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07/08/2013 03:43 PM \$119.00  
Book - 10157 Pg - 1971-2022  
GARY W. OTT  
RECORDER, SALT LAKE COUNTY, UTAH  
KRISTINE HOPES  
2474 E 4430 S  
HOLLADAY UT 84124  
BY: EAP, DEPUTY - WI 52 P.

WHEN RECORDED, RETURN TO:  
Kristine Hopes, Registered Agent  
2474 East 4430 South  
Holladay, Utah 84124

**DECLARATION OF REMOVAL AND VACATION  
OF  
BRIARCREEK CONDOMINIUM II PROJECT  
AND  
ENABLING DECLARATIONS  
OF  
BRIARCREEK II TWIN HOME OWNERS ASSOCIATION**

SUPPLEMENTAL CHANGES TO AMENDED DECLARATIONS OF BRIARCREEK CONDOMINIUMS II made and executed to be effective as of the 11<sup>th</sup> day of June, 2008 by the AMENDED BRIARCREEK CONDOMINIUM II ASSOCIATION, hereinafter BRIARCREEK II TWIN HOME OWNERS ASSOCIATION, a Utah Incorporated Company ("Declarant"). Pursuant to the provisions of the Utah Ownership Act (Sections 57-8-1 through 57-8-38, and 57-81-205 through 57-81-207) as amended Utah Code Annotated 2004 hereinafter referred to as "Act", and the Community Association Act (57-8-1 through 57-8-54 and 57-8a-101 through 57-8a-407 respectively) as amended Utah Code effective July 1, 2011, hereinafter also referred to as "Act" defined below and recorded in Salt Lake County, State of Utah, as entry \_\_\_\_\_ in book \_\_\_\_\_ at page \_\_\_\_\_ as said Declaration is hereby supplemented.

The following REMOVAL AND VACATION OF CONDOMINIUM PROJECT, AMENDED ENABLING DECLARATIONS OF COVENANTS, CONDITIONS & RESTRICTIONS OF BRIARCREEK II TWIN HOME OWNERS ASSOCIATION, AMENDED BYLAWS OF BRIARCREEK II TWIN HOME OWNERS ASSOCIATION, and ARTICLES OF INCORPORATION FOR BRIARCREEK II TWIN HOME OWNERS ASSOCIATION shall supercede all prior recorded document(s) for the above recorded document.

**REMOVAL AND VACATION OF CONDOMINIUM PROJECT**

The undersigned BRIARCREEK II TWIN HOME OWNERS ASSOCIATION (FORMERLY BRIARCREEK CONDOMINIUM II ASSOCIATION), and all lending institutions, public and private, hereinafter referred to as DECLARANTS, for such purposes and in consideration of the premises, the mutual covenants and agreements contained herein, and other good and valuable consideration of which this Removal and Vacation of Condominium Project is a part, the receipt and sufficiency of which is hereby acknowledged, DECLARANTS hereby declare as follows:

DECLARANTS are collectively all of the owners and/or monetary interest holders of the BRIARCREEK CONDOMINIUM II ASSOCIATION, a Condominium Project recorded in the Office of the Salt Lake County Recorder, State of Utah, on April 7, 1980, as Entry No. 3420516, in Book BO-4, at Page 67, and further defined and described in the Declaration of Condominium, recorded June 11, 2008, as Entry No. 10451191, in Book 2008 of Plats, at Page 160 of official records.

The undersigned DECLARANTS declare that said Condominium Project Plat and Declaration referred to in Paragraph 1 hereinabove, is and are hereby vacated, removed, terminated and released from the Statutory Provisions of the Condominium Act in accordance with Section 57-8-22 of the Utah Code.

MORTGAGE INTEREST. Any and all Deeds of Trust or other encumbrance that now exist concerning the specific units of ownership as they now exist shall transfer, unaltered, to the individual interests that survive the results of this declaration.

CONSENT. All the beneficiaries to indebtedness hereby consent to the removal of the real property described below from the Utah Condominium Ownership Act and agree that any Deed of Trust shall attach and be transferred exclusively to the surviving interest of the private owners as pertains to the formerly encumbered unit. Consent for removal of property from statutory provisions states in section 57-8-22 Removal of property from statutory provisions, that

All of the unit owners may remove a property from the provisions of this act by an instrument duly recorded to that effect, provided that the holders of all liens affecting any of the units consent or agree by instruments duly recorded that their liens be transferred to the percentage of the undivided interest of the unit owner in the property.

Upon removal of the property from the provisions of this act, the property shall be deemed to be owned in common by the unit owners. The undivided interest in the property owned in common which shall appertain to each unit owner shall be the percentage of undivided interest previously owned by such owner in the common areas and facilities

The metes and bounds legal description of the property formerly described as said Condominium Project, now BRIARCREEK II TWIN HOMES, 2420-2474 E. 4430 So., HOLLADAY CITY, UTAH LOCATED IN THE NE ¼ & SE ¼ OF SECTION 3, TWP 2 SOUTH, RANGE 1 EAST, SLB&M described as follows:

Beginning at a point which is North 89°56'59" West along the Quarter Section line 1336.24 feet and North 35.21 feet from the East Quarter corner of Section 3. Township 2 South, Range 1 East, Salt Lake Base and Meridian, said point also being on the south Right-of-Way line of 4500 South street; thence South 39°27'45" East 160.28 feet; thence South 80°09'30" West 423.74 feet; thence North 12°20'00" West 139.25 feet to a point on an 1106.30 foot radius curve to the right, the radius point of which bears South 10°59'34" East; thence along the arc of said curve, through a central angle of 1°09'04"; a distance of 22.23 feet; thence North 80°09'30" East 328.35 feet to the POINT OF BEGINNING said tract of land containing 1.238 acres (53,945 sq. ft.)

See attached Property Addresses and Tax Parcel #'s.

Witness, the hand of said DECLARANTS in counterpart.

**BRIARCREEK II TWIN HOMES**

**Property Addresses and Tax Parcel #s**

(The Land referred to being the proposed BRIARCREEK II TWIN HOMES)

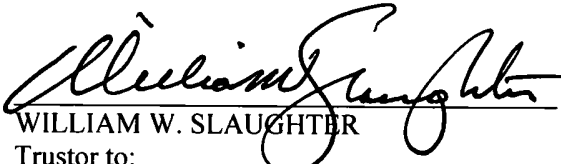
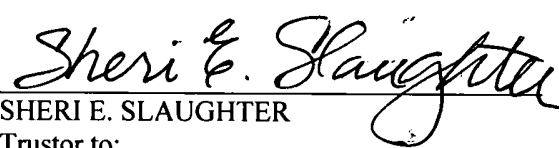
Beginning at a point which is North 89°56'59" West along the Quarter Section line 1336.24 feet and North 35.21 feet from the East Quarter corner of Section 3. Township 2 South, Range 1 East, Salt Lake Base and Meridian, said point also being on the south Right-of-Way line of 4500 South street; thence South 39°27'45" East 160.28 feet; thence South 80°09'30" West 423.74 feet; thence North 12°20'00" West 139.25 feet to a point on an 1106.30 foot radius curve to the right, the radius point of which bears South 10°59'34" East; thence along the arc of said curve, through a central angle of 1°09'04"; a distance of 22.23 feet; thence North 80°09'30" East 328.35 feet to the POINT OF BEGINNING said tract of land containing 1.238 acres (53,945 sq. ft.)

Property Address:      2420 East 4430 South, as to Unit 1  
                                 2424 East 4430 South, as to Unit 2  
                                 2430 East 4430 South, as to Unit 3  
                                 2434 East 4430 South, as to Unit 4  
                                 2450 East 4430 South, as to Unit 5  
                                 2454 East 4430 South, as to Unit 6  
                                 2470 East 4430 South, as to Unit 7  
                                 2474 East 4430 South, as to Unit 8  
                                 Holladay, Utah 84124

(For reference purposes only:

Tax Parcel No. 22-03-403-002, as to Unit 1  
Tax Parcel No. 22-03-403-003, as to Unit 2  
Tax Parcel No. 22-03-403-004, as to Unit 3  
Tax Parcel No. 22-03-403-005, as to Unit 4  
Tax Parcel No. 22-03-403-006, as to Unit 5  
Tax Parcel No. 22-03-403-007, as to Unit 6  
Tax Parcel No. 22-03-403-008, as to Unit 7  
Tax Parcel No. 22-03-403-009, as to Unit 8)

WITNESS, the hand of said Declarant this 25 day of March, 2013.

	
WILLIAM W. SLAUGHTER	SHERI E. SLAUGHTER
Trustor to:	Trustor to:
Stewart T. Matheson, Attorney at Law, Trustee (Unit 1)	Stewart T. Matheson, Attorney at Law, Trustee (Unit 1)

Re: BRIARCREEK TWIN HOMES ASSOCIATION REMOVAL AND VACATION OF CONDOMINIUM PROJECT

Property owned by WILLIAM W. SLAUGHTER AND SHERI E. SLAUGHTER (TRUSTORS TO STEWART T. MATHESON, ATTORNEY AT LAW, TRUSTEE) located at 2420 East 4430 South, Holladay UT 84124; Tax Parcel No. 22-03-403-002, as to Unit 1

**ACKNOWLEDGEMENT**

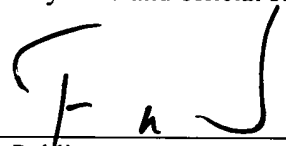
STATE OF UTAH

ss.

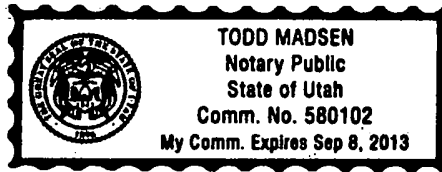
COUNTY OF SALT LAKE

On this 25 day of March, 2013 personally appeared before me, WILLIAM W. SLAUGHTER AND SHERI E. SLAUGHTER, TRUSTORS of DEED OF TRUST, to STEWART T. MATHESON, ATTORNEY AT LAW, and TRUSTEE of DEED OF TRUST, who duly acknowledged to me that he/she executed the same.

Witness my hand and official seal.



Notary Public



WITNESS, the hand of said Declarant this 18th day of June, 2013.

  
MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC./  
BANK OF AMERICA, N.A. REPRESENTATIVE (Signature)

By: Rich Balousek  
(Printed Name)

Its: AVP, Servicing Operations Manager (representative name/position-printed) of  
MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., as nominee for  
BANK OF AMERICA, N.A. as Beneficiary, to secure \$266,860, dated November 24, 2010, and recorded  
November 30, 2010, in Book 9883, at Page 8872, as Entry No. 11086218.

Re: BRIARCREEK TWIN HOMES ASSOCIATION REMOVAL AND VACATION OF  
CONDOMINIUM PROJECT

Property owned by WILLIAM W. SLAUGHTER AND SHERI E. SLAUGHTER (TRUSTORS TO  
STEWART T. MATHESON, ATTORNEY AT LAW, TRUSTEE) located at 2420 East 4430 South,  
Holladay UT 84124; Tax Parcel 22-03-403-002, as to Unit 1

#### ACKNOWLEDGEMENT

STATE OF Arizona

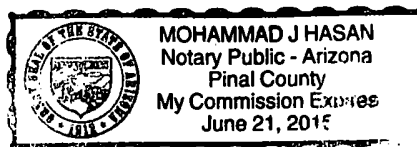
ss.

COUNTY OF Maricopa

On this 18th day of June, 2013 personally appeared before me,  
(Name) Rich Balousek, (Title) AVP, of  
(MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., as Nominee for BANK OF  
AMERICA N.A., who duly acknowledged to me that he executed the same on behalf of said Corporation.

Witness my hand and official seal.

  
Notary Public Mohammad J. Hasan



Briarcreek II Twin Home Owners Association  
Page update as of 3/4/2013 1:10:51 PM

BK 10157 PG 1975

WITNESS, the hand of said Declarant this 8<sup>th</sup> day of March, 2013.

  
\_\_\_\_\_  
DOROTHY GIBSON MARTIN  
(Unit 2)

Re: BRIARCREEK TWIN HOMES ASSOCIATION REMOVAL AND VACATION OF  
CONDOMINIUM PROJECT

Property owned by DOROTHY GIBSON MARTIN located at 2424 East 4430 South, Holladay UT  
84124; QUIT CLAIM DEED, recorded May 4, 2011, in Book 9922, at Page 4804, as Entry No.  
11177608; said Quit Claim Deed appears to contain an erroneous legal description; Tax Parcel No. 22-03-  
403-003, as to Unit 2

**ACKNOWLEDGEMENT**

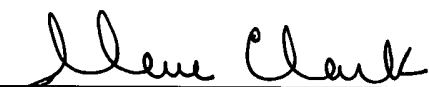
STATE OF UTAH

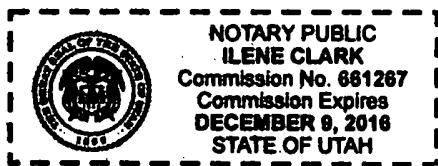
ss.

COUNTY OF SALT LAKE

On this 8<sup>th</sup> day of March, 2013 personally appeared before me, DOROTHY GIBSON  
MARTIN, who duly acknowledged to me that ~~he~~/she executed the same.

Witness my hand and official seal.

  
\_\_\_\_\_  
Notary Public



WITNESS, the hand of said Declarant this 11 day of March, 2013.

  
RICHARD SCOTT BLACKLEY  
(Unit 3)

  
KATHY N. BLACKLEY  
(Unit 3)

Re: BRIARCREEK TWIN HOMES ASSOCIATION REMOVAL AND VACATION OF CONDOMINIUM PROJECT

Property owned by RICHARD SCOTT BLACKLEY AND KATHY N. BLACKLEY located 2430 East 4430 South, Holladay UT 84124; Tax Parcel No. 22-03-403-004, Unit 3

**ACKNOWLEDGEMENT**


STATE OF

ss.

COUNTY OF


On this 11 day of March, 2013 personally appeared before me, RICHARD SCOTT BLACKLEY AND KATHY N. BLACKLEY, who duly acknowledged to me that he/she executed the same.

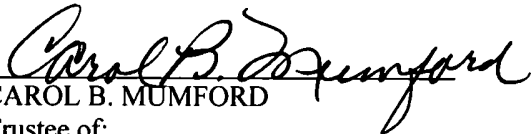
Witness my hand and official seal.

  
Notary Public



WITNESS, the hand of said Declarant this 5<sup>th</sup> day of March, 2013.

  
RONALD FRANK MUMFORD  
Trustee of:  
THE MUMFORD FAMILY TRUST  
(Unit 4)

  
CAROL B. MUMFORD  
Trustee of:  
THE MUMFORD FAMILY TRUST

Re: BRIARCREEK TWIN HOMES ASSOCIATION REMOVAL AND VACATION OF CONDOMINIUM PROJECT

Property owned by RONALD FRANK MUMFORD AND CAROL B. MUMFORD (TRUSTEES OF THE MUMFORD FAMILY TRUST) and located at 2434 East 4430 South, Holladay UT 84124; Tax Parcel No. 22-03-403-005, as to Unit 4

**ACKNOWLEDGEMENT**


STATE OF UTAH

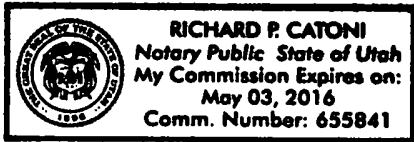
ss.

COUNTY OF SALT LAKE

On this 5<sup>th</sup> day of March, 2013 personally appeared before me, RONALD FRANK MUMFORD AND CAROL B. MUMFORD, Trustees of THE MUMFORD FAMILY TRUST, who duly acknowledged to me that he executed the same on behalf of said Trust.

Witness my hand and official seal.

  
\_\_\_\_\_  
Notary Public





WITNESS, the hand of said Declarant this 30~~th~~ day of March, 2013.

Maude B. Broadbent

MAUDE B. BROADBENT, Trustee of the  
MAUDE B. BROADBENT TRUST dated December 27, 2005  
(Unit 5)

Re: BRIARCREEK TWIN HOMES ASSOCIATION REMOVAL AND VACATION OF CONDOMINIUM  
PROJECT

Property owned by MAUDE B. BROADBENT (TRUSTEE of MAUDE B. BROADBENT TRUST), located at  
2450 East 4430 South, Holladay UT 84124; Tax Parcel No. 22-03-403-006, as to Unit 5

**ACKNOWLEDGEMENT**

STATE OF UTAH

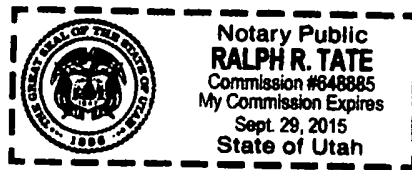
ss.

COUNTY OF SALT LAKE

On this 1 day of April, 2013 personally appeared before me, MAUDE B. BROADBENT,  
Trustee of the MAUDE B. BROADBENT TRUST Dated December 27, 2005, who duly acknowledged to me  
that she executed the same on behalf of said Trust.

Witness my hand and official seal.

[Signature]  
Notary Public



Briarcreek II Twin Home Owners Association

WITNESS, the hand of said Declarant this 3 day of April, 2013.

*Christine Marie Hart*

CHRISTINE MARIE HART, Tenant in Common  
Trustor to:  
America First Federal Credit Union  
Unit 6

NICOLE K. CYPHERS, Tenant in Common  
Trustor to:  
America First Federal Credit Union  
Unit 6

Re: BRIARCREEK TWIN HOMES ASSOCIATION REMOVAL AND VACATION OF  
CONDOMINIUM PROJECT

Property owned by CHRISTINE MARIE HART AND NICOLE K. CYPHERS (TRUSTORS TO  
AMERICA FIRST FEDERAL CREDIT UNION, AS TRUSTEE AND AMERICA FIRST FEDERAL  
CREDIT UNION AS BENEFICIARY, TO SECURE \$42,000.00, DATED October 13, 2009, and  
recorded November 12, 2009, in Book 9779, at Page 4292, as Entry No. 10837348); Tax Parcel No. 22-  
03-403-007, as to Unit 6

**ACKNOWLEDGEMENT**

STATE OF UTAH

ss.

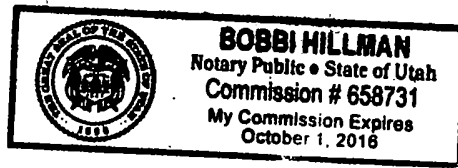
COUNTY OF SALT LAKE

On this 3 day of APRIL, 2013 personally appeared before me, CHRISTINE MARIE  
HART ~~AND NICOLE K. CYPHERS~~, who duly acknowledged to me that he/she executed the same.

Witness my hand and official seal.

*Bobbi Hillman*

Notary Public



WITNESS, the hand of said Declarant this 4<sup>th</sup> day of April, 2013.

CHRISTINE MARIE HART, Tenant in Common  
Trustor to:  
America First Federal Credit Union  
Unit 6

Nicole K. Cyphers  
NICOLE K. CYPHERS, Tenant in Common  
Trustor to:  
America First Federal Credit Union  
Unit 6

Re: BRIARCREEK TWIN HOMES ASSOCIATION REMOVAL AND VACATION OF  
CONDOMINIUM PROJECT

Property owned by CHRISTINE MARIE HART AND NICOLE K. CYPHERS (TRUSTORS TO  
AMERICA FIRST FEDERAL CREDIT UNION, AS TRUSTEE AND AMERICA FIRST FEDERAL  
CREDIT UNION AS BENEFICIARY, TO SECURE \$42,000.00, DATED October 13, 2009, and  
recorded November 12, 2009, in Book 9779, at Page 4292, as Entry No. 10837348); Tax Parcel No. 22-  
03-403-007, as to Unit 6

#### ACKNOWLEDGEMENT

STATE OF ~~UTAH~~ ARIZONA

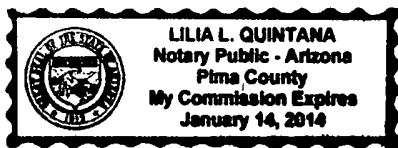
ss.

COUNTY OF ~~SALT LAKE~~ PIMA

On this 4<sup>th</sup> day of April, 2013 personally appeared before me, ~~CHRISTINE MARIE  
HART AND~~ NICOLE K. CYPHERS, who duly acknowledged to me that he/she executed the same.

Witness my hand and official seal.

Lilia L. Quintana  
Notary Public



Briarcreek II Twin Home Owners Association  
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ACKNOWLEDGEMENT

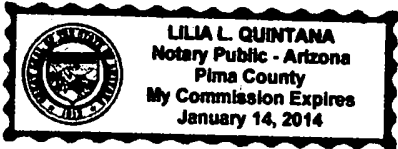
STATE OF *Arizona*  
SS.

COUNTY OF *PIMA*

On this *4<sup>th</sup>* day of *April*, 2013 personally appeared before me, *NICHOLE K. CYPHERS*, who duly acknowledged to me that he/she executed the same.

Witness my hand and official seal.

*Lilia L. Quintana*  
Notary Public



WITNESS, the hand of said Declarant this 3 day of April, 2013.

Haley Harris  
AMERICA FIRST FEDERAL CREDIT UNION REPRESENTATIVE (Signature)

By: Haley Harris  
(Printed Name)

Its: Haley Harris, Loan Originator (representative name/position-printed) of AMERICA FIRST FEDERAL CREDIT UNION, as Trustee and AMERICA FIRST FEDERAL CREDIT UNION as Beneficiary, to secure \$42,000.00, dated October 13, 2009, and recorded November ~~12~~ 17, 2009, in Book 9779, at page 4292, as Entry No. 10837348. (Unit 6)

Re: BRIARCREEK TWIN HOMES ASSOCIATION REMOVAL AND VACATION OF CONDOMINIUM PROJECT

Property owned by CHRISTINE MARIE HART AND NICOLE K. CYPHERS (TRUSTORS TO AMERICA FIRST FEDERAL CREDIT UNION, AS TRUSTEE AND AMERICA FIRST FEDERAL CREDIT UNION AS BENEFICIARY, TO SECURE \$42,000.00, DATED October 13, 2009, and recorded November ~~12~~ 17, 2009, in Book 9779, at Page 4292, as Entry No. 10837348); Tax Parcel No. 22-03-403-007, as to Unft ~~644~~

**ACKNOWLEDGEMENT**

STATE OF UTAH

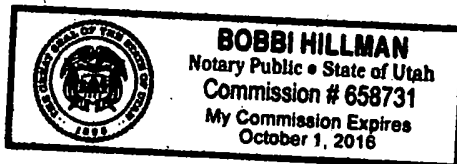
ss.

COUNTY OF SALT LAKE

On this 3 day of APRIL, 2013 personally appeared before me, (Name) BOBBI HILLMAN, (Title) LOAN ORIGINATOR, of AMERICA FIRST FEDERAL CREDIT UNION, AS TRUSTEE AND AMERICA FIRST FEDERAL CREDIT UNION AS BENEFICIARY, who duly acknowledged to me that he/she executed the same on behalf of said corporation.

Witness my hand and official seal.

Bobbi Hillman  
Notary Public



WITNESS, the hand of said Declarant this 6 day of April, 2013.

Brent L. Gunnell  
BRENT L. GUNNELL  
Trutor to: BK  
Absolute Title Agency, Trustee  
(Unit 7)

Donna J. Gunnell  
DONNA J. GUNNELL  
Trutor to: J-DC  
Absolute Title Agency, Trustee  
(Unit 7)

Re: BRIARCREEK TWIN HOMES ASSOCIATION REMOVAL AND VACATION OF CONDOMINIUM PROJECT

Property owned by BRENT L. GUNNELL AND DONNA J. GUNNELL, TRUSTOR, to ABSOLUTE TITLE AGENCY, AS TRUSTEE, AND MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., AS BENEFICIARY, to secure \$125,500.00, dated December 17, 2012, and recorded December 21, 2012, in Book 10090 at Page 8388, as Entry No. 11541914; located at 2470 East 4430 South, Holladay UT 84124; Tax Parcel No. 22-03-403-008, as to Unit 7.

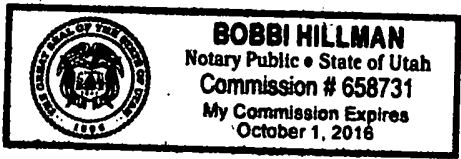
**ACKNOWLEDGEMENT**

STATE OF UTAH  
ss.  
COUNTY OF SALT LAKE

On this 6 day of APRIL, 2013 personally appeared before me, DONNA J. GUNNELL AND BRENT L. GUNNELL, TRUSTOR of DEED OF TRUST, to ABSOLUTE TITLE AGENCY, TRUSTEE of DEED OF TRUST, who duly acknowledged to me that he executed the same.

Witness my hand and official seal.

Bobbi Hillman  
Notary Public



Briarcreek II Twin Home Owners Association

WITNESS, the hand of said Declarant this 4 day of April, 2013.

  
(ABSOLUTE TITLE COMPANY) Representative Signature

By: Matthew S. Lloyd  
(Printed Name)

Its: President (representative name-printed) of  
ABSOLUTE TITLE AGENCY, as Trustee and MORTGAGE ELECTRONIC REGISTRATION SYSTEMS,  
INC. AS NOMINEE FOR INTERBANK MORTGAGE COMPANY, as Beneficiary, to secure \$125,500.00,  
dated December 17, 2012, and recorded December 21, 2011, in Book 10090, at page 8388, as Entry No.  
11541914 located at 2470 East 4430 South, Holladay UT 84124; Tax Parcel No. 22-03-403-008,  
(Unit 7).

Re: BRIARCREEK TWIN HOMES ASSOCIATION REMOVAL AND VACATION OF CONDOMINIUM  
PROJECT

**ACKNOWLEDGEMENT**

STATE OF UTAH

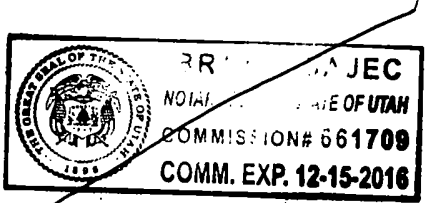
ss.

COUNTY OF SALT LAKE

On this 4 day of April, 2013 personally appeared before me,  
(Name) Matthew S. Lloyd, (Title) President, of  
ABSOLUTE TITLE AGENCY, as Trustee and MORTGAGE ELECTRONIC REGISTRATION SYSTEMS,  
INC. AS NOMINEE FOR INTERBANK MORTGAGE COMPANY, as Beneficiary, who duly acknowledged to  
me that he/she executed the same on behalf of said corporation.

Witness my hand and official seal.

  
Notary Public



Briarcreek II Twin Home Owners Association

WITNESS, the hand of said Declarant this 5<sup>th</sup> day of July, 2013.

*Daniel H. Hopes*  
DANIEL H. HOPES

Trustor to:  
First American Title Company, Trustee  
(Unit 8)

*Kristine Hopes*  
KRISTINE HOPES

Trustor to:  
First American Title Company, Trustee

Re: BRIARCREEK II TWIN HOMES ASSOCIATION REMOVAL AND VACATION OF CONDOMINIUM PROJECT

Property owned by DANIEL H. HOPES AND KRISTINE HOPES; TRUSTORS, TO FIRST AMERICAN TITLE COMPANY, AS TRUSTEE, AND MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., AS NOMINEE FOR PROVIDENT FUNDING ASSOCIATES, L.P., AS BENEFICIARY, to secure \$151,700.00, dated October 18, 2011, and recorded October 25, 2011, in Book 9951, at page 103, as Entry No. 11267482, located at 2474 East 4430 South, Holladay UT 84124; Tax Parcel No. 22-03-403-008, as to Unit 8

**ACKNOWLEDGEMENT**

STATE OF UTAH

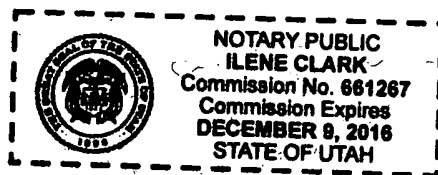
ss.

COUNTY OF SALT LAKE

On this 5<sup>th</sup> day of July, 2013 personally appeared before me, DANIEL H. HOPES AND KRISTINE HOPES, who duly acknowledged to me that ~~he/she~~ they executed the same.

Witness my hand and official seal.

*Ilene Clark*  
Notary Public



Briarcreek II Twin Home Owners Association



WITNESS, the hand of said Declarant this 19<sup>th</sup> day of June, 2013.

[Signature]  
(FIRST AMERICAN TITLE COMPANY AS TRUSTEE (Representative Signature))

By: Michael M. Smith  
(Printed Name)

Its: Vice-President (representative name-printed) of  
FIRST AMERICAN TITLE COMPANY, as Trustee and MORTGAGE ELECTRONIC REGISTRATION  
SYSTEMS, INC. AS NOMINEE FOR PROVIDENT FUNDING ASSOCIATES, L.P., as Beneficiary, to secure  
\$151,700.00, dated October 18, 2011, and recorded October 25, 2011, in Book 9961, at page 103, as Entry No.  
11267482.  
(Unit 8)

Re: BRIARCREEK II TWIN HOMES ASSOCIATION REMOVAL AND VACATION OF CONDOMINIUM  
PROJECT

Property owned by DANIEL H. HOPES AND KRISTINE HOPES; TRUSTOR, TO FIRST AMERICAN TITLE  
COMPANY, AS TRUSTEE, AND MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., AS  
NOMINEE FOR PROVIDENT FUNDING ASSOCIATES, L.P., AS BENEFICIARY, to secure \$151,700.00,  
dated October 18, 2011, and recorded October 25, 2011, in Book 9951, at page 103, as Entry No. 11267482,  
located at 2474 East 4430 South, Holladay UT 84124; Tax Parcel No. 22-03-403-008, as to Unit 8

**ACKNOWLEDGEMENT**

STATE OF UTAH

ss.

COUNTY OF SALT LAKE

On this 19<sup>th</sup> day of June, 2013 personally appeared before me,  
(Name) Michael M. Smith, (Title) Vice-president, of FIRST  
AMERICAN TITLE COMPANY, as Trustee and MORTGAGE ELECTRONIC REGISTRATION SYSTEMS,  
INC. AS NOMINEE FOR PROVIDENT FUNDING ASSOCIATES, L.P., as Beneficiary, who duly  
acknowledged to me that he/she executed the same on behalf of said corporation.

Witness my hand and official seal.

[Signature]  
Notary Public



Briarcreek II Twin Home Owners Association

**AMENDED**

**DECLARATION OF EASEMENTS, COVENANTS, CONDITIONS, AND RESTRICTIONS**

**BRIARCREEK II TWIN HOME OWNERS ASSOCIATION**

THIS DECLARATION (hereinafter the "Declaration") is made and executed this \_\_\_\_\_ day of \_\_\_\_\_, 2013 by Briarcreek II Twin Home Owners Association (hereinafter known as Declarant).

**RECITALS**

WHEREAS, the Declarant is the owner of the real property located in Holladay, Utah, and more particularly described on Exhibit A attached.

WHEREAS, the Declarant is also the owner(s) of the unit(s) and the appurtenant interests in the Common Areas and Limited Common Areas of the Briarcreek II Twin Homes.

WHEREAS, it is the desire to provide for the non-exclusive common usage of the common areas of the Briarcreek II Twin Homes by the Declarant consisting of the exterior landscaping areas and any other common areas so identified on the plat filed herewith, and

WHEREAS, it is the desire to provide for the preservation of the values of the respective properties and to provide for the common areas, common parking, driveways and easements and for the maintenance of such common areas, common parking, driveways and easements as may be included in the respective properties.

**DECLARATION**

Now, therefore, the Property Owner/Declarant by agreement of majority vote of all property owners does hereby make the following declaration:

**ARTICLE I**

When used in this Declaration each of the following terms shall have the meaning indicated for The Declaration of Covenants, Conditions and Restrictions of The Briarcreek II Twin Home properties.

- 1.1 Plat shall mean and refer to any plat of the Briarcreek II Twin Homes Development: (i) which covers a portion of the Entire Tract; (ii) which describes or creates one or more Units; (iii) on which or in an instrument recorded in conjunction therewith there is expressed the intent that the Subdivision created by the Plat shall comprise a part of the Development; and (iv) which is filed for record in the office of the County Recorder of Salt Lake County, Utah or recorded concurrently with this Declaration is a subdivision plat entitled Briarcreek II Twin Homes, a Residential Development, prepared and certified by a duly registered Utah Land Surveyor and filed for record in the office of the County Recorder of Salt Lake County, Utah on \_\_\_\_\_, in Book \_\_\_\_\_, page \_\_\_\_\_, as Entry No. \_\_\_\_\_, creating separately numbered Units (so modified as of this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

- 1.2 Property shall mean and refer to the Entire Tract of real property covered by the Plat, a description of which is set forth in Article III of this Declaration.
- 1.3 Unit shall mean and refer to one of the separately numbered and individually described plots of land within the Entire Tract: (i) which is owned individually, rather than by an association of Owners or in common by Owners of different Units; and (ii) which is intended to be used as the site of Living Units designed to be Owner-occupied.
- 1.4 Common Area shall mean and refer to all portions of the Development except those individual living units themselves, and shall include all property owned by the Association for the common use and enjoyment of the Owners such as open spaces, structural common areas and the like, together with all easements appurtenant thereto, for the use and benefit of all Owners in the development. Specifically:
  - A. The real property and the interests in real property, which by this Declaration have been submitted to the terms of the Act.
  - B. All common areas and facilities designated by the said recording of Survey Map as such except those marked as "Limited Common" areas, as defined herein and designated on the Survey Map.
  - C. All open areas, retaining and/or perimeter walls constituting a portion of or included in the structural improvements, which comprise a part of the project.
  - D. All installations for and all equipment connected with the furnishing of central services to the project such as water, gas and electricity.
  - E. All roadways necessary for ingress and egress to deeded units as shown on the Survey Map.
  - F. All portions of the project not specifically included within the individual units, including the Limited Common areas as defined herein, and designated on the Survey Map as such.
  - G. All other parts of the project normally in common use or necessary or convenient to its use, existence, maintenance, safety or management.
- 1.5 Limited Common Areas shall mean and refer to that portion of the property which is to be used exclusively by the individual Unit Owner. Such areas include landscaped areas contained within the fenced areas surrounding each Unit, and as designated on the survey map. The Owner shall be responsible to maintain all that property that is contained within the fence line boundary. Change of fence lines shall be by unanimous vote of the homeowners association and recorded with county recorder.
- 1.6 Unit shall mean and refer to one of the dwelling units and its adjacent garage, all foundations, columns, girders, beams, supports, main walls, roofs, and exterior stairs shall be considered part of the Unit. Mechanical equipment and appurtenances, including but not limited to electrical supply lines, water and sewer laterals, located within any one Unit or located without said Unit but designated and designed to serve interiors, all roofs, all surfaces of interior structural walls, floors and ceilings, windows and window frames, doors and door frames, and trim, consisting of among other items, and as appropriate, wallpaper,

- paint, flooring carpeting and tile. All pipes, wires, conduits or other utility lines or installations constituting a part of a Unit (located within or without such Unit, shall be considered part of the Unit. A Unit shall not include pipes, wires, conduits, or other utility lines running through it which are used for or which serve more than one Unit. Each Unit shall include its appurtenant Percentage Interest in the Common Areas and facilities.
- 1.7 Unit Number shall mean and refer to the number, letter or combination which designates a Unit in the Record of Survey Map.
- 1.8 Unit Owner or Owners shall mean and refer to the person who is the owner of record (in the office of the county Recorder of Salt Lake County, Utah) of a fee or an undivided fee interest in a Unit. Notwithstanding any applicable theory relating to a mortgage, deed of trust, or like instrument, the term Unit Owner or Owners shall not mean or include a mortgagee, or a beneficiary or trustee under a deed of trust unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.
- 1.9 Common Expenses shall mean and refer to all sums which are expended on behalf of all the Unit owners and all sums which are required by the Management Committee to perform or exercise its functions, duties or rights under the Act, this Declaration, and management Agreement for operation of the Project, and such rules and regulations as the Management Committee may from time to time make and adopt.
- 1.10 Association or Management Committee shall mean and refer to The Briarcreek II Twin Homeowners Association, a Utah Nonprofit Corporation, which will own, operate and maintain the Common Areas within the entire tract.
- 1.11 Member shall mean and refer to every person who holds membership in the Homeowners Association.
- 1.12 Owner shall mean and refer to the person or persons of record showing recorded interest in a property/unit.

## ARTICLE II

### SUBMISSION OF PROPERTY RESERVATION OF RIGHTS AND EXPANSION

- 2.1 Submission of Property. The Parties hereby submit and subject the Briarcreek II Twin Homes located in Holladay, Salt Lake County, Utah and more particularly the following described real property (also described in Exhibit "A") situated in Salt Lake County, State of Utah:

Beginning at a point which is North 89°56'59" West along the Quarter Section line 1336.24 feet and North 35.21 feet from the East Quarter corner of Section 3. Township 2 South, Range 1 East, Salt Lake Base and Meridian, said point also being on the south Right-of-Way line of 4500 South street; thence South 39°27'45" East 160.28 feet; thence South 80°09'30" West 423.74 feet; thence North 12°20'00" West 139.25 feet to a point on an 1106.30 foot radius curve to the right, the radius point of which bears South 10°59'34" East; thence along the arc of said curve, through a central angle of 1°09'04"; a distance of 22.23 feet; thence North 80°09'30" East 328.35 feet to the POINT OF BEGINNING said tract of land containing 1.238 acres (53,945 sq. ft.)

The buildings, improvements, and other structures located thereon, all easements, rights and appurtenances, and all other property, as defined herein, to the provisions of this Declaration and declare that all such real property, buildings, improvements, structures, easements, rights, appurtenances and other Property are and shall be held, possessed, occupied, used, leased, encumbered, transferred, sold, conveyed, devised and inherited subject to the provisions of this Declaration.

- 2.2 Covenants to Run with Land. This Declaration and all the provisions hereof are declared to be and shall constitute covenants which run with the land or equitable servitudes and shall be binding upon and inure to the benefit of Declarant and any and all parties who have acquired or hereafter acquire any interest in the Real Property or in the Common Area, their respective grantees, transferees, mortgagees, tenants, heirs, devisees, personal representatives, successors and assigns. Each present and future Owner, Mortgagee, tenant, or occupant of the Real Property shall be subject to and shall comply with the provisions of this Declaration. Each party acquiring any interest in the Real Property thereby consents to and agrees to be bound by all of the provisions of this Declaration.

### ARTICLE III

#### NATURE AND INCIDENTS OF OWNERSHIP

- 3.1 Title to Real Property. Title to the Unit may be held or owned by any entity and in any manner in which title to any other real property may be held or owned in the State of Utah, including, but without limitation, joint tenancy or tenancy in common. Additionally, each property owner shall own a share of the common area as outlined in Exhibit "C".
- 3.2 Easement for the Common Area. Each part of the real property shall be subject to and shall have appurtenant thereto a nonexclusive right and easement for the use of the Common Area as defined herein. Specifically, (a) each Unit Owner is granted the non-exclusive right and easement for the use of the Common Area. The rights and easements described herein shall pass with the title to the Real Property, or any part thereof, whether by gift, devise, inheritance, transfer, conveyance, encumbrance, or otherwise and whether or not reference is made thereto and in no event shall such rights and easements be separated from the Real Property. No Owner shall bring any action for partition of the Common Area. The rights and easements described herein shall be for the purposes and uses set forth in this Declaration and shall be subject to the following:
- A. Such reasonable rules and regulation regarding the use of the Common Area as the Homeowners Association shall establish for the Common Area.
- 3.3 Easement to Association. The Association shall have non-exclusive easements to make such use of the Common Area as may be necessary or appropriate to perform the duties and functions which they are obligated or permitted to perform pursuant to this Declaration, including without limitation, any obligations to repair or maintain the same, including the right to an easement over and across the Limited Common area.
- 3.4 Utility Easements. There is reserved hereby an easement for all pipes, lines, utility lines, cables, wires, optical fiber lines or other similar facilities which traverse, intersect, or underlie the Real Property, whether such pipes, lines utilities and facilities are now existing or hereafter constructed and further are subject to an easement necessary for ingress to, egress

from, repair, maintenance, and replacement of such pipes, lines, utility lines, cables, wires, optical fiber lines or other similar facilities.

- 3.5 Easements Deemed Created. All conveyances of the Real Property hereafter made shall be construed to grant and reserve such easements as are provided herein, even though no specific reference to such easements appears in any such conveyance.

## ARTICLE IV

### USE RESTRICTIONS

- 4.1 Briarcreek II Twin Homes Density. It is acknowledged that the Briarcreek II Twin Homes consist of 8 units. The number of Units and residences which have been developed shall be limited to 8 units.
- 4.2 Briarcreek II Twin Homes Restrictions. It is acknowledged that the Briarcreek II Twin Homes is residential housing.
- 4.3 Common Area Use. The Common Areas shall be used only in a manner consistent with their community nature and the use restrictions applicable to the Real Property as set forth herein.
- 4.4 Use of Units. No gainful occupation, profession, trade or other non-residential use shall be conducted on any Unit. Each Living Unit shall be used only as a single-family residence. No Unit shall be used, occupied, or altered in violation of law, so as to jeopardize the support of any other Living Unit, so as to create a nuisance or interfere with the rights of any Owner, or in a way which would result in an increase in the cost of any insurance covering the Common Areas.
- 4.5 Vehicles. No boats, trailers, large trucks and commercial vehicles belonging to Owners or other residents of the Property shall be parked within the Development, except temporary parking or except by permit issued by the HOA. No motor vehicle of any kind shall be repaired or serviced, except that these restrictions shall not apply to emergency repairs to vehicles only.
- 4.6 No Alterations or Obstructions to Common Area. Without the prior written consent of the Association, no Owner shall make or cause to be made any alteration, addition, removal or improvement in or to the Common Areas or any part thereof, or do any act which would impair the structural soundness of integrity of any improvement, or jeopardize the safety of persons or property or impair any easement appurtenant to the Real Property. Without the prior written consent, of the Twin Home Owners Association, no Owner shall store or keep any property on the Common Areas or any part thereof.
- 4.7 Other Restrictions. Nothing shall be done on or kept on or in any part of the Real Property or in the Common Area, Limited Common Areas or any part thereof which would be a violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body. No damage to, or waste of, the Common Area, Limited Common Areas or any part thereof shall be committed by any Owner or any tenant or invitee of any Owner, and each Owner shall indemnify and hold the Association and the Owners harmless against all loss resulting from any such damage or waste caused by Owner or Owners' invitees. No obnoxious, destructive, or offensive activities shall be carried on the

Real Property or in the Common Area or Limited Common Area or any part thereof, nor shall anything be done therein which may be or may become an annoyance or nuisance to any other Owner or to any person at any time lawfully residing in, occupying or using the Real Property. Furthermore, without the prior written consent of the Association, nothing shall be done on or kept on or in the Real Property or in the Common Area or Limited Common Areas or any part thereof that would increase the rate of the insurance on the Common Area or Limited Common Area or any part thereof over what the Association, but for such activity, would pay.

- 4.8 Pets. No animals other than household pets shall be kept or allowed on any Unit, in any Living Unit, or within any part of the Living Area, or Common Area. Whenever a pet is to leave a Unit, it shall be kept on a leash or in a cage. No pet shall be allowed relieve itself within the common area of the property. No animals 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 for the care, housing or confinement of any such pets shall be allowed to be maintained in any common area or limited common area or exterior area of any property owner. Any Owner or other resident within the Development who violates this Section shall be subject to such penalty or fines as the Board by resolution or regulation may provide.
- 4.9 Antennas. No antenna for radio or television reception, air conditioning unit or other appliance or apparatus, laundry, bedding, garment or other like item shall be placed within the Common Areas. No such item placed within any Living Unit shall be located so as to be readily visible from the Common Areas.
- 4.10 Common Area. The Common Area of the Development shall be improved and used only for the following purpose;
- A. Vehicular and pedestrian access to and from and movement within the Development, and space for vehicular parking.
  - B. Recreational use by Owners and occupants of Units and their Guests.
  - C. Beautification of the Development.
  - D. Privacy for the Owners and occupants of the Units.
- 4.11 Insurance. No use shall be made of any Unit which shall cause the improvements within the Development or any part thereof to be uninsurable against loss by fire or other perils included in insurance contracts, or cause such insurance to be cancelled or suspended, or cause any company issuing such insurance to refuse renewal thereof. Each Owner shall be responsible for securing insurance presently known as homeowners special form coverage on each particular Living Unit.
- 4.12 Machinery and Equipment. No machinery or equipment of any kind shall be placed, used, operated or maintained in or adjacent to any Unit except such machinery or equipment as is usual and customary in connection with the use, maintenance or construction of a Living Unit or appurtenant structure.
- 4.13 Nuisances. No rubbish or debris of any kind shall be placed or permitted by an Owner upon or adjacent to any Unit, so as to render such Unit or portion thereof unsanitary,

unsightly, offensive, or detrimental to other Unit owners of the Development. No Unit shall be used in such manner as to obstruct or interfere with the enjoyment of occupants of other Units. Without limiting any of the foregoing, no exterior speakers, horns, whistles, bells or other sound devices (except security devices used exclusively for security purposes) shall be located or placed on or in a Unit.

- 4.14 Right of Entry. During reasonable hours, and with twenty four hour notice any member of the Management Committee, or any officer or authorized representative of any of them, shall have the right to enter upon and inspect any building, site, Unit, and the improvements thereof, to ascertain whether or not the provisions of the restrictions of the Board or of the Association have been or are being complied with.
- 4.15 Signs. No signs whatsoever (including, without limitation, political signs) shall be erected or maintained on any Unit, except:
- A. Such signs as may be required by legal proceedings.
  - B. Residential identification signs of a combined total face area of seventy-two (72) square inches or less for each Living Unit.
  - C. The Association reserves the right to allow, by request from the homeowner, the advertising by signage placed in one window for the sale of an individual unit and/or an appropriate sign in the common area near the Unit for sale, to the extent permitted by the Association.
  - D. Window and Door Treatments. All windows, window treatments, doors, screen doors, storm doors, patio doors affecting the general appearance of each unit shall be maintained in a uniform and consistent manor with the overall theme and design of the entire property. No window or window treatment or door or door treatment which shall include signs, flags, advertising, political signs, paint, decals and the like shall be visible outside the unit that would not be consistent with the window or door treatment theme of windows and doors in the entire project. No sign shall be larger than twenty (20) inches by twenty-four (24) inches. If the Association consents to the erection of any sign, the same shall be removed promptly at the request of the Association.
- 4.16 Trash Containers and Collection. All garbage and trash shall be placed and kept in common covered containers of a type and style which shall be approved by Salt Lake County.
- 4.17 Enforcement of Land Use Restrictions. The following persons shall have the right to exercise or seek any remedy at law or in equity to enforce strict compliance with this Declaration: Any owner; or the Association.
- 4.18 Rules and Regulations. Each Owner shall comply strictly with all rules and regulations adopted by the Association for the use of the respective Common Area as the same may be adopted, modified, amended and construed by the Association.



## ARTICLE V

### DUTIES AND OBLIGATIONS OF OWNERS

- 5.1 Observation of Rules and Regulations. Each Owner shall be responsible for the observance by Owner and any tenants, guests or invitees of Owner of the rules and regulations adopted from time to time by the Association with respect to the use of the respective Common Areas.
- A. Limited Common Area and Real Property. Each owner shall be responsible to maintain their own Real Property and Limited Common Area in a clean, safe and attractive condition and in good order, condition and repair, which shall include but not be limited to spring and fall clean up, weed control, and shall be responsible for any planting of plants or shrubs and their care; and keep, maintain, repair and replace their Real Property and Limited Common Area as needed.
- B. No unit, building, structure or landscaping upon any Limited Common Area shall be permitted to fall into disrepair, and subject to the requirements herein as to approval by Management Committee, each such building, structure or landscaping at all times shall be kept in good condition and shall not be limited to the painting, repair, replacement and care of roofs, gutters, downspouts and exterior building surfaces.
- C. Each Owner shall have the exclusive right at his sole cost and expense to maintain, repair, paint, repaint, tile, wax, paper or otherwise refinish and decorate the interior surfaces of the walls, ceilings, floors, and doors forming the boundaries of his Unit and all walls, ceilings, floors and doors within such boundaries.
- 5.2 The Units are residential housing and each is restricted to such use. No Unit shall be used or occupied in violation of law, so as to create a nuisance or interfere with the rights of any other Unit owner or in such manner as to cause an increase in the costs of the insurance coverage.

## ARTICLE VI

### THE ASSOCIATION

- 6.1 Obligations of the Association. The Association shall have the obligation to do and perform the following for the benefit of the Owners and the maintenance and improvement of the Common Area:
- A. The Association shall keep, maintain, repair and replace the Common Area, in a clean, safe and attractive condition and in good order, condition and repair. The Association shall provide for such maintenance of the Common Area and Facilities as may be reasonably necessary to keep them clean, functional, attractive, and generally in good condition and repair. All Unit Owners shall receive notice of any and all expenditures above and beyond normal monthly costs. All expenditures require the signature of the Secretary/Treasurer and at least one other officer. The Management Committee may permit installation of individual air conditioning units, which may intrude partially into portions of the Limited Common Areas. The Management Committee shall have no obligation regarding maintenance of individual units or garages or any appliances used for and in unit or garage or attached thereto.

- B. Additions or capital improvements which cost \$1,000.00 or more must be authorized by the Management Committee with notices provided to each Unit Owner. Those which will exceed such amount must be authorized by a majority of the Owners.
- C. To the extent not assessed to or paid by the Owners directly, the Association shall pay all real property taxes and assessments levied upon any portion of the Common Area, provided that the Association shall have the right to contest or compromise any such taxes or assessments.

6.2 Powers of Association. The Association shall have all the powers set forth in its Articles of Incorporation and Bylaws, all powers that have been or may hereafter be conferred by law to nonprofit corporations or limited liability company, and all powers required or permitted to be done by the Association under the provisions of this Declaration including, but not limited to the following:

- A. The Association shall have the power to adopt, amend, modify, repeal, construe and enforce reasonable rules and regulations governing among other things the use of the Common Area, which rules and regulations shall be consistent with the rights and duties established in this Declaration.
- B. The Association shall have the power in its own name and in its own behalf, or in the name and behalf of any Owner or Owners who consent to, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of this Declaration or any rules and regulations promulgated by the Association, or to enforce by mandatory injunction or otherwise all of the provisions of this Declaration and such rules and regulations regarding the suspension of the rights, including voting rights, of an Owner as a member of the Association during any period of time during which the Owner fails to comply with the rules and regulations of the Association or with Owner's obligations under this Declaration.
- C. The Association shall have a perpetual easement over said limited common area for the purpose of maintenance of any utilities contained within the limited common area or within the area of private ownership.
- D. The Association shall have all other rights, powers and privileges reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

6.3 Association Rules. The Board from time to time and subject to the provisions of this Declaration, may adopt, amend, repeal and enforce rules and regulations governing among other things: (a) the use of the Common Area; (b) the use of any roads or utility facilities owned by the Association; (c) the collection and disposal of refuse; (d) the maintenance of animals on the Property; and (e) other matters concerning the use and enjoyment of the Property and the conduct of residents; provided, however, that the rules and regulations of the Association shall never limit or affect access of a Unit Owner to their Unit.

6.4 Limitation of Liability. No member of the Management Committee acting in good faith shall be personally liable to any Owner, guest, or any other person for any error or omission of the Association, its representatives and employees, or any other Management Committee member.

**ARTICLE VII**  
**ASSESSMENTS**

- 7.1 Agreement to Pay Assessments. The Briarcreek II Twin Homes Owners as owners of the Briarcreek II Twin Homes, hereby covenant and each person or entity which is or becomes an Owner of any portion of the Real Property by the acceptance of a deed or other instrument of conveyance and transfer therefore, whether or not is so expressed in said deed or other instrument, shall be deemed to covenant and agree with each other Owner and with the Association to pay to the Association all assessments made by the Association for the purposes provided in this Declaration, any special assessment for capital improvements and other matters as provided in this Declaration. Such assessments shall be fixed, established, and collected from time to time as provided in this Article VII (see exhibit "B" for schedule of fees).
- 7.2 Annual Assessments. The Association shall make advance estimates of cash requirements to provide for payment of all estimated expenses arising out of or connected with the maintenance and operation of the Common Areas as described above. Such estimated expenses may include, without limitation, the following: expenses of management; real property taxes and special assessments on the Common Areas, if not included in the assessment of the Individual Units; premiums for all insurance that the Association is required or permitted to maintain hereunder; trash collection, water charges, snow removal expenses, sewer service charges, repairs and maintenance; wages for Association employees, including fees for a Manager (if any); legal and accounting fees; any deficit remaining from a previous period; creation of reasonable contingency reserve, major maintenance reserve, and/or surplus or sinking fund; creation of an adequate reserve fund for maintenance repairs and replacement of those common areas that must be replaced on a periodic basis, where such reserve is to be funded by monthly payments rather than extraordinary special assessment, and any other expenses and liabilities which may be incurred by the Association with respect to such common areas under or by reason of this Declaration. The budget shall itemize the estimated cash requirements for such fiscal year, anticipated receipts, reserves, and any deficit or surplus from the prior operating period.

The Annual Budget of the Association shall be submitted to the vote of the Members of the Association in accordance with the provisions of the Declarations at an Annual or Special meeting of the Owners. The Annual Budget as approved, amended or modified at such meeting of the Owners shall serve as the basis for the annual assessments or funding requirements of repair reserve account for the upcoming calendar year and as the major guideline under which the Project shall be operated during such annual period.

- 7.3 Uniform Rate of Assessment. The Association Common Expenses shall be apportioned and assessed equally to all Homeowners on the basis of the number of individual units. The amount of the assessment by the Association shall be in accordance with the terms of this Declaration shall be voted on by the majority of Owners in the Association. Any excess assessment shall be used as an offset to any future assessments by the Association. Before the end of each calendar year, the Management Committee shall prepare a budget, which sets forth an itemization of the anticipated Common Expenses for the coming year. The total of such expenses shall be apportioned among all of the Units on the basis of their appurtenant percentages of undivided ownership interest. By the 10<sup>th</sup> day of each month during the year

covered by the budget, each Unit Owner shall pay to the Association Management Committee his/her share of the Common expenses, which are one-eighth of the total amount required by the Unit Owners collectively. The Committee may affect an equitable extra charge to meet unanticipated changes in the expenses. The date of payment and methods of assessment may be altered by the Committee in conformance with good accounting practices.

- 7.4 Reserves. A portion of the Association Fees collected each month from each Unit Owner will be put into reserves for use in major, non-recurring expenses which must be voted on by the Association.
- 7.5 A Finance Review Committee may be created that will review all expenditures made or authorized by the Management Committee and make a financial report to the Unit Owners. Such report will include disclosure of all monies and resources available at the date of the report and include a schedule of all monies expended by the Association since the date of the previous financial report of the Finance Review Committee. Additionally, the financial report will include disclosure of all amounts incurred but unpaid at the date of the report.
- 7.6 The Finance Review Committee shall be comprised of two Unit Owners appointed by a vote of all Unit Owners at the annual meeting held each calendar year. Members so appointed to this Committee shall serve for two years. Standing members of the Committee may be reappointed for one additional year.
- 7.7 Payment. The Association shall set forth the due date and time of payment of the Annual Assessments which the Association shall assess, whether monthly, quarterly or annual. Each annual or monthly assessment shall bear interest at the rate of fifteen (15) percent per annum from the date it becomes due and payable if not paid within thirty (30) days after such date. In addition, in the event that any installment becomes due, the Association may, at its option, and upon thirty (30) days written notice to the Owner, accelerate the due date for all remaining installments for the calendar year and all accrued but unpaid interest thereon. Payment of the Annual Assessment installments so accelerated shall be due at the expiration of said thirty (30) day notice period and interest shall accrue on the entire sum at the rate of fifteen percent (15%) per annum from such date until paid in full. The failure of the Association to give timely notice of any Annual Assessment as provided herein shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, or a release of any Owner from the obligation to pay such assessment or any other assessment; but the date when the payment shall become due in such case shall be deferred to a date thirty (30) days after notice of such assessment shall have been given to the Owner in the manner provided in this Declaration.
- 7.8 Inadequate Funds. In the event that the common Expense Fund proves inadequate at any time for whatever reason, including nonpayment of any Owner's assessment, the Association may levy additional assessments in accordance with the procedure set forth in Section 7.6, except that the vote therein specified shall be unnecessary.
- 7.9 Special Assessments. In addition to the Annual Assessments authorized by this Article, the Association may, levy, at any time and from time to time, upon the affirmative vote of at least a Majority of Owners of the Association, special assessments (hereinafter "Special Assessments"), payable over such periods as the Association may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of the Common Areas or improvements thereon or any part thereof, or for any other expenses incurred or to be incurred as provided in this Declaration (including

without limitation Common Expenses). This Section shall not be construed to prescribe the manner of assessing for expenses authorized by other Sections or Articles hereof. Any amounts assessed pursuant hereto shall be assessed to Owners on the same basis as set forth in Section 7.3 (namely in proportion to the number of Units). Notice in writing of the amount of each such Special Assessment and the time for payment thereof shall be given promptly to the Owners. No payment shall be due less than thirty (60) days after such notice shall have been given. All unpaid portions of any Special Assessment shall bear interest at the rate of fifteen percent (15%) per annum from the date such portions become due if not paid within thirty (60) days after such date.

- 7.10 Lien for Assessments. The Assessments provided herein shall be included in and be secured by the liens granted under the Declaration and shall be subject to the terms, provisions, and obligations of this Declaration.
- 7.11 Enforcement and Remedies. Should any Unit Owner fail to pay, when due, his share of the Common Expenses, the management Committee may enforce any remedy provided in the Act or otherwise available for collection of delinquent Common Expense assessments. The liability shall be joint and several and may be enforced against any party holding such an interest in a Unit, including both a seller and a purchaser under an executor contract of sale of a Unit. The delinquent Unit Owner shall pay all costs of enforcement or collection, including reasonable attorney's fees and, if necessary, all costs of foreclosure.
- 7.12 If any Owner or occupant fails to comply with any provision hereof, including any of the rules and regulations promulgated hereunder by the Association, within ten days after written notice of violation thereof (except that, where such violation cannot reasonably be cured within ten days, the ten day period will be extended to that reasonably required, as long as the Owner/occupant commences the cure within such 10 day period and diligently pursues the same to completion) (the "Cure Period"), the Association may:
- A. suspend such Owner's voting rights in the Association during any period or periods during which such Owner or the occupants of its Unit fail to comply with such rules and regulations, or with any other obligations of such Owner under this Declaration; and Owners shall be responsible for any non-compliance hereunder of all occupants of their respective Units;
  - B. take judicial action against the Owner and/or occupant to enforce compliance with such rules, regulations or other obligations or to obtain damages for non-compliance, all to the extent permitted by law; and/or at the Association's election; including the enforcement of rules and regulations and the eviction process of tenant occupied properties under state and local laws.
  - C. Impose the following fines in connection therewith:

Original Violation:	\$ 100.00
First Recurrence of same violation:	\$ 200.00
Second Recurrence of same violation:	\$ 350.00

Third Recurrence of same violation: \$ 500.00  
Subsequent Recurrences of same violation: \$1,000.00 and lien filed

- D. Receipt of notice of the imposition of a fine shall constitute a recurrence of such violation. Any fine which is not paid within 15 days after notice thereof is issued shall bear interest from such date at the rate of 15% per annum, and there shall be added thereto reasonable attorneys' fees (whether or not legal action is commenced) and, if legal action is commenced, the costs of such action; all fines and assessments shall be filed against property as a lien for all amounts and fees due. All fines and charges (collectively, "Charges") related to a Unit, the occupants thereof, or a particular Owner shall be the personal obligation of such Owner, and shall constitute Assessments and be payable by state statute.

## ARTICLE VIII

### PROPERTY RIGHTS AND CONVEYANCES

- 8.1 Easement Concerning Common Area. Each Owner shall have a nonexclusive right and easement of use and enjoyment in and to the Common Area. Such right and easement shall be appurtenant to and shall pass with title to each Unit and in no event shall be separated therefrom. Any Owner may delegate the right and easement of use and enjoyment described herein to any family member, household guest, tenant, lessee, contract, purchaser, or other person who resides on such Owner's Unit. Notwithstanding the foregoing, no Owner shall have any right or interest in any easements forming a portion of the Common Area except for the necessary parking, access, communication, utility, drainage and sewer purposes for which such easements are intended for use in common with others.
- 8.2 Limitation on Easement. An Owner's right and easement of use and enjoyment concerning the Common Area shall be subject to the following:
- A. The right of the Association to govern by rules and regulations the use of the Common Areas by every Owner in a manner consistent with the preservation of quiet enjoyment of every Owner, including the right of the Association to impose reasonable limitations on the number of guests per Owner who at any given time are permitted to use the Common Area.
  - B. The right of the Association to suspend an Owners right to the use of any amenities included in the Common Area for any period during which an assessment on such Owner's Unit remains unpaid and for a period not exceeding ninety (90) days or for any infraction by such Owner of the provisions of this Declaration or of any rule or regulation promulgated by the Board.
  - C. The right of the City of Holladay and any other governmental or quasi-governmental body having jurisdiction over the Property to enjoy access and rights of ingress and egress over and across any street, parking area, walkway, or open area contained within the Common Area for the purpose of providing police and fire protection, transporting school children, and providing any other governmental or municipal service.

## ARTICLE IX

### INSURANCE

- 9.1 **Hazard Insurance.** The Management Committee shall procure and at all times, maintain a multi-peril policy or policies of fire and other hazard insurance, including earthquake coverage, covering the entire Project (Units, Limited Common Areas and Common Area), with extended coverage and all other coverage's in the kinds and amounts commonly required by private institutional mortgage investors for projects similar in construction, location and use, including the standard "All risk" endorsement, on a replacement cost basis in an amount not less than one-hundred percent (100%) of the insurable value (based upon replacement cost) of the Project. Each such policy shall contain the standard mortgage clause which must be endorsed to provide that any proceeds shall be paid to the Association for the use and benefit of Mortgagees as their interests may appear. The insured shall be the Association as a trustee for the Unit Owners, or their authorized representative. Each Unit Owner is an insured person under the association's liability policy. Unit Owner's personal contents are not included in the association master policy.
- 9.2 **Liability Insurance.** The Management Committee shall secure and, at all times maintain a comprehensive policy of public liability insurance covering the Common Area and all of Limited Common Areas insuring the Association, the Management Committee and its members, and the Unit Owners against any liability incident to the ownership, use or operation of the Common Area and public ways of the Project or of any Unit which may arise among themselves, to the public, or to any invitees, or of the Unit Owners. Limits of liability under such insurance shall be not less than One Million Dollars (\$1,000,000) covering all claims for bodily injury and/or property damage arising out of a single occurrence, including protection against water damage liability, and liability for property of others.
- 9.3 **Additional Insurance.** Utah State Senate Bill SB167, effective July 1, 2011, mandates that the Unit Owners are personally responsible for the amount of the deductible under the homeowner association's master policy and can either purchase an amount of building property coverage under a Unit Owner's (HO6) policy equal to the deductible amount on the association's master policy, or they can self-insure for that amount. If the Unit Owner fails to pay up to the deductible amount under the association's master policy within 30 days of substantial completion of the repairs to the unit, the association may assess the Unit Owner for that amount and can subsequently lien to enforce payment. Unit Owners are advised to consult with their personal insurance agents to determine if they have adequate coverage to cover the following: HO6 with at least the amount of the HOA deductible in dwelling coverage-noted as Coverage A and or loss assessment; coverage for personal contents; personal liability protection; loss of use/additional living expenses; loss assessment coverage; other items to mention such as fine arts, jewelry, valuable articles, money, etc. The Association may also have the right to procure such additional insurance which shall insure the Common Areas, the Association, or the Owners and others against such additional risks as the Association shall deem advisable.
- 9.4 **General Requirements.** Each policy of insurance obtained by the Association shall be written by insurers licensed in the State of Utah. If reasonably possible, each policy of insurance to be obtained by the Association shall provide:
- A. A standard coverage policy for officers and directors of the Homeowners Association.

- B. No insurance coverage for individual owners, unit owners must provide a copy of hazard insurance and liability coverage to the association upon taking possession of their individual unit, and copies of any future policy changes.
  - C. The Homeowners Association does not and will not cover any property or provide any coverage for and behalf of the unit owners including but not limited to owners personal property.
- 9.5 Units Not Insured by Association. The Association shall have no duty or responsibility to procure or maintain any fire, liability, extended coverage or other insurance covering any Unit and acts and events thereon. Accordingly, Owners of Units in the development shall obtain fire, extended coverage and liability insurance to the full replacement value of on such Owner's Unit.

## **ARTICLE X**

### **DAMAGE OR DESTRUCTION**

- 10.1 Damage or Destruction to Common Area. In the event any of the Common Area, or any portion thereof, shall be damaged or destroyed, the Association shall take all necessary and appropriate action to effect repair or reconstruction of the Common Area. Such repair or reconstruction shall be substantially in accordance with and paid for as provided in the Declaration applicable to the Association and in accordance with the original plans and specifications of the Common Area, or in accordance with such other plans and specifications as the members of the Association may approve.

## **ARTICLE XI**

### **MISCELLANIOUS**

- 11.1 Notices. Any notice required or permitted to be given to any Owner under the provisions of this Declaration shall be deemed to have been properly furnished if delivered or mailed, postage prepaid, to the person named as the Owner at the latest address for such person as reflected in the records of the Salt Lake County Recorder at the time of delivery or mailing. Any notice required or permitted to be given to the Association may be given by delivering or mailing the same to the registered agent, or any officer or member of the Board of the Association.
- 11.2 Amendment of this Declaration. The Owners at any time, and from time to time, have the right to amend this Declaration upon the written consent, vote or approval of Twin Home Unit Owners holding not less than 75 % of the undivided ownership interests in the Briarcreek II Twin Homes; and any such amendment shall be by an instrument duly recorded with the Salt Lake County, Utah Recorder.
- 11.3 Enforcement Restrictions. The following persons shall have the right to exercise or seek any remedy at law or in equity to interpret, to enforce compliance with, or to obtain redress for violation of this declaration and shall be entitled to collect court costs and reasonable attorney's fees: any Property owner or the Association of the Briarcreek II Twin Homes.



- 11.4 **Number and Gender.** Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the singular, and the use of any gender shall include all genders.
- 11.5 **Severability.** If any of the provisions of this Declaration or any paragraph, sentence, clause, phrase, or word, or the application thereof in any circumstance be invalidated, of any such invalidity shall not affect the validity of the remainder of the Declaration, and the application of any such provision, paragraph, sentence, clause, phrase, or word in any other circumstances shall not be affected thereby.
- 11.6 **Topical Headings.** The headings appearing at the beginning of the paragraphs of this Declaration are only for convenience of reference and are not intended to describe, interpret, define or otherwise affect the content, meaning, or intent of this Declaration of any paragraph or provisions hereof.
- 11.7 **Effective Date.** This Declaration, Plat and or any amendment or supplement to either, shall take effect upon the recording thereof in the office of the County Recorder of Salt Lake County, Utah and shall remain in effect until terminated by the recording of an instrument executed and consented to in writing by Twin Home Unit Owners holding not less than 75% of the undivided ownership interests in the Briarcreek II Twin Homes.
- 11.8 **Conflict.** In case any provisions shall conflict with Utah law, Utah law shall be deemed to control.

**Exhibit "A"**

**See Plat Map for  
The Briarcreek II Twin Homes**

**EXHIBIT "B"**

**SCHEDULE OF ASSOCIATION FEES  
For  
BRIARCREEK II TWIN HOME OWNERS ASSOCIATION**

**For the Year Ending December 31, 2013**

Schedule of Association Fees shall include re-occurring monthly expenses, annual payments of taxes and insurance, reserves and sinking funds. Reserves and sinking funds shall be used for unscheduled repairs and unforeseen emergencies pertaining to the repair and maintenance of the property. Assessments, surplus reserves and sinking funds are to be used for capital improvements to the property approved by a majority vote of the Association.

	<u>Annual</u>	<u>Monthly</u>	<u>Per Unit</u>
Mowing	\$ 3,190.00	\$ 265.83	\$ 33.23
Fertilizers	186.38	15.53	1.94
Sprinkling System	306.45	25.53	3.20
Water	1,131.75	94.31	11.78
Snow Removal	445.83	37.11	4.64
Sanitation District	536.05	44.67	5.58
Buildings and Facilities	500.00	41.67	5.20
Insurance	3,881.00	323.47	40.44
Office	150.00	12.50	1.56
	<hr/>	<hr/>	<hr/>
Total	\$10,327.46	\$ 860.62	\$ 107.57
To Reserves:			<u>17.43</u>
Amount of Monthly Dues			\$ 125.00
Cash Balance at October 05, 2012:			
Operating Resources			\$14,062.75
Less Insurance Premium due November 21, 2012			<u>( 3,881.00)</u>
Net Cash Balance after insurance payment			\$10,181.75
Cash Sinking Fund (not included in Operating Funds)			<u>\$ 2,879.00</u>
			\$13,060.75
Less insurance deductible reserve required by the State of Utah (\$1,000.00)			<u>( 1,000.00)</u>
		As of 10/5/12	<u>\$12,060.75</u>

This is an estimated budget based on previous two years of experience prior to the property's conversion to Twin Homes. This budget is to be revised and adjusted each year on the anniversary of the Twin Home Owner's Association.

**Exhibit "C"**

Schedule of Unit Numbers, Percentages of interest, and number of Votes per Unit.

<u>Unit Number</u>	<u>Percentage Interests</u>	<u>Votes</u>
Unit # 1	12.5%	1
Unit # 2	12.5%	1
Unit # 3	12.5%	1
Unit # 4	12.5%	1
Unit # 5	12.5%	1
Unit # 6	12.5%	1
Unit # 7	12.5%	1
Unit # 8	12.5%	1
TOTALS	100%	8

Signed consent by existing Unit Owners, included as Exhibit "D" attached, have voted on and approved by a minimum of 75% the recording of this document.

Know all men by these presents that the undersigned Management Committee of the Briarcreek II Twin Homeowners Association do hereby sign the foregoing declaration of the official Conditions, Covenants and Restrictions of the property to be hereinafter known as the:

**Briarcreek II Twin Homes**

The undersigned, have hereunto set their hand and seal dated this 5<sup>th</sup> day of March, 2013.

Briarcreek II Twin Homeowners Association

By: Carol Mumford  
Carol Mumford, President

By: Christine M. Hart  
Christine M. Hart, Vice President/Secretary

By: Kristine Hopes  
Kristine Hopes, Treasurer

State of Utah

:ss.

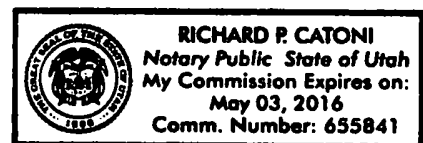
County of Utah

On this 5<sup>th</sup> day of March, 2013 Carol Mumford personally appeared before me, President of the Briarcreek II Twin Homes, and who is a signer of the foregoing Declaration of Briarcreek II Twin Homes.

My commission expires May 03 2016

Richard P. Catoni

Notary Public residing in Salt Lake County, State of Utah.



State of Utah

:SS.

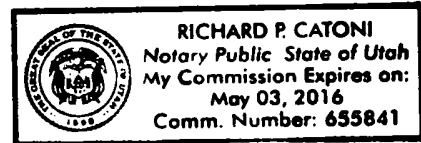
County of Utah

On this 8<sup>th</sup> day of March, 2013 Christine M Hunt personally appeared before me, Vice President / Secretary of the Briarcreek II Twin Homes, and who is a signer of the foregoing Declaration of Briarcreek II Twin Homes.

My commission expires May 03, 2016

[Signature]

Notary Public residing in Salt Lake County, State of Utah.



State of Utah

:SS.

County of Utah

On this 5<sup>th</sup> day of March, 2013 Kristine Hayes personally appeared before me, Treasurer of the Briarcreek II Twin Homes, and who is a signer of the foregoing Declaration of Briarcreek II Twin Homes.

My commission expires May 03, 2016

[Signature]

Notary Public residing in Salt Lake County, State of Utah.

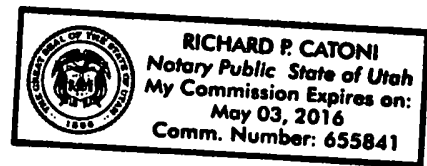
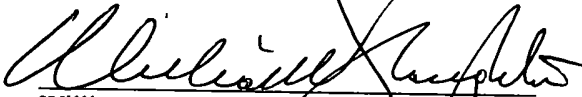


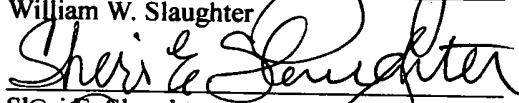
EXHIBIT "D"

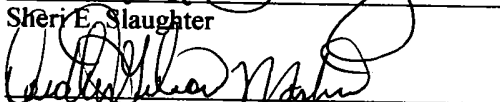
BRIARCREEK II TWIN HOME OWNERS ASSOCIATION CONSENT

I (WE) HAVE READ THE SUPPLEMENTAL CHANGES TO AMENDED DECLARATIONS OF BRIARCREEK CONDOMINIUMS II ASSOCIATION HEREINAFTER BRIARCREEK II TWIN HOME OWNERS ASSOCIATION. I/WE APPROVE OF, AGREE TO, AND ACCEPT THE CONDITIONS SET FORTH IN THIS DECLARATION.

  
\_\_\_\_\_  
William W. Slaughter

2420 East 4430 South, Unit #1  
Holladay, Utah 84124  
801-273-7753 or 801-541-6322

  
\_\_\_\_\_  
Sheri E. Slaughter

  
\_\_\_\_\_  
Dorothy Gibson Martin

2424 East 4430 South, Unit #2  
Holladay, Utah 84124  
801-278-8005

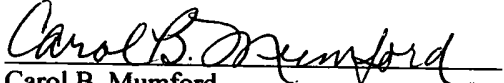
\_\_\_\_\_  
Richard Scott Blackley

2430 East 4430 South, Unit #3  
Holladay, Utah 84124  
801-673-9706  
801-673-9708

\_\_\_\_\_  
Kathy N. Blackley

  
\_\_\_\_\_  
Ronald Frank Mumford

2434 East 4430 South, Unit #4  
Holladay, Utah 84124  
801-694-7771 or 801-946-1457

  
\_\_\_\_\_  
Carol B. Mumford

  
\_\_\_\_\_  
Maude B. Broadbent


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Holladay, Utah 84124  
801-277-6787

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Christine Marie Hart

2454 East 4430 South, Unit #6  
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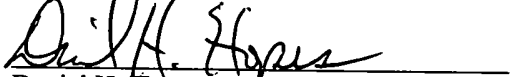
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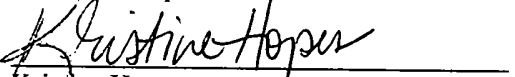
  
\_\_\_\_\_  
Brent L. Gunnell

2470 East 4430 South, Unit #7  
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\_\_\_\_\_  
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\_\_\_\_\_  
Daniel H. Hopes

2474 East 4430 South, Unit #8  
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801-839-9909  
801-839-9907

  
\_\_\_\_\_  
Kristine Hopes

**EXHIBIT "D"**

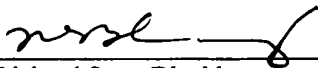
**BRIARCREEK II TWIN HOME OWNERS ASSOCIATION CONSENT**

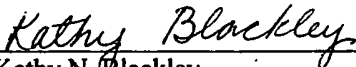
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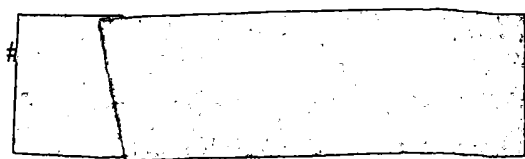
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**AMENDED BYLAWS  
OF  
THE BRIARCREEK II TWIN HOME OWNERS ASSOCIATION**

The following are the Bylaws of the BRIARCREEK II TWIN HOME OWNER'S ASSOCIATION, INC., a Utah Non-Profit Corporation (the "**Association**"):

**ARTICLE I**

**LOCATION**

The initial principal office of the Association shall be located at 2474 East 4430 South, Holladay, UT 84124; any meetings of Management Committee as agent for all Unit Owners may be held at such places within the State of Utah, County of Salt Lake, as designated by the Management Committee.

**ARTICLE II**

**DEFINITIONS**

All terms used but not defined herein shall have the meanings given them under that certain Declaration of THE BRIARCREEK II TWIN HOMES dated \_\_\_\_\_, 2013, and recorded \_\_\_\_\_, 2013, as Entry No. \_\_\_\_\_ in Book at Page \_\_\_\_\_, et seq., of the Official Records of the Salt Lake County Recorder, as the same may now or hereafter be amended (the "**Declaration**"), the terms and provisions of which are hereby incorporated herein by this reference.

**ARTICLE III**

**MEETINGS**

**Section 3.1 Annual Meetings.** Unless otherwise determined by the Association and subject to notice thereof, annual meetings of the Unit Owners shall be held in the first quarter of each year. The place of the meeting shall be in Salt Lake County, Utah, as is designated by the Management Committee. At least ten (10) days before each meeting, written notice of the time and place shall be personally delivered or mailed, postage prepaid, to each Unit Owner at his last known address.

**Section 3.2 Special Meetings.** Special meetings of the Unit Owners may be called by or at the request of the President of the Association, or by a majority of the Unit Owners request by giving notice of the time, place and purpose of such meeting in the manner set forth, but only a four (4) day notice shall be required.

**Section 3.3 Notice of Meetings.** Written notice of each meeting of the Owners shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice

such notice before such meeting to each Owner entitled to vote thereafter addressed to the Owner's address last appearing on the books of the Association, or supplied by such Owner to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

**Section 3.4 Quorum.** The quorum required for any action by the Owners hereunder, unless otherwise specifically set forth in the Declaration shall be as follows: At each scheduled meeting called the presence of Owner's, or of proxies entitled to cast at least a majority of all Unit Owner's votes, shall constitute a quorum for conducting business. If a quorum is not present at a scheduled meeting, such meeting may be adjourned pending notice of a subsequently scheduled meeting. Meeting shall be exclusive to Unit Owners holding voting share or voting proxy. All tenants or renters shall be excluded.

**Section 3.5 Proxies.** At all meetings of Unit Owners, each Unit Owner may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the Owner of his Unit. Life of proxy shall be only for one voting event.

**Section 3.6 Voting.** The number of votes appurtenant to each respective Unit shall be one (1). Since a Unit Owner may be more than one person, if only one of such person is present at a meeting of the Association that person shall be entitled to cast the vote appertaining to that Unit. But if more than one of such person is present, the vote appertaining to that Unit shall be cast only in accordance with the agreement of a majority of them, and such consent shall be conclusively presumed if any one of them purports to cast the vote appertaining to that Unit without protest being made forthwith by any of the others to the person presiding over the meeting. The vote appurtenant to any one Unit may not be divided between Owners of such Unit or with respect to matters before the Association. If the vote of a majority of the Owners of a Unit cannot be determined, no vote shall be cast in relation to such Unit.

**Section 3.6.1 Owners Owning More Than One Unit.** Should any one person(s) obtain ownership/control in more than one unit, then that person(s) shall be limited to only one vote regardless of the number of units owned or controlled by that person(s). There shall be no provision or ability for the owner of multiple units to have any more than one vote.

**Section 3.7 Approval of Transactions.** In those cases in which the Act or this Declaration requires the vote of a stated percentage of the Projects undivided ownership interests for the authorization or approval of a transaction, such requirements may be fully satisfied by obtaining with or without a meeting, consents in writing to such transaction from the Unit Owners, who collectively hold at least the necessary percentage of undivided ownership interests.

**Section 3.8 Amendment of Declaration.** Except as provided above, the vote of at least 75% of the undivided ownership interests in the Common areas and facilities shall be required to amend this Declaration or the Record of Survey Map. Any amendment so authorized shall be accomplished through the recordation of an instrument executed by the Management Committee. Such instrument shall certify the vote required by this paragraph. Declarant shall have the right to amend this Declaration and the Record of Survey Map in a manner consistent with law.

## ARTICLE IV

### MEETINGS OF THE MANAGEMENT COMMITTEE

Section 4.1 **Management Committee Meetings.** Regular meetings of the Management Committee shall be held after the adjournment of each Annual Meeting of the Unit Owners, and at such time and place determined by the Management Committee. No notice need be given of the regular Management Committee meetings.

Section 4.2 **Special Meetings.** Special meetings of the Management Committee shall be held whenever called by the Presidency or by a majority of the Committee after 24 hour notice or waiver or by attendance of all Management Committee members.

Section 4.3 **Quorum.** A majority of the number of Management Committee shall constitute a quorum for the transaction of doing business. Every act or decision done or made by a majority of the Management Committee present at a duly held meeting at which a quorum is present shall be regarded as the act of the Management Committee.

## ARTICLE V

### POWERS AND DUTIES OF THE MANAGEMENT COMMITTEE

Section 5.1 **Management Committee.** The Amended Briarcreek II Twin Homes Association shall be managed, operated and maintained by the Management Committee as agent for all Unit Owners. That Management Committee shall in the exercise of its powers including those stated below, constitute a legal entity capable of dealing in its Management Committee name and have the following authority and powers:

- A. The power to sue and be sued;
- B. The power and authority to convey or to transfer any interest in real property and record any necessary amendment to this Declaration so long as the vote or consent of the Unit Owners necessitated by the agreement has been obtained;
- C. The power to promulgate such reasonable rules and regulations and procedures as may be necessary or desirable to aid the Management Committee in carrying out any of its functions, or to insure that the project is maintained and used in a manner consistent with the interest of the Unit Owners;
- D. The power and authority to perform any acts, and to enter into any other transactions which may be reasonably necessary for the said Management Committee, to perform its functions as agent for the Unit Owners;
- E. A right of entry upon any Unit and any Limited Common Area to affect emergency assistance, emergency repairs, and upon notice for a reasonable

right of entry thereupon to effect repairs, improvements, replacement or maintenance of the Project, or any portion thereof, as necessary.

## ARTICLE VI

### OFFICERS AND THEIR DUTIES

**Section 6.1 Enumeration of Offices.** The Management Committee of this Association shall be a President, who shall at all times be a member of the Management Committee, a Vice President/Secretary, and a Treasurer, and such other officers as the Management Committee may from time to time by resolution create. The Management Committee may carry out all of its functions through a President, Vice President/Secretary, and Treasurer who shall act for the benefit of the Unit Owners and shall, to the extent permitted by law, be authorized to perform the functions and acts required of said committee.

**Section 6.2 Nomination.** Nomination for election to the Management Committee shall be made by the Management Committee. Nominations may also be made from the floor at the annual meeting. The Board shall make as many nominations as it shall in its discretion determine, but not less than the number of vacancies that are to be filled.

**Section 6.3 Election.** Election to the Management Committee shall be by written ballot or oral consensus of the Unit Owners. At such election the Unit Owners or their proxies may cast in respect to each vacancy, a vote as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting shall not be permitted.

**Section 6.4 Election of Officers/Term and Vacancies.** The election of officers shall take place at each Annual Meeting of the Unit Owners. Any vacant seat on the Management Committee shall be filled with a member elected for a two-year term. Only resident owners shall be eligible for the Management Committee membership. At the annual meeting, each Unit Owner(s) may cast one (1) vote for each Unit in favor of as many candidates for Management Committee membership as there are seats to be filled. In case of an interim vacancy, the remaining Management Committee members shall elect a replacement until the term of the officer being replaced has expired. Management Committee members shall be reimbursed for all expenses reasonably incurred in connection with Management Committee business.

**Section 6.5 Term and Vacancies.** The officers of this Association shall be elected annually by the Unit Owners and each shall hold office for two years unless he/she shall sooner resign, or shall be removed, or otherwise disqualified to serve. A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by appointment by Management Committee. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he/she replaces.

**Section 6.6 Special Appointments.** The Management Committee may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period,

have such authority, and perform such duties as the Management Committee may determine from time to time.

**Section 6.7 Resignation and Removal.** Any officer may be removed from office with or without cause by the majority vote of the Unit Owners. Any officer may resign at any time giving written notice to the President, Vice President/Secretary, or the Treasurer. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

**Section 6.8 Multiple Offices.** The offices of Vice President and Secretary may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 8.4 of this Article.

**Section 6.9 Duties.** The duties of the officers are as follows:

- A. **President:** The President shall be the Chief Executive of the Management Committee and shall preside over all meetings and exercise general supervision over the property of the project. The President shall see that orders and resolutions of the Management Committee and/or Unit Owners are carried out; shall sign all leases, mortgages, deeds and other written instruments, and shall co-sign all checks and promissory notes in amounts greater than \$500.00.
- B. **Vice President/Secretary:** He or she shall have and exercise all of the powers of the President in the event of his or her absence or inability to act. He or she shall record the votes and keep the minutes of all meetings and proceedings of the Management Committee and of the Unit Owners, and keep appropriate current records showing the Unit Owners of the Association together with their addresses.
- C. **Treasurer:** The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Management Committee; shall co-sign all checks and promissory notes of the association in amounts greater than \$500.00 and keep proper books of account. If the Unit Owners deem appropriate, an annual audit of the Association books will be made by a Certified Public Accountant at the completion of each fiscal year. The Treasurer shall prepare an annual budget and a statement of income and expenditures to be presented to the Unit Owners at its regular annual meeting, and deliver a copy of each to the Unit Owners, and shall perform such other duties as required by the Management Committee.

## ARTICLE VII

### COMMITTEES

The Management Committee may, if it elects, appoint such committees as deemed appropriate in carrying out its purposes.

## ARTICLE VIII

### COMMUNITY RULES

The Management committee may adopt Community Rules, which apply to the use and occupancy of the Common Areas, Limited Common Areas and Facilities and the Units. Until others are adopted, the following will apply:

**Section 8.1 Greens/Walkways.** The greens and walkways in front of an around the units and the entrance-ways shall not be obstructed or used for any purpose other than for ingress and egress to and from the Units.

**Section 8.2 Decorations/Awnings.** No exterior of any Unit shall be decorated nor awnings placed by any owner in any manner without the prior consent of the Management Committee.

**Section 8.3 Disturbance.** No Unit Owner shall make or permit any noises that will disturb or annoy the occupants of any other Units or do or permit anything which will unduly interfere with the rights and comforts of other Unit Owners.

**Section 8.4 Single-family Dwellings.** The Units are designed for single-family dwellings and none shall be used for living purposes by more people than it was designed to accommodate comfortably. Exceptions will be brought before all Unit Owners and a majority must approve the exception. No groups, unrelated by blood or marriage, shall be permitted to occupy the Units without prior approval by the Home Owners Association Management Committee.

**Section 8.5 Signs/Advertisements.** No sign, notice or advertisement shall be inscribed or exposed on or at any window or other part of the Units, except such as shall have been approved in writing by the Management Committee. No noxious or offensive activity or business shall be carried on in any Unit nor in any Limited Common Area or in any Common Area.

**Section 8.6 Special Rules.** Special rules may be adopted and circulated by the Management Committee and such shall become binding upon a majority vote of all Unit Owners.

**Section 8.7 Parking Stalls.** The two parking stalls at the end of each Building (two combined Twin Home Units) may be used as additional parking. The Unit Owner(s) of the Building may negotiate for the long-term use of the driveway immediately behind their Units for the purpose of parking additional vehicles. Such an agreement will be between the two Unit Owners and should be filed with the Management Committee for reference. The agreement will stay in force



as long as the two Owners agree, or until the sale of one of the Units. The agreement will terminate upon sale of one of the Units and will not transfer with the sale. The agreement is not considered an encumbrance or easement on the Deed or Bylaws of the Association, nor will the Association enforce the agreement if the terms are violated. Nor will the agreement become grandfathered by long term use.

**Section 8.8 Association Common Expenses.** Monthly HOA fees per Exhibit "B" are due and payable on or before the 10<sup>th</sup> of each month. A prorated 15% late fee per annum is imposed on the unpaid balance of any delinquent HOA fees 30 days past due.

## **ARTICLE IX**

### **AGENT**

Agent for receipt of service shall be appointed by the Management Committee. The appointment shall be for a three year term or until replacement appointment. Agent shall be for receipt of service, services of notice and designation of addressee for notice of service.

## **ARTICLE X**

### **AMENDMENTS/ORDER OF PRECEDENCE**

These Bylaws may be amended, at a regular, annual or special meeting of the Unit Owners, by Unit Owners holding a majority 75% of the Percentage Interests, in person or by proxy. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control. Any amendment or supplement hereto, and any amendment or supplement to the Map shall take effect upon its being filed for record in the official records of the Office of the County Recorder of Salt Lake County, State of Utah.

## **ARTICLE XI**

### **FISCAL YEAR**

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except for the first year which shall begin on the date of incorporation.

## **END OF BYLAWS**

## ARTICLES OF INCORPORATION

For

### BRIARCREEK II TWIN HOME OWNERS ASSOCIATION

(A Utah Nonprofit Corporation)

Article 1. Name: The name of this corporation is BRIARCREEK II TWIN HOME OWNERS ASSOCIATION.

Article 2. Term: This Corporation shall continue in existence perpetually unless dissolved or otherwise terminated according to law.

Article 3. Membership: Members of the Association shall be the owners of the eight dwelling units consisting of the four buildings starting at 2420 East 4430 South in Salt Lake County, Utah and running east therefrom to 2474 East 4430 South in Salt Lake County, Utah. Each owner (meaning the owners of title interests in and to each of the said eight dwellings, as one owner per dwelling regardless of whether title to any such dwelling is in multiple names) shall be a member in the Association and entitled to one vote per unit in matters relating to the management and operating of the Association.

Article 4. Powers and Purposes: The Association is organized and shall be operated as a nonprofit corporation under the laws of Utah for the purpose of including but not limited to maintaining and cultivating the lawns and shrubbery, attending to snow removal on the driveways and parking areas, sprinkler system and utility lines for the said eight dwellings. Such powers shall be exercised along with all others given by the statutes of Utah and particularly Section 16-6-22 Utah Code Annotated as amended. These powers are subject to the following restrictions: a. no dividends shall be paid and no part of the net income shall inure to the members, directors or officers; b. no part of the activities of the Association shall be used to carry on propaganda or in attempting to influence legislation or to intervene in political campaigns; and c. the powers shall not be used to produce pecuniary profit to any member, trustee or officer of the Association.

Article 5: Membership Lists: The Association shall maintain up-to-date records showing the name of each person who is a member, the address of such person, and the dwelling unit to which such membership relates. In the event of a transfer of a fee or undivided fee interest in any such dwelling unit, the transferee shall furnish to the Association evidence establishing that the transfer has occurred and if recorded, the book and page of such data in the office of the Salt Lake County Recorder. The Association may rely upon such information concerning the identity of members for all purposes, including voting rights. The mailing address of the member shall be the dwelling unit owned by such person unless otherwise notified in writing.

Article 6: Officers: The affairs of the Association shall be managed by a Management Committee composed of three (3) individuals who are the officers of the Association. They shall be a President, a Vice-President and a Secretary/Treasurer. The officers at the time of the incorporation are as follows:

Carol Mumford, President	2434 East 4430 South Holladay, Utah 84124
Christine M. Hart, Vice-President/Secretary	2454 East 4430 South Holladay, Utah 84124
Kristine Hopes, Treasurer	2474 East 4430 South Holladay, Utah 84124

Article 7: Miscellaneous: It is recognized that the primary purpose of the Association is to provide a method for the efficient and uniform maintenance and control of the common areas including but not limited to lawns, walks, shrubbery and driveway areas as set forth in more detail in the body of the CC&R's and Bylaws of this twin home community.

Article 8: Bylaws: The Association has adopted Bylaws to provide for the procedural steps in the conduct of the stated purposes of the Association as are deemed proper at this time.

Article 9: Incorporator: The name of the incorporator of this Association is:

Carol B. Mumford	2434 East 4430 South Holladay, Utah 84124
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Dated this 5<sup>th</sup> day of March, 2013

  
Carol B. Mumford

State of Utah

ss.

County of Salt Lake

I, Richard Catoni, a Notary Public,  
hereby certify that on the 5<sup>th</sup> day of March, 2013  
personally appeared before me, Carol Mumford, who being  
by me first duly sworn declared that she is the person who signed  
the foregoing Articles of Incorporation of Briarcreek II Twin  
Home Owners Association as the Incorporator and that the  
statements contained therein are true and correct to the best of  
his/her knowledge, information and belief.



Notary Public residing in  
Salt Lake City, Utah

My commission expires:

May 03, 2016

