

**MINUTES OF A MEETING OF THE BOARD OF TRUSTEES OF CASCADES AT  
SOLDIER HOLLOW HOA HELD VIA ZOOM ON MARCH 25, 2021**

Present via Zoom:            Clark Bruderer  
                                      Darci Gillett  
                                      Philip Perkins  
                                      Jennifer Llewelyn  
                                      Whitney Peterson

Present with the consent    Kami Davis  
of the meeting:

**Chairman, Secretary and Due Constitution**

With the consent of the Trustees, Mr. Bruderer acted as the chairman of the meeting and Mr. Peterson acted as the secretary. Pursuant to Section 6.3 of the Bylaws, a quorum of the Trustees being present, the meeting was duly constituted to transact business.

**Notice Waived**

Upon motion duly made and seconded and unanimously carried, the Trustees agreed that notice of the Meeting was waived, and any business transacted at the meeting would be valid and legal as though notice had been duly given.

**Submission of the 2021 Common Area Lawncare Contract for Board Approval**

It was noted that an RFP for common area care and maintenance in the HOA had been circulated to various lawncare services by Mr. Peterson and Mr. Bruderer over the past several months. However, due to the vibrant economy, the Board members were informed that lawncare services were either too busy to bid or not taking on new work. Roberto Hernandez (whose company had provided common area care and maintenance for the past several years did bid and met with Mr. Bruderer and Eldon Haacke to negotiate terms. Following that meeting, a proposed 1-year contract was presented to the Board for discussion and approval with Mr. Hernandez' company with the following general terms:

Six (6) month term: April 15 – October 15 (“Term”).

In exchange for the agreed upon services set forth in the attached Agreement, the HOA shall pay seventy-five thousand dollars (\$75,000) (“Flat Fee”) during the Term in equal monthly installments. Excluded from the the Flat Fee is pump or leak/liner work on the ponds and streams (normal cleaning is included). If out-of-scope work is requested by the HOA, it will be billed at \$45 per hour. Mr. Hernandez is also willing to provide bids on getting some of the ponds and streams that have not worked in several years working again and bidding on rocks in the common area and around the ponds and streams.

After discussion by the Board, upon motion made, duly seconded and unanimously carried, it was resolved that the HOA enter into the 1-year common area maintenance contract as attached as Exhibit A. The Board empowered the President to execute said contract. Ms. Davis was also empowered to pay an advance to Roberto on the first month's payment in order to purchase fertilizer.

### **Closed Session**

The Board then went into closed session to discuss several matters relating to the DRC.

### **Resignation by Mr. Bruderer and Election of a New President**

Mr. Bruderer informed the Board that he was resigning from the position of President of the HOA for personal reasons, effectively immediately. Mr. Bruderer will remain a member of the Board. The Board members thanked Mr. Bruderer for his hard work, dedication, sacrifice of personal time and service in pushing forward the business of the HOA. Following Mr. Bruderer's resignation, Philip Perkins, the HOA's Vice President took charge of the meeting. Pursuant to Section 4.3 of the HOA's Bylaws, Mr. Perkins asked for nominations to replace Mr. Bruderer. Mr. Peterson was nominated and seconded. There being no further nominations, the Board unanimously voted to appoint Mr. Peterson as President of the HOA to serve out the remainder of Mr. Bruderer's term.

### **Special Meeting**

Given the failure of the proposal to raise HOA monthly dues to \$150 per month at the January 27, 2021 Special Meeting, a new Special Meeting was proposed for a Special Assessment of \$1080 to assist with the HOA's Reserve Account. The details of this second Special Meeting and the draft Notice and attendant paperwork were again discussed. After discussion on motion made and duly seconded, the Board unanimously voted to approve the Notice and attendant paperwork for a Special Meeting of the the HOA to be held on April 14, 2021, and authorized Mr. Peterson to circulate or have circulated the same to the HOA. A copy of the Notice and accompanying documents are attached to these minutes as Exhibit B.

### **Noxious Weed Discussion**

Mr. Perkins submitted a written proposal to the Board in the form substantially the same as the form attached hereto as Exhibit C regarding the need for vacant lot mowing and control of noxious weeds in the HOA. Mr. Perkins explained that as Spring approaches, there is an urgent need for a noxious weed control plan within the HOA. Mr. Perkins also noted the city's and county's regulations relating thereto. The Board discussed ensued. After motion made and duly seconded, it was unanimously agreed that the HOA adopt the proposal (as set forth in the email attached as Exhibit C), and that Mr. Perkins should present it to the HOA membership at the April 14, 2021 Special Meeting.

**Termination**

On motion duly made, seconded and unanimously carried, the meeting was terminated.

*Whitney E. Peterson*  
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Whitney E. Peterson, President & Secretary

# Exhibit A

## 2021 CONTRACT FOR COMMON AREA MAINTENANCE

This agreement ("Agreement") for the common area maintenance of the Cascades at Soldier Hollow Home Owners' Association ("HOA") is by and between the HOA and Hernandez Yard Care ("Vendor"), the registered address of which is 1151 North 750 West, Provo, Utah. The Effective Date shall be April 1, 2021. HOA and Vendor are sometime referred to herein individually as a "Party" and collectively as the "Parties."

*WHEREAS*, the HOA comprises a premium neighborhood located in Midway, Utah at W 970 S Stringtown Road; and

*WHEREAS*, the HOA has extensive common area (approximately 13-15 acres) which includes grass, trees, shrubs, bushes, black-top trails, sprinklers, irrigation water filters, and streams and ponds (including timers, lights, pumps and liners); and

*WHEREAS*, the the Parties have agreed that Vendor will maintain the HOA's Common Areas as set forth in this Agreement during the Term;

*NOW, THEREFORE*, in consideration of the mutual covenants and promises set forth in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, the HOA and Vendor agree as follows:

Section 1.      TERM. The term shall begin on April 15, 2021 and shall end on October 15, 2021 ("Term"). All work is to be finished by the end of the Term. Any work not finished by October 15, 2021 will need to be done after October 15, but the HOA will not pay any additional compensation for work that should have been finished before October 15, 2021 that was not and had to be completed after October 15, 2021. The HOA may, at its sole discretion may renew the contract for the next year (April 15, 2022 to October 15, 2022) under the same terms and conditions as 2021 Term. Any request for price increases for any subsequent term must be submitted to the HOA no later than ninety (90) days prior to services beginning in the new year and must be approved by the Board before any change will go into effect. If, at any time, the Board determines it is in its best interest to discontinue use of these services, the Board reserves the right to cancel this Agreement by giving thirty (30) days written notice.

Section 2.      FINANCIAL TERMS. Unless it is specifically stated herein that certain services or work carry an additional fee, the sum total consideration that the HOA shall pay to Vendor for the work and services provided herein is SEVENTY-FIVE THOUSAND DOLLARS (\$75,000) for the Term and shall be paid in six (6) equal installments of of Twelve Thousand Five Hundred Dollars at the end of each monthly period.

Section 3.      VENDORS' SERVICES AND WORK.

(a) Services are to be conducted per general lawncare standards for the Midway area to preserve healthy lawns, trees and shrubs. The Vendor is to supply all needed equipment, chemicals/materials and personnel at Vendor's sole charge and cost. Vendor shall see that the lawn is mowed weekly (weed-eated, trimmed & edged) during the Term. Any deviations to this may be made if requested by the Board. Grass clippings are to be swept/blown off the drive lanes, walking trails, curbs

and sidewalks and clumps are to be raked and removed as needed with each service to leave the lawn in a well-manicured condition.

(b) Vendor shall apply weed suppression chemicals monthly throughout the HOA. Vendor shall apply fertilizer throughout the HOA 3 times in the Term, once at the beginning, once in the middle and once near the end in accordance with good lawn care practice for the climate of Midway, Utah.

(c) Vendor shall conduct spring start up and winterization of the irrigation system, streams and ponds at no additional charge. Vendor shall monitor the streams and ponds and notify the Board of any issues that occur. If the Board authorizes Vendor to repair the streams and ponds, it will be as the result of a bid, or if the fix is small enough that no bid is required it will be at \$45 dollars per hour.

(d) Vendor shall monitor lawn during growing season, notifying the Board of noted insects, diseases, repairs, dry or dying grass, low pressure in any sprinklers, replacements needs for any items, or any other needs to ensure the health of the lawn.

(e) Vendor shall follow all safety standards and conduct itself in a professional manner, including not smoking while on the property and not littering.

(f) Vendor shall take care not to damage any plants, trees and shrubs, sprinkler heads or other HOA property. If any damage does occur, Vendor will be responsible for repair or replacement at the Vendor's sole expense. Any damage must be reported to the Board.

(g) Vendor shall trim, prune or otherwise cut back the vegetation within the HOA once during each yearly service. Vendor represents that it has expertise and the necessary arboricultural skills to care for any vegetation within the HOA.

(h) Vendor shall clean out the irrigation water filters on an as-needed basis.

(i) The HOA shall pay for any replacement sprinklers, piping, pumps or other materials necessary for the maintenance of the Common Areas as suggested by Vendor and agreed by the Board at Vendor's discounted cost. Vendor shall install such new or replacement materials (sprinklers, , piping, etc.) at no extra charge. As mentioned earlier, work to fix the ponds and streams (other than normal cleaning) shall be approved by the Board in advance and be charged at \$45 per hour.

Section 4. VENDORS' DELIVERABLES. Vendor must provide the following prior to execution of a contract.

- 1. A Current Business License.** A copy of the current business license will be required and will serve as documentation that the business has been in operation a minimum of two (2) years.
- 2. Professional Liability Insurance.** The Vendor to whom a contract is awarded shall provide to the Board with documentation for the following: General Professional Liability Insurance Certificate with the following minimum limits: \$1,000,000 each incident/occurrence, automobile insurance should be at least five hundred thousand dollars (\$500,000) combined single limit per accident for bodily injury or property damage. Workers Compensation Insurance. The safety of the successful bidder's employees or representatives and others in or around the area of repairs or maintenance is the responsibility of the successful bidder. Proof of worker's compensation

insurance will be required. The HOA shall be named as an additional insured on each of Vendor's insurance policies.

### **3. A Completed W-9 or 1099 Tax Form.**

#### Section 5. OTHER TERMS & CONDITIONS.

- a. At the end of each month, or more frequently if needed, Vendor shall provide the Board with a report/invoice with details for each service that month, any issues or problems that were observed by Vendor during the month and how those issue or problems were dealt with.
- b. Vendor must obtain prior authorization and provide a quote for work outside the scope of work included in the Seventy-Five Thousand Dollar Fee for the Term.
- c. Should the Vendor fail to perform the above-mentioned scope of work within a reasonable amount of time, a contract may be voided immediately upon notification to the Vendor.
- d. The Board reserves the right at any time to alter the specifications to meet increased or decreased needs.
- e. The Board reserves the right to obtain additional work quotes and service from companies other than the successful Vendor.
- f. Vendor shall perform work in accordance with all state and federal regulations.
- g. Vendor shall not subcontract any of the work to any other company without written approval from the Board.
- h. The Board nor HOA is not responsible for accidents or injuries incurred by the Vendor employees.
- i. Vendor shall maintain adequate insurance coverage for itself, employees and the Board to cover any accidents.
- j. Vendor shall defend, indemnify and hold harmless the Board and assume the entire responsibility and liability for losses, expenses, demands and claims in connection with or arising out of any injury, or alleged injury (including death) to any person, or damage, or alleged damage, to property of the Board or others sustained or alleged to have been sustained in connection with or to have arisen out of or resulting from the performance or the intended performance of any work/service, outlined or resulting from this agreement, by the Vendor their employees, including losses, expenses or damages sustained by the Board, as well as the Board officers, agents, and employees from any and all such losses, expenses, damages, demands and claims.
- k. If any suit or other proceeding is brought for the enforcement or interpretation of this Agreement, or because of any alleged dispute, breach, default or misrepresentation in connection with any of the provisions of this Agreement, the successful or prevailing party shall be entitled to recover, from the other party, reasonable attorneys' fees and other fees, including expert witness fees' and other costs incurred in that suit or proceeding, in addition to any other relief to which such party may be entitled.
- l. The relationship of the Parties to this Agreement is that of independent contractors. The Parties are not, by virtue of this Agreement or otherwise, in an employer-employee, principal-agent, joint venture or partnership relationship with each other. Each Party agrees not to represent to any other person, or

to assert in any form or forum, that the Parties' relationship is an employer-employee, principal-agent, joint venture or partnership relationship. Each Party acknowledges that it has no authority to make representations to third persons on behalf of or to bind or commit any other Party, and each Party covenants and agrees not to purport to make any representation on behalf of any other Party to third persons or to purport to bind or commit the other Party in any way.

IN WITNESS WHEREOF, the Parties hereto have caused their respective authorized representatives to execute and enter into this Agreement as of the Effective Date.

CASCADES AT SOLDIER HOLLOW HOA

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Whitney E. Peterson  
President

HERNANDEZ LAWN CARE

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Roberto Hernandez  
Owner



# Exhibit B

**Notice and Agenda for the Special Meeting of the  
Home Owners' Association of the Cascades at Soldier Hollow ("HOA")  
to be Held on Wednesday, April 14, 2021 via Zoom**

Pursuant to Section 5.4 of the HOA's Covenants, Conditions and Restrictions ("CCRs"), NOTICE is hereby given to the Lot Owners of the Cascades at Soldier Hollow ("Lot Owners") that a Special Meeting of the HOA has been called to consider a proposed Special Assessment in order to partially fund the HOA's Reserve Account. The Special Meeting shall be held on Wednesday, April 14, 2021, at 7:00 p.m. via Zoom.

Each Lot Owner will be sent a Zoom link enabling them to attend the Special Meeting. A voting ballot is included with this Notice. Ballots may be returned to the current Secretary (Whitney Peterson) via email at ([wpeterson@whitneypetersonlaw.com](mailto:wpeterson@whitneypetersonlaw.com)), or via in-person delivery or via U.S. Mail to 1049 S Mont Blanc Court, Midway, Utah 84049. Lot Owners may also sign and return the attached proxy allowing the Board of Trustees or other person of their choice to cast their vote.

Ballots may be returned at any time after receipt by the Lot Owner but shall be deemed late and not be counted if any such ballot is received more than one (1) week after the Special Meeting.

The Board has previously sent out written materials and analysis regarding the advisability and need for additional monies to fund the HOA's Reserve Account. Costs have increased since the HOA was formed more than a decade ago and these funds are needed to meet the demand of such increased costs. At the recent Special Meeting, Lot Owners expressed a preference for Special Assessments rather than an increase in the HOA's monthly dues. This Special Meeting (and proposed Special Assessment) acknowledges that preference. However, because costs have risen (some dramatically), if the Lot Owners do not approve the proposed Special Assessment, the Board will be forced to use the powers granted it by the CCRs to raise the Monthly Assessment in order to meet the HOA's Reserve and other financial obligations. *See* CCRs Section 5.3.

While the amount of the Special Assessment does not provide the HOA with all the funds it may need in the future, the Board sought to balance a substantial beginning against the imposition of a possible financial hardship on the Lot Owners.

Lot Owners will be able to ask questions and make statements about the proposed Special Assessment at the Special Meeting.

**Proposed Business**

1. Shall the HOA impose a Special Assessment of ONE THOUSAND EIGHTY DOLLARS (\$1,080) against each Lot in order to partially fund the HOA's Reserve Account? Said Special Assessment may be paid in one-lump sum or in installments of \$30 per month for 36 months. Said Special Assessment shall be due and owing on the first day of the month following approval of said Special Assessment by the Lot Owners of the HOA.

Following the recent vote on Lot consolidation, the HOA now has a total of 86 Lots. To form a quorum, we will need 52 returned ballots.

# Exhibit C

**To:** PHILIP PERKINS; Jennifer  
**Cc:** Darci Gillett; clarkbruderer@gmail.com; kami.m.davis@gmail.com  
**Subject:** RE: Weed and Grass Control.

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**From:** PHILIP PERKINS <phil.perkins@comcast.net>  
**Sent:** Wednesday, March 17, 2021 4:06 PM  
**To:** wpeterson@whitneypetersonlaw.com; Jennifer <waybighair@msn.com>  
**Cc:** Darci Gillett <darci22@aol.com>; clarkbruderer@gmail.com; kami.m.davis@gmail.com  
**Subject:** RE: Weed and Grass Control.

I would like to add this to the agenda Thursday night.

We need an official stance on how to control the mowing and maintenance of undeveloped lots. According to Midway Codes and Policies growth must be limited to 6 inches and noxious weeds must be treated in accordance with the Wasatch weed board. In the past we have not maintained this standard and as a result:

1. Weeds spread throughout the neighborhood making it more difficult for neighbors to maintain an attractive lawn.
2. Rodents such as moles proliferate our lawns,
3. We have a problem with noxious weeds which should be treated. (thistle to name just one)
4. Makes the neighborhood less attractive, reducing home values

#### **According to Midway City Code**

#### **CHAPTER 16.16 PLANNED UNIT DEVELOPMENTS AND STANDARD SUBDIVISION**

#### **Section 16.16.10 Open Space General Requirements**

1. If the homeowners' association or conservation organization fails to adequately maintain the open space, the City, after 15 days prior written notice, may perform the necessary maintenance and bill the homeowners or conservation organization for the expense. In addition, the City shall be authorized in the covenants, conditions and restrictions of the development to place and record a lien on the open space property for the amount of the maintenance cost and, if necessary, to maintain legal action against the homeowners' association or conservation organization to collect on the debt and foreclose against the liened property. This provision shall be included in the recorded declaration of covenants, conditions and restrictions for the development.

#### **Section 16.13.23 Maintenance of Undeveloped Areas – Large Scale Developments**

All areas within a large-scale development shall be maintained and, other than noxious weeds, kept mowed to **6 inches or less by the developer**, until permanent landscaping and infrastructure are installed. Noxious weeds, as identified by the Wasatch County Weed Board, shall be controlled using Weed Board-approved treatment procedures for the selected weed species.

I propose the adapt the following policy:

(Talked to Samuel Hackwell who has been mowing undeveloped lots for the last couple of years. He agreed to the following.)

1. Undeveloped Lot owners who want to join the maintenance program would pay \$40 for a ½ acre lot and \$60 for a 1 acre lot when the growth reaches over 8 inches.
2. Undeveloped Lot owners who do not want to join the maintenance program would be assessed the following when the growth reaches 12 inches: \$65 for a ½ acre lot and \$75 for a 1 acre lot.

Note: In the past Samuel charged \$65 to mow undeveloped lots and more when the growth got too high. With a more frequent and controlled mowing program he would offer a better deal.

This is something that has to be done and will improve the looks of our neighborhood.