4' CATCH BASIN
		3'x3' CATCH BASIN
		INLET/OUTLET W/ GRATE
EX W	W	CULINARY WATER PIPE
		45° PIPE ELBOW (W)
		22.5° PIPE ELBOW (W)
		11.25° PIPE ELBOW (W)
		FIRE HYDRANT
		SERVICE & METER (W)
		PRV(W)
		AIR-VAC VALVE (W)
		BLOW-OFF (W)
		TEMP. BLOW-OFF (W)
		VALVE (W & SW)
		TEE
		CROSS
EX PI	PI	PRESSURIZED IRRIGATION
		45° PIPE ELBOW (PI)
		22.5° PIPE ELBOW (PI)
		11.25° PIPE ELBOW (PI)
		SINGLE SW SERVICE
		DUAL SW SERVICE
		AIR-VAC VALVE (PI)
		BLOW-OFF (SW)
		TEMP. BLOW-OFF (PI)
STOP	STOP	STOP SIGN
		STREET SIGN
		MONUMENT
X	X	FENCE
		STREET LIGHT
		POWER POLE
		DITCH
EX FO		FIBER OPTIC
EX GAS		GAS
	OHP	OVERHEAD POWER
		FLOW ARROW
		CONTOURS

NOTES

1. ALL CONSTRUCTION TO BE DONE ACCORDING TO THE LATEST EDITION OF SPANISH FORK CITY STANDARDS AND SPECIFICATIONS.
2. CONTRACTOR TO VERIFY ALL EXISTING CONDITIONS AND LOCATION OF EXISTING UTILITIES PRIOR TO CONSTRUCTION.
3. ALL DRINKING WATER AND PRESSURIZED IRRIGATION LINES UP TO AND INCLUDING THE METER, ALL SANITARY SEWER MAINS, ALL ELECTRIC METERS, AND ALL ELECTRIC AND SFCN COMMUNICATION SERVICE LINES UP TO THE MAST ON OVERHEAD INSTALLATIONS AND TO THE TOP OF THE METER BASE FOR UNDERGROUND INSTALLATIONS ARE DEDICATED TO SPANISH FORK.
4. ALL UTILITY SERVICE LATERALS TO BE PLACED ACCORDING TO SPANISH FORK CITY STANDARDS UNLESS SHOWN OTHERWISE.
5. ELECTRICAL SYSTEM TO BE INSTALLED AS PER SPANISH FORK CITY ELECTRICAL DESIGN AND STANDARDS. ANY ELECTRICAL DESIGNS AS PER ARCHITECT/DEVELOPER DRAWINGS SHALL BE SUPERSEDED BY CITY DESIGN.
6. ANY EXISTING FACILITIES AFFECTED BY DEVELOPMENT WILL NEED TO BE BROUGHT TO CURRENT NEC, NESC & CITY STANDARDS AT DEVELOPERS EXPENSE INCLUDING BUT NOT LIMITED TO UPGRADING OF METER BASE, SERVICE CONDUITS, COMMUNICATION SERVICES, AND LANDSCAPING RESTORATION.
7. DEVELOPER TO CONTACT COMCAST AND CENTURY LINK CONCERNING THEIR REQUIRED IMPROVEMENTS.
8. ALL SAWCUTS IN EXISTING ROADWAYS SHALL BE REPAIRED PER SPANISH FORK CITY STANDARDS.
9. THIS DEVELOPMENT IS A MASTER PLANNED DEVELOPMENT AS DESCRIBED IN CITY CODE 15.3.24.030.
10. GARBAGE SERVICES SHALL USE ROLL OUT INDIVIDUAL CANS.
11. DRIVEWAYS, ALLEYWAYS, AND OFF STREET PARKING TO BE MADE OF CONCRETE.
12. ALL 25' RIGHT OF WAYS ARE PRIVATE.
13. ALL 64' AND 72' RIGHT OF WAYS ARE PUBLIC AND TO BE DEDICATED TO SPANISH FORK CITY.
14. ALL ADA INTERSECTION RAMPS UNLESS OTHERWISE NOTED ARE TO BE INSTALLED PER SPANISH FORK CITY STANDARD DETAIL ST-521.
15. 6' MASONRY WALL SHALL BE CONSTRUCTED WHERE ANY MULTI-FAMILY ABUTS A NON-RESIDENTIAL OR SINGLE FAMILY USE

DEVELOPER / OWNER

LENNAR
111 E SEGO LILY DRIVE SUITE 150
SANDY, UT 84070

ENGINEER

LEI CONSULTING ENGINEERS
3302 NORTH MAIN
SPANISH FORK, UTAH 84660
(801)798-0555

PROJECT NAME

ESCALA

LEI
- A Utah Corporation -
ENGINEERS
SURVEYORS
PLANNERS
3302 N. Main Street
Spanish Fork, UT 84660
Phone: 801.798.0555
Fax: 801.798.9393
office@lei-eng.com
www.lei-eng.com

REGISTERED PROFESSIONAL ENGINEER
NO. 393866
BRIAN T. GABLER
09/15/21
STATE OF UTAH

ESCALA FINAL PLAT-A

SPANISH FORK, UTAH

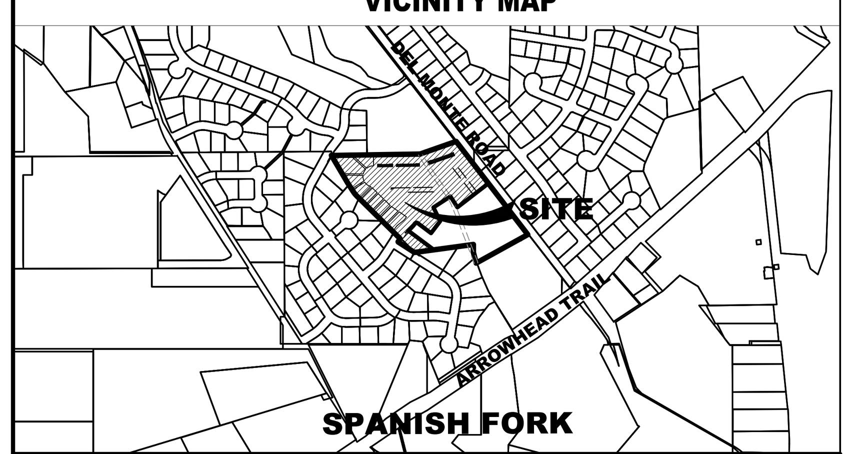
COVER

REVISIONS	
1	-
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3	-
-	-
4	-
-	-
5	-
-	-

LEI PROJECT #: 2020-0057
DRAWN BY: DSE/BJA
DESIGNED BY: BTG
SCALE: 1"=40'
DATE: 09/15/2021

SHEET
COVER

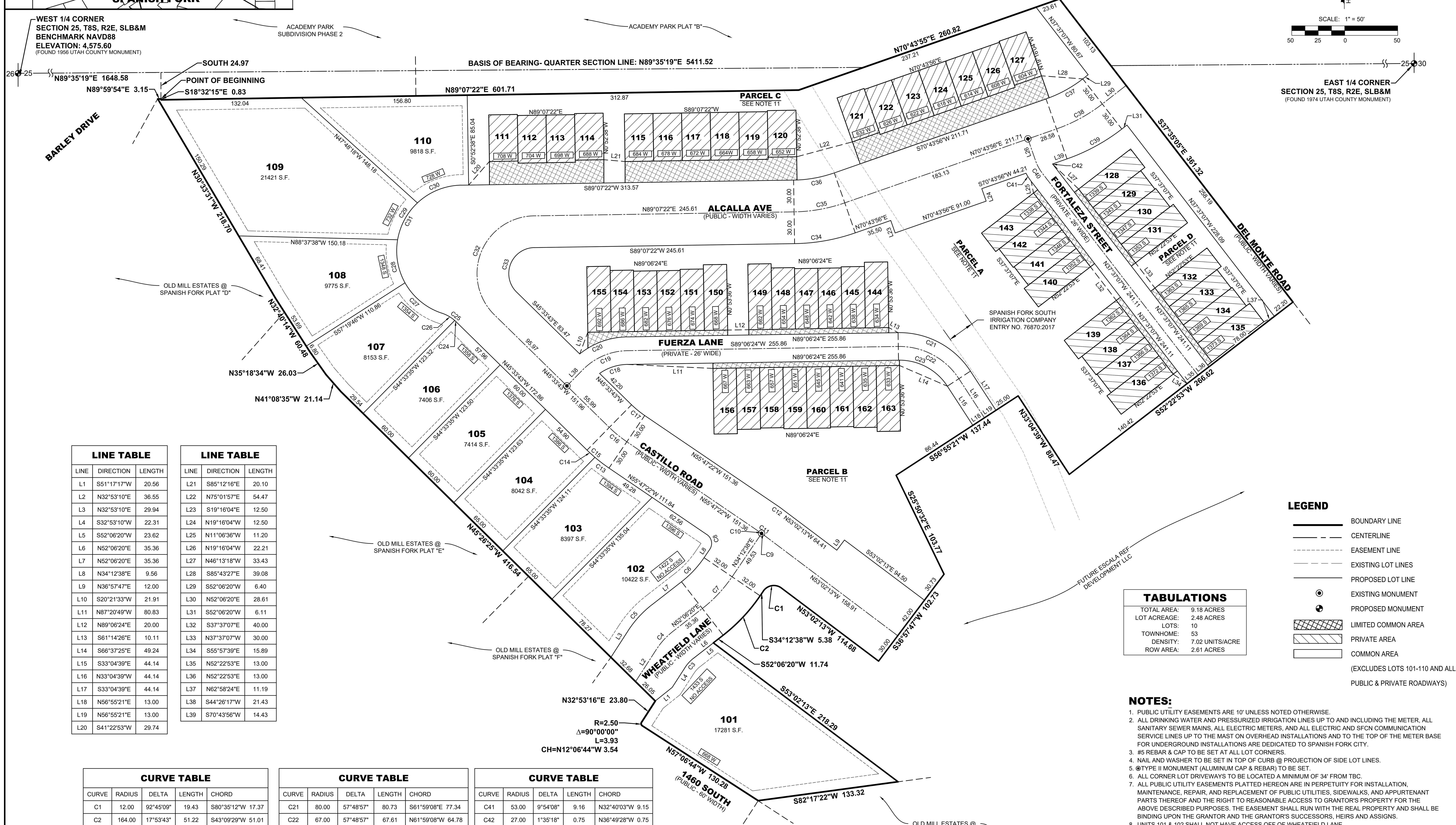
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ESCALA - PLAT A

A MASTER PLANNED DEVELOPMENT

A PORTION OF THE SOUTHWEST QUARTER OF SECTION 25,
TOWNSHIP 8 SOUTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN



LINE TABLE

LINE	DIRECTION	LENGTH
L1	S51°17'17"W	20.56
L2	N32°53'10"E	36.55
L3	N32°53'10"E	29.94
L4	S32°53'10"W	22.31
L5	S52°06'20"W	23.62
L6	N52°06'20"E	35.36
L7	N52°06'20"E	35.36
L8	N34°12'38"E	9.56
L9	N36°57'47"E	12.00
L10	S20°21'33"W	21.91
L11	N87°20'49"W	80.83
L12	N89°06'24"E	20.00
L13	S61°14'26"E	10.11
L14	S66°37'25"E	49.24
L15	S33°04'39"E	44.14
L16	N33°04'39"W	44.14
L17	S33°04'39"E	44.14
L18	N56°55'21"E	13.00
L19	N56°55'21"E	13.00
L20	S41°22'53"W	29.74

LINE TABLE

LINE	DIRECTION	LENGTH
L21	S85°12'16"E	20.10
L22	N75°01'57"E	54.47
L23	S19°16'04"E	12.50
L24	N19°16'04"W	12.50
L25	N11°06'36"W	11.20
L26	N19°16'04"W	22.21
L27	N46°13'18"W	33.43
L28	S85°43'27"E	39.08
L29	S52°06'20"W	6.40
L30	N52°06'20"E	28.61
L31	S52°06'20"W	6.11
L32	S37°37'07"E	40.00
L33	N37°37'07"W	30.00
L34	S55°57'39"E	15.89
L35	N52°22'53"E	13.00
L36	N52°22'53"E	13.00
L37	N62°58'24"E	11.19
L38	S44°26'17"W	21.43
L39	S70°43'56"W	14.43

CURVE TABLE

CURVE	RADIUS	DELTA	LENGTH	CHORD
C1	12.00	92°45'09"	19.43	S80°35'12"W 17.37
C2	164.00	17°53'43"	51.22	S43°09'29"W 51.01
C3	36.00	19°13'10"	12.08	S42°29'45"W 12.02
C4	68.00	19°13'10"	22.81	N42°29'45"E 22.70
C5	100.00	19°13'10"	33.54	N42°29'45"E 33.39
C6	100.00	17°53'43"	31.23	N43°09'29"E 31.11
C7	132.00	17°53'43"	41.23	N43°09'29"E 41.06
C8	10.00	90°00'00"	15.71	N10°47'22"W 14.14
C9	90.00	1°10'22"	1.84	S53°37'24"E 1.84
C10	90.00	1°34'47"	2.48	S54°59'59"E 2.48
C11	90.00	2°45'09"	4.32	N54°24'48"W 4.32
C12	120.00	2°45'09"	5.76	N54°24'48"W 5.76
C13	150.00	6°21'56"	16.66	N52°36'24"W 16.66
C14	150.00	3°51'43"	10.11	N47°29'35"W 10.11
C15	150.00	10°13'39"	26.78	N50°40'33"W 26.74
C16	120.00	10°13'39"	21.42	N50°40'33"W 21.39
C17	90.00	10°13'39"	16.07	N50°40'33"W 16.04
C18	47.00	34°09'30"	28.02	N72°01'39"E 27.61
C19	60.00	44°40'07"	46.78	S66°46'20"W 45.60
C20	73.00	37°55'27"	48.32	N70°08'40"E 47.44

CURVE TABLE

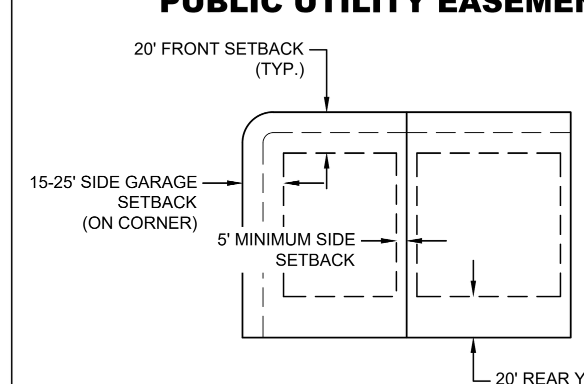
CURVE	RADIUS	DELTA	LENGTH	CHORD
C21	80.00	57°48'57"	80.73	S61°59'08"E 77.34
C22	67.00	57°48'57"	67.61	N61°59'08"W 64.78
C23	54.00	57°48'57"	54.49	S61°59'08"E 52.21
C24	35.00	3°20'50"	2.04	S47°14'08"E 2.04
C25	35.00	26°14'44"	16.03	S58°41'05"E 15.89
C26	35.00	22°53'54"	13.99	S60°21'30"E 13.89
C27	62.00	42°40'43"	46.18	S50°28'06"E 45.12
C28	62.00	38°51'36"	42.05	S9°41'56"E 41.25
C29	62.00	37°04'34"	40.12	S28°16'09"W 39.42
C30	62.00	42°18'56"	45.79	S67°57'54"W 44.76
C31	62.00	160°55'49"	174.14	S8°39'27"W 122.29
C32	54.50	134°41'06"	128.11	N21°46'49"E 100.59
C33	24.50	134°41'05"	57.59	N21°46'50"E 45.22
C34	182.00	18°23'26"	58.42	S79°55'39"W 58.17
C35	152.00	18°23'26"	48.79	N79°55'39"E 48.58
C36	122.00	18°23'26"	39.16	S79°55'39"W 38.99
C37	122.00	18°37'35"	39.66	S61°25'08"W 39.49
C38	152.00	18°37'35"	49.41	N61°25'08"E 49.20
C39	182.00	18°37'35"	59.17	S61°25'08"W 58.91
C40	40.00	18°21'03"	12.81	N28°26'36"W 12.76

CURVE TABLE

CURVE	RADIUS	DELTA	LENGTH	CHORD
C41	53.00	9°54'08"	9.16	N32°40'03"W 9.15
C42	27.00	1°35'18"	0.75	N36°49'28"W 0.75

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TYPICAL BUILDING SETBACKS & PUBLIC UTILITY EASEMENTS



NOTE: TOWNHOME COMMON AREAS TO BE PUBLIC UTILITY EASEMENTS.

SEE TABLE FOR PUE

PUBLIC UTILITY & DRAINAGE EASEMENT TABLE

FRONT P.U.E.	10'
REAR P.U.E. & DRAINAGE EASEMENT	10'
SIDE P.U.E. & DRAINAGE EASEMENT	5'

TABULATIONS

TOTAL AREA:	9.18 ACRES
LOT ACREAGE:	2.48 ACRES
LOTS:	10
TOWNHOME:	53
DENSITY:	7.02 UNITS/ACRE
ROW AREA:	2.61 ACRES

LEGEND

- BOUNDARY LINE
- CENTERLINE
- EASEMENT LINE
- EXISTING LOT LINES
- PROPOSED LOT LINE
- EXISTING MONUMENT
- PROPOSED MONUMENT
- LIMITED COMMON AREA
- PRIVATE AREA
- COMMON AREA (EXCLUDES LOTS 101-110 AND ALL PUBLIC & PRIVATE ROADWAYS)

NOTES:

1. PUBLIC UTILITY EASEMENTS ARE 10' UNLESS NOTED OTHERWISE.
2. ALL DRINKING WATER AND PRESSURIZED IRRIGATION LINES UP TO AND INCLUDING THE METER, ALL SANITARY SEWER MAINS, ALL ELECTRIC METERS, AND ALL ELECTRIC AND SFCN COMMUNICATION SERVICE LINES UP TO THE MAST ON OVERHEAD INSTALLATIONS AND TO THE TOP OF THE METER BASE FOR UNDERGROUND INSTALLATIONS ARE DEDICATED TO SPANISH FORK CITY.
3. #5 REBAR & CAP TO BE SET AT ALL LOT CORNERS.
4. NAIL AND WASHER TO BE SET IN TOP OF CURB @ PROJECTION OF SIDE LOT LINES.
5. ⦿TYPE II MONUMENT (ALUMINUM CAP & REBAR) TO BE SET.
6. ALL CORNER LOT DRIVEWAYS TO BE LOCATED A MINIMUM OF 34' FROM TBC.
7. ALL PUBLIC UTILITY EASEMENTS PLATTED HEREON ARE IN PERPETUITY FOR INSTALLATION, MAINTENANCE, REPAIR, AND REPLACEMENT OF PUBLIC UTILITIES, SIDEWALKS, AND APPURTENANT PARTS THEREOF AND THE RIGHT TO REASONABLE ACCESS TO GRANTOR'S PROPERTY FOR THE ABOVE DESCRIBED PURPOSES. THE EASEMENT SHALL RUN WITH THE REAL PROPERTY AND SHALL BE BINDING UPON THE GRANTOR AND THE GRANTOR'S SUCCESSORS, HEIRS AND ASSIGNS.
8. UNITS 101 & 102 SHALL NOT HAVE ACCESS OFF OF WHEATFIELD LANE
9. HOME ELEVATIONS AND MASTER PLANNED DEVELOPMENT STANDARDS TO BE REVIEWED AT TIME OF BUILDING PERMITS. SEE CITY CODE 15.3.24.030-D.
10. SINGLE FAMILY DETACHED LOTS ARE SUBJECT TO THE STANDARD SETBACKS OF THE R-3 ZONE.
11. ALL COMMON AREA IS DEDICATED AND MAINTAINED BY ECSALA HOMEOWNERS ASSOCIATION.

DOMINION ENERGY UTAH ACCEPTANCE

QUESTAR GAS COMPANY DBA DOMINION ENERGY UTAH APPROVES THIS PLAT FOR THE PURPOSE OF APPROXIMATING THE LOCATION, BOUNDARIES, COURSE AND DIMENSIONS OF THE RIGHTS-OF-WAY AND EASEMENT GRANTS AND EXISTING UNDERGROUND FACILITIES. NOTHING HEREIN SHALL BE CONSTRUED TO WARRANT OR VERIFY THE PRECISE LOCATION OF SUCH ITEMS. THE RIGHTS-OF-WAY AND EASEMENTS ARE SUBJECT TO NUMEROUS RESTRICTIONS APPEARING ON THE RECORDED RIGHT-OF-WAY AND EASEMENT GRANT(S). DOMINION ENERGY UTAH ALSO APPROVES THIS PLAT FOR THE PURPOSE OF CONFIRMING THAT THE PLAT CONTAINS PUBLIC UTILITY EASEMENTS; HOWEVER, DOMINION ENERGY UTAH MAY REQUIRE ADDITIONAL EASEMENTS IN ORDER TO SERVE THIS DEVELOPMENT. THIS APPROVAL DOES NOT CONSTITUTE ABROGATION OR WAIVER OF ANY OTHER EXISTING RIGHTS, OBLIGATIONS OR LIABILITIES INCLUDING PRESCRIPTIVE RIGHTS AND OTHER RIGHTS, OBLIGATIONS OR LIABILITIES PROVIDED BY LAW OR EQUITY. THIS APPROVAL DOS NOT CONSTITUTE ACCEPTANCE, APPROVAL OR ACKNOWLEDGMENT OF ANY TERMS CONTAINED IN THE PLAT, INCLUDING THOSE SET FORTH IN THE OWNERS DEDICATION OR THE NOTES, AND DOES NOT CONSTITUTE A GUARANTEE OF PARTICULAR TERMS OR CONDITIONS OF NATURAL GAS SERVICE. FOR FURTHER INFORMATION PLEASE CONTACT DOMINION ENERGY UTAH'S RIGHT-OF-WAY DEPARTMENT AT 801-366-8532.

QUESTAR GAS COMPANY DBA DOMINION ENERGY UTAH

APPROVED THIS______DAY OF____________, 20____

BY-

TITLE-

SURVEYOR'S CERTIFICATE

I, CHAD A. POULSEN, DO HEREBY CERTIFY THAT I AM A PROFESSIONAL LAND SURVEYOR, AND THAT I HOLD CERTIFICATE NO. 501182 IN ACCORDANCE WITH TITLE 58, CHAPTER 22, OF UTAH STATE CODE. I FURTHER CERTIFY BY AUTHORITY OF THE OWNER(S), THAT I HAVE COMPLETED A SURVEY OF THE PROPERTY DESCRIBED ON THIS PLAT IN ACCORDANCE WITH SECTION 17-23-17, OF SAID CODE, AND HAVE SUBDIVIDED SAID TRACT OF LAND INTO LOTS, BLOCKS, STREETS, AND EASEMENTS, AND THE SAME HAS, OR WILL BE, CORRECTLY SURVEYED, STAKED, AND MONUMENTED ON THE GROUND AS SHOWN ON THIS PLAT, AND THAT THIS PLAT IS TRUE AND CORRECT.

BOUNDARY DESCRIPTION

A PORTION OF THE SOUTHWEST QUARTER OF SECTION 25, TOWNSHIP 8 SOUTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN, SPANISH FORK, UTAH COUNTY, UTAH, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WEST LINE OF LOT 1, ACADEMY PARK PHASE 2 SUBDIVISION ACCORDING TO THE OFFICIAL PLATS THEREOF, SAID POINT BEING LOCATED N89°35'19"E ALONG THE QUARTER SECTION LINE 1648.58 FEET AND SOUTH 24.97 FEET FROM THE WEST QUARTER CORNER OF SECTION 25, TOWNSHIP 8 SOUTH, RANGE 2 EAST, SALT LAKE BASE & MERIDIAN; THENCE ALONG SAID SUBDIVISION AND THE SOUTHERLY LINE OF ACADEMY PARK PLAT "B" SUBDIVISION ACCORDING TO THE OFFICIAL PLATS THEREOF, THE FOLLOWING THREE (3) COURSES: S18°32'15"E 0.83 FEET; THENCE N89°07'22"E 601.71 FEET; THENCE N70°43'55"E 260.82 FEET TO THE WESTERLY LINE OF THAT REAL PROPERTY DESCRIBED IN DEED ENTRY NO. 84862:2002; THENCE S37°35'05"E ALONG SAID REAL PROPERTY 361.32 FEET; THENCE S52°22'53"W 266.62 FEET; THENCE N33°04'39"W 88.47 FEET; THENCE S56°55'21"W 137.44 FEET; THENCE S25°50'32"E 103.77 FEET; THENCE S36°57'47"W 102.73 FEET; THENCE N53°02'13"W 114.68 FEET; THENCE ALONG THE ARC OF A 12.00 FOOT RADIUS CURVE TO THE LEFT 19.43 FEET THROUGH A CENTRAL ANGLE OF 92°45'09" (CHORD: S80°35'12"W 17.37 FEET); THENCE S34°12'38"W 5.38 FEET; THENCE ALONG THE ARC OF A 164.00 FOOT RADIUS CURVE TO THE RIGHT 51.22 FEET THROUGH A CENTRAL ANGLE OF 17°53'43" (CHORD: S43°09'29"W 51.01 FEET); THENCE S52°06'20"W 11.74 FEET; THENCE S53°02'13"E 218.29 FEET TO THE NORTHERLY LINE OF OLD MILL ESTATES AT SPANISH FORK PLAT "G" SUBDIVISION ACCORDING TO THE OFFICIAL PLATS THEREOF; THENCE ALONG SAID NORTHERLY LINE S82°17'22"W 133.32 FEET TO THE SOUTHEAST CORNER OF PARCEL "C" OLD MILL ESTATES AT SPANISH FORK PLAT "F" SUBDIVISION ACCORDING TO THE OFFICIAL PLATS THEREOF; THENCE ALONG THE BOUNDARY OF SAID PARCEL "C" THE FOLLOWING THREE (3) COURSES: N57°06'44"W 130.28 FEET; THENCE ALONG THE ARC OF A 2.50 FOOT RADIUS CURVE TO THE RIGHT 3.93 FEET THROUGH A CENTRAL ANGLE OF 90°00'00" (CHORD: N12°06'44"W 3.54 FEET); THENCE N32°53'16"E 23.80 FEET TO THE NORTHEASTERLY BOUNDARY OF SAID PLAT "F"; THENCE ALONG SAID NORTHEASTERLY BOUNDARY OF OLD MILL ESTATES AT SPANISH FORK PLATS "F, E & D" SUBDIVISIONS ACCORDING TO THE OFFICIAL PLATS THEREOF, THE FOLLOWING SIX (6) COURSES: N45°26'25"W 416.54 FEET; THENCE N41°08'35"W 21.14 FEET; THENCE N35°18'34"W 26.03 FEET; THENCE N32°40'14"W 60.48 FEET; THENCE N30°33'31"W 218.70 FEET; THENCE N89°59'54"E 3.15 FEET TO THE POINT OF BEGINNING.

CONTAINS: ±9.18 ACRES
399,882 SQ FT

DATE

SURVEYOR
(See Seal Below)

OWNERS DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT WE, ALL OF THE UNDERSIGNED OWNERS OF ALL OF THE PROPERTY DESCRIBED IN THE SURVEYOR'S CERTIFICATE HEREON AND SHOWN ON THIS MAP, HAVE CAUSED THE SAME TO BE SUBDIVIDED INTO LOTS, BLOCKS, STREETS AND EASEMENTS AND DO HEREBY DEDICATE THE STREETS, EASEMENTS AND OTHER PUBLIC AREAS AS INDICATED HEREON FOR PERPETUAL USE OF THE PUBLIC. PURSUANT TO UTAH CODE 10-9A-604(D), THE OWNER(S) HEREBY CONVEYS THE COMMON AREA, AS INDICATED HEREON, TO THE ESCALA HOME OWNERS ASSOCIATION, WITH A REGISTERED ADDRESS OF

IN WITNESS HEREOF WE HAVE HEREUNTO SET OUR HANDS THIS__________________ DAY OF _________ , A.D. 20______

ACKNOWLEDGMENT

STATE OF UTAH
S.S.
COUNTY OF UTAH

ON THE_______DAY OF_____________ , A.D. 20__, PERSONALLY APPEARED BEFORE ME ______________________
THE SIGNER(S) OF THE FOREGOING DEDICATION WHO DULY ACKNOWLEDGE TO ME THAT THEY DID EXECUTE THE SAME.

NOTARY PUBLIC FULL NAME:______________________
COMMISSION NUMBER: ______________________
MY COMMISSION EXPIRES: ______________________
A NOTARY PUBLIC COMMISSIONED IN UTAH

ACCEPTANCE BY LEGISLATIVE BODY

THE ______________________ OF ______________________
COUNTY OF UTAH, APPROVES THIS SUBDIVISION AND HEREBY ACCEPTS THE DEDICATION OF ALL STREETS; EASEMENTS, AND OTHER PARCELS OF LAND INTENDED FOR PUBLIC PURPOSES FOR THE PERPETUAL USE OF THE PUBLIC
THIS___________DAY OF________________, A.D. 20____

APPROVED BY __________________

APPROVED ______________________ ENGINEER (See Seal Below)

ATTEST______________________ CLERK-RECORDER (See Seal Below)

PLANNING COMMISSION APPROVAL

APPROVED THIS_______DAY OF________________________, A.D. 20__, BY THE______________________
______________________PLANNING COMMISSION

DIRECTOR-SECRETARY

CHAIRMAN, PLANNING COMMISSION

PLAT "A"

ESCALA

A PORTION OF THE SOUTHWEST QUARTER OF SECTION 25,
TOWNSHIP 8 SOUTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN

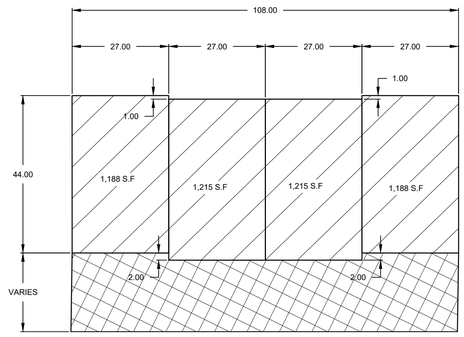
SPANISH FORK

UTAH COUNTY, UTAH

SCALE: 1" = 50'

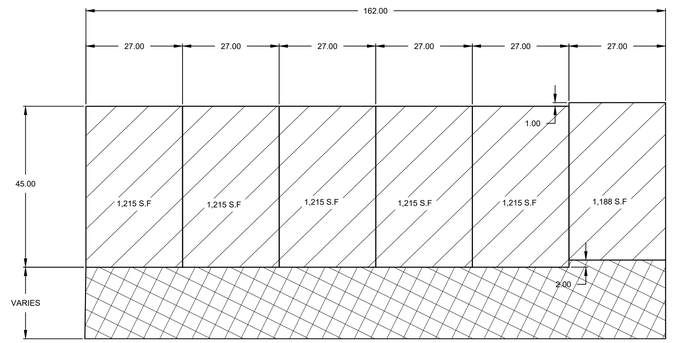
SHEET 1 OF 2

SURVEYOR'S SEAL	NOTARY PUBLIC SEAL	CITY-COUNTY ENGINEER SEAL	COUNTY-RECORDER SEAL



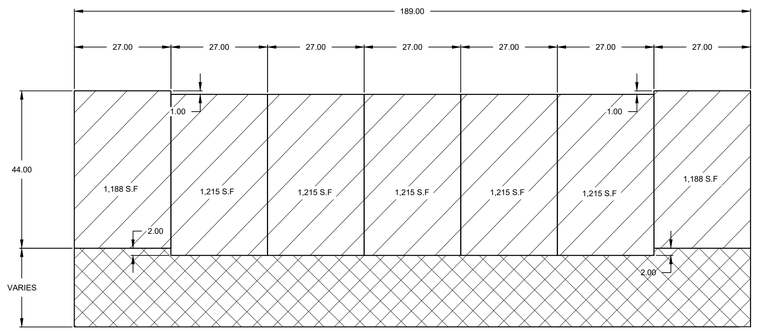
UNITS

111-114



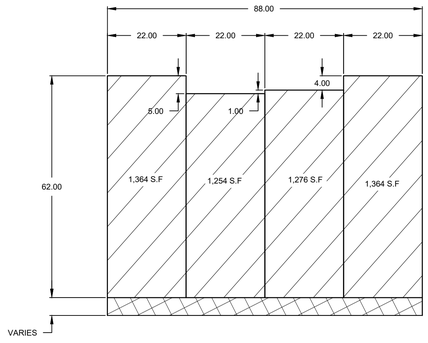
UNITS

115-120



UNITS

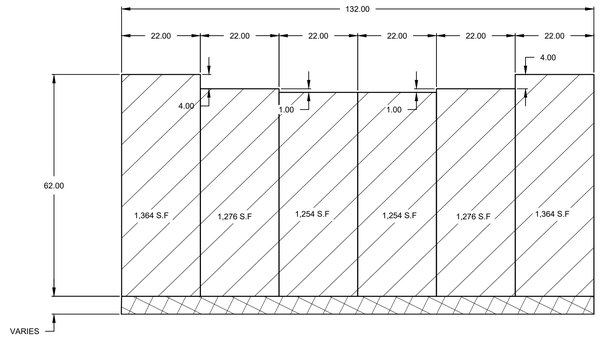
121-127



UNITS

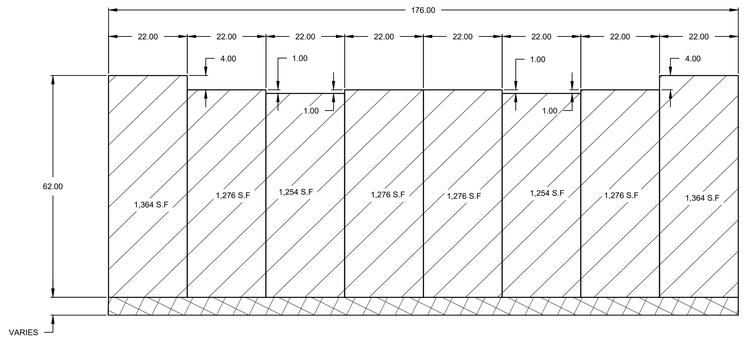
128 - 131 & 132 - 135

136 - 139 & 140 -143



UNITS

144 -149 & 150 - 155



UNITS

156-163

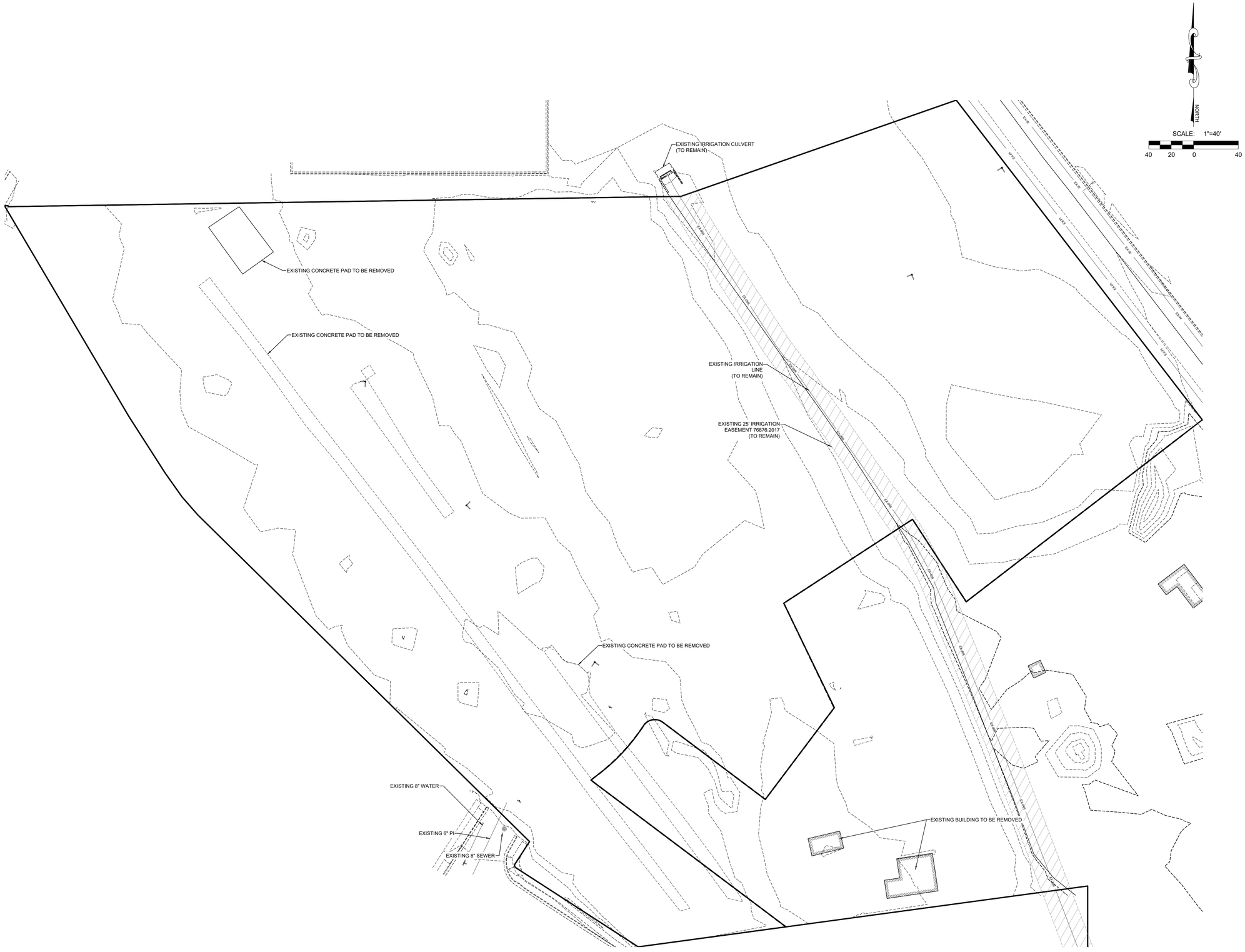
LEI
A Utah Corporation
ENGINEERS
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3302 N. Main Street
Spanish Fork, UT 84660
Phone: 801.798.0555
Fax: 801.798.9393
office@lei-eng.com
www.lei-eng.com

PLAT "A"

ESCALA

A PORTION OF THE SOUTHWEST QUARTER OF SECTION 25,
TOWNSHIP 8 SOUTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN

SPANISH FORK UTAH COUNTY, UTAH



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REGISTERED PROFESSIONAL ENGINEER
No. 393866
BRIAN T. GABLER
09/15/21
STATE OF UTAH

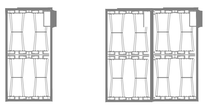
ESCALA FINAL PLAT-A

SPANISH FORK, UTAH

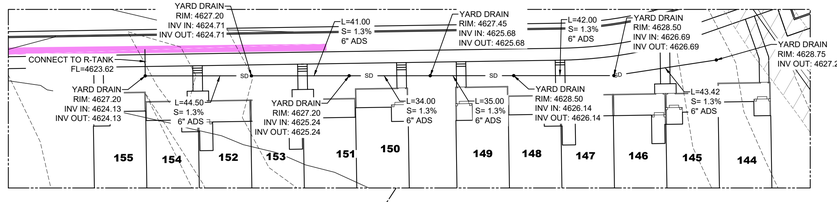
EXISTING CONDITIONS

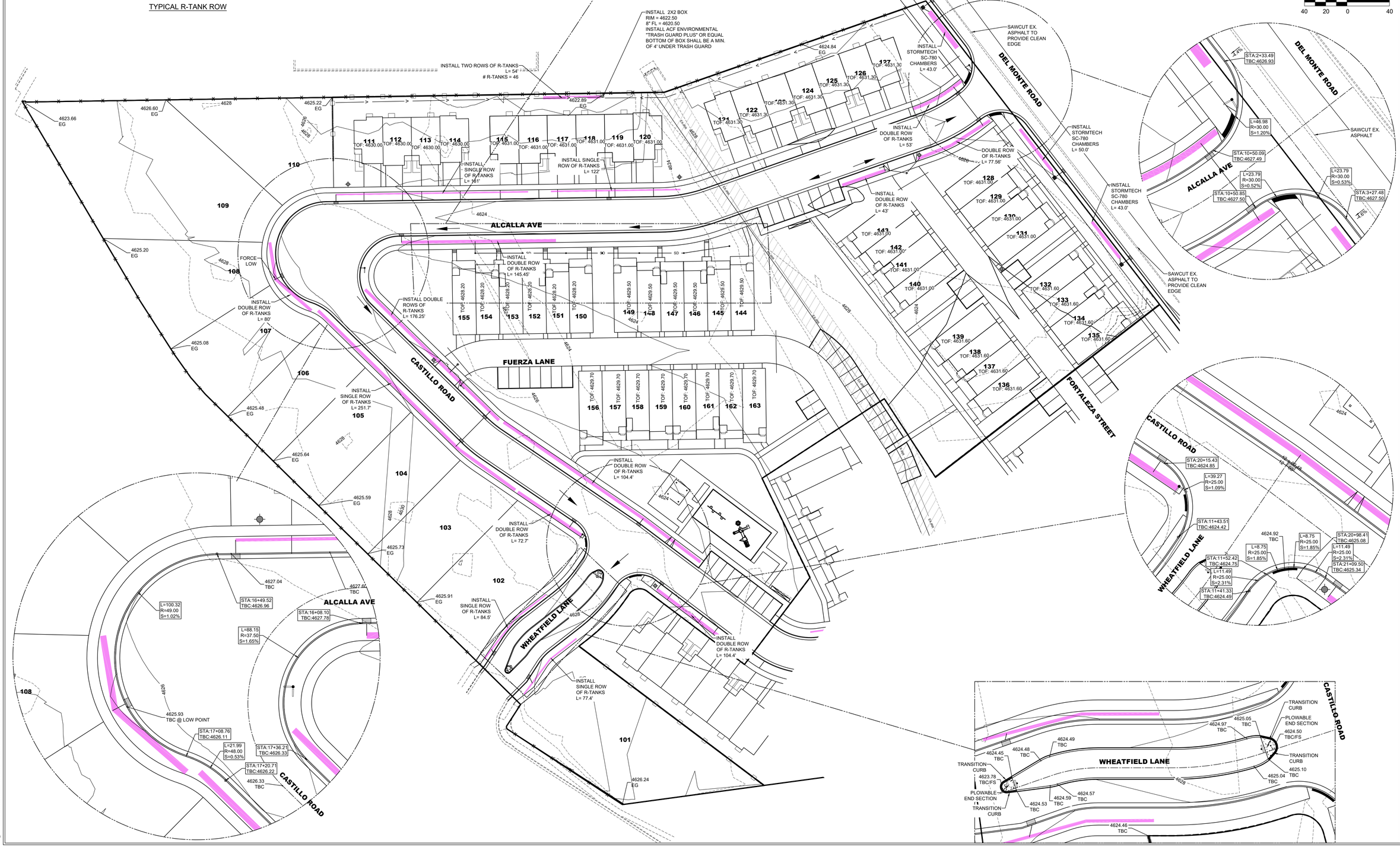
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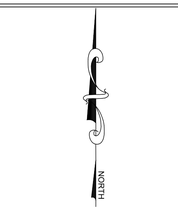
LEI PROJECT #:	2020-0057
DRAWN BY:	DSE/BJA
DESIGNED BY:	BTG
SCALE:	1"=40'
DATE:	09/15/2021
SHEET	C-100



TYPICAL R-TANK ROW







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www.lei-eng.com

REGISTERED PROFESSIONAL ENGINEER
NO. 393866
BRIAN T. GABLER
09/15/21
STATE OF UTAH

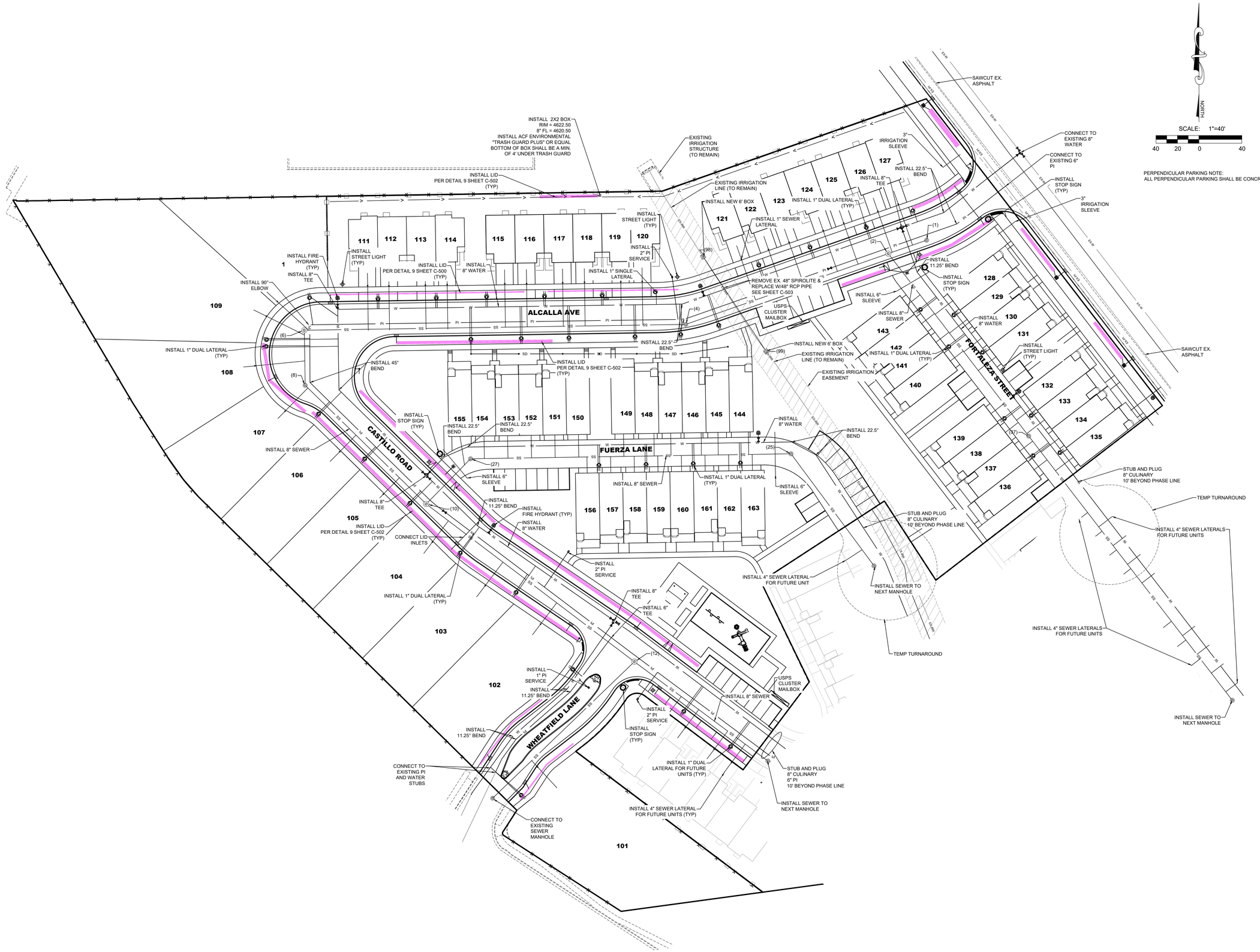
ESCALA FINAL PLAT-A
SPANISH FORK, UTAH

GRADING PLAN

REVISIONS
1 -
2 -
3 -
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5 -

LEI PROJECT #: 2020-0057
DRAWN BY: DSE/BJA
DESIGNED BY: BTG
SCALE: 1"=40'
DATE: 09/15/2021

SHEET
C-200



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REGISTERED PROFESSIONAL ENGINEER
NO. 353846
BRIAN T. GABLER
09/15/21
STATE OF UTAH

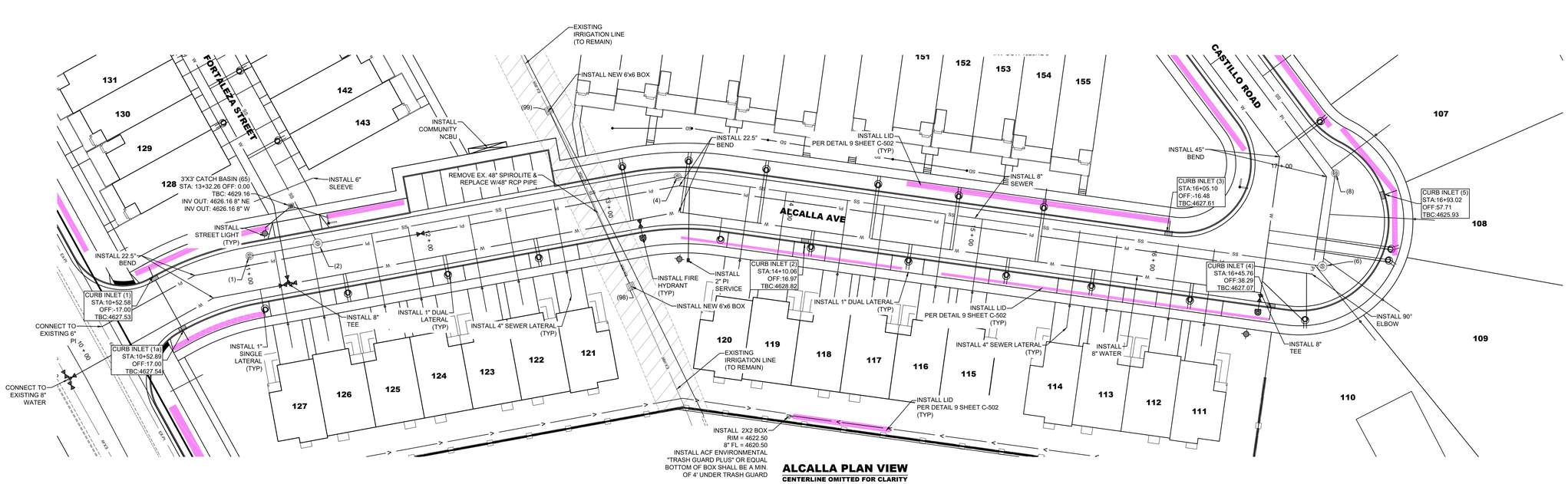
ESCALA FINAL PLAT-A

SPANISH FORK, UTAH

UTILITY PLAN

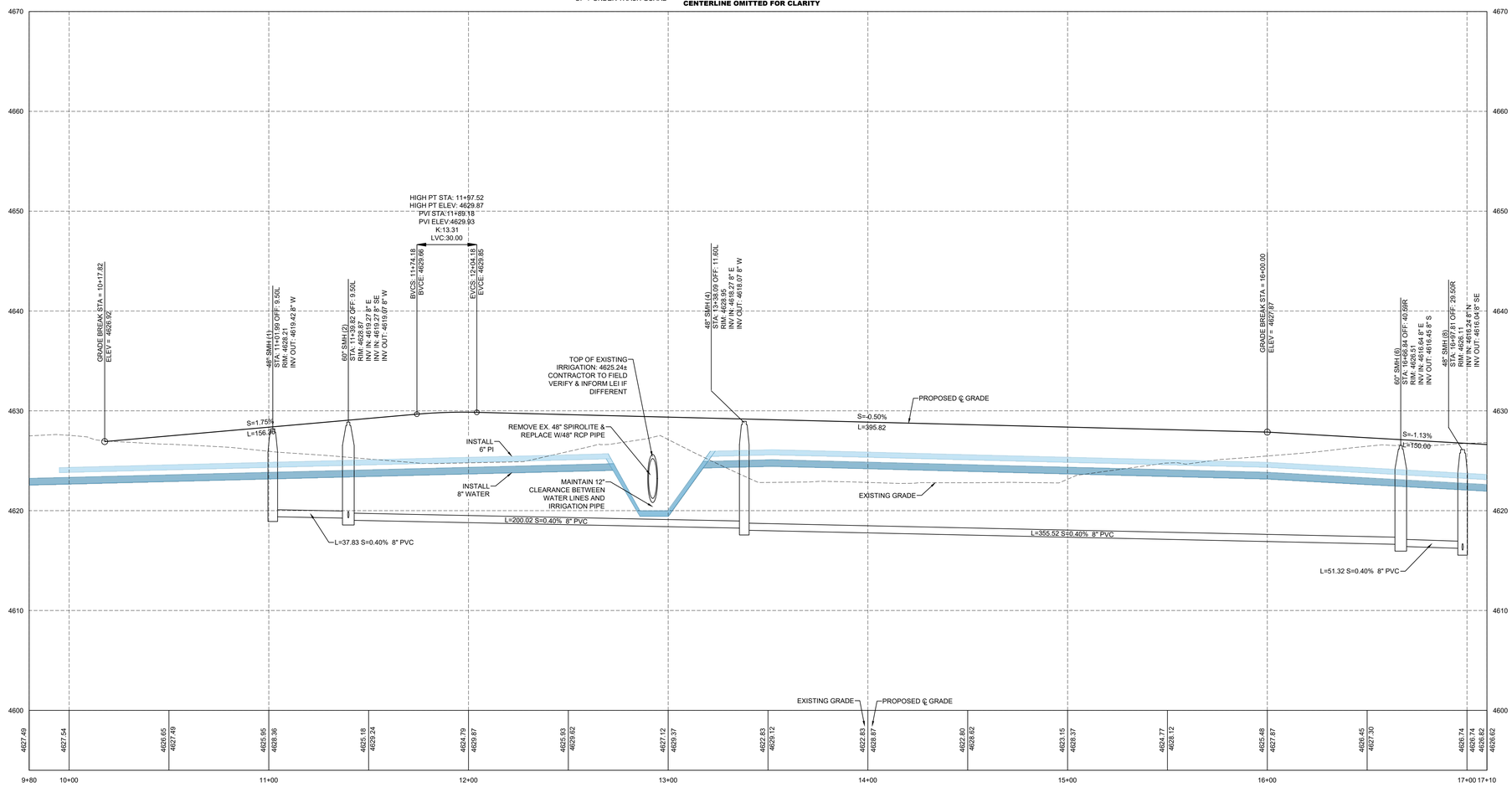
REVISIONS
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DRAWN BY:	DSE/BJA
DESIGNED BY:	BTG
SCALE:	1"=40'
DATE:	09/15/2021
SHEET	C-300



ALCALLA PLAN VIEW

CENTERLINE OMITTED FOR CLARITY



ALCALLA AVE PROFILE VIEW

NOTES:

1. SEE GRADING SHEET C-200 FOR R-TANK SIZING AND QUANTITY

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REGISTERED PROFESSIONAL ENGINEER
NO. 393840
BRIAN T. GABLER
09/15/21
STATE OF UTAH

ESCALA FINAL PLAT-A

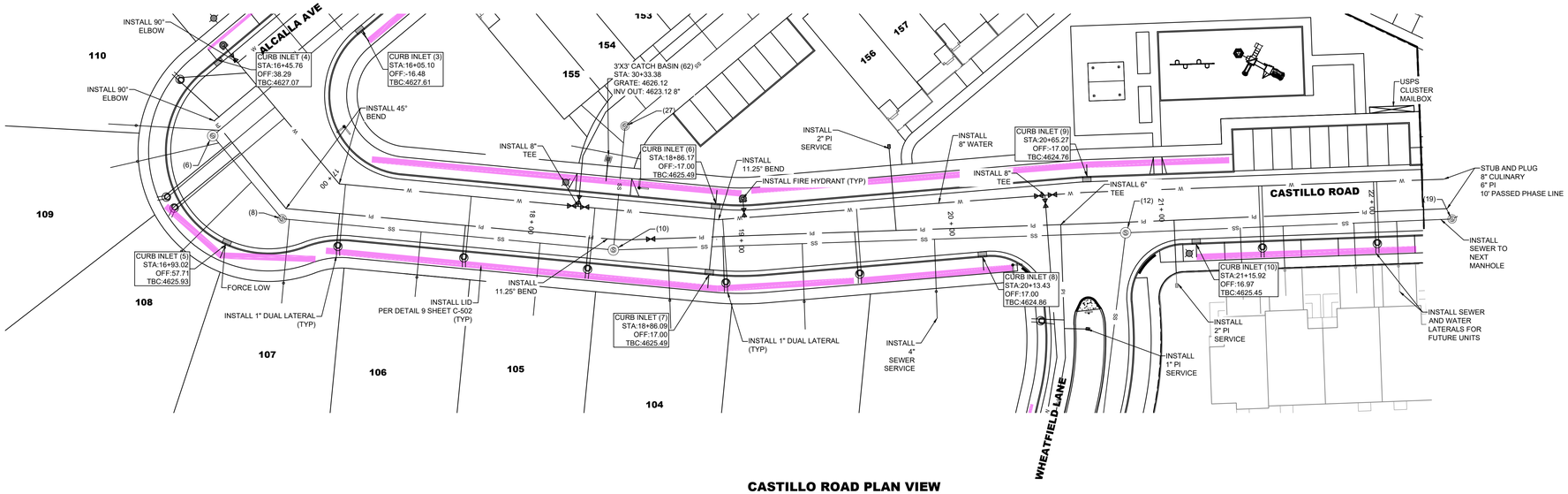
SPANISH FORK, UTAH

ALCALLA AVE PLAN AND PROFILE

REVISIONS
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LEI PROJECT #: 2020-0057
DRAWN BY: DSE/BJA
DESIGNED BY: BTG
SCALE: 1"=30'
DATE: 09/15/2021

SHEET
C-401



CASTILLO ROAD PLAN VIEW

CENTERLINE OMITTED FOR CLARITY

CASTILLO ROAD PROFILE VIEW

NOTES:

1. SEE GRADING SHEET C-200 FOR R-TANK SIZING AND QUANTITY

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REGISTERED PROFESSIONAL ENGINEER
NO. 393840
BRIAN T. GABLER
09/15/21
STATE OF UTAH

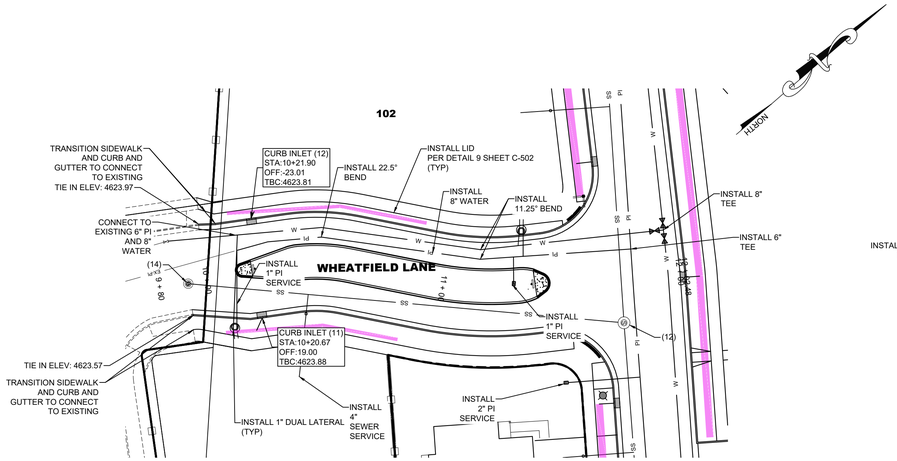
ESCALA FINAL PLAT-A

SPANISH FORK, UTAH

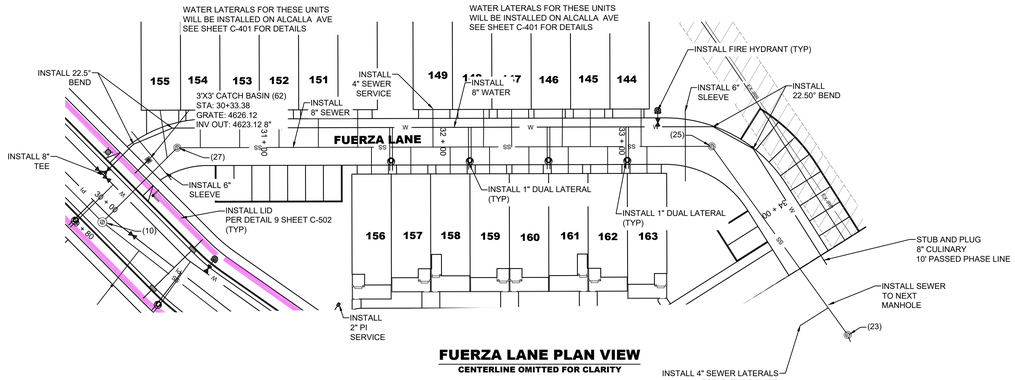
CASTILLO ROAD PLAN AND PROFILE

REVISIONS	
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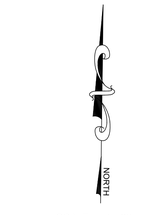
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DRAWN BY:	DSE/BJA
DESIGNED BY:	BTG
SCALE:	1"=30'
DATE:	09/15/2021
SHEET	C-402

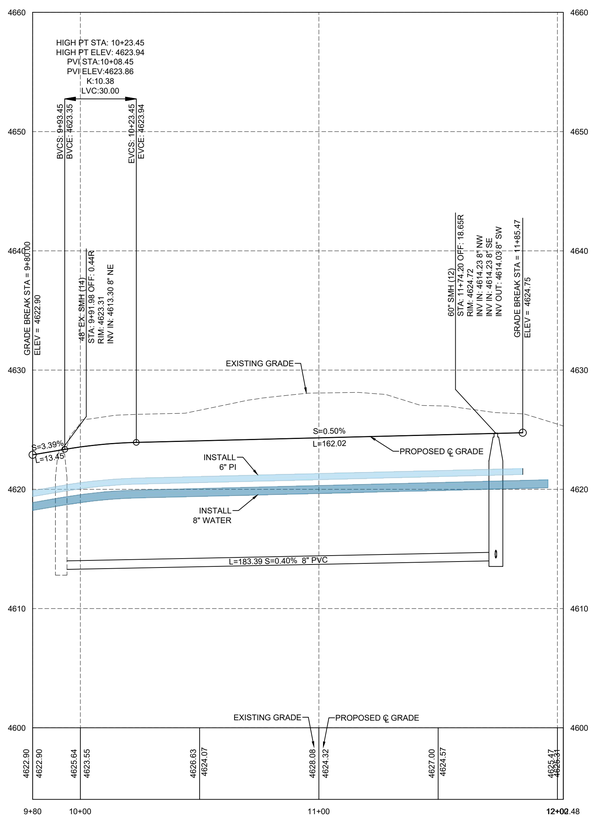


WHEATFIELD LANE PLAN VIEW
CENTERLINE OMITTED FOR CLARITY

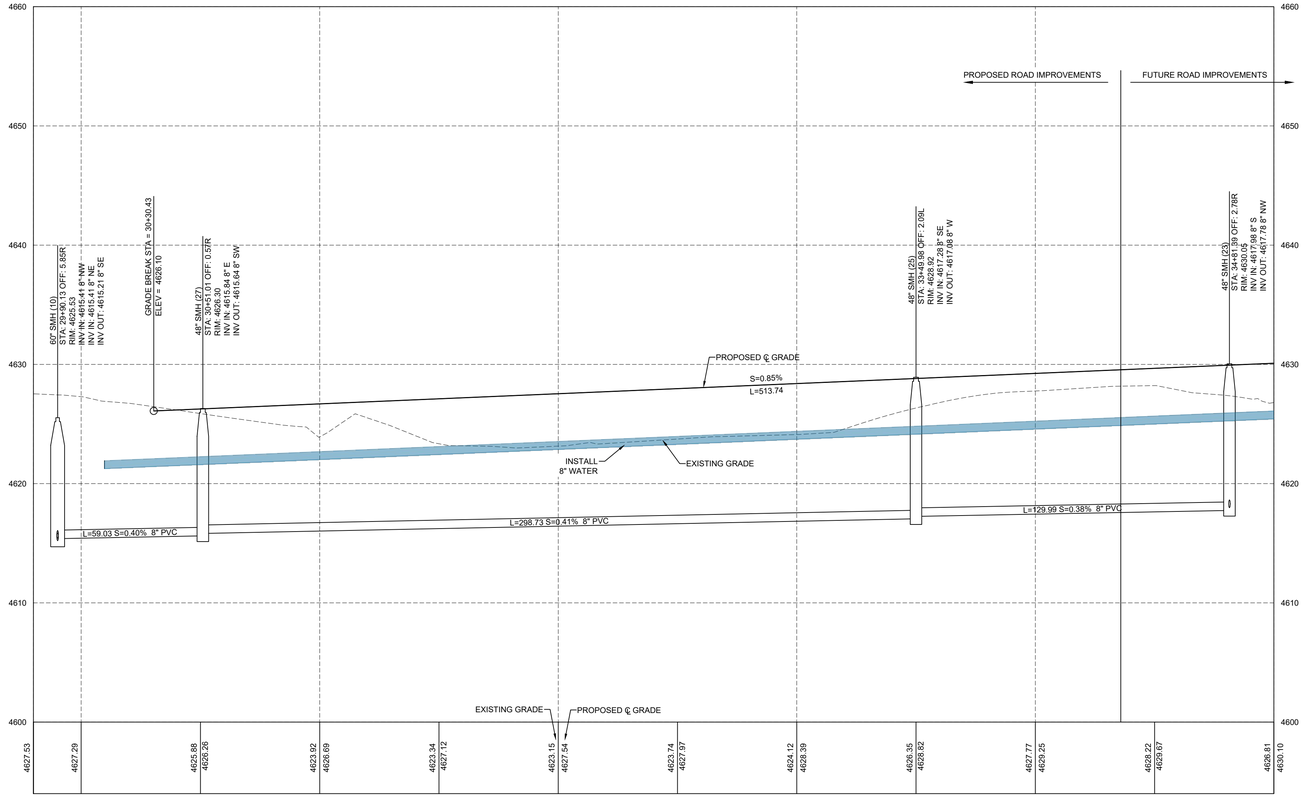


FUERZA LANE PLAN VIEW
CENTERLINE OMITTED FOR CLARITY





WHEATFIELD LANE PROFILE VIEW



FUERZA LANE PROFILE VIEW

NOTES:
1. SEE GRADING SHEET C-200 FOR R-TANK SIZING AND QUANTITY

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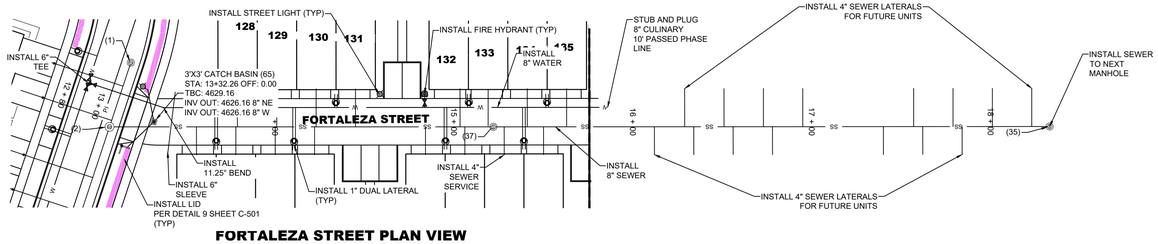
REGISTERED PROFESSIONAL ENGINEER
NO. 393866
BRIAN T. GABLER
09/15/21
STATE OF UTAH

ESCALA FINAL PLAT-A
SPANISH FORK, UTAH

WHEATFIELD LANE AND FUERZA LANE PLAN AND PROFILE

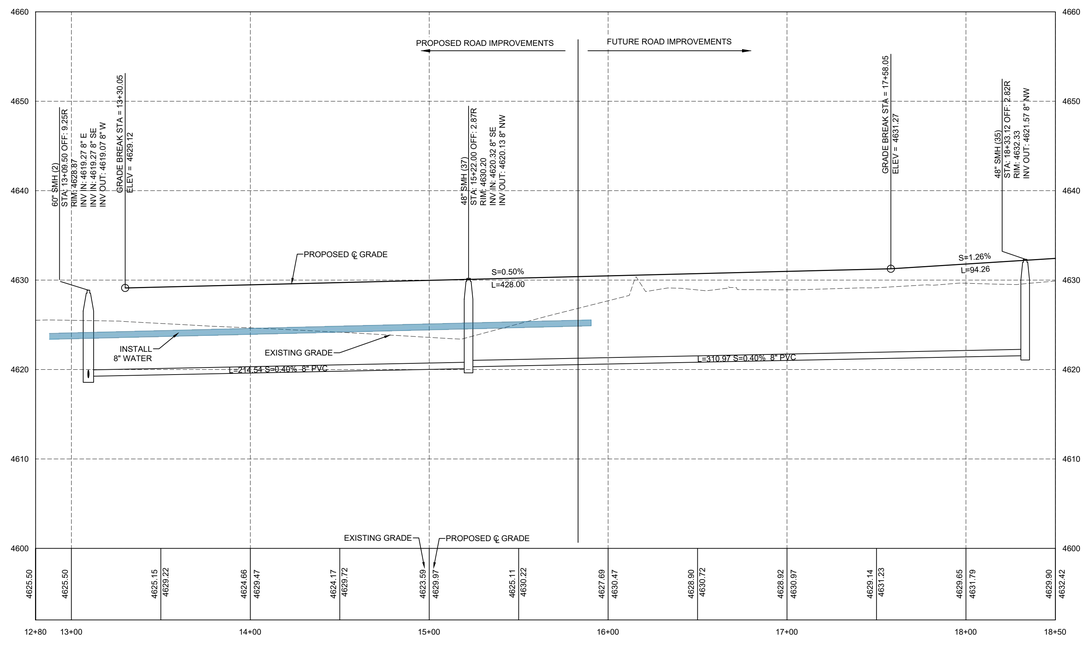
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LEI PROJECT #: 2020-0057
DRAWN BY: DSE/BJA
DESIGNED BY: BTG
SCALE: 1"=30'
DATE: 09/15/2021
SHEET: C-403



FORTALEZA STREET PLAN VIEW

CENTERLINE OMITTED FOR CLARITY



FORTALEZA STREET PROFILE VIEW

NOTES:

1. SEE GRADING SHEET C-200 FOR R-TANK SIZING AND QUANTITY

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SURVEYORS
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www.lei-eng.com

REGISTERED PROFESSIONAL ENGINEER
No. 393460
BRIAN T. GABLER
09/15/21
STATE OF UTAH

ESCALA FINAL PLAT-A

SPANISH FORK, UTAH

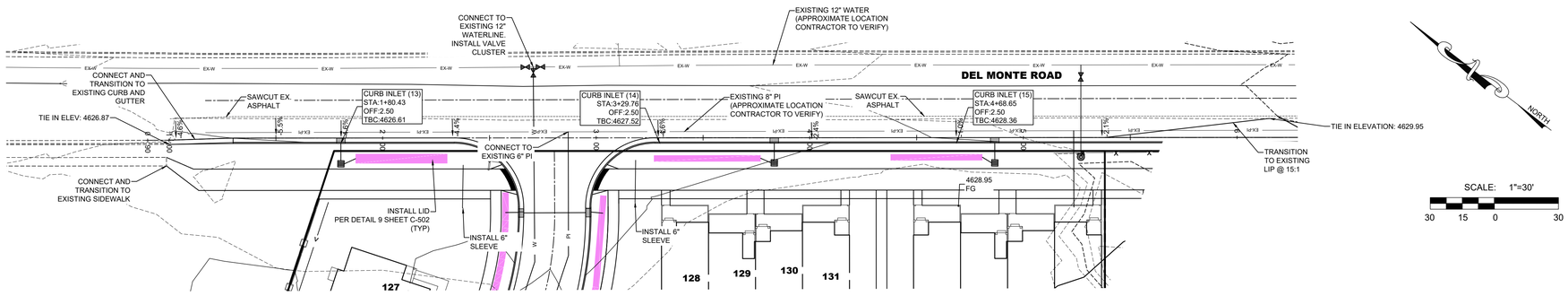
FORTALEZA STREET PLAN AND PROFILE

REVISIONS
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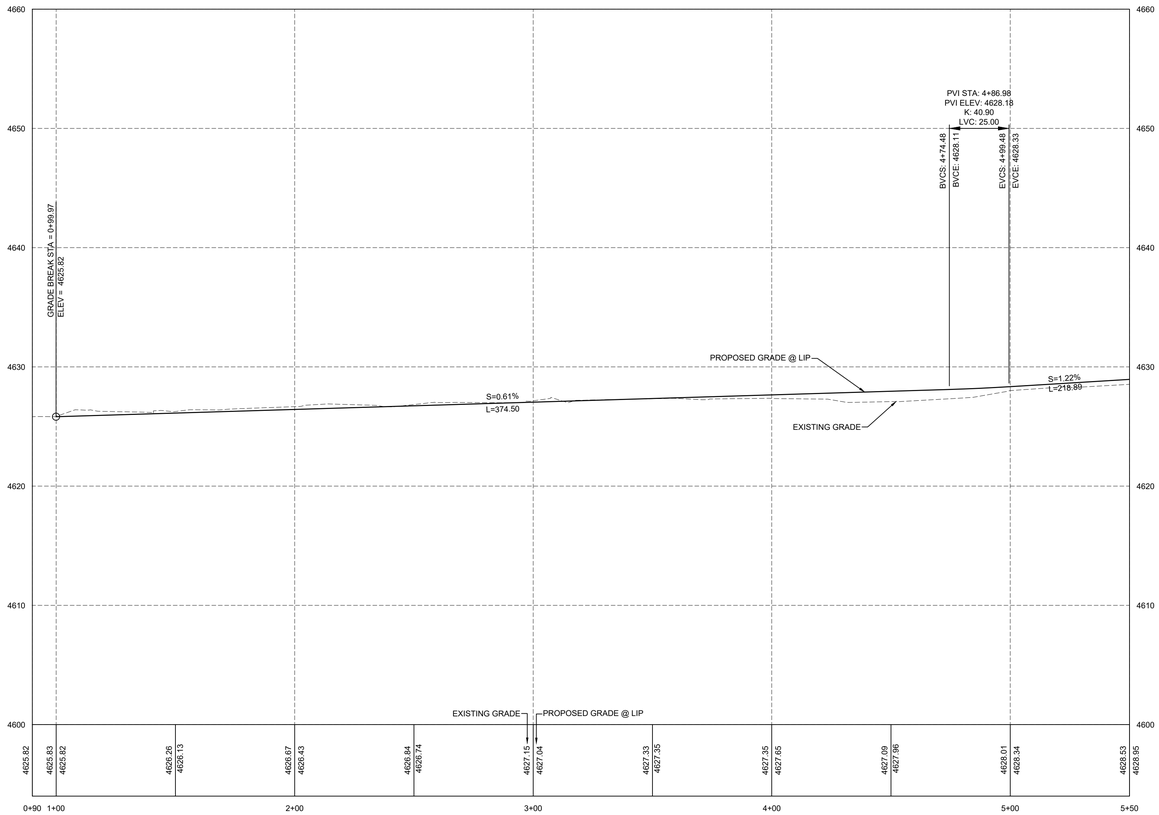
LEI PROJECT #: 2020-0057
DRAWN BY: DSE/BJA
DESIGNED BY: BTG
SCALE: 1"=40'
DATE: 09/15/2021

SHEET

C-404



DEL MONTE ROAD PLAN VIEW
STATIONS @ LIP OF CURB



DEL MONTE ROAD PROFILE VIEW @ LIP

NOTES:
1. SEE GRADING SHEET C-200 FOR R-TANK SIZING AND QUANTITY

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REGISTERED PROFESSIONAL ENGINEER
No. 393866
BRIAN T. GABLER
09/15/21
STATE OF UTAH

ESCALA FINAL PLAT-A
SPANISH FORK, UTAH

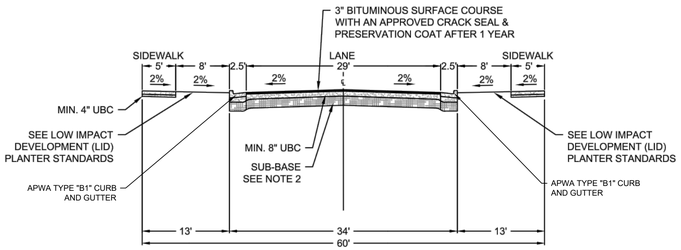
DEL MONTE ROAD PLAN AND PROFILE

REVISIONS
1 -
2 -
3 -
4 -
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LEI PROJECT #: 2020-0057
DRAWN BY: DSE/BJA
DESIGNED BY: BTG
SCALE: 1"=30'
DATE: 09/15/2021

SHEET
C-405

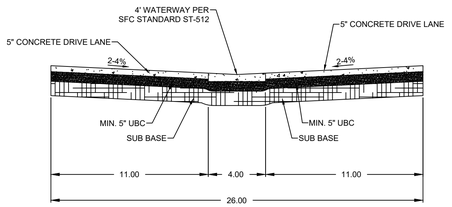
SEE SPANISH FORK CONSTRUCTION SPECIFICATION AND STANDARDS FOR FURTHER UTILITY DETAILS



RESIDENTIAL LOCAL STREET - 60' ROW

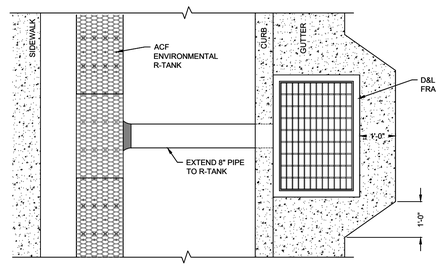
NOTES:
1. SEE STANDARD DRAWINGS FOR SIDEWALKS.
2. SUB-BASE AS SPECIFIED IN THE CONSTRUCTION STANDARDS AND SOILS REPORT.
3. MINIMUM OF 8" UNTREATED BASE COURSE UNDER STREET PAVEMENT AND CURB & GUTTER UNLESS MORE REQUIRED BY SOILS REPORT
4. ALL LOCAL TO LOCAL TBC RADII TO BE 25'.
5. ALL PLANTER AREAS BETWEEN THE CURB AND SIDEWALK SHALL BE LANDSCAPED WITH PERVIOUS MATERIALS UNLESS OTHERWISE APPROVED BY THE CITY ENGINEER OR DESIGNEE.

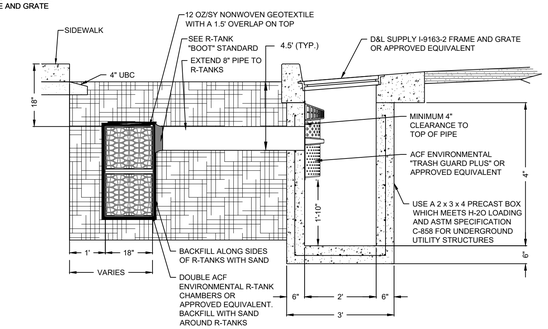
1 RESIDENTIAL LOCAL STREET: 60' ROW



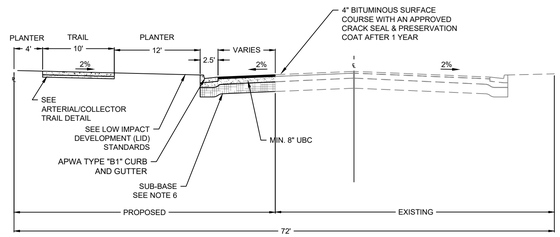
NOTES:
1. SETBACKS TO BUILDINGS SHALL BE 3 FT. MIN. & 5 FT. MAX.

2 ALLEYWAY CROSS SECTION: 26' ROW

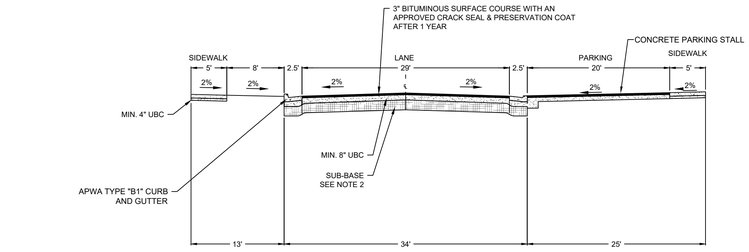




3 RESIDENTIAL LID COLLECTOR



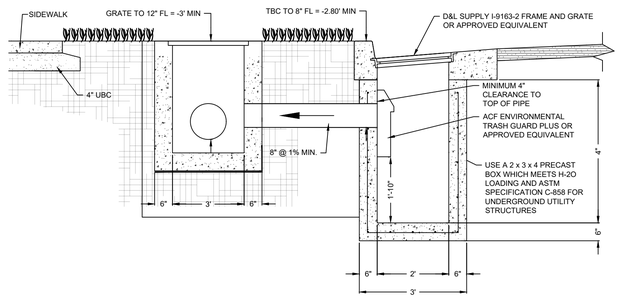
4 MINOR COLLECTOR ROAD: 72' ROW (DEL MONTE)



NOTES:
1. SEE STANDARD DRAWINGS FOR SIDEWALKS.
2. SUB-BASE AS SPECIFIED IN THE CONSTRUCTION STANDARDS AND SOILS REPORT.
3. MINIMUM OF 8" UNTREATED BASE COURSE UNDER STREET PAVEMENT AND CURB & GUTTER UNLESS MORE REQUIRED BY SOILS REPORT
4. ALL LOCAL TO LOCAL TBC RADII TO BE 25'.
5. ALL PLANTER AREAS BETWEEN THE CURB AND SIDEWALK SHALL BE LANDSCAPED WITH PERVIOUS MATERIALS UNLESS OTHERWISE APPROVED BY THE CITY ENGINEER OR DESIGNEE.

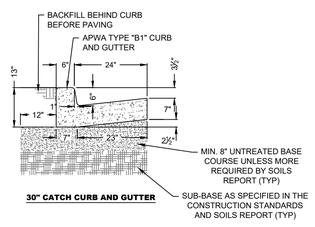
5 RESIDENTIAL LOCAL STREET WITH PARKING

6 NOT USED



NOTES:
1. DETAILED ENGINEERING SHALL BE SUBMITTED TO THE CITY FOR APPROVAL ON ALL CAST IN PLACE BOXES.
2. ALL PLANTER AREAS BETWEEN THE CURB AND SIDEWALK SHALL BE LANDSCAPED WITH PERVIOUS MATERIALS UNLESS OTHERWISE APPROVED BY THE CITY ENGINEER OR DESIGNEE.

7 ARTERIAL/STREET GRASS SWALE INLET DETAIL



30" CATCH CURB AND GUTTER

8 30" CURB AND GUTTER

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ESCALA FINAL PLAT-A
SPANISH FORK, UTAH

DETAILS

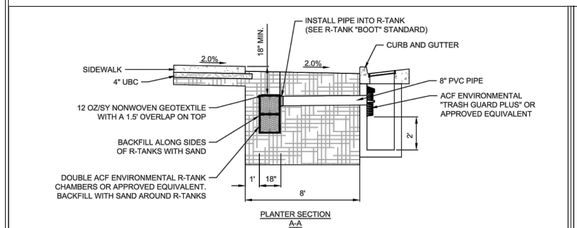
REVISIONS
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LEI PROJECT #: 2020-0057
DRAWN BY: DSE/BJA
DESIGNED BY: BTG
SCALE: N/A
DATE: 09/15/2021

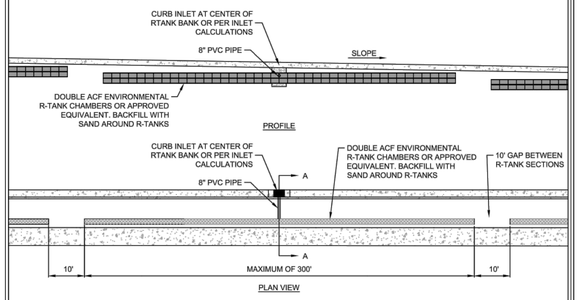
SHEET
C-501

C:\LEI\PROJECTS\2020\2020-0057 ESCALA\CAD\PLAT\2020-0057 ESCALA-PLAT-A.DWG, 9/15/2021 8:47:27 AM

SEE SPANISH FORK CONSTRUCTION SPECIFICATION AND STANDARDS FOR FURTHER UTILITY DETAILS

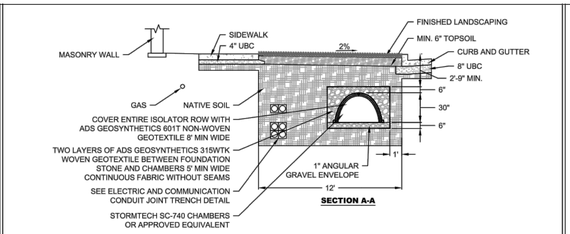


PLANTER SECTION
A-A

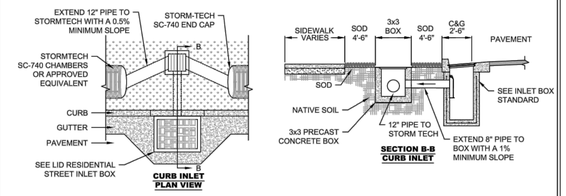


NOTES:
1. THE TOP OF ALL R-TANK CHAMBERS ALONG A CONTINUOUS SECTION OF CHAMBERS SHALL BE DESIGNED TO BE A MINIMUM OF 3" BELOW THE GUTTER FLOWLINE AT THE INLET.
2. ALL PLANTER AREAS BETWEEN THE CURB AND SIDEWALK SHALL BE LANDSCAPED WITH PERVIOUS MATERIALS UNLESS OTHERWISE APPROVED BY THE CITY ENGINEER OR DESIGNEE.

9 LID FOR RESIDENTIAL STREET

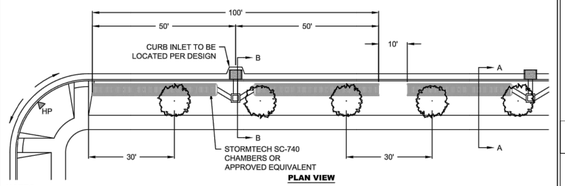


SECTION A-A



CURB INLET
PLAN VIEW

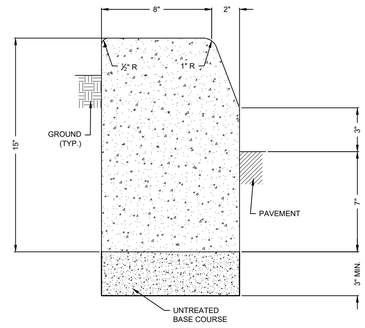
SECTION B-B
CURB INLET



PLAN VIEW

NOTES:
1. ALL PLANTER AREAS BETWEEN THE CURB AND SIDEWALK SHALL BE LANDSCAPED WITH PERVIOUS MATERIALS UNLESS OTHERWISE APPROVED BY THE CITY ENGINEER OR DESIGNEE.
2. XERISCAPED SWALES MAY BE INSTALLED IF PLAN IS APPROVED BY CITY ENGINEER OR DESIGNEE.

10 LID FOR COLLECTOR/ ARTERIAL, COMMERCIAL

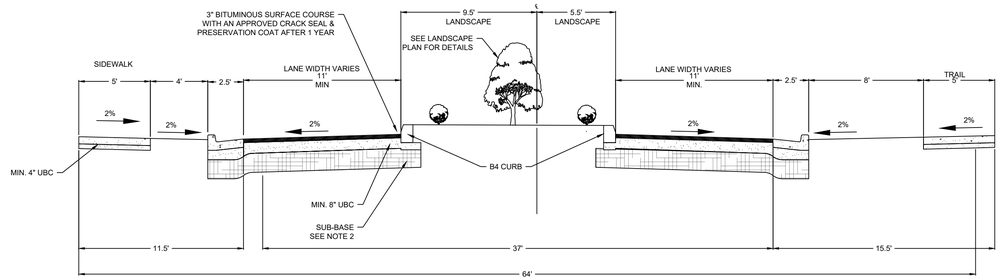


TYPE B4 CURB

NOTES:
1. USE ¾ INCH DEFORMED DOWELS ON 5 FT MAXIMUM CENTERS.
2. PRECAST CURBS:
   A. MINIMUM OF 10 FT IN LENGTH.
   B. DOWELS AT A MINIMUM OF 3 PER 10 FT LENGTH.
   C. INCLUDE ADEQUATE REINFORCING STEEL TO WITHSTAND HANDLING STRESSES.
3. MEASURE CURB HEIGHT VERTICALLY FROM THE FLOW LINE OF THE GUTTER TO TOP BACK OF CURB.

11 WHEATFIELD LANE ISLAND B4 CURB

12 NOT USED



NOTES:
1. SEE STANDARD DRAWINGS FOR SIDEWALKS.
2. SUB-BASE AS SPECIFIED IN THE CONSTRUCTION STANDARDS AND SOILS REPORT.
3. MINIMUM OF 8" UNTREATED BASE COURSE UNDER STREET PAVEMENT AND CURB & GUTTER UNLESS MORE REQUIRED BY SOILS REPORT
4. ALL LOCAL TO LOCAL TBC RADII TO BE 25'.
5. ALL PLANTER AREAS BETWEEN THE CURB AND SIDEWALK SHALL BE LANDSCAPED WITH PERVIOUS MATERIALS UNLESS OTHERWISE APPROVED BY THE CITY ENGINEER OR DESIGNEE.

13 WHEATFIELD LANE ISLAND DETAIL

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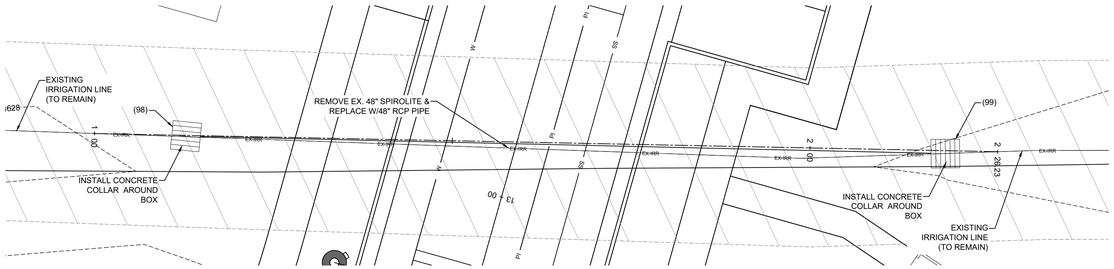
ESCALA FINAL PLAT-A
SPANISH FORK, UTAH
DETAILS

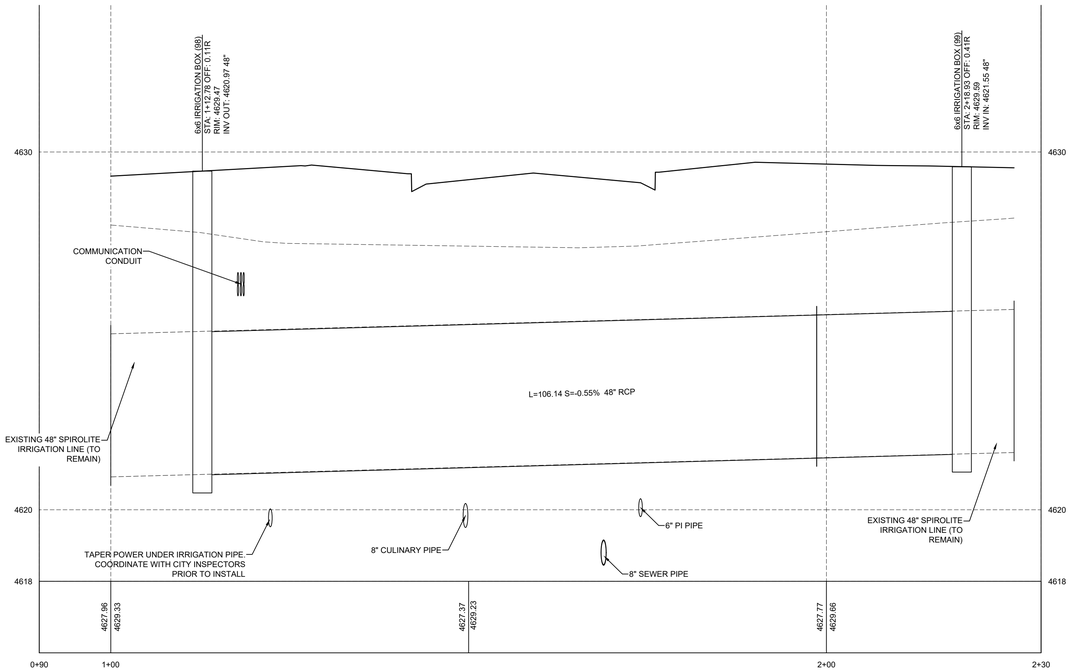
REVISIONS
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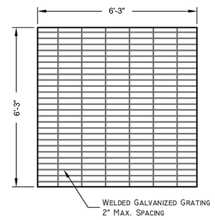
LEI PROJECT #: 2020-0057
DRAWN BY: DSE/BJA
DESIGNED BY: BTG
SCALE: N/A
DATE: 09/15/2021

SHEET
C-502

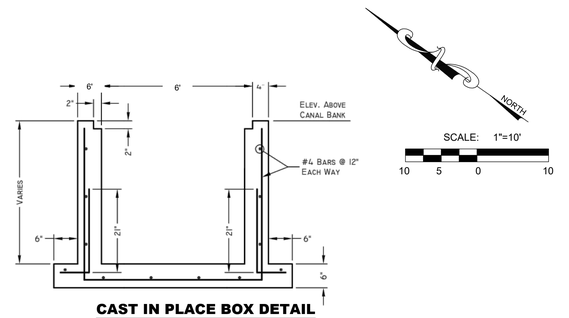
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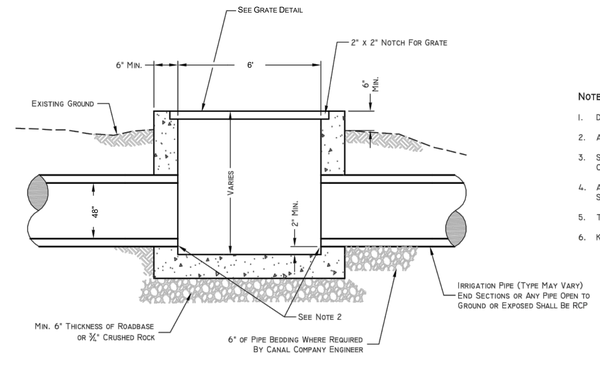




GRATE DETAIL



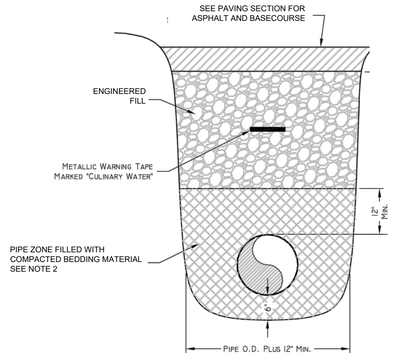
CAST IN PLACE BOX DETAIL



IRRIGATION BOX DETAIL

NOTES:

1. DETAILS FOR CAST-IN-PLACE BOX, THIS SHEET
2. ALL PIPES GOING INTO BOX SHALL BE GROUTED AND WATERTIGHT.
3. SUBMIT TO ENGINEER FINAL DIMENSIONS OF REBAR REINFORCEMENT AND CONCRETE COMPONENTS.
4. ALL CONCRETE USED IN CONSTRUCTION SHALL HAVE A MINIMUM COMPRESSIVE STRENGTH OF 4000 PSI.
5. THE CONCRETE MIX SHALL INCLUDE BETWEEN 5% AND 7% AIR ENTRAINMENT.
6. KNOCKOUT BOXES ARE NOT ALLOWED.



TRENCH DETAIL

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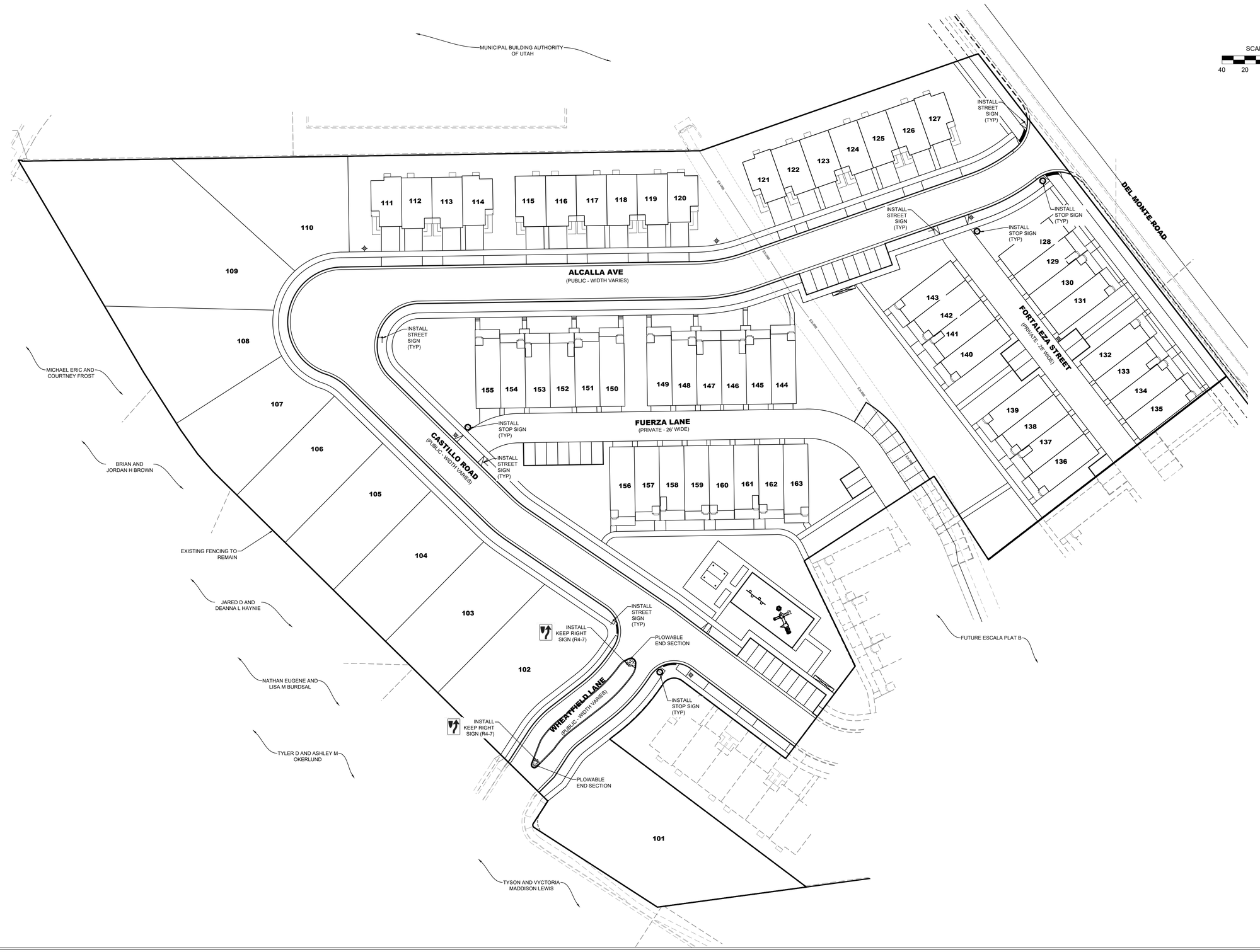
ESCALA FINAL PLAT-A
SPANISH FORK, UTAH

IRRIGATION REPLACEMENT DETAILS

REVISIONS
1 -
2 -
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LEI PROJECT #: 2020-0057
DRAWN BY: DSE/BJA
DESIGNED BY: BTG
SCALE: N/A
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SHEET
C-503



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09/15/21
STATE OF UTAH

ESCALA FINAL PLAT-A

SPANISH FORK, UTAH

SIGNAGE AND STRIPING

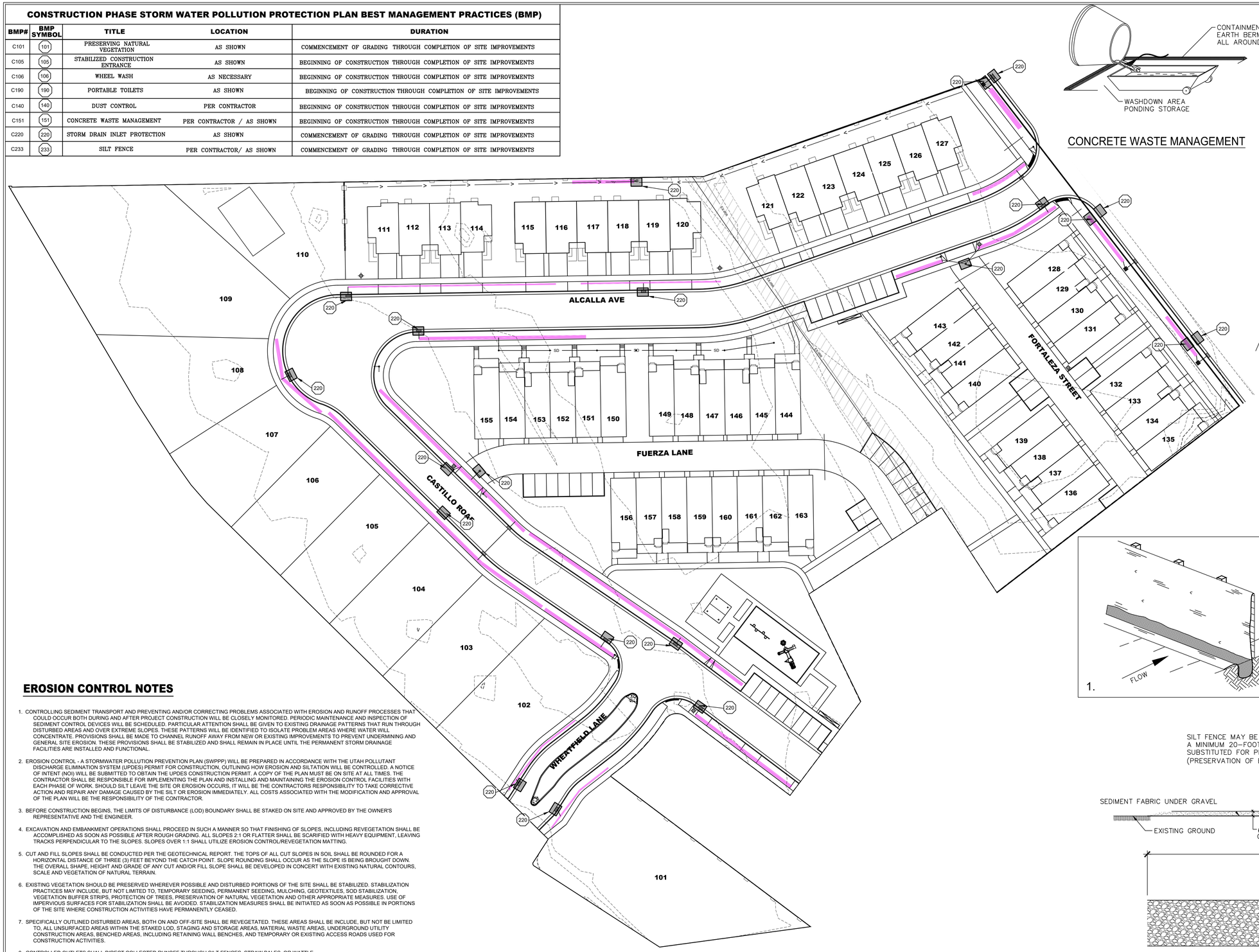
REVISIONS
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LEI PROJECT #: 2020-0057
DRAWN BY: DSE/BJA
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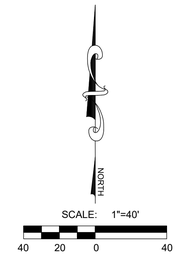
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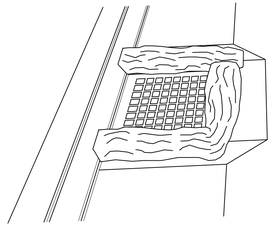
CONSTRUCTION PHASE STORM WATER POLLUTION PROTECTION PLAN BEST MANAGEMENT PRACTICES (BMP)

BMP#	BMP SYMBOL	TITLE	LOCATION	DURATION
C101	101	PRESERVING NATURAL VEGETATION	AS SHOWN	COMMENCEMENT OF GRADING THROUGH COMPLETION OF SITE IMPROVEMENTS
C105	105	STABILIZED CONSTRUCTION ENTRANCE	AS SHOWN	BEGINNING OF CONSTRUCTION THROUGH COMPLETION OF SITE IMPROVEMENTS
C106	106	WHEEL WASH	AS NECESSARY	BEGINNING OF CONSTRUCTION THROUGH COMPLETION OF SITE IMPROVEMENTS
C190	190	PORTABLE TOILETS	AS SHOWN	BEGINNING OF CONSTRUCTION THROUGH COMPLETION OF SITE IMPROVEMENTS
C140	140	DUST CONTROL	PER CONTRACTOR	BEGINNING OF CONSTRUCTION THROUGH COMPLETION OF SITE IMPROVEMENTS
C151	151	CONCRETE WASTE MANAGEMENT	PER CONTRACTOR / AS SHOWN	BEGINNING OF CONSTRUCTION THROUGH COMPLETION OF SITE IMPROVEMENTS
C220	220	STORM DRAIN INLET PROTECTION	AS SHOWN	COMMENCEMENT OF GRADING THROUGH COMPLETION OF SITE IMPROVEMENTS
C233	233	SILT FENCE	PER CONTRACTOR/ AS SHOWN	COMMENCEMENT OF GRADING THROUGH COMPLETION OF SITE IMPROVEMENTS



CONCRETE WASTE MANAGEMENT

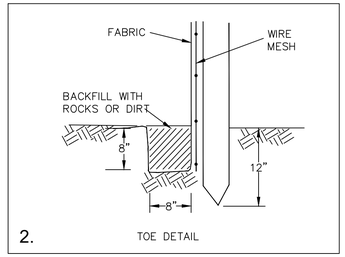




INLET PROTECTION

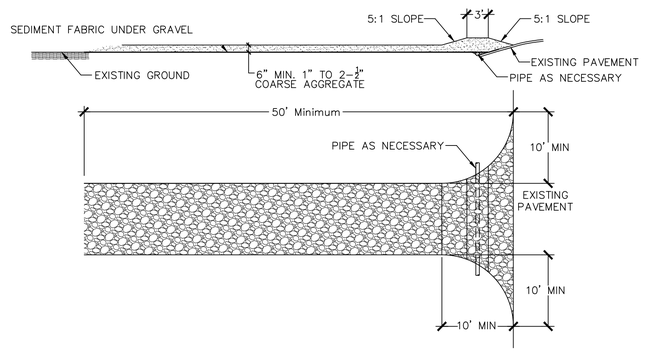
LEGEND

- SITE BOUNDARY
- SILT FENCE
- STORM DRAIN CURB INLET
- INLET PROTECTION
- CONCRETE WASTE MGMT.
- CONSTRUCTION ENTRANCE
- PT — PORTABLE TOILETS



SILT FENCE

SILT FENCE MAY BE INSTALLED FOR PERIMETER CONTROL. A MINIMUM 20-FOOT VEGETATED BUFFER MAY ALSO BE SUBSTITUTED FOR PERIMETER CONTROL (PRESERVATION OF EXISTING VEGETATION).



STABILIZED CONSTRUCTION ENTRANCE

STABILIZED CONSTRUCTION ENTRANCE SHALL BE MAINTAINED UNTIL SUCH TIME AS ROADS ARE ASPHALTED AND INDIVIDUAL HOME LOTS ARE BEING DEVELOPED.

EROSION CONTROL NOTES

1. CONTROLLING SEDIMENT TRANSPORT AND PREVENTING AND/OR CORRECTING PROBLEMS ASSOCIATED WITH EROSION AND RUNOFF PROCESSES THAT COULD OCCUR BOTH DURING AND AFTER PROJECT CONSTRUCTION WILL BE CLOSELY MONITORED. PERIODIC MAINTENANCE AND INSPECTION OF SEDIMENT CONTROL DEVICES WILL BE SCHEDULED. PARTICULAR ATTENTION SHALL BE GIVEN TO EXISTING DRAINAGE PATTERNS THAT RUN THROUGH DISTURBED AREAS AND OVER EXTREME SLOPES. THESE PATTERNS WILL BE IDENTIFIED TO ISOLATE PROBLEM AREAS WHERE WATER WILL CONCENTRATE. PROVISIONS SHALL BE MADE TO CHANNEL RUNOFF AWAY FROM NEW OR EXISTING IMPROVEMENTS TO PREVENT UNDERMINING AND GENERAL SITE EROSION. THESE PROVISIONS SHALL BE STABILIZED AND SHALL REMAIN IN PLACE UNTIL THE PERMANENT STORM DRAINAGE FACILITIES ARE INSTALLED AND FUNCTIONAL.
2. EROSION CONTROL - A STORMWATER POLLUTION PREVENTION PLAN (SWPPP) WILL BE PREPARED IN ACCORDANCE WITH THE UTAH POLLUTANT DISCHARGE ELIMINATION SYSTEM (UPDES) PERMIT FOR CONSTRUCTION, OUTLINING HOW EROSION AND SILTATION WILL BE CONTROLLED. A NOTICE OF INTENT (NOI) WILL BE SUBMITTED TO OBTAIN THE UPDES CONSTRUCTION PERMIT. A COPY OF THE PLAN MUST BE ON SITE AT ALL TIMES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR IMPLEMENTING THE PLAN AND INSTALLING AND MAINTAINING THE EROSION CONTROL FACILITIES WITH EACH PHASE OF WORK. SHOULD SILT LEAVE THE SITE OR EROSION OCCURS, IT WILL BE THE CONTRACTORS RESPONSIBILITY TO TAKE CORRECTIVE ACTION AND REPAIR ANY DAMAGE CAUSED BY THE SILT OR EROSION IMMEDIATELY. ALL COSTS ASSOCIATED WITH THE MODIFICATION AND APPROVAL OF THE PLAN WILL BE THE RESPONSIBILITY OF THE CONTRACTOR.
3. BEFORE CONSTRUCTION BEGINS, THE LIMITS OF DISTURBANCE (LOD) BOUNDARY SHALL BE STAKED ON SITE AND APPROVED BY THE OWNER'S REPRESENTATIVE AND THE ENGINEER.
4. EXCAVATION AND EMBANKMENT OPERATIONS SHALL PROCEED IN SUCH A MANNER SO THAT FINISHING OF SLOPES, INCLUDING REVEGETATION SHALL BE ACCOMPLISHED AS SOON AS POSSIBLE AFTER ROUGH GRADING. ALL SLOPES 2:1 OR FLATTER SHALL BE SCARIFIED WITH HEAVY EQUIPMENT, LEAVING TRACKS PERPENDICULAR TO THE SLOPES. SLOPES OVER 1:1 SHALL UTILIZE EROSION CONTROL/REVEGETATION MATTING.
5. CUT AND FILL SLOPES SHALL BE CONDUCTED PER THE GEOTECHNICAL REPORT. THE TOPS OF ALL CUT SLOPES IN SOIL SHALL BE ROUNDED FOR A HORIZONTAL DISTANCE OF THREE (3) FEET BEYOND THE CATCH POINT. SLOPE ROUNDING SHALL OCCUR AS THE SLOPE IS BEING BROUGHT DOWN. THE OVERALL SHAPE, HEIGHT AND GRADE OF ANY CUT AND/OR FILL SLOPE SHALL BE DEVELOPED IN CONCERT WITH EXISTING NATURAL CONTOURS, SCALE AND VEGETATION OF NATURAL TERRAIN.
6. EXISTING VEGETATION SHOULD BE PRESERVED WHEREVER POSSIBLE AND DISTURBED PORTIONS OF THE SITE SHALL BE STABILIZED. STABILIZATION PRACTICES MAY INCLUDE, BUT NOT LIMITED TO, TEMPORARY SEEDING, PERMANENT SEEDING, MULCHING, GEOTEXTILES, SOD STABILIZATION, VEGETATION BUFFER STRIPS, PROTECTION OF TREES, PRESERVATION OF NATURAL VEGETATION AND OTHER APPROPRIATE MEASURES. USE OF IMPERVIOUS SURFACES FOR STABILIZATION SHALL BE AVOIDED. STABILIZATION MEASURES SHALL BE INITIATED AS SOON AS POSSIBLE IN PORTIONS OF THE SITE WHERE CONSTRUCTION ACTIVITIES HAVE PERMANENTLY CEASED.
7. SPECIFICALLY OUTLINED DISTURBED AREAS, BOTH ON AND OFF-SITE SHALL BE REVEGETATED. THESE AREAS SHALL BE INCLUDE, BUT NOT BE LIMITED TO, ALL UNSURFACED AREAS WITHIN THE STAKED LOD, STAGING AND STORAGE AREAS, MATERIAL WASTE AREAS, UNDERGROUND UTILITY CONSTRUCTION AREAS, BENCHED AREAS, INCLUDING RETAINING WALL BENCHES, AND TEMPORARY OR EXISTING ACCESS ROADS USED FOR CONSTRUCTION ACTIVITIES.
8. CONTROLLED OUTLETS SHALL DIRECT COLLECTED RUNOFF THROUGH SILT FENCES, STRAW BALES, OR WATTLE.
9. TYPICAL FUGITIVE DUST SHALL BE CONTROLLED BY WATERING AND/OR CHEMICAL STABILIZATION, PROVIDING VEGETATIVE OR SYNTHETIC COVER AND WIND BREAKS CONSISTENT WITH UTAH STATE DIVISION OF AIR QUALITY STANDARDS.
10. ANY SEDIMENT TRACKED OFF-SITE SHALL BE REMOVED PRIOR TO THE END OF THE WORK SHIFT OR PRIOR TO SUNSET, WHICHEVER COMES FIRST.
11. CONTRACTOR MAY ADJUST THE LOCATIONS OF THE CONSTRUCTION FENCE, CONSTRUCTION TRAILERS, AND CONSTRUCTION MATERIALS RECEIVING AND STORAGE AREAS, AS NEEDED TO ACCOMPLISH THE CONSTRUCTION. ALL CHANGES SHALL BE NOTATED ON THE EROSION CONTROL PLAN.
12. THE CONTRACTOR SHALL CONDUCT PERIODIC INSPECTIONS OF THE EROSION CONTROL MEASURES, AS REQUIRED AND NOTATED IN THE SWPPP. THE CONTRACTOR WILL MAINTAIN A LOG ON-SITE OF ALL INSPECTIONS WITH THE SWPPP.
13. ALL DITCHES AND SWALES GREATER THAN 5% SHALL BE ARMORED WITH AN APPROPRIATE EROSION CONTROL/REVEGETATION STABILIZATION MAT TO PROMOTE REVEGETATION.
14. CONTRACTOR MAY ADJUST THE LOCATION OF CONCRETE WASHOUT AREAS AS NEEDED TO ACCOMPLISH THE CONSTRUCTION.

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REGISTERED PROFESSIONAL ENGINEER
NO. 393866
BRIAN T. GABLER
09/15/21
STATE OF UTAH

ESCALA FINAL PLAT-A

SPANISH FORK, UTAH

EROSION CONTROL PLAN

REVISIONS
1 -
2 -
3 -
4 -
5 -

LEI PROJECT #: 2020-0057
DRAWN BY: DSE/BJA
DESIGNED BY: BTG
SCALE: 1"=40'
DATE: 09/15/2021

SHEET
EC-1

N:\LEI\CIVIL\DRAWINGS\2020-0057 ESCALA\DWG\EC-1 EROSION CONTROL PLAN.DWG, 9/15/2021 8:10:07 AM, DSE



GENERAL NOTES:
DEVELOPER SHALL BE RESPONSIBLE FOR OBTAINING ALL PERMITS, EASEMENTS, AND RIGHTS-OF-WAY. DEVELOPER SHALL FOLLOW ALL OF SPANISH FORK CITY STANDARDS.
GENERAL NOTES:
THIS MAP IS INTENDED FOR INFORMATIONAL PURPOSES ONLY. THIS MAP DOES NOT SHOW THE ACTUAL, AND EXACT LOCATION(S) OF ANY CONDUITS, BOXES, LIGHTS, OR OTHER APPARATUS. THESE ITEMS SHALL BE PLACED ACCORDING TO SPANISH FORK CITY STANDARDS, AND BY FIELD VERIFICATION.
CONSTRUCTION NOTES:

COMMUNICATIONS LEGEND

COMMUNICATIONS CONDUIT

COMM. SERVICE DROP

COMMUNICATIONS BOXES — SM, M, LG

SFCN NOTES:
1. CONDUIT FOR SERVICE DROPS SHALL BE 1" SCHEDULE 40 RIGID NONMETALLIC CONDUIT (RNC).
2. CONDUIT FOR SECONDARY RUNS SHALL BE 2" (RNC).
3. CONDUIT FOR MAIN RUNS SHALL BE 2" (RNC).
4. CONDUIT FOR FIBER OPTICS SHALL BE 2" (RNC) UNLESS OTHERWISE SPECIFIED.
5. LONG-RADIUS ELBOWS CONSTRUCTED OF EITHER RIGID METAL OR FIBERGLASS ARE REQUIRED FOR ANY ANGLE 45 DEG OR GREATER.
6. COMMUNICATIONS CONDUITS SHALL RUN BEHIND (FARTHEST FROM PROPERTY LINE) ELECTRICAL CONDUITS AND STUB UP BEHIND ELECTRICAL BOXES UNLESS OTHERWISE SPECIFIED.

ELECTRICAL LEGEND

PRIMARY ELECTRICAL CONDUIT

SECONDARY ELECTRICAL CONDUIT

SERVICE DROP

PRIMARY SECTIONALIZERS

STREETLIGHT

SECONDARY JUNCTION BOX (PEDESTAL TYPE)

TRANSFORMERS (PAD) (POLE)

ELECTRIC NOTES:
1. CONDUIT FOR STREET LIGHTS SHALL BE 1" SCHEDULE 40 RIGID NONMETALLIC CONDUIT (RNC).
2. CONDUIT FOR SERVICE DROPS SHALL BE 2" (RNC).
3. CONDUIT FOR 1 PHASE AND SECONDARY CABLE SHALL BE 3" SCHEDULE 40 RIGID NONMETALLIC CONDUIT (RNC).
4. CONDUIT FOR 3 PHASE SHALL BE 6" SCHEDULE 40 RIGID NONMETALLIC CONDUIT (RNC).
5. LONG-RADIUS ELBOWS CONSTRUCTED OF EITHER RIGID METAL OR FIBERGLASS ARE REQUIRED FOR ANY ANGLE 45 DEG OR GREATER.
6. SECONDARY CABLE SHALL BE 4/O KCMIL URD TYPE UNLESS OTHERWISE SPECIFIED.
7. SECONDARY, 1 PHASE AND 3 PHASE TRANSFORMER CONDUITS SHALL BE AT A DEPTH OF 4' TO TOP OF CONDUIT.
8. 3 PHASE CONDUITS SHALL BE AT A DEPTH OF 6' TO TOP OF CONDUIT, UNLESS OTHERWISE SPECIFIED.
9. SERVICE DROP CONDUIT SHALL BE AT A DEPTH OF 4' TO TOP OF CONDUIT.
10. STREET LIGHT CONDUCTORS SHALL BE #10 STR CU TYPE THWN.
11. STREET LIGHTS SHALL BE LED, DECORATIVE POLE UNLESS OTHERWISE SPECIFIED.

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NOT FOR CONSTRUCTION

ESCALA FINAL- PLAT A

SPANISH FORK, UTAH

POWER PLAN

REVISIONS
1 -
2 -
3 -
4 -
5 -

LEI PROJECT #: 2020-0057
DRAWN BY: DSE/BJA
DESIGNED BY: BTG
SCALE: 1"=40'
DATE: 09/15/2021

SHEET
C-600

PROPERTY OVERVIEW

TOTAL ACREAGE	9.18 ACRES
NET AREA	8.97 ACRES(MINUS EASEMENTS)
SINGLE FAMILY LOTS	10 LOTS (2.48 ACRES)
TOWNHOMES	53 UNITS (6.7 ACRES)
TOTAL	***63***

LANDSCAPE TABULATIONS

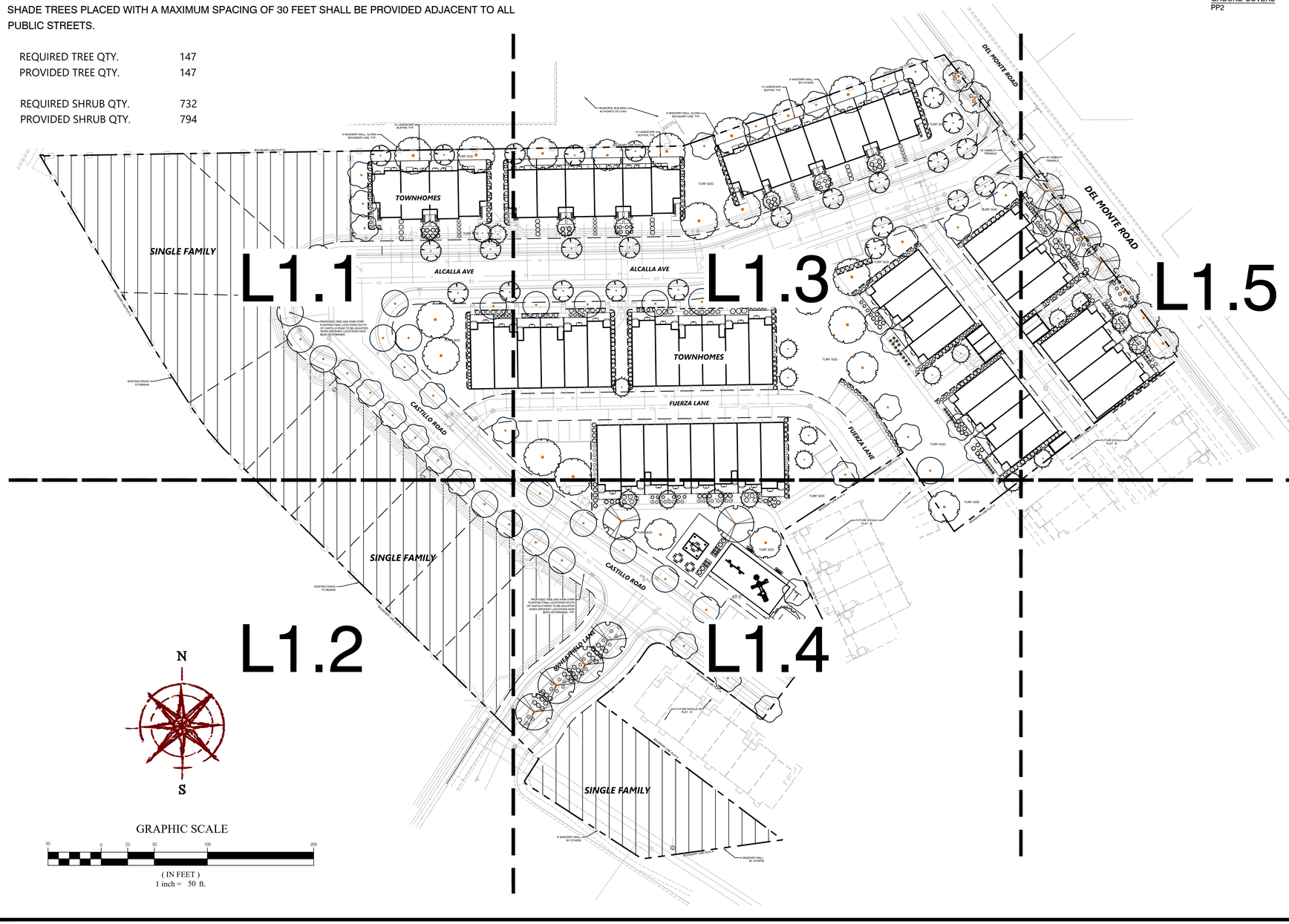
TOTAL LANDSCAPE AREA REQUIRED (25%)
(9.18 ACRES - 2.48 ACRES) = 6.7 ACRES X (25%) = 1.68 ACRES (25%)

TOTAL LANDSCAPE AREA PROVIDED ---------- 2.1 ACRES (31%)

TURF GRASS PROVIDED	1.69 ACRES
PLANTER BED PROVIDED	0.40 ACRES

THE TOTAL NUMBER OF REQUIRED TREES AND SHRUBS FOR EVERY 1,000 SQUARE FEET OF REQUIRED LANDSCAPING SHALL EQUAL (2) TREES AND (10) SHRUBS.
SHADE TREES PLACED WITH A MAXIMUM SPACING OF 30 FEET SHALL BE PROVIDED ADJACENT TO ALL PUBLIC STREETS.

REQUIRED TREE QTY.	147
PROVIDED TREE QTY.	147
REQUIRED SHRUB QTY.	732
PROVIDED SHRUB QTY.	794



GRAPHIC SCALE
50 0 25 50 100 200
(IN FEET)
1 inch = 50 ft.

PLANT SCHEDULE

TREES	BOTANICAL NAME	COMMON NAME	SIZE	QTY
CC	Cercis canadensis	Eastern Redbud	2" Cal.	32
MS	Malus x `Spring Snow`	Spring Snow Crabapple	2" Cal.	27
PK	Prunus serrulata `Kwanzan`	Kwanzan Japanese Flowering Cherry	2" Cal.	25
PC	Pyrus calleryana `Chanticleer`	Chanticleer Flowering Pear	2" Cal.	24
QS	Quercus macrocarpa	Bur Oak	2" Cal.	13
UA	Ulmus x `Accolade`	Accolade Elm	2" Cal.	15
ZG	Zelkova serrata `Green Vase`	Green Vase Sawleaf Zelkova	2" Cal.	11

SHRUBS	BOTANICAL NAME	COMMON NAME	SIZE	QTY
AMG	Aronia melanocarpa `UCONNAM012` TM	Ground Hug Black Chokeberry	2 gal.	91
BTC	Berberis thunbergii `Concorde`	Concorde Japanese Barberry	2 gal.	27
BDH	Buddleja davidii `Buzz Hot Raspberry`	Hot Raspberry Butterfly Bush	5 gal.	40
BGM	Buxus x `Green Mountain`	Green Mountain Boxwood	2 gal.	53
BGV	Buxus x `Green Velvet`	Green Velvet Boxwood	5 gal.	108
CCF	Caryopteris x clandonensis `First Choice`	First Choice Bluebeard	2 gal.	31
MAC	Mahonia aquifolium `Compacta`	Compact Oregon Grape	5 gal.	29
POL	Physocarpus opulifolius `Donna May` TM	Little Devil Ninebark	5 gal.	105
PMM	Pinus mugo var. pumilio	Dwarf Mugo Pine	5 gal.	55
PLC	Prunus laurocerasus `Chestnut Hill`	Chestnut Hill English Laurel	5 gal.	14
RMF	Rosa x `Iceburg`	Iceburg White Rose	5 gal.	36
SBA	Spiraea x bumalda `Anthony Waterer`	Anthony Waterer Bumald Spiraea	5 gal.	77
TME	Taxus x media `Everlow`	Everlow Yew	5 gal.	28

ORNAMENTAL GRASSES	BOTANICAL NAME	COMMON NAME	SIZE	QTY
CAK	Calamagrostis x acutiflora `Karl Foerster`	Karl Foerster Feather Reed Grass	1 gal.	67
HSS	Helictotrichon sempervirens `Sapphire`	Sapphire Blue Oat Grass	1 gal.	33

GROUND COVERS	BOTANICAL NAME	COMMON NAME	SIZE	QTY
PP2	Poa pratensis	Kentucky Bluegrass	sod	73,567 sf

TURF LEGEND

TURF SOD (SEE SHEETS L1.1-L1.6)

LANDSCAPE NOTES:

1. LAWN AREAS WILL BE SODDED WITH KENTUCKY BLUEGRASS BLEND OVER 4 INCHES GOOD GRADE TOPSOIL.
2. TOP DRESS ALL PLANT BED AREAS WITH ROCK MULCH. APPLY A 4" DEPTH OF 1 1/2" -3" RIVER ROCK MULCH, TYPE: SOUTH TOWN COBBLE, BY UTAH LANDSCAPING ROCK OR APPROVED EQUAL. APPLY ROCK MULCH OVER DEWITT PRO-5 WEED BARRIER FABRIC.
3. INSTALL 4" X 3/16" STEEL EDGING BETWEEN LAWN AREAS AND PLANTING BEDS.
4. REFERENCE SHEET L1.6 - L1.7 FOR LANDSCAPE DETAILS.

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OVERALL LANDSCAPE PLAN

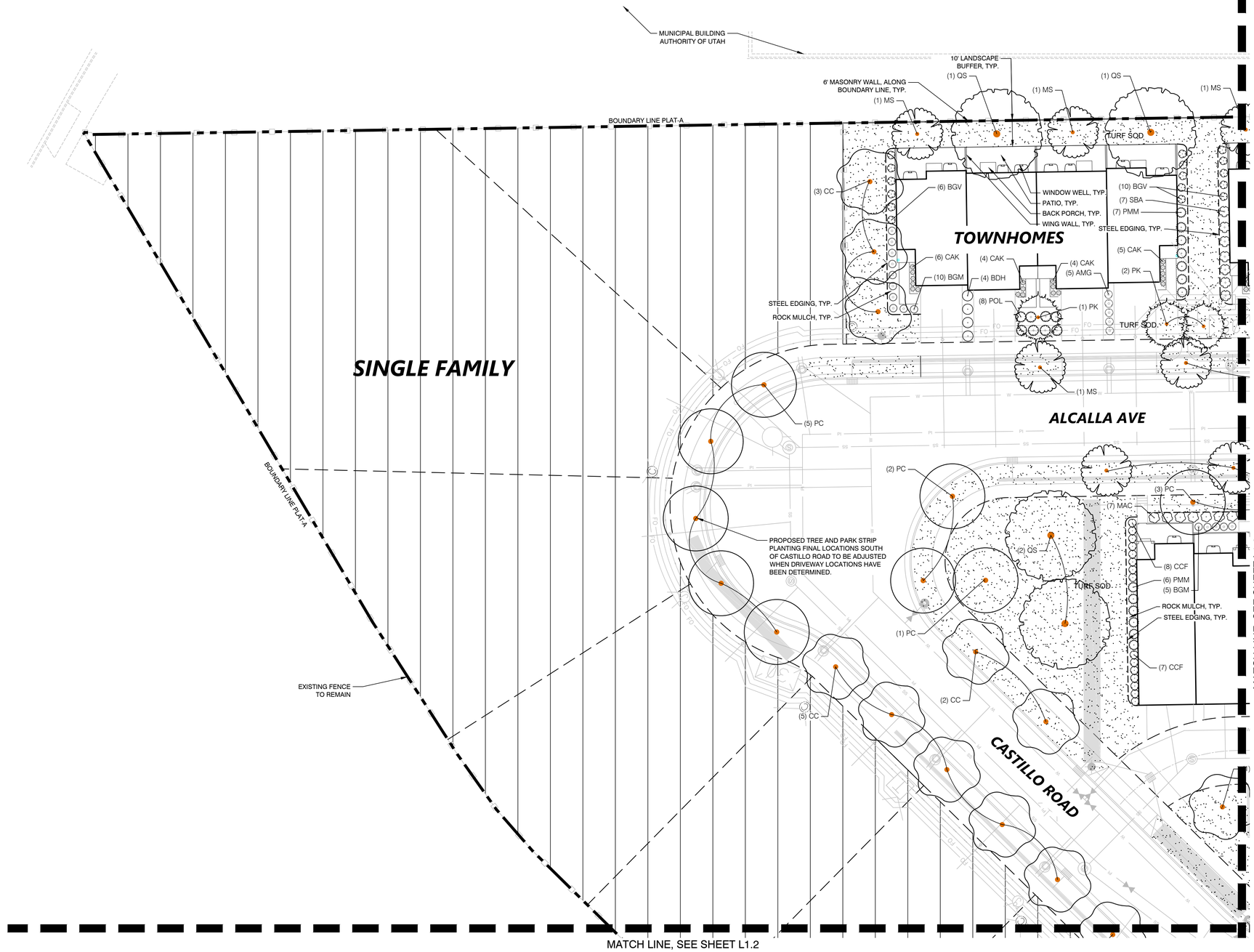
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OVERALL LANDSCAPE PLAN

Scale:	1"=50'	Drawn:	SV
Date:	8/11/2021	Job #:	21-0124
Sheet:	L1.0		

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PLANT SCHEDULE

TREES	BOTANICAL NAME	COMMON NAME
CC	Cercis canadensis	Eastern Redbud
MS	Malus x `Spring Snow`	Spring Snow Crabapple
PK	Prunus serrulata `Kwanzan`	Kwanzan Japanese Flowering Cherry
PC	Pyrus calleryana `Chanticleer`	Chanticleer Flowering Pear
QS	Quercus macrocarpa	Bur Oak
UA	Ulmus x `Accolade`	Accolade Elm
ZG	Zelkova serrata `Green Vase`	Green Vase Sawleaf Zelkova

SHRUBS	BOTANICAL NAME	COMMON NAME
AMG	Aronia melanocarpa `UCONNAM012` TM	Ground Hug Black Chokeberry
BTC	Berberis thunbergii `Concorde`	Concorde Japanese Barberry
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BGM	Buxus x `Green Mountain`	Green Mountain Boxwood
BGV	Buxus x `Green Velvet`	Green Velvet Boxwood
CCF	Caryopteris x clandonensis `First Choice`	First Choice Bluebeard
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SBA	Spiraea x bumalda `Anthony Waterer`	Anthony Waterer Bumald Spiraea
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ORNAMENTAL GRASSES	BOTANICAL NAME	COMMON NAME
CAK	Calamagrostis x acutiflora `Karl Foerster`	Karl Foerster Feather Reed Grass
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GROUND COVERS	BOTANICAL NAME	COMMON NAME
PP2	Poa pratensis	Kentucky Bluegrass

TURF LEGEND

TURF SOD

N

S

GRAPHIC SCALE

20 0 10 20 40 80

(IN FEET)
1 inch = 20 ft.

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LANDSCAPE PLAN

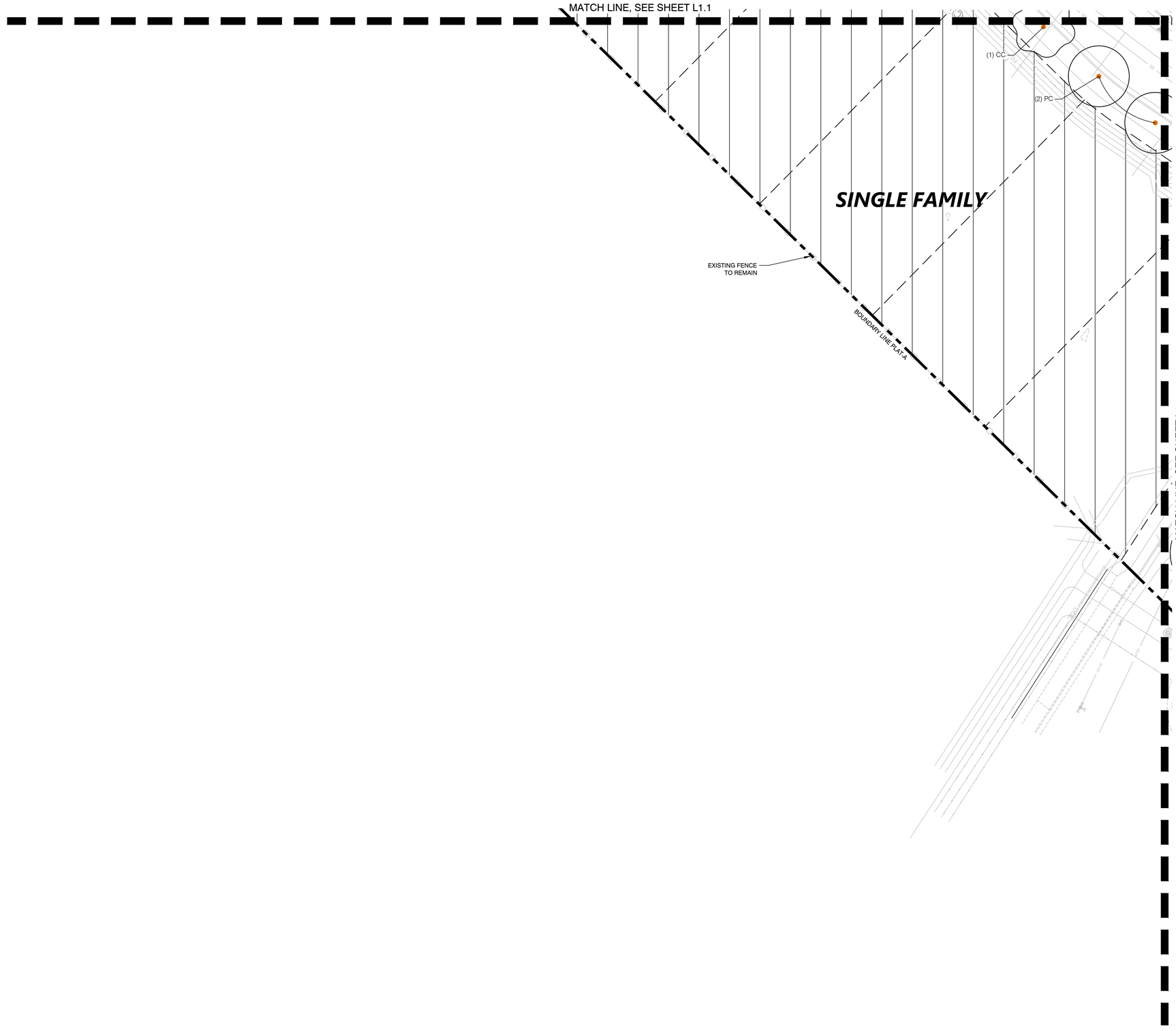
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LANDSCAPE PLAN

Scale:	1"=20'	Drawn:	SV
Date:	8/11/2021	Job #:	21-0124
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PLANT SCHEDULE

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MAC	Mahonia aquifolium `Compacta`	Compact Oregon Grape
POL	Physocarpus opulifolius `Donna May` TM	Little Devil Ninebark
PMM	Pinus mugo var. pumilio	Dwarf Mugo Pine
PLC	Prunus laurocerasus `Chestnut Hill`	Chestnut Hill English Laurel
RMF	Rosa x `Iceburg`	Iceburg White Rose
SBA	Spiraea x bumalda `Anthony Waterer`	Anthony Waterer Bumald Spiraea
TME	Taxus x media `Everlow`	Everlow Yew

ORNAMENTAL GRASSES	BOTANICAL NAME	COMMON NAME
CAK	Calamagrostis x acutiflora `Karl Foerster`	Karl Foerster Feather Reed Grass
HSS	Helictotrichon sempervirens `Sapphire`	Sapphire Blue Oat Grass

GROUND COVERS	BOTANICAL NAME	COMMON NAME
PP2	Poa pratensis	Kentucky Bluegrass

TURF LEGEND

TURF SOD

N

S

GRAPHIC SCALE

20 0 10 20 40 80

(IN FEET)
1 inch = 20 ft.

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LANDSCAPE PLAN

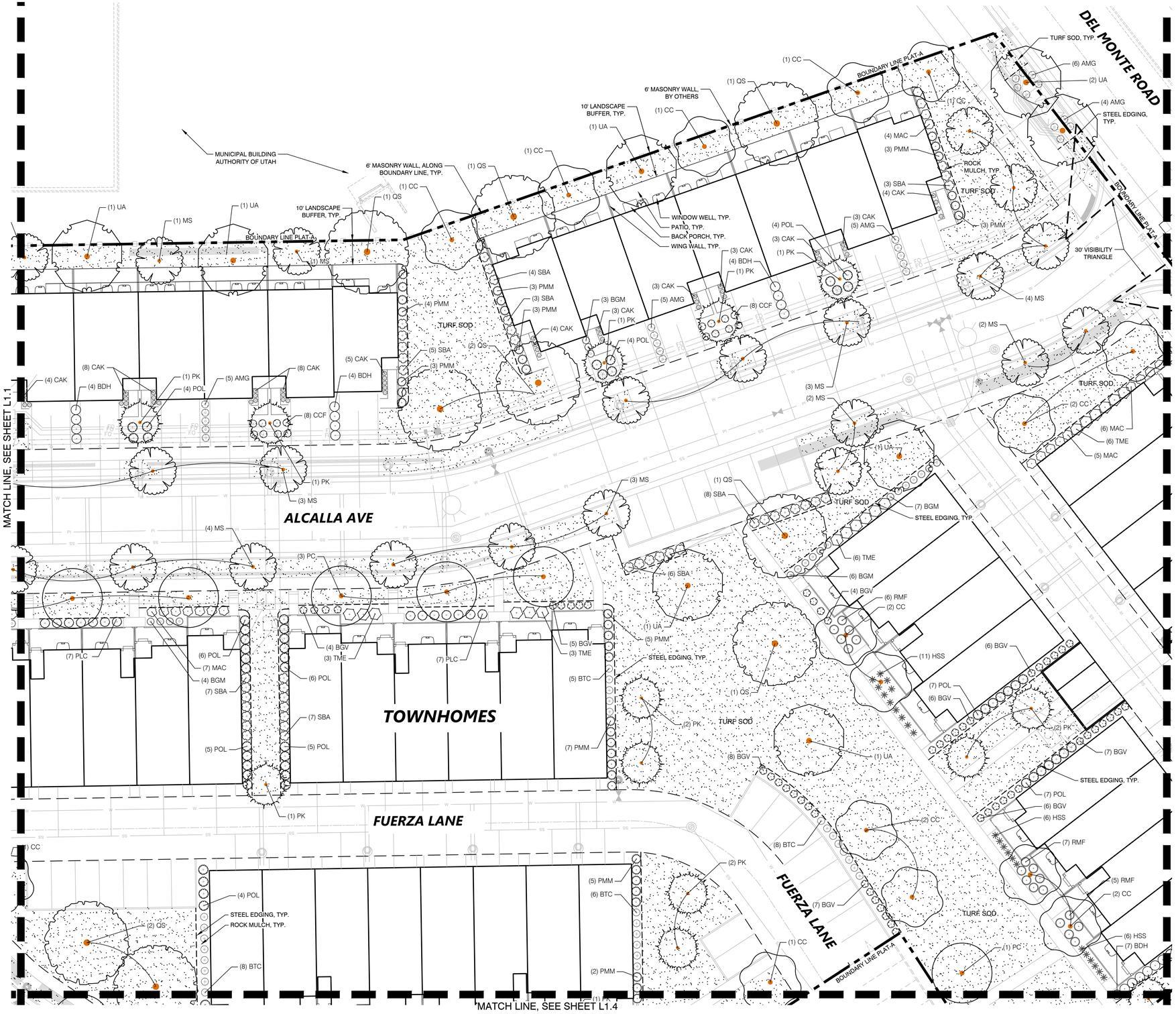
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LANDSCAPE PLAN

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PLANT SCHEDULE

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GROUND COVERS	BOTANICAL NAME	COMMON NAME
PP2	Poa pratensis	Kentucky Bluegrass

TURF LEGEND

TURF SOD

N

S

GRAPHIC SCALE

20 0 10 20 40 80

(IN FEET)
1 inch = 20 ft.

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LANDSCAPE PLAN

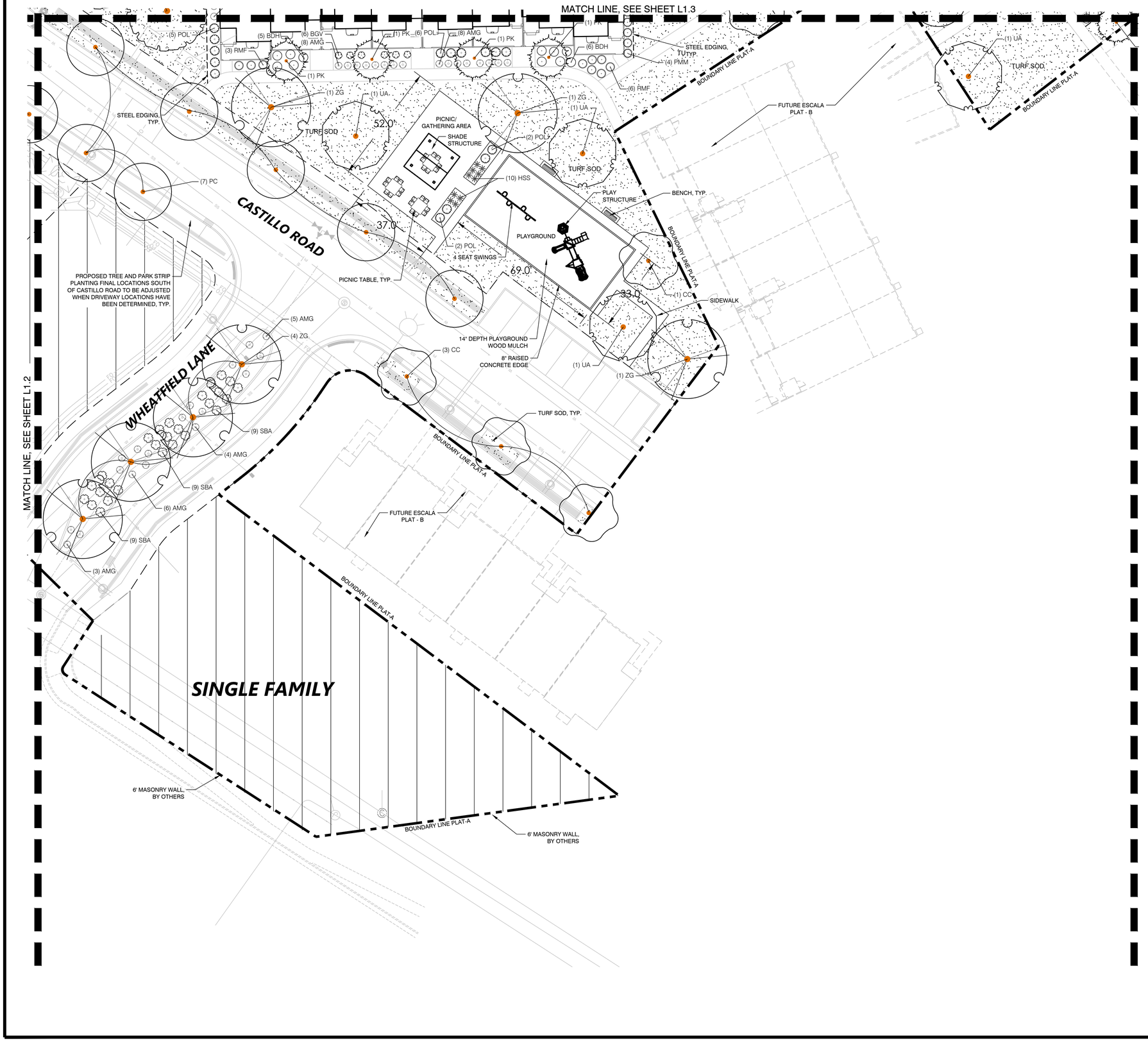
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LANDSCAPE PLAN

Scale:	1"=20'	Drawn:	SV
Date:	8/11/2021	Job #:	21-0124
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PLANT SCHEDULE

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GROUND COVERS	BOTANICAL NAME	COMMON NAME
PP2	Poa pratensis	Kentucky Bluegrass

TURF LEGEND

TURF SOD

N

S

GRAPHIC SCALE

20 0 10 20 40 80

(IN FEET)
1 inch = 20 ft.

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LANDSCAPE PLAN

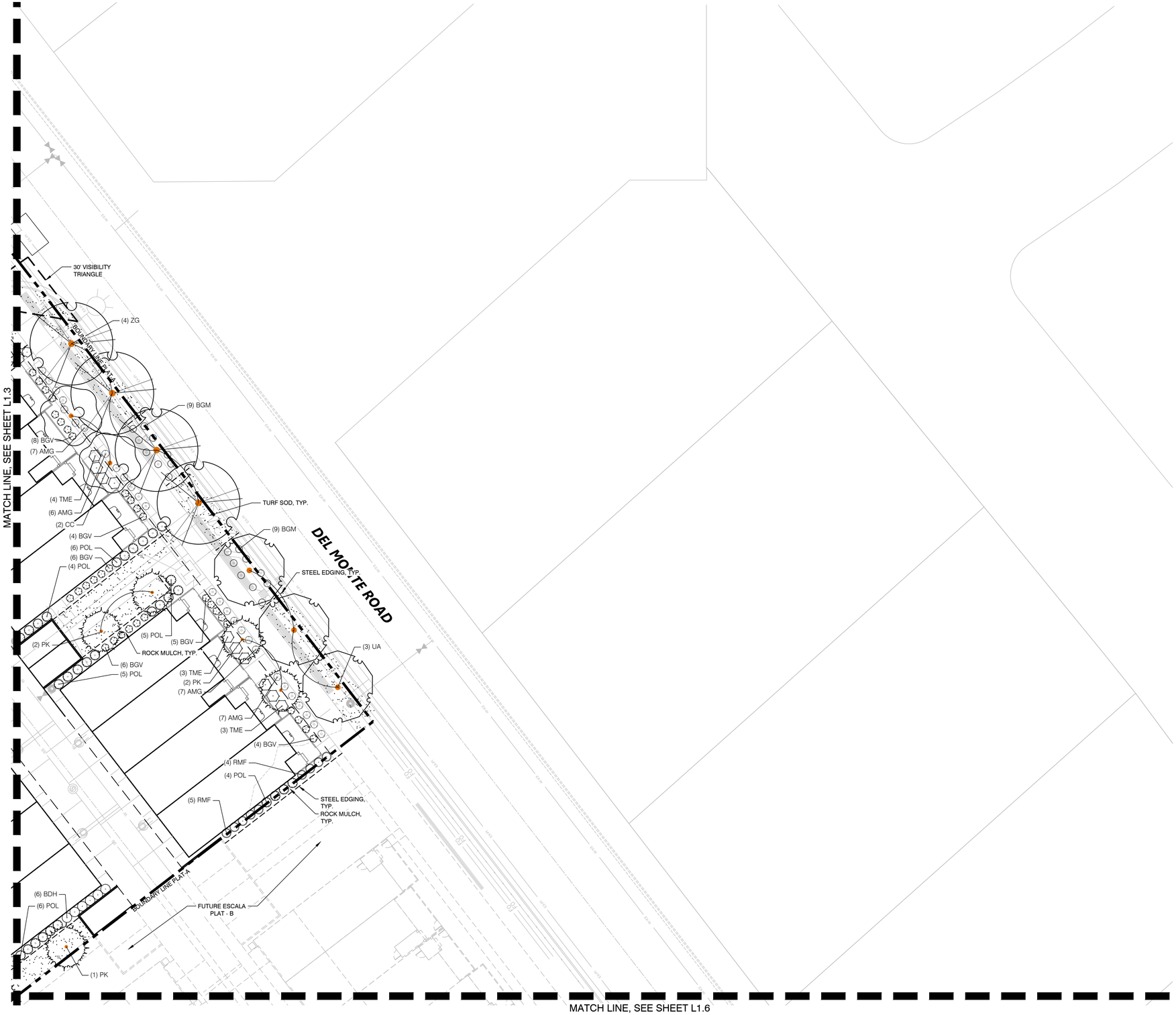
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LANDSCAPE PLAN

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PLANT SCHEDULE

TREES	BOTANICAL NAME	COMMON NAME
CC	Cercis canadensis	Eastern Redbud
MS	Malus x `Spring Snow`	Spring Snow Crabapple
PK	Prunus serrulata `Kwanzan`	Kwanzan Japanese Flowering Cherry
PC	Pyrus calleryana `Chanticleer`	Chanticleer Flowering Pear
QS	Quercus macrocarpa	Bur Oak
UA	Ulmus x `Accolade`	Accolade Elm
ZG	Zelkova serrata `Green Vase`	Green Vase Sawleaf Zelkova

SHRUBS	BOTANICAL NAME	COMMON NAME
AMG	Aronia melanocarpa `UCONNAM012` TM	Ground Hug Black Chokeberry
BTC	Berberis thunbergii `Concorde`	Concorde Japanese Barberry
BDH	Buddleja davidii `Buzz Hot Raspberry`	Hot Raspberry Butterfly Bush
BGM	Buxus x `Green Mountain`	Green Mountain Boxwood
BGV	Buxus x `Green Velvet`	Green Velvet Boxwood
CCF	Caryopteris x clandonensis `First Choice`	First Choice Bluebeard
MAC	Mahonia aquifolium `Compacta`	Compact Oregon Grape
POL	Physocarpus opulifolius `Donna May` TM	Little Devil Ninebark
PMM	Pinus mugo var. pumilio	Dwarf Mugo Pine
PLC	Prunus laurocerasus `Chestnut Hill`	Chestnut Hill English Laurel
RMF	Rosa x `Iceburg`	Iceburg White Rose
SBA	Spiraea x bumalda `Anthony Waterer`	Anthony Waterer Bumald Spiraea
TME	Taxus x media `Everlow`	Everlow Yew

ORNAMENTAL GRASSES	BOTANICAL NAME	COMMON NAME
CAK	Calamagrostis x acutiflora `Karl Foerster`	Karl Foerster Feather Reed Grass
HSS	Helictotrichon sempervirens `Sapphire`	Sapphire Blue Oat Grass

GROUND COVERS	BOTANICAL NAME	COMMON NAME
PP2	Poa pratensis	Kentucky Bluegrass

TURF LEGEND

TURF SOD

N

S

GRAPHIC SCALE

20 0 10 20 40 80

(IN FEET)
1 inch = 20 ft.

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ESCALA

SPANISH FORK CITY, UTAH COUNTY

LANDSCAPE PLAN

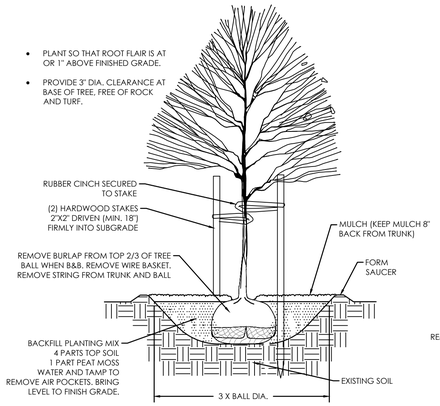
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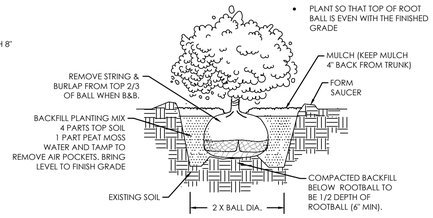
LANDSCAPE PLAN

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Date:	8/11/2021	Job #:	21-0124
Sheet:	L1.5		

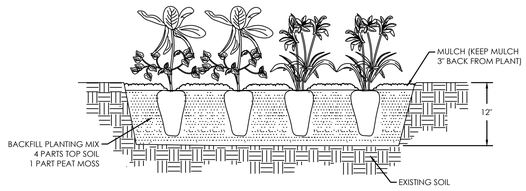
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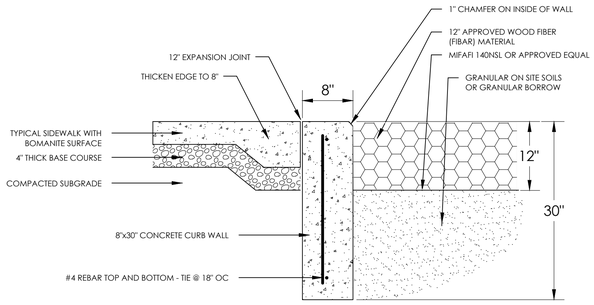
A TREE PLANTING & STAKING
NOT TO SCALE



B SHRUB PLANTING
NOT TO SCALE



C PERENNIAL PLANTING
NOT TO SCALE



D PLAYGROUND EDGING
NOT TO SCALE



NOTES:

1. MODEL: MOUNTAIN MAPLE METAL BENCH, BY PREMIER SITE FURNITURE
- POWDER COAT COLOR TO BE DETERMINED.
- SURFACE MOUNTED
- 6' WIDTH
- LASER CUT DESIGN OPTIONAL

E BENCH
NOT TO SCALE - FOR ILLUSTRATIVE PURPOSES ONLY



NOTES:

- MODEL: CHALLENGERS #350-2169, BY PLAYWORLD
- AGES 5-12
- POWDER COAT COLOR T.B.D.
- FALL HEIGHT, 4'-1"

F PLAYGROUND STRUCTURE
NOT TO SCALE - FOR ILLUSTRATIVE PURPOSES ONLY



NOTES:

- MODEL: SWING-SP, BY PLAYWORLD
- POWDER COAT COLOR TO BE DETERMINED.
- AGES 2-12
- SINGLE POST SWING, 2-SEAT

G SWING SET
NOT TO SCALE - FOR ILLUSTRATIVE PURPOSES ONLY



NOTES:

1. MODEL: HICKORY PICNIC TABLE, BY PREMIER SITE FURNITURE
- POWDER COAT COLOR TO BE DETERMINED.
- SURFACE MOUNTED
- FOUR SIDED TABLE- SEATS 8 PEOPLE

H PICNIC TABLE
NOT TO SCALE - FOR ILLUSTRATIVE PURPOSES ONLY

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SCALE: 3/16" - 1'

Model # RHS1212

Design Criteria: Structure shall be designed to meet site specific snow and wind load design criteria using most current applicable building codes. All structural members are ASTM A-500 U.S. grade B steel. Welded connection plates shall be ASTM A-36 hot rolled steel. All fabrication performed to latest AISC standards by AWS Certified welders. All framing connections are done using A325 grade bolts within concealed access openings from above and will later be concealed by the roofing. All roof framing shall be flush against the roof decking to eliminate the possibility of bird nesting.

Tubular Steel Columns and Beams: Standard column dimension shall be 5" x 5" x 3/16" tubular steel welded to 5/8" base plates for surface mounting. Main support beams are 5" x 5" x 3/16" and purlins are 4" x 3" x 1/8". Steel sizes are preliminary and may change due to ongoing review and final engineering.

Roofing: 24 Ga. pre-cut steel Multi-Rib panels with Kynar 500 finish in a variety of colors with white underside. Standard roof slope is a 4/12 pitch with a eave height of 7'-6". Attached to structural framing with exposed self tapping screws painted to match roof color. Matching 24 Ga. trim included.

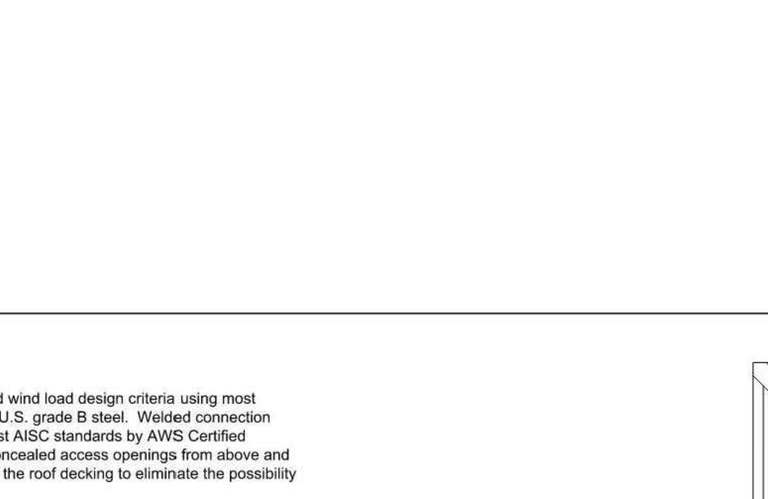
Frame Finish: All steel framework will receive a corrosion protective TGIC Polyester powder coat, electro-statically applied and cured at 400°F. A large selection of standard colors are available.

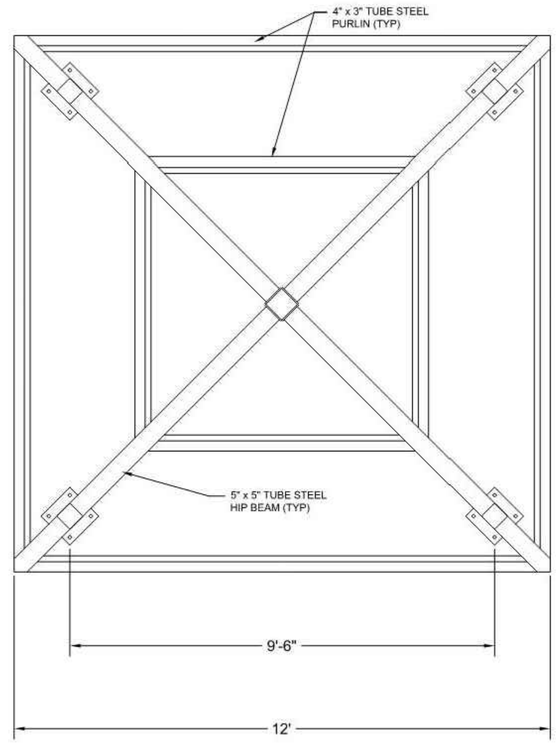
Foundation: All columns need to be anchored to concrete footings (footing design provided separately). Columns can be surface mounted to footings with anchor bolts at or below finish slab elevation or they can be embedded directly into the footing without base plates upon request. Anchor bolts and bracing templates are included. Optional base plate covers are available at an additional cost.

Hardware: All structural hardware and roofing fasteners shall be provided.

Warranty: 10 years against manufacturer defects.

Not Included: Concrete work of any kind, unloading of product and installation.





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PRELIMINARY
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MODEL NUMBER:	RHS1212	SHOWN WITH STANDARD OPTIONS			
DESCRIPTION:	12x12 Rect Hip Shelter				
Possible Options:	☐ 29ga METAL ROOF	☐ METAL BASE SHOES	☐ LIGHTNING PROTECTION		
	☐ STANDING SEAM ROOF	☐ STEEL COLUMNS	☐ 2 TIER ROOF		
	☐ CEDAR SHINGLES	☐ CUSTOM ROOF PITCH	☐ CUPOLA		

REVISION DATES	DRAWN BY:	DATE:
REV:	JES-356	6-15-18
REV:	SHEET:	
REV:	1 OF 1	
REV:		

Ⓐ SHADE STRUCTURE- BY CEDAR FOREST PRODUCTS
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LANDSCAPE DETAILS

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DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR

ESCALA

An Expandable
Planned Unit Development
in
Utah County

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This DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR ESCALA ("Declaration") is effective when recorded with the Utah County Recorder's Office by Lennar Homes of Utah, Inc., a Delaware corporation ("Declarant").

RECITALS

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

B. Declarant has established for the mutual benefit of all Owners and Occupants of the Project, certain covenants, conditions, restrictions, easements, rights, privileges, assessments and liens as set forth herein, which shall run with and be a burden upon the Project.

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

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

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

ARTICLE I. DEFINITIONS

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

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

1.2. **Additional Land** shall mean and refer to, without limitation, any parcel of land that is annexed into the Project by the Declarant in accordance with the provisions outlined in this Declaration.

1.3. **Architectural Control Committee** or **ACC** shall mean and refer to the Board or, if so appointed by the Board, a committee having architectural control powers as further described herein.

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

1.5. **Assessments** shall mean any monetary charge or fee imposed or levied by the Association against Owners as provided in this Declaration or other Governing Documents, which includes annual assessments, special assessments, individual assessments, late fees, fines, and so forth.

1.6. **Association** shall mean Escala Homeowners Association, Inc., a Utah non-profit corporation. Failure of the Association to maintain its corporate status will not result in the dissolution of the Association.

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

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

1.9. **Bylaws** shall mean the Bylaws of the Association that are attached hereto as Exhibit B, as the same may be amended from time to time.

1.10. **Common Areas** shall mean all areas of the Project extending beyond the exterior of the Living Units, unless otherwise noted herein or on the Plat; the roadway improvements within the Project shown on the Plat as private roads and which are not accepted for dedication by a municipal authority, which includes Fuerza Lane and Fortaleza Street; all land, and the improvements situated thereon, within the Project that Declarant designates as Common Areas on the Plat or other recorded instrument; and other real property which the Association now or hereafter owns in fee for the benefit of Owners for as long as the Association is the owner of the fee, which may include without obligation or limitation, park areas, Association signs or monuments, a pavilion, playground area, landscaped areas, street signage, sidewalks, extra parking stalls, and other similar improvements; and any real property or improvements within the Project that the Association has the obligation to maintain, repair, or replace for the common benefit of the Owners, as the Board shall determine in its sole and exclusive discretion, including, without limitation, all utility and service lines and similar improvements, whether public or private-company owned, intended to serve more than one Living Unit, whether located on a Lot or lying inside of the exterior boundaries of the Living Unit.

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

1.12. **Declarant** shall mean Lennar Homes of Utah, Inc., a Delaware corporation, and any successor in interest.

1.13. **Declaration** shall mean and refer to this Declaration of Covenants, Conditions and Restrictions for Escala, as may be amended from time to time.

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

1.15. **Governing Documents** shall mean collectively, the Declaration, Articles, Bylaws, Plat, Rules, and any applicable Association agreements or easements.

1.16. **Limited Common Areas** shall mean the Common Area reserved for the use and benefit of a designated Lot or Living Unit to the exclusion of other Owners. Whether or not indicated on the Plat, the Limited Common Areas shall include facilities appurtenant to the Living Units including porches, balconies, driveways. The right to the exclusive use of the Limited Common Area shall be appurtenant to each respective Lot and may not be severed from the ownership of the Lot. All installations or modifications of Limited Common Areas shall be approved by the Association and shall be subject to the provisions in this Declaration and the Design Guidelines. The Board shall have the power and discretion to determine the Limited Common Area boundaries if the Governing Documents are found ambiguous.

1.17. **Living Unit** shall mean a structure which is designed and intended for use and occupancy as a single-family residence, together with the garage and all improvements located on the Lot used in connection with such residential structure. The Living Unit shall include, without limitation, the roof and all exterior surfaces, exterior and interior doors, windows, garage doors, exterior trim, gutters, downspouts, and foundations. The Living Unit shall also include all mechanical equipment and appurtenances located outside the Living Unit but designed to serve only that Living Unit, such as appliances, electrical receptacles and outlets, air conditioning compressors, equipment, fixtures and the like. All pipes, wires, conduits, utility lines, or other similar installations serving only the Living Unit, and any structural members, parts, components, or any other property of any kind, including fixtures or appliances within any Living Unit shall be deemed part of the Living Unit. The attached garage shall be deemed to be part of the respective Living Unit

1.18. **Lot** shall mean each of the individual Lots within the Project, as shown on the Plat. A Lot shall include the Living Unit or other improvement or structure constructed thereon. Each Lot consists generally of all structures on or within the boundary of the Lot. The Lot shall extend to the center of the Party Wall, which shall form the boundary of the Lots sharing that wall. Subject to dividing lines between Lots, any above-ground structure that extends beyond the vertical plane of the ground-level boundary of the Lot is part of the Lot if it: (1) is part of and an integral part of the Living Unit's structure (such as bay windows, pop-outs, eves, etc., not to include fences, or other appurtenant structures that merely connect to the structure); or (2) was constructed as part of the original construction of the Lot. Lots 118 through 127 on the Plat will contain detached single-family residences, have no membership in the Association, and are not subject to this Declaration.

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

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

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

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

1.23. **Occupant** shall mean and refer to any Person, living, dwelling, visiting, or staying in a Living Unit. This includes, but is not limited to, all lessees, tenants, and the family members, agents, and representatives living, dwelling, visiting, or staying in a Living Unit. Occupants shall be bound by the Restrictions in this Declaration and shall be liable for any fines that are assessed for violations of the Governing Documents.

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

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

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

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

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

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

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

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

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

ARTICLE II. PROJECT DESCRIPTION

2.1. **Submission**. The real property described with particularity on Exhibit A attached hereto and incorporated herein by this reference is hereby submitted to the Act. The Declarant declares that the Project and all of the Lots shall be held, conveyed, transferred, sold, mortgaged, encumbered, occupied, used, and improved subject to the Restrictions, which Restrictions shall constitute covenants and conditions running with the land and shall be binding upon and inure to the benefit of the Declarant, the Association, and each Owner, including their respective heirs, successors, and assigns. Lots 118 through 127 on the Plat will contain detached single-family residences and are not subject to this Declaration.

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

2.3. **Description of Improvements**. The improvements contained in the Project will be located upon the real property described in Exhibit A, set forth on the Plat, or further described herein. The major improvements contained in the Project will include attached Living Units, appurtenant structures on the Lots, and the Common Areas. Other Lots or Common Area upon the Additional Land may be added as reserved by the Declarant. The principal construction materials shall be wood, concrete and steel. All improvements shall be constructed in a style and of materials determined by the Declarant during the Period of Declarant Control, and afterwards, by the ACC. The Lots, their locations, and approximate dimensions are indicated on the respective Plats.

2.4. **Expansion of Project**. The Project may be expanded by the Declarant by the recording of a Supplemental Declaration in accordance with the provisions of Article XII.

ARTICLE III. MEMBERSHIP AND VOTING RIGHTS

3.1. **Membership**. Every Owner shall be a Member of the Association with one (1) equal membership interest per Lot. Membership in the Association shall be mandatory, shall be appurtenant to the Lot in which the Owner has the necessary interest, and shall not be separated from the Lot to which it appertains. Membership in the Association shall not be transferred, pledged, or alienated in any way, except upon the transfer of ownership of the Lot to which it is appurtenant, and then only to the new Owner. Any attempt to make a prohibited transfer is void. In the event an Owner fails or refuses to transfer the membership registered in his name to the purchaser of his Lot, the Association shall have the right to record the transfer upon its books and thereupon the old membership outstanding in the name of the seller shall be null and void. Lots 118 through 127 on the Plat are not subject to the Declaration and thus have no membership interests in the Association.

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

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

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

3.5. **Single-Entity Ownership Limitations**. The number of finished Living Units with a certificate of occupancy permitted to be owned by a "Single-Entity" shall not exceed five percent (5%) of the total Lots within the Association. Living Units owned by the Declarant or a bulk homebuilder, as determined by the Declarant, during the course of initial development are not subject to the Single-Entity ownership cap. The Board may adopt Rules and reporting procedures to track the number of Living Units owned by a Single-Entity to ensure consistent administration and enforcement of this ownership restriction. For the purpose of this Section, the term "Single-Entity" means the same natural individual, investor group, partnership, entity, or corporation. If an individual or entity has a 25% or greater share of ownership, control, and right to profits and losses of another entity, then such entity and its owner(s) shall be considered a Single-Entity. If title to a Unit is obtained in violation of this Section, then: (i) the Board may assess fines against the Owner pursuant to a schedule of fines adopted by the Board; and (ii) the Board may proceed with any available legal remedies, including, without limitation, an action to obtain a court order requiring the Owner to immediately sell or transfer ownership of the Living Unit.

3.6. **Investor Ownership Limitation**. The Number of Lots permitted to be owned by an Investor shall not exceed fifteen percent (15%) of the total Lots in the Project. For the purpose of this Section, the term "Investor" means: (1) a Person who owns a Lot but does not occupy the Lot as the Investor's primary residence, or (2) in the case of a Lot owned by a trust or registered business entity, the natural individual(s) who own the entity or are beneficiaries of the trust do not occupy the Lot as their primary residence. Living Units owned by the Declarant or a bulk homebuilder, as determined by the Declarant, are not subject to this Investor cap.

ARTICLE IV. EASEMENTS AND RIGHTS IN COMMON AREAS

4.1. **Easement of Enjoyment**. Each Member shall have a right and easement of use and enjoyment in and to the Common Areas. Such right and easement shall be appurtenant to and shall pass with title to each Lot and in no event shall be separated therefrom. Any Member may delegate the right and easement of use and enjoyment described herein to any family member, tenant, lessee, or contract purchaser who resides on such Member's Lot. This right of easement shall only extend to the Limited Common Area appurtenant to the Lot and not to other Limited Common Areas.

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

4.3. **Limitation on Easement**. A Member's right and easement for the use and enjoyment of the Common Areas shall be subject to the following:

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

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

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

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

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

4.4. **Delegation of Use**. An Owner may delegate his right of use and enjoyment to the Common Areas to family members, tenants, or contract purchasers who reside on the Project. The rights and privileges of such delegee or assignee shall be subject to suspension in the same manner and to the same degree as those of an Owner, as described in the preceding Section.

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

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

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

4.8. **Party Wall and Shared Roof Easement**. Each Owner hereby acknowledges and agrees that a Party Wall or shared roof may presently encroach upon or overlap the Owner's Lot. Each Owner hereby grants to the adjoining Owner of the other Lot that shares the Party Wall, or shared roof, an easement over and upon its Lot for the purpose of maintaining the Party Wall and shared roof. By accepting a deed to a Lot, each Owner hereby covenants and agrees not to do anything or to erect any barrier that will hinder, delay or limit the maintenance of the Party Wall and shared roof and the performance of each Owner's obligation to maintain and repair the townhome structure.

4.9. **Lots 118-127 Easement.** Lots 118 through 127 on the Plat (each containing a detached single-family residence) are not subject to the Declaration and have no membership interests in the Association. Notwithstanding the foregoing, Lots 118 through 127 are hereby granted an easement to access and use the pavilion and playground area within the Common Areas of the Project subject to the reasonable Rules of the Association. This easement may not be revoked without the approval of the Declarant during the Period of Declarant Control, and thereafter, without the approval of all the owners of Lots 118 through 127.

ARTICLE V. BUDGET AND ASSESSMENTS

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

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

5.3. **Purpose of Assessments**. Assessments levied by the Association shall be used for the purpose of promoting the health, safety, and welfare of residents of the Project, including but not limited to the appearance and aesthetics of the Project. The use made by the Association of funds obtained from Assessments may include but is not limited to: payment of the cost of taxes and insurance on the Common Areas; maintenance, repair, and improvement of the Common Areas; establishing and funding a reserve to cover major repair or replacement of improvements within the Common Areas; and any expenses necessary or desirable to

enable the Association to perform or fulfill its obligations, functions, or purposes under the Governing Documents.

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

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

5.6. **Special Assessments**. The Board may levy a Special Assessment payable over such a period as the Board may determine for the purpose of defraying, in whole or in part any expense or expenses not reasonably capable of being fully paid with funds generated by Annual Assessments; the cost of any construction, reconstruction, or unexpected repair or replacement of the Common Areas; or for any other expense incurred or to be incurred as provided in this Declaration. Special Assessments over one-thousand five hundred dollars ($1,500) in a calendar year must be approved and assented to by a majority of the Members present in person or by proxy at a meeting duly called for such purpose. Notice in writing of the amount of any Special Assessments and the time for their payment shall be given as soon as is reasonably possible to the Owners. Payment shall be due on the dates and in the manner determined by the Board and provided in the notice. Notwithstanding the foregoing, Declarant may levy Special Assessments in any amount deemed necessary during the Period of Declarant Control without Owner approval.

5.7. **Individual Assessments**. In addition to Annual and Special Assessments authorized above, the Board may levy Individual Assessments against a Lot and its Owner for: (a) administrative costs and expenses incurred by the Board in enforcing the Governing Documents against the Owner or his/her Occupants; (b) costs associated with the maintenance, repair, or replacement of Common Areas caused by the neglect or actions of an Owner or his/her Occupants; (c) any other charge, fine, fee, expense, or cost designated as an Individual Assessment in the Governing Documents or by the Board, including, without limitation, action taken to bring a Living Unit and its Owner into compliance with the Governing Documents; (d) nonpayment of a Reinvestment Fee; (e) costs of providing services to the Lot upon request of the Owner; and (f) attorney fees, court or collection costs, fines, and other charges relating to any of the foregoing, regardless of whether a lawsuit is filed. In addition, Individual Assessments may be levied against a Lot and its Owner specifically benefited by any improvements to adjacent roads, sidewalks, planting areas or other portions of the Common Areas made on the written request of the Owner of the Lot to be charged. The aggregate amount of any such Individual Assessments shall be determined by the cost of such improvements, repairs, maintenance, or enforcement action, including all overhead and administrative costs and attorney fees, and shall be allocated among the affected Lots according to the special benefit or cause of damage or maintenance or repair work or

enforcement action, as the case may be. Individual Assessments may be levied in advance of the performance of the work. If a special benefit arises from any improvement which is part of the general maintenance obligations of the Association, it shall not give rise to an Individual Assessment against the Lot(s) benefited, unless such work was necessitated by the Owner's or his/her Occupants' negligence.

5.8. **Allocation of Assessments**. Annual and Special Assessments shall be fixed at a uniform rate for all Lots. Individual Assessments shall be allocated separately to each Lot based on the costs incurred by the Association.

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

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

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

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

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

given at any time prior to or after delinquency of such payment. A copy of such notice may also be provided to the Occupant(s) of the Owner if the Owner is not a resident at the Project.

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

5.15. **Collection Charges**. If the Association does not otherwise adopt or establish billing and collection procedures in the Rules, delinquent accounts shall be charged a fifteen dollar ($15) late fee each month until the Owner's account (including all late fees, interest, collection costs, and attorney fees) is paid in full. Interest may accrue on all unpaid balances at the rate of eighteen percent (18%) per annum. Collection costs, interest, and/or late fees shall constitute part of the Assessment lien provided above until paid.

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

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

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

3) The Association may bring an action to recover a money judgment for unpaid Assessments, fines, and charges under this Declaration against the Lot Owner without foreclosing or waiving the lien described above. Recovery on any such action, however, shall operate to satisfy the lien, or the portion thereof, for which recovery is made.

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

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

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

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

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

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

5.19. **Reinvestment Fee**. The Board may establish a Reinvestment Fee assessment in accordance with this Section and Utah Code § 57-1-46. If established, the following terms and conditions shall govern Reinvestment Fees:

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

2) The Association shall not levy or collect a Reinvestment Fee for any Transfer made to the Association, or any Transfer exempted by Utah Code § 57-1-46.

3) The Reinvestment Fee shall be due and payable by the Transferee to the Association at the time of the Transfer giving rise to the payment of such Reinvestment Fee and shall be treated as an Individual Assessment for collection purposes.

4) All transfers of Lots from Declarant to a Declarant related entity shall be exempt from a Reinvestment Fee. The Declarant shall have the sole discretion to determine whether such Transferee is a related entity and if a Reinvestment Fee applies.

5.20. **Account Payoff Fees**. The Association may charge a fee for providing Association payoff information needed in connection with financing, refinancing, or closing of the sale of a Lot as provided for in Utah Code § 57-8a-106. The amount of such fee shall be fifty dollars ($50) or as otherwise established in the Rules. Additional paperwork required in a

private sale between an Owner and purchaser may be obtained from the Association but may incur additional fees.

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

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

ARTICLE VI. DUTIES AND POWERS OF THE ASSOCIATION

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

6.2. **Legal Organization**. The Association may be incorporated as a nonprofit corporation. In the event the nonprofit corporate status expires or is invalidated in any manner, the Board of Directors, in its sole discretion, may renew and/or reincorporate the Association. Any such expiration or invalidation shall not relieve any Owner from paying Assessments and abiding by all Restrictions contained in this Declaration.

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

1) The powers, duties, and obligations granted to the Association by this Declaration, its Bylaws, and the Articles;

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

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

4) The powers, duties, and obligations not reserved specifically to Lot Owners; and

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

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

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

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

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

3) **Rulemaking.** The Association, through its Board of Directors, shall make, establish, promulgate, amend, and repeal Rules governing the conduct of persons and the operation and use of the Project as it may deem necessary or appropriate in order to assure a clean, aesthetically pleasing, peaceful, and orderly use and enjoyment of the Project. Pursuant to Utah Code § 57-8a-218(15), the requirements of Utah Code §§ 57-8a-218(1) through (13), except subsection (1)(b)(ii), are hereby modified to not apply to the Association.

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

5) **Enforcement.** The Association shall perform such acts, whether or not expressly authorized by this Declaration, as may be reasonably necessary to enforce the provisions of the Governing Documents of the Association. The Association may assess fines to Owners, Occupants, or their guests for violations of the Governing Documents in accordance with the provisions of the Governing Documents and the Act.

6) **Title to Common Areas.** The Association may hold title to Common Areas and must pay all real property taxes and assessments levied upon any portion of such Common Areas, unless paid by the Owners, provided that the Association shall have the right to contest or compromise any such taxes or assessments.

7) **Employment of Agents, Advisers, and Contractors.** The Association may employ the services of any person or corporation as managers, hire employees to manage, conduct, and perform the business, obligations, and duties of the Association, employ professional counsel and obtain advice from such persons or firms or corporations such as, but not limited to, community association managers, landscape architects, accountants, recreational experts, architects, planners, lawyers, reserve study specialists, or what is convenient for the management, maintenance, and operation of the Project. Any agreement with a Manager shall not exceed a term of three (3) years renewable by agreement of the parties for a successive three (3) year term, and shall be terminable by

the Association upon no more than sixty (60) days' advanced notice. The Board has no authority to enter into a management agreement or contract inconsistent with the terms of the Governing Documents or that provides for a termination fee or requirement for termination for cause.

8) **Litigation.** The Board may instigate litigation to enforce the provisions of this Declaration or any other Common Law or statutory right which the Association is granted subject to the limitations set forth in Article XVI.

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

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

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

6.6. **Board of Directors**. The governing body of the Association shall be the Board of Directors. Except where a matter or vote is specifically reserved to the Owners, the Board shall act in all instances on behalf of the Association. Board Members shall be elected pursuant to the provisions set forth in the Bylaws. The Bylaws may set forth requirements for serving on the Board. Notwithstanding the foregoing, during the Period of Declarant Control, the Declarant shall have the sole authority to act as the Board of Directors, or to appoint Board Members. Declarant appointed Board Members shall not be bound by the qualification requirements in the Bylaws.

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

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

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

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

ARTICLE VII. MAINTENANCE

7.1. **Association Maintenance**. The Association shall maintain, repair, and replace the Common Areas together with all improvements thereon and all easements appurtenant to the Common Area including, but not limited to: (i) the common landscaped areas surrounding the townhome buildings, (ii) private utility lines owned or controlled by the Association that serve more than one Living Unit, (iii) landscape and drainage easements owned or controlled by the Association, (iv) the private roads in the Project, including snow removal, (v) the Common Area sidewalks in the Project, including snow removal, (vi) all required maintenance obligations for common amenities and other facilities, and (vii) personal property owned by the Association. The Association shall have no responsibility to maintain or repair public streets (if any) within the Project. The maintenance allocations provided in this Article shall clarify, expand upon, and supersede any maintenance provisions contained in the Plat or other Governing Documents. The Board, in its sole discretion, shall determine the maintenance standard of the Common Areas. The Association shall have no obligation to perform any townhome building maintenance and/or repair of any part of a Lot, Living Unit, the Limited Common Area, or any landscaping installed by an Owner without the Association's express agreement for such maintenance.

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

7.2. **Owner Maintenance**. Each Owner shall have the obligation to provide exterior and interior maintenance of their Lot and Living Unit, and the Limited Common Areas serving each respective Lot and Living Unit, including but not limited to painting, repair, replacement, and care of exterior walls, roofs, gutters, downspouts, soffits, fascia, exterior building surfaces, driveways, interior structural elements of the Lot and Living Unit, foundations, windows, doors, and utility lines and sidewalks that solely service the Lot or Living Unit. The responsibility and cost to maintain, repair, and replace shared roofs, party walls, or other shared facilities shall be borne equally by the Lots Owners benefited thereby. As necessary or desirable, each Owner shall paint, repair, and otherwise maintain the exterior and interior of his Living Unit and shall maintain, repair, and replace all mechanical devices, including but not limited to, appurtenant electrical, plumbing, and heating, ventilating and air conditioning systems. Each

Owner shall be responsible for performing all snow removal on the sidewalks and driveways located on their Lot or Limited Common Area.

Owners shall be responsible to maintain, repair, and replace fences on the boundaries of their Lots or the Limited Common Areas serving their respective Lots (if any). Fence maintenance costs shall be borne pro rata by all Owners bounded or benefitted thereby. In the event an Owner fails to provide unrestricted access to the landscaped area within an enclosed fence, the Association shall have no obligation to maintain, repair, or replace such areas while access is restricted, or to maintain, repair, or replace landscaping, irrigation systems, or any other unmaintained or damaged property arising out of or resulting from the Owner's failure to provide unrestricted access.

Further descriptions of Owner maintenance, repair, and replacement responsibilities are contained in the maintenance allocation chart attached as Exhibit C.

7.3. **Party Wall and Shared Roof Maintenance**. By acceptance of a deed to a Lot, each Owner hereby acknowledges, agrees, and understands that it is essential that the Party Wall and shared roof be maintained in good condition and repair to preserve the integrity of the Living Units as they are used and occupied by Owners. Each Owner hereby covenants and agrees not to do anything or to erect any barrier that will hinder, delay, or limit the maintenance of the Party Wall or shared roof. With respect to the surface components of the Party Wall and shared roof, each Owner agrees to maintain and keep in good condition and repair, including the making of replacements as needed, all surface components which face into such Owners' respective Living Unit. With respect to pipes, conduits, ducts, and other utility service lines and connections which benefit only one or more, but fewer than all, of the Owners, the Owner(s) benefited solely thereby shall be fully and personally responsible for the cost of maintaining such items in good condition and repair, including the making of replacements as needed. If the need for maintenance or repair of the Party Wall or shared roof is caused through the willful or negligent act of any Owner or his/her Occupant, the cost of such maintenance or repairs shall be the sole and exclusive expense of such Owner. With respect to structural components of the Party Wall and shared roof, except as may be otherwise provided in the immediately preceding sentences, the Owners benefitted by the Party Wall and shared roof agree to share equally in the cost of maintenance and upkeep thereof in good condition and repair, including the replacement thereof as necessary. If there is a dispute over the responsibility for maintenance or repair of a Party Wall or shared roof, the Association may, but shall not be required to, intervene and determine each Owner's responsibility. The Association shall have the powers set forth in Section 7.5 below to remedy any neglect in performing Party Wall or shared roof maintenance responsibilities.

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

Association in remedying Owner maintenance neglect shall be an Individual Assessment against the Owner's Lot.

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

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

7.6. **Utilities**. The charges for utilities that are metered separately to each Lot or Living Unit shall be the responsibility of the respective Lot Owner. In the event water, electrical, sewer, or other utilities are metered collectively for the Project, or metered separately for Common Areas, then the Association shall be responsible for paying for such utility expenses, which expenses shall be a Common Expense of the Association and shall be paid through regular assessments.

ARTICLE VIII. INSURANCE

NOTICE: The Association's Insurance Policy does not cover the personal property or personal liability of Owners or their Occupants.

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

8.2. **Property Insurance**.

1) The Association shall maintain a blanket policy of property insurance covering the entire Project, including the Common Area and all buildings including all Living Units, fixtures, and building services equipment as provided in the Act. The Association may maintain broader coverage if afforded by the insurance contract.

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

b) At a minimum, the blanket policy shall afford protection against loss or

damage by: (1) fire, windstorm, hail, riot, aircraft, vehicles, vandalism, smoke, and theft; and (2) all perils normally covered by "special form" property coverage.

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

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

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

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

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

i) the Owner is responsible for the Association's policy deductible; and

ii) the Owner's policy, if any, applies to that portion of the loss attributable to the Association's policy deductible.

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

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

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

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

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

8.3. **Comprehensive General Liability (CGL) Insurance.** The Association may obtain CGL insurance insuring the Association, the agents and employees of the Association, and the Owners, against liability incident to the use, ownership or maintenance of the Common Area or membership in the Association. The coverage limits under such policy shall not be less than One Million Dollars ($1,000,000.00) covering all claims for death of or injury to any one person or property damage in any single occurrence. Such insurance shall contain a Severability of Interest Endorsement or equivalent coverage which should preclude the insurer from denying the claim of an Owner because of the negligence acts of the Association or another Owner.

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

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

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

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

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

8.9. **Named Insured**. The named insured under any policy of insurance shall be the Association. The Declarant shall be listed as an additional insured under any and all of the Association's policies of insurance. The Declarant and each Owner shall also be an insured under the Association's insurance policies as required by law.

8.10. **Owner Insurance**. Each Owner shall be responsible to purchase and maintain in force appropriate hazard, content, and liability insurance as such Owner shall determine to be appropriate to the Owner's needs, personal property, and circumstances. It is recommended that Owners obtain insurance covering at least the amount of the Association's property insurance deductible (widely recognized as an HO6 policy). The Association is not required to file claims on any of its policies for any damage or liability claim that either should or would have been covered under any Owner's policy.

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

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

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

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

ARTICLE IX. USE RESTRICTIONS

9.1. **Use of Common Areas**. The Common Areas shall be used only in a manner consistent with their community nature and applicable Association use restrictions. Owners are restricted from placing any personal property or fixtures within the Common Areas without the Board's approval in writing. Owners are subject to fines for violations of this restriction. The Board is authorized to adopt Rules that further define and describe prohibited and allowed items in the Common Areas and may set different standards for different types of Common Areas or locations.

9.2. **Use of Living Units**. Each Living Unit shall be used only as a single-family dwelling. No gainful occupation, business, trade, or other nonresidential use shall be conducted in any Living Unit except with the prior written consent of the Board and applicable governmental entities. Notwithstanding the foregoing, activities otherwise prohibited by this Section are permitted without Board approval if only normal residential activities would be observable outside of the Living Unit; the business activity does not involve persons coming on to the project who do not reside in the Project; the business activity does not involve the solicitation of Occupants or Owners; the business will not result in the increase of the cost of the Association's insurance; and that the activities would not be in violation of applicable local ordinances.

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

9.4. **Recreational Vehicles**. Boats, trailers, motorhomes, trucks larger than a "one-ton" classification, commercial vehicles, camping trailers, ATVs, snowmobiles, recreational vehicles, and the like ("RVs") are prohibited anywhere within the Project, except for temporary loading and unloading purposes for a resident. However, the temporary loading and unloading of RVs is only allowed for up to 24 hours (unless reduced by the Board in the Rules), must be conducted in the resident's driveway (as applicable), and may not be conducted in a no parking zone, fire lane, or visitor parking space. RVs parked in the streets or Common Area parking stalls are subject to immediate towing without notice to the Owner or Occupant. RVs shall not be parked in a Living Unit's enclosed garage, as such parking is intended for the parking of the residents' passenger automobiles. The Board is hereby empowered to establish additional Rules relating to the parking of RVs within the Project that may expand the restrictions set forth in this Section. The Association is not obligated to treat all areas equally and may adopt different parking rules for different areas or streets within the Project. No motor vehicle of any kind shall be repaired, constructed, or reconstructed upon any Lot, private street or other Common Areas, except for emergency repairs to vehicles. The Association shall have the right

to perform ongoing inspections of Owner's driveways and garages to ensure compliance with this Section or any Rules adopted pursuant to this Section.

9.5. **Pets**. Domestic pets may be kept in Living Units in conformance with local government requirements. The Association may adopt Rules adding further restrictions related to pets including, but not limited to, restrictions on the number and types of pets, requirements for registration with the Association, and noise limitations. All pets must be properly licensed and registered with the appropriate governmental agency and must abide by all pet Rules adopted by the Association from time to time. Pets may not create a nuisance. The following acts of an animal may constitute a nuisance: (a) it causes damage to property of anyone other than its owner; (b) it causes unreasonable fouling of the air by odors; (c) it causes unsanitary conditions; (d) it defecates on any Common Area or Limited Common Area of another Owner and the feces are not immediately cleaned up by the responsible party; (e) it barks, whines, or howls, or makes other disturbing noises in an excessive, continuous, or untimely fashion; or (f) it molests or harasses a passersby by lunging at them or chasing passing vehicles. Pets may not be tied or tethered in the Common Area or Limited Common Area of another Member and shall be leashed or restrained whenever outside a Living Unit. The Association may levy Individual Assessments to Owners for any damages to the Common Areas and landscaping caused by a pet.

9.6. **Machinery and Equipment**. No machinery or equipment of any kind shall be placed, used, operated, or maintained on or adjacent to any Lot except such machinery or equipment as is usual and customary in connection with the use, maintenance, or construction of a Living Unit or appurtenant structures. Machinery or equipment used by the Association or its contractors for the maintenance of the Common Areas shall not be subject to the restrictions of this Section

9.7. **Nuisances**. No resident shall create, maintain or permit a nuisance in, on or about the Project. For purposes of this Section a "nuisance" includes any behavior which annoys, disturbs or interferes with other residents and interferes with their right to the quiet and peaceful enjoyment of their property. The Board shall have the sole discretion and authority to determine if an activity or condition constitutes a nuisance. A nuisance includes, but is not limited to, the following:

1) The development of any unclean, unhealthy, unsightly, or unkempt condition on, in or about a Living Unit or the Common Areas;

2) The storage of any item, property or thing that will cause any Living Unit or the Common Area to appear to be in an unclean or untidy condition or that will be noxious to the senses;

3) The accumulation of rubbish, unsightly debris, garbage, equipment, or other things or materials that constitute an eyesore as reasonably determined by the Board;

4) The storage of any substance, thing or material upon any Living Unit or in the Common Areas that will emit any foul, unpleasant or noxious odors, or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the other residents at the Project;

5) The creation or maintenance of any noxious or offensive condition or activity in or about any Living Unit or the Common Areas;

6) Actions or activities tending to cause embarrassment, discomfort, annoyance, distress or a disturbance to any other residents, their guests or invites, particularly if the police or sheriff must be called to restore order;

7) Maintaining any plants, animals, devices or items, instruments, equipment, machinery, fixtures, or things of any sort whose activities or existence in any way is illegal, noxious, dangerous, unsightly, unpleasant, or of a nature that diminishes or destroys the enjoyment of the Association by other residents, their guests or invitees;

8) Too much noise or traffic in, on or about the Project, especially after 10:00 p.m. and before 7:00 a.m., or use of outside speakers or amplifiers;

9) Allowing a pet to: be unleashed while outside of the Living Unit; urinate or defecate in the Common Areas; failing to immediately clean up feces deposited by a pet in the Common Area; make continuous barking, meowing, or other animal noises.

9.8. **Signs, Flags, Banners**. The Association may regulate and restrict signs, flags, banners, and the like in the Project to the extent permitted by law in the Rules and applicable laws. Such Rules may vary or expand upon the restrictions set forth in this Section. Unless otherwise designated in the Rules, lawn signs are prohibited except “For Sale" signs that may be placed outside the main entry of a Living Unit or as directed by the Board. All other signs may only be erected or maintained on the Project, whether in a window or otherwise, with the prior approval of the Board. Signs may not exceed 18" X 24" in size and may only be posted into the Common Area ground with wire or stakes no more than 1" in diameter.

9.9. **Trash Containers**. All garbage and trash shall be placed and kept in covered containers. Trash containers shall be stored in garages so as not to be visible from the street view except to make them available for a reasonable amount of time for trash collection as determined by the Board. The Association may adopt additional Rules for the storage and concealment of trash containers that vary or expand upon the restrictions in this Section.

9.10. **Parking**. Residents shall park at least one (1) of their vehicles within the Living Unit’s garage. Residents may not park their vehicles in visitor parking spaces or upon the private streets within the Project. Other non-resident vehicles may not be parked on the private streets unless areas are specifically marked by the Association to allow for such parking. All vehicles are prohibited from being parked in a manner that would block a Common Area sidewalk or at any other location within the Project which would impair vehicular or pedestrian access or snow removal. Garages shall not be altered or contain storage or other materials that would reduce the number of motor vehicles to be parked therein that is less than the number of motor vehicles that could have been reasonably parked in the garage as originally designed and constructed. Vehicles that are too large to fit in a garage or driveway are not permitted to be parked in any parking stall or on any roadway. The Board shall have the discretion to determine if a vehicle fits appropriately in a location. Common Area parking stalls shall be subject to and governed by Association Rules. The Association may adopt additional Rules expanding or varying the restrictions relating to the parking of vehicles within the Project, including, without limitation: the size and dimensions of the vehicles parked within the Project; a vehicle registration policy; the admission and temporary parking of vehicles within the Project; the use of the undesignated parking spaces identified on the Plat, if any, including, without limitation, the right to loan or license the visitor parking spaces in the discretion of the Board; the right to remove or cause to be removed any vehicles that are improperly parked; the time visitor spaces may be used; winter specific restrictions; and the assessment of charges to Owners and Occupants who violate, or

whose invitees violate, such Rules. The Association may enforce parking restrictions on all areas located within the Plats comprising the Project.

9.11. **No Patio / Deck Storage**. No observable outdoor storage of any kind shall be permitted on patios, front yards, porches, etc., except for patio furniture and portable barbecue grills in good condition which may be maintained on backyard patios only and are prohibited on front porches. Said patio furniture, barbecue grills, or other outdoor equipment or fixtures shall conform with standards set by the ACC, which may include the regulation of colors and materials. The Association may vary or expand upon the provisions of this Section by Rule.

9.12. **Window Coverings**. Every Owner and Occupant shall be obligated to ensure that window coverings are installed within their Living Unit within one (1) month of purchasing or taking possession of the Living Unit. Furthermore, the ACC is authorized to adopt and implement reasonable Rules pertaining to the type, color, material, etc. of window coverings.

9.13. **Leasing and Non-Owner Occupancy**. The leasing and Non-Owner Occupancy of all Living Units shall be governed by this Section and any Rules and procedures adopted as allowed in this Section.

(a) Definitions. For the purpose of this Section:

(1) "Non-Owner Occupied" means: (1) for a Living Unit owned in whole or in part by a natural individual or individuals, the Living Unit is occupied by one or more Persons who are not Owners, and no Owner(s) concurrently occupy the Living Unit as their primary residence; or (2) for a Living Unit owned entirely by one or more entities or trusts, the Living Unit is occupied by Persons who do not have a 25% or greater share of ownership of the entity or trust.

(2) "Family Member" means: (1) the spouse, parent, sibling, or child of an Owner; or (2) in the case of a Living Unit owned by a trust or other entity created for estate planning purposes, a Person occupying the Living Unit if the trust or other estate planning entity that owns the Living Unit was created for the estate of (i) the current Occupant of the Living Unit, or (ii) the spouse, parent, child, or sibling of the current Occupant of the Living Unit.

(3) "Lease" means any agreement, whether written or not, providing for the Non-Owner Occupancy of a Living Unit.

(b) Maximum Number of Non-Owner Occupied Living Units. The number of Living Units permitted to be Non-Owner Occupied shall not exceed fifteen percent (15%) of the total Living Units within the Association. The Board may adopt Rules for application procedures to approve Living Units for Non-Owner Occupancy along with Rules for reporting procedures to track the number of Non-Owner Occupied Living Units. Living Units that are exempted under subsection (d) below shall not be included in the 15% Non-Owner Occupancy cap.

(c) Requirements for Leasing and Non-Owner Occupancy. The Owners of all Leased or Non-Owner Occupied Living Units must comply with the following provisions:

(1) Owners are required to occupy their Living Units as a personal residence for two (2) full years from the date of transfer of title before the Owner of a Living Unit becomes eligible to enter into a lease with a third party for Non-Owner Occupancy.

(2) Owners are required to apply to the Board for approval of any desired Non-Owner Occupancy to ensure that the cap in subsection (b) above has not been

exceeded and the Owner has complied with the time restrictions imposed by the preceding subsection (c)(1).

(3) Any lease or agreement for allowable Non-Owner Occupancy shall provide as a term of the agreement that the Occupant shall comply with the Governing Documents, and that any failure to comply shall be a default under the lease agreement. If a lease agreement for Non-Owner Occupancy (whether in writing or not) does not include these provisions, they shall nonetheless be deemed to be part of the lease agreement and binding on the Owner and the Occupant.

(4) Any lease or agreement for allowable Non-Owner Occupancy must be for an initial term of at least six (6) months. A Non-Owner Occupant may not occupy any Living Unit for transient, short-term, hotel, resort, vacation, Airbnb, VRBO, or seasonal use (whether for pay or not). Except as a guest of an Owner, daily and weekly occupancy by Non-Owner Occupants is prohibited (whether for pay or not).

(5) If an Owner is more than sixty (60) days delinquent in paying Assessments or fines, then their Living Unit's qualification for Non-Owner Occupancy shall automatically terminate.

(6) Before leasing any Living Unit, the Owner shall provide verification to the Association that the number of vehicles that will be parked within the Project by the Living Unit's residents does not exceed the number of vehicles that can fit within the garage and driveway (as applicable) of the Living Unit. Street parking and use of the visitor parking stalls is not allowed by residents.

(7) The Board is authorized to adopt further Rules related to Non-Owner Occupied Living Units and the Occupants of those Living Units. Such Rules may include, but are not limited to: requiring copies of lease or other agreements for Non-Owner Occupancy to be delivered to the Association, requiring informational forms to be filled out by Owners and/or Occupants' identifying Non-Owner Occupants' vehicles, phone numbers, etc., application and approval process, a waiting list, or any other reasonable administrative provisions the Board deems appropriate to enforce the requirements of this Section and the Governing Documents. The foregoing information will help the Association to track the number of Non-Owner Occupied Living Units.

(d) Exemptions. The following Living Units may be Non-Owner Occupied and are not subject to the cap on Non-Owner Occupied Living Units set forth in subsection (b) above and shall not be used in the calculation thereof:

(1) A Living Unit owned by a Person in the military for the period of the Owner's deployment.

(2) A Living Unit occupied by a Family Member of the Owner.

(3) A Living Unit whose Owner is relocated by the Owner's employer for a period of two (2) years or less.

(4) A Living Unit owned by an entity that is occupied by an individual who: (1) has voting rights under the entity's organizing documents; and (2) has a 25% or greater share of ownership, control, and right to profits and losses of the entity.

(5) A Living Unit owned by a trust or other entity created for estate planning purposes if the trust or other estate planning entity was created for: (1) the estate of the current Occupant; or (2) a Family Member of the current Occupant.

(e) Joint and Several Liability of Owner and Non-Owner Occupants. The Owner of a Living Unit shall be responsible for the Non-Owner Occupants' and any guests' compliance with the Governing Documents and shall be jointly and severally liable for any violations thereof, including fines.

(f) Violations.

(1) If a Living Unit is leased in violation of this Section, the Board may assess fines against the Owner pursuant to a schedule of fines adopted by the Board.

(2) If a Living Unit is leased in violation of any provision of this Section, (regardless of whether any fines have been imposed) the Board may proceed with any available legal remedies, including, without limitation, an action to require the Owner to terminate the lease agreement and remove the tenant.

(3) If the Board determines that a Non-Owner Occupant has violated a provision of the Governing Documents, the Board may require an Owner to terminate a lease agreement with such Occupant.

(4) In addition to any other remedy for non-compliance, after reasonable notice, the Association shall have the right to initiate an action and obtain a forcible entry and unlawful detainer order from the court, or similar action, with the purpose of removing the offending Non-Owner Occupant. The Association, the Board, and the Manager shall not have any liability for any action taken pursuant to this subsection and the Owner shall indemnify and pay the defense costs of the Association, the Board, and the Manager arising from any claim related to any action taken in good faith by any of them pursuant to this subsection.

(5) Fines, charges, and expenses incurred in enforcing the Association's Governing Documents with respect to a Non-Owner Occupant, and for any costs incurred by the Association in connection with any action under this Section, including reasonable attorney fees (regardless of whether any lawsuit or other action is commenced), shall be an individual assessment against the Owner and Living Unit which may be collected and foreclosed on by the Association.

The leasing restrictions and regulations set forth in this Section shall not apply to the Declarant or a Declarant affiliated entity.

9.14. **Solar Energy Systems**. Solar energy systems and equipment are prohibited from being constructed or installed in the Project. Notwithstanding the forgoing, if the Board elects to allow solar energy systems in the Project, the Board may adopt Rules and regulations for the installation of solar panels or other energy conservation equipment in the Design Guidelines. Any such rules must require that the installation be an integral and harmonious part of the architectural design of the Lot, Living Unit, or townhome buildings. Solar panels or other equipment shall not be installed so as to be visible from the streets in the Project without prior approval from the ACC as a variance. Owners shall be responsible for the costs of the installation, operation, and maintenance of each solar energy system. If an approved solar energy system (installation, operation, maintenance, or otherwise) causes costs to the Association, then the Board may allocate these costs to the Owner who requested or benefit from the installation as the Board in its sole discretion determines. The costs arising under this Section shall be assessed and collected as an Individual Assessment. The ACC or the Board shall have the sole discretion to determine compliance with the Design Guidelines and this Section.

9.15. **Variances**. The Association may, in extenuating circumstances, grant variances from the restrictions set forth in this Article if the Board determines in its discretion (by unanimous vote): (i) that the restriction would create an unreasonable hardship or burden on an Owner or Occupant, (ii) that a change of circumstances since the recordation of this Declaration has rendered such restriction obsolete and unreasonable to enforce, or (iii) that the activity permitted under the variance will not have any financial affect or any other substantial adverse effect on the Association or other Owners and Occupants of the Project and is consistent with the high quality of life intended for residents of the Project. Any such variance shall be unenforceable and without any effect whatsoever unless reduced to writing and signed by every member of the then-existing Board. No variance may be granted that is inconsistent with the Act.

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

ARTICLE X. ARCHITECTURAL CONTROLS

All construction, improvements and landscaping within the Project shall be subject to the architectural controls contained in this Declaration.

10.1. **Architectural Control Committee**. The Board may appoint a three (3) member Architectural Control Committee, the function of which shall be to ensure that all improvements and landscaping within the Project harmonize with existing surroundings and structures. The ACC need not be composed of Owners. If the ACC is not appointed, the Board shall perform the duties required of the ACC. The Declarant shall act as the ACC during the Period of Declarant Control.

10.2. **Architectural Controls**. The designs of all structures and Living Units in the Project shall be limited to those approved by the ACC. In the event of any reconstruction of an improvement or Living Unit due to a casualty, the design, quality, and appearance of the reconstructed improvement shall be substantially the same as the structure initially built, unless otherwise approved by the ACC. No landscaping, grading, excavation, building, fence, wall, residence, or other structure, or alteration of any kind, shall be commenced, erected, maintained, improved, altered, or made until the construction plans and specifications, have been approved in writing by the ACC.

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

10.4. **Declarant's Exemption**. Nothing contained in this Declaration shall be construed to prevent the erection or maintenance by Declarant, or its duly authorized agents, of temporary structures, trailers, improvements or signs necessary or convenient to the development, marketing, or sale of property within the Project. Furthermore, the provisions of

this Declaration which prohibit or restrict non-residential use of Living Units, regulate parking of vehicles, and restrict signage, banners, and the like, shall not prohibit the construction and maintenance of model homes by Declarant and/or other persons engaged in the construction of residences within the Project. The Declarant may use any area of the Project for parking in connection with the showing of model homes or for vehicles necessary for development and construction activities.

10.5. **Variances**. The Board may authorize variances from compliance with any of the architectural provisions of this Declaration or Design Guidelines. Such variances must be in writing and must be signed by all of the members of the Board. If a variance is granted, no violation of the Governing Documents shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of a variance shall not operate to waive any Restrictions of the Governing Documents, other than those specifically identified in the variance, nor shall it affect an Owner's obligation to comply with all governmental laws and regulations.

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

ARTICLE XI. ENFORCEMENT

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

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

ARTICLE XII. SPECIAL DECLARANT RIGHTS

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

1) Any improvements shown on the Plat or included in the Project;

2) Any Lots and corresponding Living Units upon all or any portion of the Additional Land, and the addition of the same to the Project; and

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

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

1) The Project may be expanded by the addition of all or a portion of the real property designated by Declarant, such real property or portions thereof where applicable being referred to as "Additional Land".

2) Expansion or contraction of the Project by the Declarant is without limitation, except as set forth in this Section, and shall be effective without prior approval of the Association or any Owner.

3) Declarant's right to expand or contract the Project shall not expire until the latter of: (i) the expiration of the Period of Declarant Control, (ii) Declarant no longer owns a Lot in the project, or (iii) Declarant elects in writing to no longer have the right to add or withdraw land from the Project.

4) The Additional Land may be added or withdrawn in total or in part, and in any order as Declarant may determine.

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

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

1) the right to maintain sales offices, model Living Units, and signs advertising the Project or any Living Unit at any location in the Project;

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

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

4) the right to convert any part or portion of the Project to a different regime of residential ownership;

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

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

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

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

9) the right to set all Assessments for the Association including annual, special, and individual assessments;

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

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

12) the right to exert any right allowed to the Board or the Association pursuant to the Act and this Declaration;

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

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

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

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

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

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

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

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

12.10. **Easements Reserved to Declarant**.

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

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

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

4) The reservation to the Declarant and its successors and assigns, of a non-exclusive easement and right-of-way in, through, over and across the Common Area for the purpose of the storage of building supplies and materials, and for all other purposes reasonably related to the completion of construction and development of the Project and the provision of utility services, and related services and facilities.

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

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

12.11. **No Modification of Declarant Rights**. Any Declarant Rights in this Declaration or other Governing Documents, and specifically in this Article, shall not be substantively or

procedurally altered, amended, or removed without the written consent of the Declarant until six (6) years have passed after the Period of Declarant Control has ended, at which time the Declarant's approval shall no longer be required. Any document or amendment attempted without obtaining proper consent shall be void *ab initio* to the extent it attempts to alter the rights of the Declarant or any provision of this Article without the consent of the Declarant.

ARTICLE XIII. RIGHTS OF FIRST MORTGAGEE

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

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

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

ARTICLE XIV. RIGHT OF ENTRY

14.1. **Right to Enter**. The Association, acting through the Board or its duly authorized agent, shall have the right at all times and upon reasonable notice of at least 48 hours to enter upon any Lot on the areas located outside the exterior boundaries of a Living Unit, without trespass, and regardless of whether or not the Lot Owner or Occupant thereof is present at the time, to abate any infractions, to fulfill its responsibilities, to exercise its rights, to make repairs, and to correct any violation of any of the Governing Documents. The notice set forth in this Section shall not be necessary in case of an emergency threatening other Living Units, Occupants, or other parts of the Project. Nothing in this Section shall be construed to authorize the entry of the Association into the interior of a Living Unit without the consent of the Lot Owner unless there is an emergency threatening another Living Unit, the Occupants of another Living Unit, or the structural integrity of a townhome building. Owners shall maintain up-to-date emergency contact information records with the Association, including any local representative an Owner may have for notice purposes. Owners shall be responsible for any costs incurred by the Association as a result of entering a Lot or Living Unit under this Section and shall defend, indemnify, and hold harmless the Association for all damages related to such entry, except for such damages resulting from intentional or willful misconduct.

ARTICLE XV. AMENDMENTS

15.1. **Amendments by Declarant**. During the Period of Declarant Control, or so long as the Declarant (or its affiliates) owns one or more Lots in the Project, or any part of the Additional Land, the Declaration and the Plat may be amended or supplemented solely by the Declarant without any additional Owner approval required. In addition, no amendment shall be

valid or enforceable without the Declarant's prior written consent so long as Declarant owns one or more Lots in the Project or any part of the Additional Land. Amendments shall become effective upon recordation in the office of the County Recorder. Declarant's right to amend shall be construed liberally and shall include, without limitation, the right to amend and/or restate this Declaration in part or in its entirety.

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

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

ARTICLE XVI. DISPUTE RESOLUTION

16.1. **Alternative Dispute Resolution Without Litigation**Bound Parties. The Declarant; the Association; the Owners; the officers, directors, managers, members, employees, representatives, agents, successors and assigns of any of the foregoing; any other person subject to this Declaration; and any other person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, "Bound Parties"), agree that it is in the best interest of all Bound Parties to encourage the amicable resolution of Claims without the emotional and financial costs of litigation or the toll or market taint such litigation can have on the value of the Project and/or the Lots that may be involved or impacted. Accordingly, each Bound Party agrees not to file suit in any court with respect to a Claim described in subsection (b), unless and until it has first submitted such Claim to the alternative dispute resolution procedures set forth in Section 16.2 in a good faith effort to resolve such Claim.

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

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

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

(iii) the design or construction of improvements on the Project, other than matters of aesthetic judgment to be determined by the Association or Architectural Committee under the Design Guidelines and other provisions of Article X hereof, which shall not be subject to review and shall not be subject to this chapter.

(c) Exclusion from Definition of Claims. The following shall not be considered "Claims" unless all Parties to the matter otherwise agree to submit the matter to the procedures set forth in Section 16.2:

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

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

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

(iv) any dispute that affects the material rights or obligations of a party who is not a Bound Party and has not agreed to submit to the procedures set forth in Section 16.2;

(v) any suit as to which any applicable statute of limitations would expire within 180 days of giving the Notice required by Section 16.2(a), unless the party or parties against whom the Claim is made agree to toll, or extend, the Claim's statute of limitations to comply with this;

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

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

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

(i) the nature of the Claim, including the persons involved and the Respondent's role in the Claim;

(ii) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises);

(iii) the Claimant's proposed resolution or remedy;

(iv) that the person alleged to be responsible for the acts giving rise to the Claim shall have six months to cure or resolve the Claim; and

(v) the Claimant's desire to meet with the Respondent to discuss, in good faith, ways to resolve the Claim.

(b) Right to Cure. For any Claim arising from a dispute over the construction of improvements within the Project, the Claimant shall provide Respondent six months to rectify, alter, or fix the claimed defect(s) in the improvements. The expiration of this six-month cure period shall be a prerequisite to Claimant's ability to initiate litigation as permitted under Section 16.3 below. For all Claims involving alleged defects in construction, the negotiation, mediation, and settlement requirements shall remain in effect during the cure period, however, the mediation deadline set forth in subsection (d) below shall be extended to expire on the same date the cure period expires.

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

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

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

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

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

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

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

(a) The Right to Cure period set forth in Section 16.2(b) above has expired;

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

(i) Owners may be represented by a proxy specifically assigned for the purpose of voting to approve or deny the proposed legal action at the meeting. Any such proxy shall not be valid unless the proxy is notarized with each Owner certifying that they have received and reviewed the information required by Section 16.4(a) and (b) below.

(c) the Association provides each Owner with the items described in Section 16.4(a) and (b), below;

(d) the Association establishes a trust account, described in Section 16.4(c) below; and

(e) the Association first goes through the procedures described in Section 16.2 above, giving notice and an opportunity to resolve the dispute that is the basis of the Claim and proposed legal action.

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

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

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

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

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

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

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

16.4. **Informed Vote**. Before the Owners, as Members of the Association may vote to approve any claim of legal action, the Association shall first provide each Owner with:

(a) A written notice stating:

(i) that the Association is contemplating legal action;

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

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

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

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

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

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

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

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

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

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

(i) allocate an amount equal to 10% of the cost estimated to resolve the legal action not including attorney fees; and

(ii) place the 10% allocated funds in a trust account that the Association may only use to pay the costs to resolve the legal action.

Sections 16.3 and 16.4 do not apply to an Association that brings a legal action that has an amount in controversy of less than $25,000.00.

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

16.6. **Owner Warranties**. The Declarant may provide certain warranties to the Owners related to a Lot purchased. The first Owner of a Lot to whom any warranty is issued,

or with whom a legal warranty arises, and only that Owner, shall have the right to directly enforce and seek performance from the Declarant of any terms of the warranty, and only consistent with the warranty itself. The Association shall have no right to seek the performance of or take assignment of any rights in any warranties against the Declarant, and the Owner shall have no right to assign any rights of any kind to the Association related to pursuing litigation against the Declarant.

16.7. Unless specifically set forth in this Declaration, no action may be brought by the Association, its Board of Directors, or its officers on behalf of an Owner, as its respective interest may appear, with respect to any cause of action against the Declarant relating to the Common Areas.

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

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

ARTICLE XVII. MISCELLANEOUS

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

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

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

17.2. **Consent in Lieu of Voting**. In any case in which this Declaration requires authorization or approval of a transaction the assent or affirmative vote of a stated percentage of the votes present or represented at a meeting, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Members entitled to cast the required percentage of membership votes. The Association may use any method allowed under Utah law and the Utah Revised Nonprofit Corporation Act.

17.3. **Dissolution**. The Association may be dissolved by the affirmative assent in writing from ninety percent (90%) of the Owners. Upon dissolution of the Association, all of its agency or authority to be used for purposes similar to those provided for in the Articles or this Declaration. In the event such dedication or transfer is not made or is not accepted, the Association's assets shall be transferred to a nonprofit corporation, trust, or other entity to be used for such similar purposes, and each Owner shall continue to be obligated to make assessment payments for the maintenance and upkeep of the Common Areas, common access roadways, curbs, gutters, and sidewalks on a pro rata basis which conforms substantially with the assessments procedure, terms and conditions set forth herein.

17.4. **Interpretation and Severability**. The captions which precede the Articles and Sections of this Declaration are for convenience only and shall in no way affect the manner in which any provision hereof is constructed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, and any gender shall include the other. The invalidity or unenforceability of any portion of the Declaration shall not affect the validity or enforceability of the remainder hereof. Except for judicial construction, the Board, shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Association's construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all Persons and property benefitted or bound by the covenants and provisions hereof.

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

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

17.7. **No Waiver**. Failure by the Association or by any Owner to enforce any Restriction or provision herein contained, or contained in the Bylaws or the Rules, in any certain instance or on any particular occasion shall not be deemed a waiver of such right of enforcement as to any such future breach of the same or any other Restriction or provision.

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

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

17.10. **Security**. Neither the Declarant nor the Association shall be considered an insurer or guarantor of security within or relating to the Project, including any Common Area in which the Association may have an obligation to maintain, and the Association shall not be held liable for any loss or damage by reason of any failure to provide adequate security or any ineffectiveness of security measures undertaken. Owners agree by purchasing a Lot in this Association that the Association, Declarant, and the Board are not insurers of the safety or well-being of Owners or Occupants, or of their personal property, and that each Owner or Occupant assumes all risks for loss or damage to persons, the Lots, the Common Areas, and to the contents of improvements located thereon to the extent not insured by the Association. EACH OWNER AND OCCUPANT UNDERSTANDS AND ACKNOWLEDGES THAT THE ASSOCIATION, DECLARANT, AND BOARD HAVE NOT MADE ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND AND THAT EACH OWNER OR OCCUPANT HAS NOT RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO THE SECURITY OF THE PROJECT.

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

* * * *

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed by a duly authorized representative this ___ day of _____, 2021.

DECLARANT
LENNAR HOMES OF UTAH, INC.

a Delaware corporation

By: _____

Name: _____

STATE OF UTAH)
) ss.
COUNTY OF _____)

Its: _____

On the ____ day of _____, 2021, personally appeared before me _____ who by me being duly sworn, did say that she/he is an authorized representative of Lennar Homes of Utah, Inc. , and that the foregoing instrument is signed on behalf of said company and executed with all necessary authority.

Notary Public: _____

EXHIBIT A
LEGAL DESCRIPTION

[TO BE INSERTED:]

BUT EXCLUDING [INSERT 10 SINGLE FAMILY LOTS]

EXHIBIT B

BYLAWS
OF
ESCALA HOMEOWNERS ASSOCIATION, INC.

These BYLAWS OF ESCALA HOMEOWNERS ASSOCIATION, INC. are effective upon recording in the Utah County Recorder's Office pursuant to the Utah Community Association Act and the Utah Revised Nonprofit Corporation Act (referred collectively herein as the "Acts").

RECITALS

A. The Association is organized for all lawful purposes for which a nonprofit corporation may be organized under the Utah Revised Nonprofit Corporation Act, as amended, subject to the terms and conditions contained in the Declaration and Articles of Incorporation.

B. These Bylaws are adopted to complement the Declaration, to further define the rights of the Association and the Owners, to provide for the ability to effectively govern and operate the Association and the Project known as Escala and, to further the Association's efforts to safely, efficiently, and economically provide a quality living environment.

ARTICLE I
DEFINITIONS

1.1 Except as otherwise provided herein or as may be required by the context, all capitalized terms used herein shall have the same meaning and effect as used and defined in the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Escala.

ARTICLE II
APPLICATION

2.1 All present and future Owners, Mortgagees, Occupants, and their invitees and guests, and any other persons who may use the facilities of the Project in any manner are subject to these Bylaws, the Declaration, and Rules. The mere acquisition or rental of any of the Living Units or the mere act of occupancy or use of any said Living Units or the Common Areas will signify that these Bylaws, the Declaration, and the Rules are accepted, ratified, and will be complied with by said persons.

ARTICLE III
OWNERS

3.1 **Annual Meetings**. The Annual Meeting of the Owners shall be held each year on a day and time established by the Board of Directors. The purposes of the Annual Meeting may include the election of Board Members, the distribution of financial reports and budget, a review of any revisions to the Rules, distributing the most recent reserve study, and to transact such other business as may come before the meeting. If the election of Board Members cannot be held during the Annual Meeting, or at any adjournment thereof, the Board shall cause the election to be held either at a Special Meeting of the Owners to be convened as soon thereafter as may be convenient or at the next Annual Meeting. The Board may from time to time by resolution change the month, date, and time for the Annual Meeting. Annual Meetings shall not

be required during the Period of Declarant Control, but the Declarant may hold Annual Meetings at its discretion.

3.2 **Special Meetings**. Special Meetings of the Owners may be called by a majority of the Board, the Declarant, the President, or upon the written request of Owners holding not less than forty percent (40%) of the voting interests of the Association. Any written request for a Special Meeting presented by the Owners shall be delivered to the President and shall include the original signature of each Owner affirmatively supporting such request along with a complete statement of the purpose of the meeting on each page containing signatures. The President shall then call, provide notice of, and conduct a Special Meeting within 45 days of receipt of the Owner request. During the Period of Declarant Control, Special Meetings may only be called by the Declarant.

3.3 **Place of Meetings**. The Board may designate any place in Utah County that is reasonably convenient for the Owners as the place of meeting for any Annual or Special Meeting. In addition, the Association may hold and conduct Owner meetings through any type of electronic means that allows Owners to communicate orally in real time including telephone and video conferencing.

3.4 **Notice of Meetings**. The Board shall cause written or printed notice of the date, time, and place (and in the case of a Special Meeting, the purpose or purposes) for all Owner meetings. Such written or printed notice shall be delivered to each Owner of record entitled to vote at such meeting not more than sixty (60) nor less than ten (10) days prior to the meeting. Such notice may be sent via email, text, hand-delivery, or regular mail. If sent by email or text, such notice shall be deemed delivered and effective on the date transmitted to the Owner's email address or telephone number registered with the Association. If mailed, such notice shall be deemed to be delivered and effective on the date deposited in the U.S. mail if addressed to the Owner's address registered with the Association. Each Owner shall register with the Association such Owner's current email address, phone number, and mailing address for purposes of notice hereunder. Such registered email, phone number, and mailing address may be changed from time to time by notice in writing to the Association. If no address is registered with the Association, an Owner's Living Unit shall be deemed to be the Owner's registered address and notice to the Living Unit address may be made by first-class mail or by posting the meeting notice on the front door. An Owner may opt out of receiving notices from the Association via email or text by giving written notice to the Board stating that the Owner will not accept notices by way of email or text.

3.5 **Qualified Voters**. An Owner shall be deemed to be in "good standing" and "entitled to vote" at any meeting if he or she has fully paid his or her share of any Assessment (together with any interest and/or late fees) at least 48 hours prior to the commencement of the meeting and is not in violation of any provision of the Governing Documents.

3.6 **Record Date for Notice Purposes**. The Board may designate a record date, which shall not be more than sixty (60) nor less than ten (10) days prior to the meeting, for the purpose of determining Owners entitled to notice of any meeting of the Owners. If no record date is designated, the last date on which a notice of the meeting is mailed or delivered shall be deemed to be the record date for determining Owners entitled to notice. The persons or entities appearing in the records of the Association on such record date as the Owner(s) of record of Lots in the Project shall be deemed to be the Owners of record entitled to notice of the Owner meeting.

3.7 **Quorum**. Any number of Owners present in person or by proxy at any meeting duly called and held in compliance with the requirements of these Bylaws, shall constitute a quorum for the transaction of business and adoption of decisions.

3.8 **Proxies**. Owners shall be entitled to vote in person or by proxy at each meeting provided, however, that the right to vote by proxy shall exist only where the instrument authorizing such proxy to act shall have been signed by the Owner or by the Owner's attorney. A proxy may be written on paper or received via email, facsimile, text, or any other electronic or physical means. A signature as required herein shall mean any indication that the document is from and consented to by the person who is purported to have sent it. If a Lot is jointly owned, the instrument authorizing a proxy to act may be executed by any single Owner of such Lot or the Owner's attorney when duly authorized in writing. A proxy given by an Owner to any person who represents the Owner at meetings of the Association shall be in writing, dated, and signed by such Owner. Such instrument may allow the proxy to vote on any issue arising at any particular meeting or meetings, or may set forth the specific matters or issues upon which the proxy is authorized to act. Proxies shall be filed with the Secretary (or with such other officer or person who may be acting as Secretary of the meeting) before the meeting is called to order. The Secretary shall record all proxies in the meeting minutes.

3.9 **Votes**. Owners shall be entitled to vote on each matter submitted to an Owner vote in person, by proxy, or by any type of written or electronic ballot. Owners shall have the number of votes appertaining to the Lot of such Owner, as set forth in the Declaration. The affirmative vote of a majority of the votes entitled to be cast by the Owners present or represented by proxy at a meeting at which a quorum was initially present shall be necessary for the adoption of any matter voted on by Owners, unless a greater proportion is required by the Articles of Incorporation, these Bylaws, or the Declaration. When a Lot is jointly owned, any Owner may exercise the vote for such Lot on behalf of all Co-Owners of the Lot. In the event of two (2) conflicting votes by Co-Owners of a Lot, no vote shall be counted for that Lot. In no event shall fractional or cumulative votes be exercised with respect to any Lot. Only those Owners whose accounts with the Association are not delinquent and paid in full at least 48 hours prior to the start of the meeting shall be entitled to vote.

3.10 **Waiver of Irregularities**. All inaccuracies and irregularities in calls or notices of meetings and in the manner of voting, in the form of proxies and the method of ascertaining Owners present, and in the decision and votes of the Board or of the Owners shall be deemed waived by those Members in attendance if no objection is made at the meeting. For those Members who are not in attendance at the meeting, the right to challenge inaccuracies and irregularities in calls, notices, voting, and decisions shall be waived if no objection is made within thirty (30) days of the date of the meeting.

3.11 **Action Taken Without a Meeting**. Owners have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of Owners through ballot, written consent, or otherwise. The Association may also use any method permitted for actions without a meeting in accordance with the requirements of Utah Code § 16-6a-707 or § 16-6a-709 and any other applicable section of the Acts. Any action so approved shall have the same effect as though taken at an Owner meeting. Ballots or written consents may be obtained via any electronic or physical means including but not limited to email, facsimile, text, or paper document.

3.12 **Minutes of Meetings**. The Secretary, or the Manager, shall take minutes of all Owner meetings. The minutes shall include, at a minimum, (1) the identification of the Persons present in person and by proxy, (2) the meeting date, (3) the identification of any issue that is voted on or decided in the meeting, (4) the number of votes cast for and against any issue decided upon, and (5) the exact wording of any resolution passed at the meeting. The failure to take appropriate minutes or otherwise comply with this section does not invalidate any action taken at a meeting. Draft meeting minutes for each Owner meeting shall be made available to requesting Owners within sixty (60) days of the meeting.

ARTICLE IV
BOARD OF DIRECTORS

4.1 **Powers**. The Project and the business and affairs of the Association shall be governed and managed by the Board of Directors. The Board may exercise business judgment and all of the powers of the Association, whether derived from the Declaration, these Bylaws, the Articles, or the Acts except such powers that the Declaration, these Bylaws, the Articles, and the Acts vest solely in the Owners.

4.2 **Number and Qualifications**. The Board of Directors shall be composed of three (3) or five (5) individuals. Board Members must be at least 18 years old and must be an Owner or the spouse of an Owner of a Lot in the Project. No two (2) Board Members may reside in the same Living Unit or be business partners if the business is related to their ownership of a single Lot. If an Owner is a corporation, partnership, limited liability company, or trust, an officer, partner, member, manager, agent, trustee, or beneficiary of such Owner may be a Board Member. If a Board Member ceases to meet any required qualifications during the Board Member's term, such person's membership on the Board shall automatically terminate. During the Period of Declarant Control, the composition and qualification requirements of these Bylaws shall not apply and the Declarant may exercise all powers of the Board as permitted by law.

4.3 **Election**. During the Period of Declarant Control, Board Members shall be appointed by Declarant. Following the Period of Declarant Control, the election of Board Members shall be made by the Owners. At such election, the Owners or their proxies may cast, with respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The Association may accept written ballots for Board Member election voting purposes from those Members unable to attend a meeting in which an election is held. The persons receiving the largest number of votes shall be elected. The election of Board Members may be conducted through open voting or by secret ballot. Cumulative voting is not permitted.

4.4 **Term of Office**. During the Period of Declarant Control, Board Member terms shall be determined exclusively by Declarant. Following the Period of Declarant Control, the Owners shall elect Board Members for two (2) year terms. However, at the first election following the Period of Declarant Control, the Board Members receiving the highest votes will serve two (2) year terms and the remaining will serve a one (1) year term to establish staggered terms. The terms shall overlap so that elections for Board Member positions are held each year. Board Members may serve consecutive terms if elected.

4.5 **Regular Meetings**. The Board shall hold meetings at least annually or more often at the discretion of the Board. During the Period of Declarant Control, Board Meetings

shall be held at the discretion of the Declarant so long as at least one Board Meeting is held each year and a Board Meeting is held each time the Association increases a fee or raises an Assessment.

4.6 **Special Meetings**. Special meetings may be called by the President or a majority of Board Members on at least two (2) business days' prior notice to each Board Member and those Owners who have requested notice.

4.7 **Meeting Notice**. Notice shall be given to Board Members and Owners who have requested notice personally, by email, or by telephone, including text message at least two (2) business days' in advance of the meeting. By unanimous consent of the Board, Board meetings may be held without call or notice to the Board Members, but notice shall always be provided to those Owners who have requested notice of Board meetings.

4.8 **Quorum and Manner of Action**. A majority of Board Members shall constitute a quorum for the transaction of business. The act of a majority of the Board Members present at any meeting at which a quorum is present, and for which proper notice was provided, shall be the act of the Board. The Board Members shall act only as the Board of Directors, and individual Board Members shall have no powers as such.

4.9 **Owner Attendance**. Any Owner may request notice of Board meetings by requesting such notice from a Board Member and providing a valid email address or text messaging number at which the Owner will receive notice. Owners who have requested notice of Board meetings shall be given notice along with the Board Members and shall be provided any call-in number or other means of attendance by electronic communication that is provided to Board Members. If Owners attend a Board meeting, the Board may select a specific period of time during the meeting and limit Owner comments to such time period. The Board in its sole discretion may set a reasonable length of time that each Owner may speak.

4.10 **Open Meetings**. Except as provided below in (a) through (f), following the Period of Declarant Control, Board meetings shall be open to Owners. The Board may hold a closed executive session during a meeting of the Board if the purpose of the closed executive session is to:

(a) Consult with legal counsel to obtain legal advice and discuss legal matters;

(b) Discuss existing or potential litigation, mediation, arbitration, or an administrative proceeding;

(c) Discuss a labor or personnel matter;

(d) Discuss a matter relating to contract negotiations, including the review of a bid or proposal;

(e) Discuss a matter involving a Person, if the Board determines that public knowledge of the matter would violate the Person's privacy; or

(f) Discuss a delinquent assessment.

During the Period of Declarant Control, Board meetings may be closed to Owners, unless the Board, in its sole discretion and without obligation, determines to open the meeting (or a portion thereof) to the Owners. Notwithstanding the foregoing, the Board meetings required under Utah Code § 57-8a-226(6)(b) shall be open to all Owners.

4.11 **Board Meetings Generally**. The Board may designate any place in Utah County as the place of meeting for any regular or special Board meeting. The Board may allow

attendance and participation at any Board meeting by telephone or any other electronic means that allows for Board Members to communicate orally in real time. Following the Period of Declarant Control, if a Board meeting is held by telephone, the Association shall provide the call-in information such that Owners may call-in to access the meeting.

4.12 **Board Action**. Notwithstanding noncompliance with any provision within these Bylaws, Board action is binding and valid unless set aside by a court of law. A person challenging the validity of a Board action for failure to comply with these Bylaws may not bring the challenge more than sixty (60) days after the Board has taken the action in dispute.

4.13 **Compensation**. No Board Member shall receive compensation for any services that such member may render to the Association as a Board Member; provided, however, that a Board Member may be reimbursed for expenses incurred in performance of such duties as a Board Member to the extent such expenses are approved by a majority of the other Board Members. Nothing herein contained shall be construed to preclude any Board Member from serving the Project in any other capacity and receiving compensation therefore, so long as approved in advance by a majority of disinterested Board Members.

4.14 **Resignation and Removal**. Board Members may resign at any time by delivering written resignation to another Board Member. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any Board Member who is appointed by the Declarant may only be removed by the Declarant. The Declarant may remove a Board Member it appoints at any time. A Board Member elected by the Owners after the Period of Declarant Control may be removed at any time, with or without cause, at a Special Meeting of the Owners duly called for such purpose upon the affirmative vote of more than fifty percent (50%) of the entire voting interests of the Association. At such a meeting, the Owners shall vote for a new Board Member to fill the remaining term of the removed Board Member. Board Members may also be removed by a majority vote of the other active Board Members upon the occurrence of any of the following: failure to attend three (3) consecutive Board meetings, failure to remain current on Assessments, or a violation of the Governing Documents. If removal occurs based on the preceding sentence, then the remaining Board Members may appoint a replacement to serve the remaining term of the removed Board Member.

4.15 **Vacancies**. If vacancies occur during the Period of Declarant Control, the Declarant shall appoint a Board Member to fill the vacancy. Following the Period of Declarant Control, if vacancies occur for any reason (including death, resignation, or disqualification) except removal by the Owners, the Board Members then in office shall continue to act, and such vacancies shall be filled by a majority vote of the Board Members then in office, though less than a quorum. Vacancies occurring by reason of removal by the Owners may be filled by election of the Owners at the meeting at which such Board Member is removed. Board Members elected or appointed hereunder to fill a vacancy shall serve for the unexpired term of his predecessor. Except by reason of death, resignation, disqualification, or removal, Board Members shall continue to serve until their successors are elected.

4.16 **Action Without a Meeting**. Board Members have the right to take any action in the absence of a meeting which they could take at a Board meeting if a majority of the Board Members consent to the action in writing. The term “in writing” shall specifically include email and text messaging. Board Members may also take action without a meeting if the Board complies with any applicable provisions of the Acts. Any action so approved shall have the same effect as though taken at a Board meeting.

4.17 **Waiver of Notice**. Before or at any meeting of the Board, any Board Member or Owner may waive notice of such meeting and such waiver shall be deemed the equivalent of proper notice. Attendance by a Board Member or Owner at any meeting thereof shall be a waiver of notice by that Board Member or Owner of the time, place, and purpose thereof.

4.18 **Adjournment**. The Board may adjourn any meeting from day to day for such other time as may be prudent or necessary, provided that no meeting may be adjourned for longer than thirty (30) days.

4.19 **Meeting**. A Board meeting does not include a gathering of Board Members at which the Board does not conduct and vote on Association business.

ARTICLE V
OFFICERS

5.1 **Officers**. The officers of the Association shall be a President, Secretary, Treasurer, and such other officers as may be appointed by the Board. Officers shall not be required during the Period of Declarant Control.

5.2 **Election, Tenure, and Qualifications**. Officers shall be elected by the Board at the first Board meeting following each Annual Meeting of the Owners. Each officer shall hold such office until the next ensuing meeting of the Board following the Annual Meeting of the Owners and until a successor has been elected and qualified, or until such officer's death, resignation, disqualification, or removal in the manner provided in these Bylaws, whichever first occurs. Any person may hold any two (2) or more of such offices, except that the President may not also be the Secretary. No person holding two (2) or more offices shall act in or execute any instrument in the capacity of more than one (1) office.

5.3 **Subordinate Officers**. The Board may appoint such other officers or agents as it may deem advisable, each of whom shall have such title, hold office for such period, have such authority, and perform such duties as the Board may from time to time determine.

5.4 **Resignation and Removal**. Officers may resign at any time by delivering a written resignation to any Board Member. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any officer may be removed and replaced upon the affirmative vote of a majority of the Board Members at any time, with or without cause.

5.5 **Vacancies**. . If a vacancy occurs in an office for any reason, or if a new office is created, such vacancies or newly created offices may be filled by majority vote of the Board at any regular or special Board meeting.

5.6 **President**. The President shall be the chief executive of the Association. The President shall preside at meetings of the Board of Directors and at meetings of the Owners. At the meetings, the President shall have all authority typically granted to the person presiding over the meeting including but not limited to: (1) the right to control the order of the meeting, (2) the right to arrange for the removal of any disruptive Owner or person, (3) the right to impose and enforce reasonable rules and procedures related to the meeting such as those found in "Robert's Rules of Order" or "The Modern Rules of Order." The President shall sign on behalf of the Association all conveyances, mortgages, documents, and contracts, and shall do and perform all other acts and things as required by the Board.

5.7 **Secretary**. The Secretary shall keep the minutes of the Association and shall maintain such books and records as these Bylaws, the Declaration, Rules, or any resolution

the Board may require. The Secretary shall also act in the place of the President in the event of the President's absence or inability or refusal to act. The duties of the Secretary may be delegated to the Manager.

5.8 **Treasurer**. The Treasurer shall have the custody and control of the funds and financial accounts of the Association, subject to the action of the Board, and when requested by the President, shall report the state of the finances of the Association at each meeting of the Owners and at any meeting of the Board. The Treasurer shall perform such other duties as required by the Board. The duties of the Treasurer may be delegated to the Manager.

5.9 **Compensation**. No officer shall receive compensation for any services rendered to the Association as an officer, provided, however, that an officer may be reimbursed for expenses incurred in performance of such duties as an officer to the extent such expenses are approved by the Board.

ARTICLE VI
COMMITTEES

6.1 **Designation of Committees**. The Board may designate committees as it deems appropriate in carrying out its duties, responsibilities, functions, and powers. No committee members shall receive compensation for services rendered to the Association as a member of a committee; provided, however, that a committee member may be reimbursed for expenses incurred in performance of such duties as a committee member to the extent that such expenses are approved by the Board. A committee shall not have powers, duties, or responsibilities beyond those specifically assigned by the Board in a written resolution. The Board may terminate a committee at any time.

6.2 **Proceeding of Committees**. Each committee may appoint its own presiding and recording officers and may meet at such places and times and upon such notice as such committee may determine. Each such committee shall keep a record of its proceedings and shall regularly report such proceedings to the Board.

6.3 **Quorum and Manner of Acting**. At each committee meeting, the presence of members constituting at least a majority of the authorized membership of such committee (but in no event fewer than two (2) members) shall constitute a quorum for the transaction of business, and the act of a majority of the members present at any meeting at which a quorum is present shall be the act of such committee. The committee members shall act only as a committee, and the individual members thereof shall have no powers as such. A committee may only exercise the authority granted to it by the Board.

6.4 **Resignation and Removal**. A committee member may resign at any time by delivering a written resignation to the President, the Board, or the presiding officer of such committee. Unless otherwise specified therein, such resignation shall take effect upon delivery. The Board may at any time, with or without cause, remove any committee member.

6.5 **Vacancies**. If a vacancy occurs in a committee for any reason, the remaining members shall, until the filling of such vacancy by the Board, constitute the then total authorized membership of the committee and, provided that two (2) or more members are remaining, may continue to act. Such vacancy may be filled at any meeting of the Board.

ARTICLE VII
INDEMNIFICATION

7.1 **Indemnification**. No Board Member, officer, or committee member shall be personally liable for any obligations of the Association or for any duties or obligations arising out of any acts or conduct said Board Member, officer, or committee member performed for or on behalf of the Association. The Association shall and does hereby indemnify and hold harmless each person who shall serve at any time as a Board Member, officer, or committee member of the Association, as well as such person's heirs and administrators, from and against any and all claims, judgments and liabilities to which such persons shall become subject, by reason of that person having heretofore or hereafter been a Board Member, officer, or committee member of the Association or by reason of any action alleged to have been heretofore or hereafter taken or omitted to have been taken by him as such Board Member, officer, or committee member and shall reimburse any such person for all legal and other expenses reasonably incurred in connection with any such claim or liability; provided that no such person shall be indemnified against or be reimbursed for or be defended against any expense or liability incurred in connection with any claim or action arising out of such person's willful or intentional misconduct. The rights accruing to any person under the foregoing provisions of this Section shall not exclude any other right to which such person may lawfully be entitled, nor shall anything herein contained restrict the right of the Association to defend, indemnify, or reimburse such person in any proper case, even though not specifically provided for herein or otherwise permitted. The Association, its Board Members, officers, committee members, employees, and agents shall be fully protected in taking any action or making any payment or in refusing so to do in reliance upon the advice of counsel.

7.2 **Other Indemnification**. The defense and indemnification provided herein shall not be deemed exclusive of any other right to defense and indemnification to which any person seeking indemnification may be entitled under the Acts or under any agreement, vote of disinterested Board Members or otherwise, both as to action taken in any official capacity and as to action taken in any other capacity while holding such office. It is the intent that all Board Members, officers, and committee members be and hereby are defended and indemnified to the fullest extent permitted by the laws of the State of Utah and these Bylaws. The defense and indemnification herein provided shall continue as to any person who has ceased to be a Board Member, officer, committee member, or employee and shall inure to the benefit of the heirs, executors and administrators of any such person.

7.3 **Insurance**. The Board, in its discretion, may direct that the Association purchase and maintain Directors and Officers insurance on behalf of any person who is or was a Board Member, officer, committee member, Manager or employee of the Association or is or was serving at the request of the Association as a Board Member, officer, committee member, Manager, employee, or agent of another association, corporation, partnership, joint venture, trust or other enterprise against any liability asserted against, and incurred by, such person in any such capacity or arising out of such person's status as such, whether or not the Association would have the power to defend or indemnify such person against liability under the provisions of this Article.

7.4 **Settlement by Association**. The right of any person to be defended and/or indemnified shall be subject always to the right of the Association through the Board, in lieu of such defense and/or indemnity, to settle any such claim, action, suit or proceeding at the

expense of the Association by the payment of the amount of such settlement and the costs and expenses incurred in connection therewith.

ARTICLE VIII
RULES AND REGULATIONS

8.1 **Rules**. The Board shall have the authority to adopt Association Rules as it deems necessary for the maintenance, operation, management, and control of the Project. The Board may from time to time, by resolution, alter, amend, and repeal such Rules and use their best efforts to see that they are strictly observed by all Owners and residents. Owners are responsible to ensure that their lessees, invitees, and guests strictly observe the Rules then in effect as well as the covenants and restrictions of the Declaration and shall be jointly and severally liable for their violations and resulting fines. Copies of all Rules adopted by the Board shall be sent to all Owners at least five (5) days prior to the effective date thereof.

ARTICLE IX
AMENDMENTS

9.1 **Amendments by Declarant**. During the Period of Declarant Control, or so long as the Declarant owns one or more Lots in the Project or any Additional Land, the Declarant acting alone may amend the Bylaws for any reason, without Owner approval. Declarant's unilateral amendment right as designated herein may continue past the expiration of the Period of Declarant Control. No other amendment shall be valid or enforceable during the period Declarant owns at least one Lot or any Additional Land unless the Declarant has given written consent to such amendment. Any amendment during the period Declarant owns at least one Lot or any Additional Land shall be executed by Declarant on behalf of the Association and shall become effective upon recordation in the office of the Utah County Recorder.

9.2 **Amendments by Association**. After Declarant has annexed all of the Additional Land, has sold all of the Lots to unaffiliated third parties, and the Period of Declarant Control has expired, the Bylaws may be amended by the Owners upon the affirmative vote of at least fifty-one percent (51%) of the voting interests of the Association. Any amendment(s) shall be effective upon recordation in the office of the Utah County Recorder. In such instrument the President shall execute the amendment and certify that the vote required by this Section has occurred. If a Lot is owned by more than one Owner, the vote of any one Owner shall be sufficient to constitute approval for that Lot under this Section. If a Lot is owned by an entity or trust, the vote of any one officer, trustee, or agent of the entity shall be sufficient to constitute approval for that Lot under this Section. No amendment shall restrict, limit, or impair any Declarant rights without the express written consent of the Declarant.

ARTICLE X
MISCELLANEOUS PROVISIONS

10.1 **Waiver**. No restriction, condition, obligation, or provision contained in these Bylaws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

10.2 **Invalidity; Number; Captions**. The invalidity of any part of these Bylaws shall not impair or affect in any manner the validity, enforceability, or effect of the balance of these Bylaws. As used in these Bylaws, the singular shall include the plural, and the plural the singular. The masculine and neuter shall each include the masculine, feminine and neuter, as

the context requires. All captions are intended solely for convenience of reference and shall in no way limit any of the provisions of these Bylaws.

10.3 **Conflicts**. These Bylaws are intended to comply with the Declaration. In case of any irreconcilable conflict, the Declaration shall control over these Bylaws.

IN WITNESS WHEREOF, the Declarant has executed and adopted these Bylaws on behalf of the Association this ___ day of _____, 2021.

DECLARANT
LENNAR HOMES OF UTAH, INC.
a Delaware corporation

By:_____

Name:_____

Its:_____

STATE OF UTAH)
) ss.
COUNTY OF _____)

On the ____ day of _____, 2021, personally appeared before me _____ who by me being duly sworn, did say that she/he is an authorized representative of Lennar Homes of Utah, Inc., and that the foregoing instrument is signed on behalf of said company and executed with all necessary authority.

Notary Public: _____

EXHIBIT C

MAINTENANCE ALLOCATION CHART

ITEM	HOA	UNIT OWNER	NOTES
GENERAL NOTE			Shared items are to be resolved between the Owners involved in use of the item.
A/C Pad & Unit		X	
Address Numbers		X	
Attic		X	
Cable/Satellite TV		X	
Ceiling		X	
Circuit Breakers for Unit		X	
Common Area amenities	X		
Door and Door Frames - exterior		X	Subject to Board approval upon replacement
Door and Door frames - interior		X	
Door Hardware/doorbell		X	
Drains – Living Unit & Limited Common patio/porch		X	
Dryer Vent Cleaning		X	
Electrical Wiring/Panel		X	
Exterior Wall Finishes (Rock/Stucco/Siding, etc.)		X	
Fences (as applicable, if any)	X	X	• HOA to maintain fencing that does not border a Lot (if any) and the North and South Project boundary. All other fencing is Owner.
Fireplace, Flue, & Vent Pipes – Cleaning & Repair		X	
Floor Coverings		X	
Foundation – Structural		X	
Foundation – Cracks, cosmetic		X	
Front Landing/Porch		X	
Furnace		X	
Garage Door Openers, Springs, Hinges, Parts		X	
Garage Doors – paint, repair & replacement		X	Subject to Board approval upon replacement
Gas Pipes (from meter to inside Living Unit)		X	
Hose Bib/Faucet/Spigot		X	
Hot Water Heater		X	
Insurance Coverage – Property (attached buildings)	X		
Insurance Coverage - HO6 Policy		X	
Insurance Coverage - loss assessment		X	
Insurance Deductible	X	X	Assessed to Owners pro-rata according to losses. HO6 deductible is Owner's responsibility.
Irrigation Lines / Heads – Common Area yard areas	X		
Landscape – Common Area	X		
Landscape – Owner maintained fenced yard area		X	If applicable
Lights – eaves, porch & garage fixtures & bulbs		X	Fixture replacement subject to Board approval

Limited Common Area – patios, porches, decks, stairs & sidewalks serving only one Unit - repair and replacement		X	
Limited Common Area – patios, porches, decks, stairs & sidewalks clean and snow removal		X	
Mailbox & Stand/Structure		X	Or USPS as applicable
Mailbox Lock & Key		X	Or USPS as applicable
Paint - exterior wall surfaces and trim finishes		X	
Paint – exterior doors, garage doors, windows		X	
Paint - Interior		X	
Patio Slab		X	
Pest Control Interior & Exterior		X	
Phone Lines		X	
Playgrounds, Pavilion, Parks, & Open Space	X		
Plumbing Valves, Pressure Regulator		X	Point of connection/Meter to the unit – Owner Before point of connection/Meter – HOA
Plumbing Main Line		X	Point of connection/Meter to the unit – Owner Before point of connection/Meter – HOA
Plumbing Leak		X	Point of connection/Meter to the unit – Owner Before point of connection/Meter – HOA
Plumbing – clogging/stoppage		X	Point of connection/Meter to the unit – Owner Before point of connection/Meter – HOA
Plumbing Pipes Inside Unit		X	
Rain Gutters – clean-out, repair, replacement		X	
Rain Gutters - drains away from building		X	
Roof – leaks, repair & replacement		X	
Screen Doors		X	Must be approved by Board
Sewer pipes & utilities – serving a single Living Unit		X	
Sewer pipes & utilities – to more than one Living Unit		X	Responsibility shared by Owners in use unless handled by municipality or others
Shutters, skylights, exterior window trim		X	
Sidewalks and paths on Common Areas	X		
Sliding Glass Doors		X	
Snow Removal – Limited Common Area, driveways, porches, & sidewalks on Lots		X	
Snow Removal – private roads & Common sidewalks not on Lots or Limited Common Area	X		
Storm Drains	X		
Street Lights	X		Unless handled by Municipality or others
Streets – private (excluding approach to garage)	X		
Termites, pests, rodents, insects, etc.		X	
Trash		X	
Utility Doors		X	
Vent Covers - exterior		X	
Wall - bearing interior wall		X	
Wall - partition interior wall		X	
Water – culinary		X	Unless collectively metered
Water – Common Area landscape	X		

Weather Stripping		X	
Windows – glass, screens, frames, boxes		X	Subject to Board approval upon replacement

During the Period of Declarant Control, the Declarant may unilaterally amend this Exhibit C. Following the Period of Declarant Control, it may be amended in the same manner as an amendment to the Declaration.