

WHEN RECORDED RETURN TO:  
Debra Griffiths Handley  
Dart Adamson & Donovan  
370 East South Temple #400  
Salt Lake City, Utah 84111

**SECOND AMENDMENT TO AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS AND  
RESTRICTIONS FOR SWAN CREEK VILLAGE**

This Second Amendment to Amended and Restated Declaration of Covenants, Conditions and Restrictions for Swan Creek Village is made and entered into by and among the Members of the Swan Creek Village Homeowners Association at a duty called Annual Meeting on the 27<sup>th</sup> day of September, 2008.

**RECITALS**

A. Swan Creek Homeowners Association (referred to as the "Declarant" and/or the "Association") is a Utah nonprofit corporation formed under the auspices of the Utah Revised Nonprofit Corporation Act ("the Act"), Utah Code Annotated section 16-6a-101, et seq. and the Utah Community Association Act, Utah Code Annotated, section 57-8a-101, et seq.

B. The original Declaration of Reservations, Restrictions and Covenants of Swan Creek Village (the "Old Declaration") was recorded in the Office of the County Recorder, Rich County, Utah, on January 2, 1980, Entity No. F22,023, Book No. L3, starting at Page 109.

C. The Old Declaration was amended and recorded in the Office of the County Recorder, Rich County, Utah, on November 23, 1981, Entity No. 26928, Book No. G4, at Page 060.

D. The Old Declaration was further amended and recorded in the Office of the County Recorder, Rich County, Utah, on March 18, 2005, Entity No. 65423, Book No. 29 at Page 1868.

E. The Amended and Restated Declaration of Covenants, Conditions and Restrictions for Swan Creek Village (the "New Declaration") was recorded in the Office of the County Recorder, Rich County, Utah, on October 3, 2008, Filing No. 75597, Book No. R10, starting at Pages 73-93.

F. The New Declaration fully incorporated and restated all unamended parts of the Original Declaration, as amended, subject to certain amendments therein. Therefore, the Original Declaration, as amended, is considered superseded by the New Declaration.

G. The First Amendment to the New Declaration was recorded in the Office of the County Recorder, Rich County, Utah, on 10/17/08, Filing No. 75687, Book No. R10,

starting at Page 0438

H. The New Declaration, as amended, governs that certain real property located in Rich County, Utah, and more particularly delineated on the plats recorded concurrently with the Original Declaration, as amended, as Exhibit A (Plat 1 for Phase 1 of Swan Creek Village ) and Exhibit B (Phase 2 of Swan Creek Village).

I. The New Declaration, as amended, shall also ultimately govern that certain real property known as the El L Co Terrace Subdivision, located in Rich County, Utah, previously governed by the El Lco Terrace Homeowners Association. By a vote of its Members and Declarant's Members, the El L Co Terrace Homeowners Association, a Utah nonprofit corporation, shall merge into the Swan Creek Homeowners Association. El L Co Terrace consists of 21 Lots and will be formally annexed by Declarant under a separate Declaration of Annexation.

J. This document is intended to amend the New Declaration, has been duly approved on September 27, 2008 at the Annual Meeting of the Association by the Members as required in section 9.2 of the New Declaration and signed and acknowledged pursuant to the requirements of the Act and the Association's Bylaws.

#### AMENDMENT

NOW, THEREFORE, for the reasons recited above, and for the benefit of the Project and the Members thereof, the Members of the Association hereby adopt this Second Amendment to the New Declaration. The New Declaration shall be amended with the addition of the following language to **ARTICLE 9: GENERAL PROVISIONS**:

**9.3.2. Additional Remedy – Fine.** In addition to the enforcement remedies above enumerated, in the event of a breach of any of the covenants contained in this Declaration and/or an act or omission that constitutes a violation, in whole or in part, of one or more of the covenants contained in this Declaration, a provision contained in the Bylaws, or any of the Association's rules, including architectural and landscaping requirements, the Board of Trustees may assess a fine for the violation or breach. Fines can be assessed depending upon the seriousness of the violation from \$50.00 per occurrence to \$250.00 per occurrence (such amounts may be adjusted upward to reflect increase in United States Cost of Living Index). Each day of a violation is a separate offense.

**9.3.2.1.** If the violation is not of a serious or dangerous nature and if an immediate ceasing of the violation is not deemed required, the Board will provide notice to the Owner of the violation and provide the Owner a specific deadline or sixty (60) days, whichever is longer, to cure the violation prior to the assessment of a fine. The Board shall not be required to provide an opportunity to cure for repeat or continuous violations. Fines levied by the Board shall be considered a lien against the Owner's Property and must be payable within thirty (30) days of issuance.

IN WITNESS WHEREOF, this Second Amendment to the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Swan Creek Village have been adopted by the membership of the Swan Creek Village Homeowners Association, Inc. as of the 27<sup>th</sup> day of September, 2008.

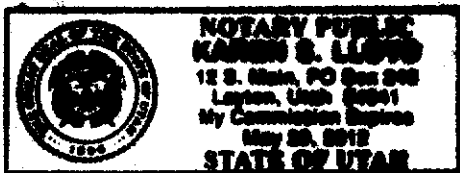
**SWAN CREEK HOMEOWNERS  
ASSOCIATION, INC.**



By: Lorin Thompson  
Its: President

STATE OF UTAH            )  
  : ss.  
COUNTY OF SALT LAKE )

I hereby certify that on the 15 day of Oct, 2008, personally appeared before me Lorin Thompson, who, being by me first duly sworn, declared that he is the President of the Swan Creek Village Homeowners Association, that the foregoing Amendments were approved at a duly noticed meeting of the Members of that Association, and that the foregoing instrument was signed on behalf of the Association and that the statements therein contained are true.



NOTARY PUBLIC

**EXHIBIT A**  
**SWAN CREEK VILLAGE PHASE 1**

A tract of land in the West ½ of the Northeast ¼ of Section 8, Township 14 N, Range 5 E, Salt Lake Base & Meridian, Rich County, Utah, described as follows:

Beginning at the corner of Section 8, T. 14N, R. 5E. 2621.008 feet from the west ¼ corner of Section 8, and running thence S. 89° 15' 33" E. 1316.579 feet along the Southline of the Northeast ¼ of Section 8, more or less, to the Southwest, of the Southwest ¼ of the Northeast ¼ of Section 8; thence N. 0° 33' 11" E. 1821.980 feet; thence N. 89° 26' 49" W., 110.000 feet; thence N. 0° 33' 11" E. 983.843 feet to the point of curvature of a 137.678 foot radius curve to the right. (Radius point bears S. 89° 26' 49" E.); thence along the arc of said curve 101.356 feet (Delta=42° 10' 49") to the southwesterly right-of-way line of U.S. Highway 89; thence N. 47° 16' 00" W. along said right-of-way line 60.000 feet, to a point on a 197.678 foot radius curve to the left (radius point bears S. 47° 16' 00" E.); thence along the arc of said curve 145.527 feet (Delta=42° 10' 49"); thence S. 0° 33' 11" W. 938.843 feet; thence N. 89° 26' 49" W. 122.300 feet; thence S. 49° 34' 00" W. 343.800 feet; thence S. 32° 04' 00" W. 450.000 feet; thence S. 49° 34' 00" W. 382.000 feet; thence S. 0° 34' 00" 833.785 feet N. 89° 15' 33" W. 77.850 feet to a point of tangency to a 200.893 foot radius curve to the right (radius bears N. 0° 44' 27" E.); thence Northwesterly along said curve 191.195 feet (Delta= 54° 31' 48") to the West line of the Northeast ¼ of said Section 8; thence S. 0° 30' 24" W. along said West line 254.322 feet to the point of beginning.

Containing 40.649 Acres - 96 Lots

**EXHIBIT B**  
**SWAN CREEK VILLAGE PHASE 2**

A tract of land in Sections 5,6,7 and 8; Township 14N, Range 5E, Salt Lake Base & Meridian, Rich County, Utah, more particularly described as follows:

Beginning at the Southwest corner of Section 8, T.14N. R.5E, S. L. B. & M.; thence South  $88^{\circ} 51' 27''$  East, on the South line of said Section 8, 2614.929 feet, more or less, to the South  $\frac{1}{4}$  corner of said Section 8: thence North  $00^{\circ} 26' 58''$  on the East line of the Southwest of said Section 8, 2674.052 feet; thence North  $00^{\circ} 30' 24''$  East, 254.322 feet; thence on a curve to the left with a radius of 200.893 feet and a central angle of  $54^{\circ} 31' 48''$ , for an arc distance of 191.195 feet; thence South  $89^{\circ} 15' 33''$  East, 77.850 feet; thence North  $00^{\circ} 34' 00''$  East, 314.114 feet; thence on a curve to the right with a radius of 100.000 feet and a central angle of  $57^{\circ} 19' 24''$ , for an arc distance of 100.048 feet; thence North  $15^{\circ} 26' 42''$  West 363.453 feet, more or less, to the centerline of the Garden City Canal; thence Northwesterly along the centerline of canal as follows: North  $64^{\circ} 47' 56''$  West 93.916 feet; thence South  $63^{\circ} 17' 27''$  West 221.015 feet; thence South  $06^{\circ} 48' 08''$  West 22.000 feet to a point departing the Garden City Canal; thence on a curve to the right with a radius of 475.000 feet and a central angle of  $22^{\circ} 29' 14''$  for an arc distance of 186.426 feet; thence North  $60^{\circ} 42' 38''$  West 675.850 feet; thence on a curve to the right with a radius of 1775.000 feet and a central angle of  $5^{\circ} 17' 06''$  for an arc distance of 163.730 feet; thence on a curve to the left with a radius of 247.157 feet and a central angle of  $67^{\circ} 14' 44''$  for an arc distance of 290.077 feet; thence North  $37^{\circ} 44' 52''$  West 303.325 feet; thence North  $52^{\circ} 15' 08''$  East 65.716 feet, more or less, to the center of canal; thence Northerly along the centerline of canal as follows: North  $18^{\circ} 46' 41''$  West 264.055 feet; thence North  $28^{\circ} 18' 03''$  West 147.648 feet; thence North  $01^{\circ} 14' 43''$  West 230.054 feet; thence North  $13^{\circ} 14' 26''$  East 87.321 feet; thence North  $07^{\circ} 35' 41''$  West 151.327 feet; thence North  $26^{\circ} 33' 54''$  East 67.082 feet; thence North  $08^{\circ} 21' 57''$  East 343.657 feet; thence North  $40^{\circ} 45' 49''$  East 191.442 feet; thence North  $19^{\circ} 22' 03''$  East 174.897 feet; thence North  $02^{\circ} 13' 37''$  East 180.136 feet; thence North  $11^{\circ} 41' 22''$  West 148.071 feet; thence North  $41^{\circ} 11' 09''$  West 53.151 feet; thence North  $67^{\circ} 55' 56''$  West 199.625 feet; thence North  $62^{\circ} 47' 02''$  West 196.787 feet; thence North  $37^{\circ} 59' 55''$  West 177.597 feet; thence North  $89^{\circ} 36' 10''$  West 690.283 feet departing the center of canal to a point on the West line of Section 5, T 14N, R.5E, S.L.B. & M.; thence continuing North  $89^{\circ} 36' 10''$  West 264.000 feet; thence South  $00^{\circ} 23' 50''$  West 1436.232 feet to a point on the South line of Section 6, T. 14N, R. 5E, S.L.B. & M.; thence South  $00^{\circ} 17' 03''$  West 1334.485 feet; thence South  $19^{\circ} 27' 02''$  West 1407.087 feet; thence South  $89^{\circ} 02' 49''$  East 726.000 feet to the West  $\frac{1}{4}$  corner of Section 8, T. 14N, R. 5E, S.L.B. & M.; thence South  $00^{\circ} 19' 01''$  West 2665.475 feet, more or less, to the point of beginning.

**EXCLUDING:**

Beginning at a point that is South  $89^{\circ} 41' 04''$  East 1248.29 feet from the West  $\frac{1}{4}$  corner of Section 8, T. 14N, R. 5E, S.L.B. & M.; thence North  $00^{\circ} 24' 10''$  East 1213.40 feet; thence North  $89^{\circ} 35' 50''$  West 363.000 feet; thence South  $00^{\circ} 24' 10''$  West 1194.58 feet; thence South  $06^{\circ} 21' 26''$  West 1554.693 feet; thence South  $83^{\circ} 38' 34''$  East 363.000 feet; thence North  $06^{\circ} 21' 26''$  East 1573.632 feet to the point of beginning.

ACREAGE: 23.068 acres in exemption / 327.374 acres outside exemption. TATS:  
470. Consisting of 470 Lots