

## DECLARATION OF OPEN SPACE PRESERVATION EASEMENT

This Declaration of OPEN SPACE Preservation Easement Agreement (hereinafter "Agreement") concerning Cameron Cove Cluster Subdivision (see Exhibit A) is made as of the \_\_\_\_ day of March 2018, by and between Doug Hamblin ("Developer"), Cameron Cove Cluster Subdivision the Homeowner's Association ("HOA") and Weber County, an incorporated county within the State of Utah ("County"). Developer, the HOA and the County are collectively referred to as the "Parties".

### RECITALS

- A. Developer is the owner of certain property located within Weber County, State of Utah, which is more fully identified to the preliminary plat submitted to the County for the Cameron Cove Cluster Subdivision ("hereinafter the Subdivision").
- B. Developer is developing the subdivision into a "cluster" development with part of the Subdivision consisting of separate residential building lots and part of the Subdivision consisting of the property to be used as OPEN SPACE property (hereinafter the "Open Space Preservation Parcel"). The Open Space Preservation Property as shown in Exhibit A attached hereto.
- C. Prior to the approval of the final plat for the Subdivision the Covenants, Conditions and Restrictions (CC&Rs") will be recorded against the Subdivision and the Open Space Preservation Parcel. The CC&Rs shall restrict the use of the Open Space Preservation Parcel consistent with this Agreement. The CC&Rs shall also allow the HOA to among other things, enforce the use restrictions placed on the Open Space Preservation Parcel.
- D. In addition the HOA having authority to enforce use restrictions on the Open Space Preservation Parcel, the County desires to have authority to enforce the use restrictions described herein on the Open Space Preservation Parcel.

**NOW THEREFORE**, in consideration of the mutual promises, covenants and conditions herein contained and in consideration of the execution of this agreement, and for other good and valuable consideration, the receipt of which is hereby acknowledged, Developer, the HOA and the County agree as follows:

1. **Permitted Use of the Open Space Preservation Parcel: Developer, the HOA and the County agree that the Open Space Preservation Parcel shall be restricted to the following uses:**
  - a. **Structures:** No structures will be permitted in the open space used for community gardens (Parcels C & D). Open space/Private Parks will permit tot lots and other items to be considered park related upon approval of the HOA.
  - b. **Waste & Maintenance:** Any waste must be regularly removed from the open space, parcels C & D. Waste may be used as fertilizer, provided the waste is tilled, churned, or otherwise integrated into the soil so as not to cause a nuisance to the residential properties.

- c. **Community Garden Parcels:** Parcels C & D, as shown on the Preservation Site Plan, will be developed as public community gardens. The perimeter will be fences with multiple “grow boxes” as well as “regular” gardening plots. There will be a path provided to access “grow boxes” and plots. Irrigation lines will be provided to Parcels C & D (community gardens). The HOA of Cameron Cove Cluster Subdivision will manage/oversee these parcels for proper maintenance. These parcels (C & D) will be open to the public community for production of vegetables, fruits and other “cultivated” food. The developer will supply appropriate markers/entryways that will set parcels C & D apart from the other open space in the development.
  - d. **Public Access Trail/Path:** A 10’ wide, asphalt, non-motorized public walking trail/path will provide access through the development and to the public community gardens. This trail will be owned and maintained by Weber County. Any damage caused by an event of a storm or any other unforeseen event, will be repaired by Weber County and be prohibited access if trail is not accessible due to damage.
  - e. **Preservation:** An approved easement will be recorded on each open space parcel, identifying each as an Open Space along with deed restrictions
2. **Easement:** Developer dictates, grants and conveys a perpetual easement to the County and the HOA, upon the Open Space Preservation Parcel, said easement to be used only to guarantee that the Open Space Preservation Parcel will remain open and underdeveloped except for the approved uses as set forth above and does not grant the HOA, the County or public at large a right to use the Open Space Preservation Parcel. The parties agree that this Easement is for the express purpose of enhancing the value and protecting the attractiveness of the Subdivision and as such, the use restrictions stated hereto shall run with the Open Space Preservation Parcel. This agreement is binding upon all claiming any right, title or interest in the Subdivision and shall inure to the benefit of developer, the County and the members of the HOA and their successors, assigns heirs or nominees.
3. **Ownership:** The parties agree that the Open Space Preservation Parcel shall only be owned by the Home Owners Association.
4. **Miscellaneous:** The parties agree that the Open Space Preservation Parcel is required at all times to conform to the use restrictions stated herein and the Weber County Zoning Ordinances. To the extent that Weber County Zoning Ordinances conflict with this Agreement, the Zoning Ordinance shall govern. In the event an owner of the Open Space Preservation Parcel violates any use restriction for the Open Space Preservation Parcel, the County may enforce said violation to the extent provided by law.
5. **Attorney’s Fee:** If any legal action or any arbitration or other proceeding is brought or any action taken for the enforcement of this agreement or any related document, or because of an alleged dispute, breach, default or misrepresentation in connection with any of the provisions of the Agreement or any related document, the successful or prevailing party or parties shall be entitled to recover reasonable attorney fees and other cost incurred, in addition to any other relief to which they may be entitled.

6. This Agreement may be amended or modified only by a written instrument executed by the County, the HOA and the owners of the Open Space Preservation Parcel.

**IN WITNESS WHEREOF**, the parties have executed the foregoing Agreement as of the day and year first written above.

Dated this \_\_\_\_ day of March, 2018.

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**Doug Hamblin**

State of Utah     )  
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County of Weber )

On the \_\_\_\_ day of March, 2018 personally appeared before me this signer of the within instrument, who duly acknowledged to me he executed the same.

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**BY:**  
**ITS:**

State of Utah     )  
                                  ) :ss  
County of Weber)

On the \_\_\_\_\_ day of \_\_\_\_\_, 2018, personally appeared before me \_\_\_\_\_ who, being first duly sworn, did say that he is the \_\_\_\_\_ of Weber County, and that the above instrument was signed on behalf of said County.

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**Notary Public**