

WATER RIGHTS DECLARATION, WAIVER, AND RELEASE WITH  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
(Hobble Creek Canyon)

THIS WATER RIGHTS DECLARATION, WAIVER, AND RELEASE WITH DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, hereinafter referred to as the “Declaration” is made and adopted this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_ and \_\_\_\_\_ (if applicable) \_\_\_\_\_ (relationship, if applicable; i.e. husband and wife), acting individually as fee title owners and for and on behalf of any and all agents or associated parties involved with the subject property, hereinafter referred to as the “Declarant”, as to and affecting the following described property:

That real property described in Exhibit “A” attached hereto and incorporated herein by this reference, hereinafter called the “Property”.

Declarant is the owner in fee of the Property and has caused this Declaration to be filed, to run with the land, and to give notice, warning, and to otherwise restrict and declare permitted uses and encumber the land with the covenants, conditions, restrictions, notices, waivers, releases and charges herein set forth.

This Declaration, upon recordation in the office of the Utah County Recorder, shall be binding on all lessees, tenants, occupants, lenders, users, developers, owners, and any other party having any right, title, interest or claim in the Property. Compliance with the covenants, conditions, restrictions, waivers and notices herein set forth may be enforced through appropriate action by any individual Declarant, by any successor in interest of Declarant, by Utah County, or by any other governmental entity.

These conditions, covenants, notices, disclaimers, waivers, releases, and restrictions shall run with the land and be binding upon all successors in interest of Declarant and shall inure to the benefit of Utah County, and any other applicable governmental entity. In any legal or equitable proceeding to enforce this Declaration or to enjoin violation of this Declaration by Declarant, by any successor in interest of Declarant, by Utah County, or by and any other governmental entity, the successful party may be awarded its attorney’s fees as may be fixed by the court in such proceeding as being reasonable and proper.

The following Notice, Declaration, Covenants, Waivers, Releases, Conditions and Restrictions are herein specified:

1. The Utah Division of Water Rights is currently conducting a General Adjudication on all water rights within Utah County. This is a process wherein each water right is reviewed for accuracy, priority date, quantity, place of use and whether it has been fully put to beneficial use. Failure to demonstrate that the full water right has been put to beneficial use in the General Adjudication may result in the loss/reduction of

the quantity of water available under the water right, which could result in the loss of water service to some affected residences and/or approved parcels or building lots.

2. While the General Adjudication is applicable to all of Utah County, the Utah Division of Water Rights has put Utah County on notice that the situation is especially dire in the Hobble Creek Canyon area, that the water rights associated with the parcels/lots/residences in the canyon may not provide the required water, that the available water in the Canyon may be insufficient to satisfy the current water demands, and that due to reduced water flows from the drought and higher priority water rights, it is possible that some existing homes and some parcels or approved building lots in the area could either lose entirely their water right for both culinary and irrigation, or have these rights significantly reduced to the point that water may only be available at certain times of the year.
3. The Property may be subject to a legal action pending in the Third Judicial District Court, Salt Lake County, State of Utah under the heading "IN THE MATTER OF THE GENERAL DETERMINATION OF ALL THE RIGHTS TO USE OF WATER, BOTH SURFACE AND UNDERGROUND, WITHIN THE DRAINAGE AREA OF THE UTAH LAKE AND JORDAN RIVER IN UTAH, SALT LAKE, DAVIS, SUMMIT, WASATCH, SANPETE, AND JUAB COUNTIES IN UTAH (HOBBLE CREEK (51-4)), Case No. 365729804.
4. Declarant does hereby acknowledge that the General Adjudication is being conducted by the Utah State Division of Water Rights and that it is a separate process from that associated with either building permit or subdivision approval in Utah County.
5. Declarant acknowledges that the prior and on-going approval of parcels, subdivisions, and buildable lots in Utah County is and was based on available information and documentation from the Utah Division of Water Rights as it exists or existed at the time of approval. Utah County is not liable for approvals granted based on information that may now be altered due to the General Adjudication, or due to priority of water rights, or due to circumstances associated with a drought that may make water from water rights (valid or not) unavailable until the State of Utah receives additional moisture.
6. Utah County's past, present, and future reliance on existing records kept by the Utah Division of Water Rights to determine whether adequate water rights are available for a particular development or approved parcel or lot, are all subject to change/reduction due to the General Adjudication, and Utah County accepts no liability for approving parcels/lots/building permits based on valid water rights that exist on the records of the Utah Division of Water Rights at the time of approval, but that may subsequently be reduced due to the General Adjudication.
7. Based on the above disclosures, the Declarant acknowledges the pendency of the General Adjudication, that the water rights associated with the Property may be forfeited or drastically reduced, and that the Declarant builds with full knowledge of

the risks associated with building a residence/structure before the water rights associated with the residence/structure are affirmed by the Courts. Any investing in or making any use of the Property is at Declarant's own risk of the pending General Adjudication and potential loss of the existing source of water or water rights, in full or part, to the Property.

8. Any use, occupancy, development, or improvement of the Property or continued use of the Property shall be done at Declarant's own risk of the pending General Adjudication and potential loss of the existing source of water or water rights, in full or part, to the Property, which may result in damage, liability, obligation or loss, including, but not limited to, loss of certificates of occupancy, loss of approvals, or loss of permits on the Property. If loss of the existing source of water or water rights, in full or part, to the Property occurs, then Declarant at its own expense shall find and secure replacement water to the Property at least equal to or greater than the water required when the use, occupancy, development, or improvement of the Property was initially approved by Utah County.
9. Declarant, for itself, its officers, agents, successors, assigns, representatives, officers, contractors, engineers, architects, attorneys, and employees hereby expressly disclaims, waives, and releases any and all liability, claims, demands, causes of action, orders, decrees, judgments, losses, risk of loss, damages, and expenses against Utah County, its officers, employees, agents, and representatives, for any damage, liability, obligation or loss, including, but not limited to, loss of certificates of occupancy, loss of approvals, loss of use of residences or other structures or uses on the Property, or loss of permits, that might hereinafter occur or arise as a result of loss/reduction of the existing source of water or water rights, in full or part, arising out of or related to, directly or indirectly, the pending General Adjudication, or arising out of or related to, directly or indirectly, a loss/reduction/restriction of water based on priority of water rights, and for any subsequent legal actions deriving therefrom related to the Property and for any destruction or loss of property or personal injury or loss of life resulting therefrom.

Nevertheless, no improvements being placed on the Property nor the financing thereof shall of itself in any way create, acknowledge, or constitute any liability for the parties involved therewith, except as expressly otherwise given.

[Signature(s) on following page]

DECLARANT:

\_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

STATE OF UTAH    )  
                          :SS  
COUNTY OF UTAH )

On this \_\_\_\_ day of \_\_\_\_\_, 2022, personally appeared before me \_\_\_\_\_, personally known by me to be the Declarant above named and owner of the Property, who being by me first duly sworn did say that the within foregoing instrument was signed by Declarant.

\_\_\_\_\_  
NOTARY PUBLIC

Exhibit "A"