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Gary W. Ott  
Recorder, Salt Lake County, UT  
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BY: eCASH, DEPUTY - EF 7 P.

When Recorded Return To:  
Eric Saxey  
Everest Builders  
676 Markea Ave, #9  
Salt Lake City, Utah 84102

**SECOND AMENDMENT TO DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
OF  
DRAPER CREEKSIDE TOWNHOMES**

A Planned Unit Development

THIS SECOND AMENDMENT TO DECLARATION of Covenants, Conditions and Restrictions of Draper Creekside Townhomes is made and executed this 18 day of April, 2016, by DRAPER CREEKSIDE LLC, a Utah limited liability company, with its principal place of business located in Salt Lake City, State of Utah (hereinafter referred to as "Declarant").

**RECITALS:**

A. Draper Creekside LLC, is the Declarant as identified and set forth in that certain Declaration of Covenants, Conditions and Restrictions of Draper Creekside Townhomes, dated as of May 23, 2014, and recorded in the office of the Salt Lake County Recorder on May 23, 2014, as Entry No. 11854363, in Book 10232, beginning at page 9418 (the "Declaration").

B. The Declaration applies to DRAPER CREEKSIDE Townhomes, a Planned Unit Development (the Subdivision, as defined in the Declaration). The Subdivision is located in Salt Lake County, Utah, and is more particularly described on the attached Exhibit A.

C. Exhibit B to the Declaration was amended to more accurately express the size, percent interest and the number of votes for each Lot within the Subdivision pursuant to that certain First Amendment to Declaration of Covenants, Conditions and Restrictions of Draper Creekside Townhomes, which was recorded in the Office of the Salt Lake County Recorder on December 9, 2014, as Entry No. 11958579, in Book 10280, page 4935 (the "First Amendment").

D. Declarant now desires to more fully harmonize the Declaration with Utah law concerning reinvestment fee covenants, to refine certain provisions concerning limited common areas, the expiration of the Class B Membership, to remove the rental cap set forth in the original Declaration, and to update the pet restriction provision.

NOW, THEREFORE, Declarant in consideration of the recitals set forth above, the Declarant hereby declares and certifies as follows:

1. **Amendment to Paragraph 1.7.** Paragraph 1.7 of the Declaration is hereby amended to read as follows:

Limited Common Areas shall mean and refer to those Common Areas designated herein or on the Plat as reserved for the use of a certain Lot or Lots to the exclusion of other Lots. Although not shown on the Plat, the following additional area is designated as Limited Common Areas: the entry hallways shown on the Plat (generally described as being located from the front facade of buildings to each Living Unit entry and which permit access to Living Units). Such areas are reserved solely to the Living Units intended to obtain entry through said hallway. Each Owner of a Lot containing an entry hallway is deemed to have given and received from the Living Units adjacent to such entry hallways, an easement for ingress and egress to and from his or her Living Unit through such entry hallway to the Common Areas. The rear yards behind the Units, which are hereby defined as all area within the fenced and gated perimeter adjacent to a Living Unit, are also hereby designated as Limited Common Areas.

2. **Amendment to Paragraph 3.2.** Paragraph 3.2 of the Declaration is hereby amended to read as follows:

Voting Rights. The Association shall have the following described two classes of voting membership:

Class A. Class A Members shall be all Owners other than the Declarant until the Class B membership ceases. Class A Members shall be entitled to the number of votes appurtenant to each respective Living Unit which shall be equal to the product of the Percentage Interest set forth in Exhibit B attached hereto (as the same may be revised as the result of minor adjustments as provided in Section 1.15) multiplied by Ten Thousand (10,000). The number of votes appurtenant to each Unit as set forth in said Exhibit B (subject to revisions the result of minor adjustments as provided in Section 1.15) shall have a permanent character and shall not be altered without the unanimous written consent of all Owners expressed in a duly recorded amendment to this Declaration. The number of votes appurtenant to each Unit may not be divided between multiple Owners of such Unit or between matters which require the vote of Owners.

Class B. The Class B Member shall be the Declarant. The Class B Member shall be entitled to the number of votes appurtenant to each respective Living Unit which shall be equal to the product of the Percentage Interest set forth in Exhibit B attached hereto (as the same may be revised as the result of minor adjustments as provided in Section 1.15) multiplied by Thirty Thousand (30,000). The Class B Membership shall automatically cease sixty (60) days after the closing of the sale of the last Unit in the Development. Otherwise, the Class B Membership shall automatically and be converted to a Class A membership upon the expiration of Seven (7) years after the date on which this Declaration is filed for record in the office of the County Recorder of Salt Lake County, Utah

3. **Amendment to Paragraph 3.4.** Paragraph 3.4 of the Declaration is hereby amended to read as follows:

Record of Ownership and Initial Fees. Every new Owner (i.e., the purchaser of a Lot) shall promptly cause to be duly filed of record the conveyance document (or in the case of contract buyer, a copy of the sales contract) to him of his Lot. Upon the purchase of a Lot, each new Owner shall file a copy of such conveyance document (or contract) with the secretary of the Association, who shall maintain a record of ownership of the Lots. Simultaneously therewith, the new Owner shall also pay to the Association a reinvestment fee (which fee is waived for the

Declarant), in the amount of .0025% of the sale price, which fee shall be deposited into the Association's operating account. The reinvestment fee affects the real property herein and obligates future buyers or sellers of the Lots to pay to the Association, upon and as a result of a transfer of a Lot, a fee that is dedicated to benefitting the Lot, including payment for: (a) common planning, facilities, and infrastructure; (b) Common Area facilities; (c) open space; (d) recreation amenities; and/or (e) association expenses. If the Association is managed by a management company, then the new Owner shall pay the reinvestment fee to the management company, rather than the secretary of the Association. In addition, each new Owner shall pay to the Association a move-in fee, in an amount set by the Board of Trustees, which shall be deposited in the Association's general account. Unless the Association directs otherwise, the new Owner shall deliver the move-in fee to the secretary of the Association. Any Owner who mortgages his Lot or any interest therein by a mortgage which has priority over the lien of any assessment provided herein shall notify the secretary of the Association of the name and address of the Mortgagee and also of the release of such Mortgage; and the secretary of the Association shall maintain all such information in the records of ownership. 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 a "Reimbursement Assessment" in accordance with the provisions of Section 5.5.

4. **Amendment to Paragraph 7.6.** Paragraph 7.6 is hereby amended to read as follows:

Pets. No animals other than three (3) household pets, including a combination of cats and/or household dogs shall be kept or allowed on any Lot, in any Living Unit, or within any part of the Common Areas. Tropical fish and domesticated birds, excluding pigeons, are exempt for this pet count restriction. Whenever a pet is allowed to leave a Lot, it shall be kept on a lease or in a cage. No animals (including tropical fish or domesticated birds) may be bred for commercial purposes. No pets shall be allowed to make an unreasonable amount of noise or otherwise become a nuisance. No exterior structure may be constructed or maintained by an Owner for the care, housing or confinement of any such pets unless the same is approved by the Architectural Control Committee. Any Owner or other resident within the Development who violates this Section shall be subject to such penalties or fines as the Officers by resolution or as regulation may provide

5. **Amendment to Paragraph 11.4.** Paragraph 11.4 is hereby amended to read as follows:

Leases. Long-term leases, meaning the rental of a Unit for not less than six (6) months, are allowed. Any such agreement for the leasing, rental, or occupancy of a Unit (hereinafter in this Section referred to as a "Lease") shall be in writing. Every Lease shall provide that its terms shall be subject in all respects to the provisions of the Project Documents. Said Lease shall further provide that any failure by the resident(s) thereunder to comply with the terms of the foregoing documents shall be a default under the Lease. If any Lease does not contain the foregoing provisions, such provisions shall nevertheless be deemed to be a part of the Lease and binding on the Owner and resident(s) by virtue of their inclusion in this Declaration. No Owner shall be permitted to lease his Unit for transient, seasonal, and corporate executive use or purposes. Daily or weekly rentals and timeshares are **not** permitted. Furthermore, no Owner may lease individual rooms to separate persons or less than his entire Unit. Any Owner who shall lease his Unit shall be responsible for assuring compliance by the resident with the Project Documents. Failure by an Owner to take legal action, including the institution of a forcible entry and unlawful detainer proceeding against the resident who is in violation of the Project Documents within ten (10) days after receipt of written demand so to do from the Board of Trustees, shall entitle the Association

to take any and all such action including the institution of proceedings in forcible entry and unlawful detainer on behalf of such Owner against his resident. Neither the Association nor any agent retained by the Association to manage the Project shall be liable to the Owner or resident for any eviction under this Section that is made in good faith. Any expenses incurred by the Association, including attorney's fees and costs of suit, shall be repaid to it by such Owner. Failure by such Owner to make such repayment within ten (10) days after receipt of a written demand therefor shall entitle the Association to levy an individual assessment against such Owner and his Unit for all such expenses incurred by the Association. In the event such assessment is not paid within thirty (30) days of its due date, the Board of Trustees may resort to all remedies of the Association for the collection thereof. Other than as stated in this Section, there is no restriction on the right of any Owner to lease or otherwise grant occupancy rights to a Unit.

11.4.1. Exceptions. Notwithstanding the foregoing, the following are exempt from the rental restrictions set forth above:

- (a) a Unit Owner in the military for the period of the lot owner's deployment;
- (b) a Unit occupied by a Unit Owner's parent, child, or sibling;
- (c) a Unit Owner whose employer has relocated the Unit Owner for no less than two years; and/or;
- (d) a Unit Owner by a trust or other entity created for estate planning purposes if the trust or other estate planning entity was created for:
  - (i) the estate of a current resident of the Unit; or
  - (ii) the parent, child, or sibling of the current resident of the Unit;

In addition, a Unit Owner who has a rental in the association before the time the rental restriction described above is recorded with the Salt Lake County Recorder may continue renting the Unit until: (y) the Unit Owner occupies the lot; or (z) an officer, owner, member, trustee, beneficiary, director, or person holding a similar position of ownership or control of an entity or trust that holds an ownership interest in the Unit, occupies the Unit. The Association shall create, by rule or resolution, procedures to determine and track the number of rentals and Units in the Association subject to the provisions described above; and to ensure consistent administration and enforcement of the rental restrictions.

6. Representations of Declarant. Declarant represents as follows:

a. This amendment is made pursuant to and complies with paragraph 11.2 of the Declaration, as the Subdivision is still in the Development Period (*i.e.*, less than 2/3 of the townhomes have been sold).

b. This amendment has occurred with the consent and approval of the construction lender, who has a secured interest in the Lots at issue.

7. Incorporation of Prior Terms. It is expressly agreed that this Amendment is supplemental to the Declaration, as previously amended, which is by reference made a part hereof, and all the terms, conditions, and provisions thereof, unless specifically modified herein, are to apply to this Amendment and are made a part of this Amendment as though they were expressly rewritten, incorporated and included herein. In the event of any conflict, inconsistency or incongruity between the provisions of this

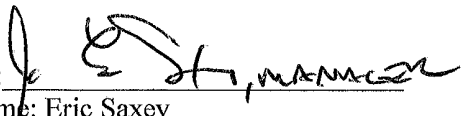
Second Amendment and any of the provisions of the Declaration, as previously amended, the former shall in all respects govern and control.

8. Effective Date. This Second Amendment shall take effect upon its being filed for record in the office of the County Recorder of Salt Lake County, Utah.

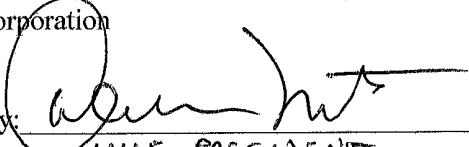
EXECUTED the day and year first above written.

**DRAPER CREEKSIDE LLC,**  
a Utah Limited Liability Company

By: Everest Builders, L.L.C.

By:   
Name: Eric Saxey  
Title: Manager

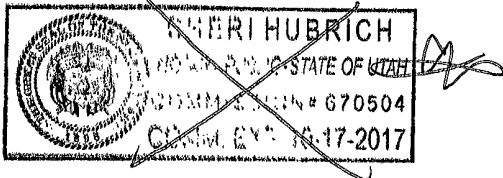
**CONSTRUCTION LENDER:**  
BANK OF AMERICAN FORK, a Utah  
corporation

By:   
Its: VICE PRESIDENT

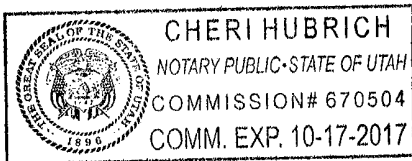
**ACKNOWLEDGEMENTS**

STATE OF UTAH )  
COUNTY OF SALT LAKE ) ss.

On the 18<sup>th</sup> day of April, 2016, personally appeared before me **James Eric Saxey**, who being by me duly sworn did say that he is the Manager of Everest Builders, L.L.C., and that Everest Builders, L.L.C., is the Manager of **Draper Creekside LLC**, that the within and foregoing instrument was signed in behalf of said limited liability companies by authority of resolutions of its members or in accordance with the terms of its operating agreements and said James Eric Saxey duly acknowledged to me that said limited liability companies executed the same.

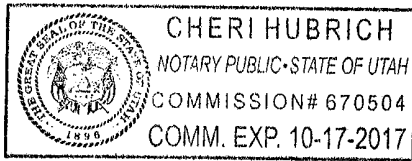


  
NOTARY PUBLIC



STATE OF UTAH )  
COUNTY OF SALT LAKE ) ss.

On the 19<sup>th</sup> day of April, 2010, personally appeared before me Darren Nate, who being by me duly sworn did say that he is the Vice Pres. of **BANK OF AMERICAN FORK**, a Utah corporation and that the within and foregoing instrument was signed in behalf of said corporation by authority of a resolution of its members or in accordance with the terms of its operating agreement and said ~~corporation~~ Darren Nate duly acknowledged to me that said corporation executed the same.



Cheri Hubrich  
NOTARY PUBLIC

**EXHIBIT A  
LEGAL DESCRIPTION**

Beginning at a point which is South 89°51'15" East, along the section line 68.23 feet and South 00°08'45" West, 124.85 feet from the Witness Monument marking the Northwest Corner of Section 6, Township 4 South, Range 1 East, Salt Lake Base and Meridian (said witness monument on record being North 89°59'24" East, 144.94 feet from the said Northwest Corner of Section 6); and running thence along the record deed line (Entry 11625785 in Book 10131 at Page 459) the following three (3) courses: East, 82.50 feet, thence South, 5.00 feet; thence East, 565.77 feet to a point on a westerly boundary of the Smith Properties Survey (Record survey# S96-04-0244); and running thence along said Smith Survey the following course: South 00°06'15" East, 201.00 feet; thence North 89°59'58" West, 371.43 feet; thence South 00°16'38" East, 174.50 feet; thence North 68°40'59" West, 11.06 feet; thence North 58°31'00" West, 28.72 feet; thence South 52°38'00" West, 34.60 feet; thence South 78°28'00" West, 25.00 feet; thence South 30°46'00" East, 24.43 feet; thence South 51°51'00" West, 17.80 feet; thence North 67°03'00" West, 46.15 feet; thence North 57°06'00" West, 11.91 feet; thence West, 6.00 feet; thence North 57°05'00" West, 8.34 feet; thence South 36°19'00" West, 24.82 feet; thence North 86°59'00" West, 13.60 feet to a point of intersection with UDOT deed (Entry 6640451 in Book 7663 at Page 267); thence along said UDOT right of way for the following three (3) courses: North 36°19'00" East, 13.35 feet; thence North 22°46'26" East, 26.00 feet; thence North 67°13'34" West, 62.59 feet to a point of intersection with UDOT deed (Entry 6640452 in Book 7663 at Page 629) and running thence along said UDOT right-of-way the following three (3) courses: North 11°13'41" West, 145.66 feet to a point on a 1610.42 foot radius curve to the right; thence 169.10 feet along said curve through a central angle of 06°00'59" (chord bears North 08°13'19" West, 169.03 feet); thence (5) North 05°12'46" West, 40.80 feet to the point of beginning.

Contains: 3.90 Acres

The Property is also described as follows:

**All of Lots 1 through 44, contained within DRAPER CREEKSIDE Townhomes, A Planned Unit Development**, as the same is identified in the Plat recorded as Entry No. 11851974 in Book 10231, at Page 9648, and in the "Declaration of Covenants, Conditions and Restrictions of Draper Creekside Townhomes, A Planned Unit Development," recorded on May 23, 2014, as Entry No. 11854363, in Book 10232, beginning at page 9418 of the official records of the Salt lake County Recorder.

TOGETHER WITH a right and easement of use and enjoyment in and to the Common Areas and Private Streets described and provided for in said Declaration of Covenants, Conditions and Restrictions and in the Record of Survey Map in the official record of the Salt Lake County Recorder